



## Shelter Scotland Briefing: Social Justice and Social Security Committee evidence session on homelessness in Scotland, 4 November 2021

We exist to defend the right to a safe home and fight the devastating impact the housing emergency has on people and society.

We work in communities to understand the problem and change the system. We run national campaigns to fight for change.

We must take urgent action to reform and rebuild a Scotland where everyone has a safe home. This means:

1. **Delivering a Covid exit plan for housing equality**
2. **Pledging to place social justice at the heart of social house building**
3. **Implementing and upholding stronger and better housing rights for all**

Our [2021 Action Plan](#) makes clear the urgent changes that need to happen to end Scotland's housing emergency.

### Introduction:

We are pleased to have the opportunity to provide evidence to the Social Justice and Social Security Committee's work on homelessness in Scotland. **Homelessness is a symptom of Scotland's broken and biased housing system** – a housing system in which 1.5 million people are negatively affected.<sup>1</sup>

Over the last decade, we have seen the lack of social homes, the impact of austerity on local services and the reduction of protection for people through the social security system leave people trapped, sometimes for years, in the homelessness system. The pandemic has since exposed and exacerbated the housing emergency.

- Nearly **12,000 children** were in households assessed as homeless in 2020-21
- Over **7,100 children** were living in temporary accommodation in March 2021, and homelessness was on the rise pre-pandemic<sup>2</sup>

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<sup>1</sup> [Shelter Scotland media release](#)

<sup>2</sup> [Homelessness in Scotland: 2020 to 2021 - gov.scot \(www.gov.scot\)](#)



- **27,571 households** became homeless in Scotland between April 2020 and March 2021<sup>3</sup>
- This is the equivalent of a household losing their home **every 19 minutes** during the worst public health crisis in living memory. This is an emergency

The immediate pandemic response from the Scottish Government, local government and third sector organisations to the public health emergency in March 2020 was quick, decisive and vital to protect life. By putting money in the hands of third sector organisations, rough sleeping and sofa surfing was tackled at the beginning of the pandemic, and extra legal protections were put in place for tenants to ensure evictions could not proceed. This helped to ensure the number of households assessed as homeless fell between 2019-20 and 2020-21.

However, while welcome, many of these important initiatives are **masking the wider systemic problems with Scotland's housing system** and the reality of homelessness in Scotland. The mobilisation of government and agencies to tackle rough sleeping did not end all homelessness in Scotland. We will continue to see a rise in the numbers of people stuck in temporary accommodation and on housing waiting lists for years, and with evictions having resumed over the course of the last few months, we are also seeing a return to people losing their home.

**Fighting homelessness remains a significant challenge for Scotland.**

## Ending Homelessness Together

The updated Ending Homelessness Together action plan, published in October 2020, contains many ambitious and innovative proposals to help tackle the housing emergency. By putting **the human right to adequate housing** in the upcoming Human Rights Bill, at the heart of this action plan, we can set a benchmark that everyone is entitled to a safe, secure home that meets their needs. The challenge is on delivering that as soon as possible.

Despite the progress made in pushing forward the Ending Homelessness Together action plan, according to the recently published [annual report](#)<sup>4</sup>, there is a clear **implementation gap between protections that exist in law and the rhetoric surrounding homelessness in Scotland, and what is actually being delivered on the ground.**

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<sup>3</sup> [Homelessness in Scotland: 2020 to 2021 - gov.scot \(www.gov.scot\)](#)

<sup>4</sup> [Ending Homelessness Together: annual report 2021](#)



Much of this issue comes down to insufficient resourcing, and there is a serious gap in local authority funding. Extra funding is needed to ensure local authorities can abide by their statutory duties and ultimately that everyone can access suitable temporary accommodation when they need it, and to be moved quickly into a safe, secure home that meets the needs of the household.

As an example of how far we still need to go, we are still seeing thousands of children and families trapped in temporary accommodation for extended periods.

- The average time spent in temporary accommodation in 2020-21 was 199 days
- Households with children spent, on average, 14 weeks longer in temporary accommodation than those without<sup>5</sup>

The extra £50 million investment announced for Ending Homelessness Together in the recent Programme for Government is welcome, but it remains to be seen if this funding will be satisfactory to meet the aims of the action plan or fill the implementation gap between what is promised and what is delivered.

Questions also remain over the implementation of **Housing First** in Scotland. While this programme is undoubtedly important in providing the wraparound support that some people experiencing homelessness need in order to maintain their home, it should not be seen as a silver bullet to tackle all homelessness. It is one important part of the jigsaw to end homelessness in Scotland, but we must also continue to focus on supporting the majority of people struggling to find a home.

The lack of social homes is one of the key issues facing many local authorities as they struggle to house people who urgently need a home. It is also impacting on the ability of local authorities to properly implement Housing First, as many people accessing the programme continue to wait in temporary accommodation for extended periods before securing a Housing First tenancy.

**Adequate funding must be provided to Local Authorities to ensure people's housing rights are upheld, with quality affordable social homes delivered in areas where they are most needed.**

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<sup>5</sup> [Homelessness in Scotland: 2020 to 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/homelessness-in-scotland-2020-to-2021/pages/10-to-14.aspx)



## Covid-19 and Recovery

Homelessness was rising in Scotland before the pandemic:

- In the four years leading up to the pandemic, homelessness had increased by 11% in Scotland (from 28,226 households assessed as homeless in 2015-16, to 31,333 in 2019-20)
- The length of time people were spending in temporary accommodation had risen from an already unacceptable 176 days in 2017-18, to 187 days by 2019-20, and up to 199 by 2020-21
- There were 7,280 children stuck in temporary accommodation when the pandemic struck in March 2020, an increase of 75% since 2014

Emergency measures put in place to protect tenants during the pandemic should remain in place, as strengthened protection and preventing evictions into homelessness must continue to be a priority. We believe that some of the temporary pandemic measures should therefore be made permanent in order to stop homelessness from happening in future as we recover from the pandemic. Such as:

- **Pre-Action Requirements in the private rented sector (PRS)**
- **Eviction grounds in the PRS should remain discretionary**
- **Extended notice periods for the majority of eviction grounds should remain**

## Prevention Duty

Implementation and resourcing issues aside, Scotland has a rights-based approach with some of the most progressive homelessness legislation in the world. These rights must continue to be strengthened, protected and upheld.

The Scottish Government has committed to seeking views on the development and implementation of homelessness prevention legislation based on recommendations from the Prevention Review Group, and have signalled their intent to introduce new homelessness prevention legislation via the upcoming Housing (Scotland) Bill during 2022/23.

The proposals contain some important changes and ones we wholeheartedly support, however we do have significant concerns that some of the measures proposed could reduce housing rights.



**In order to help prevent homelessness, we would urge Ministers to move quickly to implement the following recommendations from the group:**

- **extend the definition of those threatened with homelessness from two to six months**
- **introduce the concept of suitability to permanent accommodation, and define suitable accommodation as accommodation which is both affordable and accessible to strengthen the rights of homeless people**
- **introduce appeals to First-tier Tribunal to improve access to justice for homeless persons**

However, the litmus test for delivering the aspiration of a Prevention Duty must be that any changes to legislation will safeguard and enhance existing homelessness rights and protections.

Some key aspects of what has been proposed do not pass that test. Indeed, we consider that the proposals could significantly weaken the rights of individuals let down by the system and that they fail to learn the lessons of the prevention approaches in England and Wales in recent years.

**The main areas where we strongly oppose the recommendations of the Prevention Review Group are:**

- **Applying a 'duty to prevent' homelessness to people who already meet the definition of statutory homelessness.** Scotland removed the priority needs test nearly a decade ago and there should be no need to place a further duty on local authorities to relieve homelessness that requires less than the current expectation that all people should conclude their experience of homelessness in a stable secure home.
- **Proposals to allow the downgrade of the current requirement for permanent accommodation with 'stable' accommodation.** Allowing less secure outcomes such as occupancy agreements for those at risk of homelessness may be attractive in the short term for some, but they could exacerbate repeat homelessness that is at the heart of Ending Homelessness Together endorsed by the third sector, Scottish Government and local agencies. We believe a human rights approach should seek to strengthen rather than limit the security of tenure.

**We urge the Committee to consider the implications of these proposals and commit to progressively realising the human right to adequate housing, with no weakening of the statutory homelessness framework.**



## Housing Rights

We believe that delivering on the human right to adequate housing will help those experiencing homelessness to realise their right to a home and make clear that access to a home is a fundamental right.

Too often, existing housing rights are denied to those in need of support and legal protection, particularly in the homelessness system. This issue is particularly acute in certain local authorities (most obviously in Edinburgh in recent years, with Glasgow making progress on solving the issues it faced for the past decade).

Our advisers continue to support people who have been turned away from council homelessness services and told there is no accommodation available for them. We have also worked with many people who have been placed in temporary accommodation which is totally unsuitable for their needs, and on many occasions in breach of the council's legal obligations under the Unsuitable Accommodation Order (UAO).

### **Case Study: Gatekeeping – a practice where local authorities refuse to provide accommodation for someone who has presented as homeless**

*A pregnant woman and her partner made a homeless presentation to City of Edinburgh Council, but they were told there was no suitable accommodation available. The couple slept rough that night. They then presented again the following day and again were told nothing was available. Our advisers intervened and managed to get them accommodated for one night via the out of hours team at the council. Ongoing accommodation was then provided the next day.*

**Rights must be upheld and learning should be taken from Glasgow's recent experience where they have improved their services, in order to improve services in other local authorities that are struggling to meet their legal duties.**

### **Unsuitable temporary accommodation**

The temporary Covid-related exemptions to the Unsuitable Accommodation Order (UAO) ended on 30 September 2021, meaning that restrictions on the use of unsuitable temporary accommodation are now applicable to all households rather than only households with children or a pregnant woman. This was a welcome development in strengthening the legal rights that people have to access suitable temporary accommodation.



We know however that the long-anticipated strengthening of the Unsuitable Temporary Accommodation Order places pressure on local authorities. Several, including Edinburgh, have highlighted that they will continue to face difficulties in abiding by their legal obligations. However, this pressure does not remove people's right to good quality, suitable temporary accommodation.

**It is therefore vital that this crucial part of the homelessness safety net is adequately resourced, so that people are not left without access to the suitable temporary accommodation they are legally entitled to.**

#### **Case Study: Unsuitable Temporary Accommodation: breach of the Unsuitable Accommodation Order**

*In July 2021, a pregnant mother with two children presented as homeless and they were placed in hotel accommodation. She had to share one room with her children with no means to cook meals for her family – not even a microwave. When the hotel booking came to an end after a week, there was no contact from the council about what the mother should do next. Another organisation advocated for the hotel accommodation to be extended. This happened a second time the following week, again with no communication to the client until someone advocated on her behalf. The case then came to Shelter Scotland, and again the council offered to extend the booking at the hotel for a third time, saying no flats were available. When our adviser formally challenged the offer of the hotel under the UAO regulations, the council then offered the client a flat.*

#### **Local Connection**

Similarly, the forthcoming removal of local authorities' power to assess local connection when deciding on a homeless application is welcome. Most of the clients we support are successful in overturning their local connection decision and are eventually given a full homeless duty in the area they have good reason to want to live.

**We are therefore supportive of these changes proposed, but we would like to see this proposal go further and ensure that local authorities' power to assess local connection is removed entirely – and again, local authorities given the resource to implement the new rights.**

#### **Social Housing Supply**

We acknowledge the significant progress made by the Scottish Government in delivering new affordable and social homes since 2007, and the recent policy commitment to deliver a further 110,000 affordable homes by 2032, with 70% of these



being for social rent. However, it is vital that these new homes meet existing and future housing need in terms of volume and that they are delivered where they are needed most.

The Scottish Government's ambitious housing strategy, Housing to 2040, makes many connections between social housing and the socio-economic benefits that come with it. In order to achieve these ambitions, it is important to recognise the role affordable housing plays in helping to address inequalities across Scotland. Providing quality social housing is an important vehicle for delivering social justice.

**The Affordable Housing Supply Programme should be focused and success measured on meeting social justice goals, such as reducing child poverty, tackling fuel poverty and meeting carbon reduction ambitions, as well as being a key factor in combatting homelessness by increasing the number of homes available across the country.**

Ending homelessness will not be possible without addressing the fundamental lack of affordable housing supply in Scotland.

The causes of homelessness are rarely simple or straightforward, encompassing issues such as cuts to social security, low pay, poor health and other complex needs.

**However, ensuring there is a provision of good quality social and affordable homes can help us to join the dots across portfolio areas and improve those vital social justice outcomes, and provide an important long-term boost to health, education and productivity.<sup>6</sup>**

**We must also make better use of the existing housing stock that we have through bringing more empty homes back into productive use in the social sector and looking at innovative approaches to achieve this. This could be done by giving councils powers to implement Compulsory Sale Orders and Compulsory Rental Orders.**

In order to maximise the social justice impact of housing policy, it is important that all relevant committees in this parliament – including Local Government, Housing and Planning; Social Justice and Social Security; and Equalities, Human Rights and Civil Justice – work constructively together to promote social justice aims, and to hold the Scottish Government and local authorities to account when rights are not being upheld.

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<sup>6</sup> [A New Economic Case for Social Housing \(2020\)](#)





## Embedding Lived Experience

Ensuring the voices of lived experience are heard in the policy-making process is one of the most important steps we can take to ensure that we get policy right.

We are pleased to see steps being taken in this direction by the Scottish Government in recent months, notably through including the voices of tenants in the forthcoming Rented Sector Strategy. However, it is an area in which more can always be done.

Shelter Scotland believes this is vital to good policy making, and we have been able to do this through our [Time for Change](#) programme in recent years, by bringing the voices of those most affected by the housing emergency into how we can change policy and practice. It is an area in which the Scottish Government – and parliamentary committees – can further develop, and we are happy to offer any assistance we can as an organisation that works alongside people with lived experience of the housing emergency to facilitate such work.

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