



the homeless network
a home for all of us

Consultation on:

Local Connection and Intentionality Provisions in Homelessness Legislation

We are delighted to make the following submission to the Scottish Government's consultation on Local Connection and Intentionality Provisions in Homelessness Legislation. We would be happy to supply any further information as required.

For more information on this response, please contact:

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1. INTRODUCTION

1.1 To inform this response we directly consulted with the broadest range of people planning, delivering and using homelessness services across Scotland. This was to better understand the optimum form for local connection and intentionality provisions in our homelessness legislation, from a number of different perspectives.

1.2 We facilitated a series of workshops which involved:

- 47 people representing public and third sector organisations covering local authority areas from Aberdeenshire to Dumfries and Galloway; *and*
- 19 people directly affected by homelessness decisions.

2. PROPOSALS: INTENTIONALITY

Remove the duty on local authorities to assess intentionality

2.1 On the whole there was significant support for the proposed change to the way we assess intentionality, with this support expressed most strongly by people who had themselves been assessed as intentionally homeless.

2.2 In their experience, intentionality decisions were fundamentally unfair and not based on a realistic understanding of the complexity and desperation of people's situations. For many, intentionality decisions were simply another way to judge whether or not people "deserve to get help." This was reinforced by advice and advocacy agencies who described their high levels of success in challenging and overturning intentionality decisions.

2.3 Also, while some local authorities felt that the current intentionality provisions do provide adequate opportunity for flexibility and discretion, it was acknowledged that in practice this flexibility is rarely taken advantage of or used to people's benefit.

2.4 Most importantly, people identified that being assessed as intentionally homeless **was devastating**, contributing to:

- Extended periods of rough sleeping;
- Hospitalisation for severe mental health issues;
- Entrenched addiction issues;
- Being "unable to reconstruct a meaningful existence"; and
- Increasing mistrust of services and staff.

2.5 We fully support the proposal to remove the duty on local authorities to assess intentionality and believe that the provisions in the 2003 Act could be commenced in 2019-20.

Narrowing the definition of intentionality to focus on deliberate manipulation

2.6 To tackle the negative consequences people experience under the current intentionality provisions there is a high level of support for narrowing the definition to focus on ***deliberate manipulation of the homelessness system***. Without exception, people with experience of being assessed as intentionally homeless agreed that the scope of the current test is too broad and that narrowing the scope would be significantly fairer.

2.7 Whether planning, delivering or using homelessness services there is a consensus that we must take the time to coproduce what ***deliberate manipulation*** means and develop a legislative test and supporting guidance that are fully sensitive to the reality of people's situations.

2.8 In our workshops, we used a simple 'fairness' framing of intentionality and deliberate manipulation – what circumstances do people believe are fair or not fair. When people with direct experience of intentional homelessness decisions considered a definition of ***deliberate manipulation*** they agreed that to increase fairness - actions driven by poverty, trauma, mental ill health or addiction should ***never*** be considered as deliberate manipulation.

2.9 They also agreed that, alongside the right definition and legal test, the skills, understanding and empathy of staff would be crucial in hardwiring fairness within our legislative system, ensuring staff are fully equipped to investigate and understand people's routes into homelessness. Crucially, people want Scottish Government to know that we need staff who:

- Are consistent and fair in their approach;
- Have a full understanding of how to respond to trauma, addictions, mental ill health & criminal justice issues;
- Take the time to ensure people understand their rights;
- Speak in plain language and take the time to listen to people;
- Are trustworthy, respectful and approachable.

2.10 We fully support the proposal to narrow the definition of intentionality to focus on deliberate manipulation of the homelessness system. We also support taking the time to design this definition with people with first-hand experience of homelessness, so that a legislative test that is genuinely sensitive to people's life experiences can be developed.

Accommodation rights following an intentional homelessness decision

- 2.11 The consultation paper asks important questions about the status of intentionality within our homelessness legislation as well as the definition we should adopt. *The question that remains unasked at this stage is what accommodation rights people will have if they are assessed as intentionally homeless.*
- 2.12 At present any intentionally homeless decision confers the right to temporary accommodation and advice and assistance. The earlier work of the Homelessness Task Force, which recommended the provisions within the 2003 Act still to be commenced, concluded that because the household would still be legally homeless we need to provide a stronger route into permanent housing than currently exists. The way forward agreed then was via a Short Scottish Secure Tenancy with support that converted to a Scottish Secure Tenancy if sustained for 12 months.
- 2.13 Revisiting this component of the intentionality provisions within the 2003 Act is an important aspect of our approach to refining our legislation to ensure that it does not increase the disadvantage faced by anyone experiencing homelessness. While the proposed changes will play a part in reducing the number of people assessed as intentionally homeless, we must still consider the right of those who are assessed as homeless in Scotland without a clear route to housing.

3. PROPOSALS: LOCAL CONNECTION

- 3.1 We heard a range of views expressed about the optimum way to amend local connection provisions, but there was general agreement on the principle that people are more likely to resettle successfully, and avoid repeat homelessness, if they are living in an area of their choice and that no legal test is a substitute for people's own judgement.
- 3.2 There was also a number of questions that were felt unknown and untested; including how far local connection adjustments would actually influence people's movements across Scotland, or even encourage incoming travel from other parts of the UK.
- 3.3 On how to achieve this a range of options were discussed, from immediate suspension to a phased approach similar to the abolition of priority need, extending the definition of what constitutes a local connection over time, e.g. time spent in rehab. There was also support for a 'test of change' period and incentive for targeted local authorities who may be disproportionately affected.
- 3.4 **While there are potential benefits of all approaches, on balance we would support the simplicity of suspending local connection referrals across the country with inbuilt plans to monitor and review to identify if any local authority areas are disproportionately impacted. To ensure that a robust monitoring and review is in place and local authorities have robust projections for potential increased demand, we are sympathetic to suggestions for implementation 2020-21.**