

**Prevention of Homelessness Duties
Joint Scottish Government and COSLA consultation**



**Response from Crisis
March 2022**

Summary of key points

Crisis believes that homelessness should be rare, brief and unrepeatable. We should seek to prevent and avoid homelessness wherever possible in our efforts to end homelessness. We strongly support the foundational principles set out by the Prevention Review Group of early intervention, shared public responsibility, choice and control, allowing people facing homelessness access to the same range of housing outcomes available to the public, and equity of housing outcomes regardless of how someone enters the system. These should be enshrined in law.

The PRG has put together a comprehensive package of measures which together create a holistic system for people facing homelessness either imminently or in the next six months. They strike a balance between greater clarity and flexibility for local authorities, clear shared responsibility with other public bodies, and putting the applicant at the heart of the process. We suggest the use of the term “housing assistance” to describe this framework, rather than “homelessness prevention” to make it accessible to range of agencies and people who will engage with this service.

If implemented well, these proposals should provide much better outcomes for people, including a reduction in homelessness and housing crisis, a more dignified, less traumatic and less stigmatising experience, a more person-centred and integrated approach, more choice and control in housing outcomes, stronger protections for people in vulnerable housing situations and a more efficient system.

There are a number of dependencies within the framework which, if decoupled, could undermine the workings of the proposals as a package and have unintended consequences. These include in relation to complementary requirements on different public bodies to work together in operational and strategic ways, and interactions of different parts of the proposed statutory homelessness framework. It is important that the proposals are implemented as a package to protect and retain their spirit.

This package of proposals will reduce the incidence of homelessness, meaning that many more people receive assistance at an earlier stage from services which are more joined up; fewer people experience the trauma, indignity and stigma of housing crisis and homelessness; crisis interventions including temporary accommodation are freed up to be available to those most in need, and the widest range of housing options currently available can be used by those most in need of housing.

Developing a framework that supports a more person-centred approach, with the voice of the applicant being central alongside a culture of co-production, which empowers people to take greater agency over their circumstances, both now and for the future, is central to these proposals. This should include an open discussion with applicants about their circumstances and desired outcomes, giving them a voice and a sense of choice and control at a very challenging point in their lives. Crisis see personal housing plans as a critical part of the PRG’s package of proposals to achieve this.

Legal duties must be supported by strong and clear guidance, training and resourcing to enable this work to be carried out effectively and for a cultural shift to take place within services. Monitoring of implementation and tracking against outcomes will be necessary, with a view to updating guidance if issues are identified.

There is huge potential for these proposals to offer savings to public services through an increased focus on early intervention, as well as preventing individuals from experiencing the trauma and indignity of homelessness.

Duties on wider public bodies and landlords

- Crisis supports the proposals to introduce new duties on public bodies to prevent homelessness. The principles of “ask and act” provide a consistent framework while allowing flexibility and proportionality according to the role of each public body.
- The duties should apply to those bodies who are likely to come into contact with people in housing need. This includes: social landlords, Health and Social Care Integration Authorities, GPs, Schools, the Police, and Social Work services.
- Attention should also be given to how other bodies whose roles are not within the competence of the Scottish Parliament can support work in Scotland to prevent homelessness. These include GPs, Department for Work and Pensions / Jobcentre Plus, and the Home Office and its contractors particularly in relation to asylum seekers and refugees.
- There should be a duty on public bodies to prevent homelessness for anybody leaving an institution within six months. It is also important to consider the assistance people can receive on entering institutions.
- We strongly support proposals that health and social care services should identify the housing circumstances of services users and where appropriate take action in association with partners to address these issues. This would address a gap that homelessness services have been struggling to address for many years.
- There must be appropriate housing routes for people with support needs which are so complex they would not be met by Housing First, for example people with complex medical or social care needs, if people in these circumstances seek assistance through a housing assistance service.
- We strongly support a more co-ordinated approach for supporting people with complex needs
- Crisis strongly supports the proposals around preventing homelessness for those experiencing domestic abuse and believes that these proposals are in line with other recent legislative and policy changes relating to the Domestic Abuse (Protection) (Scotland) Act 2021. We strongly support the expansion of the definition of abuse to cover the Domestic Abuse (Scotland) 2018.
- It is vital that the local authority is required to follow up referrals. In response to a referral, the local authority housing assistance service should carry out an assessment of whether that individual who has been referred is homeless or threatened with homelessness and, depending on the outcome, develop a Personal Housing Plan setting out the Reasonable Steps that will be taken to prevent, resolve or alleviate that individual’s homelessness. The default position should be that the individual should give consent before a referral is made

on their behalf. The requirements for this should be clear as part of the formal referral process.

- Crisis strongly welcomes the proposals regarding strategic planning, in particular the requirements for health and social care partners (or their replacements) and community planning partners to consider how to prevent homelessness, and the joining up between the strategic planning of these bodies and the local housing strategy. Partnership working in the development of the housing assistance service is also a core part of the proposals.
- There should be a specific legal duty on social landlords to take reasonable steps to mitigate risk of homelessness where this is identified, as part of the ask and act duties and taking preventative action further upstream prior to the raising of evictions proceedings.
- If a private landlord agrees with the tenant that a referral to the local authority is appropriate, then the landlord should be able to (not required to) make a referral for housing assistance in the same way as has been set out for public bodies.
- Crisis strongly welcomes the proposals regarding strategic planning, in particular the requirements for health and social care partners (or their replacements) and community planning partners to consider how to prevent homelessness, and the joining up between the strategic planning of these bodies and the local housing strategy. Partnership working in the development of the housing assistance service is also a core part of the proposals.

Proposed recommendations on reforming homelessness legislation to prevent homelessness

- Crisis strongly supports the principle that someone should be supported to prevent them losing their home as early as possible. We believe that a statutory time period longer than 56 days is needed to define a threat of homelessness, and that this should be six months.
- There needs to be greater clarity on when someone is considered homeless and when they are threatened with homelessness, particularly in relation to those being evicted from private tenancies.
- The proposals effectively place the Housing Options framework on a statutory basis. The Reasonable Steps proposal is one of the most important aspects of this package of reforms. A list of steps that a Local Authority should have available to make use of to prevent homelessness for an applicant should be set out in law, while being clear that this is not an exhaustive list. This should include assistance for specific at-risk groups including young people, and a comprehensive private rented sector support service, including landlord liaison and a focus on tenancy sustainment and prevention. Clear and strong working arrangements should be agreed with relevant partners.
- The interaction of the threatened with homelessness “reasonable steps” duty, with the full homelessness / rehousing duty is critical to making the proposals work effectively. Everybody receiving assistance from the housing assistance service should end up with an outcome of stable and suitable housing no matter the route that they came into the system. The reasonable steps duty must not create a barrier or delay to someone receiving the assistance they really need to resolve their situation.
- The statutory assessment process should ensure that applicants’ needs and options are recorded, and their views addressed. It should also ensure that the assessment process is person-centred, with the applicant’s views articulated, explored and captured, and that there is a shared record of what has been agreed. Such a record facilitates a process of co-production, supports transparency and provides the applicant with a means to challenge decisions, particularly in light of proposals for a stronger review process and the option of

challenging decisions within the tribunal. This should be provided to the applicant, and we call this a Personal Housing Plan.

- As part of the statutory assessment the applicant must be supported to fully understand their housing options and express a clear and informed preference. They should also be signposted to independent advice and advocacy as part of this. Discussion of what support is needed presently, and what may be needed to prevent homelessness in the future and provision of such support as appropriate
- Crisis strongly supports the proposal to assess and provide for housing support needs for people at risk of homelessness, as well as those who are homeless. There also needs to be clear mechanisms for accessing support to meet non-housing needs that have led to housing crisis, such as mental health issues.

Maximising housing options

- Crisis believes that the proposals around stability and suitability could allow people with experience of homelessness, or who are threatened with homelessness, a wider range of housing options matching those of the wider public, giving applicants greater choice and control, while also providing strong safeguards to prevent recurrence of homelessness or misuse of the additional flexibility to force people into inappropriate housing situations.
- The proposals do not remove any of the current options for settled or permanent accommodation currently available to people through the homelessness system but add additional options and safeguards in, where the applicant chooses these.
- Crisis strongly supports the principle of “stability”, particularly in relation to those returning to family or previous housing circumstances. A duty to prevent homelessness that may occur in the next 6 months means that local authorities will need to satisfy themselves that someone is rehoused in housing which will be stable for six months, therefore the issue arises whether or not this specific principle is adopted explicitly in legislation. In line with the PRG, Crisis believes 12 months is a more appropriate time period for a household to establish a stable home, while being a realistic time period for a private landlord or host to commit to. While not a legal guarantee unless in a formal tenancy, it does provide greater protection than for current arrangements such as where people return to the family home.
- Crisis strongly supports the specific criteria identified to define the suitability of accommodation for each applicant and in discussion with them. This goes beyond the current requirement for accommodation not to be “unreasonable” and must be defined in law.
- Where it is an individual/household’s preference to move into an option that does not have a legal tenancy, it is important that the accommodation in question is clearly the choice of the person experiencing or at risk of homelessness, that the accommodation meets their needs, is stable, and that there are adequate safeguards in place in case that accommodation broke down. This definition of what constitutes stable accommodation needs to be accompanied by:
 - The clear consent and informed agreement of the homeless applicant
 - Clear obligations on the local authority to satisfy themselves that it will continue to be available for 12 months
 - Recourse back into the homeless system immediately if the accommodation breaks down or ceases to be suitable or stable (with no intentionality test)
- In addition the following safeguards must be in place:

- Ensure that no one is subject to a lesser statutory housing offer because they are deemed to be at fault in the process of becoming homeless (for example if the intentionality test is retained).
- Clear statutory guidance around the circumstances in which non-standard housing options could be considered, including around the minimum standards, notice periods and what constitutes an acceptable written agreement, as well as examples of where those housing options should not be considered.
- Consideration should be given to a requirement for two offers of suitable and stable accommodation before the local authority discharges duty to an applicant.

Enforcing people's rights

- The recommendations for enforcing people's rights are a critical part of the package of proposals. The right to review is a vital first step in challenging where decisions have been made wrongly or inappropriately, where the law has not been followed, and where people have not received the assistance they require.
- The PRG's proposal to create a right to appeal decisions through the tribunal, not only on the legalities of the case but also on the merits of the case, is a major and crucial step forward in access to justice for those facing homelessness.

Introduction

Crisis' vision for ending homelessness

The experience of homelessness is frequently demoralizing, undignified, traumatic and can have long term implications for people's mental and physical health, social connections, finances and general wellbeing. 8 in every 100 people go through this in Scotland¹.

Crisis believes that not only is it a moral obligation to end homelessness, but that with the right legal frameworks, policy and practice it is entirely possible. In 2018 Crisis set out a plan for how this could be achieved across Great Britain.

Ending homelessness does not mean that no one will ever lose their homes, but that the experience of homelessness should be **rare, brief and unrepeated**. Crucially, we should **prevent** as many people losing their homes as possible.

Crisis was instrumental in the creation of the Homelessness Reduction Act 2017 in England, drawing on the latest developments in Wales to put a much firmer focus on preventing homelessness within their legislative framework.

Crisis recognises the strengths of the legislative framework in Scotland for people who have become homeless, but we believe there is a lack of clarity on the actions that should be taken in order to prevent someone becoming homeless within the Scottish legal framework. This issue was highlighted in the 2014 Housing Options investigation carried out by the Scottish Housing Regulator. Local authorities continue to wrestle with the relationship between the non-statutory housing options framework and the statutory homelessness application system.

¹ Waugh, A. et al. (2018) Health and homelessness in Scotland. Online: Scottish Government. <https://www.gov.scot/publications/health-homelessness-scotland>

Too often Crisis hears of people failing to receive help until the last minute, even when they have sought assistance from public services at an early stage. At worst, people are at times told that they will not be able to be supported until they make an application for homelessness assistance.

Crisis' ambition for homelessness prevention

Overall, Crisis is strongly supportive of the PRG proposals. We believe them to present a major step forward towards ending homelessness, and set out an approach which treats people with dignity and respect, through appropriate early and person-centred assistance, with a strong voice for the individual and rights to challenge.

We believe these are fundamental principles for any change to the ways people facing homelessness are treated. They must be embedded in both the law itself and the practice that emerges as a result of these changes.

Crisis was a member of the PRG. We also provided the secretariat for the Group. We note that the task of the Group was specifically to develop proposals for legal duties. Crisis believes that legal duties are essential but not sufficient to engender the wider culture change that is required. We believe that the statutory framework is often a driver of culture, but to deliver these changes in line with the vision set out by the PRG, it will need to be supported by leadership, detailed statutory guidance, sufficient resourcing, support and resources for implementation. There is already much good work to build from, and Crisis is developing a resource of examples of homelessness prevention activity to share good practice.

In this response we set out our vision for homelessness and homelessness prevention in Scotland.

Principles behind Crisis' approach to reforming homelessness prevention duties

- Early and collaborative intervention
- Rights based with effective and comprehensive legal framework of assistance including strong and clear guidance. No detriment caused by the new legal duties
- Informed by lived experience, with the person at the centre of law, culture and practice
- Dignity, choice and control for those in need of housing assistance, with an emphasis on rehousing people rapidly into accommodation that is right for them
- No wrong door into the system and language that doesn't create siloes or barriers
- Outcomes focused with monitoring of implementation and outcomes

The work that has contributed to this response

To inform our response to this consultation, and to inform ongoing work to design a new homelessness system in Scotland which is geared towards prevention, Crisis has carried out several projects during the consultation period.

Project with Legal Services Agency

Crisis undertook a project with a solicitor at the Legal Services Agency, a law centre based in Glasgow, to carry out a review of the PRG proposals from a legal perspective, to identify any unintended consequences of the proposals. The purpose of the project was also to understand current legal practice, and to gain insight into how those with lived experience of homelessness experience the system at present (in particular, the clients helped by the Legal Services Agency). This

project took the form of two in-depth workshops between Crisis policy staff and the LSA solicitor, following which a document was produced setting out some reflections on the proposals from a legal perspective, and some suggestions for how the proposals could be strengthened. This document will be referred to elsewhere in this consultation response.

Focus groups with those with lived experience of homelessness

Between January and early March 2022, Crisis carried out six focus groups across Scotland with people with lived experience of homelessness. Crisis partnered with local service delivery agencies in six geographical areas:

- Action for Children in West Dunbartonshire
- Turning Point in the North East of Scotland
- Inverness Foodstuff in Inverness
- Crisis Edinburgh Skylight in Edinburgh
- Move On Highland in Caithness and Fort William
- Your Voice Community Care Forum in Inverclyde

At each focus group there was between three and five participants, alongside frontline service delivery staff. In total, we engaged with 20 individuals with lived experience, and 10 individuals with frontline worker experience.

The Crisis Policy and Comms Team worked with the Crisis Research Team and Member Involvement Team to develop a Topic Guide which explored issues around the role of other public bodies in homelessness prevention, housing options, and the support provided by local authorities.

The transcripts of these focus groups will feed into an overarching report which will be published and shared with Scottish Government officials. Throughout this consultation response, we will refer to and quote from these focus groups.

Partnership with Citizens Advice Scotland

Crisis also partnered with Citizens Advice Scotland (CAS) during the consultation period to carry out an analysis of one year's worth of case studies where clients had experienced homelessness or been at risk of homelessness. The intention of this analysis was to inform each organisation's response to the Prevention of Homelessness Duties consultation.

A short report sets out the findings from a qualitative analysis, carried out by Crisis, of case notes from citizens advice bureau (CAB) across Scotland. The sample of cases was taken from one year's worth of cases sent from CAB to the CAS policy team – January 2021 to January 2022 – which included the keyword 'homelessness.' From this sample, 71 cases were removed from the analysis, due to their lack of relevance to issues relating to homelessness, leaving 185 cases for a more in-depth analysis. These case studies are not necessarily representative of experiences of the overall population of households at risk of or experiencing homelessness, but they do provide an insight into some of the causes and experiences of homelessness, and some of the opportunities for early intervention. The findings of this analysis will be referred to throughout this consultation response.

Engagement with other stakeholders

Prior to and during the consultation period, Crisis carried out engagement with a wide range of stakeholders in the housing and homelessness sector and beyond. Just a selection of these events, meetings and workshops are listed below.

- Half day workshop with Clan Childlaw on the interactions between housing rights and children’s rights
- Event hosted in partnership with Cyrenians and the Frontline Workers Network
- Event hosted by Homeless Network Scotland
- Event hosted by Scottish Association of Social Workers
- Discussions at Edinburgh Homelessness Taskforce and the Edinburgh Inclusive Board
- Discussions at the Everyone Home Collective
- Meetings with Public Health Scotland, Voluntary Health Scotland and the Health and Social Care Alliance
- Meetings with COSLA and ALACHO

These events and meetings all informed Crisis’ thinking and will be reflected throughout our consultation response.

Best Practice Publication – 75 Ways to Prevent Homelessness

The Crisis Best Practice Team has been working on a publication which brings together a collection of examples of projects, services and approaches (‘interventions’) which positively contribute to homelessness prevention. Each intervention is presented with a description, outcomes, key insights and contact details for readers to follow up. Examples are taken from services and projects in Scotland and the rest of UK. They were gathered from calls for evidence, discussions with partners and reviews of publicly available documents. This guide is as yet unpublished, but has informed Crisis’ positions as set out in this consultation response.

Public survey

Crisis sought the views of our supporters in Scotland by publishing a short, open, online survey, which ran from 16 February until 4 March 2022. Respondents were asked to answer 5 questions relating to homelessness prevention in Scotland, as well as to provide some demographic information such as their age, location, gender, and whether they had experienced homelessness themselves. The survey was promoted through two emails to supporters with a Scottish postcode, encouraging them to take part, as well as through our social media channels.

We found 204 people engaged with the survey, with some people also leaving comments on their own experience, or to add extra detail to their survey response.

Note on language

Choice of language is important and can contribute to siloes and barriers to communication. What we are envisioning is a radically new system in which services are geared towards preventing housing emergencies before they occur. If this continues to be called a ‘homelessness service,’ that risks misconstruing the nature of support that should be available.

In this consultation we generally use the term “housing assistance service” to refer to this new arrangement. This differentiates it from the homelessness service and also from the Housing Options service, which in some cases has become synonymous with homelessness prevention, rather than the earlier stages of action to support people in their housing.

“I come from a background where there was no concept of benefits, you know, there you don’t have benefits, you don’t know what benefits are. When I got here, I worked hard to make sure I could pay for everything... but when I couldn’t pay anymore, I had no concept of going and asking people for help.” *Focus group participant*

Responses to specific questions

2a) Principles of the PRG

Overarching ‘foundational principles’

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

Crisis strongly supports the foundational principles set out by the Prevention Review Group of early intervention, shared public responsibility, choice and access to a range of housing outcomes, and equity of housing outcomes across the two sets of duties.

As described by a focus group participant:

“There’s still a terrible stigma. You don’t go asking for help until you tend to be away over your head in it. Being more aware of who you can turn to would be really helpful, definitely.”
Focus group participant

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

An important part of the PRG’s intention was to support a cultural shift towards a more person-centred approach, where the applicant feels at the centre of a process founded on the full range of issues relevant to their current circumstances, where it is not left to the last minute to help people, and where people feel they are able to contribute to and have some control over the process.

We note the additional principles set out in the PRG report which were identified by the Prevention Commission, those of **choice and control** through the process, and requirements to **ask and act** on a range of public bodies, including the local authority, as part of the assessment process. These principles relate to the other foundational principles and build on them by giving a stronger voice to the applicant during the entire process. Therefore, Crisis believes that these should also be foundational principles for the proposals.

As participants of our focus groups put it:

“I think some people [providing services] don’t seem to have empathy and don’t seem to be able to think, ‘how would I feel if I was in that situation?’ And try and make it as easy for you as they can... so it can feel sort of, almost punitive, like they’re almost taking some joy out of their power over an individual.” *Focus group participant*

“[It would be good if] they were able to say at the same time, that they *are* able to help you, rather than needing to go away and check if you fit. To say, actually, yeah, we do have that funding available. We can fit you into there temporarily until we see what else we can do.”
Focus group participant

Whilst this was a part of the PRG's recommendations, we do not believe that the principle of choice and control received sufficient emphasis in the final report and in subsequent discussions. We return to this theme later in the response.

Another principle that clearly informed the work of the PRG but has not been included by them in the list of foundational principles is that we should **seek to prevent and avoid homelessness wherever possible** and that **if someone still has access to housing which could be saved and is stable and suitable to their needs, and it is their *choice* to continue living there, this should be specifically supported in law**. This principle is implicit in the work of the PRG, but including it explicitly as a principle helps to clarify the policy problem that needs to be tackled. The following case from the CAS case analysis illustrates this point, where the tenant wished to stay in his property but temporarily was not able to due to repairs being carried out. In this case, it is possible that the client could have moved back into the property without needing to be rehoused:

An East of Scotland CAB reports of a client who moved into a private residential tenancy with his friend as joint tenants. After about a month, the client notified the letting agency of two problems: a burst drainpipe outside, and damp in the flat. The drainpipe was repaired, and the agent commissioned a survey of the damp which concluded that puddling below the flat is causing rising damp and that the repair could be carried out with minimal disruption to the tenants. However, the previous week, the client found clothing he had left out overnight had gone mouldy. He emailed the agent requesting alternative accommodation until the repair is carried out, as the property no longer meets the tolerable standard. The agent replied that the landlord was doing what he could, but that he had no obligation to rehouse the client. The client has considered looking for alternative housing himself but is concerned that he would not receive the original deposit before needing another one. The CAB advised that the only option available to the client was a homeless application.

The principle of 'ask and act' duties

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

Crisis supports the proposals to introduce new duties on public bodies to prevent homelessness. The principles of "ask and act" provide a consistent framework while allowing flexibility and proportionality according to the role of each public body.

The stigma attached to homelessness and the difficulty of reaching out for help came up frequently in the focus groups we hosted.

"It would help to break down the stigma and that... because there were times when I mentioned I was homeless, or living in supported accommodation, and I've never been embarrassed of admitting I was homeless, because I didn't do anything wrong, but other people are like "why are you homeless?" and they start looking at you funny, as if you've done something. Because there's already that stigma around it. And, like, I worked, I had a car, I had everything apart from a house. And so, I wasn't your typical homeless person."
Focus group participant

"I think it is hard to ask for help. Because you're putting yourself in a vulnerable position, you're asking for mercy."
Focus group participant

This demonstrates the importance of services taking a proactive approach to asking people about their housing situation and finding out if they need any support.

There are already similar duties on public services to ask about people's experiences, particularly around safeguarding children and vulnerable adults. Services are increasingly employing Routine Enquiry practices to identify individuals who have had Adverse Childhood Experiences (ACEs) or experiences of domestic abuse, or families struggling financially as part of their child poverty commitments (such as Healthier, Wealthier Children in Glasgow). Asking about someone's housing situation could form a similar form of Routine Enquiry, and should be developed based on learning from similar approaches. In Wales, this approach has been employed as part of an Upstream Cymru project, where schools are employing Routine Enquiry around housing issues. Appropriate guidance should be developed, and training should be undertaken so that practitioners have the skills to respond appropriately to the information in a person-centred, trauma-informed way.

On the "ask and act" duties, the PRG report wrote the following: "Each of the public bodies considered would need to identify 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, similar to the referral duty created on public bodies in England under the Homelessness Reduction Act 2017. In other cases, *the public body may be in a position to take more in-depth action to prevent homelessness*" [emphasis added]. This other in-depth action will depend on the type of public body. More consideration needs to be given to how the support offered by local authorities as part of the Personal Housing Plan and Reasonable Steps Duty interacts with support provided by other services. Crisis believes the assessment process and Personal Housing Plan could act as a gateway to ensuring that individual/household is able to access the other non-housing support they need. The PRG made several proposals in relation to this, which we discuss further below. Firstly: how a local authority would refer someone to the Health and Social Care partnership to have an assessment of health or care needs; and secondly: how a local authority should put a case co-ordination process in place for those with complex needs. However, the interaction between the role of the local authority housing assistance service and the role of other services involved in supporting that individual/household needs to be given further consideration, and particularly in relation to social landlords, as we highlight later. This is necessary to ensure the burden of responsibility does not continue to fall primarily on the local authority.

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

Yes. The idea of 'ask and act' duties came from the Prevention Commission, a group of people with lived and frontline experience of the homelessness system who informed the work of the PRG. The participants in the focus groups that Crisis carried out at the start of 2022 had similar views. Focus group participants felt strongly about the need for better integration of services, a more proactive approach from services they were in touch with, and a 'no wrong door' approach.

Some participants talked about how hard it is to reach out for support when things start to go wrong, and how some kind of early warning system would be beneficial.

"It would be a good idea I think if, when things started to go wrong, like when you're starting to get behind... I've been in that situation... if that could then trigger some sort of help, some sort of support to become involved, you know, maybe a phone call from someone to say, you know, 'it's not at crisis point yet, but we've noticed you're having trouble, you

know, can we give you any help? Is there anything we can do to assist you?' *Focus group participant*

"It would be quite good if when someone was getting in that situation if the onus could be on an organisation to be a bit more proactive ... so... you know, say you're a Council tenant... if it could be some kind of support agency or something so you don't feel like you're, you know, in trouble. To help you not get to that point. *Focus group participant*

"[It would be good] to create more noticing between the services, you know? Perhaps a list of things, and when something triggers that list, they say, 'oh, ok, we need to take care of that.' [Make it] so services have those processes in their possession already. Because you can't have one service triggering one thing and another trigger another thing, and in the end, the person is in crisis. This person definitely needs something to be done." *Focus group participant*

One young participant spoke about feeling like he and his family were being passed from one service to the next without any support being offered.

"The worst feeling in the world is when you're talking to someone and they're like 'oh, that's not my job, I can't help with that.' When I've been through homelessness... it was a very different experience, it was as a family we got kicked out the house because... we had no choice. We'd quite often go to different people for support and because it was weirdly specific housing issues we were having. And we were constantly just kicked to someone else, kicked to a different department. And then it was over Christmas time so everyone went on their holidays and annual leave and it just [shakes head]." *Focus group participant*

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

The duties should apply to those bodies who are likely to come into contact with people in housing need. The PRG identified a range of these in the report. Crisis' analysis of Citizens Advice Bureau cases provided insights into the kinds of services that clients have had contact with prior to experiencing homelessness, in particular, health services, addiction services, housing associations and the police. The case analysis revealed how a lack of integration of services sometimes presents a missed opportunity to resolve someone's housing situation before they reach crisis point. This was especially the case for individuals with complex needs such as relating to mental health and drug and alcohol issues, who sometimes felt that they had been passed from one service to another without receiving the support they needed.

One focus group participant felt there could be a stronger role for third sector organisations.

"I think they're putting too much [emphasis] onto the professionals here, and there's a lot of room for third sector groups to be involved in this. They're the ones who're actually going to get to the people affected, they're the ones who are actually at the front." *Focus group participant*

There could, therefore, be a role for third sector organisations and services that the local authority commissions to be involved in asking about someone's housing situation and acting on the

information received. This is in line with HARSAG's original recommendation to place legal duties on public bodies and frontline services.

One focus group participant spoke about the importance of applying this duty on addiction services, because for some people with complex needs, that may be the only service they are accessing.

“Needle exchanges would be a good place to start. Because, when you're on drugs, you're just not going anywhere else. I just didn't know where to start with a lot of stuff... There was nothing like this back when I started out on drugs so I think this makes a big difference”

Focus group participant

Consideration should also be given to place a duty to ask and act on the Scottish social security agency.

In addition there are public bodies whose roles are not within the competence of the Scottish Parliament. These include GPs, Department for Work and Pensions / Jobcentre Plus, and the Home Office and its contractors particularly in relation to asylum seekers and refugees. For example, Crisis Skylight Edinburgh has worked closely with Jobcentre Plus in Edinburgh to raise awareness of what the early signs of housing risk or homelessness might look like and develop partnerships to support referrals and provide assistance to staff². We are also aware of good practice in some GP surgeries with embedded third sector workers and/or outreach workers who can assist people in housing need. The PRG's recommendations did not cover these bodies because of the specific task it had been given, but we would strongly encourage Scottish Government to give attention to how they can work with these bodies to support work in Scotland to prevent homelessness, building on the recommendations in the original HARSAG reports.

“At the time I was unaware of what was available, I was ashamed to ask for help, I didn't know where to ask. And eventually I was encouraged to make an appointment at citizens advice. I didn't know if there were any other services. I was very embarrassed and ashamed. You know, I was out of work, due to illness. Help from my doctor would be a great help... but I'm not sure of the kind of questions they could have asked.” *Focus group participant*

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?

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

The strength of Scottish homelessness law means that this principle is already embedded in the current legislative framework with the right to temporary accommodation. However, in many cases people cannot access that right because of a lack of good housing advice embedded in institutions

² Neibig (2021) The role of Jobcentres in preventing and ending homelessness: learning from Crisis and DWP pilots 2016-2020
https://www.crisis.org.uk/media/245568/the_role_of_jobcentres_in_preventing_and_ending_homelessness_crisis_2021.pdf

and in some cases, gatekeeping by local authorities. Therefore, requiring action at a much earlier stage is essential.

It is also important to consider not only the point that people leave institutions, but the assistance people can receive on entering institutions, which is often a point at which steps can be taken to ensure accommodation remains sustainable. We would strongly encourage consideration of this point particularly in guidance around the duties and when agencies develop partnership protocols. The SHORE Standards already includes this, and we would recommend that learning from SHORE is applied to other institutional settings.

In practice we would envisage this working through strong partnership arrangements, data sharing etc, with the ultimate legal responsibility sitting with the local authority through a widened duty to assist anyone at risk of homelessness in the next six months. This could include, for example, changes to lettings practices (e.g., people leaving asylum accommodation being able to be housed without having to present as homeless) or changes to allocations policies which prioritise those leaving institutions in some instances. The work of the Scottish Prison Service developing data sharing agreements with local authorities is a good example of how this could work. Embedding housing officers in hospitals is another example. The language used must seem relevant to the different agencies, so we suggest that language referring to homelessness may not be appropriate, and instead should focus on housing assistance or similar.

In England and Wales Crisis has advocated for Critical Time Interventions as a practical way to deliver homelessness prevention activity within other institutions. The Social Care Institute for Excellence has said the CTI model “has been particularly successful with people who are in transition” in supporting their housing outcomes and avoiding homelessness. This is perhaps something that could be explored further in the Scottish context to inform how these duties work in practice.³

2b) Duties on wider public bodies and landlords

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?

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?

Since the publication of the PRG’s report the Scottish Government have published proposals to radically restructure health and social care services (and many related services, though not housing and homelessness) into a centralised National Care Service. Crisis submitted a response while these proposals were out for consultation.

Research has shown that:

- Increased interactions with health services precede people becoming homeless. The relationship is most clearly seen for health activity that relates to mental health and drugs and alcohol, but also with GPs⁴

³ SCIE (2018) *A rapid evidence assessment of what works in homelessness services*. London: SCIE, p.66

⁴ Waugh, A. et al. (2018) *Health and homelessness in Scotland*. Online: Scottish Government. <https://www.gov.scot/publications/health-homelessness-scotland>

- A significant proportion of people become homeless from health and social care institutions.
- Some people who become homeless are part of a cohort of people in Scotland with the most complex needs. There are around five times more admissions for acute mental health services amongst those with experience of homelessness than those living in the most deprived areas of Scotland without experience of homelessness⁵.
- Research by the Health and Social Care Alliance suggests those experiencing homelessness can face stigma and barriers when trying to access health and social care support⁶.
- Responding to a survey for the Homelessness Monitor Scotland 2021⁷, a third of local authorities reported that Health and Social Care Partnerships (HSCPs) have had little impact on their ability to prevent and/or alleviate homelessness, with several LA survey respondents noting a lack of engagement from HSCPs as a barrier to progressing their Rapid Rehousing Transition Plan (RRTP).

Fundamentally in many parts of Scotland, there is a disjuncture between housing and homelessness support and health and social care services. Whatever structure is finally decided on for health and social care support, it is vital that this is addressed. Given the very high proportion of people using health and social care services who have experience of homelessness, and vice versa⁸, we would expect that measures to support joint working would have significant benefits to both services, as well as to the people having to use these services.

Therefore, we strongly support proposals that health and social care services should identify the housing circumstances of services users and where appropriate take action in association with partners to address these issues. We see this as a fundamental part of the PRG proposals, which would address a gap that homelessness services have been struggling to address for many years.

Howsoever the requirement is placed on health and social care services, it must ensure that individual services implement the duty in the way most appropriate to their work, bearing in mind the vast diversity of services across health and social care. For example, a Community Psychiatric Nurse might work in a very different way with an outpatient compared to staff on a hospital ward where an inpatient is no longer able to return to their home following a major change in their mobility, for example due to a serious accident. Other services think of stability and suitability of housing in relation to other outcomes, for example, prioritising independent living in the community is an important health outcome, though the actions to achieve it may also contribute to avoiding homelessness. Framing things in this way may help those services to see homelessness prevention as a shared public responsibility.

The following case from the Crisis and CAS analysis of cases serves to demonstrate the need for better integration of services. It shows a veteran who has mental health needs who was not getting the support he required, despite potentially being a risk to himself. The case details how he is passed

⁵ ibid

⁶ People in some local authority areas reported that they were informed by social work departments that SDS is not available for people who are homeless. One person stated that they had been told by their local authority that SDS was “too complex to administer” for people who were homeless. Page 43 of [My Support My Choice: National Report](#)

⁷ Watts, B., Bramley, G., Fitzpatrick, S., Pawson, H. & Young, G. (2021) [The Homelessness Monitor: Scotland 2021](#), London: Crisis.

⁸ Waugh, A. et al. (2018) Health and homelessness in Scotland. Online: Scottish Government. <https://www.gov.scot/publications/health-homelessness-scotland>

from one service to another, to eventually be told he cannot be helped because the “area is very short of psychiatrists.”

An East of Scotland CAB reports of a client who is a veteran and living in homeless accommodation. The client had been trying to seek support from the mental health team and was clearly frustrated by this. Later in the day he sent a message to the CAB adviser again saying he was “in the woods and frightened of himself and other people.” As a result of the client's message, the adviser rang the Community Mental Health Team where the client had been referred by his GP. They claimed they had not received the referral and told the adviser to go back to the GP. The adviser rang the GP and the senior partner explained that the Community Mental Health Team had refused the referral and asked him to be referred to [name of a veterans’ service]. The veterans’ service said that he needs a psychiatrist and that they do not have one at the moment so they cannot help. The GP explained that the area is very short of psychiatrists at the moment; and said that as the client had made an appointment to talk to the CAB adviser tomorrow, he was probably not a suicide risk tonight and so there was no need to call the police.

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?

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

Crisis understands this proposal to be in relation to people with support needs which are so complex they would not be met by Housing First, for example people with complex medical or social care needs. In many cases, we do not believe that housing assistance services will have the appropriate skills and resources to accommodate such people by themselves. If people in these circumstances seek assistance through a housing assistance service, then there needs to be a clear mechanism for these cases to be handled so that the individual gets appropriate housing with the right level of support, in line with a “no wrong door” approach. At local level, this may be done through appropriate partnership working, as long as there is legal clarity.

In terms of the legal framework, there will need to be clarity on where duties sit at all times so that such complex cases do not fall through any legal loopholes, including the transfer of responsibility from a housing assistance service to relevant health and social care structures. Given the likely change to the legal structure of health and social care services, it is impossible to say how that will work at this stage but there will need to be a clear legal process for cases where the local authority assesses someone as in need of housing assistance, and where the complexity of need is such that it cannot be met in mainstream housing even with support.

In response to the findings of the *Shared Spaces* research⁹, Crisis worked with other colleagues in the sector to produce a policy position paper, setting out the role that supported accommodation could play as a settled housing option for those with experience of homelessness. The position paper suggested that this kind of accommodation would be used as a health and social care led response

⁹ Indigo House / Homelessness Network Scotland (2021) Shared Spaces: Final research report <https://homelessnessnetwork.scot/wp-content/uploads/2021/10/Shared-Spaces-FINAL-Research-Report-AE290921-2.pdf>

for people whose health or social care needs exceed what can realistically be provided in mainstream housing, including 24-hour support. In such circumstances, the position paper recommended that 'core and cluster' supported housing is the ideal, which promote independence whilst providing the care and support on-site safely.

The Shared Spaces research estimated the number of people requiring this kind of settled housing to be small: approximately 2-5% of people who have rights to housing under homelessness legislation each year, or approximately 550-1400 people a year, across all parts of Scotland.

Supported housing commissioned by HSCPs (for example core and cluster for people with learning and/or physical disabilities, people with mental ill-health) is most commonly provided in partnership with a housing association or local authority housing with rent often funded through Universal Credit/Housing Benefit (which may or may not include enhanced housing management services), with the HSCP funding the care and support costs. This type of housing may be let as a secure tenancy or occupancy agreement. So, whilst the legal responsibility to commission and provide the accommodation may sit with a non-housing partner, the response from the perspective of the person receiving it will be housing-led provided alongside housing partners.

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?

Yes. Many people with complex needs end up being supported by the homelessness service as a default¹⁰ and many homelessness services struggle to get buy-in for partnership working with health and social care services, although this experience has improved through the pandemic¹¹. Crisis believes that further requirements on health and social care services to assist people in relation to housing could make a considerable difference to people with a combination of housing need and health / social care needs. This duty would encourage health and social care partners to adopt rapid rehousing principles when commissioning and scoping forms of supported accommodation, which are currently only mainstream across the housing and homelessness sector.

From Crisis and CAS' analysis of cases from citizens advice bureaux across Scotland, the following case demonstrates the interactions between housing and health, where a client is potentially at risk of homelessness following a relationship breakdown and feels she has had little help following discharge from hospital or from her GP.

A South of Scotland CAB reports of a client who lives in private rented accommodation in a joint tenancy with her partner. Following the breakdown of her relationship with her partner, the client was admitted to hospital and self-discharged two weeks later. The client has long term mental health issues, is on the autism spectrum, has been diagnosed with bipolar and dyslexia. Her partner left home after the breakdown and is in a homeless shelter following intervention by the police. The client doesn't have many friends locally, and no relationship with her parents, and is living alone. The client was advised by the hospital to obtain advocacy help but this was not forthcoming. The client also claims she has had little help from her GP or the hospital.

¹⁰ Bramley, G. et al (2019) *Hard Edges Scotland: New Conversations about Severe and Multiple Disadvantage*. <https://www.therobertsontrust.org.uk/umbraco/surface/download/Index/1774>

¹¹ Watts, B., Bramley, G., Fitzpatrick, S., Pawson, H. & Young, G. (2021) *The Homelessness Monitor: Scotland 2021*, London: Crisis.

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?

Social work is diverse, including services which cover children and families, vulnerable adults and justice social work services. As a homelessness charity, Crisis is not familiar enough with the design and delivery of these services to say exactly how such ‘ask and act’ duties would work in practice. However, the research Crisis carried out in support of this consultation response provided several examples of where individuals had felt let down by social work services, demonstrating the need for greater clarity on what is required of other services when it comes to supporting people with issues relating to housing, and similar issues were identified in the Hard Edges report.¹² However, it also revealed examples of how much of a difference it can make when someone does have this kind of support.

“I have been in and out of trouble, I have had lots of criminal justice social workers. But I got an early intervention social worker, and he changed my life. He was the last one I had, and he got me to where I am now. It shows that if there is an officer that is going to do it, then how seriously they take their job [matters]. It just took one social worker to change me but I had had lots.” *Focus group participant*

Similarly, in the case below, the client’s social worker stepped in and helped to arrange a repayment plan with the client’s landlord.

A North of Scotland CAB reports of a client who is aged 18-24 years, working part-time and living in housing association housing. As a result of being the victim of fraud, the client is in rent arrears of around £390. She has managed to make payments and has set up a repayment plan. The social worker has spoken to the housing association who are not happy, but understanding the situation. The client has been told she does not face any proceedings at present if she maintains payments.

These cases demonstrate how social work can intervene to stabilise housing.

We recognise that there is a difference in how homelessness and social work legislation operates, with social work having in place an eligibility system (in contrast to the homelessness system which abolished priority need). We recommend that ask and act duties on social workers take into account both current and future risk, so that needs do not escalate to the point of crisis requiring intervention from multiple agencies, including homelessness. We envision that having a more coherent framework of support from people requiring housing assistance may also help social work to fulfil any new duties. Social work has a critical role in homelessness prevention. There remain key concerns with the historic lack of engagement on homelessness from social care, so bringing them more into the response is vitally important.

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? If not, please explain how this might be addressed.

¹² Bramley, G. et al (2019) *Hard Edges Scotland: New Conversations about Severe and Multiple Disadvantage*.

Crisis welcomes the proposal for a stronger responsibility for health and social care services to support applicants for housing or homelessness assistance. While we recognise the pressures that health and social care services are often under, a large proportion of homelessness applicants currently have health and social care needs. Assistance to support these needs is likely to reduce the risk of future homelessness, reduce the risk of homelessness deaths, and allow the delivery of this assistance in stable accommodation, rather than in temporary accommodation, hospitals or on the streets. We believe that this is the minimum requirement that should be developed.

Crisis is aware of cases in which people stay homeless as they cannot access a social care package in the community which they need. This is unacceptable; expediting care packages for people at risk of becoming, or who already are, homeless, is an important aspect of an integrated preventative response across housing, health and social care.

In the draft legislation produced on behalf of the PRG, it was suggested that the local authority should inform the relevant health authority that they believe an applicant may be in need of health or social care support, and request an assessment be carried out. The health authority should notify the local authority of the outcome of such an assessment and then the health authority and the local authority should work together to co-ordinate planning to meet those needs. We believe this is a sensible approach. We would welcome further exploration of whether this proposal could be strengthened further to ensure people in housing crisis get adequate support to meet unmet health and social care needs and prevent housing risks escalating, with all the associated problems that come with that.

We also note that as part of the assessment process, it was proposed in the draft legislation that where someone was receiving support from multiple agencies, there would be a requirement for the local authority to set out how it would co-ordinate that support in order to fulfil its legal duties to the applicant.

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?

In many cases it is at the point of admission that interventions would be extremely helpful, and alongside the legal duty, guidance should be clear that it is not only discharge, but *entry* which is a crucial point where assistance may be valuable. The Prevention Best Practice Guide which Crisis is due to publish includes a good example from Moray Council where practice focuses on avoiding people becoming homeless on discharge from hospital.

Crisis is aware of situations where people are discharged from hospital and given the bus fare to the homelessness service (often to be placed in temporary accommodation or turned away). We believe that in many cases it must be possible to provide better support for people in such a vulnerable position. At the same time we are aware of good practice where a local authority employs staff to go into hospitals and identify people in housing risk and provide support at an early stage. For example Pathway, who recently merged with Crisis, operates teams in at least 11 hospitals in the UK, using multi-disciplinary teams of GPs, nurses, mental health practitioners, social care professionals, and housing workers to meet people's holistic needs, with evidence highlighting improved housing

outcomes from such an approach.¹³ There are other schemes used in different parts of Scotland, such as those run by Shelter Scotland and Cyrenians.

One participant at a focus group spoke of her concern that she would lose her housing if she was in the hospital for too long:

"Like, when I've been in hospital, it's always things like Housing Benefit, you're told that it can't be longer than is it two or four weeks or something? But, like, I went in for my mental health so it's just at the back of your mind and you're like, 'oh, well...' I mean, I'm never in long periods of time, but at the back of my mind I'm thinking, if I was going to be here for two months, am I going to have a home to go back to?" *Focus group participant*

For people leaving psychiatric services or with enduring mental health problems, putting in assistance to ensure that housing issues are addressed early may prevent issues escalating. In many cases such assistance may be relatively low level, such as benefits advice or help with dealing with utilities.

We also note that the National Institute for Health and Clinical Excellence (NICE) and the Centre for Homeless Impact recently published a clinical guideline on integrating health and social care for people experiencing homelessness¹⁴. This NICE guidance highlighted how the need to have effective transitions between settings (for example, between hospital discharge and accommodation) is vital, as this transition can often be difficult. The use of multidisciplinary teams and coordinated care is recommended. We would urge consideration of this guidance as the relationship between health and social care and housing assistance is developed in Scotland, including through these reforms to the statutory framework and related policy development.

One case from the Crisis and CAS case analysis demonstrates where an individual had been discharged from hospital and felt services were "just ignoring him." In this case, although he is receiving support to find him permanent housing, it appears his wellbeing is declining through a lack of support for his health and social care needs, which could put a future tenancy at risk.

A West of Scotland CAB reports of a client who is aged 25-34 years. He came out of prison in the last few months, and is currently living in a temporary furnished flat, and is receiving benefits. He has a history of addiction, both alcohol and drugs, and has experienced violence in the past and says he had a traumatic childhood. He has severe anxiety and depression as well as addiction issues. He is currently taking medication and was referred to the NHS Crisis Assessment and Treatment Team when he came out of hospital. However, he thinks they have "just ignored him" by not returning calls. He spoke to them a few weeks ago and they said he would be referred to another support service for addiction. The client says he hasn't heard from them since. He also has a support worker in relation to his housing situation who is supporting him to find a suitable permanent tenancy. He is also engaging with the Community Link Worker at the GP practice, and she is referring him to appropriate mental health and addiction support. He says he feels the system has badly let him down. He had been getting some addiction support when in prison, but can't seem to access this now, and

¹³ <https://www.pathway.org.uk/about-us/what-we-do/model-overview/>

¹⁴ <https://www.nice.org.uk/guidance/ng214/resources/integrated-health-and-social-care-for-people-experiencing-homelessness-pdf-66143775200965>

has started drinking again. He doesn't leave the house, other than to go to the shop downstairs, to pick up snack food and drink, as he doesn't do any shopping for proper meals. He says he feels anxious and unmotivated to wash and dress or leave the house.

Q16 Do you agree with the proposal that the local authority must provide assistance to anyone who is going to be discharged from hospital? What is the main difference this statutory change would make to those in hospital and at risk of homelessness?

Crisis supports the proposal that anyone leaving hospital in the next six months who is likely to be at risk of homelessness receive help from the local authority. This is the duty proposed in part 3 of the consultation, and would be owed to the individual anyway. By specifying it in relation to hospital discharge, the intention would be to strengthen work between the hospital and the local authority, such as in the ways set out above.

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?

The way this question is phrased implies that a local authority would have a duty to *house* anyone being discharged from hospital within the next six months. As Crisis understands it, that was not the intention behind the proposal. Rather, in practice, there would be a duty on the hospital or health board to identify anyone due to be discharged from hospital within the next six months who is at risk of homelessness, and with that person's consent, make a referral to the local authority housing assistance service (homelessness prevention service), who would then be required to carry out an assessment of whether that individual was homeless or threatened with homelessness. If they found them to be either, there would be a duty to develop a Personal Housing Plan, setting out any reasonable steps that the local authority will take to resolve or alleviate the individual's homelessness. Importantly, it would mean that some of this work could be carried out prior to the individual being discharged.

We foresee one of the main challenges to be in relation to people with particularly complex health or social care needs. This relates to our responses to questions 10 and 11. There will need to be a clear legal process where the local authority assesses someone as in need of housing assistance, where the complexity of need is such that it cannot be met in mainstream housing even with support.

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?

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

Yes, Crisis agrees with this proposal. GPs were one of the services most commonly mentioned in the focus groups, as a service the clients were already in touch with prior to a housing emergency, and one which they thought might have been in a position to help.

"There should have been some avenue of mental health support, because it [the prospect of homelessness] was obviously a great stress, it was really worrying. There should have been some sort of mental health connection, whether that was a GP Link Worker, or mental health team in the community I don't know, but I really needed some support there." Focus group participant

“Yeah, my GP knew my housing situation [sofa surfing] and, see, I don’t know who put me in touch with [homelessness services] because obviously I went into a big black hole, and I don’t know how I got into the situation I’m in now, staying in a one-bedroom flat, but it could’ve happened *much* sooner. It could’ve happened really quickly to be honest.” *Focus group participant*

“I think it would help a lot just to make links, and make sure everybody has every kind of support, from the school, the council, the police, the GP, everybody to create some rapid link, to take notice, when something starts. There’s usually something going on, it hides another issue behind that, and it would be helpful for it to trigger capability just to... prevent that.” *Focus group participant*

However, some participants were sceptical about whether GPs had capacity to help with non-medical issues, mentioning how hard it was to get an appointment at the GP.

“Trying to get an appointment with a doctor is just terrible! If you only want to speak to them because you’re a wee bit anxious because you’re about to lose your house... [shakes head] I don’t ken that they’d help you. Well, although, my doctor helped me with something to do with the police, so they do help with issues. If it’s going to help your health. But, the doctor is such a hard person to speak to. You’re really needing folk at the frontline.” *Focus group participant*

Research in England¹⁵ also shows that GP practices are one of the services people are most likely to be in contact with when a housing crisis is impending. But they are also one of the least likely services to refer in to Housing Options. In England there is no duty to refer on GPs. Therefore, we strongly support the proposal that GP practices should be able to refer on to local authority housing assistance services where a risk of homelessness is identified.

There are already examples of good practice in this area. For example, ‘Deep End’ GP practices in Glasgow embedded a Health & Social Care Partnership (H&SCP) welfare advice worker in surgeries. GPs asked questions on financial inclusion, not housing. It is the advice worker who goes on to ask about housing, where almost a third of financial gains are achieved for patients by addressing housing-related debt. Many GPs have community link workers attached to the surgery. Housing issues are often asked about by these workers, who are connected to the correct local services to ensure people get the right advice or support. In one example, a Health and Social Care Partnership funded health and housing Hub, run by a local Registered Social Landlord, offers a multi-tenure service for people referred by Community Link Workers. They triage referrals, so only those with an impending homeless crisis are referred to the LA, and the Hub’s ‘shopfront’ is actually about exploring and resolving any housing problems which affect health, not about homelessness.

In some of our discussions with partners concerns were raised about consent for the GP or other health professionals to make referrals to the housing assistance service. We would hope that such a process was supportive to individuals and that such referrals should only be made with the patient’s consent (capacity issues notwithstanding). The IRISi programme on improving primary care responses to domestic abuse (operating in England and Wales) provides an example of where, when

¹⁵ Boobis, S., Sutton-Hamilton, C., and Albanese, F. (2020) ‘A foot in the door’ *Experiences of the Homelessness Reduction Act*. London: Crisis <https://www.crisis.org.uk/media/241742/a-foot-in-the-door-2020.pdf>

they receive proper training and support, GPs can embed additional questions and actions into the services they offer, and this can ultimately reduce pressure on services.¹⁶

Case co-ordination for 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.

Q21 If this statutory duty is established, how would it work in practice? What challenges would it present and how could these be best addressed?

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

We strongly support a more co-ordinated approach for supporting people with complex needs and believe these approaches are sensible, as we know that many people either fall through the gaps between services or there is duplication of support between services. We are also aware that there may be other work being developed in other parts of government and public services to improve support for these groups of people. We recommend the identification of these pieces of work so that they can be joined up into a coherent and consistent framework. We also strongly recommend that approaches are trauma- and psychologically-informed.

In the focus group Crisis ran, participants said one of the hardest things was knowing how to navigate a complex system, especially when they were in crisis and their mental health had been affected, making decision-making more difficult.

“That’s the important bit, about navigation. Because I find when I’m incredibly stressed, trying to make rational decisions, I often panic and make a very wrong decision. Then you’re stuck with it... But to have someone who could be a sounding board, but also someone who is experienced, you know, who knows the system. It’s having that confidence behind your decision which then will help to reduce anxiety because then... that relief is great, if you think things are actually being sorted, confidently.” *Focus group participant*

They also spoke about how mental health problems could make them afraid to reach out to services, which could be avoided if they had one point of contact to put them in touch with whichever services they needed.

“Yes, because, mental health problems. Me personally, I just close down, I don’t want to speak to anybody, don’t want to go near anybody. But if you close down and you’re scared to reach out, but then how are they going to know? Some people need a lot more time [compared to] other people. That’s a major thing. People think ‘ah, well, we’ll just meet up, you know, it’s not a problem, we’ll have a chat’ but they’re not realising that that person doesn’t want to express what they’re actually feeling, what they’re going through.” *Focus group participant*

¹⁶ Barbosa, E. et al. (2022) Improving the General Practice Response to Domestic Violence and Abuse: A review of IRIS Programmes in England, Wales, the Channel Islands and Northern Ireland to March 2021. London: IRISi. Available from: <https://irisi.org/irisi-national-report-a-review-of-iris-programmes-in-england-wales-the-channel-islands-and-northern-ireland-to-march-2021/>

“More one-to-one support. You need one-to-one support. And you don’t always have the capability to contact them... So there should be a wee bit more support in place. Housing should actually be contacting us, and saying ‘are you ok?’ rather than us contacting them. Then we can straighten out our lives a little rather than worrying all the time.” *Focus group participant*

Ultimately, we hope that such an approach would give people a more coherent experience of support from public services, enabling people to have the assistance they need to maintain stable accommodation and address other areas of need in their life, and supporting a longer-term approach preventing reoccurrence of homelessness or other issues.

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?

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?

Crisis believes that health visitors and schools are well placed to identify housing need. Examples provided in the prevention guide show this already happens in practice in some areas, and can have positive outcomes. Insecure housing which could result in homelessness should be considered as a child wellbeing concern. Any duties should interact with other duties relating to safeguarding and GIRFEC, including through making links in guidance.

“When I started High School, if it wasn’t for my High School intervening to help my mother, I dread to think where we would have ended up. It’s thanks to the school that, back then, actually helped us. Because that was due to a marriage breakup. But if they hadn’t intervened I don’t know where I would have ended up.” (P16)

Only young people aged 16 and over are entitled to make a homelessness application. Some young people may be asked to leave the family home before this age, and particular attention should be given to this group. It may be appropriate for this group to be assisted by social care services, but Crisis would welcome clarity being provided to relevant services for this group of young people who are especially vulnerable.

At one of the focus groups with a young person’s organisation, one of the staff members talked about the importance of training, so that school staff, and especially pastoral care staff understood how to support a young person experiencing or at risk of homelessness:

“I just wanted to say, in terms of other services... because we’ve delivered services in schools as well, and there is a real knowledge gap in terms of other services and what they understand as being homeless, and the process of making a homelessness application, or even a housing application. So, when we were working in schools it was really apparent that teaching staff... they could probably, they were able to identify young people who they believed were threatened with homelessness but in terms of how else to support them, they don’t have a clue. So it’s, in terms of other services and getting them on board, it would be helpful if other services were you know, given a bit of training and education about homelessness at the beginning.” (Staff member)

They went on to talk about the importance of prevention in these circumstances, and the importance of schools recognising that it isn't only children who might be deemed vulnerable in other respects who are potentially at risk of homelessness.

"It's about getting in there and doing that early work. And if the schools were more aware of that kind of background and that kind of housing situation, and especially pastoral care for young people... they maybe are on child protection registers or are deemed as being more vulnerable or from more vulnerable backgrounds... but also taking into account that it's not just those children, [homelessness] touches children or young people that you wouldn't have thought it would. It might be kids who are quite high achieving that have that kind of stuff going on at home." (Staff member)

Introducing a duty on schools to identify children and young people at risk of homelessness – including families at risk of homelessness – should encourage schools to strengthen partnership links and prioritise training which would better enable staff to identify and ensure those children and young people are linked into the right kinds of support. This was supported by the young people who participated in the focus groups too:

"Going into the schools and raising awareness is really important. To speak to the young people and saying would you know where to go if you found yourself homeless, what would your options be... and a lot of young people don't know, and they need help to understand. But even some of the teachers, and the pastoral care teachers too, they don't know. Even though, on paper, they're the ones the young person should be able to turn to for housing support... if *you* don't know this that's a bit of a problem." *Focus group participant*

"It could then link into other support, like if there's a link [from the local authority homelessness services] into mental health services and schools and they can create that support together instead of it being passed on to someone else and passed onto someone else. Link together and work together." *Focus group participant*

Young people

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

Young people are disproportionately represented in the homeless population. The reasons for housing crisis amongst young people are often different than for older age groups: they may lack independent living skills, and subsequent risk of repeat homelessness is high. Therefore, it is important that housing assistance and homelessness services are able to meet the specific needs of young people. Local areas may configure such services differently across local partners, but we believe that a minimum offer appropriate to young people should be part of a housing assistance service.

Different and more varied housing options for young people should be made available, such as shared living, so that young people have more options than to stay at home or live alone. Young people often have more transient housing journeys, so a desire for the permanence offered by social housing may not be such a high priority for this group.

The PRG deliberately did not comment on how the new framework should work in relation to people with care experience because of the principle that people leaving care should not have to make use of the homelessness system to access accommodation. However, with a widened prevention duty, it would be appropriate for the local authority housing assistance service to work closely with other relevant parts of the local authority supporting those in care and leaving care to ensure they can access housing assistance which is relevant to their needs. Crisis recommend care leavers are named as a specific group alongside young people more generally.

The young people who participated in the focus groups stressed the importance of making sure services were designed to meet their needs:

“Young people roll their eyes when they’re told that this is the most important point in their lives, but it *really is*. It sets you up for the rest of your life: how well you do in school, the social circles you build, the experiences you get. And, being young is hard enough, never mind with homelessness and anti-social behaviour and all these issues that are awful to deal with. It’s an uphill battle from being young.” *Focus group participant*

“Helping you more... speaking to you more... or speaking to you about how you’re feeling. And helping you more and if you’re struggling or homeless and can’t go with your family again, they should give you a house as soon as possible. They should link you in with social work or mental health services and things like that.” *Focus group participant*

In terms of the particular approaches that young people respond to best, the participants in our focus groups highlighted three things in particular. Firstly, the desire for more informal approaches delivered by local authority housing assistance services, which felt less intimidating:

“[It’s better if] meetings are quite informal... not sitting in the Council with suits and ties, it should be quite informal. I think that puts young people at ease. I would feel a hell of a lot more comfortable going to a café or MacDonalds and talking to someone and the first questions asked being ‘are you alright?’ and then ‘what can we do?’ Rather than meeting at the council and filling out forms, where it is obvious that someone is just doing their job. Even if the outcome is the same, I know for a fact that one approach would make me feel a lot better.” *Focus group participant*

Secondly, they highlighted the need for support with independent living skills to settle into a new tenancy:

“What’s important is continued support, even after you think that young person is ok. Helping people once they’re in their tenancies and keeping that continued support. And it feels like that is something that’s lacking. A lot of these young people are thrown in the deep end and told to sink or swim. And for a lot of these young people they’ve not got the necessary skills to run their own household, run their own tenancy. Which is no fault to them! Someone at age 16 or 17 shouldn’t know how to pay their rent, how to get all their utilities sorted, their gas their bills, how to navigate rent deposit schemes. You shouldn’t need to know that at that age.” *Focus group participant*

And thirdly, a desire for services to be more person-centred and assets-based in terms of their approach with young people; seeing the whole person including their skills and interests rather than just the problems they're experiencing.

"One of the things that I wish they'd asked is about your skills and interests. Something along those lines. Because, they come in and they sit and they have their paperwork, but with [charity worker] she's come to mine and we've made soup and we've chatted or we've gone together to pick up my medication so it doesn't feel forced... So, focusing on those interests of yours to build that connection, it might be cooking, it might be going for a walk... Instead of looking at you as homeless, they should look at the full person." *Focus group participant*

Finally, the link between youth homelessness and missing persons needs to be recognised. HARSAG recommended that the Missing Persons Framework be implemented effectively as a key intervention to support work to prevent youth homelessness, and this should be considered as part of the design of these services.

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?

Family mediation, especially at an early stage, may be helpful in preventing housing situations from deteriorating in some cases. Even where it does not, it can lead to an improvement in relationships which provides some resilience for young people who have to move out of the family home, and means that a move can be managed rather than crisis-driven. Therefore, Crisis believes mediation should be a core part of a housing assistance offer (even if it is not delivered by this service). It is recognised that mediation alone may not bring resolution, so services should be designed in conjunction with other relevant support such as family support.

As above, family mediation may be helpful for young people who are not yet entitled to homelessness assistance because they are not yet 16 but are at significant risk of being expelled from the family home. In this case it may be appropriate that this is commissioned by a youth service but working in partnership with the housing service.

During a focus group, a staff member of a children and young people's charity talked about how important mediation was for preventing homelessness. They spoke about how mediation is not often offered and how, in some cases, it could help the young person to resolve issues with family members. They also spoke about the importance of recognising that this will not be appropriate in all cases, so mediation should be considered on a case-by-case basis.

"Talking about mediation... during lockdown we had a number of young people referred to us for housing options support where they were like 'yeah I definitely want my own house' but with a wee bit more digging you find it's a case of the family have been in the house together for far too long. So we've had a handful of cases where, with a wee bit of intervention from us the young person has been like 'oh no, it's ok, I will just stay where I am.' And it transpires that the parents didn't even know they were considering applying for housing! That was, you know, the case for a few of them. And the Team had asked if it was alright to speak to their parents and the young person had agreed, and some of the parents were completely horrified [at what] they were thinking... they were like 'oh my goodness, no! We don't want that for our child' so working collectively as a family... even recently

there was a young boy who was referred by our partners at the Council and they were like, we really want to prevent this young boy from becoming homeless. It was cannabis he was using, but he just needed a bit of support with employability and structure, and he's now working full time and has the structure to remain where he is, and he's happy to remain where he is, so that's been a really good outcome. I do think there needs to be more importance put on the mediation element and it's not just something that's said 'we can offer mediation' because how often does a referral to a mediator happen? And working in social care, we are skilled at working with young people and families and that relationship, without that official classification of support. There's definitely scope for preventative work to happen and be successful when mediation is involved. And actually listening to young people. We need to have those conversations about why they're wanting to do something and whether it is the right thing to do. If the best outcome for a young person is to present as homeless and that's the right outcome for them then absolutely they should be supported to do that and not gatekeeping and everything, but you do need to explore all the options and making sure that the homelessness route is right for them." (Staff member)

Finally, it is vital that including an offer of family mediation services does not lead to gatekeeping on the part of the local authority housing assistance/homelessness service. Crisis is aware of a case in which a young person who had been asked to leave the family home because their parents disapproved of their sexual identity. They were not offered mediation and told by the local authority that they would not accept an application from a young person without proof that their family would not let them return to the family home. This is clearly poor practice, and the statutory guidance should be clear that an offer of family mediation should never represent a barrier to accessing support.

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

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?

Crisis supports the principle that 16- and 17-year-olds should be supported in a way that is age appropriate, and technically they are children under Scots law. While this age group are legally able to have their own tenancy, often they lack the skills to be able to live independently, and if they are having to do so, it may indicate a lack of social support around them.

Crisis notes that the PRG explicitly excluded care leavers from its considerations, on the basis that (in theory) care leavers should never have to go down the path of homelessness. So, this proposal was aimed primarily at 16- and 17-year-olds who have *not* been involved with the care system (although it is possible that carer leavers will seek support from housing assistance service). In our discussions with social work representative bodies there has been support for this proposal, resourcing considerations notwithstanding.

Following discussions with legal specialists in this field, Crisis is clear that the way the proposals were framed in the draft legislation in the appendix to PRG report is wrong in that it does not fulfil the intentions of the PRG and had unintended consequences in relation to the legal entitlements young people have. Specifically, it may prevent young people (especially care experienced young people) from accessing housing through the homelessness system which may be preferable to them

compared to accessing accommodation through Social Work legislation. As a member of the PRG, we do not believe this was their intention.

Crisis does not see this proposal as changing the current entitlements that 16- and 17-year-olds have to access assistance if they are at risk of homelessness, and would be very concerned if that was the outcome. Rather we see it as a means of supporting young people in an age-appropriate way to set young people up well in their homes and prevent further issues arising down the line.

Consideration should also be given to the housing journeys of 16- and 17-year-olds who are included as children within a family application for assistance from the homelessness service. Disruption to the lives of young people this age can make the transition into adulthood and independent living more difficult. They may be at higher risk of needing assistance from housing or homelessness services in subsequent years.

Crisis also recommends consistent recording of young people within homelessness data. Currently young people making a homelessness application are counted as 16–17-year-olds or 18-24-year-olds, while the age group of young people included as part of a family application is 16-18. This makes it impossible to calculate the exact number of 16- and 17-year-olds in the system.

Prisons and criminal justice

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?

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?

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

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

Crisis strongly supports these proposals. No-one should lose their home on entry to prison, where this is preventable, and no-one should come out of prison without somewhere to stay that night, particularly as release dates are often known well in advance. The aim should be to accommodate people in a permanent home wherever possible.

“I came out of the homelessness scheme and I had to beg my mum to go back to the house cause I was just about to walk straight back into another jail, just surrounded by drugs and old friends. Terrible through here. And then, they’ll put you in the two worst areas there is. There’s no way to escape it here. If you’re given houses there [shakes head], nah. Forget about it. That temporary accommodation is the first place you go when you leave jail, and you can be waiting up to a year easily. They’ll put you in temporary flats but it’s all the same, you know, it’s all the same people.” *Focus group participant*

We strongly welcome the work of the Scottish Prison Service and its partners through the SHORE standards. The data sharing arrangements set up with local authorities demonstrate the power of using data and partnership working to identify where someone may be at risk of homelessness, and these approaches represent the spirit behind the homelessness prevention proposals.

We believe that many of the principles of SHORE would support new duties on prisons to ask and act with regard to a risk of homelessness. In line with the PRG's recommendations, identifying people's housing situation should be done as soon as possible on going into prison, to maximise opportunities to address any issues. There is also preventative actions Councils can take, such as agreeing to keep someone's tenancy going while they are in prison, and/or arranging for their Housing Benefit to continue to be paid where the sentence is relatively short. It may be appropriate that data sharing could constitute a means of referral to the local authority for people leaving prison, alongside an individualised route where needed.

Partnership working may be able to facilitate advice and assistance to secure accommodation generally, and may also include more specialist routes such as into Housing First where this is appropriate. Crisis' Prevention Best Practice Guide, which is due to be published soon, identified several examples of good practice which could be built upon. For example, Ayr Housing Aid Centre built strong relationships with links centre staff in HMP Kilmarnock, HMP Barlinnie and HMP Greenock, where housing is part of core screening for all new prisoners, with outreach housing advice appointments booked automatically two months before liberation. Interventions by advisers prevented loss of over 120 Council tenancies in South and East Ayrshire alone in the past year.

The comment above from one of the focus groups indicates that there may be a range of considerations for people leaving prison in deciding what are the most appropriate housing options for them, including location and proximity to former associates. Ensuring an early assessment process, including a person-centred discussion of the suitability of different housing options, may facilitate a greater range of options and allow more time to identify a preferred option. Allocations policies and lettings practices are tools that can be used to prevent homelessness for those leaving institutions (though this is not always possible in highly pressured markets).

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

Yes, Crisis supports the proposal that housing options advice (or housing assistance) should be available to those in court settings. Circumstances can change suddenly during court proceedings, and this can impact on housing. For example, a tenant going into prison may require tenancy or benefits advice and assistance, liaison with the landlord, and someone who has been released from remand will often need housing or homelessness advice. Housing advice and assistance should be available to those facing proceedings and their families. Such a service should help join the gaps between services to ensure no one falls through the net, whether they are a family member or are entering or leaving prison. Such assistance may also be relevant to people facing housing issues due to domestic abuse or anti-social behaviour or other matters.

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?

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?

Crisis is not in a position to provide detailed comments on how such a duty would work in practice, however, police often come across people who are facing housing issues alongside other issues and represent an important avenue through which early intervention can occur. A guide produced by Crisis in England and Wales for local councils and police provides examples of how joint working can

work in practice.¹⁷ The research we carried out in support of this consultation has provided examples of situations where the police have known about an individual's risk of homelessness, and not put them in touch with the relevant services or done everything within their own power to resolve the situation. This is particularly important in cases where the individual is experiencing domestic abuse and/or harassment from neighbours. Conversely, we have heard anecdotally of cases where the police have made contact with the local authority regarding someone's housing and no action has been taken by the authority.

In the Crisis and CAS case analysis, cases involving anti-social behaviour and problems with neighbours were one of the most common causes of clients being homeless or threatened with homelessness. In many of these cases, the council, housing association, police and other services had been made aware of the issues and, from the clients' perspective, had not done enough to resolve the situation.

An East of Scotland CAB reports of a client living in council rented accommodation with her children. She is experiencing serious problems with her neighbour which the client says involves "noise, dogs and fear." The client says the council, the police, and other community organisations have been involved and the issue has not yet been resolved. The CAB advised that the client could potentially apply as homeless if she believes it is unreasonable to be expected to stay there.

An East of Scotland CAB reports of a client who is living somewhere she does not feel safe because of threats made by her brother. She has a two-year-old son at home with her and no family support. She has applied to be rehoused and the Housing Options Officer has looked into the client's application. They say they are unable to award additional priority to her application as she is not deemed to be at risk. The client disputes the information given by the police to the Safer Communities Team about her brother, and believes nothing has been recorded after the police visited her. The situation is having a negative impact on her mental health, and she feels drained and unsafe in her home.

There were also examples from the focus groups of the police not knowing who within the council to put people in touch with.

"We've also presented about homelessness to the local community police as well... and it was pretty much all new information to them. So, I think training and education plays a big role in other services being able to do that preventative work" (Staff member)

In one woman's experience, it was the caretaker in the council building who was the person who helped her in the end.

"the police domestic abuse team, all they had said to me was that 'oh if you're struggling please come back to us because we'll help you get moved.' So, the question I did ask the police domestic abuse team which was seemingly a brand-new department was, who do I contact? What's the number? They couldn't give me it. They couldn't give me it! They said to

¹⁷ Williams, M. (2021) *From enforcement to ending homelessness: How police forces, local authorities and the voluntary sector can best work together*. London: Crisis. See pp25-48 Available from: <https://www.crisis.org.uk/media/245310/from-enforcement-to-ending-homelessness-full-guide.pdf>

me, “oh phone the council”. And do you know who actually helped me in the end? The *caretaker* in the council building. It was the caretaker. Obviously it was during lockdown and there was nobody in the offices, I actually spoke to him, probably because I was pretty low, but he actually was a wee god save. He actually listened to me rambling, physically in tears, saying to him ‘I don’t know where to go, please help me, please help me’ and he like ‘there’s nobody here, but I am going to go get a list and I will put you in touch with who you need to’ and it was [council worker].” *Focus group participant*

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?

Domestic abuse is one of the most common causes of homelessness. This was also evident in the research Crisis carried out in support of this consultation response, where domestic abuse emerged as one of the key causes of homelessness for both focus group participants and in the CAS case analysis.

“I could have stayed in my flat in [area] if it hadn’t been for the threat of violence from my ex-partner. It was the fact that he was on the run as well from the police, so I knew that he could come back at any point... My mental state was going downhill, my work, everything, and I realised, if I want my life back, I was going to have to take control.” *Focus group participant*

“I was in an abusive relationship, and ended up having to leave the relationship, leave the house, leave everything, and there was no support at all in place.” *Focus group participant*

Some participants with experience of domestic abuse and homelessness spoke about how they wished services were more joined-up, and how difficult it was to ‘prove’ their experiences of violence. It is contrary to homeless legislation that anyone is asked to ‘prove’ domestic abuse. A housing officer should never request/require anything to have been reported to police.

“Interlinking between the services would possibly help with a lot of this. If domestic abuse had been registered by the police then the council then look into that. I know you shouldn’t get access to someone’s records but there should be a way of doing that” *Focus group participant*

“One of the problems with domestic abuse is that it goes unreported so often. You know, working alongside the police, ‘did you actually charge him?’ Well you haven’t got a leg to stand on. My experience of domestic violence is that I would have been far too scared to get the police involved, because it will just get you another kicking. Proving domestic violence is very tricky, unless you are going to turn up covered in bruises.” *Focus group participant*

One participant told a story about a situation in which she had been living in a council house with her husband. The relationship broke down and she was the victim of abuse. He was arrested and was serving a sentence in jail. She was “trying to fight to keep the house” and her husband was also encouraging the Council to put her name on the lease. She said the Council “just ignored my phone calls, my emails, and I tried complaining and they just said ‘he’s not in at the moment’.” The tenancy was never transferred into her name and this led to a period of three years of sofa-surfing with her young child.

Crisis strongly supports the proposals around preventing homelessness for those experiencing domestic abuse and believes that these proposals are in line with other recent legislative and policy changes relating to the Domestic Abuse (Protection) (Scotland) Act 2021. We strongly support the expansion of the definition of abuse to cover the Domestic Abuse (Scotland) 2018.

One of the proposals is that “when considering the suitability of accommodation offered to a perpetrator or victim of domestic abuse, consideration must be given to its proximity to the other party in the abuse.” The intention of this proposal is clearly to avoid putting someone at continued risk of abuse, but Crisis believes the way it is worded could place the power in the hands of the local authority. It should be person-centred and ultimately up to the victim/survivor where they would prefer to live.

Having worked with partners to develop guidance to help social landlords form their response to domestic abuse, Crisis understands that Scottish Women’s Aid are working to develop proposals around best practice on the part of private landlords in responding to domestic abuse. There are also relevant proposals in the Rented Sector Strategy relating to the ending of joint tenancies. Crisis supports these proposals; all this recent policy development should form a cohesive approach to preventing and responding to homelessness for those experiencing domestic abuse.

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?

Although it is perhaps being considered as part of the statutory guidance relating to the Domestic Abuse (Protection) (Scotland) Act 2021, one consequence of Domestic Abuse Protection Orders is that perpetrators of domestic abuse may be suspended from their home and be at risk of homelessness as a result. Someone at risk of eviction on these grounds should be considered as ‘six months away from homelessness’ and referred as soon as possible to the housing assistance/homelessness service, so that they can be rapidly rehoused into housing which is stable and suitable to their needs. It may also be appropriate for the homelessness service to build up appropriate links with domestic abuse perpetrator services to reduce further risk of abuse and homelessness for either victim or perpetrator.

Local authority requirement 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’?

Yes, Crisis believes that it is vital that the local authority is required to follow up referrals. They will need basic details including contact details to do so.

The draft legislation for the PRG proposed the following exceptions to such a duty:

- Where the local authority cannot contact the individual having made reasonable efforts to do so
- Where the individual tells the local authority they do not want to make an application

In response to a referral, the local authority housing assistance service should carry out an assessment of whether that individual who has been referred is homeless or threatened with

homelessness and, depending on the outcome, develop a Personal Housing Plan setting out the Reasonable Steps that will be taken to prevent, resolve or alleviate that individual's homelessness.

For this to work in practice, guidance will need to be clear about what constitutes a referral, and whether other public services need to use an official process/form for something to be considered a referral. On the one hand, if the process is overly bureaucratic, it could undermine the intention behind the proposals which is to catch all those at risk of losing their housing at an earlier stage. However, if the guidance on what should constitute a referral is too broad and not prescriptive enough, including for example emails and telephone calls, it could lead to a lack of clarity for the individual and relevant services in how the case is being handled and whether or not there is consent for information to be passed on.

In its research on the implementation of the Homelessness Reduction Act, Shelter found evidence of several problems with the duty on public bodies to refer applicants to the local authority, including:

- Insistence on standard forms and procedures
- Onerous amounts of information required
- Referrals not followed up
- Referrals not accepted until crisis point (e.g. prison release day)¹⁸

It is Crisis' view that there should be a formal referral process, but that it is not overly onerous to use, and is capable of being flexible to respond to circumstances specific to the local area or service. It may be appropriate for local arrangements to be made, with national guidance to ensure a basic process, especially where referrals may be made across local authority boundaries, especially where referrals may be made across local authority boundaries, especially where referrals may be made across local authority boundaries.

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?

We believe that the primary advantage would be to stop people falling through the gaps between services, and to facilitate a strong "no-wrong" door and early intervention approach.

This has to be balanced with the challenge of increased workload for local authorities. Introducing duties on other public bodies to ask about someone's housing situation and, where applicable, refer into a new local authority housing assistance service, could lead to much higher numbers being owed a duty under this system. However, it may lead to fewer needing to be accommodated in temporary accommodation if they are able to access the support they need earlier, as well as preventing people from experiencing the trauma of homelessness which we know can have a lasting impact on people's wellbeing. Local authorities will need to be properly resourced to provide this service. More broadly the impact on workload can be mitigated through effective guidance and training for those services who may refer in, through co-location approaches and other forms of partnership working.

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

¹⁸ Rich, H. and Garvie, D. (2020) *Caught in the Act: A review of the new homelessness legislation*. London: Shelter. Page 21. Available from: https://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/report_caught_in_the_act

The default position should be that the individual should give consent before an application is made on their behalf. The requirements for this should be clear as part of the formal referral process. There may be exceptions, for example where someone with severe mental health issues does not have capacity, and this should be handled in line with existing law in this area.

Strategic planning

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

Crisis strongly welcomes the proposals regarding strategic planning, in particular the requirements for health and social care partners (or their replacements) and community planning partners to consider how to prevent homelessness, and the joining up between the strategic planning of these bodies and the local housing strategy.

We understand that current strategic planning requirements are in a mix of statutory guidance and primary legislation. We recommend that the requirements are clear and strong. As a minimum they must be included in statutory guidance.

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

Question 87 is also relevant here, in relation to identifying the housing support needs of the local population to inform housing and community strategic planning. This should include RRTPs, the Local Housing Strategy and other relevant plans. In a similar vein, CIH has recommended that RRTPs are better aligned with **Strategic Housing Investment Plans (SHIPs)** and the **Affordable Housing Supply Programme (AHSP)**¹⁹, highlighting a potential disjoin between homelessness and housing policy and planning, and this is an opportunity to address this gap.

These strategic planning requirements complement existing duties. The Fairer Scotland Duty requires certain public bodies to consider how they can reduce inequalities of outcome caused by socio-economic disadvantage – a key driver of homelessness, when making strategic decisions. Given the high representation of certain groups in some parts of the homeless population and the intersection of socio-economic disadvantage and particular parts of the community, equalities legislation may also be relevant. Statutory guidance for relevant public bodies should specify that the Fairer Scotland and equality duties should be considered through the lens of homelessness prevention. A local housing support needs assessment including socio-economic and equalities analysis would support this work. It would also be helpful to analyse the proportion of PRS properties locally that are available within Local Housing Allowance rates.

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

Crisis recognises the challenge that data protection can pose. However, the protocols established between the Scottish Prison Service and each local authority in Scotland, demonstrate both that these can be overcome with concerted effort, and that data sharing can be of great benefit in supporting a more coherent approach to support. The Best Practice Prevention Guide (due to be published by Crisis soon) identifies practice in the use of data analytics for homeless prevention and

¹⁹ CIH Scotland (2021) Rapid Rehousing Transition Plans, temporary accommodation and housing options: a survey of Scotland's local authorities <https://www.cih.org/media/yvjevzuu/rapid-rehousing-transition-plans-research-2021.pdf>

we are aware of other parts of the system also doing data linkage and data sharing to ensure cohesive services, including for people with complex needs and multiple service use including in Inverclyde.

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?

Yes. There are inconsistencies in the approach of different RSLs and local authorities, and legal duties would introduce a degree of consistency and allow tenants to know what support they can expect from their landlord.

Crisis recognises that the majority of social housing tenants have a good experience of their landlord, as demonstrated by data from the Scottish Housing Regulator.²⁰ However, a substantial proportion of those who experience homelessness were previously housed in the social rented sector. 14% of all homelessness recorded in 2020/21 was for households coming from local authority or Registered Social Landlord tenancies.²¹

The PRG proposal would create a specific legal duty on social landlords to take reasonable steps to mitigate risk of homelessness where this is identified, as part of the ask and act duties. Given the wider range of interventions that a social landlord can make compared to many other public bodies, further consideration should be given as to how this may work, for example what steps a landlord might take to identify risk across its tenants and then for specific individuals. In line with the “ask and act” principle, there should be a requirement on the social landlord to take steps to identify risk. This may include asking individual tenants, but may also include steps such as using data on rent arrears or neighbourhood complaints, or ensuring a ‘warm handover’ where a tenant has come from homelessness to identify people at greater risk of housing difficulties.

The reasonable steps identified by the PRG seem to identify broad approaches and protocols to the actions that must be taken. Further work will need to be done to identify how such a duty would work in individual cases, as with the duties to act on other public bodies. Social landlords are more likely than most other agencies to hold relevant information and even a relationship with their tenants, and so have the opportunity to personalise their response to each household. There should be specific and detailed guidance in place to support this to ensure that intervention happens as early as possible. Consideration will need to be given as to what accountability is needed to ensure this happens, including whether accountability in individual cases is appropriate. On balance, Crisis believe that it would be.

For example, the analysis of CAS cases also provided evidence of uninhabitable conditions in social rented tenancies which were not being addressed by social landlords and putting tenants at risk of homelessness. In the following case the tenant is living in intolerable conditions, the social landlord is aware but has taken no action.

²⁰ <https://www.housingregulator.gov.scot/landlord-performance/national-reports/national-reports-on-the-scottish-social-housing-charter/national-report-on-the-scottish-social-housing-charter-headline-findings-2020-21#section-3>

²¹ Scottish Government (2021) *Homelessness in Scotland 2020/21*. Available from: <https://www.gov.scot/collections/homelessness-statistics/>

A South of Scotland CAB reports of a client who is having problems with her neighbour who had been hoarding. Both the client and her Independent Living Support worker have reported issues and repeatedly asked for support and assistance from the landlord, without any response. The landlord has lost the formal complaint and therefore is taking no action to address the issues. Meanwhile the client's health is deteriorating living in this property. The client was eventually informed that she would be prioritised in getting moved into a more suitable property, but the Housing Offer has now retracted this with no explanation.

There is a role for the Scottish Housing Regulator here, but it may also be appropriate to have in place duties and protections that can be applied on an individual tenant level where a social landlord fails to take action which would have prevented someone losing their home. We believe these duties may be an area for further consultation.

Another area for consideration is the interaction with the local authority's reasonable steps duty. For example, if a local authority decides a reasonable step to prevent homelessness for an applicant is to request a social landlord to set up a rent arrears repayment plan or request that steps are taken to prevent homelessness for someone going into prison, it may be appropriate to place a duty on the social landlord as part of the reasonable steps to consider such requests from the local authority housing assistance service.

Crisis is doing a range of work to support practice in this area. A report commissioned by Crisis, alongside SFHA, ALACHO, Homeless Network Scotland, and Simon Community Scotland, provides insights into what works and what more needs to be done to support the sustainment of social housing tenancies²². This includes preventing evictions and abandonments and also reducing homelessness arising from social housing tenancies more generally. The research found that the key factors for tenancy sustainment in a Scottish context are the establishment of strong relationships with tenants as early as possible, providing the support and advice needed by each individual when they need it, and not setting people up to fail by starting tenancies in debt or without the ability to secure the furniture and equipment they need to make a home.

Both this unpublished report, and Crisis' prevention best practice guide provide helpful recommendations for practice change on the part of Registered Social Landlords to prevent homelessness.

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

Crisis agrees with the list of reasonable steps a social landlord should be required to consider taking to mitigate risk of homelessness. The specific steps should be informed by evidence of what works.

While the list of reasonable steps includes addressing tenant behaviour, assistance for those experiencing harassment should also be included. Typically, more than twice as many households become homeless from a social housing tenancy as a result of fleeing violence or harassment than as a result of eviction or other landlord action. This was a theme that emerged strongly from the Crisis analysis of CAS cases which found that tenants experiencing anti-social behaviour and violence

²² Gray, T (2022, forthcoming) *Protecting Homes and Preventing Eviction: The role of social housing management in sustaining tenancies*. Neil Morland Co

where they lived was a common cause of homelessness. The analysis revealed that tenants in this situation, including those who had been on the receiving end of discrimination and abuse, found it difficult to get the help they required to move to a new tenancy. Some of the cases demonstrate tenants in these circumstances seeking help with their housing situation, only to be told by housing departments that they are “not high enough priority” or that there’s nothing services can do to rehouse them. In many of these cases, the Police were also involved, but CAB clients often reported feeling that nothing was being done to resolve the situation. This is serious given that the individuals in these cases, including children, may be at risk of violence and trauma.

One finding from the unpublished report commissioned by Crisis, SFHA, ALACHO, HNS and Simon Community was that “the lack of mobility within social housing in situations which make tenancies hard to sustain and may lead to abandonment and/or homelessness, such as in cases of harassment, domestic abuse or overcrowding.” Therefore, it would be appropriate for social landlords to have in place consistent abandonment policies and procedures and protocols to support transfers and tenancy moves.

Social landlords should also take reasonable steps to prevent the re-occurrence of homelessness for people they have housed who have previously been homeless, as recommended by HARSAG.

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

Yes. This proposal, to require social landlords to establish protocols in relation to domestic abuse, builds on the Domestic Abuse Protection Act (Scotland) 2021, which introduces Domestic Abuse Protection Orders and new grounds to end the tenancy of a perpetrator with a view to transferring it to the victim of domestic abuse. It is another important step in the right direction. It is important that these protocols are clear and comprehensive.

CIH and Women’s Aid in 2019 published *Domestic abuse: a good practice guide for social landlords*. This guide recognised that “many social landlords want to do the right thing, but they need support to make sure that they’re offering a consistently good response to those affected by domestic abuse. Few social landlords have formal policies on domestic abuse to help them respond effectively to tenants who experience or perpetrate domestic abuse.”

This guide is an essential resource for social landlords, and the protocol set out in this Good Practice Guide should be introduced into statutory guidance, so that good practice is underpinned by a duty for landlords to do everything in their power to respond effectively to tenants’ experiences of domestic abuse and coercive control. In Crisis’ perspective, encouraging social landlords to make effective use of management transfers so victims of domestic abuse or harassment can make planned moves and avoid homelessness should be a central part of this protocol.

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?

Yes. Social landlords should establish protocols for what they will do in the event of a tenant facing court proceedings, including where they receive a short-term or long-term sentence or are placed on remand. Relevant information regarding such protocols might include: support with accessing and amending Housing Benefit claims; options for transferring tenancies to other members of the household; and, in the case of short-term sentences, protocols around storage of belongings, re-allocation of the property as temporary accommodation and so on.

It may also be appropriate to have protocols for other scenarios, such as hospital stays, as recommended by HARSAG.

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?

Yes. Crisis strongly supports the proposal for preventative action to be taken further upstream prior to the raising of proceedings with the sheriff court. For social landlords, as a minimum this should be at the point of issuing a Notice of Proceedings.

It should be borne in mind that the housing assistance service provided by the local authority will look very different from the current homelessness service, and that a referral will not necessarily mean the household being assessed as *homeless*, but rather being assessed as *threatened with homelessness within the next six months*. This means the individual will have the opportunity to have a Personal Housing Plan developed, setting out any relevant reasonable steps that the local authority will take to prevent or resolve that household's homelessness. Reasonable steps might include steps the social landlord could take.

As has been referred to elsewhere, Crisis' analysis of CAS cases revealed situations where individuals had been told they were not high enough priority by the homeless team because they weren't homeless yet, or hadn't received an eviction notice yet. Requiring action further upstream will help to shift the culture away from one which only provides support when someone reaches crisis point. The main ethos of social landlord duties specifically is that they deal with their own tenants as preventatively as possible, though tenants seeking LA support shouldn't be sent away.

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?

Crisis does not think there are other statutory measures required, however in the unpublished SFHA, Crisis, HNS, ALACHO and Simon Community publication²³, there is a 20-point list of factors that can support tenancy sustainment. This list which has been produced based on research and engagement with both tenants and landlords, should form the basis of statutory guidance on the actions social landlords should consider taking in order to prevent homelessness. It includes things like:

- Sensitive allocation of properties to maximise the chances of tenants settling into their new home and sustaining their tenancy, including giving applicants a degree of choice about where they are housed
- Not assuming that new tenants have all the knowledge they need about benefit entitlement, utilities, budgeting and the other issues and responsibilities involved in managing a tenancy, especially those moving after a traumatic situation such as domestic abuse or homelessness, or those who have never managed a tenancy before
- Wherever possible, tenants should be assisted to furnish and equip their properties quickly after moving in. A welcome pack of local information, kitchen essentials and other basics can be a simple and immediate way to help.

²³ Gray, T (2022, forthcoming) *Protecting Homes and Preventing Eviction: The role of social housing management in sustaining tenancies*. Neil Morland Co

This last point about furniture is one that came through strongly from the focus groups and Crisis analysis of CAS cases: many people with experience of homelessness struggle to access white goods and furniture, which can prevent them from settling into a new tenancy. This is partly related to the administration of the Scottish Welfare Fund which provides furniture and white goods via Community Care Grants, but there may be things social landlords can do to improve access to these goods.

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

The duty on social landlords to notify a local authority of a risk of homelessness will be dependent on what action is required on them with respect to the reasonable steps social landlords are required to undertake to prevent homelessness. So, the answer to this question will to some extent depend on what those duties on landlords look like. Below, in answer to questions 60-62, we go into more detail regarding the circumstances in which someone should be assumed to be threatened with homelessness. However, there also may be risk factors that can help social landlords to identify tenants who are at higher risk of homelessness than others, for example research by Perth and Kinross Council identified a set of risk factors that meant a tenancy was more likely to be at risk, including person-related risk factors such as being in and out of prison, having mental health issues, being a victim of domestic abuse, or a care experienced person; and property-related risk factors, such as where the property is unfurnished, or where the tenant didn't really want the property but accepted it anyway.

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?

These provisions, introducing pre-action requirements on private landlords in cases of rent arrears have already been brought to the Scottish Parliament as part of the COVID-19 Recovery Bill, which is currently at Stage 1.

Crisis supports the provisions in Part 4 of the Bill: both the discretionary grounds for eviction and the introduction of pre-action requirements in the PRS, both of which were recommendations of the reconvened Homelessness and Rough Sleeping Action Group in 2020, and the Prevention Review Group.

The Regulations set out that Tribunal must take into account the extent to which the landlord provided the tenant with clear information relating to:

- a) the terms of the tenancy agreement,
- b) the amount of rent for which the tenant is in arrears,
- c) the tenant's rights in relation to proceedings for possession of a house (including the pre-action requirements set out in these regulations), and
- d) how the tenant may access information and advice on financial support and debt management.

The Tribunal must also take into account any reasonable efforts made by the landlord to agree with the tenant a reasonable plan to make payments to the landlord of:

- future payments of rent, and
- the rent for which the tenant is in arrears.

Finally, they must consider whether the landlord has taken reasonable consideration of:-

- a) any steps being taken by the tenant which may affect the ability of the tenant to make payment to the landlord of the rent for which the tenant is in arrears within a reasonable time,
- b) the extent to which the tenant has complied with the terms of any payment plan agreed to, and
- c) any changes to the tenant's circumstances which are likely to impact on the extent to which the tenant complies with the terms of a payment plan agreed to.

Crisis believes that pre-action requirements are an important means through which tenants in arrears can receive advice and support to manage rent arrears before any eviction action is taken, thereby preventing homelessness and supporting them to remain in their home. The pre-action requirements are a valuable opportunity for people to be linked up with independent advice and support services, who can help to ensure that households are accessing all benefits they are entitled to, which may help to address any arrears.

One focus group participant told his story:

"[When I was at risk of eviction] I actually asked my estate agent if they could drop the rent down to the amount that the council was going to give us [LHA rates], for the duration that it took for me to get back to work and then put the rent back up when I got back to work. They were *not* interested. Not interested. Seriously, it was like... I said "look, you're supposed to be supporting your tenant through this period – this unprecedented period in history that people have just had the rug pulled right from under them... and that's without exception! That's not just one or two folk, that's without exception that that's happened. And you're meant to be supporting folk" ... but no, it was all about the money, that was all they were interested in." *Focus group participant*

Housing to 2040, and the draft Rented Sector Strategy talks about a 'tenure-neutral' housing system, where people can expect the same kinds of security of tenure, affordability, and standards no matter which tenure they're in. This is something Crisis fundamentally supports, because it widens the housing options available to low income households and those with experience of homelessness. Pre-action requirements have long been a feature of the social rented sector, so we believe that introducing them into the private sector is one step on the journey towards tenure-neutral housing in Scotland.

Anecdotal evidence from other stakeholders suggests there are still landlords operating in Scotland who are unaware of or do not co-operate with the pre-action requirements that have been temporarily in place during the pandemic. There are landlords who still do not comply with other regulations and attempt to carry out illegal evictions. There is always room for improved enforcement, and the First Tier Tribunal must play a strong role in actively interrogating and enforcing the fulfilment of pre-action requirements, to avoid them becoming a tick-box exercise.

We agree with the Legal Services Agency suggestion²⁴ that the pre-action requirements could be strengthened if the Scottish Government provided a pre-action requirement checklist, which was incorporated into the Notice to Leave, so there was no doubt as to what will be considered by the Tribunal with regards to the landlord's efforts to engage the tenants on these issues. The checklist could include a prompt for the landlords to have a conversation with the tenant about whether they would like to be referred to the local authority housing assistance service.

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

If a private landlord agrees with the tenant that a referral to the local authority is appropriate, then the landlord should be able to (not required to) make a referral for housing assistance in the same way as has been set out for public bodies. We envisage such a referral as potentially emerging out of a discussion around pre-action protocols, or where a landlord becomes aware that an elderly tenant's health is deteriorating and they may be unable to continue to live in their current home without additional assistance. Guidance should be clear that a referral should only be made with the tenant's consent. The local authority could also respond by supporting the landlord, rather than it all being about assisting the tenant.

The second route through which a private tenant may be referred in to the local authority is through a section 11 notice. Section 11 is not always currently well used as a prevention tool. Crisis recommends concerted effort to improve the effectiveness of Section 11, using learning from the Registered Social Landlord sector. We should also work towards targeted, proactive approaches to prevention for groups with higher vulnerability to homelessness in the PRS.

Generally speaking, a landlord needs to make a Section 11 referral where they are seeking someone's eviction. This is typically served where an application is made to the Tribunal or Sheriff Court for eviction. This is therefore clearly making a large percentage of people who are threatened with homelessness known to the local authority. In terms of preventing homelessness this could be made more effective by requiring service of the Section 11 notice at the point when a notice to quit, notice to leave or notice of proceedings is being served, or at least 28 days prior to an application for eviction being granted for example, which would allow at least some time for the local authority to look at the Section 11 referral, and see if eviction can be avoided.

However, the matter that then needs to be addressed is how local authorities deal with their Section 11 referrals. This mechanism highlights to the homelessness service or housing assistance service, a cohort of people who are at risk of becoming homeless from a Private Residential Tenancy. These individuals should be assessed as 'threatened with homelessness' under the new extended prevention duty, which should mean the housing assistance service works with the individual/household to develop a Personal Housing Plan, setting out the reasonable steps that will be carried out to prevent or resolve their homelessness. Depending on the individual's circumstances, these steps might include: housing options information, advice and advocacy; and/or welfare debt advice and assistance; and/or landlord negotiation and assistance, rent deposit guarantee schemes and other access schemes; or any other steps that would be helpful.

²⁴ Legal Services Agency (2021) *Response to Scottish Government Consultation on the Covid recovery: a consultation on public health, public services and justice system reforms*. Available here: https://consult.gov.scot/constitution-and-cabinet/covid-recovery/consultation/published_select_respondent

This will, however, require a culture shift towards early intervention. The CAS case analysis revealed several examples of clients being told by various services – including their local authority’s housing and homelessness services - that making an application for homelessness support was the best route into other more suitable accommodation. This was demonstrated in several cases where clients were at risk of eviction from their private residential tenancies, where clients were told the council was unable to help them “unless they have an eviction notice.”

This was touched upon in the focus groups too, where a frontline staff member said:

“There are guys I know who’ve had their eviction notice, that’s three months down the line. So, they’ve went to the council and said, “I’m going to be evicted in three months,” and the council have said “come back when we know you’ve been evicted.” *Focus Group Participant*

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

Guidance around the pre-action protocol should make clear that landlords have the power to refer in to the local authority where this is appropriate. There should be clear guidance on the need for the tenant’s consent for a landlord to make a referral to the local authority for housing assistance.

Landlord advice and liaison services should be a core part of the local authority housing assistance offer (see also our response to Q56), and will be in a position to support and advise landlords in this area. Unlike social tenants, whose landlords have expertise in, or strong links to, welfare advice and financial inclusion, and a strategic responsibility to prevent homelessness, Crisis’ recent and previous surveys found private landlords had very low awareness of services tenants may need, not helped by the fact that many private landlords are small-scale and do not use a letting agency. The same surveys have also found that landlords themselves often want more access to advice and support, especially where tenancies are failing²⁵. Many entirely depended on their letting agency, though research highlights that agencies as well as landlords can find it unclear where to signpost tenants or who to contact direct if a tenant was in difficulty in their local area²⁶.

Guidance will need to be clear on when and how landlords are required to make a Section 11 referral. In response to the question above, we’ve suggested that this notice could be served – or this referral made - at the point when a notice to quit, notice to leave or notice of proceedings is being served, or at least 28 days prior to an application for eviction being granted. Statutory guidance will need to be clear about the requirements on landlords relating to this.

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?

This proposal was developed prior to the COVID-19 Recovery Bill being brought to the Scottish Parliament. It needs to be considered in the context of the provisions in that Bill which change the grounds for eviction from Private Residential Tenancies from mandatory grounds to discretionary grounds. In the context of these new provisions, in which the First Tier Tribunal has discretion as to whether to evict a tenant, it is about ensuring that the Tribunal has all the information relevant to

²⁵ Crisis (August 2020 – unpublished) Private landlord survey: Aberdeen, Aberdeenshire and Angus (total respondents: 1194).

²⁶ Donohoe, T. and Young, G. (2019) Where to Turn: A review of housing support and advice for private tenants in Scotland. Online: Shelter. Available here: https://scotland.shelter.org.uk/data/assets/pdf_file/0009/1773630/Where_To_Turn.pdf/nocache

the case, including from the local authority regarding that individual's risk of homelessness. Importantly, a request to delay eviction does not necessarily mean that this will be granted; again, it would be within the discretion of the Tribunal whether to grant this request.

Consideration should also be given to whether there might be unintended consequences from this proposal. For example, imagining a case where the private landlord is intending to evict a tenant, and the local authority requests a delay to the eviction, this could cause detriment to the tenant if the relationship with the landlord breaks down even further.

Another potential unintended consequence of this proposal might be that, in certain circumstances, the local authority uses this power to request a delay to eviction even when it is not necessarily in the interests of the tenant, in order to reduce pressure on their own homelessness/housing assistance services. In that instance, it would be the landlord and the tenant who were both stuck in a less than ideal situation, while a positive alternative outcome for the tenant was in *theory* being sought, but in practice may not be forthcoming.

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?

Crisis strongly supports the Prevention Review Group proposal that homelessness advice and assistance provided by local authorities in relation to the PRS would include PRS access schemes, landlord liaison, rent deposit guarantee schemes and a focus on tenancy sustainment and prevention. More generally, housing advice and support and wider housing strategy of the local authority should be strongly inclusive of the PRS and link up all strategic responsibilities in relation to that sector in a way which is holistic and reduces inequalities of access to services for some groups, based on their tenure.

One focus group participant, unprompted, described the value he saw in a system like this:

“One thing I really want is the ability to, when someone is in trouble, to intervene where someone needs it. Rather than that problem hitting that person and them being floored by it. So, private landlords should be forced to contact support services and say, “this person can't pay their rent, help them” and there must be some plan in place where the government can cover their rent for a few months to help them. Something like that. Suddenly it changes the game.” *Focus group participant*

The CAS case analysis revealed cases where small actions, such as providing a deposit to rent a new property, could have prevented someone from becoming homeless. Where possible, local authorities should provide this kind of assistance which is likely to considerably reduce the burden on homelessness services.

An East of Scotland CAB reports of a client aged 18-24 years, in full-time work as an apprentice. The client moved into a private residential tenancy with his friend. The rent of £620 a month is divided equally as they are joint tenants. After about a month, the client notified the letting agency of two problems: a burst drainpipe outside and damp in the flat. The drainpipe was repaired, and the agent commissioned a survey of the damp which concluded that puddling below the flat is causing rising damp and that the repair could be carried out with minimal disruption to the tenants. Last week, the client found clothing he

had left out overnight had gone mouldy. He emailed the agent requesting alternative accommodation until the repair is carried out, as the property no longer meets the tolerable standard. The agent replied that the landlord was doing what he could, but that he had no obligation to rehouse the client. The client has considered looking for alternative housing himself but is concerned that he would not receive the original deposit before needing another one. The CAB advised that the only option available to the client was a homeless application.

Such a service needs to be appropriate for supporting both tenants and landlords. Crisis' experience in delivering PRS support services is that building relationships with private landlords is vital to maximising the use of this sector. Effective landlord liaison can ensure more properties are available to the PRS access scheme, and can ensure problems are tackled at an early stage before they escalate. There is also an opportunity to support a tenancy ending through a house move, without going through an eviction process, which may suit both the tenant and landlord, mirroring these plans in the social rented sector around the principle of 'no evictions into homelessness.'

Many landlords have a small number of properties and value support around complying with legislation and guidance and being clear about their rights and responsibilities, particularly where they are accidental landlords or have a very small portfolio of properties. In our experience, even when a tenancy fails, a landlord is often still willing to take on further tenants through a PRS access scheme because of the additional support they have received.

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?

Crisis strongly welcomes the proposal in the draft Rented Sector Strategy to legislate to enable the reinvestment of unclaimed tenancy deposits to fund, for example, the provision of additional tenant advice or advocacy services. With our strong track record of supporting those with experience of homelessness into their own tenancies through PRS access schemes, we believe the best use of this fund would be to invest in PRS access schemes which include landlord liaison services, and rent deposit guarantee schemes in every local authority in Scotland.

A previous version of the Homelessness Code of Guidance recommended that all local authorities should have a rent deposit scheme and despite HARSAG support to strengthen such schemes, the updated Code of Guidance weakened the recommendation. It would be helpful for the Scottish Government to support local authorities more robustly in both guidance and practice to work more productively with the PRS to reduce homelessness from it and resolve more homelessness using it.

As one member of a focus group with experience of homelessness put it:

"It has to come from higher; the decision to make and organise this kind of system. You cannot ask a landlord just to involve people.... Normal people [like landlords] have many things to deal with every day. So, we need something higher by the government to make it easier for people to have access to that... if there's tools that everyone can use... and you can recognise easily, it would be better." *Focus group participant*

Crisis understand that around a quarter of local authorities commission a PRS access service, and a further quarter have their own internally staffed service. Staffing ranges from team of 6+ to 0.5 dedicated officers. About half of local authorities (to the best of our knowledge) have no dedicated

staff working on PRS access, though at least four were intending to recruit/explore recruitment to this type of role when we last completed a survey on this issue in 2021. Most do have a rent deposit or bond scheme, but with no dedicated staff to administer it, or hold relationships with landlords and offer support to both landlords and tenants. Most local authorities have no dedicated PRS prevention offer, or linkage between access and prevention. Whilst some LAs have developed services and others have scaled back, but overall, the above picture has not changed radically in Scotland in many years.²⁷

In Crisis' experience of delivering and supporting PRS access schemes and preventing homelessness from the PRS, we have found that landlords and letting agencies can often be the quicker vehicle for flagging up issues threatening a tenancy than tenants themselves. The key elements of a joined-up and strategic approach to the role of the PRS in ending homelessness should include:

- A landlord-facing person/team
- A mediation, liaison, negotiation or tenancy relation service offer
- A join-up between access to the PRS for those with experience of homelessness, and prevention from the PRS for those at risk of homelessness
- Clear pathways/referral routes into existing housing advice and support services for PRS tenants
- Landlord registration, HMO, empty homes and enforcement functions brought together

A landlord-focused team can serve many functions including improving access, earlier prevention, diffusion of information, encouraging good practice, distribution of enhancement grants or loans for property improvements etc. and allows many of the local authority's PRS priorities to be achieved.

3. Proposed recommendations on reforming homelessness legislation to prevent homelessness

Q57 Do you agree with these principles?

Crisis strongly supports the principles that underpinned the work of the PRG. We agree that the current statutory framework should be amended to introduce:

- an extended prevention duty so people can access support as early as possible;
- a range of reasonable steps that the local authority must consider including in a personal housing plan;
- services that are designed to meet the needs of specific groups;
- A requirement that people experiencing or at risk of homelessness should be supported into accommodation that is stable and suitable to their needs; and
- Appropriate and effective rights of review and challenge throughout the process.

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

As discussed above (Q2), Crisis believes that developing a stronger person-centred approach and culture should be at the heart of these proposals.

As a minimum, this means treating people with dignity, respect and ensuring their individual circumstances are drawn out and addressed. However, our aspiration should be to develop a co-produced system, where people know they have a voice and can participate in formulating their own

²⁷ Crisis unpublished survey data

solutions and outcomes. Participants in our focus groups told us about the impact on them when they felt they had no choice and control over their housing journeys.

“I think part of it as well is not making you feel like you’re some destitute who’s ... I felt *low enough* in myself, with the situation that I was in. I didn’t need that on top, making me feel even lower, like I was begging to get help. When I’ve worked all my days and paid into the system all my days. I’ve never taken anything from the benefits system ever, this was the first time in my life when I needed help. Being treated with dignity.” *Focus group participant*

“They need to know everyone is different and just because their story makes them similar to someone they have maybe helped before, they can’t just go ‘ok we will do this and this’. They need to get to know you as a person, and that helps you open up them as well. If they show an interest, rather than just paying lip service. You can tell they don’t care.” *Focus group participant*

On the other hand it can make a huge difference where a service provider responds well to someone, empowering them to take responsibility and control for themselves.

“[The CAB adviser] gave me back my self-confidence. So that I could speak and be open and honest. She made me feel at ease, and like I could talk to her about anything no problem, on all sorts of subjects. I had whole carrier bags of mail unopened, and she helped me to go through all of that. The mail used to really depress me. I call it hate mail! Because I hate it! But she went through it all. She actually said to me: “well, you’ve been a challenging case!” But I got there and I enjoyed it.” *Focus group participant*

The principles identified by the Prevention Commission regarding choice and control, not just with regard to housing options, but throughout the process, and for the local authority to ask the applicant about their experience and preferred outcomes and act on that are especially important principles here.

As has been mentioned in response to question 2, there are other principles that clearly informed the work of the PRG, but has not been included by them in the list of foundational principles. These are that we should **seek to prevent and avoid homelessness wherever possible** and that **if someone still has access to housing which could be saved and is stable and suitable to their needs, and it is their choice to continue living there, this should be specifically supported in law**. This second principle is implicit in the work of the PRG, but including it explicitly as a principle helps to clarify the policy problem that needs to be tackled.

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

If legislative and policy changes are made in line with the principles set out by the PRG, Crisis believes this will deliver the following outcomes:

Better outcomes for people requiring housing assistance

- More households accessing assistance with their housing needs at an earlier stage;
- A housing-led approach, with more households who are at risk of losing their home avoiding homelessness by being supported to remain in their accommodation, or being rapidly rehoused into alternative accommodation which is stable and suitable to their needs;

- A shorter time an applicant to access a housing outcome that is stable and suitable to their needs;
- More individuals having their housing support needs met and at an earlier stage;
- People being able to access the same housing options as the rest of the general population, reducing stigma and increasing choice and control;
- A reduction in the numbers of people who experience homelessness and repeat homelessness;

A more integrated, responsive and person-centred approach

- Individuals in households who are at risk of homelessness or homeless experiencing a housing assistance/homelessness service which is person-centred and tailored to their needs and preferences, resulting in a more positive experience;
- Households at risk of homelessness caused by specific circumstances (such as release from prison or experience of domestic abuse), experiencing a housing assistance/homelessness service which is tailored to and responsive to their needs;
- Households from particular groups, as defined by protected characteristics experiencing a housing assistance/homelessness service which is tailored to and responsive to their needs,
- Reductions in the average length of time households spend in temporary accommodation;
- More applicants accessing housing options that most suit them (in line with a person-centred approach), including being affordable to them, with added protections to prevent them being forced into less secure or inappropriate housing
- Equity in the housing on offer, whether a household is at risk of homelessness or actually homeless;
- A route to access supported housing in the social care system, which may be more relevant under a widened prevention duty;
- Stronger partnership working between different agencies supporting people facing homelessness;

Stronger protections for people in vulnerable situations

- Increased protections for those who return to previous accommodation or move in with friends;
- Increased security for those who are housed in the Private Rented Sector, with an expectation that it will be available for a minimum of 12 months;
- A system which is clear and accountable, providing people with more effective and appropriate rights of reviews and challenge throughout the process

A more efficient system

- Greater clarity and flexibility for local authorities on the actions they should take to prevent homelessness and assist people in housing need
- Pragmatic and effective use of the full range of housing options in an area, in the context of a shortage of affordable housing;
- Fewer households in temporary accommodation at any one time;
- Alleviation of pressure on services down the line, notably health and social care and justice, by preventing people from experiencing the trauma of homelessness
- Savings to the public purse (see our response to question 94).

In summary, we believe that these proposals will reduce the incidence of homelessness, meaning that many more people receive assistance at an earlier stage from services which are more joined up; fewer people experience the trauma, indignity and stigma of housing crisis and homelessness; crisis interventions including temporary accommodation are freed up to be available to those most

in need, and the widest range of housing options currently available can be used by those most in need of housing. It may also reduce pressures on other services as a result of a reduction in homelessness (see our response to question 94).

An extended prevention duty

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?

Crisis strongly supports the principle that someone should be supported to prevent them losing their home as early as possible, and certainly earlier than the current two months. We believe this is an essential aspect of the proposals not least because it allows local authorities to carry out preventative work earlier, without being accused of gatekeeping. It hopefully enables them to act to resolve a person's actual issue (for example, negotiation with a landlord or provision of housing support) rather than through the narrow lens of statutory homelessness duties and decisions.

“Preventing homelessness – it just isn’t being done. Waiting for someone to be at crisis point is just not doing any good because you’re then having to put all the pieces back together and managing to fix it. It’s like... everything is completely broken by that point.” *Focus group participant.*

Crisis’ research and experience suggests that practice varies around the country. It is our view that practice will not shift consistently or at a national scale to a stronger focus on prevention without a change in the law. Moreover, the proposals made by the PRG go far beyond the current framework to intervene much earlier and with a much more prescriptive, targeted, accountable and person-centred approach. Learning from the HRA in England suggests that 56 days is often too late to do effective prevention work so a longer timescale for the duty would be valuable. Some local authority respondents expressed concerns that they no longer felt able to intervene at an earlier stage (prior to 56 days) because it is outside the statutory framework and these interventions would not be recognised or recorded.²⁸ Whilst legislative change is needed, this does not preclude efforts to shift to more preventative practice across the country. It is through legal, policy and practice change together, underpinned by appropriate resourcing, that we will refocus the system on homelessness prevention and achieve consistency and leadership in services across all areas of Scotland.

An extended prevention duty should not present a barrier to people being able to access support prior to the six month statutory responsibility or through other channels. If people need assistance with housing issues prior to being ‘six months away from homelessness,’ for example, where someone has begun building small amounts of mortgage arrears, they should still be able to access assistance from services. In other words, the extended prevention duty should not be used as a means of gatekeeping and preventing people from receiving support earlier.

This principle was strongly supported by the participants of the focus groups. In one focus group, participants got involved in discussing the idea of extending the definition of threatened with homelessness from two months to six months. Participants were supportive of the idea and said they thought it would have helped them:

²⁸ Boobis, S., Sutton-Hamilton, C., and Albanese, F. (2020) ‘A foot in the door’ *Experiences of the Homelessness Reduction Act*. London: Crisis Available from: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/services-and-interventions/a-foot-in-the-door-experiences-of-the-homelessness-reduction-act-2020/>

“I’m sure that’d make a lot of difference to a lot of people. Because I mean, two months... look at all the pressure they’re going to be under in that space of two months. Whereas if its six months, yes, the pressure is still going to be there, but they’ve got a bit more time.”
Focus group participant.

“Well, I totally agree with what you’re saying, stretch things out to the six months to give people maybe the time and chance to address things.” *Focus group participant.*

It is difficult to define the possibility of something happening, and we recognise that six months is in some ways a relatively arbitrary time frame. Nevertheless, we believe that a longer time period gives greater opportunity to assist people. Learning from the HRA in England suggests that 56 days is often too late to do effective prevention work so a longer timescale for the duty would be valuable. We also note that applicants in vulnerable situations such as abusive relationships should not be required to provide evidence of their situation to access help.

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

The range of circumstances in which someone might be considered to be at risk of homelessness are wide and varied. Some circumstances are simple to define, such as if:

- someone is due to leave an institution such as prison, hospital or the armed forces
- has certain notices regarding their tenancy, such as a notice to quit or a notice of possession
- other notices regarding an occupancy agreement, tied accommodation or informal accommodation agreement

We say more about this below. However other circumstances are much harder to define formally, including the most common triggers of homelessness relating to someone being asked to leave their home, relationship breakdown and domestic abuse.

In the draft legislation for the PRG it was therefore proposed that certain aspects of the definition of threatened with homelessness be defined with reference to particular circumstances, but it should be clear that this list is not exhaustive for someone to be considered threatened with homelessness. There should be a general definition of “likely to become homeless within the next six months”. Such a definition will need strong, clear and comprehensive guidance to support it, setting out what factors a local authority should be considering. Crisis’ research on the implementation of the Homelessness Reduction Act in England²⁹ demonstrated that it would be useful for statutory guidance to include specific examples and case studies to help illustrate the distinction between being threatened with homelessness and being homeless, and therefore which duty applies. This will help both local authorities, applicants and non-statutory advice services to support people needing assistance. Some focus group participants said how it might be quite difficult to pin-point the exact moment when things begin to feel unmanageable.

²⁹ Boobis, S., Sutton-Hamilton, C., and Albanese, F. (2020) ‘A foot in the door’ *Experiences of the Homelessness Reduction Act*. London: Crisis. Available from: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/services-and-interventions/a-foot-in-the-door-experiences-of-the-homelessness-reduction-act-2020/>

“But when you were saying about noticing... I think that’s the hard thing, see, for me becoming homeless, there was maybe things that’d been going on for *years* that had become your norm, so they weren’t obvious.” *Focus group participant.*

We believe that the threshold should be set relatively low so that people are not excluded from help which could mitigate future risk, in the same way as Housing Options services are widely accessible currently. It is important to recognise the challenge and even stigma that can surround seeking help. Focus group participants also spoke about the difficulty of identifying when someone might be at risk of losing their home. Feelings of shame and stigma were reported by participants, and some participants discussed being reluctant to reach out and access support until they were in a state of crisis.

“Nobody wants to admit that they can’t do something, like can’t pay their rent or can’t pay their bills or can’t look after themselves. So, you only really admit it when you’re at the crunch point, and when you’re at the crunch point there is no help there, at that moment.” *Focus group participant.*

It is also important that people are not required to provide evidence of their risk of homelessness at a time when they may be very vulnerable or requesting such evidence may increase risk to the individual. Crisis occasionally hears of very poor practice such as asking someone experiencing domestic abuse to prove their circumstances, and this is unacceptable.

Certain circumstances in which a household should be considered at risk of homelessness within six months should be defined in law. Following our work with the Legal Services Agency, Crisis recommends an extended prevention duty should include the following circumstances in relation to the loss of a tenancy:

A person is threatened with homelessness if it is likely that he will become homeless within six months.

For the purposes of the above, a person will be considered to be threatened with homelessness if they have received any of the following notices which expire within six months.

- a) Notice to Quit and Section 33(1)(d) Notice in terms of the Housing (Scotland) Act 1988.*
- b) A Notice in terms of Section 19 of The Housing (Scotland) Act 1988.*
- c) A Notice to Leave in terms of the Private Housing (Tenancy) (Scotland) Act 2016.*
- d) A Notice of Proceedings in terms of Section 14.2A, or Section 2A of the Housing (Scotland) Act 2001.*
- e) A Notice of Proceedings in terms of Section 36(2)A of the Housing (Scotland) Act 2001.*

This is comparable to the list of circumstances set out in the PRG’s draft legislation. In Crisis’ view, a notice to quit should be treated as a threat of homelessness, and an eviction order should be treated as statutory homelessness.

In addition to this list, other circumstances should be added, such as where the individual has had an Anti-social Behaviour Order or a Domestic Abuse Protection Order applied.

There are a range of other circumstances that guidance will need to address. For example, a previous application for assistance should not prevent someone reapplying if their circumstances

change. Some focus group participants talked about how quickly and unexpectedly homelessness can occur.

“You always think it’s not going to happen to you... until it does.” *Focus group participant.*

“It happens like that! [*clap*] It happens so fast!” *Focus group participant.*

Not knowing what support was available was a common theme emerging from the focus groups. Some participants spoke about how new homelessness prevention duties would need to be accompanied by a public awareness campaign, and perhaps something like a national helpline, so that people were aware of what support was available to them and how to access it.

“I slept in the car, I hadn’t a clue where to go to... We have to find a way to get this information out there – the media, Facebook (everybody has Facebook because everybody has a mobile phone) websites, local radio... and say ‘if you need help...’ especially for local areas.” *Focus group participant.*

In terms of how this extended prevention duty would work in practice, it will be important to avoid this duty leading to any delay in accessing support for those who meet the statutory definition of homeless. If someone is assessed as *not* threatened with homelessness within six months, there should be no barriers to them making a further application if they experience a change of circumstances which means that they would be likely to meet the definition.

One recommendation that came out of Crisis’ research on the implementation of the Homelessness Reduction Act in England³⁰ was that it would be useful for statutory guidance to include specific examples and case studies to help illustrate the distinction between being threatened with homelessness and being homeless, and therefore whether the prevention or relief duty applies.

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

We discuss the assessment process in more detail at Q67, but in brief the assessment should include a discussion with the applicant as to the reasons for the homelessness risk, any housing support needs, their housing needs and what their ideal outcome would be, what reasonable steps the local authority will take to assist them and what the applicant is advised to do to prevent their homelessness, or prevent it re-occurring. These should be documented in a Personal Housing Plan or similar document and provided to the applicant.

Duty to take reasonable steps

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?

As noted in the consultation and by the PRG, we believe that this proposal builds on Housing Options practice already widespread across Scotland. Moreover, it addresses the tension in the current

³⁰ Boobis, S., Sutton-Hamilton, C., and Albanese, F. (2020) ‘A foot in the door’ *Experiences of the Homelessness Reduction Act*. London: Crisis. Available from: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/services-and-interventions/a-foot-in-the-door-experiences-of-the-homelessness-reduction-act-2020/>

framework between the statutory homelessness process and non-statutory Housing Options approach, and makes explicit that a basic menu of steps should be available in order to take reasonable steps to help people at risk of homelessness in a wide range of circumstances. This is similar to the design of the prevention frameworks in Wales and subsequently England.

The proposals regarding Reasonable Steps are one of the most important aspects of this package of reforms. It refocuses the work of local authority homelessness teams from dealing with homelessness at the point of rooflessness, to preventing homelessness from occurring in the first place, and identifies specific options for assisting people to achieve that.

It is important that there is a mandatory obligation on local authorities to take Reasonable Steps, but that the duty does not prescribe exactly which steps should be taken. For this reason, a list of steps that a Local Authority should have available to make use of to prevent homelessness for an applicant should be set out in law, while being clear that this is not an exhaustive list. When the applicant's situation is identified during the assessment process, relevant reasonable steps should be identified and agreed with the applicant in order to avert the threat of homelessness. Moreover, it puts a duty on all local authorities that all the reasonable steps listed in statute must be *available* in their area, even if it is not prescribed which ones a certain applicant should be offered. This means that a local authority should have in place a PRS access service or mediation service, even if those are commissioned and delivered by other organisations.

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

Consideration should be given to supporting people experiencing anti-social behaviour which results in a threat to their housing situation. The case analysis that Crisis carried out in partnership with Citizens Advice Scotland revealed anti-social behaviour and problems with neighbours as one of the most common causes of clients experiencing homelessness or threatened with homelessness. In many of these cases, the Council, Housing Association, Police and other services had been made aware of the issues and, from the clients' perspective, had not done enough to resolve the situation. Also, in the output from our work with the Legal Services Agency, the solicitor described her experience that:

“The number of evictions based on anti-social behaviour and criminal convictions has expanded over the course of the pandemic. In some of these cases, with the right support, the tenancies can be maintained. This often requires a joined-up approach between social work, support services, medical providers and legal advisers. I hope that the prevention of homelessness duties could assist this particularly precarious group, who often present with multiple disadvantages including mental health and substance use.”

Consideration may also be given to how different funds, including Discretionary Housing Payments, Social Welfare Fund grants and any other form of financial support (such as section 12 funds and deposit assistance schemes) interact in a local area to provide as cohesive a net of assistance as possible. We recommend this provision is included in statutory guidance, alongside guidance on the circumstances in which it might be appropriate to provide financial assistance to a household who has accumulated rent arrears and is at risk of homelessness as a result (drawing on learning from the assistance provided by the Tenant Hardship Fund).

It may be valuable to consider the role that environmental health services can play in assessing and addressing a threat of homelessness (and indeed what should be done where clear breaches of accommodation standards are identified).

Guidance should be clear that a local area may adopt additional steps according to local circumstances.

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?

The menu of actions that constitute reasonable steps should be set out in law.

The interaction of the threatened with homelessness (“reasonable steps” duty) with the full homelessness / rehousing duty is critical to making the proposals work effectively. The PRG’s intention was that everybody receiving assistance from the housing assistance service should end up with an outcome of stable and suitable housing no matter the route that they came into the system (unless of course they withdraw their application or other administration related issues). The reasonable steps duty must not create a barrier or delay to someone receiving the assistance they really need to resolve their situation.

There are three issues that require further consideration: one is the circumstances in which it is *not* appropriate to apply a Reasonable Steps Duty; the second is the circumstances in which the Reasonable Steps Duty no longer applies; the third is how to ascertain whether the local authority has fulfilled its duty to carry out all steps that are ‘reasonable’. It is worth noting that these issues were not considered in detail by the PRG, although the draft legislation it produced does have implications for these issues. In the following paragraphs, reference is made to the PRG’s draft legislation because it is useful in illustrating the issues. Crisis is aware that this draft legislation is unlikely to be the wording of any resultant Scottish Government Bill.

Circumstances in which it is not appropriate to apply a Reasonable Steps Duty

Currently the way that the PRG’s draft of the legislation reads means that the reasonable steps duty would be applied to both those threatened with homelessness, and those who are currently homeless. It may not be necessary or appropriate to apply reasonable steps to those who are homeless, particularly where someone is roofless. However, there are certain circumstances in which someone currently has statutory homelessness status but may have accommodation that is suitable and stable for them to remain in/return to, in which case there may be reasonable steps that can be taken to ensure the individual does not have to leave their home.

In cases where it is clear from the outset that no reasonable steps can help, this should be identified as part of the assessment process, the reasonable steps duty should end, and the full rehousing duty must be owed to the applicant.

Circumstances in which the Reasonable Steps duty comes to an end

In the draft legislation, Section 30D gives the circumstances in which the duty to take reasonable steps ends. These are:

1. That the steps taken in terms of Section 30C have not secured that stable and suitable accommodation is available within a relevant time, and the person is or has become homeless

2. That the authority are satisfied that the applicant is no longer homeless or threatened with homelessness, and there is stable and suitable accommodation available to them
3. That the authority are satisfied that the applicant has refused an offer of accommodation which is both stable and suitable.
4. That the authority are satisfied that the applicant has withdrawn the application.

There needs to be a clear period after which the reasonable steps duty is deemed to have been attempted and failed to have achieved the intended outcome. It is important that reasonable steps are not tried indefinitely with the applicant left in limbo. The PRG's draft legislation recommended a period of no more than 56 days. Crisis recommends that the period is agreed with the applicant and set out in the statutory assessment provided to the applicant, and be no more than 56 days. At the end of that period (assuming that none of the circumstances in 1-4 above apply, i.e., the applicant is still threatened with homelessness), there should be a reassessment of the appropriate reasonable steps. For example, if mediation is proposed with a landlord or family member, there needs to be a clear point agreed with the applicant and stated in the statutory assessment, at which it is decided whether this has succeeded or failed. Where reasonable steps have been exhausted and have failed to achieve an outcome of stable and suitable accommodation, the applicant is immediately transferred to a duty to secure accommodation (rather than take reasonable steps to secure accommodation).

In the draft legislation referred to above, (3) allows the LA to discharge their duty when someone has been offered accommodation that is suitable and stable, and that applicant has refused the offer. To be clear, this is only applicable to those defined as 'threatened with homelessness' because (1) makes it clear that if someone is homeless, they should be owed the full rehousing duty. The draft legislation is not completely clear about what constitutes an 'offer' of stable and suitable accommodation, nor what happens if a person refuses an offer under the reasonable steps duty. Crisis recommend that consideration of giving an applicant up to two offers of suitable and stable accommodation (suitability defined as in the statutory assessment and personal housing plan) before the duty is discharged. This would help mitigate the risk of these circumstances arising. Further consideration needs to be given to what an offer would constitute under a reasonable steps duty, and the exact circumstances in which it is appropriate to discharge this duty.

Either way, the outcome under all circumstances for those threatened with homelessness or homeless, should be that a household has accommodation which is suitable and stable.

Dealing with changes of circumstances

Related to the above points, the legislation relating to the Reasonable Steps Duty and the accompanying statutory guidance needs to be clear about the process for people who experience a change of circumstances while the Reasonable Steps duty is being applied. For this reason, the draft PRG legislation proposes that the individual's application be kept under review until the duties are discharged.

To be explicit about what the interaction of the two proposed duties is, the initial duty towards someone threatened with homelessness is to take "reasonable steps" to assist them (selecting from the range of options set out in legislation) in order to secure accommodation. If this fails and the person becomes homeless, then they should receive the full rehousing duty, where the authority comes under an obligation not just to take reasonable steps to secure accommodation, but to

actually secure the accommodation, which is a stronger legal obligation. In practice, Crisis understands “securing accommodation” to mean “securing an offer of accommodation”.

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?

Legislation should provide a strong and clear framework setting out a process, from which local areas may develop their procedures. There is also a role for COSLA to support local authorities with implementation. In England, DLUHC introduced teams who supported LAs with implementation of the Homelessness Reduction Act, and has introduced joint implementation programmes with the Local Government Association, such as the rough sleeper peer support programme. In whichever way Scottish Government and COSLA provide support to local authorities for the implementation of these legislative changes, a key part of that must be monitoring and tracking against outcomes, with a view to updating guidance if issues are identified. Beyond that, regulatory levers are worth considering.

In addition to support from Scottish Government and COSLA, local authorities should also put in place their own mechanisms to ensure compliance with new duties, including monitoring and reviewing use of Personal Housing Plans, monitoring and recording the kinds of reasonable steps used, and the outcomes of any offers of accommodation made as part of that duty. This will need to bear in mind that some steps may be more geared towards reducing the risk of future homelessness as well as preventing imminent housing crisis. In our answer to question 96, we’ve suggested information that should be collected in order to best assess the implementation, progress and outcomes of new legislative duties to prevent homelessness. Strong and comprehensive statutory guidance will support this, along with practice guidance, such as templates and monitoring frameworks.

Whilst compliance is important, it is also beneficial to take a broader, more holistic view of the actions required for effective implementation, including the co-production of statutory guidance. We can learn from the implementation of legislative change in England and Wales. The Public Policy Institute for Wales said: “The main lesson to be drawn from the implementation of the [Housing (Wales) Act 2014] is that changing the culture of practice is, though achievable, a slower and harder task than developing the legislation.”³¹ Crisis’ 2017 Homelessness Monitor Wales said key factors of implementation success of the prevention duties in Wales were building broad support for the principles of the legislative change, the transitional funding grant to councils, and a co-productive approach to the Code of Guidance creation which included cross-sector training on the new legislation.³² Similarly, the evaluation of the initial implementation of the HRA in England found that more work was needed to move from compliance to effective delivery, including workforce development and engagement with other public authorities under the ‘Duty to Refer.’³³

³¹ Connell, Andrew (2017) *The development and implementation of Part 2 of the Housing (Wales) Act 2014: Lessons for Policy and Practice in Wales*, p.18 <http://ppi.w.org.uk/files/2017/07/PPIW-Homelessness-Policy-Reunion-Report-July-2017-final.pdf>

³² Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S., Watts, B. & Wood, J. (2017) *The Homelessness Monitor: Wales 2017*. London: Crisis.

³³ ICF Consulting (2020) *Evaluation of the Implementation of the Homelessness Reduction Act: Final Report*. London: MHCLG.

Local authorities should be supported to put in place steps to meet increased demand for prevention support. This should include transition funding, building closer relationships with other support services, external partners and landlords; training for staff; IT and other system reforms. Practice support among councils and partners will also be valuable given the range of potential prevention measures councils in Scotland might need to take to implement.³⁴

Personal Housing Plans and assessment process

As discussed earlier, developing a framework that supports a more person-centred approach, with the voice of the applicant central and a culture of co-production, empowering people to take greater agency over their circumstances both now and for the future is central to these proposals. This should include an open discussion with applicants about their circumstances and desired outcomes, giving them a voice and a sense of choice and control at a very challenging point in their lives. This was also a very strong theme emerging from the focus groups.

People discussed the importance of professionals helping them regain the control they feel they've lost, or addressing their specific needs and involving them in the conversation.

"I think of myself as someone who is quite confident talking to people, I know my rights, I'm educated... but I felt absolutely deteriorated. I didn't want to fight, I just wanted somewhere to live! So, yeah, she never asked me anything about what I need other than the housing situation. I raised other things and they were met with a ... 'well, just, go...' because there's no plan, there's no consistency." *Focus group participant*

"If you were involved in it. If you weren't just told this, that and the next. You're actually involved in it. That would make a huge difference." *Focus group participant*

"Sit me in an office and *talk to me*. And tell me exactly where I'm going. Because if I'm in control of my life, if I've got a chance to be in control of my life... if I get an idea in my head about careers, I might be able to do it... but how am I supposed to do that if you're just constantly [gestures with his hands]." *Focus group participant*

Others spoke of the importance of being treated as a person by making the process more informal and conversational.

"Speaking from my experience, it's the more informal places [that I prefer], who *don't* sit you down before you go in and take everything but your shoe size, you know, all your details before you can go in and have a cup of tea. That isn't good to start with. The more informal a place is, the more comfortable you feel talking to people. They say, 'come on, sit down.' Instead of a number. That's what's needed, with a lot of these places.... A lot of people in this situation have distrust of authorities anyway – often for good reason - they have distrust of authority. If you're not asking for loads of information, they're more likely to open up." *Focus group participant*

³⁴ Ahmed, A., Wilding, M., Gibbons, A., Jones, K., Rogers, M., & Madoc-Jones, I. (2018). *Post-implementation evaluation of part 2 of the Housing Act (Wales) 2014*, p.86 <https://gov.wales/sites/default/files/statistics-and-research/2019-06/evaluation-of-homelessness-legislation-part-2-of-the-housing-act-wales-2014-final-report.pdf>

“Let someone talk rather than asking them questions. Give them an opportunity to explain their situation and what they feel they need. Really try your best to get as near as you can to that. Rather than making the person fit the box, make the box fit the person.” *Focus group participant*

“That’s the important bit, about navigation. Because I find when I’m incredibly stressed, trying to make rational decisions, I often panic and make a very wrong decision. Then you’re stuck with it... But to have someone who could be a sounding board, but also someone who is experienced, you know, who knows the system. It’s having that confidence behind your decision which then will help to reduce anxiety because then... that relief is great, if you think things are actually being sorted, confidently.” *Focus group participant*

Crisis see personal housing plans (PHPs) as a critical part of the PRG’s package of proposals to achieve this. PHPs form the foundation of the support offered under the Homelessness Reduction Act. The interim findings of Crisis’ research into the implementation of the Act found that respondents highlighted how helpful their PHP was in terms of helping them manage what they needed to and making them feel less overwhelmed.³⁵ We understand PHPs to be an accessible form of the statutory assessment, which has already been co-produced with the applicant, so that the applicant has a clear statement of what has been agreed, what the local authority will do (and when) and when they may have been advised to do.

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

The PRG’s proposal for Personal Housing Plans, was not simply to ensure that applicants’ needs and options are recorded, and their views addressed, but to ensure that the assessment process is person-centred, with the applicant’s views articulated, explored and captured, and that there is a shared record of what has been agreed. Such a record facilitates a process of co-production, supports transparency and provides the applicant with a means to challenge decisions, particularly in light of proposals for a stronger review process and the option of challenging decisions within the tribunal.

The draft of legislation that the PRG worked on proposed the following intentions for the assessment, which we strongly recommend are adopted in primary legislation as part of the statutory assessment and to inform the Personal Housing Plan. These are to identify and specify:

- The reasons why the applicant is homeless or threatened with homelessness
- The housing needs of the applicant, including what accommodation would be suitable for the applicant and their household
- Whether the applicant is deemed to be in need of housing support services
- The outcome the applicant wishes to achieve with the authority’s assistance
- Any steps the applicant is advised to take to secure or retain suitable accommodation
- The steps that the local authority will take to assist the applicant, including the “reasonable steps” from the menu set out in law
- What action (if any) may be taken to avoid the applicant becoming homeless or threatened with homelessness again

³⁵ Boobis, S., Sutton-Hamilton, C., and Albanese, F. (2020) ‘A foot in the door’ Experiences of the Homelessness Reduction Act. London: Crisis

The PRG also included a proposal that where the applicant is receiving support from other parts of the local authority, public bodies or other agencies, the local authority should consider how best to co-ordinate these services to the applicant, to assist in discharging the housing assistance duties.

The PRG expected that this would be a co-produced assessment, with a discussion happening around each of these areas, in line with the principles of the Prevention Commission relating to “ask and act” and increasing the applicant’s experience of choice and control. Therefore, the draft legislation proposed putting into law a requirement to come to an agreement with the applicant on these matters. Crisis strongly agrees with this, although we believe that the proposed wording “that the authority must take the applicant’s views into account” could be strengthened.

The assessment should be kept under review by the local authority until its duties to the applicant are discharged, and inform the applicant of any changes made to the assessment. Therefore it is vital that this is presented to the applicant in order to be able to challenge its contents and the delivery thereafter. It should also be part of an ongoing contact with the applicant during the process.

“A one-to-one conversation would be nice. It’d be nice for someone to actually phone you, now and again... rather than me having to take money out of my benefits, to top up my phone and call *them*.” *Focus group participant*

The applicant should be able to request a review of any of the above, including changes to the assessment. We also recommend statutory timeframes for handling applications.

Personal housing plans was a core part of HARSAG’s recommendations. We are not aware of any evidence within Scotland to suggest that PHPs are unhelpful, and are surprised at the suggestion within the consultation document that “it is not yet clear what additional benefits would be gained from implementing a standard personal housing plan approach.” We also note that PHPs have been a fundamental part of prevention legislation in England; to ensure they are effectively used, lessons should be learnt from implementation in England, and there should be training designed for LAs to be able to use them as an effective tool. Other statutory frameworks have similar functions, such as a co-ordinated support plan in the education system, and the Claimant Commitment in the benefits system.

“The criteria get worse and worse... the questions and what they’re trying to tell you is getting further from the truth of what you *need*. I think a lot of folk just want to explain their situation and just get a foothold, like, just a base... which you can be in for a year or as long as you need... and the rest of it will fall into place. Often, people can help themselves.” *Focus group participant*

“They need to know everyone is different and just because their story makes them similar to someone they have maybe helped before, they can’t just go ‘ok we will do this and this’. They need to get to know you as a person, and that helps you open up them as well. If they show an interest, rather than just paying lip service. You can tell they don’t care.” *Focus group participant*

Crisis understands the PRG's proposal to mean that the relevant aspects of the statutory homelessness assessment are provided to the applicant in the form of a personal housing plan. In Crisis' view this must include the points identified above, and must be provided in a way that is accessible and easily understood by the applicant. The draft legislation proposed that the whole assessment be provided to the applicant.

One focus group participant who had had experience of homelessness but was now working for a charity providing support to others, talked about the importance of having what he called a holistic 'personal care plan' in place, which set out all the different kinds of support that an individual needed.

*"When we work with New Scots [refugees and asylum seekers], we talk about having a ... almost like a personal care plan covering everything from their mental health to their... you know a holistic approach, every part of a person. So, plans like that, like how Social Work would use it with a member of the community that they're supporting, something like that for the Housing and Homelessness Team to say "that person needs X, Y and Z" it's not just the housing that they need, but these are the areas of advice that they need. Like, their benefits because they've been sanctioned or have been cut unfairly and that's causing them to be homeless, it's not their fault, so surely we should be putting them in touch with the citizens advice bureau or whatever. You know, a *plan*. Should be developed." Focus group participant*

(This contribution was prompted by a question about how to make the system more person-centred, but with no mention of the Personal Housing Plans proposed by the Prevention Review Group.)

If it is decided that Personal Housing Plans are not to be a part of the proposed changes, as seems to be implied from the wording of this section of the consultation, then it will be necessary to find an alternative means to build co-production, transparency and accountability into the framework in a way which supports the development of a stronger person-centred ethos.

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?

Crisis strongly supports the proposal for PHPs to form part of the statutory assessment process. In fact we see the PHP as containing some or all aspects of the assessment. Leaving them simply as an option would undermine the transparency and accountability of the system to applicants and reduce the sense of shared ownership in the process of addressing homelessness.

Housing support needs assessment

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?

Crisis strongly supports the proposal to assess and provide for housing support needs for people at risk of homelessness, as well as those who are homeless. In some cases this provision may be sufficient to prevent homelessness, either by itself or as part of a wider package of help.

We note that HL1 monitoring data demonstrates that there are major variations in how housing support needs are assessed, and whether provision is made as a result of such assessments, and this needs to improve.

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

Housing support needs should be assessed as soon as possible after the point of application so that any support can be put in place quickly and opportunities to prevent a situation escalating are maximised. Where a housing need is identified, provision must be made: all too often this does not happen according to current HL1 statistics, demonstrating the need for strong monitoring and accountability throughout the system.

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?

If there is a material change in the applicant's circumstances while they are receiving prevention assistance, the local authority should review the assessment. This should be done in discussion with the applicant with changes to relevant aspects of the assessment being documented in the Personal Housing Plan. Where someone previously threatened with homelessness becomes homeless then the "reasonable steps" duty should end, and they should be entitled to full housing assistance. This is regardless of whether the applicant became intentionally homeless or not. They should also be able to access temporary accommodation where this is necessary.

The PRG's draft legislation proposed that the assessment should be kept under review until duties to the applicant are discharged, and the applicant should be informed of any material changes to the assessment.

There should also be clear stated timescales regarding the length of time an assessment should take, and how long reasonable steps should be attempted for before they are deemed to have succeeded or failed following which new action needs to be taken, such as discharging the reasonable steps duty and taking on a full rehousing duty. No one should get trapped in the system because a duty is open-ended.

One participant interviewed as part of Crisis' three-year research project on the implementation of the Homelessness Reduction Act in England provides an example of what can happen when changes of circumstances are not adequately responded to:

"They did a homeless assessment on me and awarded me [banding]... I went back to housing last week and, as I say, I am now literally homeless, I'm just like sofa surfing at the moment, and they've told me they can't offer me temporary housing because the [status] that I was awarded at the time of my homeless assessment still stands even though the circumstances have changed."³⁶

³⁶ Boobis, S., Sutton-Hamilton, C., and Albanese, F. (2020) *'A foot in the door' Experiences of the Homelessness Reduction Act*. London: Crisis. Page 36. Available from: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/services-and-interventions/a-foot-in-the-door-experiences-of-the-homelessness-reduction-act-2020/>

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:

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

For the latter two groups Crisis does not believe there is sufficient clarity in the current law as to when someone is threatened with homelessness and exactly when they become statutorily homeless. Our impression is that different areas interpret it differently. For example, one local area might take an application for homelessness assistance at the point of a notice to quit being issued, while another may wait for a tribunal decision.

One of the foundational principles that informed the work of the PRG, and which Crisis supports, is the idea that if someone may still have access to housing which is stable and suitable to their needs and there is the possibility of saving that housing, this should be prioritised. The PRG's view, which Crisis supports, is that there should be equity in housing outcomes regardless of through which avenue an applicant enters the system, and that the housing outcome should be agreed on the basis of what is available and what the applicant's preferred choice.

We can see that use of the statutory approach in relation to people fleeing domestic abuse has led to preventative options not being explored or developed in Scotland³⁷ and women often forced to enter temporary accommodation they may not have chosen. This shows the need for more balance in the way in which prevention interacts with rehousing and who decides this.

There are several examples of circumstances where this might be the case.

- Where someone experiencing domestic abuse has statutory homelessness status (because they were not safe in their home), but they want to stay, and could be supported to continue living in their accommodation following the removal of the perpetrator through a Domestic Abuse Protection Order.
- Where someone facing eviction from a Private Residential Tenancy – for example due to rent arrears – could, with support from welfare and debt advice and landlord liaison, put a repayment plan in place and continue that tenancy.
- Where a young person's relationship with their family has broken down, leading to them leaving the family home, but through mediation and family support services, they might be able to move back in successfully and safely.
- Where the applicant had been subjected to harassment from family members or neighbours, but mediation or the removal of the harasser makes that housing is still stable and suitable for the applicant;
- Where the applicant themselves has been responsible for anti-social behaviour towards neighbours, but with support from mental health and other services could continue to live there;

³⁷ Nugent, B. (2021) Far Flung: Abuse in Rural Areas in North Ayrshire and Fife. Online: Fife Women's Aid. Available from: <https://fifewomensaid.org.uk/about-fwa/publications/>

- Where someone has been living in accommodation which is uninhabitable due to poor conditions or disrepair; and those conditions are improved or repairs carried out, and the property is suitable and stable for their continued occupation.

Firstly, the important consideration in all of these cases is the wishes of the individual or household. In developing a Personal Housing Plan with the applicant, the housing assistance service should explore whether return to their previous accommodation is the preferred option, and if so, what Reasonable Steps could be carried out, such as arranging for repairs to be carried out on the property, or ensuring the individual has access to welfare and debt advice or family mediation. In this context, it is easy to see how crucial the Personal Housing Plan is to the overall set of proposals. As an aside, any Reasonable Steps carried out in these circumstances should be attempted for no longer than the relevant period (maximum 56 days), following which the Reasonable Steps duty would end and the person would be owed the full rehousing duty.

Secondly, *any* accommodation that the applicant moves into following an experience of homelessness, *including* accommodation they used to occupy, must meet the legal definition of stable and suitable, *and* if it is an option which is not a 'standard' option, such as returning to live in the family home, all the other additional safeguards must apply, including requiring the individual's express written consent to be housed there.

Thirdly, it is vital that anyone in these circumstances who needs it is offered temporary accommodation, prior to either moving back into their previous accommodation or into alternative accommodation.

In cases where someone is returning to live in a property they used to occupy, the assessment of whether the accommodation meets the definition of suitable and stable may be more complicated, so the statutory guidance should be clear about what criteria the local authority needs to be satisfied of in order to consider discharging their duty in this way.

Meeting the needs of specific groups

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

Yes, we agree with the proposed requirement for the local authority housing assistance service to work with other services and partners to ensure the service meets the needs of specific groups at higher risk of homelessness. We believe that many good practice areas will already do this, but building it into the system can create a driver for these arrangements to develop more consistently and formally. The list of groups is not exhaustive and local areas should add other groups according to local need.

The issue of leaving the armed forces came up in both the focus groups and the Crisis-CAS case analysis. There was evidence in the case analysis of individuals leaving the armed forces without support to settle back into civilian life.

An East of Scotland CAB reports of a client who is registered homeless and is currently staying with a friend after his aunt asked him to leave. He has been living off his savings after his discharge from the Armed Forces in January 2021.

One member of a focus group spoke in detail about the challenges people face when leaving the armed forces and trying to settle back into civilian life:

“When you go through Army, Navy or Airforce... it’s a brotherhood. You’re safe, you’ve got this environment. They never support you back into Civvy Street [civilian life]. And honestly, it is a struggle, especially for guys who’ve done 20 or 30 years. To then just be put back on Civvy Street it is such a shock to the system it’s unbelievable. Yeah, you’ve got friends, but it’s not anything like the friends you made in the Forces. Because there was that bond and trust between you. I know it personally, there’s a lot of Vets out there who are still going through it today. And again, the majority of them are too embarrassed to ask for help.”

Focus Group Participant

In the focus group with young people, when asked what the main message was that they wanted to get across to Scottish Government, they responded that they thought the youth homelessness charity that had supported them should be something that was available to young people in every part of Scotland.

“The support provided by [charity], I feel like we need that on a national scale. It is only in some local authorities. You go twenty minutes into the neighbouring local authority and there’s nothing. So there needs to be something on a national scale.” *Focus group participant*

“I 100% agree. Obviously, we should be preventing young people from becoming homeless. It’s really ridiculous that it is not already!” *Focus group participant*

As discussed above, we also believe that the housing assistance service should work in partnership with other parts of the local authority supporting those in care and care leavers to ensure there is appropriate housing assistance in place for this group of young people.

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

The case analysis carried out by Crisis in partnership with Citizens Advice Scotland revealed particular experiences of homelessness and systemic barriers to accessing support and financial assistance experienced by different groups.

- It was clear that women often have a different experience of homelessness than men, related in particular to experiences of gender-based violence including domestic abuse and/or being the main parent responsible for children.
- Some of the clients included in this case analysis were asylum seekers or refugees. These cases revealed barriers experienced by this group relating to having no recourse to public funds, and/or interactions between the Home Office and the Local Authority.
- Other cases demonstrated barriers faced by EU Nationals experiencing homelessness. These tended to centre around the EU Settlement Scheme and/or the Department for Work and Pensions (DWP) Habitual Residence Test and its implications for access to benefits and support from homelessness services.

Whilst there are external factors that limit the statutory support that can be provided to different groups based on immigration status, it is important that the Scottish Government and Scottish local authorities do everything within their powers to co-ordinate the support provided by statutory and non-statutory agencies, such as has been set out by the Fair Way Scotland Gateway, and in line with

the Scottish Government and COSLA's Anti Destitution Strategy.³⁸ Experiences of EU citizens experiencing homelessness is a topic Crisis has carried out in-depth research into, which should inform efforts to prevent homelessness amongst this group in Scotland.³⁹

The Scottish Government and local authorities should also work with stakeholders to better understand and respond to the gendered nature of experiences of homelessness, including how men and women experience different kinds of violence and trauma prior to experiences of homelessness, and how women are often disadvantaged in other systems that interact with housing, such as the benefits system.⁴⁰

Guidance should set out how this requirement works with other requirements for local strategic planning to prevent homelessness. Consideration may be given as to whether there should be a requirement on certain bodies to work with the local authority to meet the needs of specific groups, such as the Integration Authority or relevant Community Planning Partners.

Domestic abuse

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

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

Please see the responses to questions 36 and 37.

Stability and suitability of accommodation

Note we have answered Q81 at the beginning of this section, as it provides the context for the rest of the discussions about suitable and stable accommodation.

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?

We welcome this question, as it is necessary to consider the criteria for suitability and stability as a combined package of safeguards. Crisis believes that the proposals around stability and suitability could allow people with experience of homelessness, or who are threatened with homelessness, greater choice and control through a wider range of housing options which match those available to the wider public and better align with the applicant's preferences, while also providing strong safeguards to prevent recurrence of homelessness and prevent this flexibility from being misused by local authorities. Such an emphasis is in line with the principles of a rapid rehousing and Housing

³⁸ Homeless Network Scotland (2021) *Gateway to a safe destination, support and advice for people with no recourse to public funds* <https://homelessnetwork.scot/wp-content/uploads/2021/10/Fair-Way-Scotland-Delivery-Plan-FINAL-051021.pdf>

³⁹ Bramley, G., Morris, M., Mort, L., Netto, G., Sosenko, F., and Webb, J. (2021) *The scale, causes, and impacts of homelessness among EEA Citizens*, Heriot-Watt University and IPPR

⁴⁰ Engender (2019) *A Woman's Place: Gender Housing and Homelessness in Scotland*. Available from: <https://www.engender.org.uk/content/publications/A-WOMANS-PLACE---GENDER-HOUSING-AND-HOMELESSNESS-IN-SCOTLAND.pdf>

First approach to ending homelessness⁴¹, and should shift the focus of the system away from a process to achieve the right housing outcomes for the applicant.

We understand that the rationale behind the PRG's proposals for stable and suitable accommodation included the following:

- Giving people choice in where they live, and the same access to the same range of housing options as are available to any other member of the general public, but with added protections to prevent a future risk of homelessness (a foundational principle of the proposals)
- Allowing legal flexibility for applicants to go into the housing option that most suits them (person-centred approach), with added protections to prevent them being forced into less secure or inappropriate housing (including requirement for written consent for more unusual options)
- Pragmatic use of the full range of housing options in an area, in the context of a shortage of affordable housing. Consistently, over recent years, around three quarters of outcomes for unintentionally homeless households are into social housing. This is not sustainable (or necessarily appropriate) for a widened prevention duty where potentially much larger numbers of households are receiving assistance to resolve housing issues, but for whom a social housing tenancy may not represent the only, or most suitable, solution.
- Ensuring there is equity in the housing on offer, whether a household is at risk of homelessness or actually homeless means that there is no disincentive for the applicant to engage with prevention activity or perverse incentive to try to access a better housing offer if a household becomes statutorily homeless. (In England and Wales this was addressed by making access to assistance conditional on the applicant engaging with prevention activity: they can lose right to any assistance if they don't comply with steps to prevent homelessness)
- Bringing further protections for those who return to previous accommodation or move in with friends (this currently represents 11% of outcomes for unintentionally homeless applicants; and 31% intentionally homeless applicants). At present there are no clear legal protections in place at present for this group and it is not clear whether the accommodation they move into is stable, suitable or safe, so these proposals represent a strengthening of protections for these individuals.
- Making the PRS as secure as possible, with an expectation that it will be available for a minimum of 12 months (given that there is currently no minimum legal tenancy duration)
- Facilitating discharge into other options where these are the most suitable and desired options for the applicant, including lodgings or social care supported accommodation
- Allowing a route to access supported housing in the social care system, which may be more relevant under a widened prevention duty. Crisis' understanding is that supported accommodation in social care often uses occupancy agreements (which may be different to supported accommodation within the homelessness sector which may depend more on short Scottish Secure Tenancies or Private Residential Tenancies (PRTs)).

⁴¹ Jones and Albanese (2022) Achieving a new systems perspective to ending homelessness through Housing First: A policy and practice guide. Housing First Europe
https://housingfirsteurope.eu/assets/files/2022/02/Systems_Perspective_Policy_and_Practice_Guide.pdf

- Finally, the PRG’s proposals assumed the removal of the intentionality test.

Crisis agrees with the reasoning behind these proposals. From Crisis’ perspective, if these proposals, as set out by the PRG, are to be implemented they must achieve the following:

- The applicant must be supported to fully understand their housing options and express a clear and informed preference as part of the statutory process. They should also be signposted to independent advice and advocacy as part of this.
- As part of the assessment process, discussion of what support is needed presently, and what may be needed to prevent homelessness in the future and provision of such support as appropriate
- The right to access statutory support immediately if the accommodation the applicant moves into ceases to be available, suitable or stable (e.g. they can make a subsequent homelessness application. There should be no intentionality test applied to this application.)
- Ensure that no one is subject to a lesser statutory housing offer because they are deemed to be at fault in the process of becoming homeless (for example if the intentionality test is retained).
- Clear statutory guidance around the circumstances in which non-standard housing options could be considered, including around the minimum standards, notice periods and what constitutes an acceptable written agreement, as well as examples of where those housing options should *not* be considered.
- A role for the regulator in monitoring housing outcomes and other relevant outcomes indicators such as repeat homelessness and applicant satisfaction (see section below on monitoring).
- Clear and strong rights to review and appeal, for example regarding where an applicant disagrees with what has been recorded in the statutory assessment / personal housing plan regarding preferred housing, and regarding whether the accommodation obtained is suitable and stable

We are aware of the concerns about the change from the current legislative wording from ‘permanent’ to ‘stable and suitable.’ In responding to such concerns, two considerations need attention when thinking about how housing options are framed in a new system focused on prevention.

First, supporting people who are threatened with homelessness generally involves either supporting them to remain in their current accommodation, or facilitating a managed move into other appropriate accommodation. The range of accommodation options to facilitate this should be broad, following the recommendations of the Prevention Commission, as well as for pragmatic reasons relating to the availability of housing in their preferred area. A legislative framework for homelessness prevention needs to facilitate both of these options.

Secondly, consideration needs to be given to how the homelessness prevention and full rehousing duties interact. The PRG’s view, which Crisis supports, is that there should be equity in housing outcomes regardless of through which avenue an applicant enters the system, and that the housing outcome should be agreed on the basis of what is available, what the applicant prefers, and what is suitable to meet their needs. It would in theory be possible to introduce one set of housing options

for the alleviation of homelessness, and another for the prevention of homelessness. However, this would likely introduce perverse incentives into the system whereby becoming homeless might be deemed as a gateway through which to access a different set of housing options. It would also mean the range of housing options permitted for someone who is homeless is more restrictive than for the general population.

It is essential to be clear that the proposals as they stand are not removing any of the current options for settled or permanent accommodation which are currently available to people through the homelessness system. Instead, they are adding additional options and safeguards in. These additional options could only be used where it is the applicant's choice (i.e. with their written agreement and with no penalty if they do not want these), and with specific protections of being expected to be available for a minimum period and being suitable to the specific needs of the household. These may be particularly relevant to those further away from immediate homelessness, but some homeless applicants may also prefer these options in certain circumstances. The local authority will have to be satisfied that these accommodation options remove the threat of homelessness.

Finally, whilst the word 'permanent' has certain everyday connotations, these are not currently reflected in law. There is, at present, no requirement for a minimum period for a private (or indeed a social) tenancy that a homeless household is discharged into, so it may be argued that the word "permanent" has already changed its meaning in law, and in policy terms the language used now generally refers to "settled" rather than "permanent" accommodation. Moreover, no form of accommodation can be totally guaranteed to be available for a particular period. For example, social or private tenants or owner occupiers may be required to leave their accommodation where they are responsible for illegal or anti-social behaviour or cannot resolve their housing debts.

In fact, the PRG proposals which require housing options to be 'stable' and 'suitable' strengthen the security of the options a homeless household is discharged into, because they ensure it is affordable, suitable in other ways and that there is an expectation that it is available for a minimum period of 12 months.

In addition, 'permanence' of accommodation fails to take account of the housing journeys that people (homeless or otherwise) may make as their life stages and circumstances change. For example, a 17-year-old who recently left home may prefer to share with others initially, rather than initiate a social tenancy with the expectation that they will live there for the rest of their life. As a young person in one of our focus groups said:

"A lot of these young people are thrown in the deep end and told to sink or swim. And for a lot of these young people they've not got the necessary skills to run their own household, run their own tenancy. Which is no fault to them! Someone at age 16 or 17 shouldn't know how to pay their rent, how to get all their utilities sorted, their gas their bills, how to navigate rent deposit schemes. You shouldn't need to know that at that age." Focus group participant

In the focus groups Crisis carried out around Scotland at the beginning of 2022, we asked people to prioritise their top three factors that informed their preferences around where they wanted to live. Of the 15 participants who took part in the exercise, 11 participants mentioned location as important to them, followed by safety (7 participants, particularly those with experience of domestic abuse), 5

named security of tenure, and 4 mentioned the size or type of property. A range of other factors were also named, including cost, accessible, and speed of accessing a new home. Pets, rural location and community were other factors that came up. This demonstrates the wide range of priorities that people have.

Location meant different thing to different people. For some it was about proximity to employment, family or amenities. For others, location could be a factor in their mental wellbeing, with some preferring central locations and others seeking more rural quiet areas.

“Obviously I want to live in areas that are close to my work, close to family, because I don’t want to go to the opposite end of town where I don’t know anyone, where it’s going to take me a long time to get to work. I’ve got an eight and a half month old and I need to be able to take him to nursery and take him to my mum’s and I can’t do that if I’m the other side of town. I’d need to get up at four o’clock in the morning.” *Focus group participant*

“Location as well is a massive one. Where is close to employment opportunities, close to family and things like that. That’s the thing that’s taking up a lot of my headspace.” *Focus group participant*

“We always stayed quite central. I don’t like the idea of staying far out and just being around housing and no amenities of any sort. I find that quite depressing, I need to have a little bit of activity.” *Focus group participant*

Affordability included rent, Council Tax and maintenance. Some felt private sector properties could not be considered on this basis.

“Cost, not too expensive to maintain, and not in a high council tax band.” *Focus group participant*

“Now I’m in mid-market it feels much better for me, well a lot better than when I was paying £1,200 rent, because now I can afford food! But I’ve always done private rentals but not mid-market. This is a new one for me. So, the leap down to me feels quite secure.” *Focus group participant*

(Note that a private sector tenancy can currently be offered to a homeless household to discharge duty. A conversation about different options, the applicant’s preference and suitability would facilitate a realistic exploration of what is appropriate for the applicant’s circumstances.)

For others, particularly in Edinburgh and Aberdeen, social housing felt impossible to access.

“I don’t even think about social housing anymore because to me it just feels so impossible to get it. And plus, my kids are older now so I’ve no chance.” *Focus group participant*

“People are waiting five years to get moved, and they are just topping themselves in that time because they can’t hack it. They can’t escape that lifestyle.” *Focus group participant*

This demonstrates the importance of Scottish Government delivering on its commitment building affordable homes, and ensuring they are meet local needs in terms of location, type and size.

People also considered the trade-offs they might make in different circumstances and needing to consider the reality of the situation.

“It depends on the situation, if I was still with my ex-partner, I wouldn’t have waited a year [to be housed]. But now I would wait for a secure tenancy. Otherwise, you are just starting the problem all over again when the lease runs out.” *Focus group participant*

“It really depends on the urgency. If I needed to leave and I got offered a Council house and it wasn’t my first or second or third choice, I’d probably still take it. It really depends on the situation. If it didn’t tick any of the boxes I probably wouldn’t, but if it ticked a couple of boxes, like it was the right number of bedrooms in the right location... then I probably would. I’m not sure. But, being a Council house is a really big benefit, and so it might make me willing to compromise on one or two other factors.” *Focus group participant*

“there was a cut-off point and it was so lucky to have that done because I would of ended getting something [unaffordable]...you know cause I was moving from a three-bedroom house with garden and garage and everything down to a two bedroom flat in [location], which was quite a big move for me. It was a really nice flat, but you know, it was quite a down-size. But it was good having that realism. The reality there. So you’re not going to get in trouble again. That was a really good service that they did. An injection of reality, you know what I mean?” *Focus group participant*

Some participants spoke about it not mattering to them what type of tenancy it was, as long as it felt like home.

“It doesn’t really matter. If it’s the right house, it’s the right house. I’d be just as comfortable with a private landlord as a social landlord, as long as it was affordable.” *Focus group participant*

“I was told that if I went down the mid-market route, I’d have a choice in where I wanted to stay, whereas if I went down the route of a.. is it a PSL? A Private Sector Lease? I wouldn’t have a choice of where I could stay. It would be whatever is there, you have to take it.” *Focus group participant*

Some people spoke about the challenges of only having one offer, including in a choice-based letting system:

“Sometimes you are being put in areas that say if you are homeless you get one choice. That’s it, you are taking it or nothing. But sometimes that puts you back in places or areas that maybe don’t suit.” *Focus group participant*

“It’s so much easier to get into the private sector and the mid-market sector than into the social sector... It’s ridiculous. Three times you’ve got to bid a week. It’s got to be in by a certain time and if you don’t bid then you start losing points and you probably end up... there’s properties on it that I don’t want to live in. It’s areas that are too far away for me. So, I’m not going to bid on places just because I have to.” *Focus group participant*

If alternatives to the proposals for stable and suitable accommodation are developed, they must address the reasoning and minimum objectives set out above.

Consideration should be given to a requirement for two offers of suitable and stable accommodation before the local authority discharges duty to an applicant. Many local authorities have arrangements in place for this already, and this would be an additional safeguard, on top of the person-centred discussion of suitability and stability requirements, so that applicants do not feel forced into accommodation they do not believe is suitable and have more of a voice in the system.

We would also recommend that an applicant is given a reasonable time to consider their housing options before making a decision about whether to accept an offer or not. The timing for this is likely to vary by circumstance. Where possible, local authorities should also support people to obtain independent advice regarding their housing options.

Crisis supports the proposal that all housing options should be assessed in terms of their stability and suitability, before being considered an appropriate and legal housing offer.

Stability of accommodation

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

Crisis strongly supports the principle of “stability”, particularly in relation to those housing outcomes that currently have no protections, specifically returning to previous accommodation, or moving in with family or friends. Given more than one in ten homeless applicants receive these housing outcomes, we believe there should be a mechanism in place to ensure that this is an appropriate option for them in terms of stability, suitability and safety.

It is important for this question to be understood in the context of the wider proposals. Firstly, it is important to note that the PRG intended for the current options available for housing those experiencing homelessness or threatened with homelessness (namely a Scottish Secure Tenancy, a Short Scottish Assured Tenancy or a PRT) to be available, with all the existing security of tenure that currently exists for those tenancy types. However, in *addition*, these tenancies/tenure types would – under the proposals – need to meet the requirement of the local authority having a reasonable expectation that the tenancy will be available for a minimum of 12 months. This could be seen as strengthening the existing security of tenure currently in place for people in the private sector for example.

It opens up a range of other housing options that would not be available if the current options for discharge of the rehousing duty were transferred across to a strengthened prevention duty. These include social care supported accommodation which we understand often uses occupancy agreements rather than formal tenancies. Until the time comes when the social care sector consistently uses stronger forms of accommodation agreements, we believe that there is a benefit for people with specialist needs requiring social care accommodation being able to access this through a housing assistance framework.

It also opens up options that may be more appropriate for particular cohorts of people, such as supported lodgings for young people or culturally appropriate options for gypsy/travellers. The

consultation refers to the suitability of accommodation for gypsy/ traveller applicants, such as a mobile home or caravan. Under the PRG's proposals, consideration would also need to be given to the stability of such accommodation. Under the proposals, if such accommodation is owned by the applicant and they have somewhere suitable to keep it, or it can otherwise be demonstrated to be available for long-term occupation, it may be considered stable, but a local authority may have concerns for example if the applicant cannot park anywhere due to a lack of suitable sites or the applicant does not have sole occupancy, and therefore may not discharge their duty into the accommodation (in such a case the applicant would still be entitled to withdraw their application and occupy that accommodation, having been informed by the local authority that the accommodation is not considered appropriate to end a threat of homelessness).

In this way, it opens up to people going through the statutory assistance process, the same housing options that are available to any other member of the general public, but with additional safeguards including of stability.

We also note that, under the new proposals, someone will be considered as at risk of being homeless within the next six months with a legal duty being owed to them. This means that, whatever accommodation they go into or return to the local authority will have to satisfy itself that the threat of homelessness within the next six months is removed. In other words, they will have to satisfy themselves that the accommodation that the applicant goes into is stable for six months and there is no subsequent threat of homelessness during that period in order to discharge the duty. Therefore, the **issue of guaranteeing stability arises by default, whether or not Scottish Government decides to proceed with the proposals for stability as set out by the PRG.**

As an example, without any other definition of stability within the legislation, take a young person who is under threat of homelessness following an argument with their parents. The local authority facilitates family mediation as a reasonable step to secure the home remains available to the young person. In order to discharge their duty to the young person, the local authority must be satisfied that the young person is no longer threatened with homelessness within the next six months.

If this concept of stability is not defined clearly in law, our concern would be that a wide range of practices would emerge in this area. Applicants who want to go into any form of accommodation where there is not a guarantee of its long-term availability might either be encouraged to withdraw their application and take up their own options, or be encouraged to go into the only form of accommodation that can be guaranteed to be available. In such circumstances some local authorities may even consider a PRT not be secure enough, given that they have a maximum 12 week notice period and no minimum initial period.

Crisis believes it is better to have a clear and consistent definition of the appropriateness of accommodation, defined as suitable and stable as set out by the PRG rather than to have defaults which arise out of the complex interactions of different aspects of the duties.

It may be appropriate to consider the language and, rather than the term "stable", use "settled accommodation", which is commonly recognised in homelessness policy, particularly RRTPs, as well as in recent homelessness regulations⁴². This may mitigate some concerns or confusion and

⁴² The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No. 2) Order 2020 <https://www.legislation.gov.uk/ssi/2020/419/contents/made>

strengthen a shared understanding of the intentions of the proposals. In this sense, accommodation would meet the current understanding of settled accommodation (social and private tenancies, owner occupation), alongside other forms of accommodation desired by the applicant so long as it meets the criteria of being available for a minimum length of time and is suitable to their needs.

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?

Crisis agrees that 12 months is an appropriate minimum expected period for accommodation to be expected to be available for people who are threatened with homelessness. In line with the principle of opening up the widest range of housing options to people experiencing homelessness, facilitating a more person-centred approach, and having an equal housing offer across both aspects of the system, we also support it for people who are statutorily homeless too. It would give greater stability than is currently guaranteed in options used to house people experiencing homelessness, including those who go into the private sector or those who go to live with family or friends. By having the local authority play an active role in ensuring these options would be available for 12 months, we would be strengthening the system for those who choose it.

As discussed above, unless a specific timescale is stated in legislation, the automatic default timescale for accommodation to be available will be in line with the timeframe defined as when action needs to be taken to prevent homelessness. If this is six months away from homelessness, then in order to fulfil the duty of preventing homelessness, the local authority will have to be satisfied that in moving to their new accommodation the person is not under threat of homelessness in the next six months.

When the new Private Residential Tenancy was being introduced, debate in the Scottish Parliament regarding the time it takes for someone to establish a home led to the decision not to introduce an initial minimum time period for a tenancy. In line with Prevention Review Group recommendations, Crisis believes that 12 months provides a more realistic time period for a household to establish a stable home following homelessness or a homelessness threat, and that 12 months is a reasonable time for a private landlord or host to commit to when providing a tenancy to someone who has experienced housing crisis.

There are a range of trade-offs that need to be considered in this proposal regarding the stability of accommodation. We recognise that an expectation of availability for 12 months is not a legal guarantee. However, a local authority will need to be in a position to satisfy itself that the accommodation is likely to be available for such a period, and demonstrate the reason for believing that if challenged through review or tribunal. This would be an added protection or safeguard introduced to the system, as it does not currently take place. If this proposal is not adopted along the lines of the PRG, local authorities will still have to do this regarding a period of six 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?

Private tenancy

For a household moving into a private tenancy, a minimum expected occupancy of 12 months through a satisfactory landlord assurance is a stronger position than the current position, where tenants may be subject to an eviction notice from day one of the tenancy.

It is possible that such a commitment may dissuade some private landlords letting to tenants who have come through a housing assistance process, but we believe this is an appropriate trade-off in safeguarding people who have recently been through housing crisis. Other provisions in the proposals, especially those relating to landlord liaison and PRS access schemes, would help local authorities build relationships with landlords who are willing to engage with this process. In Crisis' experience, landlords often welcome the additional support provided by such schemes and are willing to take additional steps in return.

Occupancy agreements

Accommodation which uses **occupancy agreements** might include some form of supported accommodation (particularly in the social care sector) and more informal housing arrangements such as lodgings or community hosting.

We note that in some cases an occupant may build up contractual rights through a statement of rights and responsibilities⁴³ (see safeguards below), and other cases it may be that it forms a private residential tenancy.

Crisis was involved in developing, and are supportive of the policy position paper developed in response to the findings of the Shared Spaces research, which began the process of envisioning how some forms of supported accommodation could play a role as a settled housing option.⁴⁴ That paper recommended "a transformation programme toward supported housing being provided as a settled housing option for a small number of people using homelessness services who need or want long term care on-site," with the underpinning principles being: "to maximise choice and security of tenure wherever possible so that people can live at home or in a homely setting, while recognising that for some households [security of tenure] may not be the most important factor influencing their housing choice." Finally, the Shared Spaces policy paper recommended that supported models that provide a tenancy agreement (whether Scottish Secure, or Private Residential Tenancy) should be prioritised in planning and commissioning decisions. Crisis supports this position as part of a broader strengthening of housing rights for people accommodated in supported accommodation.

Returning to or remaining in the family home

It is essential that a legislative framework focused on preventing homelessness has a clear mechanism for people to **remain in or return safely to their accommodation** and for the local authority to discharge its duty. Capturing this as an outcome will also be necessary for monitoring the efficacy of the new framework. Furthermore, this is a significant improvement on the current position where there is no protection for people threatened with homelessness, or actually homeless, who choose to return to their family home by withdrawing their application for assistance. Currently people returning to the family home or going to stay with family or friends makes up around 11% of final outcomes for unintentionally homeless households, with no indication of whether this is a positive or negative outcome.

⁴³

https://scotland.shelter.org.uk/housing_advice/renting_rights/common_law_tenancies/about_common_law_tenancy_rights

⁴⁴ Homeless Network Scotland and Indigo House (2021) *Policy Position: The future role of supported housing to prevent and respond to homelessness in Scotland*. Available from: <https://homelessnetwork.scot/wp-content/uploads/2021/10/4.-Shared-Spaces-POLICY-POSITION-041021.pdf>

While it cannot be guaranteed that return to the family home or to live with a friend will be a stable form of accommodation, we believe that the local authority securing an expectation that the accommodation should be available for a minimum of 12 months creates an appropriate test for the stability of such an arrangement. For example if, following mediation, a parent does not feel able to accept a young applicant back into the family home for a minimum of 12 months, the local authority cannot be satisfied that the arrangement meets the criteria of stability and therefore must find an alternative option to discharge their duty to the applicant. Notably, someone could only be discharged back into their accommodation if they have made an informed choice and given written consent to this option. To make an informed decision, it is strongly recommended that the individual is signposted towards independent advice at this stage. This is a situation where there may be a clear advantage to the local authority being required to provide more than one offer or option to a household before discharging its duty.

During one of the focus groups, young people with experience of homelessness discussed the support that was needed when people make the decision to return to or remain in the family home. One participant explained that whether a young person moves into their own tenancy, or returns to live with their family, it is important that the young person has the support to make that housing option work.

“It really depends on the circumstance of the person. I’ve seen people who have had to leave the family home due to family breakdown and all sorts of emotional abuse... and they’ve gone into their own tenancy, and it isn’t working, the tenancy is a nightmare... and the family is like ‘oh, come back’ you know, trying to get them to give up that tenancy, to come back to the household. And obviously that isn’t in the best interests of the young person. When they can be provided with support, staying in their own tenancy *is* the better option for them. But, equally, saying that, there are situations where going back to the family home *is* in the interest of the young person. What I’m saying in a very roundabout way is, it depends. But, providing the right support either way, is really important. The mediation and the continued support. You need to look at why they left the family home in the first place. There’s no point in putting someone back into a toxic environment if you haven’t provided mediation and support there. And equally you don’t want someone going into a tenancy if they can’t stand on their own two feet.” *Focus group participant*

Another participant talked about the importance of making sure that if someone returns to the family home and things do not work out, that the individual can access support from the housing assistance/homelessness service quickly and effectively, and does not experience any barriers to accessing support.

“One of my friends spent seven or eight months homeless, and then she went home, and it broke down within the space of like, a week or two. And she had to restart her whole homeless thing again. In the grand scheme of things it doesn’t seem that long, but at the time it felt long because she was so close to getting her own flat and she had to restart, just because she’d had to go home for two weeks. And so I think there should be a kind of grace period of.. because she’d done all this work to get a flat and, you know... You need someone checking at home. Because, it’s like, you go back home and that’s you. And they [the Council] don’t think about ‘well, why did you leave home in the first place?’” *Focus Group Participant*

Ultimately, what is important in any of these cases is that the accommodation in question is clearly the choice of the person experiencing or at risk of homelessness, that the accommodation meets their needs, is stable, and that there are adequate safeguards in place in case that accommodation broke down. This definition of what constitutes stable accommodation needs to be accompanied by:

- The clear consent and informed agreement of the homeless applicant
- Clear obligations on the local authority to satisfy themselves that it will continue to be available for 12 months
- Recourse back into the homeless system if the accommodation breaks down

Finally, if a person was staying on a more temporary basis back at the family home, including after successful mediation, they should not be discharged, but continue to explore other options with help from the local authority.

Suitability of accommodation

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?

Crisis strongly supports the specific criteria identified to define the suitability of accommodation. This goes beyond the current requirement for accommodation not to be “unreasonable”⁴⁵ by making the criteria explicit and specific. These should also be personalised to the household as part of the assessment process, in discussion with them and documented in the Personal Housing Plan. The PRG recommended there should also be a discussion of support needs as part of this process, which may be relevant to decisions about the suitability of accommodation.

In addition to the criteria set out here, all accommodation must meet basic health and safety requirements, such as being wind and watertight, not be overcrowded, and meeting other legislative requirements such as the Repairing Standard or Scottish Housing Quality Standard, private landlord registration and HMO licensing, as appropriate. It is worth noting that in the draft legislation in the appendices of the PRG report, there are certain matters that the local authority “may” satisfy itself of, such as the property meeting the Repairing Standard. We think it should say: “it is only to be regarded as suitable where the authority is satisfied that...” as this puts the onus on the local authority to satisfy themselves that the accommodation is suitable. This might simply require an assurance from the landlord that matters will be resolved with the tenancy, or might require additional reassurances such as instructing an environmental health or independent report.

The list as set out should be minimum essential considerations in law, but guidance should support consideration of other factors relevant to the household, such as ability to have pets.

In its considerations regarding whether accommodation meets the criteria for suitability, the local authority should pay particular attention to the safety of the applicant with regards to being at risk of abuse. This is important in situations where a young person might be considering returning to the family home, or where a person who has been going through relationship breakdown might be

⁴⁵ Currently a LA cannot discharge a homeless household into accommodation which is

- Overcrowded
- Does not meet the special needs of the applicant or other person in the household
- Unreasonable for the person to occupy

(s31(5), s32 (2E), Housing (Scotland) Act 1987)

considering returning to live with their spouse/partner. In such cases there is a high risk of coercive control and domestic abuse, which the local authority may or may not have been made aware of. For this reason, **it should be specified in law that the local authority should satisfy themselves that the applicant's safety is not at risk** if they express a desire to return to their previous accommodation. If they cannot satisfy themselves that this is the case, this should not be considered a suitable option, and the local authority's duty to the applicant could not be discharged.

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?

Crisis has addressed this question at the beginning of this section, as it sets the context for the discussions about accommodation options.

Safeguards for non-standards options

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?

It must be clear that the applicant can reject any one of the more unusual "non-standard" accommodation offers without any penalty. If an applicant does this, then the applicant should be entitled to assistance to secure a "standard" (permanent or settled) housing option.

In expanding the housing options available to people under threat of homelessness, it is vital that specific safeguards are in place, and that these safeguards are rigorous and can be challenged if they are not suitable. It will be important that discussions regarding housing options are documented through a Personal Housing Plan which is available to the applicant, with effective rights to review and challenge.

Should such accommodation cease to be available to the applicant, it must be made clear to applicants that they have the right to make a new application for assistance immediately (including no intentionality test). This should be explicit in guidance. The above recommendation regarding allowing an applicant reasonable time to consider housing options and ensuring they can access independent advice will be particularly important where these housing options are being considered, and this should also be clearly stated in statutory guidance.

We believe that with these additional points, this provides an appropriate balance of flexibility, safeguards and opportunities to challenge decisions.

We recognise that there are concerns around these expanded housing options, and while we believe that any additional risks are balanced by the proposed safeguards, it may be appropriate to consider monitoring the implementation of these additional options. Containing the framework in primary legislation, and the details in secondary legislation, as proposed by the PRG would make it more straightforward to review and amend these options if deemed necessary at a later stage.

Recommendations for enforcing people's rights

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?

The recommendations for enforcing people's rights are a critical part of the package of proposals.

The right to review is a vital first step in challenging where decisions have been made wrongly or inappropriately, where the law has not been followed, and where people have not received the assistance they require.

The measures identified in the PRG report and listed in the consultation look comprehensive in relation to the package of measures proposed. The list will need to be revisited when the proposals are put into draft legislation to ensure that they remain comprehensive and that there is a right to review for all relevant stages of the process.

In the draft legislation prepared by the PRG, it was proposed that the time limit for submitting a review was extended from 21 days to 28 days (see section 35A(3, 6) of appendix 1), and Crisis supports this change. We believe that the proposed grounds are expanded from those available in the current system, and we welcome this. It also proposed that an applicant may request a review of whether accommodation is suitable and stable for discharge, even if the applicant has accepted that accommodation, and Crisis believes this should be considered.

Independent advice and advocacy are important for people who feel that the system has not worked as it should to resolve their situation. In these circumstances, people will often be facing particularly challenging situations and timelines to make decisions are short. Relevant notifications (such as correspondence regarding decisions) and guidance should point people to sources of independent advice and advocacy.

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

Crisis strongly welcomes the PRG's proposal to create a right to appeal decisions through the tribunal. At present there is no scope for appealing a decision following review. The only way to challenge a decision at this stage is to take forward a judicial review. This is extremely costly and difficult to access (for anyone, let alone those without homes) and can only be used to challenge the legality of a decision⁴⁶. We believe that this is an anomaly, in that in many areas of legal entitlement, there is an appeal available to tribunal, such as the social security tribunal for benefits cases, or the housing tribunal for private tenancy issues.

Moreover, the proposal made by the PRG is not simply for a right to appeal based on the legalities of the case, but also on the merits of the case, i.e. whether the decision made was right in the circumstances. In work with a solicitor from the Legal Services Agency to inform this consultation response, we were advised that if implemented a merits-based appeal would be a real innovation in homelessness legislation in the UK. The power for a Tribunal to overturn decisions would be a very significant development in terms of legal access for people at risk of homelessness.

⁴⁶ Kiddie, J (2020) Homelessness and judicial review – a missed opportunity for reform *Scottish Housing News* 27 July 2020 <https://www.scottishhousingnews.com/articles/jon-kiddie-homelessness-judicial-review-a-missed-opportunity-for-reform>

We recognise that this proposal may have significant resource implications. Nevertheless, if we are serious about improving the experiences of people facing homelessness and housing crisis, often in some of the most challenging circumstances of anyone in our society, it is necessary to ensure that there is a comprehensive set of rights to legal protection and redress. People have the right to Tribunal in many other critical areas but if they become homeless or are threatened with homelessness, they currently have very few rights or power to challenge poor or illegal decision making.

Currently it is well-known that legal duties within the homelessness system are frequently breached, including the duty to provide temporary accommodation and take a homelessness application. This suggests that the current framework of accountability is not as effective as it could, or should be, for those facing homelessness

In addition, some of the proposals made by the Prevention Review Group introduce more flexibility into the framework, including around the housing options used for discharge, and the definition of threatened with homelessness. Strong rights to appeal will be necessary for this flexibility to operate effectively, consistently and fairly.

With regard to the process, we would expect that an appeal process would draw heavily on statutory guidance developed to support the implementation of a new legal framework, and therefore such guidance would need to be drafted clearly and comprehensively, with the understanding that it would be used by a tribunal as part of its decision making process. Areas that are not drawn up in such a way may become grounds for case law.

The grounds for appeal should be as wide as those for review.

In general, we would expect the process to be that where an applicant is unhappy with a decision they would first request a review before appealing the decision. However, if a local authority refuses to provide a review, this should not be a barrier to making an appeal.

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

The Regulator does not have a role for enforcing individual rights currently, but has an essential role in oversight, thereby enabling individuals to access good quality support. Increased clarity in the law will enable the Regulator to support local authorities to improve their homelessness prevention work. A suitable regulatory monitoring framework will need to be developed to facilitate this oversight in the fullness of time.

The Regulator should also have a role in overseeing the homelessness prevention activity of social landlords. As discussed above, further clarity is needed in relation to those duties before the role of the Regulator can be specified.

We warmly welcome the PRG's proposal for an annual report on the experiences of households who are homeless or facing a threat of homelessness. This would be a valuable addition to the Regulator's work, focusing on the most vulnerable group of people it has been set up to protect.

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

The duties and responsibilities proposed in this package of measures have wide ranging implications including for services overseen by a variety of regulators. Crisis is not familiar with the regulatory frameworks for these different public bodies, but it may be appropriate for regulatory oversight to consider issues related to the housing of people who use these services.

For example, the second of the nine national Health and Wellbeing Outcomes for integrated health and social care services is “People, including those with disability or long-term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.” This is directly applicable to the proposals being made here, and there should be an explicit emphasis in regulatory oversight for this outcome relating to assisting people to maintain their housing.

In future, services will also have to adhere to any new human rights frameworks that are introduced, including a right to adequate housing, and this may be of relevance to regulation.

We believe there is an opportunity for greater collaboration between regulatory bodies with regard to the issues affecting homeless people. People facing homelessness and housing crisis are likely to be in touch with a range of services regulated by different bodies during their journey through homelessness. For example, homelessness services are overseen by the Housing Regulator while supported accommodation which they might access is regulated by the Care Inspectorate. The Scottish Prisons Inspectorate will also have relevance for people leaving prison, and Audit Scotland have an overall responsibility for the use of public funds. There is a case for joint thematic reviews or other joint working, however, how this works in practice will be to some extent dependent on the re-shaping of health and social care services through the National Care Service Bill.

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?

Crisis understand that such a process was in place previously under Supporting People. We believe there is a need for a better understanding of the housing needs of local populations, particularly in relation to a risk of homelessness, need for affordable housing, needs of those in the PRS and the size of homes required to meet homeless demand in a geographical area. Such understanding should inform local housing strategies and housing need and demand assessments, community planning and other relevant strategic planning. It is likely to be of benefit in other ways, including assessing need for accessible housing and prevalence of housing issues relating to health and social care needs. Therefore we welcome this proposal.

4. 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?

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?

The PRG has put together a comprehensive package of measures which together create a holistic system for people facing homelessness either imminently or in the next six months. There are a number of dependencies within the framework, which if decoupled could undermine the workings of the proposals as a package and have unintended consequences. These include in relation to complementary requirements on different public bodies to work together in operational and strategic ways, and interactions of different parts of the proposed statutory homelessness framework. It is important that the proposals are implemented as a package to protect and retain their spirit.

There is always a risk that in reviewing and overhauling an important statutory framework, changes may inadvertently undermine the strength of rights that currently exist. Errors and omissions may enter through the drafting process, consultation may drive legislation in new directions, and the parliamentary process may introduce amendments which deliberately or inadvertently undermine the intended principles, rights or dependencies within the legislation. It is for this reason that it is vital that legislation is drafted which reflects the strength and principles of the original proposals, and that work is done to bring other political parties and other parts of government on board with these proposals before they undergo the parliamentary process.

In Crisis' view, embedding a person-centered approach, combined with ensuring individuals have clear rights to review decisions is central to the success of these proposals.

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

Crisis believes these proposals have the potential to have a positive impact for people with protected characteristics as defined by the Equality Act 2010. To provide some examples:

- The requirement that a housing outcome is 'suitable' including with respect to needs related to a disability and/or health condition, as opposed to 'reasonable' strengthens the requirement for local authorities to satisfy themselves that a housing option will meet these needs;
- Similarly, the 'suitability' test will help ensure that housing outcomes are culturally appropriate, such as where the applicant is from a Gypsy / Traveller community or where it is important to the applicant that they are housed in a neighbourhood in close proximity to a particular place of worship or proximity to other members of a community based on ethnicity or religion;
- The proposals relating to domestic abuse have the potential to better protect women from gender-based violence;
- The proposals around reasonable steps and the extended prevention duty have the potential to support people to access more effective support earlier in circumstances when they are experiencing harassment and discrimination from neighbours based on protected characteristics (an issue that emerged from the Crisis-CAS case analysis).

Crisis also believes that the proposals will have a significant positive impact of people experiencing socio-economic disadvantage and poverty (including children), many of whom may have housing difficulties as part of their experiences.

Fundamentally, the extent to which these proposals have a positive or negative impact on people with protected characteristics depends on the extent to which they are implemented in line with the policy intention of the proposals, particularly relating to embedding a person-centred approach. If the person is empowered to be at the heart of the decisions that are made about their housing journeys, outcomes, and support, then the risk that the proposals will have negative implications for equalities is far less.

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?

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?

Crisis provides education, training and support for people experiencing homelessness in Scotland, empowering them to move on from homelessness through our Edinburgh Skylight.

In terms of the implications that the new duties might have on third sector partners such as ours, there are three points to consider. Firstly, it will be necessary for organisations to deliver training to frontline service delivery staff, and for organisations providing advice to ensure the information on websites and other forms of written literature are up to date. Secondly, there might be a role for third sector partners, particularly in the advice sector, to refer into the local authority housing assistance service, which may have capacity implications as it is likely that a new extended prevention duty would apply to more people than it did previously. Thirdly, the proposals include that the local authority can signpost to or commission other services to support it in meeting its Reasonable Steps duties. This could mean increased signposting or referrals to third sector partners as well as *from* third sector partners. For example, if there is a requirement on local authorities to introduce family mediation services as part of their prevention offer, this may very well be commissioned to specialist children and families services or mediation services.

At this stage, it is difficult to quantify what the resource implications of the above three points will be for third sector partners. It is worth mentioning that there might be positive impacts on the resources of third sector partners too, if more people receive the support they need before they reach crisis point.

Crisis has a role in supporting local authorities to implement effective homelessness assistance through its best practice and consultancy work. Through our policy, campaign, and research functions we also monitor and report on practice on the ground and try to ensure that systems are working as well as possible. We envisage that once the legislation is enacted we would continue with these supportive functions, including through consideration of specific aspects of work we identify. For example, following the implementation of the Homelessness Reduction Act in England, we worked closely with a small number of local authorities to implement the legislation and share learning, and we also carried out an independent longitudinal evaluation of the impact of the legislation.

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?

Yes, the potential for these proposals to offer potential savings to services through an increased focus on early intervention, as well as preventing individuals from experiencing the trauma and indignity of homelessness, is why Crisis is such an advocate for these proposals.

Scottish local authorities spend millions on temporary accommodation each year with a huge cost to the taxpayer. Figures obtained from Freedom of Information requests in 2018 put the bill for temporary accommodation in Scotland at £660m over five years.⁴⁷ This was an issue that some focus group participants felt strongly about too:

“I was in temporary accommodation, and you get to see how much they’re paying the landlords. And they’re paying these landlords an incredible amount of money, and you think ‘if I was living in private flat I could pay half of what you’re paying to this accommodation place’ ... if they took all the money they’ve been using on temporary accommodation and invested it in new housing – new social housing – they’d have almost free of charge or very low prices and they wouldn’t be paying out this exorbitant prices to these sharks who are providing to the Council for nothing.” *Focus group participant*

Demand for temporary accommodation per 1,000 households increased significantly in Scotland as entitlements were widened through the abolition of Priority Need, and surpassed comparative demand in Wales around 17 years ago and around 12 years ago in England. After a small reversal in the steep increase around the time of the introduction of Housing Options approaches, demand for temporary accommodation remains high and in the five years preceding the pandemic had begun to increase again. The emphasis on prevention in RRTPs suggests that Scottish local authorities see prevention as one of the key ones of addressing the level of demand for temporary accommodation.⁴⁸

Homelessness also has a human cost. The distress of lacking a settled home can cause or intensify social isolation, create barriers to education, training and paid work and undermine mental and physical health. When homelessness becomes prolonged, or is repeatedly experienced, there are further deteriorations in health and well-being, all of which can increase public spending on other services.⁴⁹

As part of Crisis’ 50th anniversary *Plan to End Homelessness*,⁵⁰ we commissioned a cost benefit analysis from PwC, which showed that implementing measures in Scotland to prevent homelessness as set out in that plan would cost £76 million over a 25 year period, but had the potential to generate savings of £207 million. Moreover, the average cost per person to address those who are already homeless is 3.5 times higher than solutions to prevent homelessness showing the benefits of

⁴⁷ Goodwin, K, Geoghegan, P (2018) Councils paid £660m for temporary homeless accommodation, The Ferret, 17 August 2018 <https://theferret.scot/councils-half-billion-temporary-accommodation/>

⁴⁸ Every single local authority RRTP that Crisis analysed identified homelessness prevention as a core component of the rapid rehousing agenda. Dunn, L. (2019) *Rapid Rehousing Transition Plans: A Scottish Overview*. Crisis Scotland: Edinburgh. https://www.crisis.org.uk/media/241640/crisis_rapid-rehousing-report_web_spreads_v2.pdf

⁴⁹ Pleace, N. (2015) *At what cost? An estimation of the financial costs of single homelessness in the UK*. London: Crisis. <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/cost-of-homelessness/better-than-cure-2016/>

⁵⁰ Crisis (2018) *Everyone In: How to end homelessness in Great Britain*

moving to preventative approach.⁵¹ The proposals of the PRG are more far reaching than in the *Plan to End Homelessness*, but this demonstrates the scale of benefit that may be accrued from effective implementation of homelessness prevention activities.

However, in order for these new duties to lead to savings, local authorities and other public bodies need to be properly resourced to make the transition. £72.7 million was made available to local authorities to meet the new duties in the Homelessness Reduction Act, but research suggests that for many local authorities this was not sufficient. Crisis' research into the implementation of the Homelessness Reduction Act found that for many local authorities, funding had not been adequate. Where ongoing communication with applicants was poor, local authority interviewees felt that this was due to their inability to manage their caseload size and the increased level of case working that was required of them with the available resources.⁵² The Local Government Association found that almost one third (29 per cent) of the respondents to their own survey on the implementation of the HRA did not think they had been sufficiently resourced to deliver their new duties, and the Homelessness Monitor: England (2019) found that only 11 per cent of local authorities perceived the new burdens funding as fully or nearly adequate.⁵³

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?

Not applicable.

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?

In the years following commencement of the Act, Crisis recommends that the Scottish Government commissions an independent evaluation to establish how the new duties are being implemented. This should include assessment the actions local authorities have taken to prepare for and embed changes in their operations, including recruitment of staff and creation of new job roles, staff training, development of new IT systems, the introduction or commissioning of new services, and the restructuring internal provision. Evaluations should also use interviews with local authority managers, frontline staff and service users, along with other staff in other public agencies, to assess the delivery of the new duties. This should gather findings on experiences of the assessment process, the effectiveness of Personal Housing Plans, as well as how staff understand the guidance relating to the new extended prevention duty, the duties on other public bodies, and expanded housing options. Evaluations should also explore strategic, systemic and frontline delivery barriers to implementation.

In 2014, Crisis conducted a 'mystery shopping' exercise to examine the treatment of single people experiencing homelessness who approached their local authority for assistance in England.⁵⁴ This

⁵¹ Much of the *overall* cost savings of implementing a comprehensive Plan to End Homelessness relate to local authority savings (49%), and improved wellbeing as a result of people having secure housing contributes just over a quarter (27%). Additional benefits accrue to wider public services (NHS and criminal justice) and increased economic output.

⁵² Boobis, S., Sutton-Hamilton, C., and Albanese, F. (2020) *'A foot in the door' Experiences of the Homelessness Reduction Act*. London: Crisis. Available from: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/services-and-interventions/a-foot-in-the-door-experiences-of-the-homelessness-reduction-act-2020/>

⁵³ Fitzpatrick, S., Pawson, H., Bramley, G., Wood, J., Watts, B., Stephens, M. & Blenkinsopp, J. (2019) *The Homelessness Monitor: England 2019*. London: Crisis

⁵⁴ Dobie, S., Sanders, B. and Teixeira, L. (2014) *Turned Away, the treatment of single homeless people by local authority homelessness services in England*. London: Crisis.

methodology is valuable because it removes respondent bias, and could be considered as a way to gather data on how applicants are treated in the system.

In terms of ongoing monitoring of whether local authorities are complying with the new duties, there will be a role for the Scottish Housing Regulator as well as a role for third sector partners such as advice agencies to monitor how the new duties are being carried out in practice and to identify any unintended consequences. To facilitate this, there should be a government consultation seeking views on the implementation of the Act within the first five years.

The data collected as part of the official homelessness HL1 and PREVENT1 statistics will need to be amended, monitoring both the process and the outcomes achieved. Firstly, statistics should capture which (if any) services the applicant had been referred by. Secondly, it will need to be able to capture causes of being threatened with homelessness, outcomes of assessments for those threatened with homelessness, and circumstances in which the 'reasonable steps' is discharged (for example, where the applicant is assisted into suitable and stable accommodation; where they have withdrawn their application for support; where the applicant has become homeless and needs to have the full rehousing duty applied etc.). Thirdly, the housing outcomes will need to be expanded to capture all the possible options that could come under 'stable' and 'suitable' housing.

In terms of measuring outcomes, these will require some further consideration, as in the short term there might be an increased number of people in the system which could be misinterpreted as the legislation not achieving a reduction in homelessness. However, if the housing assistance service receives increased numbers of applications from groups that were not previously accessing support, this may in fact demonstrate that the legislation is enabling earlier intervention. The most obvious indicators of whether the legislation is achieving its desired outcomes are the housing outcomes for those who are assessed as either threatened with homelessness or homeless. Another important indicator of whether, after a period of bedding-in, the changes are achieving their intended outcomes, is a reduction in the number of households in temporary accommodation, and the time spent in temporary accommodation. Finally, a reduction in repeat homelessness will be another important indicator.

Beyond the usual demographic details, we would also recommend measuring equality of outcomes specifically by: protected characteristics, forms of homelessness, repeat homelessness, what prevention activity has taken place, and how many people have 'fallen out' of the system before having their case formally resolved.

5. Questions for people with lived or living experience of housing crisis, homelessness or risk of homelessness

Crisis does not have answers to these questions specifically. However as described, we have consulted with many people with lived experience as part of this work, and have incorporated their evidence and views throughout our consultation response. We will also publish this separately and share it with Scottish Government.