

PREVENTION REVIEW GROUP – 9 July 2020

Minute of meeting

Present:

Members: Professor Suzanne Fitzpatrick (Heriot Watt University, Chair), Cllr Elena Whitham (East Ayrshire Council / COSLA), John Mills (Fife Council / ALACHO), Ruth Whatling (Scottish Government), Matt Downie (Crisis), Professor Tom Mullen (University of Glasgow), Adam Milne (Shelter Scotland).

In attendance: Claire Frew (Homeless Network Scotland), Jess Husbands (Shelter Scotland), Beth Reid (Crisis), Judith Chisholm (Crisis), Jeremy Hewer (SFHA).

Apologies: Susanne Millar (Glasgow City HSCP), Callum Chomczuk (CIH), Maggie Brunjes (Homeless Network Scotland), Lorna Wilson (SFHA)

1. Welcome and introductions

Professor Suzanne Fitzpatrick welcomed everyone to the meeting.

2. Update on the Prevention Commission

Claire Frew from Homeless Network Scotland updated the Group on the work of the Prevention Commission. Claire referred to the reports from the third, fourth and fifth meetings of the Prevention Commission which had been circulated in advance.

The Prevention Commission's recent meetings focussed on leaving institutions including prison, hospital and care. The emerging thinking from all of those discussions focuses on: how do we remove the need for a homelessness presentation when someone is leaving an institution and ensure that there is a housing led approach? Homelessness should not be the default, it should only be a safety net.

It was highlighted that the Prevention Commission's discussions all return to the need for there to be positive choice according to individual households' priorities rather than a prescriptive set of options.

The Group reflected on the update. The Group agreed that positive choice should be a key aspect and that this is something personal housing plans are designed to provide. Personal housing plans should support households to make an informed choice about their housing options and be underpinned by legislation. It was noted from how the English and Welsh legislation has operated in practice that unless adequate safeguards are put in place there is a risk of different interpretations of what a personal housing plan is which can become a new form of gatekeeping.

Claire extended an open invitation to the members of the Group to attend future meetings of the Prevention Commission. Claire also invited the Group to let them know if there are any particular areas or questions that it would be helpful for the Prevention Commission to consider in future meetings.

3. Update on legal commissioning

The Chair referred to the meeting with Adrian Stalker attended by the Chair, Tom Mullen, Matt Downie and Beth Reid. Following that meeting Adrian Stalker has been commissioned to draft legislation to reflect the Group's recommendations. For practical purposes the brief is in two parts: the first relating to duties on housing and homelessness bodies, the second in relation to wider legal

duties, still to be drafted in line with the Group's ongoing deliberations. The agenda for the Group's meeting on 24 August 2020 will focus on the legal drafting and Adrian Stalker has been invited to attend that meeting. The aim is for that meeting to cover both the first and second part of the brief but it was noted that given the current timeline of the Group the second part of the brief may have to be considered at a future meeting. **ACTION: following the meeting the brief will be circulated to the Group for information.**

Adam Milne asked if there was an opportunity to provide input into the second part of the brief. The Chair noted that the Group are working at pace, which means that it has to be agreed within very short timescales over the next few weeks. It was agreed that the best way to take this forward would be for Beth Reid to discuss next steps and options for this with Adam Milne after the meeting. **ACTION: Beth Reid and Adam Milne to arrange meeting to discuss second part of the brief.**

4.Domestic abuse – review and discussion

Beth Reid referred to the report on the stakeholder meeting on domestic abuse and presented on the key themes from that report, which were:

Key themes

Pathways that avoid homelessness

- Don't presume survivor has to move
- Tenure neutral approach

Housing options and preventing homelessness

- Professional attitudes and culture
- Range of housing options and support – choice and control

A whole housing approach for housing services

Social housing

- Good practice guidance and consistent approach, protocols for transfers etc
- Joint tenancies

Role of private landlords and lettings agents

Fit and proper person test, requirement to act / report on concerns

Access to legal advice including for owner occupiers and as part of housing options

Working with perpetrators

- Perpetrator schemes – role in preventing homelessness
- Connecting barring and other orders to housing advice / support

Multiagency working and MARAC – role for housing services

A gendered approach to support for people with complex needs

- Recognition of domestic abuse trauma for women with complex needs– trauma focus as well / instead of domestic abuse focus?
- Housing First for survivors of domestic abuse with complex needs
- Case manager approach for domestic abuse

Note that the stakeholder meeting focused on housing and it did not address role of wider public bodies (e.g. police, courts) in tackling domestic abuse to prevent homelessness

Potential areas for duties

- How to ensure the survivor is in the best accommodation for them | at present there is often a presumption that the survivor has to move. What legal duties would create a system that removes that presumption and ensures the survivor has choice over whether to remain in their own home or to move?

- Wide range of options re **domestic abuse in Housing Options** statutory framework, allowing choice and control, led by individual's experience of domestic abuse, including
 - access to legal advice; access to housing options support such as PRS access scheme
- **Planning and policies** for housing and domestic abuse for local authorities and RSLs, recognising gendered nature of domestic abuse, including for protocols around managed moves and reciprocal agreements and whole housing approach, and across housing tenures
- Elements of social housing domestic abuse **good practice guidance on statutory basis** with monitoring
- Making it easier to **remove perpetrators from joint tenancies**
- Requirements for **private landlords and letting agents**, including understanding of DA as part of "fit and proper person" test
- Connecting perpetrators subject to **legal orders to housing support** and advice
- How to strengthen **housing input into MARACs**

Wider potential issues that came up

- Accessibility of Housing Options services to victims, including attitudes – link with Housing Options Training Toolkit?
- Domestic abuse pathways in RRTPs?
- Improved awareness of and response to domestic abuse relating to sale and management of privately owned properties
- Access to legal aid, including for owner occupiers (personal contributions for legal aid set at prohibitive level - around £2-3k)
- Role of perpetrator schemes in preventing homelessness for both parties
- Gendered approach to complex needs and trauma
- Role of case managers / co-ordinators in supporting victims of DA to access support including housing support
- Link with domestic abuse pathway under development

The Group discussed the points arising from the stakeholder meeting. Elena Whitham referred to legislation in relation to domestic abuse that had been written with the concept of the survivor of domestic abuse "fleeing". This has led to a presumption that the survivor of domestic abuse cannot stay in the family home. The Group in its recommendations for legislation to prevent homelessness in relation to domestic abuse need to ensure do not create any presumptions on the best housing options for the survivor. The individual should be supported to have genuine choice in their decision about whether to remain or to leave the family home and for the system to have the practical options available to ensure the individual's choice can be supported. The Group agreed with this principle.

The Group agreed that there also needs to be culture change within local authorities and landlords to support that genuine choice with training to provide an understanding of the issues and to provide the practical and emotional support needed to prevent homelessness in relation to domestic abuse. The Group agreed in principle that the recommendations should include a statutory underpinning to ensure that training is required and that there is a specified range of minimum options that local authorities and landlord must have in place to support preventing homelessness in relation to domestic abuse.

The Group noted that any recommendations must include perpetrator schemes as those often help to ensure that there is genuine choice for the survivor to stay in the family home.

Ruth Whatling referred to the domestic pathway work that is being chaired by CIH and Scottish Woman's Aid. Scottish Government are currently working on legislation in relation to emergency protections including the transfer of joint tenancies and criminal barring orders. **ACTION: Ruth Whatling to provide the Group with further information on those proposals to feed into the work of the Group.** Beth Reid and Ruth Whatling meeting with Scottish Woman's Aid to feed in wider context to the work of this Group to ensure that the Group's legal and cultural work aligns with that of the Scottish Government and the domestic abuse pathway.

5. Landlords and duties to prevent homelessness

Beth Reid presented to the Group with potential options for duties on landlords both private and social rented sector to prevent homelessness. There have been separate stakeholder meetings with SFHA, Glasgow and West of Scotland Forum of Housing Associations. There will be a future stakeholder consultation with the Scottish Association of Landlords. Key emerging thinking centres on the principle of no evictions into homelessness but there needs to be further reflection on what this means in practice, for example no eviction into rooflessness. Potential areas for duties on social landlords include:

- Identify risk of eviction (rent arrears, ASB) or homelessness (e.g. domestic abuse, remand)
- Strategies and action to sustain tenancies and address factors linked to homelessness
- Take reasonable steps to prevent eviction or homelessness

For private landlords, stakeholders had suggested the fit and proper person test might be an area for consideration. Information and signposting and extending the emergency pre-action requirements when evicting in relation to rent arrears were also possible areas for consideration.

The Group discussed that social evictions are usually a last resort and good practice must be to address debt issues and minimise evictions. Addressing antisocial behaviour is more challenging. Landlords know when evictions hearings are to happen so it should be possible to ensure that people have somewhere to sleep that night and not be evicted into rooflessness. Section 11 duties on notification of pending evictions have been successfully used in the North Housing Options hub and guidance developed to support this, and there may be scope to strengthen or extend this duty.

The Group also discussed whether any of the emergency legislation implemented to prevent evictions during COVID-19 crisis should form part of the Group's recommendations to prevent or reduce evictions longer term, for example, grounds for eviction remaining discretionary rather than mandatory.

Jeremy Hewer referred to SFHA guidance developed regarding section 11 duties **ACTION: JH to circulate the guidance to the Group.**

The Group agreed that it supported exploring this area further but it was noted that it is complex and technical in terms of how duties would work in practice. The Chair invited Tom Mullen for his reflections on whether existing legal duties, including those emergency measures introduced as a result of the COVID-19 response, could be strengthened or new legal duties introduced on landlords (social and private rented sector) to ensure there is no evictions into homelessness. This included reflecting on the SFHA guidance around the section 11 process. **ACTION: Tom Mullen would prepare a note for the Group and circulate.**

6. Children, families and young people stakeholder consultation

Beth Reid presented to the Group on key points from the briefing paper circulated in advance. The Group were invited for any immediate reactions on the topic and the draft questions for the stakeholders. It was noted that the questions need to be reframed to focus on potential areas for legal duties. The consultation meeting is on Thursday 16 July. The Group had seen a list of stakeholders in advance. Members of the Group were invited to send any suggestions for additional stakeholders to Crisis colleagues following the meeting.

7. Next steps, time and date of next meeting: Thursday 23 July, 10am-12pm