

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

Housing (Scotland) Bill

Introduction

This paper provides information and suggested lines of questioning 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:

- Scottish Federation of Housing Associations
- Police Scotland
- Edinburgh Integration Joint Board
- COSLA

Panel 2:

- All in for Change
- Centre for Homelessness Impact
- Families Outside
- Aff the Streets

Overview of the Bill

[The Housing \(Scotland\) Bill](#) deals mainly with rented, particularly privately rented, accommodation, as well as 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 a 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 Suzanne Fitzpatrick, Director of Institute for Social Policy, Housing, Equalities Research (I-SPHERE) at Heriot-Watt University. 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 stages is more complicated, costly and detrimental to the wellbeing of those involved.

The PRG report made many specific recommendations. The Scottish Government and COSLA consulted on proposed changes to the 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 homelessness.**

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, 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 to 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; and,
- 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

The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (“the 2019 Act”) set targets relating to the eradication of fuel poverty; reporting provisions; and

includes the establishment of the Scottish Fuel Poverty Advisory Panel (“the SFPAP”) amongst other matters.

The Bill proposes minor technical amendments to the 2019 Act. The policy objective is:

“...to strengthen the fuel poverty governance under the 2019 Act, ensuring that consultation and preparation requirements are streamlined and improved; and that the operating costs for the statutory independent SFPAP are sufficient to allow its operations and scrutiny function to be carried out effectively. **There is no change to the current policy or direction.**”

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

COSLA is supportive of the ethos of the Housing Bill in respect of the prevention of homelessness duties and on preventing domestic abuse. However, it has significant concerns about the resource implications for local authorities for implementing the proposals and does not believe that the financial memorandum reflects the costs involved. It suggests a staged implementation to the proposals. It also says that at

this stage it is not clear that public bodies likely to be required to “ask and act” are fully aware of the proposals or prepared for their implementation.

SFHA strongly supports the intention to shift the focus to interventions to prevent homelessness rather than respond to it and agrees that it should be a shared responsibility. However, it says that legislation alone cannot achieve the policy objectives and that the estimates in the Financial Memorandum are unlikely to achieve the transformational change required. As a designated ‘relevant body’ its members have raised some concerns about access to support for people they may identify as at risk, particularly mental health support.

No submissions were received from Police Scotland or Edinburgh Joint Integration Board.

Suggested lines of questions for Panel 1

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?

Theme: 2 The ‘Ask and Act’ duty

2. How do the relevant bodies listed in the Bill already work with local authority homelessness services to prevent homelessness, and will the proposed statutory ‘Ask and Act’ duty help to address any areas that need improvement?
3. 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?
4. Are the listed bodies subject to the ‘Ask and Act’ duties in the Bill the right ones? And do you consider other bodies such as the Home Office and GPs also have a role?
5. What might be the financial and resourcing impacts of the ‘Ask and Act’ duty and do you agree with the Scottish Government that upfront investment will save money in the long run?
6. The Committee has heard some evidence to suggest that there needs to be more detail in the Bill, particularly around what the ‘Act’ duty might mean in

practice for relevant bodies. What are your views on how clear the duties are?

7. What is your view on how clear the Bill is about the enforcement and accountability framework for the 'Ask and Act' duties?

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

8. 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? What would be the benefits of extending this to 6 months for people at risk of homelessness?
9. 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 people's housing support needs and the availability of housing support services, including in relation to homelessness?

Theme 4: Domestic abuse

10. The Bill's provisions aim to prevent those at risk of, or suffering domestic abuse, from being homeless. What are your views on the effectiveness of these provisions.
11. **For SFHA** The Bill requires social landlords to have a domestic abuse policy. Many social landlords already have such a policy. Can you comment on how social landlords already implement domestic abuse policies and what difference a statutory requirement might make?

Theme 5: Equalities issues and impact on rural areas

12. What are the equalities issues arising from the matters covered by the Bill and does the Bill sufficiently account for any issues arising?
13. Are there any differences between homelessness and solutions to tackle it in rural areas of Scotland as opposed to more urban areas. If so, how far do the provisions in the Bill seek to address any specific issues in rural areas?

Panel 2

Families Outside is the only national charity in Scotland working solely on behalf of families affected by imprisonment. It offers a range of services including a national helpline, individual and group support and training for professionals. Its submission supports the general principles in the Bill but highlights some concerns about implementation and a concern that the Bill may not result in meaningful change on the ground in relation to the specific experiences, circumstances, and families affected by imprisonment. It highlights that the “lack of any systematic process is in place to identify children and families affected by imprisonment at any stage of the criminal justice process poses challenges in terms of ‘relevant bodies’ identifying who family members are.”

The submission from Families Outside also states that “the important role of the third sector can also not be overlooked and their crucial role in supporting implementation of the Bill must be recognised and adequately resourced”. It also highlights the need for training and awareness for relevant bodies.

Aff the Streets is a national youth steering group dedicated to ending youth homelessness in Scotland. It is formed of young people with lived, or living, experience of homelessness and sits on both the Homelessness Prevention and Strategy Group (HPSG) and A Way Home Scotland Coalition. The submission includes feedback from young people who were asked about their views on the Bill.

Aff the Streets is generally supportive of the proposals, but highlighted the need for training, particularly in terms of trauma informed practice. For example, one young person pointed out that if they were asked in the wrong way, they would simply lie and then be far less willing to open up about their circumstances again in future. On preventing homelessness at an earlier stage all the young people were in favour of this but highlighted that young people would not know if they were six months away from homelessness.

All in for Change is an inclusive programme using a collaborative approach to end homelessness in Scotland. The programme is driven by a Change Team from people across Scotland with experts in what homelessness looks like on the ground for those most affected by it. It brings together people with experience of homelessness and those working in a frontline role. All in for Change is facilitated by Homeless Network Scotland and Cyrenians. The Change Team has been heavily involved in developing the duties through its work with the Prevention Commission and representation on the Prevention Task and Finish Group.

All in for Change is generally supportive of the Bill’s provisions but have some concerns about how these duties will work in practice. It notes the need to keep the ‘Ask and Act’ duties person centred. Another concern is that there is no reference to the third sector and the key roles that many working within it are already playing in preventing homelessness. It would also like to see the option to self-refer for homeless prevention support being contained within the Bill. It supports the requirement on councils to act sooner to prevent homelessness, however the two

months period is not being followed currently meaning there is a big implementation gap in legislation.

All in for Change's submission also highlights the need for more information about regulation, given the cross-sector nature of the duties. It also highlights the need for culture change and training.

It also has some concerns about how the different sections of the Bill are going to work together, stating that some parts of the Bill seem to contradict each other when not read in isolation. For example, measures for ending joint tenancies and measures to address domestic abuse might end up causing unintended consequences. A joint tenant needs to give co-tenants and their landlord 2 months' notice to end a tenancy, but in a domestic abuse situation this may lead to a victim-survivor having to pay an additional 2 months' rent. This needs to be read and assessed as a whole to avoid loopholes and unintended consequences (note, that part of the Bill, which is being scrutinised by the Local Government, Housing and Planning Committee, proposes to change how a joint private residential tenancy can be ended if there is no agreement. The departing tenant would need to give the other joint tenants at least 2 months' notice).

The Centre for Homelessness Impact exists to act as a catalyst for evidence led change so that homelessness is rare, brief and non-recurring. It works throughout the UK and regularly shares learning of what works to end homelessness internationally. The Centre is generally supportive of the provisions in the Bill but makes reference to implementation and resourcing issues. It states that in developing a core dataset or framework to measure the impact of the new duties it is important to include data, including linked data, from relevant bodies in this framework.

It also mentions the impact of homelessness prevention duties in England and Wales.

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?

Theme: 2 The 'Ask and Act' duty

2. 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?

3. What might be the financial and resourcing impacts of the 'Ask and Act' duty and do you agree with the Scottish Government that upfront investment will save money in the long run?
4. Are the relevant bodies listed in the Bill the right ones and what role is there for third sector organisations in helping to implement the 'Ask and Act' duties?
5. What is your view on how clear the Bill is about the enforcement and accountability framework for the 'Ask and Act' duties?

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

6. 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? What would be the benefits of extending this to 6 months for people at risk of homelessness?
7. 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 people's housing support needs and the availability of housing support services, including in relation to homelessness?

Theme 4: Domestic abuse

8. What are your views on the Bill's provisions that aim to prevent those at risk of, or suffering domestic abuse, from being homeless?
9. **For All in for Change:** can you expand on the point made in your submission about some parts of the Bill seeming to contradict each other, such as measures for ending joint tenancies and measures to address domestic abuse?

Theme 5: Equalities issues and impact on rural areas

10. What are the equalities issues arising from the matters covered by the Bill and does the Bill sufficiently account for any issues arising?

11. Are there any differences between homelessness and solutions to tackle it in rural areas of Scotland as opposed to more urban areas. If so, how far do the provisions in the Bill seek to address any specific issues in rural areas?

Kate Berry, SPICe Research
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