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An t-Ionad Fiosrachaidh

# Housing (Scotland) Bill

## Introduction

This paper provides information and suggested lines of questions to assist members of the Committee to scrutinise the homelessness prevention and domestic abuse provisions of the Housing (Scotland) Bill.

The Committee will hear from two panels:

### Panel 1:

- [Professor Suzanne Fitzpatrick](#) (Chair of the Scotland Prevention Review Group)
- Crisis
- ALACHO (Association of Local Authority Chief Housing Officers)
- Streetwork

### Panel 2:

- Scottish Women's Aid
- Shelter Scotland
- Homeless Network Scotland

## Overview of the Bill

[The Housing \(Scotland\) Bill](#) deals mainly with rented, particularly private rented, accommodation and homelessness prevention. In the [Policy Memorandum](#), the Scottish Government states that:

“The Bill is ambitious in responding to the need to improve the housing outcomes in Scotland for people who live mainly in rented accommodation or face homelessness. At the same time, it continues to safeguard the

proportionate use of a landlord's property for rental purposes, seeking to deliver a fair balance between protection for tenants and the rights of landlords.

The Bill contains a package of reforms which will help ensure people have a safe, secure, and affordable place to live. It also helps to deliver the Scottish Government's 'New Deal for Tenants' and some aspects of 'Housing to 2040', while contributing to the ambition to end homelessness in Scotland."

The [SPICe briefing on the Bill](#) contains detailed overview of the Bill's provisions. The following provides an overview of the main provisions relevant to the Committee's consideration.

## The Bill's provisions.

The homelessness prevention provisions in the Bill stem from the work of the [Prevention Review Group \(PRG\)](#) convened by Crisis and chaired by Professor Fitzpatrick. The PRG were asked by the Scottish Government to develop recommendations for legal duties on Scottish local authorities and wider public bodies to prevent homelessness, and how these might be best implemented.

The PRG noted that despite existing homelessness prevention activity it was not consistent or always effective and there was an imbalance in the legislation. The existing legislation was more focussed on what councils should do when someone is homeless, rather than requirements around preventing homeless. Intervention at later stage is more complicated, costly and detrimental to the well being of those involved.

The PRG report made many specific recommendations. The Scottish Government and COSLA consulted on proposed changes to legislation. In March 2024, the Scottish Government introduced the [Housing \(Scotland\) Bill](#) to Parliament.

## Specific proposals in the Bill

### 'Ask and Act' duty

Section 41 of the Bill would give certain **relevant bodies responsibility to 'ask' a person about their housing situation when they are carrying out their normal business and to 'act' if the person is homeless or at risk of homeless.**

The relevant bodies proposed in the Bill are:

- Health Boards and Special Health Boards
- Integrated Joint Boards
- Local Authorities
- The Police Service of Scotland

- Registered Social Landlords (RSLs)
- Scottish Ministers in so far as they have functions relating to prisons and young offenders institutions and the persons detained in them.

**How the relevant body should act will be specific to the individual's circumstances.** It might include, for example, the providing debt advice or family mediation – or helping the individual access this via another service.

The relevant body can make a referral to the local council who have existing legal duties to assess and help homeless people (or those threatened with homelessness). **However, the intention is that a referral to a local authority should not be the default action.**

The Policy Memorandum to the Bill notes:

*“The relevant bodies will use their existing powers to focus on early intervention and prevention by proactively taking steps to mitigate a risk of homelessness, and only referring to a local authority for assistance where it is not possible for them to do so. This upstream intervention and shared responsibility will ensure that fewer people reach the point of housing crisis or become homeless.”*

## **Definition of threatened with homelessness and ‘reasonable steps’**

Currently councils must assist a person who is threatened with homelessness up to two months before homelessness appears imminent (under provisions in the Housing (Scotland) Act 1987).

The Bill proposes to **extend the definition of homelessness from two to six months** in order that meaningful prevention activity can happen and a wider range of support be considered.

Where there is a threat of homelessness, councils must take reasonable steps to ensure that existing accommodation remains available, or where that is not possible/appropriate, that alternative accommodation is available.

Councils must also provide advice and assistance to remove or lessen the threat of homelessness. **The reasonable steps councils should consider will be set out in secondary legislation and will draw from the recommendations made by the PRG.**

The PRG said that ‘reasonable steps’ should include housing options information, advice and advocacy; advocacy support; welfare and debt advice; referral to other relevant agencies; support for landlords and tenants in the private rented sector; family mediation services; support for people experiencing domestic abuse; and supply of furniture or similar goods.

## Assessment of housing support services

All councils have a legal duty to carry out an assessment of homelessness in their area and to set out their approach to the prevention and alleviation of homelessness as part of the Local Housing Strategy. **The Bill proposes that as part of this, an assessment should be carried out on the housing support needs for people to retain their accommodation.** The aim is help inform service development including the ability to plan services and work with other agencies to meet the needs of households at risk of homelessness.

## Domestic abuse

The Bill also contains a few proposals **specifically aimed at supporting victims of domestic abuse** who might be more likely to be at risk of homelessness.

The Bill updates the definition of domestic abuse in certain parts of housing legislation to reflect abusive behaviour within the meaning of more recent domestic abuse legislation in the Domestic Abuse (Scotland) Act 2018 and the Domestic Abuse (Protection) (Scotland) Act 2021 as proposed by the PRG. For example, the 2021 Act defines abusive behaviour as behaviour likely to cause the person the behaviour is directed against to suffer physical or psychological harm and this definition covers financial abuse.

Section 44 of the Bill would **introduce a new pre-action requirement where a social landlord is seeking to evict a tenant for rent arrears.** Where the social landlord considers that a tenant has experienced or is experiencing domestic abuse and this explains or partly explains the rent arrears, the social landlord:

- must take such action to support the needs of the tenant arising in connection with rent arrears as the landlord considers reasonable having regard to its domestic abuse policy
- must provide the tenant with details of such other support that may be available to the tenant in relation to domestic abuse. In this context, “domestic abuse” means abusive behaviour within the meaning of section 2 of the Domestic Abuse (Protection) (Scotland) Act 2021.

Section 45 of the Bill would require social landlords to develop and **implement a domestic abuse policy setting out how they will support their tenants who are at risk of homelessness as a result of domestic abuse.**

## Fuel Poverty

### Call for views

The Committee, along with the Local Government, Housing and Planning Committee launched a joint [call for views](#) on the on 19 April 2024, closing on 24 May. The Committees received over 300 submissions. [A summary of the analysis of call for views has been published online.](#)

The homelessness prevention provisions in the Bill were generally welcomed. However, there were many comments, about a lack of clarity and detail on some issues and the resourcing of implementation of the new duties (particularly in relation to the “Ask and Act duty”). There were also comments to suggest that other action, such as increasing the supply of affordable homes was needed to tackle homelessness.

Similarly, the domestic abuse provisions were also welcomed. Some evidence referred to existing legislation and strategy, particularly the Domestic Abuse Protection (Scotland) Act 2021 which also needed to be implemented.

### Witness submissions and suggested lines of questions

The following provides information on the Panel members and key points from their evidence, where it was submitted. This is followed by a set of suggested questions for each panel.

#### Panel 1

**Crisis** is the national charity for people experiencing homelessness. It helps people directly out of homelessness and research and campaigns for changes to solve homelessness altogether. It provided the secretariat to the Homelessness Prevention Review Group (PRG), supported the work of the Prevention Commission (people with lived and frontline experience). Crisis also co-chaired the Scottish Government’s Task and Finish Group on Homelessness Prevention.

Crisis would “welcome a clear vision statement from the Scottish Government to outline the desired outcomes for this agenda and how it envisages the legal framework to operate in practice”.

It strongly supports the ‘Ask and Act’ duties arguing “it could have the ability to be transformative by sharing the responsibility for homeless prevention across a range of different public services”. It suggests that implementation will be key to the success of the measures and sets out a number of areas where clarity is needed,

e.g. how relevant bodies will be able to state that they no longer have a duty to the individual.

Crisis strongly welcomes the requirement to act sooner to prevent homelessness, arguing that “a period of six months is groundbreaking in homelessness legislation.” It states that this will create more opportunities to intervene earlier, which situations are often easier to resolve.

Crisis response noted that the PRG made some specific recommendations to strengthen the role of health and social care in homelessness work. For example, to create a mechanism for co-ordinating support for people with complex needs requiring multiple services to avoid gaps or duplication in provision. It would welcome discussion as to the role of health and social care in supporting homelessness prevention beyond the ask and act duties.

Crisis strongly welcomes the domestic abuse proposals in the Bill.

**Professor Suzanne Fitzpatrick** is the director of I-SPHERE at the Institute for Social Policy, Housing, Equalities Research at Heriot Watt University. She is a leading academic on homelessness and was Chair of the Scotland Homelessness Prevention Review Group. No written evidence on the Bill was received.

**ALACHO (Association of Local Authority Chief Housing Officers).** ALACHO supports the homelessness prevention elements of the Bill but qualifies this by a concern that “they will not achieve the objectives set for them and that the resources required to make them fully effective are simply not available.” It is also of the view that the measures do not address the causes of homelessness. It notes that housing supply and affordability needs to be tackled and as the current policy approach is not addressing these issues little or no progress is being made on ending homelessness.

ALACHO supports the extension of the duty to prevent homelessness from 2 months to 6 months but says that it should go a little further and suggests that the time limit is arbitrary. The trigger for assistance should be when the household themselves feel or understand themselves to be at risk of homelessness. It notes the need for clear guidance for relevant bodies on how they should respond where there is a risk of homelessness.

ALACHO strongly supports the domestic abuse provisions. It notes that important provisions of the Domestic Abuse Protection (Scotland) Act 2021 are still not in force. It urges the Scottish Government to address this as soon as possible and not to delay commencing these new provisions.

**Streetwork:** In April 2019, Simon Community Scotland merged with Streetwork to provide information, advice, care, support, accommodation and housing to people experiencing, or at risk of, homelessness across the Edinburgh. Services include a support Hub that offers information and advice and a Street Team engaging with people who are rough sleeping, begging and in need for support. No written evidence on the Bill was received.

## Suggested lines of questions for Panel 1

- [Professor Suzanne Fitzpatrick](#) (Chair of the Scotland Prevention Review Group)
- Crisis
- ALACHO (Association of Local Authority Chief Housing Officers)
- Streetwork

### Theme 1: General

1. In general, to what extent do you agree with the Scottish Government's overarching policy objective of the homelessness measures in the Bill to create a shift away from crisis intervention to prevention activity?
2. What benefits might a greater focus on homelessness prevention measures bring to those at risk of homelessness public bodies dealing with people who may be a risk of homeless or actually homeless?

### Theme: 2 The 'Ask and Act' duty

3. What is your view of how the relevant bodies listed in the bill currently work to prevent homelessness and how good are the links with council homelessness services? Do you think the proposed statutory 'Ask and Act' duty will help address any areas for improvement? Are the relevant bodies listed in the Bill the right ones?
4. A few respondents to the call for evidence on the Bill were not supportive of the Ask and Act, arguing that first the existing system should be made to work better? What is your view of this?
5. One the of the main concerns that has been raised in the evidence is about the financing of the 'Ask and Act' duties. Can you comment on the potential financial impacts on councils and relevant bodies and the extent to which the financial memorandum provides a good assessment of potential costs?
6. The Scottish Government states that the intention is that referral to a local authority from a relevant body should not be the default action. How can this be achieved in practice so that people don't just continue to get referred to local authorities? What else would need to happen to ensure successful implementation of the need duties, for example in terms of culture change and training?
7. **For Crisis** – Your evidence sets out some areas where the Bill needs further clarity in the 'Act and Ask' duties. Can you provide a brief overview of where clarity is most needed?

### **Theme 3: Preventing homelessness sooner by taking reasonable steps and housing support services**

8. **What are some of the problems with the legal framework which considers people to be threatened with homelessness if it is likely they will become homeless within 2 months? What would be the benefits of extending this to 6 months for people at risk of homeless?**
9. **For Crisis – Your evidence states that. “more clarity will be needed to ensure people can access support when a problem is identified and are not turned away and told to come back when the crisis is imminent’. Can you say a bit more about this and how you see this working in practice?**
10. **For ALACHO - ALACHO suggest that the time limit is arbitrary and that the trigger for assistance should be when the household themselves feel or understand themselves to be at risk of homelessness. Can you say more about this and how might such this work in practice?**
11. **Do you have any comments to make about the proposals in the Bill that as part of the local housing strategy, councils should undertake an assessment of the needs of people and the availability of housing support services including in relation to homelessness.?**

### **Theme 4: Domestic abuse**

12. **The Scottish Government’s policy aim of the domestic abuse provisions is to help protect the rights of women and children experiencing domestic abuse and financial control living in social housing to remain in their home, or be re-housed if that is their wish, and ensure arrears accrued because of domestic abuse are not a barrier to accessing social housing in the future. To what extent do you think the bill’s provisions regarding domestic abuse achieve the stated policy aim?**
13. **For ALACHO - The Bill requires social landlords to have a domestic abuse policy. Many social landlords already have such a policy. Can you comment on existing council policies and what benefit making this a statutory duty brings?**



## Theme 5: Equalities issues and impact on rural areas

14. What are the equalities issues arising from the issues in the Bill? Does the Bill sufficiently account for impacts on different equality groups or is other action needed to make improvements?
15. Are there any differences between homelessness and solutions to tackle it in rural areas of Scotland. If so, how far do the provisions in the Bill seek to address any specific issues in rural areas?

## Theme: 6 Implementation and other issues

16. What is your view on how clear the Bill is about how the new homelessness duties can be enforced and who is responsible for monitoring relevant bodies compliance with their new duties?
17. Particularly for Crisis and Suzanne Fitzpatrick – The Prevention Review Group made a range of recommendations, particularly around the role of health and social care, that have not been taken forward in the Bill. Can you say more about recommendations in this area and whether the Bill should include any of these matters? Do other panel members have any views on this?
18. Are there any other matters that the Bill could include to improve homelessness prevention services and support for victims of domestic abuse?

## Fuel Poverty

19. For ALACHO (it was the only group that mentioned the Fuel Poverty issues) - Can you explain why you support the Bill's provisions regarding fuel poverty?

## Panel 2

**Homeless Network Scotland** is a registered charity that brings together the different sectors, organisations and individuals that want to put an end to homelessness and to retain a long-term overview. No submission was received to the call for evidence.

### **Scottish Women's Aid (SWA)**

SWA is pleased to see the Bill and states that it, "comes with lots of possibility and we are keen to be a part of the progression on offer to women and children living in Scotland." It makes a number of points particularly on how women and those at risk

of/suffering from domestic abuse could be improved. It states that “the Bill in the current proposed form is “not gender competent” and asks “why has no equalities impact analysis (EQIA) been carried out as to how a homeless prevention duty would impact equality groups”?

SWA support many of the homelessness prevention proposals but oppose the “Ask and Act” duty as it is detailed so far. It understands the ‘no wrong door’ approach however, it states that:

“the only way for this to be carried out well and to not place further risk to women leaving an abusive relationship requires a level of both upfront resourcing to increase awareness and knowledge and continuous knowledge sharing and learning, as well as a significant culture change. The risk of serious assault and death is highest for a woman as she leaves an abusive relationship. According to the Femicide Census, 38% of women killed by their ex-partner from 2009 to 2018 were killed within the first month of separation and 89% in the first year. The evidence of benefit is less than convincing, especially when the enormous risks are obvious.”

SWA approached its 33 local Women’s Aid services about the ‘Ask and Act’ proposal, and stated “there was a unanimous view that it was essential to “fix the existing homelessness system first to make it work for women, before adding to the process...” It also said consideration must be given to Scotland’s Equally Safe Strategy. Knowledge of and reference to the Strategy are missing from the discussions within the homelessness sector. Given that domestic abuse is the biggest driver of women’s and children’s homelessness, this lack of policy coherence is unacceptable. It suggests an alternative – where someone spent at least one overnight in one of the following, then action should be taken to find out someone’s housing situation and need and act upon this where relevant: • Hospital – public or private (unless they are there in a visiting capacity) • Police or prison cell • Mental health provision • Addiction provision.

SWA generally supports the proposals relating to domestic abuse in the Bill. It supports the proposal for social landlords to have a domestic abuse strategy although it states that there is no mention of young women who are at risk of domestic abuse.

SWA mention that key to success of the Bill is the full implementation of the Domestic Abuse (Protection) Scotland Act 2021. It places conditions, including removing suspected perpetrators from households and prohibiting them from contacting or abusing the person at risk. It also creates a ground on which a social landlord can apply to the court to end the tenancy, or interest in a joint tenancy of the perpetrator and transfer it to the victim.

SWA’s submission list a range of other actions that need to be taken.

**Shelter Scotland** exists to defend the right to a safe home and fight the devastating impact the housing emergency has on people and society. It works in communities

to understand the problem and change the system. It runs national campaigns to fight for a home.

Shelter's response notes that Scotland is a housing emergency that requires an emergency response from the Scottish Government not measures that will be implemented in a few years' time. It is concerned that some elements of the bill risk deepening the housing emergency and placing further straining on councils. It states that the Bill does not address the need for new social homes and ignores the children already trapped in temporary accommodation. It also highlights action the UK Government can take including on social security benefits.

It raises questions about how enforceable the provisions are for individuals, noting that "it is not clear how an individual whose right to have their homelessness prevented would challenge failure by the public body to uphold their duty and what scope regulators would have to enforce such redress".

In terms of the domestic abuse provisions, Shelter welcomed the proposals in the Bill but made the point that the pre-action requirements only applied to the social rented sector. It suggested extending this to the private rented sector to strengthen the right of all tenants and increase parity between the sectors.

It also states that consideration may also be given to including anti-racism responsibilities within this Bill.

## **Suggested lines of questions for Panel 2:**

### **Theme 1: General**

- 1. In general, to what extent do you agree with the Scottish Government's overarching policy objective of the homelessness measures in the Bill to create a shift away from crisis intervention to prevention activity?**
- 2. What benefits might a greater focus on homelessness prevention measures bring to those at risk of homelessness and public bodies dealing with people who may be a risk of homeless or actually homeless?**

### **Theme 2: The 'Ask and Act' duty**

- 3. What is your view of how the relevant bodies listed in the Bill currently work to prevent homelessness and how good are the links with council homelessness services? Do you think the proposed statutory 'Ask and Act' duty will help address any areas for improvement?**
- 4. For Scottish Women's Aid – can you say more about how 'Ask and Act' approach might impact on those risk of domestic abuse? What needs to**

happen to ensure that they are not placed at further risk? Can you say more about how your alternative proposal outlined in your evidence would work?

5. One the of the main concerns that has been raised in the evidence is about the financing of the 'Ask and Act' duties. Can you comment on the potential financial impacts on councils and relevant bodies and the extent to which the financial memorandum provides a good assessment of potential costs?
6. The Scottish Government states that the intention is that referral to a local authority should not be the default action. How can this be achieved in practice so that people don't just continue to get referred to local authorities? What else would need to happen to ensure successful implementation of the need duties, for example in terms of culture change and training?

### **Theme 3: Preventing homelessness sooner by taking reasonable steps and housing support services**

7. What are some of the problems with the current legal framework which considers people to be threatened with homelessness if it is likely they will become homeless within 2 months? Will extending the definition to 6 months have any benefits?

### **Theme 4: Domestic abuse**

8. The Scottish Government's policy aim of the domestic abuse provisions is to "help protect the rights of women and children experiencing domestic abuse and financial control living in social housing to remain in their home, or be re-housed if that is their wish, and ensure arrears accrued because of domestic abuse are not a barrier to accessing social housing in the future. To what extent do you think the Bill's provisions regarding domestic abuse achieve the stated policy aim?
9. For Scottish Women's Aid - What issues would you like to see included in guidance about social landlord policies about supporting tenants affected by domestic abuse. You state that there is no mention of young women, can you tell us about your findings around young woman domestic abuse and how the Bill or guidance might address this?
10. For Shelter Scotland – your evidence suggests that pre-action requirements in rent arrears cases should also apply to the private rented sector. Can say a bit more about this? How well equipped do you think private landlords might be to undertake such pre-action requirements? Do other panel members have a view on this?

## Theme 5: Equalities issues and impact on rural areas

11. **For Scottish Women's Aid** - Your evidence questions where the analysis or consideration as to how homelessness prevention duty will apply across equality groups is. Can you expand on your comments and say why this is important and how it can be done in practice?
12. Do other panel members have any views on whether the Bill sufficiently accounts for impacts on different equality groups or is other action needed to make improvements?
13. **For Shelter Scotland** - Your evidence says that 'consideration may also be given to including anti-racism responsibilities within this Bill'. Can you explain more about what this might look like and why this is needed?
14. Are there any differences between homelessness and solutions to tackle it in rural areas of Scotland. If so, how far do the provisions in the Bill seek to address any specific issues in rural areas?

## Theme: 6 Implementation and other issues

15. What is your view on how clear the Bill is about how the new homelessness duties can be enforced and who is responsible for monitoring relevant bodies compliance with their new duties?
16. Are there any other matters that the Bill could include to improve homelessness prevention services and support for victims of domestic abuse?

Kate Berry, SPICe Research  
10 June 2024

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