



Prevention of homelessness duties consultation

Response submitted to Scottish Government 28 March 2022

This is a response to the joint consultation published by the Scottish Government and COSLA on proposals to introduce a new duty to prevent homelessness.

Consultation Questions

Section 2: Proposed recommendations by the Prevention Review Group (PRG) and consultation questions on duties to prevent homelessness on wider public bodies and landlords

Principles of the Prevention Review Group (PRG)

Overarching 'foundation principles'

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

CIH Scotland agrees with the foundational principles underpinning the Preventative Duty. The principles of shared responsibility, early intervention and informed choice are all easy to understand and complementary to each other.

However, we would also suggest a fourth principle focussed on consent. This duty will only be effective where there is the active consent of the person at risk of homelessness, otherwise they will disengage with the process and homelessness will become more of a risk. Before the principle of informed choice can be realised there must be clear consent from the individual concerned.

In addition, these foundational principles can only be realised where there is an ongoing commitment to learning, education and professional development. Without this core approach these principles do not have any substance. Public sector staff have a responsibility to keep themselves informed about new legislation, new policy, guidance and practice and we focused on developing the



skills, knowledge and behaviours of practitioners in order to support people at risk of homelessness.

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

As above.

The principle of 'ask and act' duties

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

Homelessness can be a complex issue, particularly for people with support needs and those experiencing repeat homelessness. Homelessness is not just a housing issue and research has shown strong links between trauma, health and addiction issues and homelessness. As such, a partnership approach is needed to prevent homelessness where possible or to provide the support required to find and sustain a new tenancy.

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

- Strongly Agree
- Agree
- Disagree

The power to end homelessness does not only sit with local authorities but across the public sector and with other key partners such as social landlords. In order to identify and support those at risk from homelessness a spectrum of public bodies, particularly health and education services, that have more regular communication with those at risk must have a duty to 'ask and prevent'. Ideally this will help minimise the instances where households are presenting as homeless in a crisis and instead allow local authorities to identify other steps that can be taken to prevent homelessness or to identify a more suitable home, although as noted above only where consent is given.



A new duty will help develop professional pathways and information sharing protocols between local authorities and public sector partners with regards to the prevention of homelessness. However, given the existing challenge of ensuring housing and homelessness services meet their duties, for example EQIAs, we have concerns that a new obligation by itself won't institutionalise a new approach to preventing homelessness. Identifying those at risk of homelessness requires the right skills, training, empathy and knowledge from those working across the public sector. Those at risk must be able to trust the public sector worker and they in turn must be able to direct the individual to the right support and in a timely way. The adoption of a prevention duty will require a commitment from the public sector to new knowledge and ongoing CPD.

CIH Scotland also notes the risk of health and education staff asking unexpected questions about housing and homelessness status. Such approaches, if handled unsensitively, may deter individuals from accessing vital public services in the first place. The success of the Prevention Duty will be determined by the care, sensitivity and compassion from public sector workers in how they seek to identify if someone is at risk of homelessness and then how a successful refer is made. There needs to be clarity that when a referral is made to local authorities from public sector partners that it is responded to thoughtfully and timeously.

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

As noted above, a commitment to end homelessness requires more than housing and homelessness involvement. In order to identify and support those who are risk of homelessness, the duty must be extended to the health and care services, education departments, social work, courts, prison and police service as a minimum.

Each of these institutions engages with tenants and homeowners in a way that local authority housing and homeless services do not. Be it a court criminalising someone which leads to the loss of their tenancy, a person leaving prison without a home to return to, a victim of domestic abuse accessing health services, or children failing to attend school, these institutions are well placed to identify those at risk of experiencing homelessness at a time when it can be prevented.

The success of the legislation and its policy intentions will be determined by the breadth and depth of public sector duties applied, the resources allocated and the training provided. The more narrow the scope and the budget the more limited and indeed counter productive the early intervention.

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



- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

No one should leave an institution without a housing plan in place, especially when there is ample notice of when the person is due to leave.

The SHORE standards

(<https://www.sps.gov.uk/Corporate/Publications/Publication-5363.aspx>) present a good example of partnership working to address the issue of people leaving prison with nowhere to stay on their first night. It was identified that being liberated from prison into homelessness can lead to reoffending and further prison stays. The SHORE standards were developed by the Scottish Prison Service and the housing sector, and while there have been some challenges with information sharing protocols, there are lessons to be learned from the process and how it could be improved and applied to different public bodies covered by a new prevention duty.

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

Duties can only be delivered by public bodies where there is the resource to do so. In practice while CIH Scotland support the principle of a preventative duty across the public sector it will only help prevent homelessness where the public sector has the funding in order to develop new partnership, new pathways, identify those at risk of homelessness and pay for the housing they require.

There are clear parallels between the discussion of a prevention duty and upcoming discussion on a legal right to adequate housing in that both require a duty on relevant bodies, the capacity to deliver and the budgetary means to be realised, otherwise organisation will be in breach of their duty.

Duties on wider public bodies and landlords

Prevention Review Group proposed recommendations for health and social care

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?

- Strongly Agree



- Agree
- Disagree
- Strongly Disagree

Please say why.

As noted in the consultation those experiencing homelessness have a higher level of interaction with health and social care services than is common across the general population. Using the interaction with health and care services to assess housing circumstance of patients can help identify risk and signpost patients to appropriate support to access/ maintain a home. The challenge is creating a robust, accountable mechanism that can be easily used by trained health and care staff and signposts relevant housing and homelessness teams to support the person(s) at risk.

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

As per question 8

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

No response

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

No response



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?

- Positively Impact
- No Impact
- Negatively Impact

Please say why.

No response

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

As per the response to q8 and q5 we believe it is appropriate for social work to have a duty to ask and act about housing issues and the risk of homelessness subject to all the condition previously mentioned. The specific worker must be appropriately trained to approach discussions on their housing status in a sensitive and empathetic manner, they must secure consent for intervention and the referral pathways must be effective and responsive. Otherwise this new duty may deter people from accessing health and care services for fear of questioning.

These professionals often have and have relationship in place that can help them determine the reality of the housing needs of the people they are working with and developing a duty to ask and in turn act can help prevent homelessness from occurring in the first instance.

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why, and if you disagree please say how this might be addressed.



No response

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?

For H&SC to be an effective partner in prevention, actions need to be taken before intensive interventions are needed and adequate resources must be available to support those who need more support. What is required is a greater understanding of homelessness across H&SC, training for H&SC staff and clear responsibilities for prevention to be set out in the upcoming Homelessness Prevention Duty. Many staff are involved in implementing Rapid Rehousing Transition Plans, supporting the Housing First agenda, a key part of which is early intervention and prevention. In some local authorities there are homeless prevention officers linked to schools and more engagement with a range of health professionals in particular to ensure more positive outcomes. However, a deeper understanding will support homelessness prevention.

In relation to the provision of suitable housing for people leaving hospital, the provision of Housing with Care such as Hanover Scotland's Varis Court can provide residents with the support they require in a homely setting, without the need for more costly residential care. However, despite strong evidence of improving outcomes (https://ihub.scot/media/6047/moray-evaluation-fnct_april19.pdf), the lack of capital investment or long-term certainty from H&SC partners means that the financial risk for specialist developments often sits solely with the social landlord and for this reason can be difficult to progress. A more equal partnership arrangement with capital funding from the NHS or through IJBs (or new CHSCBs if introduced) and longer term commitments to the provision of care could help to deliver more housing with care and support the renovation of existing homes for older people which may no longer be fit for purpose.

Q16. Do you agree with the proposal that the local authority must provide assistance to anyone who is going to be discharged from hospital?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why, and what is the main difference this statutory change would make to people in hospital and at risk of homelessness.

Yes by providing advice to try and prevent homelessness before discharge from hospital the local authority may prevent homelessness. If they do become homeless then they would have a duty to provide them with a home.



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?

The lack of available and affordable housing stock will inhibit local authorities ability to find suitable permanent home for those with acute housing needs. The (welcome) increase in housing standards such as EPC rating as well as accessibility considerations and the move to a new (cross tenure?) housing standard as noted in the rented sector strategy consultation is likely to make some stock unviable unless there is significant investment to improve standards. Improving the availability and quality of housing available in line with the foundational principle of informed choice is critical.

Equally in order to ensure there is appropriate early intervention all staff relevant staff need the appropriate training, skills and knowledge to transition a patient into stable accommodation.

General Practitioners (GP)

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

GPs are among the most trusted professions and will be well placed to have a dialogue with patients about their housing needs and requirements. As noted above, those experiencing homelessness or at risk of homelessness are more likely to use health services. However, we note the risk if GPs are seen as over stepping their role if they enquire about housing status and as such the approach must be handled sensitively and referrals only made with consent.

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

Ensure there is appropriate training, skills and knowledge for all staff to identify those at risk of homelessness and to understand how to support them.

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



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.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why, and how public services can best work together to prevent homelessness for people with more complex needs.

Scotland's existing Multi Agency Public Protection Arrangements are an example of joint working between partners which is driven by the shared aim of managing individuals who present a risk of serious harm and ensuring that the protection of the public remains paramount.

While the issue is entirely different, it sets an important precedent on joint governance, data sharing and joint outcomes and a duty to cooperate across the public sector partners.

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?

It is not for central government to prescribe how joint working arrangements should be developed locally, other than establishing the principles underpinning the preventative duty and establishing a legal duty to cooperate. Public sector partners must choose their own approach to this cooperation, based on their own insights and experience. The duty to cooperate bodies will however be required to provide, accept and share information to support the prevention of homelessness of anyone subject to the prevention duty.

However a MAPPA style approach would bring together all representatives from bodies that have a duty to cooperate to prevent homelessness in one decision making fora. This decision making framework will help establish the institutional links to ensure early referrals and early intervention is effective.

In most cases the household at risk will be supported by routine housing and homelessness arrangements applied by lead agency, usually the local authority. In the case where an RSL tenant is at risk of homelessness they may take on this lead role.



In more complex cases there may be regular review meetings to ensure stable accommodation is being supported and maintained or it may be agreed that another agency will act as the prevention lead i.e. the integration board for those with complex needs.

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

It would ensure that all relevant agencies are involved in the decision making about supporting someone to stay in permanent housing.

Prevention Review Group proposed recommendations for children's services

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

The principle of a preventative duty will collapse unless key public agencies have a duty applied to them. Such a duty must include those in regular contact with children who may be at risk of homelessness such as health visitors and head teachers.

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?

Training and support will need to be provided to health visitors and teachers. Health visitors can ask questions about housing security as part of their regular dialogue with families. Teachers and head teachers need to be trained to identify signs that can be followed up with one to pastoral care with the pupil, direct contact with the family and all school communication to identify if a need exists. If so then a lead organisation will be identified to address and support any housing needs.

Prevention Review Group proposed recommendations for young people

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



Such an approach should include education about housing and homelessness so that young people are more aware of housing issues and are empowered to ask for help if they need it.

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

Yes, if resourced adequately.

Prevention Review Group proposed recommendations for 16 and 17 year olds

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

- Positively Impact
- No Impact
- Negatively Impact

Please say why.

No response

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?

- Yes, there could be 'unintended consequences'
- No, there could not be any

Please say what the 'unintended consequences' could be, and how can this be addressed so that any new legislation improves outcomes for 16 and 17 year olds at risk of homelessness?

As noted in the consultation, it will be important to ensure that taking a different approach for 16 and 17 year olds does not prevent them from accessing the full range of housing options that would be available to other age groups. The suitability of different housing types must be based on the needs of the individual.



Prevention Review Group proposed recommendations for criminal justice - prisons, court services and Police Scotland

Prisons

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?

- Strongly Agree
 Agree
 Disagree
 Strongly Disagree

Please say why.

It is well documented and widely accepted that spending time in prison increases an individual's chances of becoming homeless. Prisoners who have problems securing accommodation on their release are significantly more likely to reoffend than those individuals who do not face these challenges.

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?

The already developed SHORE standards show a pathway for all local authorities to work with prisons to prevent homelessness. This would require local authorities to help fund a link worker post at all relevant prisons across Scotland and their role would be to work with the prisoner to identify and agree their housing options on release from custody. No one should be released into homelessness, but nor should liberation be delayed due to housing uncertainty.

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

In 2019 the Scottish Prison Service suspended its throughcare Support Service (TSS) which in turn undermined the national and developing implementation the SHORE Standards. With the suspension ongoing into 2022 there is a clear need for national prison based housing options service in partnership with COSLA/local authorities with the appropriate budget and capacity.

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

No response



Prevention Review Group proposed recommendation for court services

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

The law allows for social landlords to take eviction action against a tenant where there is evidence of a criminal conviction available and where the criminal offence is one which concerns using the house for immoral or illegal purposes or carries imprisonment as a possible penalty. The risks to private tenants and homeowners are self-evident in that they may no longer be able to pay rent or a mortgage if they are given a custodial sentence.

Given the risks to housing security for someone going through the criminal justice system it is appropriate that housing options advice is available in court settings.

Prevention Review Group proposed recommendations for Police Scotland

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

As with other public bodies discussed above, the police have an opportunity when engaging with members of the public to identify signs that there may be issues with their home - any opportunity to prevent homelessness should be taken.

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?

As with the other public bodies noted above, police officers would need appropriate training and CPD to ensure that they have the knowledge and skills to

ask appropriate questions and make referrals as necessary. Questioning someone's personal or housing circumstances requires sensitivity and issues of personal choice and confidentiality will need to be considered.

Prevention Review Group proposed recommendations for Domestic Abuse

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

While the measures noted on domestic abuse are broadly helpful they do not tackle the seriousness and pervasiveness of the issue. We would recommend that the full implementation of the policies as noted in improving housing outcomes for women and children experiencing domestic abuse report would have much greater impact in preventing homelessness from domestic abuse from the social sector.

For example, the proposed measures to stop homelessness for those experiencing domestic abuse fails to reflect the lack of choice made available to victim/survivors. One of the priorities for victims, as is reflected in the improving housing outcomes report, is to ensure they are given a choice and option over their housing and that decisions are not made on their behalf by housing and homelessness services.

In addition, we also note that some homelessness and housing services are failing to prevent homelessness within the powers currently available to landlords. For example, we know of instances of victims of domestic abuse waiting more than 2 years for a management transfer to a new home. Supporting this individual does not require a prevention duty but the development of a domestic abuse policy and management transfer protocols with other landlords. To reiterate, while a duty can be helpful it cannot address the capacity, knowledge or supply issues that undermine the prevention of homelessness of victims of domestic abuse. They can be best achieved by implementing the recommendations of the improving housing outcomes for victims of domestic abuse.

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?



We note the limited consideration of preventing homelessness in domestic abuse cases from the private housing sector, both the rented sector and owner occupation. As noted in the rented sector strategy consultation, one of the main challenges facing victims of domestic abuse living in the private rented sector is the ability to end a joint tenancy but ensuring the victim can remain in their home. A change in the law to mirror the recent provisions provided to social landlords would help to address this. Beyond this we believe the following measures, if adopted, will improve housing outcomes for victims of domestic abuse in the PRS and prevent homelessness:

- Making the PRS more affordable for victim/survivors, including access to money for a deposit and first month's rent.
- All landlords to have a domestic abuse policy and domestic abuse becoming a mandatory ground for eviction.
- Access to training and networks for landlords, as well as knowledge of signposting, including tenancy move for victims where appropriate.
- Landlords applying for civil orders to support victims stay in their own home.
- Ensuring benefits are accepted by all PRS landlords.
- Social landlords using MMR stock re: domestic abuse management transfers.

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

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'?

- Strongly Agree
 Agree
 Disagree
 Strongly Disagree

Please say why.

Unless there is a duty to act on a referral then there is a risk that the new approach to partnership working and prevention is undermined. A duty should be allowed to be discharged by a local authority if an applicant fails to engage or refuses reasonable offers of housing. However, the ability to discharge a duty must have some safeguards around it so it is not over used.

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?

No response

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



Consent is central in preventing homelessness. Making decisions about someone's housing without giving them genuine choice and allowing them to exercise consent over decision making will undermine the stability of the choice. The report change, justice, fairness highlighted the powerlessness felt by victims of domestic abuse that had housing decision made for them by homelessness staff. Any sustainable approach to prevention will ensure there is individual consent for any decision making.

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

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

- The requirements should be included in legislation
- The requirements should be included in guidance

Please say why.

No response

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

No response

Data sharing and data protection

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

No response

Prevention Review Group proposed recommendations for social landlords

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.



Yes. Social landlords are experienced and skilled in taking appropriate steps to minimise homelessness in a number of circumstances. The proposed extension of pre action requirements as noted in the rented sector strategy consultation also sets out further expectation of landlords to reduce the risk of homelessness. The new duties will help local authority teams offer much more flexibility in the ways they can seek to help people.

The legislation also offers the scope for local authorities to work with RSLs to prevent evictions and increase tenancy sustainability, for example, by conducting joint interviews before court hearings and providing more support for tenants at risk of eviction.

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

Our response to the rented sector strategy consultation also covers some of the issues that landlords should consider to prevent homelessness. This includes:

- Strengthening of pre action requirements across the social sector and introduced on a permanent basis in the PRS.
- Introduce a permanent tenant hardship fund, similar to Scottish welfare fund, which will give tenants access to a grant that can help pay rent/address arrears and be paid direct to a landlord so it does not impact on any other benefits.

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

- Strongly Agree
 Agree
 Disagree
 Strongly Disagree

Please say why.

Yes. As set out in the report 'Improving housing outcomes for women and children experiencing domestic abuse' we propose that all social landlords should have a domestic abuse policy.

Feedback from landlords as part of the deliberations of the improving housing outcomes group identified the main barrier to policy adoption; that there is no requirement to develop and implement a domestic abuse policy. This lack of compulsion has meant that despite a significant public campaign and resource available, many landlords have yet to follow through with their public commitment



to develop a domestic abuse policy and allocate staff time to creating an effective policy.

In many ways this is understandable. Where Landlords such as Fife Council, Edinburgh Council and Almond Housing Association have developed effective policies, this has often taken many months and compelled a programme of training and partnership working with VAWG coordinators, local Women's Aid groups, the police and other stakeholders. The need for landlords to manage other competing pressures such as building new homes, improving energy efficiency, meeting the indicators measured by the SHR or responding to COVID-19 has made developing a domestic abuse policy a tangential issue for many social landlords.

Giving landlords the time and resource to develop their own policy hasn't been effective. To overcome the risk of inertia on there is a need for greater national leadership and direction on the development of a local domestic abuse policies and protocols.

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

No response

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

No response

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?

No response



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

Social landlords have range of measures they can use to secure and support tenancy sustainment. Where these have been exhausted, including the use of pre action protocols, then RSLs should notify the relevant local authority that there is a person at risk of homelessness. This household should be identified in the formalised multi agency risk process and ahead of eviction proceedings being raised.

Prevention Review Group proposed recommendations for private landlords

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

Pre-action requirements have existed in the social sector for some time and ensure that prior to seeking a repossession on the grounds of rent arrears, social landlords must make reasonable efforts to work with tenants to manage arrears. There is no reason why similar protections should not be extended to tenants in the PRS. Indeed such a legislative change in practice only formalises the steps landlords should take when working with tenants to manage arrears, helping to sustain tenancies.

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

As noted above landlords have range of measures they can use to secure and support tenancy sustainment. Where these have been exhausted, including the use of pre action protocols, they then should notify the relevant local authority that there is a person at risk of homelessness.

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

Private landlords will need guidance on adhering to the pre action requirements and may benefit from further support such as having a dedicated team or member of staff in the local authority to provide advice and information.



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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

The eviction process can take some time with some cases taking between six to eight months to be determined by the First Tier Tribunal after being raised, where there is (a) justifiable grounds for an eviction and (b) where landlords have followed due process and protocols. As such the landlord should be permitted to raise eviction proceedings. It is inappropriate to indefinitely delay an eviction where reasonable grounds exist for it to proceed.

However where landlords have not followed due process and engaged in appropriate pre-action requirements then the scope for a delay request by local authorities should be allowed.

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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

Advice and assistance and clarity on housing rights are required across the rented sector. We suggest that the development of a Private Rented Sector Charter detailing minimum service requirements would help to ensure private renters are aware of their rights and how to challenge poor service. The Charter should state clearly what tenants and other customers can expect from landlords; set out how tenants can hold landlords to account; and allow transparent assessment of how private landlords are meeting the Charter outcomes.

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?

Before determining how any duty may work it is vital that there is agreement it is matched with the resource to deliver on it. We have seen across a number of areas



where local authorities have a requirement placed on it by central government but are unable to meet the policy intentions. As part of the financial planning around this bill a determination must be made about the scale and the cost of advice and assistance so that it can be fully funded.

Section 3: Proposed recommendations by the Prevention Review Group and consultation questions on reforming the homelessness legislation to prevent homelessness

Principles of the Prevention Review Group

Q57. Do you agree with these principles?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

CIH Scotland agrees with the foundational principles underpinning the Preventative Duty. The principles of shared responsibility, early intervention and informed choice are all easy to understand and complementary to each other.

However these principles can only be realised where there is an ongoing commitment to learning, education and professional development, without this core approach these principles do not have any substance. Public sector staff have a responsibility to keep informed about new legislation, new policy, guidance and practice and we would recommend a fourth principle that is focused on developing the skills, knowledge and behaviours of practitioners that support people at risk of homelessness.

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

See previous question

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

Principles do not exist in isolation as noted above they need intuitional structure, leadership, training and resourcing to be realised, otherwise local authorities will fall short on the expectations of them with regards to preventing homelessness.

Prevention Review Group proposed recommendations for changing the current homelessness legislation

An extended prevention duty



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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

The experience from application of the Prevention Duty from Wales is that it has been helpful to ensure everyone gets some form of assistance and advice and at a time where it makes a difference. However, feedback from Wales also points to challenges where people seek help and support ahead of the statutory intervention time. While there are examples cited of gatekeeping in Wales ahead of a household reaching their 56 day threshold, the six month timeframe in Scotland would provide a significant lead in time for local authorities to work flexibly with the person at risk of homelessness to determine a sustainable housing option.

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

There are two principal challenges in ensuring the duty to prevent homelessness works in practice, both of which have been noted above.

The first is resourcing and whether local authorities have the capacity and staff to intervene and support householders at an earlier stage of homelessness risk. There are existing reports of gatekeeping in the current homelessness system and a requirement to intervene at earlier stage before a risk is acute or realised has resource implications.

Secondly, staff require more training in homelessness prevention, how to support applicants and how empower them to make their own choices. Homelessness prevention requires empathy, understanding and skill to navigate organisational and bureaucratic hurdles. If we seek to intervene earlier and more effectively then we need to commit to developing staff through ongoing training, education and CPD.

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

As with any local authority, assessments are carried out by Housing Officers, and they will review circumstances and decide whether someone is homeless or at risk of homelessness by legal definition.



Given the relatively long lead in time of becoming homeless within six months, council staff will need much clearer direction and guidance as to circumstance that fall within the policy intention of the Bill. Examples cannot be exhaustive however some can be instructive as well as providing clarity on scenarios that previously would not have met the scope of preventing homelessness but now do. As mentioned previously staff training and ongoing CPD is vital to ensure the legislation is effective over the long term.

Duty to take reasonable steps to prevent homelessness

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?

- Strongly Agree
 Agree
 Disagree
 Strongly Disagree

Please say why.

This is essential. The scope to include prevention of homelessness up to six months in advance creates a large number of scenarios and in order to support households local authorities will need to have maximum flexibility in the action they take.

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

- Yes
 No

Please say why, and what are these other specific measures.

As noted in our report, Improving housing outcomes for women and children experiencing domestic abuse, there are a number of specific measures that will support the prevention of homelessness for victims of domestic abuse.

- Women experiencing domestic abuse are most likely to come into contact with school staff, health visitors, housing officers and maintenance staff, sexual health services, midwives and GPs therefore the duty to identify and refer must be applied widely across the public sector.
- Training staff to ensure the centrality of women's rights to make an informed and supported choice about their various housing options, and access to specialist domestic abuse support and legal advocacy.



- Require all social landlords to develop and implement domestic abuse housing policies based on CIH/SWA 2019 guidance.
- Place the CIH/SWA 2019 guidance on a statutory footing to ensure that social landlords prioritise domestic abuse within an equality and human rights-based framework.

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?

- Yes
 No

Please say why, and how they could be more specific.

No response

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?

No response

Personal Housing Plans

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

It is crucial that an applicant views are reflected in the approach to prevent homelessness and that institutional priorities do not determine the ultimate housing outcomes. However, there needs to be dialogue between the applicant and the local authority as well as mechanism for an applicant to have confidence in the options being presented to them by the local authority. This can perhaps be realised by using independent information and advice services.

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?

- Yes, they should form part of a statutory assessment
 No, they should be an option

Please say why.

No response



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?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

Yes. Tenancies will only be sustained if support needs that are assessed are then realised. The assessment process need not be onerous but is essential to determine if any support is required. Otherwise applicants may find themselves in inappropriate or unsuitable housing and ultimately find themselves at risk of homelessness again.

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

On application an individual's housing needs will be initially assessed by housing officer in partnership with the applicant. Depending on the findings of that assessment there may be a need for a more regular assessment or simply for the individual to alert the landlord when their support needs change.

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?

No response

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.

The principles behind prevention duty are shared responsibility, early intervention and informed choice.



The examples in the question are people potentially at risk of homelessness and who would benefit from early intervention to have their housing options realised. After assessment if it is deemed, they are at risk they should be subject to the same support as those who are already defined as statutorily homeless.

Meeting the needs of specific groups

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

The proposal set out is very vague on how local authorities should address the specific needs for those at risk of homelessness. It speaks to developing protocols between housing and public sector partners but there is no prescription on the measures that are required to ensure these protocols have any impact nor reference to existing guidance, practice or resources that could support this. This could include for example

- the development of separate policies to support each group at risk of homelessness;
- appointing dedicated staff to broker the relationship with household and partners;
- what should be detailed in the homelessness code of guidance; and
- the role of the Scottish Housing Regulator in overseeing how local authorities are meeting this group and how to report on this against the charter outcomes.

While it is appropriate there are specific interventions for different group at risk of homelessness this proposal lacks detail to be helpful to landlords.

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

See previous question

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

The proposal sets out some of the steps local authorities should take to prevent homelessness for victims of domestic abuse but it fails to reflect the breadth of options available and how they use them. The report, Improving housing outcomes for women and children experiencing domestic abuse, sets out a range of measures (some legal, some regulatory, some policy) that can help prevent homelessness and we would recommend that where there are legal measures that can be progressed, that these are included in the legislation.

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

What else should be included.

As referenced in the rented sector strategy consultation, we recommend introducing a new legal power to allow PRS landlords to evict a perpetrator where a victim wishes to remain in the home.

Prevention Review Group proposed recommendations for stability and suitability of accommodation

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why.

No. We recognise the reflection of the PRG in determining provision of stable housing for 12 months as a pragmatic approach to preventing homelessness. However, this proposal represents a derogation of rights for those who previously had the right to fixed permanent housing. As the government looks to embed the right to adequate housing in law, one of the foundational aspects of this is no derogation in housing rights and that they are progressively realised. The introduction of stable accommodation for only 12 months undermines this principle.

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?

- Strongly Agree
- Agree

- Disagree
 Strongly Disagree

Please say why.

No - as above

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?

No response

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?

- Yes
 No

Please say why, and any other grounds that should be considered.

When considering criteria for suitability it would be helpful for there to be a direct read across from the prevention duty to the right to adequate housing and the internationally recognised criteria that determine this right is realised. These are housing that is:

- Affordable
- Habitable
- Good location
- Culturally adequate
- Accessible
- Secure
- Access to services

As the Scottish Government legislates to incorporate economic social and cultural rights in legislation we will see landlords taking specific steps to realise the right to adequate housing for their tenants. Many are already doing so and mirroring this criteria as part of the prevention duty will help landlord think about their approach in a human rights context.

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?

- Yes

No

Please say why.

No response

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

The Prevention Review Group suggested that accommodation not protected by other legal safeguards (referred to “non-standard” options in the PRG report) must have additional safeguards in place:

- The accommodation must have appropriate facilities for settled living (such as 24-hour access, adequate toilet and washing facilities, access to kitchen facilities, a private bedroom)
- 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).

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?

Yes

No

Please say why, and if there are additional safeguards that could be put in place.

No response

PRG proposed recommendations for enforcing people’s rights

Right to review

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?

Yes

No

Please say why.

The list provided is comprehensive in setting out the conditions by which an individual may wish to challenge a local authority decision.

Right to appeal

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

An appeal process will only be utilised by individual where there is access to independent information and advice about their rights and their choices.

CIH Scotland notes the findings of a 2019 survey by Shelter Scotland, when questioning about awareness of the Housing and Property Chamber, found that most PRS tenants are either not aware of its existence, or confident that it can address their problems. Indeed, only around half knew that the Tribunal could help with disputes such as eviction, disrepair and rent increases and perhaps unsurprisingly, most of the 29 respondents said they were more confident approaching their landlord than the Tribunal.

In addition, applications to the Tribunal are at times made without a full understanding of the law and the obligations of the landlord and tenant. CIH has heard of anecdotal cases where tenants have made an incomplete application or applied under wrong criteria, despite the case(s) having merit. This in turn means those cases are not progressed.

As such without access to independent advice from agencies, such as Citizens Advice Bureau or Shelter Scotland, to guide tenants on their rights and provide advice on the value of an appeal, there will be inadvertent misapplication in the system which will undermine the right to appeal.

Regulation

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?

We believe there is scope of the SHR to conduct a thematic review of landlords response to the prevention duty to better understand how they are responding to the new requirement and identify any systemic challenges with implementing the law as per the policy intention. This will include reporting on any gatekeeping by local authorities.

About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support, and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org.

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