

Meeting the Best Interests of Children Facing Homelessness

Status

1. Section 37 (1) of the Housing (Scotland) Act 1987¹ (“the 1987 Act”) requires local authorities to have regard to guidance issued by Scottish Ministers in exercise of their homelessness functions. **This document provides such guidance.** While local authorities have discretion to deal with each application on its merits in making decisions under the 1987 Act, failure to have regard to statutory accompanying guidance may give grounds for judicial review of a local authority’s decision. This guidance should be used as a supporting document for local authority staff across a range of disciplines in carrying out activities relevant to meeting the best interests of children facing homelessness or threatened with homelessness.
2. In this guidance, all references to legislation are to the legislation as amended. For ease of reference we have made use of hyperlinks to legislation, however these may not link to the fully amended versions.

Introduction

3. Local authorities’ duties to homeless people are set out in Part II of the [Housing \(Scotland\) Act 1987](#) as amended.
4. Section 25(1) of the 1987 sets out various grounds on which an applicant will be considered to have a priority need for accommodation. This guidance relates specifically to applicants who have a priority need in terms of section 25(1)(b). This guidance does not provide that such applicants should be prioritised above the other types of applicant set out in section 25(1).
5. Under section 25(1)(b) of the 1987 Act, individuals who apply to the local authority for homeless accommodation are treated as having a priority need if they have dependent children who reside with them or might reasonably be expected to reside with them. Section 31 of the 1987 Act places duties on local authorities in relation to applicants who are homeless, whilst section 32 places duties on local authorities in relation to applicants who are threatened with homelessness.
6. Under section 32(8) of the 1987 Act, when exercising their functions under section 31 or section 32 in respect of a person with priority need in terms of section 25(1)(b), local authorities must have regard to the best interests of the applicant’s dependent children, and must ensure that accommodation provided for such a person is suitable for occupation by such children, so far as consistent with their best interests.
7. Paragraphs 6.5 and 6.6 of Chapter 6 of the [Code of Guidance on Homelessness](#)² apply in relation to identifying dependent children who should

¹ c.26

² ‘Code of Guidance on Homelessness’, Scottish Executive, May 31 2005, <http://www.scotland.gov.uk/Publications/2005/05/31133334/33366>

be taken into account in determining the local authority's duties under section 31 and section 32 duty of the 1987 Act. Local authorities should always take cognisance of the Code of Guidance on Homelessness when making decisions in relation to their duties under section 31 and section 32 of the Act, and should consult the guidance as a matter of best practice.

8. The duties in section 31 and section 32 are consistent with the relevant articles of the UN Convention on the Rights of the Child relating to the best interests of the child being a primary consideration in all actions concerning children (Article 3) and the right of every child to a standard of living adequate for the child's development (Article 27).

9. This guidance has been produced to help local authorities co-ordinate and carry out their duties under Part II of the 1987 Act in relation to children facing homelessness or threatened with homeless, to ensure that the best interests of such children are being met fully and equitably across the country.

Corporate approach and multi-agency joint-working

10. The responsibility for meeting the best interests of children facing homelessness does not rest solely with the local authority section dealing directly with homelessness. Local authorities should ensure that their approach to providing the best possible service to children facing homelessness is one which involves all relevant departments and sections within the council. Providing services to children experiencing homelessness may cut across all local authority services although some will be more concerned with the housing situation of the child.

11. Local authorities should also endeavour to ensure that other organisations, including Child Protection Committees, NHS Boards, police services, children's reporters and the voluntary sector also play key roles in identifying, supporting and protecting children experiencing homelessness.

10. Paragraphs 3.2 – 3.13 of Chapter 3 of the [Code of Guidance on Homelessness](#) detail provisions for partnership working with other agencies and use of protocols. Regardless of the level at which those involved in homelessness services are operating, where contact with other statutory or voluntary agencies is necessary the principles contained within paragraphs 4.44 – 4.49 of Chapter 4 of the Code of Guidance on Homelessness apply in relation to joint assessments and working arrangements.

11. Such joint working will require the utilisation of shared information systems and as such paragraphs 4.22 – 4.26 of Chapter 4 of the [Code of Guidance on Homelessness](#) are important in terms of considering which information is most relevant to other agencies as well as reducing the impact that assessment interviews can have on families experiencing homelessness. A review of Single Shared Assessments arrangements should be carried out to ensure that the assessment elicits the most relevant information in relation to children in homeless families as well as the applicant. This will ensure that information sharing is as effective as possible.

Adopting the GIRFEC approach as good practice

12. When considering the best interests of children facing homelessness, it is good practice for local authorities to adopt the approach outlined within the philosophy and aims of the Scottish Government/COSLA joint approach to [Getting It Right For Every Child \(GIRFEC\)](#). The overarching principle of GIRFEC is that local authority and other relevant agencies must work together to best meet the needs of the individual child.

13. GIRFEC is the national programme that aims to improve outcomes for all children. It is at the heart of all Scottish Government's policies for children. GIRFEC emphasises the role of a 'named person' who can play a vital co-ordinating role in ensuring that frontline practitioners are aware of their own role in meeting the best interests of children, and pursuing best possible outcomes. In turn, it is equally important that the 'named person' is aware of the impact of homelessness on children. Further useful links to GIRFEC publications are noted below for ease of reference:

- [GIRFEC publications](#)

Defining the Best Interests of Children facing Homelessness

14. Children who are homeless or threatened with homelessness should be appropriately involved in discussions and decisions that affect them. They should feel that they have been listened to and their wishes have been heard and understood. Where this is done children are much more likely to feel comfortable that they understand what is happening and why. Appropriate involvement not only allows the child to feel valued but also helps to ensure that decisions more accurately reflect their concerns and needs. Involvement should be appropriate to the age and capacity of the child but the presumption should be in favour of ensuring that the child has the opportunity to express a view, where practicable.

15. The research referred to below at paragraph 17 highlights that children within the same family need to feel respected as individuals. It is recognised that it might not be possible to reconcile very different views, but it is important to give each child an opportunity to be heard. Local authorities will be best placed to assess the required skills level of staff in terms of interviewing children, and should move to provide any required training to equip relevant staff in carrying out this function. It may be helpful when carrying out any training needs assessment, to take an overall view of which staff would benefit from such training and to ensure that training is offered with a view to ensuring that all relevant sections within local authority services are centrally involved rather than any narrow focus on homelessness or other housing staff. The following principles should be recognised when planning the most effective services from homeless and potentially homeless families with children:

Flexibility

16. When a family becomes homeless or is threatened with homelessness, the best interests of children are met through the most effective management of the various changes of circumstances that a family will experience when in these situations. Local authorities should endeavour at all times to adopt an approach that allows flexibility in considering the provision of accommodation and support to households with children, providing that such an approach is consistent with the local authority's statutory duty to homeless applicants. This will include the need for local authorities to work closely with Registered Social Landlords in their area to encourage them to ensure that the interests of children are reflected in their housing policies and plans and to re-enforce the importance of the contribution good housing makes to positive outcomes for households with children, with particular reference to education, recreational activities and general well-being.

Local circumstances

17. Local authorities should take their local circumstances into account when considering what is in children's best interests, and this should influence the development of their working relationships with partners within the wider Community Planning Partnership (CPP) agenda. It may be useful to establish the views of children who have experienced homelessness in their own area, perhaps through local projects working directly with these children. The [small-scale research](#) published by Shelter Scotland in January 2009 on the views of children who have experienced homelessness, may provide a useful reference point for local authorities in devising their own approach to seeking children's views.

Joint-working

18. Local authorities should ensure that joint-working partnerships with other agencies are underpinned by effective working protocols that allow for agreed operational practices to commence at as early a stage as possible once it has been identified that a family with children requires assistance to either prevent or alleviate a homelessness situation. When framing such protocols, local authorities should take care to ensure that the working practices contained therein are designed to identify the most appropriate services whilst recognising the unique circumstances of each case, and seeking to achieve the best possible outcome in those circumstances.

Integrated and holistic approach to service delivery

19. In order to deliver homelessness services in the best interests of children, an integrated and holistic approach is necessary. The impact from the homelessness service within a local authority may contribute only partially in delivering improved outcomes to children experiencing homelessness, many of whom may have a range of problems. Therefore a pragmatic approach involving all relevant services within the local authority, and a commitment to encouraging positive input from partner agencies in delivering

services for children experiencing homelessness is essential in order to create effective links between homelessness services and other partners within the existing integrated children's service planning framework as contained within the links to GIRFEC principles outlined in paragraphs 10 and 11.

Key considerations in provision of homelessness services

20. This guidance has been produced to inform the approach that local authorities should take to minimise the impact of homelessness on a child in recognition that, while homelessness is a difficult enough experience for adults, there are specific concerns for children. Homelessness can impact on children in a number of ways. Using the framework provided in this guidance and the specific input required to deliver services at each stage of the process, should assist local authorities in delivering the best possible outcomes for children faced with homelessness and reduce the negative damaging impact of being homeless on a child.

Homelessness Prevention

21. [Statutory Guidance on preventing homelessness](#)³ developed jointly by Scottish Government and COSLA, published in June 2009, highlights specific factors that can indicate an increased risk of homelessness and sets out a range of activities which can address these. This guidance should be read alongside the statutory guidance on preventing homelessness, and used to assist local authorities in considering their options in homeless prevention activity for households with children.

22. In line with early intervention principles, the focus should be on preventing homelessness where possible. Again, as highlighted in the research noted above, children's local surroundings are likely to have a stronger influence on their quality of life due to their limited mobility in comparison to adults. Maintaining friendships and continuing attendance at local activities are more difficult for children than for adults if they have to move to a different area, so action to prevent homelessness occurring in the first place can have a particularly positive benefit for them. Prevention of homelessness is also potentially beneficial in terms of remaining in the same school, with the same GP, health care and other local services and contact with supportive family and friends.

23. Location considerations should not mean that families with children should be expected to remain in accommodation which is otherwise unreasonable to occupy. However, in exercising their functions under sections 31 and 32 of the 1987 Act, where action can be taken to maintain a family in reasonable accommodation, or to adapt existing accommodation to meet the family's needs, location should always be a local authority's first consideration.

³ 'Prevention of Homelessness Guidance', Scottish Executive, June 2009, <http://www.scotland.gov.uk/Publications/2009/06/08140713/0>

Homelessness Assessment

24. When carrying out a homelessness assessment on a household containing children under the terms of section 28 of the 1987 Act and planning appropriate action, local authorities may wish to draw on the GIRFEC practice model which combines knowledge, theory and good practice. The tools in the model can be used in a single or multi-agency context.

25. Local authorities should also ensure that as far as possible the recording of routine information aligns with the way information is recorded by other local agencies to ease sharing of information where that is in the child's best interests and appropriate consent to such sharing has been obtained, or may be waived due to pressing child protection concerns. It is worth noting that good working protocols in terms of information sharing can yield positive results in everyday work involving the early intervention principles (as outlined in the Statutory Guidance on preventing homelessness referred to at paragraph 21), and not just in 'acute' or 'high risk' situations. Local authorities should work closely with their respective local Child Protection Committees to ensure best possible practice in this area and that staff training requirements in recognising the best interests of children are effectively acknowledged and acted upon.

Providing accommodation

26. Once a local authority accepts a duty to provide accommodation for households with children under sections 31 to 35 of the 1987 Act, it may be necessary to tackle an immediate lack of accommodation as well as securing suitable longer-term accommodation. When doing so, local authorities must take into account related statutory instruments surrounding accommodation provision, and have regards to other relevant statutory guidance.

27. If temporary accommodation is required it must meet the standards set out in [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2014](#)⁴ ("the 2014 Order") (unless an exception as defined in that Order applies). During the provision of temporary accommodation, the local authority has an opportunity to identify the range of needs of the child and how these can be met most appropriately in any longer-term accommodation solution.

28. The [Code of Guidance on Homelessness](#) states that moves within temporary accommodation should be minimised for all homeless households. This is especially important for households containing children and moves should not be considered unless this would further the best interests of the child, and is necessary to meet the 2004 Order, or is absolutely unavoidable.

29. Where moving is necessary, full consideration should be given as to how children will be affected and they should be fully involved in the process insofar as possible. The research referred to at paragraph 13 shows that alongside concerns surrounding starting a new school, and possible bullying, children also worry about their toys and pets when moving – local authorities

⁴ S.S.I. 2004/489

should recognise that these concerns may be significant for children; offer reassurance where possible; and take these considerations into account when making decisions.

30. When longer term accommodation is being provided, again the same principles apply as for all homeless households. A sustainable outcome is more likely if the household is located in an area where they are content to live and which allows access to services they either already access or are likely to need to access. For children, this is likely to focus around childcare and schools, and local authorities should attempt to facilitate access to accommodation which allows continuity in this regard. The particular housing needs of some families may be more appropriately addressed within a different type of accommodation tenure if this better meets the access requirements referred to above. The [Homeless Persons \(Provision of Non-permanent Accommodation\) \(Scotland\) Regulations 2010](#)⁵ allow for greater access for homeless families to the private rented sector, and should be considered as a useful tool in considering suitable options for settled accommodation.

31. As is noted above, proximity to facilities which allow for hobbies or interests to be pursued; and to supportive friends and relatives can also be crucial to improved outcomes and should be taken into account where possible.

Identifying factors that may impact on a child's well-being

32. It is recommended within GIRFEC practice guidance that practitioners should ask themselves a series of questions when they are concerned about a child. From a homelessness service perspective, local authorities should address these questions in the following way:

- What is getting in the way of this child's well-being?

Is there an issue with the existing accommodation itself that can be addressed? Can any such issue be addressed in a way that provides a satisfactory outcome in terms of homelessness prevention? Is it an issue with the area that suggests a move to another area is essential to ensure well-being? Are there benefits or educational issues that require input from other professionals?

⁵ S.S.I. 2010/2

- Do I have all the information I need to help this child?

Does the child's existing accommodation meet the standards set out in [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2014](#)? Does this child have access to adequate living, sleeping and safe recreational/play facilities? What is the child's daily routine? Do they have the support required to ensure they comfortably and safely access school/nursery? Is this child subject to negative influences that render their current living arrangements unsuitable or dangerous? Can these influences be removed, whilst keeping the child in the same accommodation?

- What can I do now to help this child?

Is an immediate response required to alleviate the presenting problem? Do I have the necessary knowledge and expertise to solve any immediate problem to ensure the child's safety? Do I require to refer to other professionals for input at this stage?

- What can my agency do to help this child?

Does the existing accommodation meet the standards set out in [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2014](#)? Is my service equipped to meet the needs of the child's well-being? What specific resources does the service have in place that can be implemented within an acceptable timescale to alleviate the problem? Does the situation require the input of more than one service area? For example, prevention advice, homelessness assessment, or temporary accommodation? Is suitable emergency or temporary accommodation readily available if required?

- What additional help, if any, may be needed from others?

Am I concerned about any health issues that may require a nursing or GP referral? Is there an issue that is having a negative impact on the child's education and requires to be brought to the attention of education professionals? Is the child known to other services such as Social Work whom I should alert to this change in circumstances? Are there any issues that give me such concern as to this child's welfare that police involvement is required?

The above approach should allow practitioners to focus the main risk factors that have a particular relevance in terms of having a negative impact on the lives of children.

33. Where local authorities are aware that a child is, or has been, experiencing situations that are not stable, particular consideration should be given to taking any action required to maintain or create stable living arrangements as soon as possible. This will require strong communication links with professionals involved in visiting families, and it may be useful to

establish working protocols in order to allow homelessness prevention activity to begin at as early a stage as possible where required.

34. Where a child is looked after by a local authority, then the local authority will want to respond in a manner which takes into account its additional responsibilities towards that child as a corporate parent. As defined in [Looked After Children and Young People: We Can and Must Do Better \(Scottish Executive, 2007\)](#) the term 'corporate parent' refers to the formal and local partnerships needed between all local authority departments and services, and associated agencies who are responsible for working together to meet the needs of looked after children and young people, and care leavers

35. Where it is not possible for a family with children to remain in their accommodation, it may still be possible to ensure that they move to alternative accommodation in a planned way, avoiding a period of crisis homelessness. Local authorities should adopt a housing options approach in these circumstances, as outlined in the [prevention guidance](#).

36. For [child and adult victims of domestic abuse](#), moving home because of risk of harm from the perpetrator and, in some cases, the necessity to keep on the move, can lead to a spiral of repeat homelessness, poverty, disruption to schooling or employment and loss of contact with networks of support. A coordinated, multi-agency approach involving partner agencies such as Women's Aid is required to ensure that women and children can stay safely in their own home or, where necessary, make the move into alternative accommodation without facing additional economic and social disadvantages.

Corporate approach to service responses – responsibilities applying to different levels within local authorities

37. The Scottish Government and COSLA have established a joint steering group in order to assist local authorities to achieve the 2012 target of abolishing the priority need test by the end of 2012, and the various challenges that this presents. In a clear commitment to promoting and improving joint working one of the [four key remits](#) of the steering group is set out as follows:

“Continued leadership at both political and corporate level. As we move towards 2012, it is important there is both a shared leadership and accountability of central and local government's ability to reduce homelessness. Promoting and improving joint working between departments and services to address homelessness at both a national and local level is essential”

38. Provision of services in this manner is not solely related to front line services and there will be a need for involvement at different levels within the organisation to ensure that services are delivered in a holistic way to achieve a desirable outcome for children experiencing homelessness. It is therefore important that the issue of meeting the best interests of children facing

homelessness forms an integral part of each local authority's approach to combating and alleviating homelessness in their area.

Strategic level

39. Officers working at this level need to develop an awareness of the network outwith their own organisation and ensure that they have up to date contacts and information available on the services provided. Those with a strategic overview will also be involved in developing information recording and sharing systems, protocols and updates with colleagues in other service areas in conjunction with their colleagues at an operational level within their own service area. They will need to ensure that staff at operational level have the necessary skills to carry out the tasks which confront them.

Operational level

40. Officers at this level will be responsible for ensuring that their teams have sufficient information about the network of services, the necessary skills to identify areas of concern as well as developing relationships with their counterparts in other service areas. This management and facilitation role will also include responsibility for checking performance so that the authority can be confident that the best interests of children are being met. Officers at this level will need to ensure that child protection considerations are observed prior to identifying a suitable housing outcome.

Practitioner level

41. Front line officers should ensure they have made all possible investigations into the current situation of the children and make contact with the relevant service areas to pass on relevant information as well as discussing with other services how to achieve the best possible outcome in line with the guiding principles. They will need to be satisfied that the necessary contact has been established with relevant services and that any specific accommodation requirements are taken into consideration resulting from discussions on the child's subsequently identified needs. In this way they will be backing up a multi-agency strategic approach to delivering services.