

Preventing Homelessness Duty

Update for Homelessness Prevention and Strategy Group (HPSG)

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1. Purpose of this paper

This paper provides an update for HPSG on the work of the Prevention Working Group to develop a proposed prevention duty as part of the implementation of ‘Ending Homelessness Together’, the Scottish Government and COSLA’s action plan for ending homelessness.

2. Background

In November 2018, the Scottish Government and COSLA published ‘Ending Homelessness Together: High Level Action Plan’, an ambitious and comprehensive plan for preventing, tackling and ending homelessness in Scotland. The plan sets out the changes in culture, approach, plans and policies that together will enable homelessness to be tackled; and more importantly for it to be prevented from happening in the first place.

The plan focuses heavily on changing ways of working and the way in which homelessness prevention is achieved through ‘no wrong door’ approaches, and much better joined-up and evidence-led interventions. However, it also recognises a role for legislation, building on the existing legislation which is among the most advanced in the world.

The Homelessness & Rough Sleeping Action Group (HARSAG), set up by the Scottish Government in October 2017, produced its second set of recommendations in March 2018 considering how to end rough sleeping in Scotland. Truly ending rough sleeping requires an end to people becoming homelessness – or at least for homelessness to only ever be brief, rare and non-recurrent. So, a number of the recommendations on rough sleeping actually relate to preventing homelessness more broadly.

Recommendation 14 was:

Recommendation 14: Ensure legislation provides sufficient support for shift to significantly greater levels of prevention

Scottish Government should examine the case for introducing a comprehensive homelessness prevention duty on local authorities and other public bodies, learning from and building on recent experience in Wales and England.

The HARSAG report went on to say, ‘The legislative framework must support the culture shift we are setting out. This includes all public bodies having a duty to take steps to prevent homelessness and to co-operate with each other to prevent homelessness. Local authorities should retain the primary duty to prevent homelessness, but with the full co-operation of other public bodies, including housing providers.’

In response to this, the Scottish Government and COSLA plan makes the following commitment.

We will work with public bodies, housing providers and other partners to develop a new duty on local authorities, wider public bodies and delivery partners for the prevention of homelessness. This is a significant change and will require careful planning. In particular, we need to ensure that a new duty does not undermine the strengths of the existing homelessness rights. We will learn from evaluation of prevention duties elsewhere and we will set out a timetable for our plans in 2019.

This ambition is ground breaking in the aspiration to include the full range of public and publicly-funded services in a duty to work together effectively to prevent homelessness from happening, when an individual or household is clearly at risk of becoming homeless.

Scotland has long been recognised for its ground-breaking legislation, which provides strong protections for people when they lose their homes. But work on preventing homelessness happening has been less developed. As a result, local authorities in Scotland have responsibilities to rehouse significantly higher proportions of the population than authorities in England and Wales, and a lack of settled housing options has meant that people have got stuck in temporary accommodation for longer and longer periods, sometimes in really poor conditions.

Meanwhile, in Wales and then England, local authorities have been given new legal obligations to take ‘reasonable steps’ to prevent homelessness. Since new legislation come into force (in 2015 and 2018 respectively), both countries have seen significant improvements in the number and proportion of people managing to stay in their accommodation or moving to a good alternative before they ever become homeless.

HPSG has prioritised the work to develop this legal duty, and with support from Crisis has set up an expert group to set out a duty to meet this aspiration.

3. Progress

The working group has started work, and will take 7 months to develop its recommended approach to achieving the aim of a legal homelessness prevention duty.

The membership of the group includes members of HPSG and former members of the HARSAG, and is Chaired by Professor Suzanne Fitzpatrick of Heriot Watt University. The full membership is:

- Professor Suzanne Fitzpatrick, Heriot-Watt University (Chair)
- Gordon MacRae, Shelter Scotland
- Matt Downie, Crisis
- Cllr Elena Whitham, East Ayrshire Council / Convention of Scottish Local Authorities

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- John Mills, Fife Council / Association of Local Authority Chief Housing Officers
- Susanne Millar, Glasgow City Health and Social Care Partnership
- Sally Thomas, Scottish Federation of Housing Associations
- Callum Chomczuk, Chartered Institute of Housing
- Maggie Brunjes, Homeless Network Scotland
- Professor Tom Mullen, University of Glasgow
- Ruth Whatling, Scottish Government
- Kathy Cameron, Convention of Scottish Local Authorities

Over the course of the next seven months, the Prevention Review Group will meet to identify which legal duties are needed to prevent homelessness in Scotland. This work will build on the best of the English and Welsh legislation, but, crucially, will go even further, to define the contribution of other public bodies, such as the NHS, prisons, police and young people's services.

Every meeting will focus on a different theme and will be informed by consultation with specialists in their area. Themes include support from health and social care, prison leavers, domestic abuse, and families, children and young people.

The Change Team co-ordinated by Homelessness Network Scotland will consider all of the issues considered by the Prevention Review Group, and will ensure that the views of people with personal experience of homelessness and people who work in front-line roles are built in to the considerations of the Prevention Review Group. Also, to ensure that the views of the wide range of agencies implicated in a potential future prevention legal system, there will be preparatory consultations with key individuals and organisations ahead of relevant core group meetings – Annex 1 to this paper sets out the schedule of preparatory consultation meetings.

The first meeting of the Prevention Review Group was on 18 November 2019. The discussion included agreement of a classification of homelessness prevention as follows:

- Universal prevention, including work to prevent poverty and tackle housing supply
- Targeted prevention for people at high risk of homelessness, including people in high risk groups of people facing high risk transitions
- Crisis prevention for those at imminent risk of homelessness
- Emergency prevention, to relieve homelessness after it has started
- Recovery prevention, to prevent repeated homelessness

This classification of prevention is also being used to guide the work of the Welsh Government's Homelessness Action Group which is currently addressing a similar set of questions to those considered by the HARSAG in Scotland.

It was agreed that the work of the Prevention Review Group would focus at the targeted and crisis prevention levels, as other aspects of the Scottish Government and COSLA 'Ending Homelessness Together' address the other levels of prevention.

The meeting went on to review the substance and impact of the prevention duty legislation in Wales and England. The slides used to facilitate this are included at Annex 2 to this paper.

The meeting then considered the first set of key bodies and organisations, namely housing and homelessness bodies. Key areas identified included:

- the structure of existing homelessness legislation causes a tension with a prevention agenda;
- the nature and status of reasonable steps to prevent homelessness are not clear;
- actions to prevent someone losing their home within 56 days of homelessness is sometimes viewed as ‘gatekeeping’ (including by the Regulator);
- the effectiveness of any prevention work that takes place within the statutory framework is not clearly recorded.

These and a number of related issues will be considered at the first preparatory consultation meeting on 2 December and fed back to the main Prevention Review Group meeting on 16 December.

4. Next Steps

The Prevention Review Group will continue to address key groups and key organisations and how best to frame effective prevention roles within a legal prevention duty, including:

- Homelessness and housing bodies
- Health and social care bodies
- Criminal justice bodies
- Issues relating to domestic abuse
- Children, young people and families bodies

Having considered each of these issues, the Prevention Review Group will then consider how to draw the strands together, including: resources and implementation issues; relationship with other legal duties and implementation of other reforms (such as prevention pathways and rapid rehousing transition plans); relationship with non-devolved public bodies; and finally consideration of indicative draft clause proposals.

Ending homelessness is absolutely possible, and the best way to do that is to prevent it happening in the first place. The group will produce its final report and make detailed recommendations for significant legal changes to the Scottish Government in summer 2020.