

Consultation on housing support for homeless households

Briefing from Shelter Scotland on the Scottish Government's Consultation issued in January 2012

KEY POINTS

- The Scottish Government has made a clear commitment to implement statutory provisions on housing support for homeless people. This is welcome and provides a clear focus for respondents on *how* to deliver the commitment.
- The consultation shows that up to two-thirds of homeless people who need housing support may not receive it – a powerful case for strengthening current provisions.
- Given the lengthy period since the legislation was passed by Parliament it is important that the Scottish Government sets out a detailed timetable for the duty to be commenced by no later than 1 January 2013; and that local authorities are able to make preparations for that date.
- In weighing up costs of new provisions, it is important to bear in mind that these costs stem from provision of a service to people who need it but may not currently receive it; and, so there are benefits as well as costs.

1. Introduction

On 18 January the Scottish Government issued its consultation paper on statutory support for homeless households. The deadline for responses is 11 April 2012. Shelter Scotland will be submitting a full response to the consultation; this briefing provides some early comments only, which we may refine as feedback and discussion continues.

2. Background

Section 158 of the Housing (Scotland) Act 2010 gives local authorities a new duty to assess the support needs of certain homeless households and to provide services to meet those needs. It was introduced in recognition of the vital role that housing support has in giving stability to homeless households and preventing repeat homelessness. It also recognises that, according to Scottish Government statistics, up to two-thirds of homeless people who need housing support may not be receiving it. So the consultation is a crucial part of filling this gap in policy and practice.

As part of a programme of research and policy development on changing homelessness practice in 2012, Shelter Scotland has commissioned a report on the challenges practitioners would seek to address in implementing this new duty. We aim to publish that report soon but we *can* say that there is widespread recognition of the value of housing support and a commendably pragmatic approach to implementation of the new legislation. Participants in our research raised some practical questions about, among other things, the timing of support, when the duty would be deemed to be discharged and what happens when people refuse to engage with support. These and other issues raised are very useful in framing any regulations or guidance.

3. Regulations or no regulations?

The key question on which the Scottish Government is seeking views is whether or not there should be regulations on housing support. Some kinds of legislation require regulations to make it work – usually where the primary legislation is couched in general terms. This is not the case here. **The legislation on housing support for homeless people is fairly explicit and could be implemented as it is.** So the regulations are simply about amplifying on the legislation itself.

In Shelter Scotland's view there would be merit in providing regulations and guidance to aid implementation. However, this should not be at the cost of further delay to implementation. Speaking in the parliamentary debate on the Housing Bill on 3 November 2010, housing minister Alex Neil said: "*Subject to...consultation, the regulations will be commenced at the earliest possible opportunity*" and "*We will move forward as quickly as possible, because we want to ensure that homeless people have the rights and the services to which they are properly entitled*". In January 2011, a COSLA / Scottish Government working group on homelessness concluded: "*given the time required to carry out a consultation process, and taking into account Parliamentary procedures on making regulations, the earliest possible date for likely commencement would be on/or around September /October 2011.*"

So, taking account of that support for early implementation, and in light of the considerable period that has passed since then, in our view the legislation **should be commenced by no later than 1 January 2013.** This would co-incide with new duties to provide services to homeless people who hitherto would have been deemed non-priority. Commencing the two most significant changes to homelessness legislation in at least a decade, at the same time would cement the way that homelessness services have been evolving anyway: moving away from eligibility-testing towards a solutions-focus.

If it is possible to go through further consultation and parliamentary scrutiny and still achieve that target date of 1 January 2013 then there should be regulations. If the consequence would be further delay, then the legislation should be commenced anyway, with the option of regulations at a later date, subject to feedback from implementing the duty in practice. **Delaying the commencement beyond 1 January 2013 would not be consistent with the Minister's assurances about swift progress.**

4. Costs

When the Housing Bill was passing through Parliament, the main argument which was advanced against the housing support duty was cost. MSPs, however, accepted the clear evidence from earlier research that the financial benefits outweighed the cost.

Throughout the current consultation the Scottish Government is asking respondents to estimate the business impact and, specifically, likely costs of the proposals. This will be helpful in the preparations that councils make to implement the new duty. They will also argue, quite reasonably, that some of the costs are difficult to quantify. This difficulty is illustrated by table 1 of the consultation document. This table is copied over from the supplementary financial memorandum which was prepared as the Housing Bill went through Parliament and has a number of weaknesses that make the cost estimate very questionable.

While it is perfectly right – even commendable - that government and authorities should seek detailed understanding of the cost implications, the difficulties in doing so in detail need to be recognised. The exercise should be about weighing cost against benefit and taking account of the cost of continuing not to provide a service to people who need it.

5. Other questions and issues

The other main questions posed by the Scottish Government are:

5.1 Whether the Scottish Government should prescribe the types of inquiries into housing support needs; and, if so, what should be prescribed?

5.2 Whether the Scottish Government should prescribe the housing support services to be provided; and, if so, what should be prescribed?

5.3 Whether the Scottish Government should prescribe the period for which support services are provided?

Respondents will have their own views on these. There are pros and cons of prescribing the nature of housing support services and queries. The term “housing support” has fairly common currency and has been given legislative expression as far back as the Housing (Scotland) Act 2001. The main argument for some sort of prescription is to define some boundaries as to what is required since it is not practicable or even desirable for a housing body to provide or commission all possible support services that someone might need. On the other hand, practitioners argue that being too prescriptive inhibits the way that support of various kinds can be tailored to the individual and packaged alongside other forms of care. Support provision is, at least in some areas, linked in increasingly sophisticated ways to assessment tools and methods to track outcomes. The new statutory provision needs to underpin and complement those developments, not over-ride them.

Similarly, on inquiries, there is a well-established and growing bank of good practice in carrying out housing support assessments – indeed, it is hard to see how “housing options” approaches to homelessness assessment can be successful without a means of assessing housing support needs.

The period for which support services should be prescribed was raised in the Shelter Scotland research described above. There is no categorical answer to this but that is also true of the provision of other homelessness-related services such as advice or temporary accommodation. Authorities need to make judgements as to what is reasonable.

Finally, there are queries around the status of support provision which lies outside the homelessness framework. It is important to recognise that most people who receive housing support do so for reasons other than that they have made a statutory homeless application. So if they self-refer to a council and are judged to need housing support services there is no question of their eligibility for services being reduced.

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