

# Housing, Homelessness and Fair Work Committee

10.00am, Thursday, 24 March 2022

## Prevention Duty Consultation

Executive/routine Wards Council Commitments	Routine All
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### 1. Recommendations

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- 1.1 Housing, Homelessness and Fair Work Committee is asked to:
  - 1.1.1 Agree the draft consultation response, as noted in Appendix 1 of this report, for submission to the Scottish Government; and
  - 1.1.2 Note that the agreed response will be submitted to Scottish Government by the deadline of 31 March 2022.

**Paul Lawrence**

Executive Director of Place

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## Prevention Duty Consultation

### 2. Executive Summary

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- 2.1 The findings of the Prevention Review Group were published and submitted to Scottish Government on 18 February 2021. These set out recommendations to identify legal duties on local authorities and other public bodies to prevent homelessness.
- 2.2 Scottish Government are now consulting on the Prevention Duty. Responses are due by 31 March 2022. The draft response is provided as Appendix 1 for Committee agreement prior to being submitted to Scottish Government.
- 2.3 Officers broadly agree with the principles outlined in the consultation however if, as anticipated, on implementation there is a subsequent increase in the number of cases, consideration will be given to the requirement for additional resources.

### 3. Background

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- 3.1 The Homelessness and Rough Sleeping Action Group (HARSAG) was set up by the Scottish Government in October 2017. The group made 70 recommendations regarding the solutions and actions needed to eradicate rough sleeping, transform the use of temporary accommodation and bring an end to homelessness in Scotland.
- 3.2 All the recommendations were accepted by Scottish Government, including a request to identify legal duties on local authorities and other public bodies to prevent homelessness.
- 3.3 The Scottish Government asked Crisis to gather together an independent group of experts to form the Prevention Review Group, to develop legislative proposals to prevent homelessness. This Group was specifically tasked with ensuring that legal duties to prevent homelessness are effective and clear.
- 3.4 The Prevention of Homelessness Duties: Joint Scottish Government and COSLA consultation was launched on [17 December 2021](#) and closes on 31 March 2022.

## **4. Main report**

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- 4.1 The proposals contained within the consultation document are far reaching. The full draft response to the consultation is attached as Appendix 1. A summary of the some of the keys elements of the consultation are noted below:
- 4.1.1 Officers agree with the foundation principles of the Prevention Review Group that public bodies should be required to ask and act to prevent homelessness and the introduction of a statutory duty placed on local authorities to accept referrals from a public body to prevent homelessness;
  - 4.1.2 This will ensure that prevention of homelessness is a shared public responsibility which will create opportunities to identify, intervene and prevent homelessness. However additional resources to manage the anticipated rise in demand for services will be required to implement this;
  - 4.1.3 Officers also agree that legislation should be reformed to ensure that a local authority must assist somebody threatened with homelessness within the next six months to prevent homelessness; and
  - 4.1.4 The consultation document also sets out proposed changes to legislation. This includes widening the criteria for identifying appropriate housing options shifts to focus on the stability and suitability of the accommodation, with suitable safeguards in place. Officers broadly agree with this but seek further clarification on how this will work in practice.

## **5. Next Steps**

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- 5.1 The agreed response to the Prevention of Homelessness Duties consultation will be submitted by 31 March 2022.

## **6. Financial impact**

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- 6.1 There are no financial implications arising directly from the contents of this report.
- 6.2 Should a 'Prevention Duty' be implemented, this is expected to result in additional costs to the Council, primarily to meet the increased volume of referrals for which additional resources will be required.

## **7. Stakeholder/Community Impact**

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- 7.1 Stakeholder and service users were consulted to develop the expert group recommendations.
- 7.2 The consultation invites responses from a wide range of stakeholders.

## **8. Background reading/external references**

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- 8.1 [Preventing homelessness in Scotland \(crisis.org.uk\)](https://crisis.org.uk)
- 8.2 [Prevention of homelessness duties: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot)

## **9. Appendices**

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- 9.1 Appendix 1 - City of Edinburgh Council draft consultation response.

**Prevention of Homelessness Duties -  
A Joint Scottish Government and COSLA Consultation**

**Consultation Questions**

**Section 2:** Proposed recommendations by the Prevention Review Group (PRG) and consultation questions on duties to prevent homelessness on wider public bodies and landlords

**Principles of the Prevention Review Group (PRG)**

Overarching 'foundation principles'

**Q1.** Do you agree that these are the right foundational principles?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

By making prevention of homelessness a shared public responsibility the opportunities to identify, intervene and prevent the risk of homelessness will be increased.

**Q2.** Are there any other principles that should be included? If so, why?

The principle of 'ask and act' duties

**Q3.** Do you agree with the proposals to introduce new duties on public bodies to prevent homelessness?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

As noted above the opportunity to intervene at the earliest opportunity will increase the ability to prevent homelessness.

**Q4.** Do you agree that public bodies should be required to 'ask and act' to prevent homelessness?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

This will ensure earlier identification of households at risk of homelessness allowing prevention work to commence at an earlier stage.

**Q5.** Which public bodies do you think a new duty to prevent homelessness should apply to and why?

All public bodies should have a duty to prevent homelessness. People may engage with a variety of public bodies at different points in their lives so a duty placed on all public bodies would maximise opportunities to prevent homelessness.

The principle that no-one should be discharged from institutions without anywhere to sleep that night

**Q6.** Do you agree to introducing a statutory duty on public bodies to prevent homelessness for anybody leaving an institution within six months?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

We strongly agree with the principle, six months will give more time to make appropriate arrangements, particularly for people with complex needs, however, successful prevention of homelessness will depend on a holistic assessment of needs, nearer the time of discharge/release. However, there are great pressures with regards to accommodation, both temporary and settled in Edinburgh as set out in our RRTP. This pressure would need to be taken account of when considering the request for people to be discharged into accommodation that meets their needs.

Please say why

**Q7.** What would help public bodies to meet this requirement and how might it work in practice?

- Public bodies will need appropriate training and referral mechanisms and resources.
- In practice individuals' needs may change several times during a 6-month period, requiring ongoing assessment and review up to the point of leaving the institution.
- Given the unique pressures on accommodation in Edinburgh, additional resources would need to be allocated for this to work in practice.

### **Duties on wider public bodies and landlords**

Prevention Review Group proposed recommendations for health and social care

**Q8.** Do you agree with the proposal that Integration Authorities should identify the housing circumstances of people using health and social care services, and where necessary work with partners to ensure that service users are assisted into suitable housing or prevent the risk of homelessness?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

Early identification of potential housing need or homelessness should be identified by staff in the Integration Authorities to ensure that people's needs can be considered and assessed and/or referred as soon as possible. This could mean establishing that somebody's current home isn't suitable for them at the current time or identifying that someone is homeless and will need support to access accommodation.

**Q9.** Do you agree that a new legislative duty on Integration Authorities to identify housing circumstances of patients is the best way to prevent homelessness?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

As above (Q8).

**Q10.** Do you agree that the Integration Authority should have primary legal responsibility for meeting accommodation and support needs where cases are so complex that they cannot be met in mainstream accommodation even with support?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

In principle this would be desirable, as this would ensure that specialist support needs are met for people with the most complex needs, including health and social care needs. Increased availability of, and access to, appropriate accommodation and support, would need to be adequately resourced/managed.

**Q11.** How would the Integration Authority having primary legal responsibility where cases are so complex work in practice?

- Clear definitions and criteria would be required for services.
- Funding would need to be scoped and commitment to this funding agreed on an ongoing basis to ensure appropriate services can be provided and maintained.
- What is meant by “legal responsibility”? Does this refer to statutory measures under Adult Support and Protection, Mental Health (Care and Treatment) (Scotland) Act 2003 etc?

**Q12.** Do you think a duty on the Integration Authority would positively impact on preventing homelessness for people with a range of more complex needs?

- Positively Impact  
 No Impact  
 Negatively Impact



Please say why

Providing that there is a statutory framework in place to support this (for example a replication of *Getting it right for every child* with named person/lead professional roles and a duty to co-operate for partner agencies).

**Q13.** Do you agree with the proposal for a social worker or social care worker to have a duty to 'ask and act' about housing issues or the risk of homelessness?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

It would provide another opportunity to intervene early and prevent homelessness.

**Q14.** Do you agree that a duty to co-operate on the Integration Authority is the best way to ensure that people who are homeless or at risk of homelessness, as a result of unmet health or social care needs, get the support they need from health and social care services?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why, and if you disagree please say how this might be addressed

What exactly does "support" mean in this context? Is this actual support provision or making referrals, signposting etc? Clear definitions would be required.

**Q15.** What changes to existing practice do you think local authorities and relevant health and social care services would have to make, to ensure they meet the needs of those leaving hospital and those with mental illness and impairment?

- Increased priority for patients assessed as statutorily homeless upon discharge from hospital (already implemented in Edinburgh).
- Early intervention whereby housing needs/homelessness are identified upon admission to hospital, and referrals made at the earliest possible opportunity.
- Improved access to temporary accommodation that meets assessed needs, where no permanent accommodation is available.
- Intermediary care on discharge.

**Q16.** Do you agree with the proposal that the local authority must provide assistance to anyone who is going to be discharged from hospital?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why, and what is the main difference this statutory change would make to people in hospital and at risk of homelessness

This should already be done as a matter of course as part of existing professional practice, however, introducing a duty to act (which would presumably need to be defined in legislation or a code of guidance) would galvanise this practice. The duty to act, however, would need to be explored further as there may be issues around consent and information sharing, if the individual has capacity and is not in agreement for their details to be shared.

This proposal would need to be clearly stated in relevant legislation (if it is going to be statutory), and assistance should only be provided to those where there is an assessed need and willingness to engage (unless they are subject of statutory orders).

**Q17.** What would be the main challenges of introducing a statutory duty on local authorities to house those due to be discharged from hospital within the next six months?

- Lack of appropriate accommodation.
- Assessed needs may change during the period, meaning that the type of accommodation/care and support requirements initially identified are no longer appropriate.
- Setting expectations for what the statutory duty to house means, acknowledging supply and demand issues and taking in to account reasonable preference under the Housing (Scotland) Act 1987

General Practitioners (GP)

**Q18.** Do you agree with the proposal that GP practices are required to refer to local authorities where there is a risk of homelessness identified?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

It would be good for GP practices to identify a process for referring people at risk of homelessness, however, this needs to be done with the patient's consent (unless there are statutory measures in place).

**Q19.** Are there any additional approaches that could be adopted by GP practices to better identify and respond to housing need?

Having someone based within the service who has a knowledge of housing and homelessness such as Edinburgh's pilot scheme, Community connectors.

Prevention Review Group proposed recommendations for case co-ordination for people with multiple or complex needs

**Q20.** Do you agree with the proposal that a statutory duty to put a case co-ordination approach in place for people requiring input from two or more public services is the right approach? If you disagree, please say how public services can best work together to prevent homelessness for people with more complex needs.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why, and how public services can best work together to prevent homelessness for people with more complex needs.

People with complex needs should be offered support from a case co-ordinator providing that there is a statutory framework in place to support this (for example a replication of *Getting it right for every child* (GIRFEC) for adult services, with named person/lead professional roles and a duty to co-operate for partner agencies).

People requiring input from two or more services who are able to meet their own needs and make their own connections should be encouraged to do so, but should have contact details for a lead service/organisation/department to support them to overcome any challenges or issues that they may face. This will also ensure that resources are targeted where they are needed.

This would be very difficult to implement without additional resources.

**Q21.** If this statutory duty is established:

How would it work in practice?

Look at learning from GIRFEC to establish if best practice already in place for children's services could be applied to adult services.

What challenges would it present, and how could these be best addressed?

- Data sharing agreements would be required across services.
- Additional resource would be required to deliver this.
- Agreeing who (which service) will be the co-ordinator, perhaps having a named person as the initial point of contact.
- To encourage the individual to engage they should have the right to choose.

**Q22.** What difference would a case co-ordination approach make to people experiencing homelessness or at risk of homelessness who have more complex needs?

Ensuring that the person gets the right services at the right time for them.

Prevention Review Group proposed recommendations for children's services

**Q23.** Do you agree with the proposal to establish a duty on health visitors or head teachers to identify a housing issue or risk of homelessness to a local authority?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

- Where a risk of homelessness is established, an offer of referral should be made. Processes and mechanisms would need to be established.
- Edinburgh already has a mechanism in place to alert schools and health visitors if families are living in temporary accommodation with children.
- If this is going to become a duty, there needs to be supporting legislation or a code of guidance that enshrines the duty.

**Q24.** How would a duty on health visitors or head teachers to identify a housing issue or risk of homelessness to a local authority work in practice? At what stage should a request for assistance be made to the local authority?

This should already be happening as a matter of course under GIRFEC, where a housing or homelessness issue is identified. The duty should result in a referral to housing or homelessness services at the earliest possible opportunity, when a risk is identified. The referrer needs to take responsibility for ensuring that there is an outcome for the referral.  
See above (Q23), these links are already established and could be built on, any increase in referrals would need to be matched with resources.

Prevention Review Group proposed recommendations for young people

**Q25.** How can we ensure a homelessness prevention service is designed so that it can meet the needs of young people at risk, in partnership with other relevant services?

Working in partnership are key and resources are needed.  
Children coming through statutory services have support until they are 26, this type of support should be available to all young people who are at risk of homelessness.  
We have two dedicated housing officers working specifically with young people in Edinburgh, this could be built on.

**Q26.** Do you agree that a local authority, possibly in partnership with others, should have a family mediation service as part of its legislative duties to prevent youth homelessness?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

Family mediation services should be available across Scotland to support households with conflict resolution and to rebuild relationships where possible. Edinburgh already has this in the YESS service.

Prevention Review Group proposed recommendations for 16 and 17 year olds

**Q27.** Do you think the proposal for 16 and 17 year olds would positively impact on the prevention of homelessness for young people?

- Positively Impact  
 No Impact  
 Negatively Impact

Please say why

The statutory responsibility for homelessness assistance should remain with homelessness services.  
Dedicated services are already provided for young people experiencing or at risk of homelessness in Edinburgh.

**Q28.** Could there be any ‘unintended consequences’ for 16 and 17 year olds in taking this approach to legislation? If so, how can this best be addressed so that any new legislation improves outcomes for 16 and 17 year olds at risk of homelessness?

Yes, there could be ‘unintended consequences’

No, there could not be any

Please say what the ‘unintended consequences’ could be, and how can this be addressed so that any new legislation improves outcomes for 16 and 17 year olds at risk of homelessness?

16 and 17 year olds may choose not to present as homeless or at risk of homelessness if they believe they will then be directed to children’s social work.

Prevention Review Group proposed recommendations for criminal justice – prisons, court services and Police Scotland

### Prisons

**Q29.** Do you agree with the proposal to introduce new legal duties on prisons to ask about and work with partners to address housing issues to prevent homelessness?

Strongly Agree

Agree

Disagree

Strongly Disagree

Please say why

Prisons currently ask about the housing situation at the core screening stage. The individual does not currently need to engage in core screening, so only those that participate will have their housing needs identified at that time. The Sustainable Housing on Release for Everyone (SHORE) Standards expect that an early intervention approach is key to addressing housing issues, preventing homelessness or supporting those at risk of homelessness. The SHORE Standards are guidance though, and introduction of legislation that gives prisons a duty to determine housing/homelessness issues (and a compulsion for prisoners to engage) could improve outcomes for people in prison.

**Q30.** How would a statutory duty on prisons to identify and work with partners on housing issues change existing practice already in place to prevent homelessness amongst those leaving prison?

There is already an early intervention approach to housing/homelessness across Scottish Prisons through the SHORE Standards, however, introduction of a statutory duty should ensure that this approach is applied to all prisoners (and not only those that choose to engage).

**Q31.** What are the main challenges of introducing any new statutory duty on prisons to identify and work with partners on housing issues?

There will be capacity/resource issues.  
SPS would need to allocate this task to a specific job post or at least expand current roles.  
Currently in HMP Edinburgh two staff look to meet leavers 10/12 weeks from liberation and ask about accommodation/complete welfare fund applications etc. Referrals are often received through this route, but it is unclear how this works in other establishments.

**Q32.** What changes to existing practice would local authorities have to make to ensure they meet the needs of those leaving prison??

Each prison would need a dedicated local authority officer in situ to provide support, assistance and advice to prisoners, prison staff and any other agencies working with individuals in the Link Centre, to ensure a consistent and joined up approach. While suitable housing/accommodation is vital for those leaving prison there may be other needs that should be addressed, or support put in place, to enable a successful release back into the community.

Prevention Review Group proposed recommendation for court services

**Q33.** Do you agree with the proposal that housing options advice should be available in court settings?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

Identification of housing need in any setting is desirable, however, this would need further investigation regarding scope and scale. Housing options advice should be made available at eviction hearings at the very least.



Prevention Review Group proposed recommendations for Police Scotland

**Q34.** Do you agree with the proposal to place a statutory duty on the police to ask about somebody's housing circumstances if there is 'reasonable belief' they may be homeless or at risk of homelessness?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

This is an opportunity to identify homelessness or risk of homelessness at an early stage. Again, this would need to be enshrined in law, with clear guidance around information sharing/consent.

**Q35.** How would a statutory duty on police to ask about somebody's housing circumstances, if there is 'reasonable belief' they may be homeless or at risk of homeless, work in practice?

There are already a range of arrangements in place (e.g. Adult Support and Protection, Domestic Abuse, Multi Agency Public Protection Arrangements) that place statutory duties on Police Scotland. What would be required is legislation that supports the Police asking about someone's housing situation as a matter of course and allows them to act on it with the appropriate consent/information sharing agreements in place.

Prevention Review Group proposed recommendations for Domestic Abuse

**Q36.** Do you agree that the set of proposed measures on domestic abuse are complementary to each other and consideration should be given to implementing them in full?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

Significant work has taken place in recent years with regard to supporting victims/survivors of domestic abuse, and work is ongoing through the Scottish Government's Equally Safe Joint Strategic Board (overseeing a Short Life Delivery Plan). This includes three actions specifically relating to housing and homelessness – i.e. implementation of the recommendations set out in the Improving Housing Outcomes for Women and Children Experiencing Domestic Abuse, progressing outcomes that follow on from the current Scottish Government Rented Sector Strategy Consultation on a New Deal for Tenants and laying the final regulations relative to the Domestic Abuse (Protection) (Scotland) Act 2021. The fundamental principles captured in all of these developments focuses on prevention of homelessness for victims/survivors of domestic abuse through choice. This includes support to stay where they are (which will be supported when the new Scottish Secure Tenancy Agreement allows perpetrators of domestic abuse to be evicted when they are joint tenants), provision of a robust safety plan and support to enable them to stay where they are, offers of management transfers (to avoid presenting as homeless and moving from one social rented home to another) and only in exceptional circumstances, making a homeless presentation when no alternative options are available and the risk of harm is too high. It should be noted that extending domestic abuse to Equally Safe (that encompasses all issues relating to Violence Against Women) would be preferable, as this also addresses other issues that could lead to homelessness e.g. commercial sexual exploitation, sex for rent, human trafficking, honour based violence etc.

**Q37.** Do you have any comments about the implementation of any specific proposal made in relation to preventing homelessness as a result of domestic abuse, and is there anything missing from these proposals?

Please see above. There are also proposals within the New Deal for Tenants consultation to extend eviction of perpetrators who are joint tenants in private rented tenancies, which could further reduce the risk of women presenting as homeless.

Prevention Review Group proposed recommendations for a local authority duty to respond to referrals

**Q38.** Do you agree with the proposal that there should be a statutory duty on a local authority to accept a referral from a public body to prevent homelessness, as part of legislative change that places a duty on public bodies to 'ask and act'?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

If there are going to be statutory duties placed on public bodies to 'ask and act' with regard to homelessness:

- It is incumbent on local authorities to accept the referrals.
- Additional resources will be required to manage increased pressure on service.
- In Edinburgh we have a partnership and prevention officer with the role of training public bodies with regards to identifying homelessness risk and to identify how we would implement any prevention duty.

**Q39.** If a statutory duty on local authorities to accept a referral from a public body to prevent homelessness was introduced, what would be the primary advantages and challenges compared to existing arrangements?

What would be the primary advantages:

- It would increase opportunities to prevent homelessness at an earlier stage before crisis occurs.

What would be the primary challenges:

- Ensuring public bodies have clear criteria and an understanding of when to make referrals
- Managing increased referrals and the associated resource implications
- Creating a referral mechanism and data sharing protocols

**Q40.** Do you have a view on the issue of an individual's consent in this process?

Individuals should have the right to decide what referrals are made on their behalf unless there are concerns around their risk of immediate harm or they are subject of any orders under Adult Support and Protection or the Mental Health (Care and Treatment) (Scotland) Act 2003.

Prevention Review Group proposed recommendations for joining-up services through strategic planning

**Q41.** Should the requirements for joining-up services through strategic planning to prevent homelessness be included in legislation or guidance?

- The requirements should be included in legislation
- The requirements should be included in guidance

Please say why

If Integration Authorities and public bodies are expected to undertake new duties as outlined above, there needs to be clear legislation that sets this out, and to which agencies can be held accountable. There also needs to be clear guidance and a shared understanding of the expectations placed on each agency as a result.

Including the requirement for joining up services through strategic planning to prevent homelessness would 'back up' the prevention duty, however, careful thought should be given to which parts of strategic planning legislation this kind of requirement appears in e.g. Local Housing Strategy.

**Q42.** Are there any other requirements for joining-up services through strategic planning that should be considered?

Acknowledging existing arrangement and best practice where this already exists e.g. SHORE Standards, Domestic Abuse.

Health and Social Care Partnership/IJBs are already required to include a Housing Contribution Statement in their Strategic Plans

#### Data sharing and data protection

**Q43.** What do you think the implications are of increased joint working to prevent homelessness between public bodies on data sharing and data protection?

Increased joint working to prevent homelessness is likely to result in increased sharing of special category data. Consideration should be given to creating shared information systems across public bodies, that could strengthen and consolidate good practice.

#### **Prevention Review Group proposed recommendations for social landlords**

**Q44.** Do you agree with the new legislative duties to ensure social landlords take specified reasonable steps to prevent homelessness where a risk is identified?

Strongly Agree

Agree

Disagree

Strongly Disagree

Please say why

This will result in the good work that is already being done by most social landlords, becoming a duty for all social landlords.

**Q45.** Are there any other reasonable steps apart from those listed that a social landlord should be legally obliged to take to prevent homelessness?

Setting duties on landlord will not work on its own, individuals must engage and participate for the duty to work. The broad areas are correct but there will always be the need to recognise that actions from individual households.

**Q46.** Do you agree with the proposal to legislate for the establishment of protocols by social landlords in relation to domestic abuse?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

This is already being addressed through the work underway with Scottish Government, specifically Improving Outcomes for Women and Children Experiencing Domestic Abuse in the Social rented Sector Report (due to complete by end of 2023). While many local authorities will already have a Domestic Abuse Housing Policy in place (that includes social landlord partners) as is the case in Edinburgh, enshrining this in legislation would ensure rigorous engagement by social landlords. Additionally, Scottish Government's ongoing consultation on the Rented Sector Strategy Consultation on a New deal for Tenants, takes cognisance of housing issues that could potentially lead to homelessness. It would be worthwhile, however, looking at this in the context of Equally Safe, to ensure that any preventative work also includes wider issues relating to Violence Against Women and Girls.

**Q47.** Do you agree with the proposal to legislate for the establishment of protocols by social landlords in relation to where tenants face court proceedings?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

Early notification will increase opportunities for prevention activity avoiding homelessness crisis. Pre-action requirements for rent where certain activities are required prior to action is a positive thing, this still relies on maintaining engagement with the individual.

**Q48.** Given that landlords are already expected to notify local authorities of raising proceedings for possession, do you agree with a new legislative provision to ensure it happens earlier than under current arrangements?

Strongly Agree

Agree

Disagree

Strongly Disagree

Please say why

This would allow a more holistic assessment to take place, with greater opportunity to undertake prevention activities that would hopefully prevent eviction action proceeding.  
Thought should be given to the capacity of LAs to respond to the volume of notices that they may receive if notices are triggered at an earlier stage.

**Q49.** What further statutory measures beyond the existing Section 11 provision are needed so landlords notify and work with local authorities as soon as possible to prevent homelessness?

No further statutory measures are required, but earlier notice is required such as the Section 11 being issued at an earlier stage as part of the pre action requirements; perhaps at the point that there is a risk of homelessness identified, where that risk is within the next six months.  
By bringing the Section 11 notice earlier into the pre action requirements there should be an earlier opportunity to identify the risk of homelessness and for preventative activity to commence prior to eviction action commencing.  
Landlord education will be required for any adjustments to measures.

**Q50.** At how early a stage should a landlord be expected to notify a local authority about the risk of homelessness?

As soon as it becomes apparent that the tenancy is at risk, this will depend on the individual household circumstances and the reasons for the risk of homelessness.

## Prevention Review Group proposed recommendations for private landlords

**Q51.** Do you agree with the proposal to make pre-action requirements on private landlords in cases of rent arrears permanent in legislation?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

Private rented tenants are often more vulnerable to action by their landlords, so introduction of pre-action requirements would demonstrate an equitable approach to renting and the opportunity for private tenants to be supported to address potential issues and hopefully divert an eviction.

No further statutory measures are required, but earlier notice is required such as the Section 11 being issued at an earlier stage as part of the pre action requirements; perhaps at the point that there is a risk of homelessness identified, where that risk is within the next six months.

By bringing the Section 11 notice earlier into the pre action requirements there should be an earlier opportunity to identify the risk of homelessness and for preventative activity to commence prior to eviction action commencing.

Landlord education will be required, and no eviction should be able to proceed where a section 11 has not been issued and a landlord should need to show that they are taking action to prevent homelessness for their tenant.

**Q52.** How might a new legislative duty on local authorities to respond to referrals to prevent homelessness from private landlords work in practice?

There will be a need for an increase in resources if additional duties are going to be placed on local authorities to provide additional housing options advice.

In Edinburgh as part of the prevention activity, a PRS team work with tenants from PRS to support them to stay in their existing tenancy or support them into new tenancies where appropriate. An income maximisation officer works with tenants to improve affordability for accommodation and employability referrals are made.

In addition to this, continuation of the Tenant Grant Fund to allow officers to access financial support for tenants with limited resources where these funds may support them to stay in/access the PRS.

**Q53.** What sort of support do you think private landlords may need to ensure they meet this requirement?

The PRS team currently offer support to landlords with understanding what support is available from the Council. However, for all landlords to have consistent support the landlord register should be developed to educate and support landlords and should include tools to support them with managing the tenancy. This should offer support with understanding legislation and guidance, education on responsibilities and easily accessed support (including tools) specifically for landlords.  
First tier tribunal must ensure that the PARs are fully adhered to before granting an eviction.

**Q54.** Do you agree with the proposal that a local authority should have a power to request a delay to eviction to allow time to secure a positive outcome for the tenant?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

Yes, this would need to be a done on a case by case basis, but where there is a possibility that this intervention could divert an eviction, this power should be introduced. Timescales for any delay would need to be clear and processes would need to be in place to allow progression on cases to be recognised.  
The private rented sector changes must be consistent with the outcome of the 'A New Deal for Tenants – draft Rented Sector Strategy consultation'.

**Q55.** The Prevention Review Group propose that the homelessness advice and assistance is designed to meet the needs of people living in and seeking to access the private rented sector. Do you agree with this proposal?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

Edinburgh has the largest private rented sector in Scotland and has demonstrated the value of providing a private rented sector team who prevent homelessness by supporting households to access or stay in their PRS home or to move to another private rented or mid-market property.



**Q56.** How would a specific legislative duty on local authorities to provide homelessness advice and assistance relating to living in and/or accessing the private rented sector work in practice?

A specific legislative duty would give a legal basis to the good practice that already exists.

Additional resources were required to develop the PRS team in Edinburgh. The Council would be happy to share information on the set up and delivery and outcomes of the team.

Income Maximisation should be a key part of this work to ensure that affordability for PRS access is improved, Edinburgh already have a focus on this.

Edinburgh has specific challenges with high rental costs in the PRS, with a decline in the numbers of properties available within LHA rates.

The private rented sector changes must be consistent with the outcomes of the draft Rented Sector Strategy consultation.

**Section 3:** Proposed recommendations by the Prevention Review Group and consultation questions on reforming the homelessness legislation to prevent homelessness

### **Principles of the Prevention Review Group**

**Q57.** Do you agree with these principles?

Strongly Agree

Agree

Disagree

Strongly Disagree

Please say why

Prevention is a key element of the City of Edinburgh Council's RRTP recognising that preventing homelessness at the earliest opportunity is key and many of the recommendations are already in place in Edinburgh. However, the pressures in the Edinburgh housing market and the resource implications that any increase in number of households seeking homelessness assistance will bring should be noted.

**Q58.** Are there any other principles that should be included and, if so, why?

**Q59.** What outcomes do you foresee if the above principles were to be adopted to amend the statutory homelessness framework?

**Prevention Review Group proposed recommendations for changing the current homelessness legislation**

An extended prevention duty

Increase in the number of people seeking assistance, increase in the number of households where homelessness is prevented and more pressure on availability of affordable housing.

**Q60.** Do you agree with the recommendation that there should be changes to existing homelessness legislation to ensure that a local authority must assist somebody threatened with homelessness within the next six months to prevent homelessness?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

Opportunities to act earlier and prevent homelessness arising is in line with our strategic objective to prevent homelessness at the earliest opportunity. However, changing legislation to 6 months will increase the pressure on the service. Additional resources would be required to meet increased demand.  
Officers welcome the proposal for a set timeframe of 56 days to take reasonable steps to prevent homelessness and would seek assurance that guidance will be provided to ensure that all LAs take a consistent approach.  
It should also be noted that the ability to rapidly rehouse would be challenging in Edinburgh given the unique housing pressures in the city.

**Q61.** How do you think a duty to prevent homelessness within six months would work in practice?

Scottish Government would need to publicise the duty when it is rolled out to ensure that it is understood by public bodies and the general public.  
There would be additional administrative work and joint working particularly resulting from earlier referrals and discussions with partners, as more households will have access to services. Additional resources would be required to meet this increased need.  
The partnership and prevention officer will support partners and colleagues in Edinburgh with education and understanding of homelessness prevention and how to make referrals.

**Q62.** How would an assessment be made to identify whether someone was at risk of homelessness within six months?

See Q60

There would need to be some set criteria to ensure that all LA's assess this in a consistent manner. Information would also need to be provided to wider public sector bodies to ensure that they are able to make appropriate referrals at the appropriate time.

Duty to take reasonable steps to prevent homelessness

**Q63.** Building on the experience of housing options approaches in Scotland, do you agree with the proposal to regulate for making specific measures available or reasonable steps to prevent homelessness in legislation?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

This would ensure consistency across all local authority areas.

**Q64.** Are there any other specific measures that should be made available or reasonable steps to prevent homelessness that should be included in legislation?

- Yes
- No

Please say why, and what are these other specific measures

**Q65.** Do you think the specific measures made available, or reasonable steps duties outlined, are clearly and unambiguously set out so that it is possible to measure their achievement? Do they need to be more specific?

- Yes
- No

Please say why, and how they could be more specific

The proposed reasonable step - 'Referral to other relevant agency' is not specific enough to measure achievement. It should be noted that reasonable steps will be specific to each individual household and as such these would be difficult to measure their achievement.

**Q66.** If you agree with these new duties, what processes or procedures do you think should be put in place to encourage local authority compliance?

Compliance will be required from all. An update to the Code of Guidance will be required as well as updated statutory returns.

### Personal Housing Plans

**Q67.** How can we best ensure that an applicant's views are addressed in a statutory assessment to prevent homelessness?

It needs to be clear that this is the applicants personal housing plan and offer income maximisation and employability referrals to increase affordability and maximise housing options, enhancing applicant's choices. However, it must be recognised that the applicants desired outcome may not always be possible.

**Q68.** Should personal housing plans form part of a statutory assessment for preventing homelessness by local authorities, or just be an option for local authorities to use with an applicant?

- Yes, they should form part of a statutory assessment  
 No, they should be an option

Please say why

Not everybody will need a personal housing plan, however, people with multiple service requirements should be offered a personal housing plan. PHPs for all would require a significant investment in resources.

**Q69.** Do you agree with the proposal that a local authority should assess housing support needs, and make provision to meet them, as part of a new prevention of homelessness duty?

- Strongly Agree  
 Agree  
 Disagree  
 Strongly Disagree

Please say why

Other public bodies should also have a role for identifying who would need a housing support needs assessment with clear pathways to identify who would need to carry out the assessment, this should not always fall on the LA to undertake.

**Q70.** How and at what point do you think an individual's housing support needs should be assessed?

On first contact after referral or at presentation.

**Q71.** An applicant during the time they are receiving prevention assistance under a new prevention duty from the homelessness system experiences loss of accommodation, or other change of circumstances which make the reasonable steps agreed to be carried out no longer valid. What should the process look like to ensure someone always has access to the right assistance for the circumstances they are in?

An update assessment of their needs should be undertaken to determine whether the applicant is owed full homeless duty and what other supports they require.

**Q72.** What assistance should be provided to those who are defined as statutorily homeless but where it may be possible to prevent them from becoming homeless from their current accommodation (while ensuring it meets the definitions of suitable and stable)? This might include:

- People experiencing domestic abuse and who therefore have statutory homelessness status
- People facing eviction from a PRS tenancy
- People being asked to leave the family home.

Domestic abuse – tenancy transfer to victim (which should be possible when the Domestic Abuse (Protection) (Scotland) Bill is enacted – due by summer 2022), robust safety planning if they choose to remain where they are, offer of a management transfer, assistance to apply for mutual exchange, support with advice, financial advice.

PRS – financial support, advice for rent arrears, support with negotiating or mediating with landlord.

Family home – mediation, financial advice

Meeting the needs of specific groups

**Q73.** Do you agree with the proposal for meeting the needs of specific groups?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

The needs of specific groups are already either in place (PRS team, housing policy for DA) or being developed and updated as part of Edinburgh's RRTP. Placing a statutory duty on LAs will increase demand consequently creating a need for additional resources.

**Q74.** Is there anything you would add to these proposals that may strengthen legislative changes to prevent homelessness amongst specific groups?

Housing options should reflect an individuals' needs, this should be added to legislative changes to prevent homelessness and legislation should recognise that the available housing options will not always meet all the individuals needs or preferences.

**Q75.** Do you agree with these proposals on preventing homelessness for people experiencing domestic abuse?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

See Qs 46, 72 & 73

**Q76.** Is there anything else that should be included in considering new legislative proposals on the prevention of homelessness resulting from domestic abuse?

What else should be included

See Qs 46, 72 & 73

Prevention Review Group proposed recommendations for stability and suitability of accommodation

**Q77.** Do you agree with the criteria proposed for the stability of housing outcomes?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

Yes, as this will provide people threatened with homelessness an expanded range of choice over their housing options.

**Q78.** Do you agree that 12 months is an appropriate minimum expected period for accommodation to be available (regardless of the type of tenure) for people who are threatened with homelessness or have become homeless?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

We do however it should be noted that agreements for private rented and social rented tenancies are indefinite. There are questions as to how local authorities will be able to conclude that they are satisfied with assurances from landlords that accommodation would be available for a minimum of 12 months.

**Q79.** How do you see this working in a) a private tenancy; b) accommodation with an occupancy agreement; and c) those returning to the family home or to live with another relative?

a) private tenancy:

no end date set on agreement and no expectation that the agreement would come to an end within 12 months. Clarity required on how a local authority would conclude that they are satisfied with a landlord assurance.

b) accommodation with occupancy agreement:

no end date set on agreement and no expectation that the agreement would come to an end within 12 months. Clarity required on how a local authority would conclude that they are satisfied with assurances.

c) return to family home/living with relative:

this would be accepted as long there is no notification of a trial period or conditions set at the outset. This would have to be applied consistently across all local authorities.

**Q80.** Are these the right grounds to consider in deciding on the suitability of housing outcomes? Are there any other grounds that should be considered?

Yes

No

Please say why, and any other grounds that should be considered



**Q81.** Do you think the criteria proposed for both stability and suitability of housing outcomes would allow people a wider range of housing options to either prevent homelessness or rehouse someone who has become homeless, and that could lead to better outcomes for the applicant?

Yes

No

Please say why

Yes, as it will mean a greater number of housing options are available.

Safeguards for non-standard accommodation options as part of a new prevention of homelessness duty

The Prevention Review Group suggested that accommodation not protected by other legal safeguards (referred to “non-standard” options in the PRG report) must have additional safeguards in place:

- The accommodation must have appropriate facilities for settled living (such as 24-hour access, adequate toilet and washing facilities, access to kitchen facilities, a private bedroom)
- A statement of rights and responsibilities in relation to the accommodation
- Applicants must give written consent to be discharged into a non-standard form of accommodation (i.e. they have a veto).

**Q82.** When taken with the general criteria for suitability and stability, do these additional safeguards provide the right safeguards to ensure these accommodation types (non-standard) are always suitable and stable? Are there any additional safeguards that could be put in place?

Yes

No

Please say why, and if there are additional safeguards that could be put in place

Clarification should be made as to what is considered to be “adequate toilet and washing facilities”.

## **PRG proposed recommendations for enforcing people's rights**

### Right to review

**Q83.** Do you think any additional measures are needed to ensure a right to review by the local authority within the proposed legislative measures to prevent homelessness?

Yes

No

Please say why

### Right to appeal

**Q84.** What do you think are the key considerations in any appeal process linked to new legislative measures to prevent homelessness as outlined?

The appeals process must be only after the right to review and the local authority has had the chance to respond and should relate to whether the legislation has been adhered to.

### Regulation

**Q85.** Do you have anything to add to the proposal on the role of the Scottish Housing Regulator in relation to proposals for new legislative duties to prevent homelessness?

Reports comparing outcomes for local authorities and landlords should take account of the variations in the housing market in each local authority area.

**Q86.** What implications do you think these proposals have for other regulatory bodies?

They may wish to include monitoring of the prevention duty as part of their monitoring framework.

**Q87.** Do you agree that there should be a general assessment of housing support needs of persons (separate to assessments for individuals) in an area as part of the Local Housing Strategy?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

This would support local authorities, partners, and the Scottish Government to understand localised issues and to plan for appropriate housing and support needs.

#### **Section 4:** Questions on the package of proposals, resources and monitoring

##### The package of proposals

**Q88.** Do you agree this is this the right package of reforms to meet the policy principles of early intervention and preventing homelessness?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

This package of reforms will support the policy principles of early intervention and prevention of homelessness by providing more opportunity to intervene at an earlier stage and ensure that people threatened with homelessness can access advice and support at the right time.

**Q89.** If you do not agree this is the right package of reforms to meet the policy principles of early intervention and preventing homelessness, what do you recommend in terms of other ways of reforming the system to meet these policy principles?

**Q90.** How do you feel about the overall package and the balance it strikes between the different objectives, interests and principles outlined? Does it work as a whole package? If not, how can the package be adjusted overall to better meet the principles of early intervention and prevention?

Whilst it strikes the right balance additional resources for local authorities must be included in order to deliver this.

**Q91.** Please give us your views on the potential impact of the proposed new homelessness prevention duties on different groups of people.

Groups at higher risk of homelessness will benefit from earlier identification and assess to support through duties to prevent homelessness on wider public bodies and landlords.

(Different groups of people with protected characteristics in the Equality Act 2010 include: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, sexual orientation).

### Resources

**Q92.** What do you think are the potential implications for your role or for your organisation's role of the implementation of new duties to prevent homelessness in terms of time and resource?

Additional resources will be required to manage increased numbers of households accessing services.  
Time will be required for new duties to be embedded in services and for partnership working and referral routes to be established.  
Additional recording and reporting will need to be developed, systems may need to be adjusted or updated and training for all involved will be required. This will require significant additional resources.

**Q93.** What do you think you or your organisation would be doing to meet new prevention duties as outlined in this consultation that you were not doing before?

Implementing any new prevention of homelessness duties will have a great impact on many areas of the organisation. If all colleagues who may be in contact with individual citizens are to understand and meet the needs of the prevention duty the training requirements would be significant and the timescales for this work would be incalculable without understanding the duty as it will be implemented and who specifically it will affect.

This will be a major training requirement, not limited to the Housing and Homelessness Service areas but could be supported by the partnership and prevention officer who trains colleagues, from within and out with the Council, to understand homelessness risks, prevention and how to make a referral.

Currently Edinburgh have a PRS team working with private tenants and landlords to prevent homelessness and a multi-disciplinary team that works with Council tenants, at risk of homelessness as a result of rent arrears and difficulty engaging with services. These teams would need to be developed further to deal with the impact of any increase to prevention activity.

The role of income maximisation officers Advice Shop advisers, Adviceline advisers, Housing Officers and Housing Assistants would need to be reviewed to identify training needs and any necessary changes to practice.

The ask and act duty will need to be fully understood before training numbers can be quantified.

Existing prevention services would need to be increased to meet any rise in demand and would also need to be adequately trained and resourced.

**Q94.** Do you think these proposals offer an opportunity for potential savings or benefits to services through an increased focus on early intervention and preventing homelessness?

Additional resource will be required to manage an increase in numbers from commencement.

**Q95.** What additional training needs do you think will be required for your role or your organisation's role in implementing any new prevention of homelessness duties, and what do you think the timescales for this would be?

Local authorities will also have a role to play in training, support, and education for other public bodies, again this is unquantifiable at this time.

Monitoring

**Q96.** What monitoring information do you think should be collected in order to best assess the implementation, progress and outcomes of new legislative duties to prevent homelessness?

Monitoring information should relate to a reduction in the number of households who are assessed as threatened with homelessness who do not go on to full housing duties reductions in numbers of households being evicted, a reduction in repeat homelessness and a reduction in numbers of households entering temporary accommodation.

**Section 5:** Questions on the Prevention Review Group proposals on prevention of homelessness duties for people with lived or living experience of housing crisis, homelessness or risk of homelessness

**Q97.** When you most recently or previously became homeless were there any earlier actions that you think could have been taken by the council or other public bodies (health, education, justice services, etc.) that would have prevented it?

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**Q98.** What was the main action taken by the council or other public bodies to help prevent your most recent or previous homelessness?

**Q99.** What other actions taken by the council or other public bodies do you think would have helped prevent your most recent or previous homelessness?

**Q100.** Please list some of the different services, homeless and otherwise, that you were in contact with in the time before you most recently or previously became homeless?

**Q101.** How long (if at all) before you most recently or previously became homeless did you start receiving support?

**Q102.** Did any services you were interacting with pick up on warning signs prior to your most recent or previous homelessness?

- Yes
- No

What services picked up on warning signs and what was your experience

Duty on wider public bodies and landlords to prevent homelessness

There is a proposal that public bodies would need to identify or ‘ask’ whether the people they work with have a risk of homelessness, and then would have a different role and opportunities to ‘act’ on this information. In some cases the action required would be a referral to the local authority.

**Q103.** Do you agree with the proposal for a new duty to ‘ask and act’ about homelessness for public bodies such as health, justice, education, etc.?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why

**Q104.** Do you think such a duty on public bodies would have made a difference to your experiences, and do you think it could have prevented your most recent or previous homelessness?

- Yes
- No

Please say why, and if not what do you recommend



Prevention of homelessness legislation

There are proposals for making changes to the law so that action to prevent homelessness needs to be taken up to six months before you may become homeless.

**Q105.** Do you agree with this approach, and would it have helped prevent your most recent or previous homelessness?

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

Please say why, and would it have helped prevent your most recent or previous homelessness?

**Q106.** How would you know if you are 6 months away from homelessness, and how would you know where to go for help?

**Q107.** There are proposals for making changes to the law so that local authorities can prevent or resolve your homelessness by providing you with accommodation that is 'stable and suitable'? Do you have a view on this proposal?

**Q108.** Is there anything else you wish to add to the proposals in this consultation to change the law on preventing homelessness based on your lived or living experience of homelessness?