

PREVENTION REVIEW GROUP – 13 August 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), Katey Tabner (COSLA).

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

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

1. Welcome and apologies

Professor Suzanne Fitzpatrick welcomed everyone to the meeting and noted the apologies received.

2. Prevention Commission

Claire Frew provided an update on the meeting of the Prevention Commission on 11 August 2020. The Prevention Commission focussed on prevention for those with complex needs. A number of key themes emerged. Participants stressed the need to maximise the housing options available for people with complex needs, including, but not limited to, Housing First. The idea of having some form of 'respite' accommodation was raised that could help prevent someone's homelessness by providing them with breathing space if required but without them losing their home. Emphasis was also placed on the importance of an individual's relationships with support workers. A full report of the meeting will be published on Homeless Network Scotland's website.

Additional item. Legal commissioning

The initial draft of legislation in response to the first part of the legal commission has been received. The draft proposes amendments to the current legislation. It is still a work in progress and in a couple of areas does not yet reflect the intentions of the Prevention Review Group, in particular the approach to maximal housing options. Therefore before the draft is circulated to the Group the secretariat will respond to the advocate and request a revised version, which will then be sent to the Group for review. The advocate has also provided a legal opinion on some wider issues. The legal drafting and advice will be the main agenda item at the next meeting of the Prevention Review Group. Shelter requested that the draft legislation, commentary and legal opinion on the broader matters be circulated as early as possible in advance of the meeting. The legal drafting has also raised some issues to be discussed later in the agenda, including the definition of when the prevention duty applies.

ACTION: Papers for next meeting to include draft legislation, commentary and legal opinion on wider points.

3. Children, families and young people

Beth Reid referred to the report from the stakeholder meeting and presented to the Group on key principles and issues that had been identified by stakeholders.

Principles

- Importance of choice and control in preventing homelessness, asking young people what would work for them and where they want to live
- Being able to build up relationships with professionals and maintain those over time; being able to return to sources of support if needed after having moved on
- Being able to make and learn from mistakes in life, just like other young people - non judgemental and risk tolerant services
- Putting support in place before situations escalate to prevent evictions
- Helping young people develop independent living skills
- Importance of GIRFEC as a shared language – not often spoken by housing
- Seeing housing (and homelessness) in context of life journey, not in isolation - positive housing pathways for young people relevant to age and stage

Issues

- Roles for conflict resolution, mediation and family support – who commissions and delivers?
- Huge variations in provision across country, short term commissioning cycles clash with relationship based approach and consistency of support
- Role for schools? E.g. Referral of families, early identification for young people – what action?
- Major gap in support for young people not in care but with similar challenges (incl under16)
- Housing generally taking lead (sole?) responsibility for homeless 16 and 17 year olds
- Young people in care have to request to stay in placement at 16. However no appetite for amending legislation around care leavers

Questions the Group may wish to consider:

- *What should local areas have to have in place to support homelessness prevention for families and provide consistency between areas?*
- *Duty of schools to identify risk and take action – make a referral?*
- *Stronger understanding of GIRFEC within homelessness services ?*
- *Youth housing pathway and specific youth housing options to facilitate a transition to independence, how this fits with the work to develop a youth homelessness prevention pathway*
- *How to ensure young people have a sense of choice and control in work to prevent their own homelessness, in line with the recommendations of the Prevention Commission*

- *Clarification of legal responsibilities in relation to 16 and 17 year olds who are at risk of homelessness?*

16 and 17 year olds who are at risk of homelessness face similar issues whether or not they have been in the care system and need effective social care support. Some very good practice was highlighted across Scotland.

Various members of the Group noted a loss of focus on youth homelessness in recent years, and a clear gap emerged during the stakeholder meeting between homelessness, youth homelessness and children and families social care, with various issues emerged which have potential for further policy consideration.

Young people who are not care experienced often have the same experiences as those who are care experienced. Although both those groups of young people tend not to have the skills for tenancy sustainment, there is much less support available for those without care experience. It was also noted that the later someone leaves the care system, the less likely they are to enter the homelessness system. There was no appetite from the stakeholder meeting to change the law around assistance for care leavers.

In terms of commissioning services it is difficult to commission services if local authorities cannot envisage what might be possible. There is some excellent practice emerging from around the country and we need to export this to improve local commissioning. There appears to be a lack of awareness of the evidence base on family based approaches. Different approaches to commissioning across different public services deliver different focuses. There is a role for local authority chief executives to recognise the corporate responsibility, not just homelessness responsibility, to address long standing issues relating to poverty and child poverty and join up services more effectively.

Mediation is important but there is inconsistency across the country as to who commissions these services. Schools are important, and we need to identify who are the key people to “ask” and “act”.

For 16 and 17 year olds responsibility can't just lie with housing, but social work need to have more of an input. In law 16 and 17 year olds are children. There is a long standing presumption that 16 year olds can have their own tenancy, and this needs to be looked at, especially as across the rest of Europe this would not be felt to be appropriate. There was discussion of the Southwark judgment in England which clarified that 16 and 17 year olds are the primary responsibility of social care not housing. Following that judgment the evidence is that 16 and 17 year olds have had much improved housing outcomes. Where social work is more involved with homeless 16 and 17 year olds, young people are often more likely to have a successful tenancy. We also need to move away from a presumption of just giving tenancies to 16 year olds, when it may not be the right decision for them. It was agreed that overall responsibility should lie with social work, and that this responsibility should be clarified and strengthened, pending further discussions with Social Work Scotland.

ACTION: Beth Reid to follow up with Social Work Scotland.

Applying the same approaches to homeless people irrespective of age may not be appropriate in many cases, and there should be a move to developing specific principles, skills and services to case managing youth homelessness in a targeted way, for example, similar to moves to design and implement bespoke services for domestic abuse survivors or perpetrators. However, as with other issues there must be a corporate responsibility to address the issues and it cannot be for housing

alone to have the responsibility. The stakeholder meeting highlighted that there may be good practice in areas of Scotland, but that there is a lack of evidence on the success of those initiatives. The Chair noted that Scotland in recent years has not had a focus on policy development specifically in relation to youth homelessness and that practice may be behind in this area compared to other countries. Although outside the remit of the Group, the report could highlight that this is an area which recommend focus on.

In terms of mediation the services currently available in Scotland are patchy and it is not clear where the services should fit for example, between housing services, third sector, social work.

There may be a role for schools in preventing homelessness. but need to clarify who has the duty to ask and then what is the duty to act.

4. Consent

The issue of whether formal consent of the individual at risk of homelessness should be required in order for public bodies to act on their duties was raised. It was noted that the issue of consent may depend on which agency is involved and on the specific circumstances of each person owed that duty, including age or vulnerabilities. So a bespoke approach may be needed. There is potential for some agencies to not make referrals for example due to resource constraints but use lack of consent as an excuse. It was agreed that this is an area where the Prevention Commission's views would be particularly helpful to gain a lived experience perspective.

ACTION: Claire Frew to take the topic to next meeting of the Prevention Commission.

5. Matters arising from stakeholder and legal commissioning discussions

5a. When should a prevention duty commence?

The Group had previously given strong steer that recommendations for when the local authority duties in relation to address a risk of homelessness should commence before the 56 days which is the period in current legislation. The Group had settled on six months as a default position. However as noted in relation to the draft legislation, without a clear definition of what risk of homelessness means the advocate had queried whether this was practicable to give a realistic duty for local authorities and an enforceable right for applicants. It is clearer to define risk of homelessness in relation to certain causes, especially risk of homelessness leaving certain institutions. Ending of a tenancy will give a reasonable level of notice, usually less than six months, and low level rent arrears or other debt might indicate possible risk of homelessness. However in relation to common triggers of homelessness including relationship breakdown and being asked to leave this may be hard to evidence at an early stage. Therefore, this item has raised for further discussion with the Group again before reverting to the advocate.

It was proposed that one solution might be to base the timing for commencement of the duty on the circumstances of the individual. The default position could be 56 days unless specified different period in regulations, for example, in relation to private rented sector or release from prisons. The Group discussed this. There was some support in principle for triggering a duty through specific circumstances not just a number of days, though this must not become so specific. However it was also noted that prevention work needs to be moved as far upstream as possible to shift culture and make prevention beyond housing sustainment or replacement, so some felt that a general duty would still need to be longer than 56 days. A duty at six months may not necessarily add uncertainty in terms of intervention. The Homelessness Reduction Act in England uses 56 days but that is essential an arbitrary time period and has become focused on 56 day eviction notices periods.

ACTION: Group's discussion to be explored with the advocate and will revert to the Group with more developed proposals.

5b. Limit of homelessness accommodation duty?

When is lack of accommodation no longer a homelessness responsibility and become a health and social care responsibility?

e.g. someone with specialist social care or nursing care needs

e.g. someone who is unable to live in mainstream accommodation with support

It was noted that this came up during discussions in HARSAG. A prevention assessment should identify any specialist needs, in particular social care needs. Housing cannot take on those needs without someone else having a legal responsibility to take that case on. This joint focus was previously in place under Supporting People but has been lost since that finished. There is a gap there in current system and one solution might be that the homelessness service would have a duty to refer on, and then that other service would have a duty to accept that referral and act. The Chair noted that there is no reason in principle why the Prevention Review Group could not make a recommendation along those lines.

ACTION: brief the advocate on this and request drafting/ advice.

6. Updates on stakeholder engagement

6a. Prevention and the private rented sector

Issues and proposals emerging from stakeholder discussions

- Make pre-action protocols permanent
- Power to make a referral where risk of homelessness or other housing support concern e.g. domestic abuse (in addition to pre-action protocol and s11 duty)
- PRS access and landlord liaison as part of Housing Options
- How to ensure expectation of 12 month minimum period in PRS?

The Group discussed the role of the PRS. The recommendations of the Group in this area need to widen the housing options available and keep the system as flexible as possible while maintaining individual's rights.

There is a lack of clarity on whether consent is currently required in order to discharge a homelessness duty into the PRS, but the legal advice from the advocate and the general view of the Group is that it is not required.

Work is ongoing through the PRS resilience group set up in response to COVID, and they are drafting a letter to the Scottish Government to try and increase the use of private rented sector recognising the increase in the use of temporary accommodation and a backlog in housing people.

ACTION: Ruth Whatling would follow up with her colleagues to find out more information on the legislative intent and current position.

6b & c. Case management and strategic planning

A case management approach with a lead professional role would have two tasks:

- Co-ordinating case management and having the authority to make things happen
- Leading on contact with individual, and building a trusted relationship

There is ongoing work building on Hard Edges which overlaps with this area and there may be opportunities for joining up these pieces of work. Further conversations are scheduled, including to join up with work on Hard Edges and public health.

A meeting was held with ALACHO and COSLA colleagues to discuss strategic planning. It was agreed that more input is needed from health and social care into housing planning, as well as from children and families services. Named contacts within services was highlighted as an area which can make a difference in helping agencies join up effectively. A question came up about how we join up different regulation frameworks, including SHR and Care, Prison Inspectorate and Audit Scotland more widely.

LOIPs (Local Outcomes Improvement Plans) are a key tool, although they vary by area. The National Performance Framework is a key driver for the content of these. There is scope for getting homelessness prevention on to the agenda in LOIPs through framing it in a broader service reform agenda. The Scottish approach to service design, empowerment work and place principle are all relevant here. We need to pay attention to the places people are expected to live and the support provided from a range of agencies.

Chief execs and SOLACE need to be understanding of any suggestions we come up. Driving a narrative around preventing homelessness into strategic priorities is the way to go.

ACTION: Beth Reid to contact Peter Barrie from SOLACE

7 & 8. Timings and next meeting

Next and final meeting is 24 August, focused on the legal drafting. The advocate may not have had time to respond to the final part of the legal commission by then.

A joint Prevention Commission meeting is still to be confirmed, and PRG members are invited to go to that. The Chair asked it to be fed back to the Commission how much the Group have valued their input, and how much it has shaped the Group's proposals.

ACTION: Claire Frew to confirm date of Commission meeting and members to attend if available and interested.

The Group is aiming to report in November.