



Consultation Briefing: Prevention of Homelessness Duties

Background

A joint Scottish Government and COSLA [consultation on the proposals for new prevention of homelessness duties](#) opened in December 2022 and will remain open until 31 March 2022.

The Scottish Government intends to introduce new duties for a range of public bodies and landlords to prevent homelessness as part of a Housing Bill expected in 2023.

Guiding principles

Recommendations that have been proposed within the consultation are focused on public bodies identified by the [Prevention Review Group](#) (PRG) having a role to play in prevention.

Several principles were set out by the PRG guiding their approach to 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.
- People facing homelessness should have choice in where they live and access to the same range of housing outcomes as anyone else, with appropriate protections to mitigate further risk of homelessness.
- Housing outcomes should be comparable across prevention and homelessness duties.

The [Prevention Commission](#) (a group with lived or frontline experience of the homelessness system who worked with the PRG) introduced the principle of 'ask and act'. Every public body considered would be required to identify if those they work with are at risk of homelessness. They would each have a different role and responsibility for acting on the information.

The prevention duty should work on the principle that nobody should be discharged from an institution such as hospital, prison or the armed forces, without having a place to sleep that night. This would mean anyone due to leave an institution within six months without arrangements for accommodation would be considered as being at risk of homelessness.

About this briefing - This is a new type of briefing exclusively for CIH members. These briefings are designed to inform you about current consultations, highlight potential implications for the sector that you might want to consider in your own response and set out CIH Scotland's position.

Health and Social Care

We know that people who experience homelessness have more interaction with health services.

Therefore, it is recommended that duties be placed on Health and Social Care Partnerships (H&SCPs) to identify housing circumstances of their service users and, if needed, work alongside partners to make sure that appropriate assistance is provided.

In cases with more complex needs where mainstream housing would not be appropriate, responsibility for accommodation should sit primarily with the H&SCP.

Where H&SC needs are identified as part of a homelessness assessment, a statutory duty should be placed on the H&SCP to work alongside the local authority to meet those needs.

Local authorities should make sure that services are designed to meet the needs of those leaving hospital as well as those with mental illness or an impairment. GP practices would also be required to refer to local authorities where they identify risk of homelessness.

Case co-ordination

A case co-ordination approach would be put in place for those who have complex needs and require assistance from two or more public services to support health or wellbeing or to facilitate community safety. The approach should include identifying a professional who would lead on contact and co-ordinate service provision.

Children's Services

Experiencing homelessness at a young age is linked to an increased risk of it happening again later. As such, where health visitors or head teachers believe there is a family facing housing issues or homelessness, they should ask for help from the local authority's homelessness service.

It is also proposed that local authorities offer family mediation as part of their homelessness prevention package in instances where it is appropriate to do so.



The consultation proposes that young people aged 16- 17 in danger of homelessness be treated as children by the law, receiving help from children's social work to avoid homelessness. This needs to be, assessed first regarding the law around the age of legal capacity.

Prisons, Court Services and Police Scotland

It is hoped to amend legislation so that when people enter prison, they are asked what their housing situation is. Where they are going to require help to find housing after leaving prison, referrals should be made as soon as possible to local authorities. Prisons should work with others including housing options to solve any issues. The consultation also highlighted the dearth of housing options advice available in court settings.

In cases where there is concern that a person is or could become homeless, the police should ask about their housing situation and make a referral to the local authority where a risk is identified.

Domestic Abuse

A violent or abusive dispute is the biggest cause of homelessness for women in Scotland. Those who are at risk of being made homeless because of domestic abuse should have access to free legal aid so they can get an exclusion order. Assistance should include support and security measures so applicants can remain safely in their home if this is their preference.

All social landlords should have protocols in place to deal with housing issues relating to domestic abuse.

Local authority duty to respond

Local Authorities should accept referrals from landlords or public bodies as being formal applications. Except in instances where the person states that they do not want to make an application or cases where after reasonable effort the individual cannot be contacted.

Joining-up services

The impact of homelessness should be established in locality plans by community planning partners setting out issues and joint working to address this. A community planning statement should be included within the Local Housing Strategy (LHS). The LHS should contain a clear statement of the H&SCP's contribution to preventing homelessness as well as a community planning statement.

Social Landlords

Where a risk of homelessness is identified by a social landlord, for example due to rent arrears or domestic abuse, the landlord should undertake steps to minimise the risk. This will formalise responsibilities so that social landlords act within their powers to identify and lessen the risk of homelessness.

Where landlords consider that a tenant requires assistance that is beyond their scope, local authorities should be informed as soon as possible.

Private Landlords

Pre-action requirements created during the pandemic should be made permanent. The consultation also proposes that where local authorities are helping someone threatened with homelessness due to being evicted from a private tenancy, they should be able to request that the First-tier tribunal delays eviction proceedings if the landlord has failed to co-operate.

Landlords may make a homelessness prevention referral to their local authority if they are concerned about the risk of homelessness and the local authority must respond.

Homelessness advice and help should also be designed to meet the needs of those living in or looking to access the private rented sector (PRS).

Reforming homelessness legislation

The consultation sets out recommendations to alter legislation 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 housing plan to maximise choice and control.
- Ensure the service meets the needs of specific groups at risk of homelessness, and those leaving prison, care, and other institutions, as well as those facing a threat of homelessness living in the PRS.
- Ensure people requiring assistance to prevent or alleviate homelessness are assisted into accommodation which is stable and suitable.
- The system must be clear and accountable, providing people with appropriate and effective rights of review and challenge.



It also suggests that the minimum statutory framework should include:

- Housing options information, advice, and advocacy;
- Support for the PRS, including landlord negotiation and assistance, rent deposit guarantee and other access schemes;
- Welfare and debt advice and assistance;
- 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; and
- Referral to other relevant agencies.

This 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.

Personal Housing Plans

Local authorities must consider the applicant's views as part of the statutory homelessness assessment. This would form the basis of a Personal Housing Plan agreed between the local authority and the applicant.

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.

Stability and suitability of accommodation

The PRG proposes focusing on stability and suitability when identifying appropriate housing options. In terms of stability, accommodation is expected to be available for at least 12 months and could include:

- a Scottish secure tenancy (SST) or short Scottish secure tenancy (SSST);
- owner occupation;
- Private Residential Tenancy (PRT); or
- other forms of accommodation such as with a parent or a friend.

It is also intended to better align H&SC housing, in particular supported accommodation, which tends to use occupancy agreements instead of SSTs or PRTs. A legal mechanism would also be provided with protections for people to return to their family home, if appropriate.

For suitability, accommodation must suit the requirements of a household taking into account:

- affordability;
- the interests of children in the household or those who the person has parental responsibility for;
- location and access to services;
- needs regarding health or disability; and
- where there has been abuse, proximity to the perpetrator or victim.

For some, suitability may also be related to their culture, e.g., accommodation for a Gypsy/Traveler might be a caravan or residential mobile home rather than a house.

Safeguards for non-standard options

A social or private tenancy should be considered as the standard discharge. Other forms of accommodation may be considered if additional safeguards are met such as appropriate facilities. Written consent must be given by applicants before being discharged into non-standard forms of accommodation.

Right to Review

It is proposed that a comprehensive right to review should exist covering the whole process from identifying homelessness or risk of homelessness, the assessment process, suitability of support and accommodation offered and discharge of duty.

Applicants should be able to request a review even having accepted an offer of housing and it is suggested that this should be done through the First Tier Tribunal.

The CIH view

We welcome the development of a new duty to prevent homelessness and support closer partnership working – homelessness is not just a housing issue and cannot be dealt with by homelessness services alone. However, complex changes to existing legislation and frameworks will have to be carefully managed with resources and training put in place to support staff across all organisations involved in implementing it. Responsibilities must be clearly outlined to ensure that no one falls between the cracks.

We would like to hear what CIH members think about the draft consultation paper. You can share your thoughts by emailing scotland@cih.org