



Evidence submitted by Chartered Institute of Housing Scotland: 25 April 2019

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 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 including over 2,000 in Scotland.

Further information is available at: www.cih.org

CIH contact:

Ashley Campbell, Policy and Practice Manager

ashley.campbell@cih.org



1. General comments

- 1.1 CIH Scotland welcomes the opportunity to respond to the Scottish Government's consultation on local connections and intentionality provisions in homelessness legislation. Our response to this consultation has been informed by our members and the CIH Scotland Board.
- 1.2 We commend the Scottish Government's ambition to end homelessness in Scotland and agree that a more person-centred approach to homelessness will help to ensure that the needs of individuals are taken into account and that the best solution for each household is provided as far as possible. We can see how removing local connection referrals and the duty to assess for intentionality may support this objective. However, it is also important to ensure that if the proposed changes are implemented, the resources required to prevent or deal with homelessness are in place if a real difference is to be made. There is little point in expanding a person's right to access a home in the area of their choice if the right type of home is not available or affordable, or if access to necessary support services is limited or unavailable.
- 1.3 The approach to tackling homelessness in Scotland must be holistic. It must include commitments to continue developing good quality, affordable homes, to reform the social security system and mitigate the worst effects of welfare reform and to work in partnership across sectors, particularly with health and social care to ensure that the right support is in place to help people when they need it.
- 1.4 We understand that this consultation represents just one aspect of the 70 Homelessness and Rough Sleeping Action Group (HARSAG) recommendations currently being considered by the Scottish Government. We also understand the need to act quickly to address issues in the system and improve the experience of those who are becoming homeless every day. However, it is important to ensure that any reforms that are introduced are joined up, that changes are evidence based and that local authorities are given the assistance and support needed to deal with potential increases in demand at a time when they are also being expected to transform homelessness services through Rapid Rehousing Transition Plans (RRTPs).
- 1.5

2. Consultation Questions

Question 1: Commencing the local connection provisions in the Homelessness etc. (Scotland) Act allows Scottish Ministers to modify referrals relating to local connection. The HARSAG has recommended that referrals should be suspended between all local authorities for all groups. Do you think we should:

- Suspend all local connection referrals?
- Modify local connection referrals in another way (please give details)?
- Not commence these provisions i.e. do nothing?



Please explain your answer:

We agree with the principle that a person or household experiencing homelessness should be able to approach a local authority for help in the area that they think best suits their needs and where they will have the best chance to sustain a tenancy. As illustrated in the consultation paper, this could be an area where the person will have access to friends, family, other support networks or employment opportunities. It could also mean moving away from an area where negative influences or dangerous circumstances have been contributing factors to a household becoming homeless, for example through anti-social behaviour, harassment or domestic abuse.

However, we do have some concerns about how such a change may impact access to housing or support services in areas that are already in high demand and would welcome clarification on the measures that will be put in place by the Scottish Government to support the housing sector if the ability to make local connection referrals is suspended. Our concerns are outlined below.

Question 2: Please tell us about any potential impacts of suspending referrals relating to local connection for people who are homeless or at risk of homelessness. Please include any positive or negative aspects.

We are particularly interested in your views on the potential impacts for the following:

- (i) People with multiple and complex needs
- (ii) Families with children
- (iii) Other disadvantaged households/groups, including those experiencing poverty and/or material deprivation
- (iv) Local authorities and partner organisations
- (v) Business or third sector organisations
- (vi) People experiencing domestic abuse
- (vii) Others

The figures set out in the consultation paper show that the number of households referred to another local authority have been reducing in recent years and remain low at 117 referrals during 2017/18. However, it is not clear whether the suspension of local authorities' ability to make referrals may cause an increase in households seeking to move to another local authority area, especially if the duty to assess for intentionality was also to be removed.

The consultation paper acknowledges that suspending local connection referrals is likely to lead to an increase in demand in some local authority areas and we believe that this could present a particular challenge for our cities. This could potentially impact on the ability for those local authorities to deal with existing homelessness need and the needs of other households in the area.

The HARSAG recommendations stated that the impact of changes should be monitored and that the Scottish Government should respond to any local authorities coming under "undue



pressure". The consultation paper does not make clear what would constitute "undue pressure" or what the Scottish Government's response would be in such instances. Our members have indicated that local authorities experiencing any increase in demand for housing or support services should receive financial support. One suggestion was for local authorities to be able to apply for short term funding through the Tackling Homelessness Together Fund to help deal with any additional pressures during the initial implementation of any changes. Over the longer term, any impacts should be monitored alongside the impacts of other changes to homelessness legislation and/or changes to policy and practice. For example, through the implementation of Rapid Rehousing Transition Plans (RRTPs) or the forthcoming revision of the Scottish Government's homelessness guidance.

It is also important to consider the wider housing sector and, in particular, the supply of affordable homes and access to support services. There is little point in expanding a person's right to access a home in the area of their choice if the right type of home is not available or affordable or if they cannot access the support they need to sustain the tenancy. If homelessness is to be addressed, the Scottish Government must commit to long term funding for the development of good quality affordable homes beyond 2021.

There is also a need for housing advice to include realistic information about housing circumstances in the area and what this might mean for the individual or household. For example, in a high demand area, staff should clearly explain the length of waiting time that might be expected and what range of tenure options are available. In some circumstances the individual or household may decide that they will have access to better or more appropriate options in a different area but it is important to emphasise that this should remain their choice.

Question 3: We propose monitoring the impact of any changes to the local connection legislation through continued collection and analysis of HL1 data. Please give us your views on this:

We agree that the impact of any changes must be closely monitored. The Scottish Government must be clear on what is being monitored and what the implications will be. For example, will monitoring just look at the locations of origin and presentation? Will outcomes be taken into account and what does success look like? What actions will be taken if it becomes clear that demand is increasing in a particular area and creating "undue pressure" on a local authority? Again, as stated above, our members have recommended that the Scottish Government should make financial support available to local authorities where there is evidence of increasing demand for housing and/or support services.

Depending on the information being monitored, there may be some changes required to HL1.

Question 4: Commencing the intentionality provisions on the Homelessness etc. (Scotland) Act 2003 leads to giving authorities a discretion rather than a duty, as to whether to investigate whether or not a household is intentionally homeless. Do you think we should:

- Remove the duty on local authorities to assess households for intentionality?
- Not remove the duty on local authorities to assess households for intentionality?



Please explain your answer:

Again, while we agree with the principle of increasing access to housing and support for those who need it, and the removal of the duty to assess for intentionality *may* support this ambition, we do have some concerns.

Scottish Government homelessness statistics for 2017/18 show that while intentionality rates remain relatively low with 5.4% of all households assessed as homeless or threatened with homelessness, there is significant variation across Scotland. Intentionality rates range from 1.5% in Dundee City to 16.1% in Inverclyde (supporting files, table 11c <https://bit.ly/2DwX8VQ>). While Scottish Government Guidance sets out the different circumstances that must be taken into account when making a decision on intentionality, it is clear that there is inconsistency in how households are being dealt with and this suggests that, at the very least, the use of intentionality should be reviewed to gain a better understanding of how it is being applied in different areas and the impact that this is having on homeless households.

While the consultation makes reference to the HARSAG and Aye We Can findings which indicated that intentionality can act as a barrier for some homeless households seeking support, it was not clear whether these cases were the result of intentionality rules being applied incorrectly or without an appropriate degree of flexibility.

We agree that intentionality provisions provide a vital tool in mitigating against perverse incentives for households to take advantage of the system. Consultation with our members and Board has raised concerns about completely removing intentionality testing in that this may signal to some households that there will be no consequence for their actions if they fail to maintain a tenancy. In some cases this may actually hinder progress in supporting tenancy sustainment. This could have implications in terms of managing rent arrears and the significant costs associated with this.

Our preference would therefore be for the use of intentionality to be reviewed and guidance to be revised if necessary. If, as per the proposal, the duty to investigate is replaced with discretionary powers, the circumstances under which these could or should be used must be clearly set out. For example, consideration would need to be given to whether a local authority could decide to continue to investigate intentionality for all households presenting as homeless if that was deemed appropriate in the area or whether the use of powers would be restricted to certain circumstances.

Question 5: Please tell us about any potential impacts for people who are homeless or at risk of homelessness, of commencing the intentionality provisions on the Homelessness etc, (Scotland) Act 2003. Please include any positive or negative impacts.

We are particularly interested in your views on the potential impacts for the following:

- (i) People with multiple and complex needs
- (ii) Families with children
- (iii) Other disadvantaged households/groups, including those experiencing poverty and/or material deprivation



- (iv) Local authorities and partner organisations
- (v) Business or third sector organisations
- (vi) People experiencing domestic abuse
- (vii) Others

If access to homelessness assistance is potentially going to be expanded, the Scottish Government must ensure that there is adequate provision of good quality, affordable homes in the places that people want to live. Together with this, resources must be available to councils for the provision of targeted and relevant support services for households who are homeless or threatened with homelessness.

As with the proposed changes to local connection referrals, if local authorities experience increases in demand for housing or support services, the Scottish Government should provide financial support.

Question 6: Please detail any potential costs that may be incurred should the local connection and intentionality provisions be commenced.

As set out above, there is potential for the commencement of these provisions to increase demand for housing and/or support services in particular areas. It is difficult to predict what the full impact may be but some local authorities could potentially face significant costs in procuring additional accommodation and/or support services.

While the proposed changes may result in increased costs for some local authorities, and we recommend that these areas should receive financial support from the Scottish Government, it is important to note that if we achieve the longer term ambition of tackling homelessness, the savings in areas such as health and criminal justice will be much greater in the long term.

Question 7: HARSAG recommended narrowing the definition of intentionality to focus only on instances of deliberate manipulation. Please provide your initial view on the advantages and disadvantages of amending the definition. As noted in section 2, we intend to carry out further work on this at a later date and your initial thoughts will help inform this.

The use of intentionality provisions is already covered by extensive guidance and it is not clear what the advantage of amending the definition would be. As set out above, there does not seem to be definitive evidence that the current intentionality provisions are themselves creating a barrier for some homeless households or whether there may be issues with the application of provisions by some local authorities. We believe that ensuring intentionality decisions are being applied as intended will be more beneficial than changing the definition.

If a new definition is to be introduced, clear guidance must be developed. Some members have raised concerns about the use of the phrase "deliberate manipulation" and whether this may actually be more open to interpretation than the existing definition.

Question 8: While we are in a position to commence these provisions in 2019, we would welcome your views about the most effective timing, including reasons for your response.



If the provisions are commenced, we do not anticipate any issues with the proposed timing as long as clarification on the issues raised above is provided by the Scottish Government - particularly around the provision of financial support for local authorities experiencing increases in demand for housing or support services and guidance on the use of intentionality assessments.

Question 9: Please give us your views on the impact of these proposed changes on people with protected characteristics (see Annexes E and F for currently available national statistics):

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

We do not foresee a negative impact for any particular group of people with protected characteristics.

Question 10: In relation to local connection and intentionality provisions in homelessness legislation, please outline any other comments you wish to make, including whether you think there may be unintended consequences (that you have not mentioned elsewhere) related to commencing these provisions.

No further comments.