

Consultation response

Consultation on Housing Support for Homeless Households

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Shelter
Scotland

Summary

- Shelter Scotland welcomes the opportunity to respond to the Scottish Government's consultation on how the housing support duty for homeless households, brought in by the Housing (Scotland) Act 2010, will be implemented.
- Shelter Scotland believes that housing support is a critical part of the provision of housing to homeless households and key to the prevention of future homelessness. This legislation ensures that **all** homeless households will get the housing support they need to sustain their tenancy and commencement of legislation should be progressed as soon as possible.
- Shelter Scotland is concerned that 17 months have elapsed since this legislation was passed by parliament. Shelter Scotland would therefore like to see the Scottish Government set out a detailed timetable for the duty to be commenced by **no later than 1 January 2013**.
- The central question in this consultation is whether or not it is necessary to introduce regulations on housing support. Shelter Scotland believes that the primary legislation is strong and explicit and as such, extensive regulations are not necessary at this time. Furthermore, the process of consulting and drafting regulations could prolong an already delayed process which would be detrimental to the explicit intention of the minister: to give housing support to those who need it, as soon as possible.
- Shelter Scotland believes that there are a number of areas where practitioners require a framework for delivering this duty and therefore believe that detailed guidance should be introduced instead of regulations. This guidance should include assessment guidelines and good practice examples while allowing local authorities the flexibility to make decisions based on individual circumstances.
- The housing support legislation should be commenced along with a framework for monitoring how services are being delivered and measuring the effectiveness of the duty. If, after a defined period, it is felt that regulations are required to iron out any inconsistencies in the delivery of the housing support duty then this should be considered and properly consulted on.

Introduction

Shelter Scotland welcomes the opportunity to respond to this consultation on how the Scottish Government will implement the new housing support duty established by the Housing (Scotland) Act 2010. The duty is to ensure that local authorities carry out an assessment of housing support needs for those unintentionally homeless households who they consider may require support, and then to ensure any necessary support is provided.

Access to good quality, timely housing support will allow those facing homelessness to access the right support to keep their home. Local authorities already provide housing support in a number of ways, but not everyone facing homelessness receives the support they need to settle into, manage and keep their home. According to Scottish Government figures, two-thirds of homeless people assessed as having housing support needs may not be receiving it¹. Too often people fall through the net – this legislation will ensure that the housing support needs of **all** homeless households are met. This legislation is about complementing existing ways of working and making services more comprehensive. This in turn will help more people to sustain their tenancies thus preventing homelessness.

While local authorities already offer a wide range of effective housing support services to households, there are still cases where people do not receive the support they require to retain their home. This can lead to tenancy failure and a cycle of repeat homelessness. The ‘2012 commitment’, that gives every unintentionally homeless household the right to a permanent home, comes into effect from the end of this year and is a landmark piece of legislation in Scotland. Sometimes, however, the provision of accommodation is not enough, and some people may require additional support to ensure they can keep their tenancy in the long term.

The housing support legislation which was passed by the Scottish parliament in November 2010, provides an opportunity to build on current best practice and to provide a consistent level of support across Scotland. Shelter Scotland supported the introduction of this duty and believes it will benefit homeless individuals and families, but also help to ensure local authorities are able to prevent future homelessness wherever possible and tackle problems before they result in tenancy failure. ‘Housing support’ could be as simple as helping people apply for housing or any other benefits, providing budget advice or arranging help with moving, while some people may require more specialist support such as counselling services over a longer period. Alternatively it could just be a case of

¹ Consultation on Housing Support for Homeless Households (Scottish Government, January 2012) <http://www.scotland.gov.uk/Resource/0038/00385662.pdf> p24. Table shows that in 2009/10 there were 29,382 applicants assessed as homeless or potentially homeless and assessed as having one or more support needs, but that only 5,190 of those were in receipt of housing support at the time of case closure.

councils acting as a gateway to services by linking up clients to housing support services in their local area.

It is important to recognise the potential long-term cost benefits of integrating vital housing support with the provision of accommodation for homeless households. Repeat homelessness is stressful for individuals and families but is also expensive for councils and their partners in failed tenancies, voids and the cost of emergency accommodation and services. Although it is difficult to quantify the complete cost to local authorities of implementing the new duty, it is important to recognise that a lot of these services are already being delivered and that there is an equivalent cost-saving to be made through services which can prevent homelessness. Scottish Government funded research into the cost benefit of Supporting People funding, showed conservatively, that for every £1 spent on housing support, there was a return of £1.20². Shelter Scotland research shows there is widespread recognition of the value of good housing support and the potential return on investment.

While it is correct that the Scottish Government should seek detailed understanding of the cost implications, the difficulties in doing this need to be recognised. Any costs also need to be balanced against the cost-benefits of preventing future homelessness and the financial and social costs of **not** doing so.

Shelter Scotland's response

This response seeks to answer some of the key questions asked by the Scottish Government in its consultation. Shelter Scotland is however, disappointed with the length of time that has elapsed since this legislation was passed in November 2010 and would like to see a detailed timetable for the duty to be commenced by **no later than 1 January 2013**. This timeframe would tie in with the abolition of priority need assessments and it would seem sensible to implement these two new duties at the same time. This consultation raises a series of questions, many of which were addressed in the initial discussions about this duty before it was enshrined in law and do not seem to be driving forward the next phase of implementation. While it is important to seek a full understanding of the cost implications of the duty, this should not delay further the commencement of the legislation but rather be part of the ongoing evaluation.

The primary focus of this consultation is essentially on whether or not this duty requires regulations. It is not clear to us why this is necessary and the case for the introduction of extensive regulations has not been made. While we understand that it is necessary for the Scottish Parliament to pass a technical regulation to commence this legislation, the part of the Act on housing support for homeless people is quite explicit and could be

² Scottish Government Social Research (2007) *Supporting people: costs and benefits – final report*, Tribal Consulting. Available at <http://www.scotland.gov.uk/Resource/Doc/207283/0055011.pdf>

implemented without further detailed regulations. It is unclear what regulations would add except to amplify what is laid out in primary legislation. It may be that after an initial phase of implementation, regulations are required to cement key requirements on local authorities, although a judgement will need to be made on whether this is necessary.

While we do not agree that regulations are required, what is clear from Shelter Scotland research and discussions with a range of stakeholders, is that there is a need for detailed guidance. Guidance would help local authorities implement the duty successfully and highlight good practice examples without being too prescriptive. Local authorities are already delivering housing support services with a range of partners in their area and nothing in this duty should interrupt successful process or partnerships. Guidance should provide a framework for local authorities to help them implement the duty and clarify how decisions should be made on the following points:

- The definition of housing support in relation to this duty.
- How local authorities should identify those to whom the duty applies and how to interpret the phrase 'reason to believe' in the legislation.
- Examples of the different time periods that different housing support services should be provided for.
- The discharge of duty in relation to: those already receiving support; those who fail to engage with support and those who lose their accommodation along with their housing support e.g. supported accommodation.
- How the duty applies to the assessment of housing support needs and to provision in respect of the whole household.
- How this duty will impact if there has already been a housing support assessment carried out before the homelessness assessment.
- How this duty will impact on services being supplied by other departments or organisations.
- Where this duty fits in for those who require long-term and continuing housing support and those who have multiple support needs.

Responses to questions

1. Policy options

Option 1 Commence the duty on local authorities and establish regulations on the assessment and provision of housing support

Option 2 Commence the duty on local authorities and do not establish regulations on the assessment and provision of housing support

Question 1: Which is your preferred option?
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As stated above, Shelter Scotland believes that the priority should be implementing this duty as quickly and effectively as possible to fulfil the policy aim of providing housing support to all homeless households who need it. The consultation paper states that up to two-thirds of homeless households who need housing support, may not receive it. This underlines the importance of this legislation and the need to commence the duty as quickly but effectively as possible.

The process of implementing this legislation has already been delayed by 17 months with no apparent progress. This consultation raises many previously asked questions and provides little additional information to what was available before the Act went through parliament. Regulations are commonly introduced when the primary legislation is quite general. The duty is fairly explicit in the Act and the legislation could be implemented as it currently stands. However, Shelter Scotland research shows that there is a need for guidance to build on the growing bank of good practice in carrying out support assessments and to clarify points around discharge or duty, timescales and partnership working.

Given the development of housing options housing services by local authorities and the emphasis on delivering an individual advice and information service, the housing support duty should be implemented to allow for individual decision making focusing on what an applicant needs and wants. In line with this very solution-based approach, guidance seems more appropriate than prescriptive regulations, especially if the process of drafting regulations delays implementation.

By the end of 2012 all local authorities will have to have abolished priority need assessments in order to meet the '2012 commitment'. This is the most significant change to homelessness legislation in at least a decade and it seems sensible to commence the

housing support duty in the same timeframe. This would mark a positive shift towards a more person-centred approach to homelessness that gives tailored support to people facing homelessness and supports them to find and keep a home. In our view, the Scottish Government should aim to commence this legislation no later than 1 January 2013.

2. Conducting the housing support needs assessment

Under Section 32B (2), local authorities will be required to assess whether the applicant, and any other person residing with the applicant, needs prescribed housing support services.

As stated under Section 32B (3):

**“In carrying out such an assessment, the local authority must:
(a) conduct inquiries of such type as may be prescribed; and
(b) have regard to any prescribed matters.”**

Question 2a: Should Scottish Ministers prescribe the types of inquiries local authorities must carry out in determining the housing support required?

It is important that local authorities have a clear framework for who this duty is designed to help, how inquiries should be made and the types of support that should be offered. Considering that local authorities are already carrying out assessments and delivering some of these services however, this framework should allow for some flexibility and for councils to adapt existing processes to encompass the duty.

Question 2d: Should Scottish Ministers specify matters to which local authorities must have regard in carrying out the assessment?

3. Prescribing housing support services

Under section 32B (4), local authorities would have to ensure that prescribed housing support services are provided to any person assessed as being in need of them. Scottish Ministers can prescribe what these housing support services are.

Section 32(9) clarifies what “housing support services” covers:

“any service which provides housing support, assistance, advice, or counselling to an individual with particular needs with a view to enabling that individual to occupy, or to continue to occupy, residential accommodation as the individual’s sole or main residence”.

Question 3a: Should Scottish Ministers prescribe the housing support services for which an applicant is to be assessed?

As stated, housing support services are defined in the Act and this definition should be adequate for local authorities to implement the duty. The services that should be provided will need to be identified on an individual basis as part of the assessment process and as such this is not something that Scottish Ministers should prescribe. Instead, comprehensive guidance should provide details and examples on the kinds of services that should be provided by local authorities.

4. Prescribing the period for which housing support should be provided

Under section 32B (5)(a), Scottish Ministers may make provision on the period for which housing support services are to be provided.

Question 4a: Should Scottish Ministers specify the period for which housing support services should be provided?

In line with comments already made, Shelter Scotland does not believe that the period for which housing support should be provided should be specified in Regulations. The time period that support services are provided for should be determined by the persons' needs and what services could help the household maintain their accommodation. This has to be determined on a case-by-case basis and as such any prescribed length could be detrimental to getting each person the support they need.

It would be most valuable for the Scottish Government, the Scottish Housing Regulator and bodies such as COSLA and ALACHO to bring together examples from local authorities already providing a range of housing support services as part of statutory guidance. This would provide a framework for delivery.

5. Ensuring provision of housing support services

In addition to prescribing the period to which housing support services must be provided, Scottish Ministers may, under section 32B (5)(b) specify matters to which a local authority is to have regard to when ensuring provision of services.

Question 5a: Should Scottish Ministers specify matters to which a local authority is to have regard to when ensuring provision of housing support services?

The framework for deciding 'matters to which a local authority is to have regard to when ensuring provision of housing support services', should be the support needs identified relating to sustaining accommodation. It is not practicable or desirable for housing bodies to provide or commission all possible support services that someone might need. However, given the increasingly sophisticated ways to assess needs and track outcomes, this new duty should underpin successful delivery models not inhibit or over-ride them. While guidance should provide a framework, local authorities should have flexibility to

consider what is reasonable taking account of other services being offered/provided, engagement with other services and most importantly, what the household needs.

6. Different provision for different purposes and different areas

Under section 32B (6), Scottish Ministers may make different provision for different purposes and different areas.

Question 6a: Should Scottish Ministers make different provision for different purposes and different areas?

It is not clear from the consultation document what this question refers to and why it would be necessary to have different provisions in different areas. As commented above, Shelter Scotland thinks that guidance should be written that provides a framework for delivery while giving local authorities flexibility around how they provide or commission services in line with the legislation. We appreciate that local authorities will be working with different clients, delivery partners, housing providers and with specific structural and budgetary contexts. This guidance should be sufficient to accommodate these local variations and different service models so we would not support the notions of making different provisions for different purposes or areas.

7. Other matters relating to the provision of housing support services

Question 7: Are there any other matters relating to the provision of housing support services by local authorities which you think Scottish Ministers should consider? Please explain why.

Shelter Scotland is disappointed at how slowly the implementation of this important legislation is moving and had hoped that this consultation would give more detail on the commencement plan and next steps.

Shelter Scotland's recent research³ into implementation of the housing support duty, showed widespread recognition of the value of housing support from practitioners and pragmatism around the approach to implementation. We would therefore, hope to see the Scottish Government take the same approach moving forward and to use the responses to this consultation as a framework for detailed guidance for practitioners.

³ 'Supporting Homeless People: Implementing the housing support duty' Ann Rosengard research for Shelter Scotland (March 2012)
http://scotland.shelter.org.uk/professional_resources/policy_library/policy_library_folder/supporting_homeless_people_implementing_the_housing_support_duty

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