

Prevention of homelessness duties

SUBMISSION FROM SOCIAL WORK SCOTLAND, TO SCOTTISH GOVERNMENT CONSULTATION

31/03/2022

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services. We welcome this opportunity to comment on homelessness prevention, and see it as a key priority for social work; sitting at the crux of social justice issues which affect the individuals, families and communities supported by social work in Scotland.

Principles of the PRG

Overarching 'foundational principles'

- **The Prevention Review Group (PRG) set out the following overarching 'foundational principles'** in guiding its approach to providing recommendations for legislative changes on the prevention of homelessness:
 - Responsibility to prevent homelessness should be a shared public responsibility and not rely solely or primarily on the homelessness service.
 - Intervention to prevent homelessness should start as early as possible. In many cases this will be before issues have escalated to a point where homelessness appears imminent.
 - People facing homelessness should have choice in where they live and access to the same range of housing outcomes as members of the general public, with appropriate protections to mitigate further risk of homelessness. Housing outcomes should be comparable across the prevention and homelessness duties.

Question

Q1. Do you agree that these are the right foundational principles?

We are in complete agreement with the “no wrong door” approach to preventing homelessness as promoted by Scottish Government and support this rights based

approach to providing support and intervention as early as possible to individuals that require it.

The investment of £53.5 million to support councils and partners to prioritise settled accommodation for all, through the implementation of rapid rehousing transition plans and the upscaling of Housing First for people facing the most significant challenges provides some reassurance – we would hope though that this is recurring monies that can bolster an already depleted workforce.

We would anticipate there being a significant role for support staff such as tenancy support workers or social work assistants to assist in preventing homelessness from occurring. Investment must include enhancement to this essential workforce.

Q2. Are there any other principles that should be included? If so, why?

No

The principle of 'ask and act' duties

The principle of 'ask and act' emerged from the Prevention Commission, a group of people with lived and frontline experience of the homelessness system, working with the PRG. Each of the public bodies considered would need to identify whether the people they work with have a risk of homelessness or are experiencing housing problems, and then they would have a different role and opportunities to act on this information. In some cases the action required would be a referral to the local authority, similar to the referral duty created on public bodies in England under the Homelessness Reduction Act 2017. In other cases, the public body may be in a position to take more in-depth action to prevent homelessness.

The reference to 'public bodies' in the PRG report and in this consultation should be read as those public bodies outside of local authority housing departments that can play a role in preventing homelessness. More broadly, the basis for recognising public bodies is clarified in the national directory: <https://www.gov.scot/publications/national-public-bodies-directory/>

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- **PRG proposal:** Public bodies in their role to prevent homelessness should identify a risk of homelessness, and "act" upon that information: **"ask" and "act" duties.**

Questions

Q3. Do you agree with the proposals to introduce new duties on public bodies to prevent homelessness?

Whilst Social Work Scotland welcomes a broader and more proactive approach to preventing homelessness, we do have concerns about the reality from a social work perspective of implementing these new duties. At the front line, there is emerging evidence to indicate that social workers face unprecedented workloads in the face of the pandemic. The British Association of Social Workers survey¹ indicated that the workforce across the UK is at an all-time low (and the size of the response to our own case load survey² indicates a strength of feeling).

Social Work Scotland's members, as leaders of the social work profession, have reported concerns about the crisis in social work and social care and our Workforce and Resources Standing Committee continues to highlight issues in recruitment, retention and capacity across all parts of the social work sector from paraprofessionals right through to social work leadership and management. The issue of recruitment and retention can have significant impact on Highland and Island communities and may provide challenge to those areas if asked to take forward this duty.

The introduction of the National Care Service may further complicate the duties for social workers in children's, adult and justice services to prevent homelessness in a holistic way. Given the broad nature of the proposals – covering children and families and adults, we would like to see more consideration of workforce support and a good understanding of the impact on capacity to ensure that if taken forward, this is a duty that social workers as well as other public sector staff can enact with autonomy and resources.

Q4. Do you agree that public bodies should be required to 'ask and act' to prevent homelessness?

Questions regarding current living arrangements and housing are fundamental to a comprehensive social work assessment of need, however, a well-resourced Housing Department would be a more effective means of addressing housing issues, given this is their core skill, rather than this sitting within the remit of a social worker – especially given the capacity issues highlighted at Q3.

Housing and homelessness are specialist areas of work, requiring a nuanced understanding of the relevant legislation, and of the circumstance and experience of homelessness. Siting the responsibility of responding to and addressing housing issues, and homelessness within a non-specialist workforce diminishes the importance of the issue and the effectiveness of the response, creating delays and potential errors in an already stressful situation.

¹ <https://www.basw.co.uk/media/news/2022/mar/basw-launches-first-annual-survey-membership-revealing-what-social-workers-want>

² <https://socialworkscotland.org/huge-response-to-caseload-survey/>

Best practice is that professionals work together to bring the best of their knowledge, experience and learning to an individual's situation and achieve the best outcome, in partnership, rather than in silos. Therefore, whilst we would agree that public bodies should be expected to "ask and act" to prevent homelessness, it is our position that legislation alone would not be sufficient, and a partnership working and a multi-agency approach is the most effective way to achieve this aim.

Q5. Which public bodies do you think a new duty to prevent homelessness should apply to and why?

We believe consideration should be given to the National Care Service developments and the impact that these will have on public bodies. Until such time as a decision is made and published regarding the scope and reach of the NCS, it is impossible to answer this question with any confidence.

The principle that no-one should be discharged from institutions without anywhere to sleep that night.

In the words of the Prevention Commission, as far as possible, people should leave institutions "to go straight into their own safe, secure homes". The intention is to see public bodies work together with homelessness and housing services to ensure that people have a seamless transition into settled accommodation at the point of leaving an institution and that no one leaving their services becomes homeless. In practice, often the work to save accommodation may be best done at the beginning of entry into an institution. The approach being considered is that anyone leaving an institution within the next six months with no accommodation arrangements should be considered as threatened with homelessness.

The policy intention is that no one should unnecessarily become homeless due to entering an institution, and public bodies should collaborate closely to ensure people can return to previous housing or move to new, suitable housing on leaving the institution in a planned manner. As an example, prisons cannot hold people beyond their liberation date and would therefore benefit from early collaboration with local authorities to ensure that no one is discharged into homelessness.

- **PRG proposal:** No one should be discharged from institutions without anywhere to sleep that night.

Questions

Q6. Do you agree to introducing a statutory duty on public bodies to prevent homelessness for anybody leaving an institution within six months?

Notwithstanding the definition of what this consultation constitutes a 'public' body, Social Work Scotland cautiously agrees that there might be merit in this. We are cognisant of similar suggestions regarding the engagement of stakeholders, including public bodies, in respect of community justice where there is inconsistency.

However, in respect of prisons; The SHORE Standards were implemented in 2017 in partnership with the Scottish Prison Service, Scottish Government, local government, and housing partners to agree best practice in meeting the housing needs of individuals in the prison system. They are designed to ensure that people leaving prison can access services and accommodation in the same way as people living in the community, including a pre-liberation process to co-ordinate efforts to minimise instances of emergency homelessness upon liberation.

We support the current review of the standards and the group will engage with partners across Scotland and collate information to develop a national picture of current practice and what changes are needed. This group might be best placed to consider whether a statutory duty would be beneficial in respect of prisons.

Similar considerations would apply to those being discharged from hospital or care.

Q7. What would help public bodies to meet this requirement and how might it work in practice?

We would like to take the opportunity to highlight some of the systemic issues preventing social workers supporting people in a preventative way which might aid this approach, rather than intervening at crisis point only. In our response to the National Care Service Consultation³, we again underlined how pressing the need is for investment, paired with reform, across all aspects of social care and social work.

The gap between Scotland's ambitious rhetoric in these areas (often given weight in law) and our collective ability to deliver on this has steadily grown, fuelling disappointment, frustration and cynicism among those seeking publicly-funded support and those employed to deliver it. Ten years on from the Christie Commission, the preventative model of public services that it described also remains, for many, some way off.

Closing this 'implementation gap' is a shared priority for Ministers and Social Work Scotland's members.

Our own members, and other social work and social care colleagues, have for a long while expressed their dissatisfaction with structures, cultures and policies which are often

³ <https://socialworkscotland.org/consultations/a-national-care-service-for-scotland/>

disabling, rather than enabling, of their autonomy, personal effort and professional judgement. Eligibility criteria and inadequate workforce numbers preclude them from taking preventative, empowering actions. Bureaucracy and systemic risk-aversion inhibit them from developing constructive relationships with those seeking and/or receiving support. Legislation that pushes and pulls in contrary directions, or makes demands that the 'system' has no capacity to deliver.

Our fear is that this duty, whilst seeking to support a preventative approach, does not recognise or address any of the elements which enable social workers – and other professionals – to undertake it. We would welcome further discussion and engagement on this point.

2 b) Duties on wider public bodies and landlords

Prevention Review Group proposed recommendations for Health and Social Care

- **PRG proposal:** A statutory duty is placed on the Health and Social Care Partnership (HSCP) to identify the housing circumstances of service users, and where necessary work with partners to ensure that service users are assisted into suitable housing or that a risk of homelessness is prevented.

The PRG highlighted that people with experience of homelessness have a much higher interaction with health services than those who do not. A health and homelessness data linkage project^[2] showed that, of the study population, the third which had experienced homelessness made up the majority of associated attendances at some health services. In particular, more acute services including accident and emergency (A&E) (55% of attendances associated with the study population), acute hospital admissions (52%), admissions to mental health specialities (80%), and drug and treatment assessments (90%). The third of the study population experiencing homelessness also made up nearly half (49%) of outpatient appointments. This study also showed that people's use of health services peaks just before they make their first ever homelessness application.

The PRG identified that there is evidence of a lack of co-operation between health and social care services and homelessness services to prevent homelessness. Often the point of entry to health and social care services will be a critical point to intervene in preventing homelessness, for example, where someone is entering hospital for inpatient psychiatric assistance. The intention is that where the housing need is related to a lack of accommodation or housing support needs, this should be a referral to the local authority for housing and homelessness assistance. In some areas of Scotland, these services are brought together in the Health and Social Care Partnership.

Please note that the PRG recommendations mentioned new duties on Health and Social Care Partnerships (HSCPs). However, Integration Authorities represent partnerships between Local Authorities and Health Boards for delivering health and social care services and integration of budgets. They are governed by the Public Bodies (Joint Working) (Scotland) Act 2014, and are the bodies through which community health and social care services are planned to provide care for individuals in their community, or in a homely setting and avoid unnecessary admissions to hospital. A Health and Social Care Partnership is an umbrella term to refer to the range of professionals working to deliver community health and social care services under the direction of the Integration Authority. This distinction is reflected in the questions below.

Questions

Q8. Do you agree with the proposal that Integration Authorities should identify the housing circumstances of people using health and social care services, and where necessary work with partners to ensure that service users are assisted into suitable housing or prevent the risk of homelessness?

Social Work Scotland members would agree with a multi-disciplinary approach, sharing information and responsibility within respective professional roles to effectively support an individual or family to access appropriate housing. There are a variety of current models of operation who should be considered for this proposal and this will be further complicated as progress is made to develop the National Care Service.

The National Care Service may have an impact on how this proposal works structurally across justice, children and families and adults – again rightly identifying a holistic approach, but there are challenges to doing that.

Whilst we commend the intention of this proposal, again, the uncertainty regarding the NCS will make putting this into practice extremely difficult. At present, we are facing a future where it is unknown as to whether all of social work will go into an NCS structure, or only services for adults. Any potential division of the profession will have a tangible impact on the way that services are delivered. Irrespective of this, it is likely that Integration Authorities as they operate now, will cease to exist under the new NCS model. Even within current models of service delivery not all social work services are part of an Integration Authority.

Q9. Do you agree that a new legislative duty on Integration Authorities to identify housing circumstances of patients is the best way to prevent homelessness?

There is an implementation gap between legislative intentions and practice – we already know things could work better in multi-agency situations, but systemic issues are a

challenge. We know that whatever the outcome of NCS proposals, for a significant interim period this is likely to further complicate the landscape.

Social Work Scotland would wish to raise that those individuals and families who may require support around their housing issues will not all be considered “patients”, the use of such a term reflect a medical model approach to intervention, and within Integration Authorities, where social work interventions occur, the acceptable terminology would be “person, individual, or family”.

- **PRG proposal:** Where needs are more complex, to the extent that they cannot be supported in mainstream housing even with additional support, then primary responsibility for meeting those accommodation needs should sit with the Health and Social Care Partnership.

The policy intention of this proposal is to capture the needs of those who require highly specialist medical or other support in supported accommodation. It is not intended to cover needs that might be met through Housing First provision, which is provided in mainstream settled accommodation with intensive support.

The PRG highlighted that those with complex needs are at serious risk of falling through the cracks in mainstream service provision, including accessing housing options/homelessness services. The Hard Edges Scotland research^[3], published in 2019, looked at the needs of this group and found that homelessness services often "carry the can" and lead on cases with this client group, particularly in the absence of a court order.

Questions

Q10. Do you agree that the Integration Authority should have primary legal responsibility for meeting accommodation and support needs where cases are so complex that they cannot be met in mainstream accommodation even with support?

Once again, without clear direction regarding the scope and reach of the NCS, the uncertainty regarding the arrangements will make putting this into practice extremely difficult. It is likely that Integration Authorities as they operate now, will cease to exist under the new NCS model. Please also note our response to Q4. Accommodation needs in situations of complexity are most appropriately met by skilled housing services, with the support of a multi-agency team. In this respect we would support primary legal responsibility for meeting accommodation needs to sit with Housing Services, in whatever structure they are in in the future.

Q11. How would the Integration Authority having primary legal responsibility where cases are so complex work in practice?

It would be difficult to provide an answer to this question without a clearer understanding of where Housing Services will sit in future in relation to the National Care Service. There would be a risk to an approach of holding two different bodies responsible for accommodation provision in relation to availability of accommodation stock, creation of competitive approaches to securing housing where scant resource exists, and it could be argued that such a model would place less emphasis on keeping the individual person at the heart of the approach. The availability of appropriate accommodation to meet complex need is a longstanding and shared concern between Housing Services, Local Authorities and Health and Social Care Partnerships. Separating the responsibility for accommodation needs for those with complex circumstances away from an overall approach to minimising homelessness may reduce access to the highly skilled housing professionals for the most vulnerable individuals in our communities. Furthermore, the separation of responsibility for provision of accommodation in Highland and Island communities would further complicate an already known challenge of housing availability within these remote and rural locations.

Q12. Do you think a duty on the Integration Authority would positively impact on preventing homelessness for people with a range of more complex needs?

As noted above, the provision of accommodation for those individuals with complex needs is a longstanding and shared concern between Housing Services and Local Authorities/Health and Social Care Partnerships. The evidence to date reflects that a significant challenge faced for housing people with complex needs is the lack of availability of suitable accommodation⁴ which plays a direct role in transitioning people out of hospital/institutions into accommodation with support. The 'Coming Home Implementation' report from the Working Group on Complex Care and Delayed Discharge recognises the need for adequate staffing and resources to support housing for people with complex needs, and we would suggest this approach should be a joint one between key partners with the right knowledge and skills to support the recommendations made within the report.

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- **PRG proposal:** Where a social worker or social care worker identifies a risk of homelessness, they should make a referral to the relevant part of the local authority. If they consider that there are unmet social care needs, a social care needs assessment should be carried out.

⁴ <https://www.gov.scot/publications/coming-home-implementation-report-working-group-complex-care-delayed-discharge/pages/9/>

Question

Q13. Do you agree with the proposal for a social worker or social care worker to have a duty to 'ask and act' about housing issues or the risk of homelessness?

The impact of the National Care Service and challenges faced by social workers of working in a preventative manner are outlined at Q3. Social workers, as the profession of social justice and human rights, are committed to working in preventative and community-based approaches. However, the reality of the professions ability to carry out this vital area of their duties has eroded over the past decade or more, as a result of austerity measures, increases in demand for services, and the complexity of conditions and circumstances that individuals living in communities are experiencing. It is against this backdrop that social work undertake their statutory functions, with the existence of eligibility criteria to allow the direction of finite financial and other resources to be targeted to meet the highest risk presented, making the likelihood of a duty to, “ask and act” to result from a crisis rather than prevention as the proposal aspirations seek. Social Work Scotland members would advocate for a structure that supports the ability to have relationship based and person-centred engagement with people, at earlier points in their life, to support a planned and preventative approach to emerging need.

We would also refer to our answer to Q4; questions regarding current living arrangements and housing are fundamental to a comprehensive social work assessment, however, a well-resourced Housing Department would be a more effective means of addressing housing issues, rather than this sitting within the remit of a social worker.

Housing and homelessness are specialist areas of work, requiring a nuanced understanding of the relevant legislation, and of the circumstance and experience of homelessness. Siting the responsibility of responding to and addressing housing issues and homelessness within a non-specialist workforce diminishes the importance of the issue and the effectiveness of the response, creating delays and potential errors in an already stressful situation. This joint approach would be an example of best practice, with professionals working together, drawing from each others expertise and knowledge, to achieve the best outcome for an individual or family.

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- **PRG proposal:** Where it is identified that an individual may have health and social care needs as part of an assessment of homelessness or threat of homelessness, or an assessment of housing support needs, a statutory duty is placed on the health and social care partnership to co-operate with the local authority in planning to meet those needs.

This was highlighted as a priority recommendation in the PRG report and relates to the homelessness assessment process and requiring co-operation to provide assistance from health and social care to meet any underlying health and social care needs.

The intention is that effective strategic planning across health and social care and housing services will support the fulfilment of these duties. Since the PRG made its recommendations, the Scottish Government has had a consultation^[4] on establishing a new National Care Service which ended on 2 November 2021, and any potential legislative changes as a result of this will need to be considered in progressing any proposals.

Question

Q14. Do you agree that a duty to co-operate on the Integration Authority is the best way to ensure that people who are homeless or at risk of homelessness as a result of unmet health or social care needs, get the support they need from Health and Social Care services? If not, please explain how this might be addressed.

Social work is an agent of social justice, and actively works against poverty and homelessness. The duty to assess an individual who may require support sits within the Social Work (Scotland) Act 1968, section 12, as conferred upon local authorities. This is a delegated function to social workers, who are employees of local authorities. All aspects of social work, Children and Family, Adult, and Justice, hold this duty.

Consideration of the need to create a specific duty for Integrated Authorities at a time when they will be disbanded under the National Care Service development, seems unnecessary to achieve the aim of ensuring people at risk of homelessness with social care needs are offered their legal right to an assessment. Furthermore, the Social Care (Self Directed Support) (Scotland) Act 2013 places a duty upon Local Authorities to ensure people have the ability to direct their support once assessed. Creating an addition or specific duty for Integrated Authorities does not seem necessary or proportionate to the current legislative backdrop in which social workers operate.

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- **PRG proposal:** By working with other partners, the local authority must ensure that the service for prevention and alleviation of homelessness is designed to meet the needs of people leaving hospital and people with mental illness or impairment.

Question

Q15. What changes to existing practice do you think local authorities and relevant health and social care services would have to make, to ensure they meet the needs of those leaving hospital and those with mental illness and impairment?

In our view, Local Authorities and Partnerships will need to consider a stepped approach to Housing Provision if we are to truly support individuals to express their human rights in a way that enables the balance of risk, recognises the duty of care, and respects the person's right to self-determination.

For example, fully supported accommodation, semi-supported accommodation and accommodation that is not in an area that is likely to exacerbate someone's mental ill health, should all be viable options to support an individual to achieve their best outcome. The same access and right to affordable, modern accommodation in areas that can support people's integration and encourage active citizenship and participation is required. All services provided should support the individual to give meaning and effect to their human rights as enshrined within the Human Rights Act 1998.

To enhance the skills of housing colleagues, access to further training and development opportunities around understanding the complexity of mental health needs with a more holistic and shared approach to working with individuals and families in a trauma-informed way would be beneficial, and in line with trauma informed practice. Taking such an approach would support a shared understanding across the range of professionals engaging with the housing needs of an individual with a mental health diagnosis and would strengthen multi-agency working. Social Work Scotland believes that Housing First models have been fairly successful due to the nature of the engagement with housing support officers and the multi-disciplinary team. Further to this, we would like to see a future where housing professionals are working in situ with Community Mental Health Teams; acknowledging the broad base of skills needed to prevent homelessness at an early stage.

Social Work Scotland are aware that there have been models in Scotland where mental health housing officers have been used to good effect and we would welcome more evidence and evaluation in this approach to support a consistent and effective preventative model in practice. Considerations such as prevention and multi-agency working and shared responsibility are prominent issues in our considerations and approach as we work with other key partners to progress with the work of the Forensic Mental Health Review. An area of concern for our members is the impact on those with mental ill health in hospital during transitional arrangements from Hospital to home. Due to existing approaches people are immediately disadvantaged by the current rent payment system and often have an accrued debt prior to discharge. We would see this as an equalities issue and a disadvantage to those receiving care and treatment in hospital for mental ill health which should be eradicated.

- **PRG proposal:** The local authority must provide assistance to anyone who is going to be discharged from hospital in the next six months and is considered as threatened with homelessness.

Questions

Q16. Do you agree with the proposal that the local authority must provide assistance to anyone who is going to be discharged from hospital? What is the main difference this statutory change would make to those in hospital and at risk of homelessness?

As noted in previous responses, a multi-agency approach to preventing homelessness that recognises the unique skilled contribution of colleagues in housing services, social work, and health, would be a supportive approach and one which should be taken forward where there is need and agreement from the individual at points such as transition from hospital into the community. The expectation that supportive transitions, informed by multi-agency assessment that consider the balance of risk with the right to self-determine, sits within current legislation. The Social Work (Scotland) Act 1968 and the Social Care (Self Directed Support)(Scotland) Act 2013 place duties on local authorities to promote welfare, and to support people to direct how their services are provided to them, both of which are vehicles through which the aims outlined in this question can be achieved.

Social Work Scotland support a human rights approach to engagement that is balanced with the duty of care and right to self-determination of an individual. Social workers would take the views and agreement of the individual or their proxy into consideration when making determination as to whether to provide assistance to someone. This approach recognises an individuals right to choose if and whether they engage with social work, and this sits firmly within the values of the profession.

Q17. What would be the main challenges of introducing a statutory duty on local authorities to house those due to be discharged from hospital within the next six months?

Social Work Scotland believes that without associated funding and resource to support consistent and thorough implementation, a statutory duty is unlikely to bring about effective change within the current system.

Of note, challenges that may arise from such a statutory duty would be; the availability of suitable and appropriate accommodation to enable local authority areas to take forward the duty; the geographical challenges of delivering such a duty in remote and rural locations such as the Highland and Island communities; the necessity for financial resource to be released to develop appropriate accommodation to meet the needs of those with complex

care requirements; and, in recognition of the challenges in social care, the ability to deliver any complimentary care and support that is necessary.

- **PRG proposal:** GP practices should be under a requirement to refer to the local authority where a risk of homelessness is identified.

A theme which emerged during the work of the PRG was the role of GPs (GP practices are only public bodies for some purposes). As a universal service, GPs treat patients in the widest range of circumstances. In England there is a duty to refer under prevention legislation, but not for GPs, and the PRG noted that GPs are one of the services least likely to refer to housing.

This may raise concerns about GP practices being asked to intervene in patients' lives where not requested by patients and for a non-immediately clinical reason. For information, a network of Community Link Workers are deployed to (rather than employed by) some GP practices in Scotland to address some of the non-medical issues of patients.

Questions

Q18. Do you agree with the proposal that GP practices are required to refer to local authorities where there is a risk of homelessness identified?

Again, the potential impact of the NCS can be seen here – if GPs come under the banner of a CHSCB (the proposed replacement for IJB) for example, then, in principle, referral should be easier. In any case, GPs should have the same duty as any other public body.

Q19. Are there any additional approaches that could be adopted by GP practices to better identify and respond to housing need?

N/A

Prevention Review Group proposed recommendations for case co-ordination for people with multiple or complex needs

- **PRG proposal:** For people with complex needs requiring input from two or more public services to support their health or wellbeing, or to facilitate community safety, a case co-ordination approach is put in place. These needs would include, but not be limited to risk of homelessness; substance misuse or involvement with criminal

justice, including support and services that may be provided by the health board or integration authority; other parts of the local authority; community justice partners (see section 13 Community Justice (Scotland) Act 2016) and relevant third sector partners.

Following the publication of the evidence highlighted in the Hard Edges Scotland report, there has been increased recognition across the homelessness sector of the need for better joined-up person centred and trauma-informed services to address the range of needs, including severe and multiple disadvantage, which some people experience. The intention of this proposal is to ensure this approach is consistent across Scotland, through providing a statutory basis for the involvement of a range of appropriate partners needed to help prevent homelessness.

Questions

Q20. Do you agree with the proposal that a statutory duty to put a case co-ordination approach in place for people requiring input from two or more public services is the right approach? If you disagree, please say how public services can best work together to prevent homelessness for people with more complex needs.

Social Work Scotland agrees with this approach.

Q21. If this statutory duty is established, how would it work in practice? What challenges would it present and how could these be best addressed?

There are numerous models that exist to carry forward similar actions and could be learned from – Care Programme Approach (mental health) and the Lead Professional model (Substance Use) and the GIRFEC approach in relation to children. These models are also empowering for individuals as they ensure accountability of workers and individuals whilst striving to ensure that the required support is provided. MAPPA (Multi Agency Public Protection Arrangements) is also an effective model for shared consideration of complexity and risk enablement underpinned by legislation – Management of Offenders (Scotland) Act 2005. The National Accommodation Strategy for Sex Offenders and the role of the local authority sex offender liaison officer (SOLO) underpins the specialist housing advice to MAPPA, including sourcing and advising on the appropriateness of accommodation for sex offenders.

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- **PRG proposal:** The approach to case co-ordination for people with multiple or complex needs should consist of:
 - a. Identification of a professional to lead on contact with the individual and co-ordinate service provision
 - b. A means for overseeing case co-ordination to:

- i. Identify and address gaps in service provision and co-ordination for such individuals
- ii. Manage and prevent escalation of risk.

The PRG noted that some local areas already have approaches similar to this which has improved further in response to the COVID public health emergency. Some hold regular meetings to co-ordinate support for people with complex needs, or people who are on the threshold of adult support and protection. Other areas may identify individuals known across specific services such as homelessness, criminal justice and substance misuse and put in place co-ordinated approaches to working with these individuals. For under 18's, it may also include children's and families services within the local authority. The intention is to allow flexibility for different local mechanisms. The PRG were also cautious of defining complex needs in detail, to avoid creating the service boundaries that this group of people so often fall between.

Question

Q22. What difference would a case co-ordination approach make to people experiencing homelessness or at risk of homelessness who have more complex needs?

A well-coordinated approach always results in a better outcome for the individual in need and we would concur with the findings of the PRG as noted within the Consultation paper with respect to local areas putting into place robust multi-agency procedures in response to the public health crisis of COVID-19. It is imperative that the learning from such endeavours is not lost and that multi-agency processes are embedded into practice. Experiences in practice tell us that communication and transparency in approach and decision-making support individuals receiving consideration through such multi-agency groups and support safe and proportionate responses.

Prevention Review Group proposed recommendations for Children's Services

- **PRG proposal:** If a health visitor and head teacher identifies that there is a housing issue or a risk of homelessness for a family, they should make a request for assistance to the local authority's homelessness service.

The PRG noted that around 27% of households making a homelessness application include children, with 10,129 applications in 2018-19, representing 14,043 children. Households with children spend longer in temporary accommodation, on average 219 days compared to 166 days for households without children. Schools and health visitors were identified as having key roles in supporting children and identifying factors that may present a homelessness risk, such as poverty or relationship breakdown.

In preparing the local Children's Services Plan, the local authority and health board will work with relevant partners to ensure local services and support meet the needs of children, young people, and families at risk of homelessness.

Question

Q23. Do you agree with the proposal to establish a duty on health visitors or head teachers to identify a housing issue or risk of homelessness to a local authority?

As mentioned in previous answers, we would support a multi-agency approach to the duty to identify and report risk of homelessness. We query why this duty would apply only to Health Visitors and Head Teachers and not to other professionals working with families such as midwives, social workers, district and school nurses, GP's, youth workers etc. If a duty is to apply this should be applied to all professionals working with children and families who may become aware of challenges in children or families' lives.

Definition of a housing issue is open to interpretation and should be clarified as many families experience housing issues. We would support robust definitions and guidance for professionals to support a consistent approach to this duty across disciplines.

We also query if this is something which needs to be a duty, given the existing duties in the Children and Young People (Scotland) Act 2014 relating to GIRFEC. Within the context of the GIRFEC framework, professionals should be encouraged to identify and act on wellbeing issues as part of the team around the child, and refer on any concerns which require further support. There is opportunity in the refreshed GIRFEC guidance to specifically cover risk of homelessness.

Q24. How would a duty on health visitors or head teachers to identify a housing issue or risk of homelessness to a local authority work in practice? At what stage should a request for assistance be made to the local authority?

A response to this question is not simple. See our comments in relation to Q23 about why such a duty should not be limited to health visitors and head teachers. Additionally, some definition of 'housing issue or risk of homelessness' is required. These are general terms open to wide interpretation, and head teachers and health visitors may not be aware of the nature of someone's housing situation e.g. if they are in private rented accommodation, or living with others. This is also a shared duty already within the GIRFEC framework. We would also note a concern about scrutiny and responsibility.

Prevention Review Group proposed recommendations for young people

- **PRG proposal:** Local authorities should work with partners to ensure the service meets the needs of young people at risk of homelessness. Services should be able to respond to the diversity of this group.

Under section 57 of the Children and Young People (Scotland) Act 2014 'young people' are those who have reached the age of 16, but are under the age of 26.

The PRG noted that there is clear evidence of particular risk factors, including experience of a range of adverse childhood experiences, running away, truanting or being excluded from school, or being a lesbian, gay, bisexual or transgender young person. Experience of homelessness at a young age is associated with the risk of later homelessness.

There was a suggestion from PRG members and stakeholders that a focus on tackling youth homelessness may have lessened in some areas in recent years, and that there was a lack of coherent housing and support offers for young people and those setting up home for the first time.

Question

Q25. How can we ensure a homelessness prevention service is designed to meet the needs of young people at risk, in partnership with other relevant services?

The establishment of a family mediation service as part of a minimum statutory framework to prevent homelessness is also referred to in section 4 of this consultation under potentially prescribed 'reasonable steps' for the local authority to take.

Mediation will only be applicable where appropriate and safe. Mediation is not appropriate in some circumstances e.g. domestic abuse.

It would be essential to seek the views of young people in the development of such a service, which must apply trauma informed principles and ensure that workers are tenacious and sufficiently trained to be able to identify and respond to young people's individual needs.

- **PRG proposal:** Local authorities should ensure that they have family mediation available as part of their homelessness prevention offer.

Question

Q26. Do you agree that a local authority, possibly in partnership with others, should have a family mediation service as part of its legislative duties to prevent youth homelessness?

Yes, but this would require to be funded. It should also be interpreted widely. For example for families where there is already social work involvement use of approaches such as family group conferences may be more appropriate. Additional considerations should be given in situations where domestic abuse and coercive control are features within the family, as family mediation would not be suitable in these circumstances.

Prevention Review Group proposed recommendations for 16 and 17 year-olds

- **PRG proposal:** Young people aged 16 and 17 at risk of homelessness must be treated as children under the law and should receive assistance from children's social work, who have expertise in the needs of this group. Primary responsibility for assisting homelessness 16 and 17 year-olds should sit with social work.

Young people in Scotland are considered to have legal capacity from age 16 and, if they qualify, have a right to their own tenancy, but are considered children for the purposes of children's services up to the age of 18 under the Children and Young People (Scotland) Act 2014. Some young people, including those that have experienced the care system, can access additional support beyond the age of 18 (please note the PRG did not make any specific recommendations on those that have experienced the care system – see section 1: introduction). The intention behind this proposal is to prevent homelessness before it occurs for 16 and 17 year olds, which will mean a better outcome for a young person than experiencing the trauma of homelessness. However, the proposal needs to be assessed in the wider context of the law surrounding the age of legal capacity.

The questions below attempt to address concerns about the intervention of children's services for 16 and 17 year olds and the unintended consequence of children feeling they have less choice about which services they are able to access. The policy intention is not to divert 16 and 17 year olds who present as homeless to an assessment by social work, or to establish a barrier to any rights to accommodation under the Housing (Scotland) Act 1987.

Questions

Q27. Do you think the proposal for 16 and 17 year olds would positively impact on the prevention of homelessness for young people?

No. Sitting responsibility for homelessness in 16/17 year old with social work services will result in confusion and additional challenge. Not all young people in this age group will want or require social work involvement, and social work services do not have oversight or control over homelessness services. The proposals therefore introduce an additional layer of bureaucracy and challenge which is unnecessary and would result in delay and

confusion. Social work services have duties in relation to children in need, and specific duties for care leavers. In that situation the 2014 Act duties and GIRFEC approach provide the multi-agency approach which is required to cover homelessness as well as other needs. A better approach would be a duty on housing and homelessness services to involve social work services and bring together a team around the child meeting when a 16/17 year old is at risk of homelessness or presents as homeless. This allows a wider multi-agency assessment of need to be undertaken including determining who is best to be involved which aspects of the young person needs, and to involve the young person in those discussions.

Additionally, the proposal introduces unnecessary extra transitions – at the point where a young person becomes 16 and when they turn 18 – if there are homelessness issues over those periods.

Q28. Could there be any 'unintended consequences' for 16 and 17 year olds in taking this approach to legislation? If so, how can this best be addressed so that any new legislation improves outcomes for 16 and 17 year olds at risk of homelessness?

See our previous response to Q27. Young people should not be required to work with social work services if they do not wish to do so, unless there are other legislative and care reasons for this. There is a sense in which this discriminates against 16/17 year olds forcing them to be 'known to social work' and making them different to other groups.

Prevention Review Group proposed recommendations for Criminal Justice – Prisons, Court Services and Police Scotland

Prisons

- **PRG proposal:** The Prisons and Young Offenders Institutions (Scotland) Rules 2011 are amended to ensure that:
 - People entering prison are asked about their housing situation as soon as reasonably possible following admission.
 - If people in prison are likely to need assistance to find housing for when they leave prison, a referral is made as soon as possible to the local authority identified by the individual for homelessness assistance.
- Where housing issues are identified, prisons work with partners including housing options and housing associations to address the issues.

It is proposed that by working with other partners, local authorities must ensure that the service for prevention and alleviation of homelessness is designed to meet the needs of people leaving prison or youth detention accommodation, and anyone at risk of homelessness due to impending court proceedings. Relevant partners should include the

Scottish Prison Service, the Scottish Courts and Tribunal Service and Community Justice Partnerships.

The PRG noted that in 2018/19, 1,822 (5%) homeless applications were recorded as having been from people leaving prison in 2018/19. However, it also points out that this may be an underestimate with more people leaving prison with arrangements in place which break down after a short period, resulting in homelessness. In recent years, the SHORE standards (Sustainable Housing on Release for Everyone) have been co-developed by the Scottish Prison Service (SPS) and other key partners. Data sharing agreements have also been agreed between SPS and all Scottish local authorities which enable local authorities to maintain existing tenancies when someone enters prison and to make plans for suitable accommodation in advance of release.

The development of SHORE is the responsibility of both SPS and local authorities/housing bodies to deliver collectively (supported by Scottish Government and other stakeholders) and progress still needs to be made towards full and consistent application of the processes it describes. As referred to above in our answer to Question 8, the SHORE Standards are currently being reviewed and should take into account what is further required.

The PRG sees this as supporting its recommendations for legislative change. These proposed recommendations on prisons should also be considered in parallel with the recommendation highlighted on pages 10-11 in relation to those leaving institutions. The intention behind the proposals is the need for co-ordination and consistency of service across the country between prisons and local authorities, recognising the challenges of prisons working across multiple different local authority homelessness services, and the importance of the location of accommodation for many people leaving prison. Consideration also needs to be given to the implications for the protection and rights of the victims of crime in this process.

Questions

Q29. Do you agree with the proposal to introduce new legal duties on prisons to ask about and work with partners to address housing issues to prevent homelessness?

We would agree with this approach, but would take this opportunity to re-emphasise workforce pressures and resourcing throughout the system. An example of this was Scottish Prison Service's decision to suspend the Throughcare Support Officer (TSO) service and redeploy staff to frontline duties due to competing pressures and priorities e.g. staff shortages. The knock-on effect created additional pressures on community-based services both in the statutory and Third sector and weakens the prospect of successful reintegration. In short, simply imposing legal duties without the commensurate resources will fail. Successful community integration planning for prisoners, including for housing,

requires a multi-agency and collaborative approach from the outset of a person's prison sentence.

Q30. How would a statutory duty on prisons to identify and work with partners on housing issues change existing practice already in place to prevent homelessness amongst those leaving prison?

As noted by the PRG, the key is coordination and consistency. There is good practice in respect of preventing homelessness across the prison estate, for example the work relating to the emergency release of prisoners due to COVID-19 in April – May 2020; but this requires to be refined into establishing and disseminating best practice.

Homelessness cannot be considered in isolation to other needs such as support for mental health, drug and alcohol issues. A statutory duty would underpin SPS' responsibility for preventing homelessness but requires establishing a more consistent and coordinated community integration planning process as alluded to in our answer to Q29. Prison- and community-based services require to work together to produce a community integration plan following incarceration and include a clear community component as part of this where services are held accountable for delivering this, including housing. There should be a single point of contact both in the prison and community coordinating this plan to ensure it is delivered.

Q31. What are the main challenges of introducing any new statutory duty on prisons to identify and work with partners on housing issues?

We refer to the point made in Q29 regarding resourcing i.e. imposing legal duties without allocating the commensurate resources to identify and work with partners on housing issues will fail.

Q32. What changes to existing practice would local authorities have to make to ensure they meet the needs of those leaving prison?

As outlined above, local authorities require to be part of a multi-agency community integration planning process.

Prevention Review Group proposed recommendation for Court Services

- **PRG proposal:** Local Housing Options services work with the Courts service to ensure housing options advice is easily accessible within a court setting.

Stakeholder consultation by the PRG suggested that there is a lack of housing options advice available within court settings. There is a future aspiration to develop the SHORE standards to include sections on preventing homelessness on arrest and in court. The importance of this provision for those who have been trafficked has been highlighted, as without accommodation they may be more at risk of being placed in custody.

Question

Q33. Do you agree with the proposal that housing options advice should be available in court settings?

We agree. This applies to people being released from a custodial setting including those remanded in custody or released immediately following trial, for example. This would require to be provided by properly trained housing officers.

Again, the provision of advice services should not be limited to housing. People should be able to access a range of services in the court setting e.g. information and signposting to drug and alcohol services – not to provide this is a missed opportunity to help and support people at a particularly vulnerable time in their lives.

Prevention Review Group proposed recommendations for Police Scotland

- **PRG proposal:** Where there is a reasonable belief that someone may be homeless, police should ask about the individual's housing circumstances. Specific circumstances may be identified in appropriate regulations or guidance, including someone rough sleeping, cases of domestic abuse or household dispute leading to possible homelessness.
- Where the police identify a risk of homelessness they should make a referral to the local authority (with a corresponding responsibility on the local authority to act on the referral).

The police may encounter people at risk of homelessness in range of situations, including during domestic abuse or neighbourhood disputes, as well as where people are likely to sleep rough that night. Support for a duty on police was expressed by police representatives at the criminal justice stakeholder group of the PRG (especially in conjunction with a duty on the local authority to respond).

The police may be involved upon arrest and/or through support within the community, where they are supporting victims or helping people in distress on the street. The approach to finding out a person's housing circumstances will be different in those different situations.

Question

Q34. Do you agree with the proposal to place a statutory duty on the police to ask about somebody's housing circumstances if there is 'reasonable belief' they may be homeless or at risk of homelessness?

As mentioned in previous answers, Social Work Scotland would support a multi-agency approach to the prevention of homelessness, with a duty placed on all employed by public bodies to report suspected homelessness to allow approaches to be made by housing services to offer support. Special consideration should be given to referring a woman at risk of homelessness through domestic abuse as this could place her at higher risk and danger. All referrals considered by Police where domestic abuse and coercive control is a feature should follow usual routes of engagement with specialist domestic abuse officers and services consulted.

Q35. How would a statutory duty on police to ask about somebody's housing circumstances, if there is 'reasonable belief' they may be homeless or at risk of homeless, work in practice?

Social Work Scotland would not be best placed to outline how Police Scotland would approach this duty in practice.

Prevention Review Group proposed recommendations for domestic abuse

- **PRG proposals:** People at risk of homelessness as a result of domestic abuse should be able to access free legal aid in order to obtain an exclusion order.
- The definition of abuse within homelessness legislation is expanded to cover both the Protection from Abuse (Scotland) Act 2001 and the Domestic Abuse (Scotland) Act 2018.
- Assistance from homelessness services to prevent homelessness must include support and security measures to enable applicants to remain in their homes safely where this is their preference.
- Homelessness prevention services should work with other partners to ensure they are able to meet the needs of people requiring housing assistance due to domestic abuse.
- Local authorities support victims of domestic abuse to access exclusion orders.
- When considering the suitability of accommodation offered to a perpetrator or victim of domestic abuse, consideration must be given to its proximity to the other party in the abuse.
- Social landlords should put in place protocols to address housing issues relating to domestic abuse.

The PRG highlighted that a violent or abusive dispute is the biggest cause of homelessness for women in Scotland, and that figures may significantly underestimate the scale of homelessness caused by domestic abuse.

These recommendations are intended to be complementary to recent changes in law and policy including the Domestic Abuse (Protection) (Scotland) Act 2021, which when enacted, will give the courts a new power to impose Domestic Abuse Protection Orders. These can remove a suspected perpetrator of domestic abuse from a home of any tenure of a person at risk, and prohibit them from contacting them while the order is in effect. These also allow a social landlord to apply to the court to end a perpetrator's interest in a social housing tenancy or joint tenancy, thereby enabling the victim to remain in the family home where they wish to do so.

They are also intended to complement the implementation of the recommendations in the [Improving Housing Outcomes for Women and Children Experiencing Domestic Abuse report](#), which have been accepted by the Scottish Government.

Questions

Q36. Do you agree that the set of proposed measures on domestic abuse are complementary to each other and consideration should be given to implementing them in full?

“Women interviewed for the 2015 community research felt that the model of moving the women (and often her children as well) out of their home and into the homelessness system reinforced the perpetrator’s control and sense of entitlement to the home”⁵

All of these measures are important. The enhancement of the rights of women within the structures which perpetrators operate and so often abuse is necessary to support women leaving abusive relationships. Multi agency response and understanding of the mechanisms men use to control women would be a welcome addition to any training for anyone implementing or supporting women experiencing homelessness, risk or actual, resultant to domestic abuse. More training and understanding of coercive control and stalking in the context of financial and emotional abuse for those in housing and other professionals expected to carry out these proposed measures is vital to send a zero tolerance stance toward perpetrators of abuse and solidarity toward women experiencing it. Any right to appeal by a perpetrator of exclusion measures should include a robust risk assessment of their abuse history.

⁵ [domestic-abuse-briefing-final.pdf \(crisis.org.uk\)](#)

Q37. Do you have any comments about the implementation of any specific proposal made in relation to preventing homelessness as a result of domestic abuse, and is there anything missing from these proposals?

Women who may be at risk of homelessness due to domestic abuse and coercive control will require additional considerations at point of making a referral and onward support. Specific proposals made around domestic abuse and homelessness should align with advice and guidance from Scottish Women's Aid and Violence against Women and Girls partnerships who can provide specialist guidance on approach in line with the Equally Safe agenda.

Prevention Review Group proposed recommendations for a local authority duty to respond to referrals

- **PRG proposal:** A local authority should accept a referral from a public body or landlord as a formal application, unless the individual states that they do not wish to make an application for assistance, or unless the local authority cannot contact the individual after making reasonable efforts.

The intention of this proposal is to reflect the "no wrong door" approach set out by HARSAG and in the subsequent Scottish Government/COSLA Ending Homelessness Together Action Plan (updated in October 2020), and in the consultation for a National Care Service. The issue of consent in relation to referrals by public bodies was considered by the PRG and by the Prevention Commission, with the Group suggesting, in accordance with the principles of choice and control, that consent should be sought where possible, but concluded that the issue of consent is one that is likely to vary depending on the circumstances and vulnerability of the individual concerned.

Questions

Q38. Do you agree with the proposal that there should be a statutory duty on a local authority to accept a referral from a public body to prevent homelessness, as part of legislative change that places a duty on public bodies to 'ask and act'?

Social Work Scotland would support a human rights based approach to referrals into local authorities, with consent of the individual sought to enable engagement. Social workers receiving referrals into social work and considering intervention under the Social Work (Scotland) Act 1968 to promote welfare, would require to balance the risk presented within the referral against the legislative powers available to intervene. In considerations where no consent has been given for a referral, the risk of harm to an individual would require to be balanced against the principles embedded in protective legislation (meaning that

intervention would require to be the least restrictive options and that the decision to intervene would be of benefit to the individual), when they considered appropriate next steps. The human right to a private life and the right to self-determine are fundamental to respectful engagement with people who may need social work services, seeking consent to make a referral to social work is a reflection of a sound understanding of these rights and should be promoted.

Q39. If a statutory duty on local authorities to accept a referral from a public body to prevent homelessness was introduced, what would be the primary advantages and challenges compared to existing arrangements?

The main challenge, as outlined above, is that such a duty would be in conflict with a person's right to private life, as enshrined in Article 8 of the European Convention on Human Rights. Consent to make a referral into a Local Authority should be standard practice and the views and wishes of the individual respected. The exceptions to this approach would be narrow and should relate to concerns about protection for children or vulnerable adults. In any case where there is concern for an individual's ability to express their views advocacy should be sought. It would be useful to include a person's right to advocacy support within any duty that may be put forward around homelessness.

Q40. Do you have a view on the issue of an individual's consent in this process?

As outline above, Article 8 of the European Convention on Human Rights, the right to private life, should be robustly upheld for the benefit of our society. Statutory duties that enable public bodies to look into and question the decisions made by individuals without their consent run contrary to a human-rights and social justice based approach to engagement. Social workers uphold the human-rights of individuals and support balanced and enabled risk management in line with the wishes of the individual. This approach extends into the principles of protective legislation, with a core theme of supporting an individual to express and enact their views and wishes, using advocacy and advanced statements to ensure human rights are upheld.

Prevention Review Group proposed recommendations for joining-up services through strategic planning

- **PRG proposals:** Community planning partners should set out and establish in Locality Plans the impact of homelessness, emerging issues and joint working to address this. A community planning statement should be included within the Local Housing Strategy.

- Health and Social Care Partnerships should set out a clear statement of their contribution to preventing homelessness within the Local Housing Strategy.
- The next iteration of the National Performance Framework has an emphasis on housing which enables people to live in it (their home) successfully.

The PRG highlighted that effective homelessness prevention requires services, as early as possible, to work together and plan strategically to identify need and ensure structures and arrangements are in place to address issues which may eventually lead to homelessness. The PRG noted that a key driver of local outcomes is the National Performance Framework (NPF). However, whilst the PRG acknowledged the increased focus on homelessness as a result of HARSAG, they stated, homelessness has not had the strategic, cross-cutting focus provided by the NPF.

Question

Q41. Should the requirements for joining-up services through strategic planning to prevent homelessness be included in legislation or guidance?

Social Work Scotland would support a joint strategic approach to planning for homelessness prevention.

Q42. Are there any other requirements for joining-up services through strategic planning that should be considered?

Social Work Scotland would like to highlight again the implications of a National Care Service which is being developed, and which will have a huge impact on the delivery of services to prevent homelessness in a multi-agency way.

Data Sharing and Data Protection

Question

Q43. What do you think the implications are of increased joint working to prevent homelessness between public bodies on data sharing and data protection?

If a statutory duty requires referrals into Local Authorities for those suspected at risk of homelessness, and this occurs without the consent of the individual, there would be a human rights consideration. Data collected about individuals who may not require support would result in records created that hold personal data which would need to be considered carefully against the right to private life under Article 8 of the European Convention on Human Rights. Information sharing agreements between agencies would require a review of the legal basis on which information could be shared. Under the GDPR and Data Protection Act 2018 information can be shared without consent, however there would

require to be a legal basis to do so, in such cases there is usually a connection to a safety risk and something which would be covered through existing protective legislation. Referrals made for suspected risk of homelessness would not be covered through protective legislation routes unless there were additional concerns for the person's ability to safeguard.

Prevention Review Group proposed recommendations for social landlords

- **PRG proposal: Where a social landlord identifies circumstances which may lead to a risk of homelessness, including:**
 - Rent arrears or other financial difficulty which may give rise to risk of homelessness (i.e. before difficulties have led to impending homelessness, such as eviction action or abandonment).
 - Tenant behaviour or action which may give rise to risk of homelessness.
 - Other circumstances, including domestic abuse, or court proceedings, for example, relating to criminal charges, which may give rise to a loss of accommodation due to remand or imprisonment.

That the social landlord must take relevant reasonable steps to mitigate that risk.

Reasonable steps would include:

- Housing management practices to sustain tenancies.
- Engaging with the tenant to address relevant financial circumstances.
- Engaging the tenant to address behaviour.
- Putting in place protocols to address relevant circumstances and mitigate risk of homelessness at an early stage, including protocols relating to domestic abuse.
- Where tenants face court proceedings.

The PRG recognised that social landlords are well placed to carry out work which prevents homelessness and that much of existing good tenancy management practice may already serve to achieve this, especially work to address rent arrears and antisocial behaviour. Legislative pre-action requirements aimed at providing further protection for tenants facing eviction for rent arrears have been in place since 2012 (Section 14 and 14A of the Housing (Scotland) Act 2001).

The intention behind this proposal is to formalise responsibilities to prevent homelessness as duties so that social landlords take action within their powers to identify and mitigate the risk of homelessness as early as possible, including the separate risks resulting from rent arrears, neighbour and relationship concerns, domestic abuse and risk to tenancy due to impending court action.

Questions

Q44. Do you agree with the new legislative duties to ensure social landlords take specified reasonable steps to prevent homelessness where a risk is identified?

The complexity of issues that may contribute to someone being at risk of homelessness would be better addressed through referral to appropriate services. In previous answers we responded that there are circumstances where an individual may require specialist help to address issues of mental illness or domestic abuse and coercive control. It would not be appropriate for social landlords to take on specific roles within these groups to address risks of homelessness. However, it would be beneficial for social landlords to be a part of a wider multi-disciplinary approach to supporting people at risk of homelessness.

Q45. Are there any other reasonable steps apart from those listed that a social landlord should be legally obliged to take to prevent homelessness?

See response to Q44.

Q46. Do you agree with the proposal to legislate for the establishment of protocols by social landlords in relation to domestic abuse?

Women who may be at risk of homelessness due to domestic abuse and coercive control will require additional considerations at point of making a referral and onward support. Specific proposals made around domestic abuse and homelessness should align with advice and guidance from Scottish Women's Aid and Violence against Women and Girls partnerships who can provide specialist guidance on approach in line with the Equally Safe agenda.

Q47. Do you agree with the proposal to legislate for the establishment of protocols by social landlords in relation to where tenants face court proceedings?

See response to Q44

-
- **PRG proposal:** If the landlord considers the risk of homelessness for a tenant to require assistance beyond their powers, including where there is a growing risk of eviction, then they should notify the local authority as early as possible that there is a risk of homelessness.

This is similar to existing provisions (the Section 11 duty of the Homelessness etc. (Scotland) Act 2003, which states that landlords must notify a local authority where the landlord raises proceedings for possession. However, the intention of the proposal is to ensure that the referral is as far upstream, targeted and as preventative as possible, and to have a clear process in place between the social landlord and the local authority, so that a crisis point is avoided and no one is evicted from social housing without somewhere to stay that night.

Questions

Q48. Given that landlords are already expected to notify local authorities of raising proceedings for possession, do you agree with a new legislative provision to ensure it happens earlier than under current arrangements?

Social Work Scotland would agree with this proposal.

Q49. What further statutory measures beyond the existing Section 11 provision are needed so landlords notify and work with local authorities as soon as possible to prevent homelessness?

It may be useful to provide expectation of when landlords should notify a local authority of risk of eviction to enable support to be offered at its earliest point.

Q50. At how early a stage should a landlord be expected to notify a local authority about the risk of homelessness?

Social Work Scotland would not be well placed to offer a timescale, but would suggest that consideration should be given to the multi-agency response required as a guide for determining length of notification period.

Prevention Review Group proposed recommendations for private landlords

- **PRG proposal:** The pre-action requirements on private landlords in cases of rent arrears which were created in the emergency coronavirus legislation to provide information and put in place support for tenants in rent arrears should be made permanent.
- If the landlord agrees with tenants as part of the conversation around the pre-action protocol, or in any other circumstances, the landlord may make a homelessness prevention referral to the local authority, where they are concerned that there may be an emerging risk of homelessness. A local authority must respond to a referral from a private landlord about a possible case of homelessness.

The intention behind these proposals is to prevent homelessness as much as possible from the Private Rented Sector (PRS) and that the PRS will be more widely used, where appropriate, to house people at risk of homelessness.

Please note that a consultation on a draft Rented Sector Strategy – A New Deal for Tenants is being launched in December 2021 and will run until April 2022. This will include questions related to improving accessibility, affordability and standards across the whole rented sector. The current Coronavirus Recovery Bill also contains proposals on pre-action requirements.

Questions

Q51. Do you agree with the proposal to make pre-action requirements on private landlords in cases of rent arrears permanent in legislation?

Q52. How might a new legislative duty on local authorities to respond to referrals to prevent homelessness from private landlords work in practice?

Q53. What sort of support do you think private landlords may need to ensure they meet this requirement?

-
- **PRG proposal:** If a local authority is assisting a person threatened with homelessness as a result of pending eviction from a private tenancy, the local authority should have a power to request that the First-tier Tribunal delay execution of an eviction order, proceeding where a landlord has failed to co-operate.

Question

Q54. Do you agree with the proposal that a local authority should have a power to request a delay to eviction to allow time to secure a positive outcome for the tenant? Social Work Scotland would agree with this proposal.

-
- **PRG proposal:** The homelessness advice and assistance is designed to meet the needs of people living in and seeking to access the PRS.

The PRG indicates that, in practice, homelessness advice and assistance provided by local authorities in relation to the PRS would include PRS access schemes, landlord liaison, rent deposit guarantee schemes and a focus on tenancy sustainment and prevention.

Question

Q55. The Prevention Review Group propose that the homelessness advice and assistance is designed to meet the needs of people living in and seeking to access the private rented sector. Do you agree with this proposal?

Q56. How would a specific legislative duty on local authorities to provide homelessness advice and assistance relating to living in and/or accessing the private rented sector work in practice?

Introduction

This section firstly focuses on the principles that guided the PRG approach and secondly, on the proposed recommendations for changing the current homelessness legislative framework.

Principles of the PRG

The overarching **foundational principles** covered in section 2 will also be relevant to this section:

- Responsibility to prevent homelessness should be a shared public responsibility and not rely solely or primarily on the homelessness service.
- Intervention to prevent homelessness should start as early as possible. In many cases this will be before issues have escalated to a point where homelessness appears imminent.
- People facing homelessness should have choice in where they live and access to the same range of housing outcomes as members of the general public, with appropriate protections to mitigate further risk of homelessness. Housing outcomes should be comparable across the prevention and homelessness duties.

Under their principles, the PRG also recommends that the current statutory framework for homelessness should be amended to achieve the following:

- Clarify, strengthen and extend a duty to prevent homelessness, and integrate it within the main statutory framework.
- Prescribe a range of reasonable steps to be used to prevent or alleviate homelessness, based on the existing Housing Options framework, to be included in a personalised and tailored housing plan that maximises applicants' choice and control.
- Ensure the service meets the needs of specific groups at risk of homelessness, and those leaving prison, care and other institutions, and those facing a threat of homelessness living in the private rented sector.
- Ensure people requiring assistance to prevent or alleviate homelessness are assisted into accommodation which is stable and suitable to their needs, again allowing them choice and control.
- The system must be clear and accountable, providing people with appropriate and effective rights of reviews and challenge throughout the process.

The PRG was clear that its principles should underpin the outcome to 'clarify and integrate the law on homelessness prevention within the current statutory framework set out in the Housing (Scotland) Act 1987. The Group's engagement with stakeholders, including local authorities, underlined the wish for reforming legislation, formalising the role of Housing

Options with clear steps to prevent homelessness as early as possible, and clarity on discharging duties towards an individual.

Questions

Q57. Do you agree with these principles?

Social Work Scotland recognise that individuals and families deserve options that suit them; and we agree with the principles, however we would refer you to our answers at Q27 and Q28 in specific detail around young people and how support should be provided to them to make these choices.

Q58. Are there any other principles that should be included and, if so, why?

Q59. What outcomes do you foresee if the above principles were to be adopted to amend the statutory homelessness framework?

We refer you to Q3 and our concerns around the impact of the National Care Service developments, as well as ongoing capacity issues within the social work workforce.

Prevention Review Group proposed recommendations for changing the current homelessness legislation

An extended prevention duty

Please note that this section makes reference to 'stability and suitability' of accommodation as terms used by the Prevention Review Group. These terms are explained more fully on pages 32-34 and, as intended by the Prevention Review Group, should be considered together and in conjunction with the package of measures on legislative change set out in this section.

The policy intention behind these proposals is to provide more choice and control to those either assessed as at risk of homelessness or homeless, not to replace the duties local authorities already have to those assessed as being homeless in Scotland.

- **PRG proposal:** A local authority must assist anyone threatened with homelessness within the next six months.

The legislation in relation to those threatened with homelessness is set out in sections 24 and 32 of the Housing (Scotland) Act 1987. Section 24(4) provides that, "A person is threatened with homelessness if it is likely that he will become homeless within 2 months."

Section 32 goes on to set out the duties on a local authority where a person is found to be threatened with homelessness. More detail on the legislative context for homelessness in Scotland is provided at Annex A.

Section 32(2) reads, "Where they are not satisfied that he became threatened with homelessness intentionally they shall take reasonable steps to secure that accommodation does not cease to be available for his occupation." A person is threatened with homelessness if it is likely that he will become homeless within 2 months.

The PRG indicated that a longer timeframe is needed than is currently in place to take action to prevent homelessness, especially in light of the change to tenancy notice periods under the Private Housing (Tenancies) (Scotland) Act 2016. The Prevention Commission also thought addressing the prevention of homelessness earlier would mean that those facing homelessness could make informed decisions before having to respond in 'crisis mode'.

The intention behind this proposal is that legislating for action in the timescale of six months before to prevent homelessness will encourage activity at an early stage, for example, before financial difficulties or rent arrears have escalated to the point when eviction is imminent, where relationships with a landlord are deteriorating, or well in advance of an individual being discharged from an institution. It is recognised that this will require a cultural shift away from thinking in terms of homelessness, to thinking in terms of early resolution of housing problems across the local authority and other public agencies, assisting people to remain in their homes or to be rehoused rapidly without resorting to temporary accommodation, and with a strong emphasis on integrated or co-ordinated working with other services.

Questions

Q60. Do you agree with the recommendation that there should be changes to existing homelessness legislation to ensure that a local authority must assist somebody threatened with homelessness within the next six months to prevent homelessness?

As noted in previous responses, consent and engagement from the individual would be required to enable a "duty to assist". Social workers undertake duties through the Social Work (Scotland) Act 1968 section 12 which supports engagement. This is a duty placed upon Local Authorities and delegated to social workers, and the addition of a duty to "assist" through homelessness would not enhance the existing legislative context as there are no compulsive powers associated with this to compel an individual to accept such assistance.

Q61. How do you think a duty to prevent homelessness within six months would work in practice?

Again, difficult to answer this in any detail, but would refer you to Q3 where we highlight some of the challenges facing social workers working in an autonomous preventative approach which would support homelessness prevention. We would also refer to the requirement for a person at risk of homelessness to consent to engagement with social work, without which support may not be able to be provided.

Q62. How would an assessment be made to identify whether someone was at risk of homelessness within six months?

In addition to how the question of who and what information they would have access to would be considerations in this question. This would relate to information sharing across organisations, which as noted in previous responses, would require a legislative basis on which to legally share. Making a legal requirement to share information about someone's life circumstances would need to be in alignment with Article 8 of the European Convention on Human Rights.

Duty to take reasonable steps to prevent homelessness

- **PRG proposal: Duty to take reasonable steps to secure that suitable accommodation is available, or does not cease to be available. The minimum statutory framework should include:**
 - Housing options information, advice and advocacy
 - Support for landlords and tenants in the private rented sector, including landlord negotiation and assistance, rent deposit guarantee schemes and other access schemes
 - Welfare and debt advice and assistance
 - Advocacy support
 - Support for people experiencing domestic abuse to choose the best housing outcome, including assistance to remain safely in their own home where this is their preference
 - Family mediation services
 - Supply of furniture or similar goods
 - Referral to other relevant agencies.

The policy intention behind this proposal is to build on the best practice of housing options developed in Scotland over recent years, and ensure a minimum consistency or offer in the prevention assistance offered across the country, which local authorities can then build on according to local needs and priorities. This is similar to the legislative approach taken in Wales, and in accordance with the recommendations of stakeholders to the PRG to put the preventative housing options approach on a more formal basis.

This minimum offer should be underpinned by specific working arrangements between agencies, such as between the local authority and social landlords, prisons and other institutions, and making housing options advice available for people in court settings etc. The current duty under section 31 of the Housing (Scotland) Act 1987 is to take reasonable steps to secure that accommodation is available, and only applies where the individual is found to be homeless in accordance with the definition in Section 24 of the 1987 Act. In relation to preventing homelessness, the duty is set out at section 32 of the 1987 Act, and is a duty to take reasonable steps to secure that accommodation does not cease to be available for occupation where the person has not been found to be threatened with homelessness intentionally.

Questions

Q63. Building on the experience of housing options approaches in Scotland, do you agree with the proposal to regulate for making specific measures available or reasonable steps to prevent homelessness in legislation?

Social Work Scotland would agree with this proposal.

Q64. Are there any other specific measures that should be made available or reasonable steps to prevent homelessness that should be included in legislation?

Q65. Do you think the specific measures made available, or reasonable steps duties outlined, are clearly and unambiguously set out so that it is possible to measure their achievement? Do they need to be more specific?

The measure presented in the list above would benefit from a robust definition set to accompany it when seeking data collection to support consistency in approach.

Q66. If you agree with these new duties, what processes or procedures do you think should be put in place to encourage local authority compliance?

Social Work Scotland are not able to provide further detail on this aspect of the consultation.

Personal Housing Plans

- **PRG proposal:** A local authority must take into account the applicant's views as part of the statutory assessment, and try to reach agreement with the applicant on their housing needs, desired outcomes and what they advise the applicant to do to help resolve their circumstances.
- The statutory assessment should form the basis of a Personal Housing Plan agreed between the local authority and the applicant.

The PRG intended that this and the following recommendations about the statutory assessment should apply to new homelessness prevention duties, and also apply to statutory assessment in cases where the applicant is homeless.

These proposals are intended to produce a minimum statutory framework to underpin an approach where the local authority and the applicant work together to identify the barriers, desired outcomes and a way forward to addressing the applicant's housing situation.

Scottish Government officials have explored the potential for a Scottish personal housing plan model, and note that there are existing and valid processes of recording people's needs and options. It is not yet clear what additional benefits would be gained from implementing a standard personal housing plan approach, given the housing support assessments and outcome tools already in use. The Scottish Government will consider how different assessment processes are valued by people using the service, and will work with local authorities to understand the range of assessment processes in place, with a view to ensuring a consistent service to homeless households wherever they are in Scotland.

Questions

Q67. How can we best ensure that an applicant's views are addressed in a statutory assessment to prevent homelessness?

Social Work Scotland would support the promotion of advocacy to support accurate representation of individual's views. Where assistive communication devices, or BSL is required, these should be progressed.

Q68. Should personal housing plans form part of a statutory assessment for preventing homelessness by local authorities, or just be an option for local authorities to use with an applicant?

Social Work Scotland would support a consistent approach to assessing housing requirement, but would not be able to provide further views on how this would be carried forward as this is a Housing Service.

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- **PRG proposal:** Where an applicant has housing support needs, the local authority must assess these and make provision to meet them.

The intention of these proposals is that where an applicant has housing support needs, the local authority must assess these and make provision to meet them, and that this should be irrespective of tenure. This may include housing support associated with Housing First as well as lower level support in order to prevent homelessness.

Please note that a duty on local authorities to provide housing support for those assessed as being unintentionally homeless by local authorities and in need of that support has been in place since 2013. The intention behind this proposal is to ensure that housing support needs are met at an earlier stage, before the homelessness application stage, through preventative activity before homelessness occurs. As indicated in the introduction to this consultation, the recommendations of the PRG were made on the basis that the intentionality provision in the current homelessness assessment are abolished. At the time of this consultation, intentionality is a power local authorities may use when assessing homelessness, having being changed from a legal duty in 2019.

Questions

Q69. Do you agree with the proposal that a local authority should assess housing support needs and make provision to meet them, as part of a new prevention of homelessness duty?

Yes, holistic assessment of need is essential in preventing homelessness, it is appropriate that the duty sits with local authorities, and that this is in keeping with s12 Social Work (Scotland) Act 1968, maintaining parity between professions.

Q70. How and at what point do you think an individual's housing support needs should be assessed?

- **PRG proposal:** The duty to take reasonable steps would end in a range of circumstances, including by securing suitable and stable accommodation (discussed in more detail below), or where it becomes apparent that the situation cannot be resolved by taking such steps. In this case the applicant is to be owed the full duty for being rehoused.

The policy intention here is that the duty to take reasonable steps would ideally end by supporting the applicant to prevent or resolve their homelessness, by securing "suitable" and "stable" accommodation (explained more fully at pages 32-34). However, where it becomes apparent that the situation cannot be resolved by taking such steps, the applicant is to be owed the duty to be rehoused, which would also result in the applicant securing "suitable" and "stable" accommodation. There are other circumstances in which the reasonable steps duty would no longer apply, such as where the applicant withdraws their application, or where the local authority loses contact with the applicant.

In suggesting specific actions are set out in law about what are 'reasonable steps' to prevent homelessness, the intention of this proposal is that the steps are not taken indefinitely. The PRG had discussed the possibility of a maximum period to take reasonable steps to prevent homelessness through the application of a new duty over 56 days, after which the local authority must secure suitable and stable housing for the applicant. The new prevention duty on the local authority could end where suitable and stable accommodation has been secured for/by the applicant.

There is a possibility that an applicant who is defined as threatened with homelessness, who is undergoing the reasonable steps process as part of a new prevention duty up to six months before homelessness, could experience a material change of circumstances or a loss of accommodation which makes them statutorily homeless, and/or the reasonable steps being carried out are no longer appropriate. This may also apply to an applicant defined as homeless who experiences a change of circumstances which means the reasonable steps being applied are no longer relevant.

This suggests the system needs to be designed in such a way that people have access to the right support for the circumstances they are in, that it is flexible to account for a change in circumstances, and that there is no delay to them being owed a duty to be housed in stable and suitable accommodation.

The PRG developed this proposal to address situations where people with statutory homelessness status may have 'salvageable' accommodation if appropriate steps are taken, and able to avoid the trauma and disruption of having to move out of their home into temporary accommodation. There are three obvious (and fairly large) groups who might fall into this category:

- people experiencing domestic abuse, who have statutory homelessness status, as they are at risk of abuse from someone with whom they would otherwise reasonably be expected to reside, or with whom they formerly resided
- people facing eviction from a PRS tenancy
- people being asked to leave the family home.

The PRG is proposing one single application process for assistance whether requiring homelessness or prevention assistance, which in either case would result in an outcome of stable and suitable accommodation.

Questions

Q71. An applicant during the time they are receiving prevention assistance under a new prevention duty from the homelessness system experiences loss of

accommodation, or other change of circumstances which make the reasonable steps agreed to be carried out no longer valid. What should the process look like to ensure someone always has access to the right assistance for the circumstances they are in?

Q72. What assistance should be provided to those who are defined as statutorily homeless, but where it may be possible to prevent them from becoming homeless from their current accommodation (while ensuring it meets the definitions of suitable and stable)? This might include:

- **People experiencing domestic abuse and who therefore have statutory homelessness status**
 - **People facing eviction from a PRS tenancy**
 - **People being asked to leave the family home.**
-

Meeting the needs of specific groups

- **PRG proposals:**
- Anyone leaving these institutions within the next six months with no accommodation arrangements in place should be considered as threatened with homelessness:
 - Prison or youth detention accommodation
 - The armed forces
 - Hospital – without suitable accommodation to go to.
- **Homelessness and housing options services must work with other services and voluntary sector partners** to ensure that the service meets the needs of these groups, and any other that they specifically identify:
 - Those experiencing domestic abuse
 - Those going through legal proceedings which may result in the loss accommodation
 - Those with mental health conditions or impairments
 - Young people
 - Those facing homelessness within the private rented sector.
- Local authorities should agree protocols and ways of working with relevant bodies such as social landlords, prisons, specialist domestic abuse services and other

relevant services to support this work, and the Homelessness Code of Guidance should be updated to include specific instructions on this.

Proposals for new duties to prevent homelessness for those leaving institutions is also covered in section 2 of this consultation, emphasising the importance of this key issue. The PRG highlighted that certain parts of the population are at greater risk of homelessness than others. Those leaving (or entering) particular institutions can often find themselves without accommodation when they move on, including those who may be under the age of 18. Local authorities will, in many cases, already be taking the needs of specific groups into account as part of their local Rapid Rehousing Transition Plans (RRTPs).

Question

Q73. Do you agree with the proposal for meeting the needs of specific groups?

SWS agrees with the proposals.

It is well known that the provision of appropriate and suitable accommodation is crucial in the reintegration of people into their community upon leaving prison. This is a basic need and if it is not met it will significantly increase the risk of the plan for a person's release from prison breaking down. Although the context is different, this equally applies to the Armed Forces and from a hospital setting.

However, the type of accommodation is critical. For example, if we are to promote desistance from offending housing people in houses of multiple occupancy or bed & breakfast-type accommodation can be counter-productive as it may lead to people encountering anti-social behaviour, negative peer influence or being on the street for long periods of time during the day where they might be vulnerable.

The provision of support is crucial, also. Long-term prisoners will be subject to statutory licence conditions supervised by justice social work (JSW) and short-term prisoners may opt to receive voluntary Throughcare support from JSW. The latter must be encouraged with close collaboration between SPS and other key stakeholders and plans agreed well in advance of release. Proposals within the forthcoming Bail & Release from Custody Bill may strengthen these arrangements.

It is also important to consider the remand population who may be faced with the same challenges and obstacles as convicted prisoners. Consideration should be given to extending the proposals to this group too.

Similar issue would apply for young people and those leaving hospital.

Q74. Is there anything you would add to these proposals that may strengthen legislative changes to prevent homelessness amongst specific groups?

PRG proposals:

- Assistance from homelessness services to prevent homelessness must include support and security measures to enable people experiencing domestic abuse to remain in their homes safely where this is the applicant's preference.
- The definition of abuse within homelessness legislation is expanded to cover both the Protection from Abuse (Scotland) Act 2001 and the Domestic Abuse (Scotland) Act 2018).
- Homelessness prevention services should work with other partners to ensure they are able to meet the needs of people requiring housing assistance due to domestic abuse.
- Local authorities support victims of domestic abuse to access exclusion orders.

Please note: these recommendations are included here as part of the PRG report relating to proposed changes to homelessness legislation, but specific questions on homelessness for those experiencing domestic abuse can be also be found in section 2.

Question

Q75. Do you agree with these proposals on preventing homelessness for people experiencing domestic abuse?

Q76. Is there anything else that should be included in considering new legislative proposals on the prevention of homelessness resulting from domestic abuse?

Prevention Review Group proposed recommendations for stability and suitability of accommodation

- **PRG proposals:**
- The criteria for identifying appropriate housing options shifts to focus on the stability and suitability of the accommodation, with suitable safeguards.
- **Stability:** all accommodation must be expected to be available for a minimum period of 12 months.
- Stable accommodation should be defined to include to:
 - A Scottish secure tenancy (SST) or short Scottish secure tenancy (SSST)
 - Owner occupation (e.g. LIFT scheme – Low Cost Initiative for First Time Buyers)

- Private Residential Tenancy (PRT) where there is an expectation that the accommodation will be available for at least 12 months, for example, through receiving an assurance from the landlord that they are not intending to sell during that time
- Other forms of accommodation, for example, with a parent or a friend, where the owner/landlord has provided in writing their intention that the accommodation will be available for at least 12 months, and the local authority is satisfied with this reassurance.

Stability of accommodation

For those households who are assessed by local authorities as homeless and unintentionally so, the law currently requires a local authority to secure permanent accommodation. This is defined as a Scottish Secure Tenancy, Short Scottish Secure Tenancy or Private Residential Tenancy. These tenancies come with a considerable degree of security of tenure: a landlord must meet the statutory criteria for eviction, and a court or tribunal must oversee the lawfulness of the proposed eviction.

The PRG wanted to allow people who are facing potential homelessness the same range of accommodation options as are available to any member of the general public. This would allow applicants choice and control over where they live, either to remain in their current accommodation or to be rehoused as rapidly as possible and prevent homelessness, while ensuring appropriate and adequate protections for people, whether they are subject to a tenancy or an occupancy agreement.

The PRG highlighted that there must be safeguards in place to ensure that the accommodation is stable and suitable for the household, to resolve any risk of homelessness, but it should not be limited to just social and private tenancies. This was a strong theme in the discussions of the Prevention Commission, who noted people in the greatest housing need often had fewest housing options. They felt that people should have the same options as other members of the public, while balancing this with safeguards to give people stability. They identified tenure as just one of the factors which may influence people's decisions regarding housing choice.

The term 'stable' accommodation was intended by the PRG to be accommodation which is reasonably expected to be available for a minimum of 12 months, either through a tenancy or other agreement. It was intended by the PRG that any accommodation used to discharge either the prevention duty or the full rehousing duty meets the criteria of suitability and stability, to be defined in regulations. The policy intention is that stability and suitability is intended for both the prevention and alleviation of homelessness, i.e. prevention and rehousing duties.

It is also to bring greater alignment with health and social care related accommodation, specifically supported accommodation. This type of accommodation generally uses occupancy agreements rather than SSTs or PRTs. It also intends to create a legal mechanism with some protections for people to return to the family home (for example, following successful mediation), if that is appropriate for them.

This is the policy intention, with the PRG looking to ensure strong protections, both through the requirements for stability and suitability, further requirements for accommodation not protected through a tenancy, and through ensuring a discussion between the local authority and the applicant about what options are desirable and suitable for the applicant.

Questions

Q77. Do you agree with the criteria proposed for the stability of housing outcomes?

Q78. Do you agree that 12 months is an appropriate minimum expected period for accommodation to be available (regardless of the type of tenure) for people who are threatened with homelessness or have become homeless?

Q79. How do you see this working in a) a private tenancy; b) accommodation with an occupancy agreement; and c) those returning to the family home or to live with another relative?

Suitability of accommodation

- **PRG proposal: Suitability:** All accommodation must be suitable to the needs of the household.
- Suitability will cover grounds relating to the accommodation and those relating to the household including:
 - Affordability
 - The best interests of any children in the household, or for whom the individual has parental responsibility
 - Location and access to relevant services, employment (including future prospects, for example, where a lone parent is planning to return to work), caring responsibilities or education, family support and social networks
 - Needs relating to health or disability
 - Where abuse is a factor (domestic or otherwise), proximity to the perpetrator/victim.

Please note that for some people, suitability may also relate to their culture, for example suitable accommodation for a Gypsy/Traveller may be a caravan or residential mobile home rather than housing.

Questions

Q80. Are these the right grounds to consider in deciding on the suitability of housing outcomes? Are there any other grounds that should be considered?

Q81. Do you think the criteria proposed for both stability and suitability of housing outcomes would allow people a wider range of housing options to either prevent homelessness or rehouse someone who has become homeless, and that could lead to better outcomes for the applicant?

Safeguards for non-standard accommodation options as part of a new prevention of homelessness duty

- **PRG proposal:** Social or private tenancy or owner occupation should be considered as 'standard' discharge. Any other form of accommodation ('non-standard') may be considered for discharge of the duty, where these additional safeguards are met:
- The accommodation must have appropriate facilities for settled living, including:
 - i. 24-hour access
 - ii. adequate toilet and washing facilities
 - iii. access to kitchen facilities
 - iv. a private bedroom
 - v. a statement of rights and responsibilities in relation to the accommodation.
- Applicants must give written consent to be discharged into a non-standard form of accommodation (i.e. they have a veto).

Question

Q82. When taken with the general criteria for suitability and stability, do these additional safeguards provide the right safeguards to ensure these accommodation types (non-standard) are always suitable and stable? Are there any additional safeguards that could be put in place?

PRG proposed recommendations for enforcing people's rights

Right to review

- **PRG proposal for right to review:** There should be a comprehensive right to review which covers the following decisions:
 - Decision as to whether someone is homeless or at risk of homelessness
 - Decision to refuse an application
 - Decision as to whether any accommodation secured discharges the local authority's duty to the applicant
 - Decision to terminate interim accommodation pending an assessment or review
 - A review of the accuracy of the assessment
 - Any decision relating to a housing support needs assessment
 - Decisions relating the reasonable steps a local authority may take to prevent or alleviate homelessness
 - Decisions to end assistance to prevent someone's homelessness
 - Decisions to notify another local authority under local connection criteria
- Any applicant should still be able to request a review even if they have accepted an offer of accommodation.

Question

Q83. Do you think any additional measures are needed to ensure a right to review by the local authority within the proposed legislative measures to prevent homelessness?

Right to appeal

- **PRG proposal for right to appeal:** Applicants can challenge decisions through the Housing and Property Chamber of the First-tier Tribunal for Scotland. Appeal grounds should be on both points of law and the merits of a decision.

This is a far reaching recommendation that requires careful consideration. The Scottish Government has stated that it is keen to ensure the system is transparent and can be held

to account so that it works effectively, and it can be challenged when it fails to work as it should, to provide full accountability in a system which is accessible, proportionate, and seeks to support and protect people in such a vulnerable situation as losing their home.

Question

Q84. What do you think are the key considerations in any appeal process linked to new legislative measures to prevent homelessness as outlined?

Regulation

- **PRG proposal on regulation:** The Scottish Housing Regulator (SHR) should report annually on the experiences of households facing homelessness and the threat of homelessness as it does currently for social tenants.

The SHR currently report on landlords' performance in achieving the Scottish Housing Charter in their annual National Report, and that includes some reporting on homelessness. SHR also publish annually a report for every landlord and provide an online landlord comparison tool. The annual reporting is based on the data received in the Annual Return on the Charter, supplemented where relevant with qualitative information from the National Panel of Tenants and Service Users, which usually includes information about the experiences of people who have experienced or are experiencing homelessness.

Questions

Q85. Do you have anything to add to the proposal on the role of the Scottish Housing Regulator in relation to proposals for new legislative duties to prevent homelessness?

Q86. What implications do you think these proposals have for other regulatory bodies?

Strategic housing needs assessments

- **PRG proposal on strategic housing needs assessment:** As part of the local authority Local Housing Strategy required under section 89 of the Housing (Scotland) Act 2001, an assessment should be carried out of the needs of persons in the area for housing support.

Question

Q87. Do you agree that there should be a general assessment of housing support needs of persons (separate to assessments for individuals) in an area as part of the Local Housing Strategy?

Yes

Section 4: Questions on the package of proposals, resources and monitoring

The package of proposals

The PRG proposals were intended as a package - especially the reform of the statutory framework - and they have highlighted that to accept some recommendations without others could undermine the intention of the proposals, or have unintended consequences.

Questions

Q88. Do you agree this is this the right package of reforms to meet the policy principles of early intervention and preventing homelessness?

Q89. If you do not agree this is the right package of reforms to meet the policy principles of early intervention and preventing homelessness, what do you recommend in terms of other ways of reforming the system to meet these policy principles?

Q90. How do you feel about the overall package and the balance it strikes between the different objectives, interests and principles outlined? Does it work as a whole package? If not, how can the package be adjusted overall to better meet the principles of early intervention and prevention?

Q91. Please give us your views on the potential impact of the proposed new homelessness prevention duties on different groups of people. (Different groups of people with protected characteristics in the Equality Act 2010 include: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, sexual orientation).

Resources

Questions

Q92. What do you think are the potential implications for your role or for your organisation's role of the implementation of new duties to prevent homelessness in terms of time and resource?

IF social work services – both within integration authorities and local authorities - are to have greater role and responsibility in relation to homeless then this would need to be fully funded including training, staffing and ongoing development costs. Potential structural changes due to the NCS will impact on this, given the shift of at least some and potentially all, social work services in to the NCS and away from local authority housing and homelessness structure and responsibilities

Q93. What do you think you or your organisation would be doing to meet new prevention duties as outlined in this consultation that you were not doing before?

We would refer you back to our substantive answers at Q3, with specific impacts around capacity and implementation of these additional duties, which will be further affected by the National Care Service Developments.

Q94. Do you think these proposals offer an opportunity for potential savings or benefits to services through an increased focus on early intervention and preventing homelessness?

No. We believe that the proposals would result in additional costs

Q95. What additional training needs do you think will be required for your role or your organisation's role in implementing any new prevention of homelessness duties, and what do you think the timescales for this would be?

We would refer you back to our substantive answers at Q3, with specific impacts around capacity and implementation of these additional duties, which will be further affected by the National Care Service Developments.

Monitoring

Prevent1 statistics are currently published by the Scottish Government to record housing options approaches by local authorities, activity undertaken and outcomes of approaches. The latest data available is for 2020/21 with published information available from 2015/16 onwards. All publications for homelessness statistics, including equality breakdowns can be found [here](#).

It is worth noting that it may not be helpful to make direct comparisons between local authorities using currently published statistics as Housing Options is not a statutory

function. The use and implementation of Housing Options varies greatly between local authorities as each tailors its service provision to meet needs specific to their area.

The policy intention of introducing new forms of monitoring is to ensure the appropriate statistics are collected to help measure the impact, outcomes and consistency of the implementation of new homelessness prevention duties, without creating an unreasonable additional administrative burden to the duties of local authorities.

Q96. What monitoring information do you think should be collected in order to best assess the implementation, progress and outcomes of new legislative duties to prevent homelessness?

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