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Assembly

## Research and Information Service Research Paper

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# Homelessness: a comparison of legislative frameworks in Northern Ireland, England, Scotland and Wales

**NIAR 71-24**

This research paper was requested by the Committee for Communities and explores the legislative frameworks for homelessness in Northern Ireland, England, Scotland and Wales. It provides an overview of the independent reviews of homelessness legislation in the other jurisdictions and the outworking of those reviews. The paper also examines the proposals for potential further legislative reform in Wales and Scotland.

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## Executive Summary

### Introduction and background

1. This paper, requested by the Committee for Communities, explores the legislative frameworks for homelessness in Northern Ireland, England, Scotland and Wales. Where possible, it sets out both the similarities and divergence in the legislative approaches to homelessness between the different jurisdictions.
2. The paper notes that there is an evident shift in emphasis in England, Scotland and Wales towards a more statutory approach (in the form of statutory duties or proposed statutory duties) in respect of:
  - homelessness prevention; and
  - a requirement for specified public bodies to work in co-operation with housing and homelessness services to identify and assist people who are homeless/threatened with homelessness.
3. This change in approach has been informed by the findings and recommendations of independent reviews of homelessness legislation in England, Scotland and Wales:

Jurisdiction	Review Group	Report Title	Published
<b>Wales</b>	Expert Review Panel	<a href="#">‘Ending Homelessness in Wales: A legislative review’</a>	2023
<b>Scotland</b>	Prevention Review Group	<a href="#">‘Preventing Homelessness in Scotland: Recommendations for legal duties to prevent homelessness’</a>	2021
<b>England</b>	Expert Review Panel	<a href="#">‘The homelessness legislation: an independent review of the legal duties owed to homeless people’</a>	2015

4. Each of these reviews had a number of factors in common:
  - They were convened by the homelessness charity Crisis (the Scottish and Welsh reviews were convened at the request of the Scottish and Welsh Governments).

- Each review was led by an independent panel of experts from a diverse range of backgrounds including homelessness organisations, social housing, local government and academia.
  - They were chaired by the same academic who had a background in housing and homelessness policy.
  - Each expert panel/review group had access to legal expertise and/or support from government officials.
  - Each review has either informed legislative reform (such as in the Homelessness Reduction Act 2017 in England) or influenced potential legislative reform (see [Part 5 of the current Housing \(Scotland\) Bill](#) and the proposals contained within the Welsh Government’s consultation on [White Paper on ending homelessness in Wales](#)).
5. The primary legislation for homelessness in Northern Ireland ([The Housing \(Northern Ireland\) Order 1988](#)) is now over 30 years old. It has arguably not been subject to the same level of independent scrutiny as the reviews of the legislative frameworks in England, Scotland and Wales.
6. It is notable, however, that the current homelessness strategy for Northern Ireland ‘[Ending Homelessness Together 2022-27](#)’ has expressed a desire for the Housing Executive to work with the Department for Communities and other key stakeholders to initiate a review of the primary legislation for homelessness in Northern Ireland. This is with a view to *“consider changes, mirroring those in other jurisdictions of the UK, in order to place a statutory focus on the prevention of homelessness and provide more person-centred statutory homelessness services”*.
7. The Committee may wish to note that during the Second Stage of the Private Tenancies Bill, Minister Hargey, stated that she had asked officials to “review the existing legislation to ensure that it is fit for purpose”. The Committee may wish to consider requesting an update on both the review requested by Minister Hargey and information as to whether a review of the primary legislation (as mentioned in the homelessness strategy) has been, or will be, initiated.

### **Purpose of the RaISe paper**

8. The purpose of this RaISe paper is to inform the Committee's understanding of the current legislative frameworks for homelessness in England, Scotland and Wales. It will explore the findings of the independent review of homelessness in the other jurisdictions. It will also examine legislative developments in the other jurisdictions such as the Homelessness Reduction Act 2017 in England, the Welsh White Paper on ending homelessness in Wales and the homelessness provisions contained within the new Housing (Scotland) Bill.
9. The paper will also examine some of the key areas of divergence (and potential divergence) between the homelessness legislative framework in Northern Ireland in comparison to the other jurisdictions. The paper explores, for example, the definition of threatened with homelessness, the priority need test, statutory duties in respect of homelessness prevention, and a statutory duty on other specified public bodies to work in partnership with homelessness bodies and services.
10. It is important to acknowledge at the outset that a review homelessness legislation forms only one part of the potential solution to ending homelessness in Northern Ireland. Northern Ireland, like other jurisdictions, is operating in a constrained fiscal environment. However, funding and resources, particularly in homelessness prevention, has been identified by the homeless strategy as one of its key strategic enablers. Other important factors include, but are not limited to, adequate and suitable housing supply, inter-departmental co-operation and appropriate workforce planning.

### **Homelessness legislation in England, Scotland and Wales: the role of independent review**

11. The independent reviews of homelessness legislation in [England](#) (2015), [Scotland](#) (2021) and [Wales](#) (2023) were comprehensive and each contained a substantial number of recommendations for reform to legislation, policy and statutory guidance.

12. In England, the review influenced the provisions within the [Homelessness Reduction Act 2017](#) which was described by Shelter as one of the biggest changes to the rights of homeless people in England for 15 years. The Act began as a Private Members' Bill and was supported by the UK Government.
13. It introduced a new statutory prevention duty which applies regardless of 'intentionality' or 'priority need' and extended the definition of threatened with homelessness to 56 days (from what was previously 28 days). It also created a new 'duty to refer' which requires specified public authorities (e.g. prisons, social services, emergency departments) to notify a housing authority of service users whom they consider to be homeless or threatened with homelessness. This must be done with the consent of the individual concerned.
14. Many of the provisions of the 2017 Act were inspired by Part 2 of the [Housing \(Wales\) Act 2014](#) which had also expanded the definition of threatened with homelessness from 28 to 56 days, strengthened the duty on specified public bodies to co-operate with homelessness services, and created a new statutory homelessness prevention duty. The purpose of the Act was to embed a homelessness prevention approach within relevant public services with a focus on early interventions to avoid a homelessness crisis.
15. The Welsh Government commissioned a [post-implementation evaluation](#) of the Housing (Wales) Act 2014. It noted that there was support for the ethos and intent of the Act and that it had led to a cultural shift in local authorities towards a more preventative and person-centred approach. However, it also contained recommendations for further legislative reform.
16. Subsequently the Welsh Government in its [high-level action plan](#) to end homelessness invited Crisis to convene an [Expert Review Panel](#) to consider how further legislative change could help to end homelessness in Wales. The Panel's report, published in 2023, contained over 170 recommendations for legislative and policy reform.

17. Many of these recommendations formed the basis of the Welsh Government's proposals contained within its [White Paper consultation](#) on ending homelessness in Wales (October 2023). Such proposals included extending the definition of threatened with homelessness from the current 56 days to 6 months, a statutory duty to draw up Personalised Housing Plans, and the eventual abolition of priority need and intentionality in Wales.
18. It also proposed a new duty to 'identify and refer' in which specified public bodies would be required not only to identify and refer individuals who they come into contact with to local housing authorities for support, but also to take action within their own functions to mitigate the risk of homelessness. The Welsh Government has published an [analysis of responses](#) to the consultation but are yet to announce final decisions on the way forward.
19. The legislative framework for homelessness in Scotland is Part II of the [Housing \(Scotland\) Act 1987](#) as amended by the [Homelessness etc. \(Scotland\) Act 2003](#). One of the most significant differences between the frameworks of Northern Ireland, England and Wales is that 'priority need' has been abolished in Scotland (on 31 December 2012).
20. Further ambitious reforms for the legislative framework for homelessness in Scotland may be ahead if the homelessness provisions contained with the new [Housing \(Scotland\) Bill](#) are enacted. The provisions of the Bill have been influenced by the recommendations of several expert working groups, set up at the request of the Scottish Government.
21. One of these groups, the independent [Homelessness Prevention Review Group](#), was tasked with reviewing the current legislative framework for homelessness in Scotland and identifying recommendations for new legal duties to prevent homelessness. The Group published its [report](#) in 2021 and it contained a number of recommendations that form part of the Bill.
22. Part 5 of the Housing (Scotland) Bill focuses upon homelessness and contains provisions for an extended definition of threatened with homelessness (from the

current two months to a new six month threshold); a new duty on specified public bodies to ‘ask and act’ (that is, to ask about a person’s housing precarity and to act on that information); to enable specified public bodies to make a homeless application to a local authority in respect of a person that they have reason to believe is homeless; to change the definition of domestic abuse in housing law so that it reflects more recent law around coercive control; and to place a duty on social landlords to prepare and publish a policy on domestic abuse.

### **Homelessness legislative frameworks: an emerging divergence between Northern Ireland and other jurisdictions?**

23. Section 4 of this RaISe paper explores some of the more notable differences between the current framework for homelessness in Northern Ireland and the current and proposed changes to the legislative frameworks in the other jurisdictions. The section explores the definition of ‘threatened with homelessness’, priority need, a statutory duty to prevent homelessness, and a statutory duty on specified public bodies to ‘ask and act/identify and refer’.
24. This part of the paper is not in any way intended to be definitive but rather it looks at just a number of the areas of divergence/potential divergence. The independent reviews of homelessness legislation in other jurisdictions explored many other relevant issues that this paper, due to time and resource constraints, does not explore. For example, it does not explore the law around the suitability of temporary accommodation, protections for those experiencing or who have experienced domestic abuse, the role of the social and private rented sectors, the definition and applicability of ‘intentionality’, and homeless and related services for children and young people, to list just a few.
25. The **definition of threatened with homelessness** in Northern Ireland is one of the more obvious areas of divergence in housing law. The Housing (NI) Order 1988 states that a person is threatened with homelessness if it is likely that they will become homeless within 28 days. In Scotland, England and Wales the threshold is longer (56 days in England and Wales, two months in Scotland)

and was made intentionally longer to give local authorities more time in which to help those threatened with homelessness. The Housing (Scotland) Bill contains provisions to extend this further to six months and the Welsh Government has consulted on a similar extension.

26. **‘Priority need’** is one of the four statutory homelessness tests in Northern Ireland (along with eligibility, homeless/threatened with homelessness and intentionality). Whilst priority need was abolished in Scotland in December 2012, the English and Welsh frameworks retain priority need groups. Many of these are similar to those in Northern Ireland (e.g. relating to pregnancy, those with dependent children, homelessness as a result of an emergency situation such as a fire or flood).
27. However, there are a number of notable variations between Northern Ireland in comparison to England and Wales. For example, the Northern Ireland priority need categories do not explicitly mention ‘domestic abuse’. The priority need categories for younger people and for those who are ‘care experienced’ are more specific in England and Wales. There is no specific category for people who are vulnerable as a result of having served a custodial sentence/been remanded in Northern Ireland but there are such categories in England and Wales. There is also no explicit category for those who are street homeless in Northern Ireland but there is such a category in the Welsh homelessness legislative framework.
28. The Northern Ireland priority need categories do contain a ‘vulnerability’ grouping in which people who do not fall into one of the existing categories may come under depending on their circumstances. However, the Committee may wish to explore to what degree subjectivity may have a role in determining who falls under this category and to what extent are the existing priority needs groups adequately covering those in need.
29. The Chief Executive of the Housing Executive is [reported](#) to have stated that a holistic approach to homelessness requires a strategy shift towards prevention.

She maintains that widening the Housing Executive's obligations to 'prevention' would enable it to focus and invest more in preventative measures.

30. There has been a notable shift in England, Scotland and Wales towards enshrining a **statutory homelessness prevention duty** within law. The Homelessness Prevention Act 2017 (England) and the Housing (Wales) Act 2014 introduced such a statutory duty. It places a requirement on local authorities to assist those who are eligible and threatened with homelessness to either remain in their existing accommodation or help them secure alternative accommodation. Although the Housing Executive and its statutory and third sector partners engage in homeless prevention, there is arguably no similar statutory prevention duty to that in the legislative frameworks in England and Wales.
31. The new Housing (Scotland) Bill in Scotland contains provisions to introduce a new statutory '**Ask and Act**' duty on specified public bodies. If enacted, this would require bodies such as the police service, prison services, and social services, to 'ask' a person that they come into contact with about their housing precarity. It would also require them to 'act' on this information. For example, by using their own powers to assist them and/or referring them to the local housing authority for assistance. The Welsh Government has [consulted](#) on a similar 'identify and refer' duty for Wales. The purpose of these proposals is to ensure that all relevant public bodies are collaborating in partnership to end homelessness in Wales.
32. There is provision within the Housing (Northern Ireland) Order 1988 (Article 14) that requires health and social care trusts, the Probation Board for Northern Ireland and housing associations, to **co-operate with the Housing Executive**. But this requirement does not appear to be directly comparable to what is proposed in Wales (White Paper on homelessness) or in Scotland via the Housing (Scotland) Bill. The bodies to which such a duty is proposed to apply to are also wider in the other jurisdictions (the police service, prison service etc).

33. The Committee may wish to consider seeking further information as to how well the provisions in Article 14 of the Housing (NI) Order are working and whether the list of bodies this requirement applies to are sufficient, or if any should be added. It may also wish to consider assessing how stakeholders feel about the current legislative requirements around co-operation within the current Northern Ireland legislative framework for homelessness.

### **Conclusion**

34. One of the central objectives of the [Homelessness Strategy for Northern Ireland](#) is to 'prioritise homelessness prevention'. The strategy highlights that a review of the primary homelessness legislation is one of a number of key enablers that would improve the likelihood of delivering this objective.
35. This paper demonstrates that there is a clear shift in emphasis in England, Scotland and Wales towards enshrining such a prevention approach within homelessness legislation. The final legislative proposals for Wales are yet to be announced and the prevention requirements contained within the Housing (Scotland) Bill are currently being scrutinised. The Committee may wish to consider maintaining a close watching brief on these developments.
36. This RaISe paper is a result of a desk-based exercise exploring the homelessness legislative frameworks in other jurisdictions. Whilst it is a useful starting point for the Committee's consideration, it is limited in that due to time and resource constraints it is not possible to provide a comprehensive *evaluation* of the preventive measures that exist within the current legislative frameworks in other jurisdictions and those further plans for reform.
37. The Committee may, therefore, wish to consider how to take such an evaluation forward but it is likely that this would require hearing the views and experience stakeholders/experts both locally and in other jurisdictions with a view to considering, for example:
- The strengths and perceived weaknesses in the current legislative framework for homelessness in Northern Ireland.

- The implications of retaining the current framework in Northern Ireland.
  - Whether an independent review similar to that in England, Scotland and Wales is desirable and practical. What work has already been carried out to review the legislation?
  - Have the reforms in other jurisdictions resulted in positive changes? What do the Scottish and Welsh Governments hope to achieve from potential further reforms?
  - Whether any of the reforms or potential reforms in the other jurisdictions are desirable/practical/adaptable/affordable in a Northern Ireland context.
38. It is important to emphasise that legislative reform is not the only important factor that would contribute to achieving the goal of ending homelessness. Northern Ireland is operating within a challenging fiscal climate, but factors such as housing supply, adequate funding, suitable temporary accommodation, workforce planning, rental affordability are just a few examples of some of the factors necessary to develop and maintain a preventative approach to homelessness.
39. Lastly, the Committee may also wish to consider this paper in conjunction with findings of the recently published Northern Ireland Audit Office report on [homelessness](#) (March 2025). This report explores a wide range of issues such as homelessness prevention, the extent of inter-departmental collaboration, and governance and accountability structures.

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## 1 Introduction

This research paper was requested by the Committee for Communities and explores the legislative frameworks for homelessness in Northern Ireland, England, Scotland and Wales. It provides an overview of the independent reviews of homelessness legislation in the other jurisdictions and the outworking of those reviews. The paper also examines the proposals for further potential legislative reform in Wales and Scotland (via Part 5 of the new Housing (Scotland) Bill). The potential reforms in Wales and Scotland demonstrate that there is an evidential shift in the devolved administrations approach to homelessness from a “crisis” response to a much greater emphasis on homelessness prevention.

At the outset it is important to be clear that it is not possible for this RaISe paper to be fully comprehensive of all the relevant issues given the level of resources and expertise likely to be required for a substantive review of the Northern Ireland legislative framework for homelessness. As evidenced by sections 2 and 3 of this RaISe paper, the independent reviews of homelessness legislation in England (2015)<sup>1</sup>, Scotland (2021)<sup>2</sup> and Wales (2023)<sup>3</sup> were each carried out by a group of experts from a diverse range of backgrounds. There was a degree of continuity amongst the three reviews in that each expert group was convened by the homelessness charity Crisis<sup>4</sup>. Additionally, each panel/group was chaired by the same person, Professor Suzanne Fitzpatrick, and all had access to legal expertise to assist it in its task of reviewing the legislation and making recommendations for potential reform.

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<sup>1</sup> Crisis, [The homelessness legislation: an independent review of the legal duties owed to homeless people](#), 2015.

<sup>2</sup> Prevention Review Group, [Preventing Homelessness in Scotland: Recommendations for legal duties to prevent homelessness](#), February 2021.

<sup>3</sup> Expert Review Panel, [Ending Homelessness in Wales: A Legislative Review](#), 2023.

<sup>4</sup> In the case of the Scottish and Welsh review, Crisis had been asked by the Scottish and Welsh Government's to convene the expert group.

The work carried out by each expert panel/group was substantial, taking around 12 months or more to complete. The process involved a wide range of consultations with other relevant stakeholders, and perhaps most importantly, with frontline workers and people who had lived experience of homelessness. In each case, the recommendations of the expert panel/groups have either contributed to legislative change (in the case of England) or form the basis of government proposals for legislative reform (in Wales and Scotland).

This RaSe paper cannot replicate the broad level of expertise, resources and time needed to substantively review the current Northern Ireland legislative framework for homelessness. It may, however, act as a starting point for the Committee's consideration of the relevant issues. Whilst this paper compares the legislative frameworks for England, Scotland and Wales with Northern Ireland and outlines current and potential future divergence between the frameworks, it cannot make recommendations for reform. Any divergence in policy and legislation between Northern Ireland and the other jurisdictions would require more in-depth evaluation. This may require the Committee to seek or take evidence from relevant individuals and organisations both within Northern Ireland and the other jurisdictions.

It is also worth emphasising at the outside, that to end homelessness in Northern Ireland, legislative reform may be only part of a complex equation. There are many other additional important factors to consider including, for example, adequate and suitable housing supply, funding for housing and homelessness, inter-departmental co-operation, and workforce planning.

## 1.1 Structure of the paper

This RaSe paper is structured as follows:

**[Section 2](#)**: explores the background to this paper and why it was requested by the Committee. This section provides a short introductory synopsis of the homelessness legislative frameworks in England, Scotland and Wales including potential for further legislative reform in both Wales and Scotland.

**[Section 3](#)**: begins by providing an overview of the current statutory framework for homelessness in Northern Ireland (the Housing (Northern Ireland) Order

1988. This section also takes a closer look at the independent reviews of the homelessness legislative frameworks in other jurisdictions and explores how their recommendations are helping to shape the legislative approach to homelessness in those jurisdictions. The Committee may wish to note from this section, the shift in emphasis of both the Scottish and Welsh Government's away from a "crisis" response to homelessness towards a preventive approach including proposals to enshrine this position in law. This approach is centred around addressing the threat of homelessness before homelessness becomes a reality and ensuring there is a more collective approach amongst relevant public bodies in relation to homelessness prevention.

**Section 4:** looks at some of the main areas of current divergence (and potential future divergence) between the legislative framework for homelessness in Northern Ireland and that of England, Scotland and Wales. Four areas are explored in further detail:

- The definition of 'threatened with homelessness'
- Priority Need
- Statutory duties to prevent homelessness
- Partnership working between public bodies (a statutory 'Ask and Act' duty)

This section is not intended to be fully comprehensive and there may be additional areas which the Committee may identify and wish to explore further. Whilst considering the paper in its entirety, the Committee may wish, at the outset, to be cognisant of the following issues/questions:

- **Formal review of the NI legislative framework** - whether there is any ongoing work within the Department to conduct a comprehensive review of the Northern Ireland legislative framework for homelessness. If such work is ongoing, an update on the progress of that work.
- **Perceptions of the current framework and proposal for reform** - the strengths as well as the potential perceived weaknesses in the current legislative framework for

homelessness in Northern Ireland and potential recommendations for reform. The Committee may need to consult widely on this issue. For example, obtain the views of DfC, the Northern Ireland Housing Executive, housing and homelessness organisations and their representative bodies, frontline staff delivering homelessness services, people with lived experience of homelessness, the All-Party Group on Homelessness etc.

- **Detailed review of reform and potential reform in other jurisdictions (effectiveness in tackling homelessness/at risk of homelessness)** – the Committee may wish to ascertain the views of relevant local stakeholders in Northern Ireland as to whether any of the reforms in England, Scotland and Wales are desirable and practical in terms of their potential application to Northern Ireland. It may wish to consider seeking the views of government officials and other relevant stakeholders in the other jurisdictions as to the impact of those reforms. A starting point for the Committee may be consider whether the Chair of the three expert review panels could give evidence to the Committee (Professor Suzanne Fitzpatrick).
- **Funding implications including preventive spending? -** Changes to the legislative framework in Northern Ireland, particularly if they are substantive, are likely to require significant funding. The Committee may wish to consider the potential financial implications of reform within the current constrained fiscal environment. It may also wish to consider whether a greater legislative focus on prevention would be beneficial to society in the longer-term given the negative impact homelessness has on factors such as an over-reliance on temporary accommodation, mental and physical health, educational outcomes, employment

opportunities, the general welfare of children and young people etc.

- **Audit Office Report** - The Committee may wish to consider this RalSe paper in conjunction with the findings of the recently published Northern Audit Office report on [‘Homelessness in Northern Ireland’](#) (March 2025).

## 2 Background

This paper was requested by the Committee for Communities following an oral [briefing](#) by [Homeless Connect](#)<sup>5</sup>. Homeless Connect had outlined to the Committee that it was their view that the homelessness legislative framework in Northern Ireland needed to be “fundamentally reconsidered”. It felt that, in comparison to legislative developments in England, Scotland and Wales, the framework for Northern Ireland (primarily the Housing (Northern Ireland) Order 1988) was a reactive “crisis model”.

Homeless Connect highlighted that in contrast to Northern Ireland, the legislative frameworks in the other jurisdictions have been subjected to comprehensive review in recent years. This, it maintained, has resulted in a revised approach to homelessness in the other jurisdictions that is more prevention-led with a greater emphasis on requiring specified public bodies, such as health boards and the police service, to work in co-operation with homelessness services<sup>6</sup>. On the back of this briefing, the Committee requested that RalSe provides a paper on the legislative frameworks for homelessness in the other jurisdictions.

Having reviewed the current legislative frameworks for Northern Ireland, England, Scotland and Wales and examined the further changes proposed for

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<sup>5</sup> Northern Ireland Assembly Committee for Communities, [Homeless Connect evidence session](#), 11 April 2024.

<sup>6</sup> Northern Ireland Assembly Committee for Communities, [Homeless Connect evidence session](#), 11 April 2024.

the legislative frameworks in both Wales (see the Welsh Government's [White Paper on Homelessness](#), 2023) and Scotland (see [Part 5 of the Housing \(Scotland\) Act](#)), this paper will note the following:

- As examined by section 2.1 of this paper there have been **substantial independent reviews** of the legislative frameworks for England (2015), Scotland (2021) and Wales (2023). There does not appear to be a similar publicly available review for Northern Ireland that is comparable to those reviews. The current [Homelessness Strategy for Northern Ireland](#) notes that the Housing Executive would seek to work with the Department for Communities and others to initiate a review of the primary legislation with a view to considering potential changes. **The Committee may wish to seek an update from the Department as to whether such a review has, or will be, initiated.**
- As examined in section 2.2 of this paper there has been an increasing shift in focus in England, Scotland and Wales towards enshrining **homeless prevention** duties in law (as well as within guidance and policy). This includes, for example, proposals in both Scotland and Wales for creating more collective responsibility for homelessness by requiring specified public bodies to work together to identify and address the risk of homelessness at a much earlier stage. See for example the **'Ask and Act' provisions** of the current Housing (Scotland) Bill which is explored further in this paper.

## 2.1 Independent reviews of homelessness legislative frameworks in England, Scotland and Wales

The legislative frameworks for homelessness in England, Scotland and Wales have all been subject to not only review, but that review has been independent in nature. The Committee may wish to consider if there is a case to be made that the legislative framework for homelessness in Northern Ireland has not, in more recent years, in its entirety been subjected to the same comparative level of scrutiny, including independent scrutiny, as has been the case in the other

jurisdictions<sup>7</sup>. Included below is a short summary of the approaches taken in the other jurisdictions to legislative review.

### 2.1.1 **England: the independent review of homelessness legislation and The Homelessness Reduction Act 2017**

The [Homelessness Reduction Act 2017](#) made a number of substantial changes to the homelessness legislative framework for England. For example, it widened the definition of ‘threatened with homelessness’ from 28 to 56 days, introduced a new duty on councils to take ‘reasonable steps’ to prevent homelessness regardless of priority need status, it introduced a statutory duty to agree a personalised housing plan for all eligible applicants, and places a duty on certain specified public authorities (e.g. the police, social services, health boards) to refer cases of homelessness/at risk of homelessness to the relevant housing authority<sup>8</sup>.

The Homelessness Prevention Bill, was a Private Member’s Bill sponsored by Bob Blackman MP and Lord Best and was informed by a report by the homelessness charity Crisis published in 2015. The report, entitled: ‘[The homelessness legislation: an independent review of the legal duties owed to homeless people](#)’, was the work of an independent panel of experts from across the housing and homelessness sector in England who met from July 2015 to February 2016. The membership of the panel comprised of people from a range of backgrounds including homelessness organisations, local authorities, social housing, professional housing bodies, academia, and law. It was chaired by Professor Suzanne Fitzpatrick (who would also go on to chair similar expert panels for Wales and Scotland) and its purpose was to assess the strengths and weaknesses of the homelessness legislation in England.

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<sup>7</sup> Note, however, that the Housing Executive has commissioned a wide range of [research reports](#) on homelessness many of which do touch upon the impact of the current legislative framework in Northern Ireland.

<sup>8</sup> Local Government Association, [Get in on the Act: Homelessness Reduction Act 2017](#).

The Panel considered whether there were elements of Scottish and Welsh homelessness law that could be adopted for England<sup>9</sup>. Included within this was the consideration of what reforms could be made to the English legislative framework to place more emphasis on the prevention and relief of homelessness, particularly for single people who were not deemed at that time to be in 'priority need'<sup>10</sup>. The panel, supported by legal advice, drafted its own amending legislation and submitted its report to the UK Government and politicians for consideration. Many of the proposals of the expert panel (although not all) subsequently became part of the [Homelessness Reduction Act 2017](#).

The Homelessness Reduction Act 2017 was described by Shelter as “*one of the biggest changes to the rights of homeless people in England for 15 years*” in that it “bolted on” two new duties (the prevention duty and the relief duty) onto what was then the original statutory rehousing duty<sup>11</sup>. The prevention duty applies to all eligible applicants in England (i.e. on the basis of immigration status) who are ‘threatened with homelessness’ (within 56 days) and importantly it applies regardless of “intentionality” and “priority need”. This graphic from Shelter provides a useful summary of the duties<sup>12</sup>.

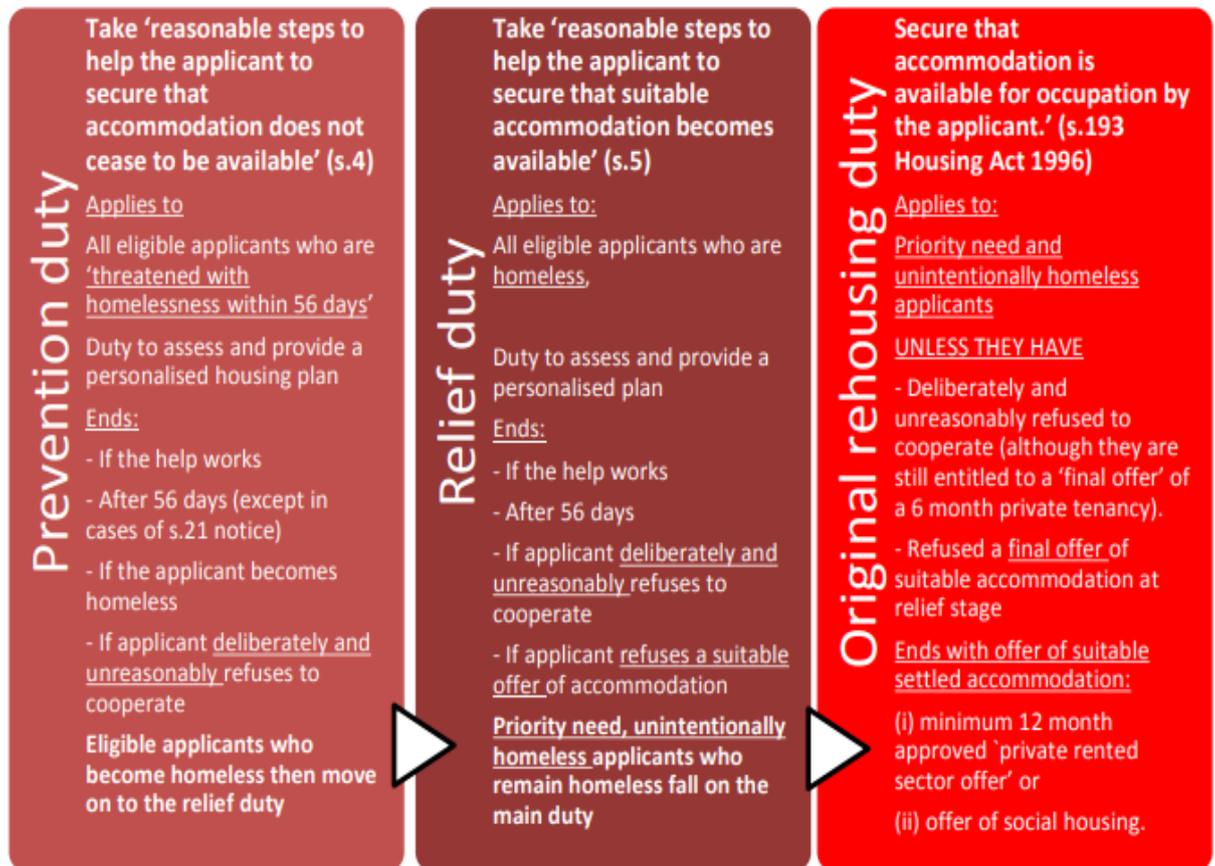
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<sup>9</sup> At this stage there had been substantive changes to the Welsh legislative framework via the new [Housing \(Wales\) Act 2014](#) and in Scotland via the [Homelessness etc. \(Scotland\) Act 2003](#).

<sup>10</sup> Crisis, [The homelessness legislation: an independent review of the legal duties owed to homeless people](#), 2015.

<sup>11</sup> Shelter, [Homelessness Reduction Act 2017](#), Policy and Practice Briefing.

<sup>12</sup> Graphic extracted from Shelter, [Homelessness Reduction Act 2017](#), Policy and Practice Briefing, p4.



The Homelessness Reduction Act 2017 and the new duties came into effect in April 2018. The purpose of the new duties is to help those at risk of homelessness avoid their situation turning into a homelessness crisis. There is no directly comparable statutory prevention duty within the current legislative framework for homelessness in Northern Ireland (the [Housing \(Northern Ireland\) Order 1988](#)).

An [evaluation](#) of the implementation of the Homelessness Reduction Act 2017, commissioned by the Ministry of Housing, Communities and Local Government, commenting on the prevention duty stated that<sup>13</sup>:

*"This was viewed as the element of the Act that has been most effective in achieving more positive outcomes for service users. Some local authorities were very active on homelessness*

<sup>13</sup> ICF, [Evaluation of the Implementation of the Homelessness Reduction Act: Final Report](#), March 2020. Commissioned by the Ministry of Housing, Communities and Local Government.

*prevention prior to the Act, but the extended prevention duty stimulated others to introduce additional prevention measures, use these with a wider range of service users, and over a longer period of time.*

*...Progress has been made against all intended outcomes of the Act, but it is the extended prevention duty that stands out as the clearest area of positive impact in terms of tackling homelessness. Most people who were previously classed as non-priority are now able to receive help to prevent and relieve homelessness.”*

However, the evaluation report did note that some challenges did remain in terms of achieving preventive outcomes with services users who had complex needs and for those who retaining an existing tenancy was not an option. It is worth noting that 50% of local authorities in England cited insufficient access to affordable housing as one of the key challenges in responding to the 2017 Act as a whole (and 68% of London boroughs). Insufficient funding and uncertainties associated with future funding were also cited as significant challenges<sup>14</sup>.

As highlighted, by the next section of this RaISe paper, the Homelessness Reduction Act 2017 was influenced by the preventative approach to homelessness contained within the [Housing \(Wales\) Act 2014](#).

#### **Further reading**

A useful synopsis of the 2017 Act has been produced by Shelter and is available to download [here](#)<sup>15</sup>.

16 [Factsheets](#) on different aspects of the 2017 Act are available on the GOV.UK website.

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<sup>14</sup> ICF, [Evaluation of the Implementation of the Homelessness Reduction Act: Final Report](#), March 2020. Commissioned by the Ministry of Housing, Communities and Local Government.

<sup>15</sup> Shelter, [Homelessness Reduction Act 2017](#), Policy and Practice Briefing.

An [evaluation](#) of the implementation of the Homelessness Reduction Act 2017 commissioned by the Ministry of Housing, Communities and Local Government (published March 2020).

### 2.1.2 Wales: The Housing (Wales) Act 2014 and potential future legislative reform?

The [Housing \(Wales\) Act 2014](#) introduced a substantial number of reforms to homelessness law in Wales. It was the result of the Welsh Government's desire to develop bespoke homelessness law for Wales (given that before devolution housing law for Wales had been made at Westminster). Part 2 of the 2014 Act, introduced the following provisions (with some similarities and differences between law in Wales and Northern Ireland noted):

- A duty on local housing authorities to periodically undertake homelessness reviews in their area and adopt a homelessness strategy<sup>16</sup>. **The production of a homelessness strategy is already a duty of the Housing Executive under the Housing (NI) Order 1988.**
- A duty on local housing authorities to provide free information, advice and assistance to anyone in their area including assistance with accessing homelessness prevention services. **This is already a duty of the Housing Executive under the Housing (NI) Order 1988.**
- Extended the definition of “threatened with homelessness” from 28 days to 56 days to allow intervention to happen at an earlier stage before a person/household became homeless. **The legal definition of threatened with homelessness remains at 28 days in Northern Ireland.**
- Strengthened the duty on other specified public bodies to co-operate with local housing authorities on issues such as early homelessness intervention. **There is requirement under Article 14 of the 1988 Order for certain bodies in Northern Ireland (i.e. health and social care**

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<sup>16</sup> Note homelessness is the responsibility of several local housing authorities in Wales in comparison to one body in Northern Ireland (the Housing Executive)

**trusts, Probation Board for Northern Ireland and housing associations) to co-operate with the Housing Executive. But this legislation is arguably not as specific as that set out in [Section 95 and 96](#) of the Housing (Wales) 2014 Act.**

- [Section 66](#) of the 2014 Act contains a homelessness prevention duty. Local housing authorities must “help to secure that suitable accommodation does not cease to be available for occupation for an applicant” if they are eligible and threatened with homelessness (i.e. likely to become homeless within 56 days). This can be either by directly meeting their housing needs if possible or assisting them (for example, to remain in their current accommodation). **There is no similar explicit prevention duty within the Housing (NI) Order 1988 and the threshold with threatened with homelessness is 28 days.**

The aim of Part 2 of the 2014 Act is to ensure that<sup>17</sup>:

- Help is available for everyone who is at risk of homelessness or is homeless.
- Early interventions take place to prevent crises.
- There is less emphasis on priority need.
- The best use is made of resources, including private rented accommodation.
- Local authorities work with people to help them find the best housing solution.
- There is partnership working across organisations to achieve sustainable solutions.

The Welsh Government commissioned an [post-implementation evaluation](#) of Part 2 of the Housing Wales Act (published July 2018). The final report noted that there was “unanimous support for the ethos and intent of the Act”. It maintained that it had “an array of positive impacts” including helping to shift the culture of local authorities towards a more preventative, person-centred and

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<sup>17</sup> Government Social Research, [Post-implementation evaluation of Part 2 of the Housing \(Wales\) Act 2014: Final Report](#), July 2018.

outcome-focused approach. However, the report did make a number of recommendations for further legislative and policy changes. As highlighted in the next section, the Welsh Government invited an Expert Review Panel to review the homelessness statutory framework for Wales with a view to recommending further areas for reform.

#### **Further reading**

[Code of Guidance](#) for Local Authorities on the allocation of accommodation and homelessness (March 2016).

Post-implementation evaluation of Part 2 of the Housing (Wales) Act 2014: [Final Report](#).

### **2.1.3 A further stage of legislative reform in Wales?**

As part of the Welsh Government's high [level action plan to end homelessness](#)<sup>18</sup>, it invited the homeless charity Crisis to convene an [Expert Review Panel](#) to review the homeless statutory framework for Wales and to provide recommendations for legal reform. The Expert Review Panel, chaired by Professor Suzanne Fitzpatrick, comprised of members with backgrounds including local government, homelessness organisations and the third sector, social housing providers, academia and was supported by legal advice and by Welsh Government officials<sup>19</sup>. The Panel also sought the views of people with actual lived experience of homelessness, that is "[Experts by Experience](#)".

The Panel's work took over 12 months to complete, beginning in August 2022<sup>20</sup> and culminating in the publication of its report, '[Ending Homelessness in Wales: a Legislative Review](#)', which contained over 172 recommendations (published in

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<sup>18</sup> Welsh Government, '[Ending Homelessness: A high level action plan – 2021-2026](#)'.

<sup>19</sup> Crisis, '[Wales Expert Review Panel/Panel Adolygu Arbenigol Cymru](#)'.

<sup>20</sup> Crisis, '[Wales Expert Review Panel/Panel Adolygu Arbenigol Cymru](#)'.

October 2023)<sup>21</sup>. A substantive number of these were recommendations for legislative reform, for example:

- Strengthening the statutory homelessness prevention duties.
- The eventual abolition of priority need and intentionality.
- The introduction of suitability standards for temporary accommodation.
- Strengthening co-operation between public bodies to both identify people who are homeless/threatened with homelessness and to respond to their needs.

Many of the recommendations of the Expert Working Group form the basis of the Welsh Government's proposals for legislative reform contained within its October 2023 consultation on the [White Paper on Ending Homelessness in Wales](#). Both the work and recommendations of the Expert Review Panel and the proposals contained within the consultation are reflected in [Section 3](#) and in Appendix 1 of this RaSe paper.

#### **2.1.4 Scotland: The Housing (Scotland) Bill and the contribution of expert working groups**

The [Housing \(Scotland\) Bill](#), introduced in the Scottish Parliament on 26 March 2024, is currently at Second Stage. Part 5 of the Bill contains a range of ambitious provisions relating to homelessness. The Bill (as introduced) includes, for example, a new 'Ask and Act' duty. If enacted this would require relevant public bodies (e.g. the police, health boards, prison service) to 'ask' a person about their housing precarity and 'act' to help them avoid becoming homeless. This could include, for example, referring that person (with their consent) to a local housing authority for homelessness assistance. The purpose of 'Ask and Act' is to create a "shared public responsibility to prevent homelessness"<sup>22</sup>.

The Bill also contains other provisions including, for example:

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<sup>21</sup> Expert Review Panel, [Ending Homelessness in Wales: A Legislative Review](#), 2023.

<sup>22</sup> Housing (Scotland) Bill, [Policy Memorandum](#), Part 5 – Homelessness Prevention.

- **Expanding the definition of ‘threatened with homelessness’ to six months** instead of the current two months. The purpose of this is to provide greater emphasis and legislative recognition to homelessness prevention.
- Placing a duty on local housing authorities to **take ‘reasonable steps’ to act sooner to prevent homelessness.**
- **Amending the definition of domestic abuse as it applies to housing law** to bring it up to date with the most recent understanding of domestic abuse (for example, to take account of issues such as financial coercive control).
- Placing a duty **social landlords** to prepare and publish a policy on how they will **support tenants affected by domestic abuse.**

The provisions of the Bill relating to homelessness prevention are explored further in [Section 3](#) of this RaISe paper. However, it is important to note that many of these provisions were shaped by expert working groups and their reports and recommendations. These included the [Homelessness and Rough Sleeping Action Group \(HARSAG\)](#), the [Homelessness Prevention Review Group](#), the [Homelessness Prevention Task and Finish Group](#) and the [Improving Outcomes for Women and Children Experiencing Domestic Abuse Working Group](#)<sup>23</sup>.

The work of the independent Homelessness Prevention Review Group is particularly notable. The Scottish Government had asked Crisis to convene the independent group of experts in order to develop legislative proposals to prevent homelessness in Scotland. The report of the review group, ‘[Preventing homelessness in Scotland: Recommendations for legal duties to prevent homelessness](#)’ was published in 2021.

Many of its recommendations are contained within the provisions of the Housing (Scotland) Bill. For example, the ‘Ask and Act’ duty, the expansion of the definition of abuse within homelessness legislation, expanding the definition of

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<sup>23</sup> Housing (Scotland) Bill, [Policy Memorandum](#), Part 5 – Homelessness Prevention.

“threatened with homelessness” to six months (what it referred to as ‘an extended prevention duty’), and prescribing a range of “reasonable steps” to be used by local authorities to prevent homelessness. These recommendations are explored further in [sections 3](#) and [4](#) of this RaiSe Paper.

## 2.2 A shifting focus towards homelessness prevention and statutory collaboration?

The legislative framework for homelessness in Northern Ireland (primarily the Housing (NI) Order 1988) has undergone some substantive change but not in more recent years. It has arguably not been subject to the same level of independent scrutiny in recent years as has been the case both in Scotland and Wales.

During its briefing to the Committee, Homeless Connect maintained that there has been an increased policy and legislative shift in other jurisdictions towards homelessness prevention. The evidence does seem to strongly concur with this assertion. For example, the Welsh Government’s 2023 consultation on the [‘White Paper on Ending Homelessness in Wales’](#) states that “*significant legislative reform*” is required to achieve a “*systematic transformation*” towards preventing homelessness in Wales<sup>24</sup>. The Welsh [Programme for Government](#) (update) sets out a commitment to “*reform housing law and implement the Homelessness Action Group’s recommendation to fundamentally reform homelessness services to focus on prevention and rapid rehousing*”.

**The legislation has not yet been introduced in Wales and the Committee may wish to consider maintaining a close watching brief on developments.**

In Scotland, [Part 5 of the Housing \(Scotland\) Bill](#), if enacted, would introduce further significant reform to the homelessness legislative framework. The provisions of the Bill confirm that the Scottish Government is seeking to shift the

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<sup>24</sup> Welsh Government, [Consultation on the White Paper on Ending Homelessness in Wales](#), p10.

emphasis away from a crisis/reactionary approach to tackling housing insecurity and towards enshrining homelessness prevention approach within legislation. For example, the 'Ask and Act' provisions in the Bill would require certain public bodies to take more collective responsibility for identifying and addressing homelessness<sup>25</sup>. The Bill also contains provisions to intervene at a much earlier stage if a person is threatened with homelessness, that is, by amending the current definition from two months to six months.

**In comparison, the current definition for threatened with homelessness in Northern Ireland is 28 days (i.e. a person is likely to become homeless within 28 days). There is no similar 'ask and act' within the Northern Ireland legislative framework for homelessness.**

The Scottish Government has also explicitly stated that the foundational principles of the Prevention Review Group have governed the approach adopted in developing the Bill. That is<sup>26</sup>:

- Responsibility to prevent homelessness should be a shared public responsibility, and not rely solely or primarily on the homelessness service.
- Intervention to prevent homelessness should start as early as possible. In many cases this should be before issues have escalated to a point where homelessness appears imminent.
- People facing homelessness should have a choice in where they live and access to the same range of housing outcomes as members of the general public, with appropriate protections to mitigate against further risk of homelessness.

This would strongly indicate that there has not only been a significant shift in policy emphasis towards homelessness prevention, but that it is the intention of

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<sup>25</sup> Scottish Government, Housing (Scotland) Bill, [Policy Memorandum](#).

<sup>26</sup> Scottish Government, Housing (Scotland) Bill, [Policy Memorandum](#).

the Scottish Government to secure this approach in legislation. The Bill of course, has not yet been enacted, and is currently making its way through the Scottish Parliament.

**The Committee may wish to consider maintaining a watching brief on the [Bill's progress](#) through the Scottish Parliament with a view to assessing whether any the potential legislative developments in Scotland would be desirable and practical for Northern Ireland.**

### 3 The independent reviews of homelessness legislation in other jurisdictions – recommendations and outcomes

The previous section provided a brief overview of each of the independent reviews of homeless legislation carried out by the various expert panels/groups in England, Scotland and Wales. This section of the paper will:

- Explore those reviews in some further detail outlining some of the key recommendations made by the expert panels.
- Highlight some of the ways in which those recommendations influenced legislative change and/or proposals for legislative change in the other jurisdictions.
- Identify a number of notable key differences between current the Northern Ireland legislative framework for homelessness and the current frameworks in England, Scotland and Wales.
- Identify some of the key proposals for potential legislative reform in Wales and Scotland and how these differ from the current Northern Ireland legislative framework.

This section begins, however, by providing a brief contextual overview of the current legislative framework for homelessness in Northern Ireland (which is primarily The Housing (NI) Order 1988).

### 3.1 The statutory framework for homelessness in Northern Ireland

The statutory framework for homelessness in Northern Ireland is largely set out in [The Housing \(Northern Ireland\) Order 1988](#). The 1988 Order:

- Places the statutory responsibility for homelessness on the Housing Executive.
- Provides statutory definitions for key terms such as “homelessness”, “threatened with homelessness”, and “priority need”.
- Sets out the duties of the Housing Executive with respect to those who are homeless, threatened with homelessness, and in priority need.
- Provides for a process of review and appeal for certain Housing Executive decisions about homelessness.

This primary piece of legislation is now over 30 years old. The 1988 Order has been amended several times over the years and some other pieces of legislation have been introduced to assist the Housing Executive in carrying out of its homelessness duties. These are set out below.

#### **The Housing (Northern Ireland) Order 2003**

[The Housing \(Northern Ireland\) Order 2003](#) amended the 1988 Order by introducing a number of changes to the definitions of homelessness<sup>27</sup> and intentionality (intentionally becoming homeless)<sup>28</sup>. It placed a much greater onus on the Housing Executive to assess an applicant’s eligibility for housing assistance, focusing on factors such as whether a person was subject to immigration control or was a person from abroad who was deemed ineligible. The 2003 Order also amended the 1988 Order to permit the Housing Executive to treat an applicant as ineligible for homelessness assistance if they, or a member of their household, were guilty of serious unacceptable behaviour<sup>29</sup>.

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<sup>27</sup> [The Housing \(Northern Ireland\) Order 2003, Article 135](#)

<sup>28</sup> [The Housing \(Northern Ireland\) Order 2003, Article 136](#)

<sup>29</sup> [The Housing \(Northern Ireland\) Order 2003, Article 137](#)

These amendments to the Housing (Northern Ireland) Order 1988, introduced via the 2003 Order came into effect over the years 2003 and 2004.

### **The Housing (Amendment) Act (Northern Ireland) 2010**

The [Housing \(Amendment\) Act \(Northern Ireland\) 2010](#) amended the 1988 Order by inserting a number of important new duties for the Housing Executive including:

- A duty on the Housing Executive to formulate and publish a **homelessness strategy**.
- That a range of **statutory bodies shall take the homelessness strategy into account** in the exercise of their functions, e.g. Health and Social Care Trusts, registered housing associations, councils, the Probation Board for Northern Ireland, the Department for Communities.
- A duty on the Housing Executive to ensure **that advice on homelessness, including the prevention of homelessness, is available free of charge** to any person in Northern Ireland. It enables the Housing Executive to pay grants or to make loans or other assistance available to persons providing such advice. It also stated that regard should be had to any guidance issued by the Department for Communities in relation to the form and content of advice.
- Where the Housing Executive decides that a person is ineligible for assistance, the Order provided that the Housing Executive shall **notify the person of the decision and the reason for the decision**.
- It also introduced an applicant's **right to request a review** of the Housing Executive's decision regarding their eligibility for assistance and provided a right of appeal to a county court on a point of law.

These amendments to the Housing (NI) Order 1988 came into effect around 2010.

### **The Housing (Amendment) Act (Northern Ireland) 2011**

Article 21 of the [Housing \(Amendment\) Act \(Northern Ireland\) 2011](#) provides the Department (for Communities) with the power to make regulations providing for the Housing Executive to enter into partnership arrangements with certain

statutory bodies if such arrangements are likely to lead to an improvement in the way in which certain functions of the Housing Executive (or certain housing-related functions of other bodies) are exercised. At that time the Housing Executive were said to have requested this amendment in order to provide a more statutory footing for partnership working. For example, partnership working in relation to homelessness strategies<sup>30</sup>. This regulating-making power took effect in 2011.

### **3.1.1 Is the homelessness legislative framework in Northern Ireland in need of review?**

The last substantive changes to the statutory framework for homelessness in Northern Ireland occurred over ten years ago. The latest homelessness strategy for Northern Ireland, '[Ending Homelessness Together 2022-2027](#)' maintains that the legislation has “remained largely unchanged since its introduction in 1988”. It states that the Housing Executive would seek to work with the Department for Communities and other key stakeholders to initiate a review of the primary legislation,

*“...to consider changes, mirroring those made in other jurisdictions of the UK, in order to place a statutory focus on the prevention of homelessness and provide more person centred statutory homelessness services.”*

The Committee may wish to note that other organisations have echoed the call for a review of the homelessness legislative framework made by Homeless Connect<sup>31</sup>. Housing Rights, in its [response](#) to the draft Housing Supply Strategy sought to include within a strategy a review of homelessness policy and legislation to “learn the lessons from what worked so well during the pandemic as well as innovations from elsewhere”. Housing Rights has stated that it would

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<sup>30</sup> Northern Ireland Assembly, Committee for Social Development, [Report on the Housing \(Amendment\) \(No2\) Bill](#), 27 January 2011.

<sup>31</sup> Northern Ireland Assembly Committee for Communities, [Homeless Connect evidence session](#), 11 April 2024.

like to see the Department for Communities bring forward legislation for a statutory duty to cooperate on prevention and alleviating homelessness to be placed on statutory bodies across housing, health, education and criminal justice<sup>32</sup>. The Chartered Institute of Housing Northern Ireland in its recent report '[An Agenda for Change: tackling the housing and homelessness crisis](#)' has also called for the enactment of legislation for prevention duties:

*“Implement statutory duties on the Housing Executive and other relevant bodies to prevent homelessness, like other models in England and Wales. This statutory focus on prevention has led to more person-centred outcomes and early interventions”.*<sup>33</sup>

Homeless Connect in its [response](#) to the draft Housing Supply Strategy stated that it felt that<sup>34</sup>,

*“...it is clearly evident that the legislation governing this area is no longer fit for purpose for a wide variety of reasons. Neighbouring jurisdictions have all reformed their homelessness legislation in recent years and we believe Northern Ireland should follow suit.”*

An article in Inside Housing also reports that the Chief Executive of the Housing Executive has, given the pressures on homelessness services, called for a legal duty on the Housing Executive to prevent homelessness, maintaining this is a legal duty that the Housing Executive currently does not have<sup>35</sup>.

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<sup>32</sup> Housing Rights, [Response to the Draft Housing Supply Strategy](#), February 2022.

<sup>33</sup> Chartered Institute of Housing Northern Ireland, [An Agenda for Change: Tackling the Housing and Homelessness Crisis](#), August 2024.

<sup>34</sup> Homeless Connect, [Submission Housing Supply Strategy](#), January 2022.

<sup>35</sup> [“We need a legal duty to prevent homelessness, says NIHE chief executive”](#), Inside Housing, 22 March 2024.

**Points for consideration:**

**Given the recent views expressed in relation to a duty to prevent, the Committee may wish to consider whether there is a compelling argument for the homelessness legislative framework to be subject to comprehensive review, particularly within the context of whether the current framework is fit for purpose in terms of homelessness prevention.**

**During the Second Stage of the Private Tenancies Bill (13 September 2021), Minister Hargey, stated that she had “asked officials to review the existing legislation to ensure that it is fit for purpose” and indicated that they would respond to her by the end of the mandate with proposals or recommendations for next steps<sup>36</sup>. The Committee may wish to consider seeking information on that review.**

It is evident that policy-makers, service providers, and indeed those who are homeless or threatened with homelessness, are experiencing unprecedented pressures. The pandemic, along with other factors such as the Cost of Living crisis and a constrained fiscal landscape, has created new challenges and exacerbated old ones. There is a growing social housing waiting list. As at 31 December 2024, there were 48,325 households on the social housing waiting list, 36,891 of these were in ‘housing stress’<sup>37</sup> and 30,982 had Full Duty

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<sup>36</sup> Northern Ireland Assembly, Official Report, [Private Tenancies Bill: Second Stage](#), 13 September 2021.

<sup>37</sup> ‘Housing Stress’ means an applicant with 30 or more points under the Social Housing Selection Scheme.

Applicant status<sup>3839</sup>. The new [Housing Supply Strategy](#) highlights that there has been a substantial increase in the number of households in ‘housing stress’ since the early 2000s.

There is a widening gap between housing need and the annual rate of construction and, additionally, housing affordability has become a significant challenge for many households<sup>40</sup>. There is also a clear trend in terms of increased demand for temporary accommodation with [research](#) commissioned by the Housing Executive highlighting the negative impact that this can have on applicants if the accommodation or support services are not suitable for their needs<sup>41</sup>. Furthermore, [research](#) by the Simon Community reveals the potential level of hidden homelessness in Northern Ireland. The recent Northern Ireland Audit Office report ‘[Homelessness in Northern Ireland](#)’ goes into a number of these challenges in further detail.

Arguably, one important element of addressing these challenges is ensuring that Northern Ireland has a modern and fit for purpose legislative framework for homelessness. It is important to acknowledge that whilst it is not the only important factor, it could potentially be one of the important catalysts for change. Whilst the legislative framework for homelessness in Northern Ireland has been amended several times over the years, there is an argument to be made that there have been more significant legislative reforms and/or proposals for reform for England, Scotland and Wales with an increased focus on homelessness prevention and inter-governmental co-operation.

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<sup>38</sup> Department for Communities & NISRA, [Northern Ireland Housing Bulletin, October-December 2024](#). Published 27 February 2024.

<sup>39</sup> A Full Duty Applicant (FDA) is an applicant considered by the Housing Executive to be eligible for assistance, homeless or threatened with homelessness, in priority need and unintentionally homeless. The Housing Executive owes a full housing duty to FDAs.

<sup>40</sup> Department for Communities, [Housing Supply Strategy: A Home for Everyone 2024-2039](#), December 2024.

<sup>41</sup> Fiona Boyle Associates, [Homelessness Service User Journeys](#), March 2021. Commissioned by the Housing Executive.

The remainder of this section of the RaISe paper provides an overview of some of these changes. It is at least worth exploring the legislative approach taken in other jurisdictions with a view to, for example:

- Assessing how the current legislative frameworks in other jurisdictions operate in practice, particularly in relation to homelessness prevention and evaluating its effectiveness.
- Exploring how the new legislative proposals for Scotland (and potentially legislative proposals for Wales) will operate in practice, including their advantages and challenges.
- Whether such legislative changes should or could be implemented in Northern Ireland including assessing whether there would be support for legislative reform.
- Examining the funding implications of introducing legislative changes in Northern Ireland.

This is a much wider piece of work outside the scope of this RaISe paper and would require consultation with both local stakeholders/experts and those in other jurisdictions.

### 3.2 The independent review of homelessness legislation in England and the Homelessness Reduction Act 2017

A comprehensive review of homelessness legislation in England was carried out by an independent panel of experts convened in 2015. The panel was established by the homelessness charity Crisis and was tasked with assessing the strengths and weaknesses of the legislative framework in England. The panel was comprised of representatives from local authorities, housing associations, homelessness charities, academia and received support from a legal advisor. The panel considered the following questions:

- Could reforms be made to place a more effective and inclusive duty on local authorities to prevent and relieve homelessness?
- Are there elements of legal reform in Scotland and Wales that may be appropriate for England?

- What is required to ensure existing and future legal obligations are enforced?

The panel met from July 2015 to February 2016 and published its report '[The Homeless legislation: an independent review of the legal duties owed to homeless people](#)' in April 2016. The Chair of the panel, Professor Suzanne Fitzpatrick, maintained that a fundamental difficulty with the then legislative framework for England was that it created a “distinction between those who are considered “statutorily homeless” and those who are not (predominantly single people without dependent children). She highlighted that both Scotland and Wales had introduced new legislation to address the historical lack of provision for single people and felt that “the time has come for England to do the same”.

The report noted that both Scotland and Wales had introduced legislation to address the lack of entitlements for single people, that is:

- The [Housing \(Scotland\) Act 1987](#) had been amended by the [Homelessness etc. \(Scotland\) Act 2003](#) in order to abolish ‘priority need’ (this would not happen immediately, it was ended by the Scottish Government in December 2012 after almost a decade of preparation for its abolition).
- The [Housing \(Wales\) Act 2014](#) introduced what was considered to be stronger prevention and relief duty for eligible homeless households regardless of priority need status. The new legislation also extended the definition of ‘threatened with homelessness’ from 28 to 56 days. The report stated that this “provided local authorities with a more realistic window of time within which to carry out meaningful prevention work”.

The expert panel argued that the case for reform to homelessness legislation in England “was strong” and that there was a need for a greater focus on homelessness prevention. It maintained that this prevention work should take place within a statutory framework thereby making local authorities in England more accountable. The panel concluded that:

*“After careful examination of divergent legislation in Scotland and Wales, and the existing evidence on implications and effectiveness,*

*the Panel took the view that that there were many aspects of the approach being taken in the latter that may have merit in the English context. We therefore sought to draft an alternative legislative framework, which could be achieved through a set of amendments to the Housing (Act) 1996”.*

The new model proposed to:

- Place a stronger duty on local authorities to help prevent homelessness for all eligible applicants regardless of priority need status, local connection or intentionality.
- Extend the definition of threatened with homelessness from 28 days to 56 days to provide local authorities with more flexibility to tackle homelessness at a much earlier stage.
- Place a new relief duty on local authorities requiring them to take ‘reasonable steps’ to help secure accommodation for all eligible homeless households who have a local connection.

The panel’s report was submitted to government for consideration and a number of the proposals led to legislative change in the form of a Private Member’s Bill, the Homelessness Reduction Bill<sup>42</sup>, which became the Homelessness Reduction Act 2017.

### 3.2.1 The Homelessness Reduction Act 2017

The [Homelessness Reduction Act 2017](#) introduced a number of changes to the homelessness legislative framework in England (where possible the differences between the 2017 Act and the Housing (NI) Order 1988 are highlighted:

#### **(i) Amended the definition of “threatened with homelessness”**

The 2017 Act extended **the period an applicant is considered to be “threatened with homelessness” from 28 days to 56 days**. It also ensured that anyone who had been served with a valid section 21 notice (typically known as a “no fault eviction”) that expired in 56 days would be considered as

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<sup>42</sup> The Bill was sponsored by Bob Blackman MP and Lord Richard Best.

“threatened with homelessness”. The purpose of this provision was to place greater emphasis on homelessness prevention and to encourage those at risk to seek support as soon as possible before reaching crisis point. **Note that the threshold for “threatened with homelessness” in Northern Ireland is still 28 days whereas this has now been extended to 56 days/2 months in England, Scotland and Wales. The Housing (Scotland) Bill proposes to extend the definition further to six months in Scotland and the PMB [Homelessness Prevention Bill](#) proposes a similar extension for England.**

**(ii) Introduces a duty on local housing authorities to provide free information and advice in relation to homelessness**

The 2017 Act extended the existing duty to provide advisory services by placing a duty on local housing authorities in England to **provide free information and advice** to any person within their district on preventing and relieving homelessness. This duty was already in place in Northern Ireland (via Article 2 of the Housing (Amendment) Act (NI) 2010). It places a duty on the Housing Executive to secure that advice about homelessness, and the prevention of homelessness, is available free of charge, to any person in Northern Ireland.

**(iii) Introduced a new homelessness prevention duty**

The 2017 Act introduced a requirement for local housing authorities in England to take “reasonable steps” to help prevent homelessness for any eligible household that is threatened with homelessness (i.e. within 56 days, not that intentionality or priority need are not considered as part of the prevention duty). The steps to be taken should be informed by the homelessness assessment. Examples of such ‘reasonable steps’ are outlined in the ‘[Homelessness Code of Guidance for Local Authorities](#)’:

*“Housing authorities have a duty to take reasonable steps to help prevent any eligible person (regardless of priority need status, intentionality and whether they have a local connection) who is threatened with homelessness from becoming homeless. This means either helping them to stay in their current accommodation or helping them to find a new place to live before they become actually homeless”.*

The 2017 Act also introduced the circumstances in which this duty would be considered to have come to an end. For example, if the housing authority is satisfied that the applicant has suitable accommodation available for occupation and has a reasonable prospect of that accommodation continuing to be available for at least six months. There is provision within the legislation that affords the Secretary of State the power to increase this minimum period up to a maximum of 12 months. The duty will also come to an end if the applicant has refused an offer of suitable accommodation or the applicant has become homeless intentionally from any accommodation that has been made available to them as a result of reasonable steps taken by the housing authority. Further information on the homelessness prevention duty and reasons it can be brought to an end is available in the [statutory homelessness code of guidance](#) for England.

**Northern Ireland does not have a similar statutory homelessness prevention duty to that set out in the Homelessness Reduction Act 2017. That is not to say that the Housing Executive does not engage in homelessness prevention activities but many of these may not strictly be legislative requirements and therefore may not attract a level of funding that statutory duties may potentially incur.**

**(iv) Introduced a “duty to refer” on other public authorities**

The 2017 Act requires certain other public authorities to notify a local housing authority if a person is homeless or at risk of homelessness. The person must be a person to whom the organisation exercises their functions. They must also be asked and agree that the local housing authority can be notified and that their personal details be supplied to the local housing authority. The purpose of this duty is to encourage other public bodies to assist with early identification of people who are homeless or at risk of homelessness.

The public authorities which are subject to the duty include prisons, youth offender institutions, secure training colleges, youth offending teams, Probation Services, Jobcentre Plus, social services, emergency departments, urgent

treatment centres, and hospitals in their function of providing inpatient care. The Secretary of State for Defence is also subject to the duty to refer in relation to members of the regular armed forces. Further information on the duty to refer is available in the [statutory code of guidance for homelessness](#) in England.

The [code of guidance](#) for England, states that it is the responsibility of public authorities to decide how to discharge their duty to refer. Some may be required to provide accommodation for certain individuals as part of their own legal duties (for example, social services have a duty to accommodate a lone 16 or 17-year-old under the Children Act 1989). A referral made by a relevant public body to the local housing authority does not in itself constitute an application for assistance but authorities should always respond to any referral received (for example, by contacting the individual who has been referred).

**There is no similar widespread statutory ‘duty to refer’ in Northern Ireland although many public authorities such as the prison service may have existing agreements in place with the Housing Executive. The Committee may wish to explore the current co-operation arrangements between the Housing Executive and other public bodies in respect of homelessness in further detail.**

#### **(v) Codes of Practice**

The Homelessness Reduction Act 2017 provided the Secretary of State with a power to issue statutory codes of practice. The purpose of the codes of practice is to provide further guidance on how local housing authorities should deliver and monitor their homelessness and homelessness prevention functions<sup>43</sup>. The statutory ‘Homelessness Code of Guidance for Local Authorities’ (updated February 2025) is available to view [here](#). The Welsh Government has also published a statutory code of guidance [‘for Local](#)

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<sup>43</sup> Department for Communities and Local Government, Homelessness Reduction Bill, [Policy Fact Sheet: Codes of Practice](#).

[Authorities on the Allocation of Accommodation and Homelessness](#)' (2016) and the Scottish Government a '[Homelessness: code of guidance](#)' (2019).

There does not appear to be a similar legislative requirement for a statutory code of guidance for homelessness in Northern Ireland. However, notably the structures for homelessness between the four jurisdictions is different. For example, in Northern Ireland, one body, the Housing Executive has responsibility for homelessness. In England, Scotland and Wales, numerous local housing authorities hold this responsibility and there has not always been uniformity in practice or interpretation of those responsibilities, hence the requirement of statutory guidance.

The guidance available in the other jurisdictions, however, can also act as useful resource to assist external organisations/individuals to understand and interpret the legislation in a more systematic way. The Housing Executive does have an internal 'Homelessness Guidance Manual' which provides staff with guidance on dealing with homelessness applications and on the Housing Executive's statutory duties. It is a very useful document, but one which had to be obtained by RaISe via a Freedom of Information request.

**The Committee may therefore wish to consider whether the level of publicly available guidance on homelessness legislation is adequate. Although note that Housing Rights does receive funding to provide accessible [housing and homelessness advice and information](#).**

### 3.3 The independent review of homelessness in Wales

There have been two major reviews of homelessness legislation in Wales:

- The first review led to a new framework for homelessness via Part 2 of the [Housing \(Wales\) Act 2014](#).
- The second legislative review was carried out by an Expert Review Panel which published its [report](#) in 2023. The findings and recommendations of the Panel, along with stakeholder and service user engagement, has

influenced the Welsh Government's proposals for ending homelessness in Wales. These wide proposals are set out in its [White Paper](#) consultation on ending homelessness in Wales (October 2023).

This section of the paper provides an overview of some of the differences between the current Northern Ireland legislative framework for homelessness and the current Welsh framework (the Housing (Wales) Act 2014). It also provides an overview of the proposals for legislative reform contained within the consultation on the White Paper.

### **3.3.1 The first review of homelessness legislation in Wales (2012-2014)**

Before devolution in Wales, housing and homelessness legislation was made at Westminster and its extent covered both England and Wales. After devolution, the Welsh administration, via its Ten-Year Homelessness Plan (published in 2009) identified a need for its own bespoke homelessness legislation and set out a commitment for the law to be reviewed. As part of this review, the Welsh Government [commissioned research](#) from the University of Cardiff and the Wales Institute for Social and Economic Research.

The subsequent impact analysis entitled '[A report to inform the review of homelessness legislation in Wales](#)' was published in January 2012. Also forming part of this review, was a series of three events held across Wales involving a wide range of professionals and practitioners focusing on a "Housing Solutions" model to homelessness. The report from this event, and the commissioned research, was said to have informed the new statutory homeless framework for Wales, that is, [Part II of the Housing \(Wales\) Act 2014](#)<sup>44</sup>.

The research highlighted that change was required in several key areas that is:

- A greater emphasis on homelessness prevention and early intervention.
- The need for more assistance for applicants who are found to be in priority need and for those who were unintentionally homeless but not in one of the priority need groups.

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<sup>44</sup> Welsh Government, Housing (Wales) Bill, [Explanatory Memorandum](#), November 2013.

- More emphasis on co-operation between organisations and a recognition that homelessness was not just a housing issue but involved other areas such as health, criminal justice, education, employment<sup>45</sup>.

As a result of the findings of the review and stakeholder engagement legislation was introduced to reform homelessness law in Wales. [Part II of the Housing \(Wales\) Act 2014](#) introduced the following measures (note that many of these measures subsequently influenced the Homelessness Reduction Act 2017 in England)<sup>46</sup>:

- The introduction of new duties for local authorities to help prevent homelessness for anyone who asks for help and a duty for local authorities to take 'reasonable steps' to prevent or relieve homelessness (a **statutory homelessness prevention duty**).
- More **flexible interventions** by local authorities to ensure more effective prevention of homelessness. The [statutory code of guidance on homelessness](#) identifies a minimum list of interventions that a local authority ought to have in place to assist with this duty. These include, for example, Housing Options advisors, mediation, a homelessness prevention fund, specialist advice on debt/money management/benefit entitlement, joint working arrangements with social housing providers/social services/social care/domestic abuse services/prison service/supported housing.
- A **change in organisational culture** to underpin a person-centred/partnership approach between local authorities and people who ask for assistance.
- An increase in the length of time when people are considered to be **threatened with homelessness from 28 days to 56 days** and extending the prevention duty to all, not just those in priority need.

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<sup>45</sup> Welsh Government, Housing (Wales) Bill, [Explanatory Memorandum](#), November 2013.

<sup>46</sup> Welsh Government & Government Social Research, [Post-implementation evaluation of Part 2 of the Housing \(Wales\) Act 2014: Final Report](#), July 2018.

- Changes in the **application of priority need, intentionality and local connection provisions**. For example, a new standalone category for people leaving prisons or young offenders institutions and who are vulnerable as a result of this.
- Creating a new framework to involve housing associations.
- Creating a new framework to work with the private rented sector in alleviating homelessness.

**The Committee may wish to note that there are a number of key differences between the Northern Ireland legislative framework and the current Welsh framework. For example (this list is not definitive):**

- **There is no similar statutory homelessness prevention duty in Northern Ireland.**
- **The list of priority need groups are narrower in Northern Ireland (for example, there is no standalone group for people who are vulnerable and leaving prison or a young offenders institute or for domestic abuse).**
- **The definition of ‘threatened with homelessness’ is 28 days in Northern Ireland and currently 56 days in Wales.**

Significantly, the Welsh Government commissioned a longitudinal post-implementation evaluation of the new homelessness framework (i.e. Part II of the Housing (Wales) Act 2014). The [Final Report](#) of the evaluation was published in July 2018. The specific evaluation objectives were to:

- Evaluate the implementation of the legislation on local authorities (local authorities in Wales have responsibility for housing and homelessness).
- Evaluate the short and longer-term impacts of the new legislation.
- Identify the need for further improvements, developments and support to ensure consistently good services across Wales.

- Assess the impact of the legislation on service users, local authorities and key partners.
- Evaluate the impact of the much greater emphasis on prevention within the legislation.

**Points for consideration:**

**The Committee may wish to consider if the Northern Ireland legislative framework has been subjected a similar level of post-legislative scrutiny in recent years. This may be an important factor in considering whether elements of the legislative framework in Northern Ireland are still fit for purpose.**

The [Final Report](#) of the evaluation made a series of recommendations to the Welsh Government for changes to the legislation in the medium to long term (see pp214-221 of the Final Report). Significantly, these recommendations, along with a report from the Expert Review Panel, have helped to inform the current second major review of homelessness legislation which is under consideration by the Welsh Government. These new legislative proposals are considered in section 3.3.2 of this RaISe paper below.

### **3.3.2 The second review of homelessness legislation in Wales (2021-present)**

In 2021, the Welsh Government set out a commitment in '[Ending Homelessness in Wales: A High Level Action Plan 2021 to 2026](#)' to evaluate existing homelessness prevention legislation in Wales. The Action Plan was developed in the wake of the pandemic and the Welsh Government sought to maintain the inclusive "no one left behind" approach taken during the pandemic. The purpose of the review was to look at areas in which the law could be improved in order to build upon the "no one left behind" ethos and to ensure public services were working together to prevent homelessness. The [Programme for Government](#) for Wales also contained a commitment to reform housing law and to "fundamentally reform homelessness services to focus on prevention and rapid rehousing".

As part of the review of homelessness legislation, the Welsh Government invited the homeless charity Crisis to convene an [Expert Review Panel](#) to consider how legislative change could help end homelessness in Wales. Membership the Expert Review Panel consisted of representatives from local government, homelessness organisations, housing associations, and academics. The Panel was chaired by an academic who chaired similar reviews for England and Scotland. The Panel was also assisted by a legal advisor and had support from Welsh Government officials who advised on policy matters<sup>47</sup>. Additionally, the Panel's work was informed by consultation with people who had lived experience of homelessness and by a programme of stakeholder engagement including frontline service providers. This review was tasked with examining how well the current legislative framework for Wales is working, the barriers within the current system and the potential for change.

The Panel began meeting in August 2022 and was asked to report back to the Welsh Government with recommendations for legislative change by September 2023. The findings and recommendations of the Expert Review Panel were published in its report '[Ending Homelessness in Wales: A Legislative Review](#)'. The report and recommendations of the Panel fed into the Welsh Government's '[Consultation on the White Paper on Ending Homelessness in Wales](#)' published in October 2023.

The White Paper consultation highlighted that a number of external factors have impacted on homelessness in Wales since the enactment of the Housing (Wales) Act 2014. These factors included the COVID-19 pandemic, the cost-of-living crisis, and the constrained supply of temporary and permanent accommodation. The paper stated that as a result of this there was a need to review not only the homelessness legislative framework but also the general approach to homelessness in Wales.

The White Paper presented a range of high-level proposals for legislative change aimed at informing the development of a future Bill. The paper stated that the landscape in which housing and homelessness services are working

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<sup>47</sup> Expert Review Panel, '[Ending Homelessness in Wales: A Legislative Review](#)', 2023.

has “irreversibly changed” since the Welsh Government last legislated in this area (i.e. the Housing (Wales) Act 2014). It maintained that significant legislative reform was required to achieve the systematic transformation required to address the needs and circumstances of those who are homeless or at risk of homelessness in Wales. The ultimate aim is to end homelessness in Wales with a much greater focus on homelessness prevention. The consultation on the White Paper ended in January 2024 and an analysis of the responses is available to view [here](#). This is currently under consideration by the Welsh Government.

The Welsh Government has, however, recognised that legislative change on its own will not end homelessness<sup>48</sup>:

*“Legislative reform alone will not address the significant pressures within the homelessness system in Wales, but it will formalise the Rapid Rehousing policy approach to ending homelessness and lay the groundwork for evidence-based practice, shown to be most effective in reducing core homelessness. This practice includes maximising prevention efforts, expanding the responsibility for homelessness to the wider public service, increasing social housing allocations to homeless households and providing tenancy support for those who are most vulnerable to repeat homelessness.*

*The introduction of the proposed legislation will aim to establish practice across the wider public service that will lead to earlier identification of the risk of homelessness, more efficient and effective referrals into support services and to secure multi-agency co-operation to prevent homelessness”.*

The Welsh Government has stated that the success of a proposed package of legislative reform for homelessness will depend on a number of other key policy

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<sup>48</sup> Welsh Government, [Consultation on the White Paper on Ending Homelessness in Wales](#), October 2023.

interventions. Some of these are within the remit of the Welsh Government but others fall under the remit of the UK Government. These include<sup>49</sup>:

- Increasing housing supply through a range of actions including building, increased allocations, bringing empty homes back into use, developing needs-led accommodation including more accommodation for single people and those with multiple support needs.
- The provision of financial/debt assistance.
- Raising the level of Local Housing Allowance and indexing it to private rented levels.
- Improve recruitment and retention in the housing sector workforce.
- Capacity building in the housing sector and wider public service.
- Improving services for people with No Recourse to Public Funds.

### 3.3.3 What potential legislative reforms have the Welsh Government consulted on?

The Welsh Government's White Paper sets out a series of proposals for legislative reform. However, it should be noted the Welsh Government have yet to announce final decisions on these proposals. An analysis of the consultation responses, many of which discuss the merits and barriers of the proposals, as well as additional proposals suggested by stakeholders, are available to view on the Welsh Government's website [here](#). The consultation paper sets out in detail (at pp24-25) the wide range of proposals for reform. A synopsis of the proposals is summarised in **Appendix 1** of this RaISe paper.

However, a few notable proposals include:

- The period of time in which local authorities are expected to **undertake meaningful prevention work will be extended to six months** or where a Possession Notice has been issued, the period of that notice. Currently in Wales a person is defined as "threatened with homelessness" if it is likely that they will become homeless within 56

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<sup>49</sup> Welsh Government, [Consultation on the White Paper on Ending Homelessness in Wales](#), October 2023.

days. It is proposed that this would be extended to six months or would align more closely to the period of notice contained within a Possession Notice. The proposal would therefore require local authorities to act much sooner to prevent homelessness.

- To **abolition priority need with a clearly defined lead in time**. Additionally, for all care-experienced people (that is, care leavers regardless of age) to be considered priority need until such time as priority need is abolished.
- **Targeted preventative reforms for those most at risk** including survivors of violence against women, survivors of domestic abuse and sexual violence, youth homelessness, care experienced young people and those in the criminal justice system.
- **New duties across the Welsh public service to identify, refer and co-operate** to prevent homelessness. For example, a duty on specified public services to identify those at risk of homelessness and refer on to other services (with the person's consent). The consultation paper recommends such bodies include social services, local health boards including primary care, and registered social landlords. One of the aims of this new duty would be ensure that local housing authorities are notified as soon as possible if a person is homeless or threatened with homelessness.
- This would also include a **compulsory case co-ordination approach** to prevent homelessness for those with the highest and most complex support needs (for example, those who have experienced long periods of street homelessness).
- Improving standards in temporary accommodation including potential new rules around the **suitability of temporary accommodation**, with a focus on ensuring the location and proximity to schools meet the household's needs.
- Permitting local authorities to **discharge their homelessness duties through accommodation other than social housing** and the private rented sector. This could include, for example, supported living accommodation or accommodation that could be secured for the

applicant for at least 12 months. Safeguards would be put in place such as ensuring the applicant has a contract to occupying the accommodation or providing the applicant with the right to refuse such accommodation if they did not feel it was suitable for their household.

- Increased recognition and support for individuals or households who are **“Homeless at Home”**, that is, those who can occupy their accommodation in the short-term but not in the long term. Helping individuals to remain in their accommodation until more permanent housing can be secured and ensuring that they are similarly prioritised to others that are considered to be threatened with homelessness. The purpose of this is to help relieve pressure on temporary accommodation.
- Increased support for **people who are leaving care, or who have experienced care**, regardless of age. Increased **support for other vulnerable groups** such as victims and survivors of violence and abuse.
- Utilising existing structures and potentially developing new structures and Ministerial powers in respect of the **oversight of homelessness duties and services**.

If such proposals become requirements in legislation this would represent a significant diversion in many cases of what is currently statutorily required under law in Northern Ireland. However, not all the proposals will be applicable or appropriate for Northern Ireland but they may be a useful starting point for discussions around potential reforms to the legislative framework for homelessness in Northern Ireland.

**The Committee may wish to consider:**

- **Maintaining a watching brief on the progress of the proposals and any subsequent legislation that may arise from those proposals in Wales.**
- **Assessing the merits of the proposals for legislative reform set out in the Welsh White Paper on ending homelessness (see Appendix 1 of this RalSe paper) and**

**identifying which proposals may not be appropriate for Northern Ireland.**

- **Seeking feedback from key statutory and non-statutory stakeholders (including people with experience of homelessness) within Northern Ireland as to whether any of the proposals would be desirable, applicable and/or achievable within the context of homelessness in Northern Ireland.**

### 3.4 Scotland – the current legislative framework and the new Housing (Scotland) Bill

This section of the paper explores the current legislative framework for homelessness in Scotland (primarily the Housing (Scotland) Act 1987) and amendments that have been made to the legislation. It also looks at the potential significant reforms to homelessness legislation proposed via Part 5 of the Housing (Scotland) Bill (which is currently at Second Stage in the Scottish Parliament). Similar to the previous sections the paper will, where possible, identify how the current legislative framework and proposed reforms in Scotland differ to the current legislative framework for homelessness in Northern Ireland.

#### 3.4.1 The current legislative framework for homelessness in Scotland

[Part II of the Housing \(Scotland\) Act 1987](#) contains statutory duties on local authorities to assist those who are homeless or threatened with homelessness. Perhaps the most obvious and significant difference between the legislative framework in Scotland compared to Northern Ireland, is that there is [no priority need test](#) in Scotland. Priority need was abolished in December 2012 via the [Homelessness etc. \(Scotland\) Act 2003](#). Local authorities in Scotland must instead consider whether a person who is homeless or threatened with homelessness is intentionally homeless and whether they have a local connection to that local authority area.

However, the Homelessness etc. (Scotland) Act 2003 also provided for changes to the intentionality regime under the Housing (Scotland) Act 1987. Under the

previous legislation local authorities had a duty to investigate whether an applicant had intentionally made themselves homeless. This was subsequently amended to provide local authorities with a power to investigate intentionality but only if they thought it fit to do so. Therefore, this provided local authorities with more discretion as to whether the intentionality criteria should be applied. It was felt that this would enable local authorities to take a more person-centred approach on a case-by case basis.

The abolition of priority need is explored further in [Section 3](#) of this RaISe paper, but it is important to note that it took around a decade to introduce its abolition and extensive preparatory work was undertaken by the Scottish Government and local authorities before it legally came to an end. Before, its abolition the number of [priority need categories in Scotland was extended](#) to make it easier for other groups to access homelessness and housing assistance. This included, for example, persons experiencing domestic abuse, those aged 16 and 17 years old, and those aged between 18 and 20 years old who were at risk of financial or sexual exploitation or who had previously been 'looked after' by a local authority.

Please note that there is a useful summary of the current legislative framework for homelessness in Scotland on the Scottish Government website [here](#).

**Points for consideration:**

**Should the Committee be interested in exploring the abolition of priority need in further detail it may wish to consider:**

- **Assessing the impact of its abolition on housing and homelessness in Scotland (to do so it may need to seek the views of key stakeholders such as the Scottish Government, local authorities, homelessness charities, academics etc.).**
- **Seek the views of local stakeholders on the concept of the abolition of priority need (that is DfC, the Housing**

**Executive, Housing Associations, homelessness and housing organisations, people who are homeless/have been threatened with homelessness, or have experienced homelessness etc.).**

- **Assess the financial implications required to abolish priority need in Scotland.**
- **Assess the current approach to intentionality in Northern Ireland and compare this to the more discretionary approach provided for in Scottish legislation.**

### **3.4.2 The independent review of homelessness legislation in Scotland and the provisions of the new Housing (Scotland) Bill**

The Scottish Government has, in more recent years in particular, placed a significant policy focus on homelessness prevention which has resulted in the introduction of the [Housing \(Scotland\) Bill](#). Part 5 of the Bill contains a number of provisions relating to homelessness prevention including<sup>50</sup>:

- **An extended definition of threatened with homelessness**

This would require local authorities to provide support to households threatened with homelessness up to **six months** before homelessness appears imminent rather than the current two months.

**The current threshold for threatened with homelessness in Northern Ireland is currently 28 days, a six-month threshold in Scotland would mark a significant diversion between the legislative frameworks in Northern Ireland and Scotland in this respect. The definition of ‘threatened with**

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<sup>50</sup> Housing (Scotland) Bill, [Policy Memorandum](#).

**homelessness’ is explored further in [section 3](#) of this RaISe paper.**

- **A new ‘Ask and Act’ duty on certain public bodies**

**Duties for relevant bodies to ‘Ask and Act’ cooperatively**, with a power to modify the list of relevant bodies by secondary legislation if necessary. This would require other public bodies to proactively identify people who are at risk of homelessness (the ‘ask’ element). Public bodies would include, for example, health trusts or the police. It would also require them to “act” within the remit of their own existing powers to mitigate homelessness and to refer the household (with consent) to their local authorities for homelessness assessment where this is deemed necessary.

**There does not appear to be a similar widespread statutory duty to “Ask and Act” in respect of homelessness in Northern Ireland. The ‘Ask and Act’ duty is explored in further detail in [Section 3](#) of this RaISe paper.**

- **Enable relevant bodies to make a homeless application**

To **enable a relevant body to make an application to a local authority** under section 28 of the Housing (Scotland) Act 1987 in respect of a person who the body has reason to believe is homeless or threatened with homelessness. In other words, a relevant public body can, with a person’s consent, make a homeless application to the appropriate local authority if it feels this is appropriate.

**The Committee may wish to explore to what extent it is possible for another public body in Northern Ireland to take similar action (if a person consents to this) and whether there would be any legislative/logistical/financial/practical reason to prevent such a course of action.**

- **Changes to the definition of domestic abuse in housing law**

To introduce **changes to the definition of domestic abuse** as it applies to homelessness legislation to bring it up to date with the most recent understanding of domestic abuse. The purpose of this provision is to update certain parts of housing legislation to reflect abusive behaviour that is defined within the most recent domestic abuse legislation in Scotland (i.e. the Domestic Abuse) (Scotland) Act and the Protection from Abuse (Scotland) Act). This is to ensure that abusive behaviour such as financial abuse is reflected within Scottish homelessness legislation.

**The Committee may wish to consider whether the homelessness legislative framework in Northern Ireland requires a similar update in relation to domestic abuse.**

- **Social landlords and policies on domestic abuse**

To place a duty on every social landlord to prepare and **publish a policy setting out how it will support tenants** affected by domestic abuse to which it must have regard when exercising its functions. The Bill also proposes to introduce a **new pre-action requirement** where a social landlord seeking to evict a tenant for rent arrears would have to consider whether the arrears is related to domestic abuse. Social landlords in Northern Ireland may already have policies in relation to these issues as a matter of best practice. The Committee may wish to consider the extent to which this is the case and whether it would be necessary or desirable to introduce similar legislative requirements in Northern Ireland.

**Points for consideration:**

**Please note that the [Housing \(Scotland\) Bill](#) is currently at Second Stage in the Scottish Parliament and may be subject to amendment. This RaSe paper, due to time constraints, does not go into the proposals in detail. The passage of the Bill through the Scottish Parliament, including Committee consideration and responses to the**

**Committee’s consultation, will reveal further detail on the proposals and the practicalities of their application. It is important therefore to track the progress of the Bill to obtain a more valuable insight into each of the Bill’s provisions on homelessness.**

### **3.4.3 How were the provisions in the Bill developed? The role of independent expert groups in Scotland**

The Housing (Scotland) Bill is described as an “ambitious” bill aimed at improving the outcomes for people living in rented accommodation or facing homelessness<sup>51</sup>. The overarching aim of Part 5 of the Bill and its homelessness prevention measures is to:

*“shift the focus away from crisis intervention and towards prevention activity which can eliminate the need for a household to go through the trauma of homelessness in the first place, without diluting the existing rights for people who are assessed as being homeless. This can help reduce reliance on temporary accommodation, which has been an increasing feature of Scotland’s response to homelessness in recent years”.*

The provisions of the Bill were the result of an extensive process involving the Scottish Government working in conjunction with homelessness and housing organisations, local government, organisations working with people who have experienced domestic abuse, and by people who have experienced homelessness and/or domestic abuse. A brief timeline of some of the steps involved in the process are set out in the box below.

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<sup>51</sup> Note that the scope of the Bill is wider than homelessness and contains other provisions relating to rent control and the designation of rent control areas, restrictions on rent increases, evictions, keeping pets in private rented sector properties, the use of unclaimed tenancy deposits, changes to the registration of letting agents, and fuel poverty.

## Homelessness prevention in Scotland – a summary timeline of key developments

**September 2017:** the [Homelessness & Rough Sleeping Action Group](#) (HARSAG) was established following a commitment in the Programme for Government to end rough sleeping and transform the use of temporary accommodation. The [final recommendations](#) of the Group were published in **June 2018** and included wide reaching homelessness prevention duties.

**November 2018:** the Scottish Government and COSLA formally responded to HARSAGs recommendations by committing to take forward work on such duties in their joint action plan '[Ending Homelessness Together: High Level Action Plan](#)' (this plan was [updated](#) in October 2020).

**August 2019:** The Scottish Government announces the establishment of a **working group to consider how Scotland could improve housing outcomes for women and children experiencing domestic abuse**. The group is co-chaired by the Scottish Women's Aid and the Chartered Institute of Housing. Its membership is comprised of homelessness organisations, women's organisations, central and local government, social housing providers, and legal professionals.

**October 2019:** on the back of the high level action plan, a new expert working group, the [Homelessness Prevention Review Group](#) (PRG) was established to consider options for legislative change, i.e. to ensure that all public bodies are working together to prevent homelessness. The group consisted of representatives from Shelter Scotland, Crisis, Chartered Institute of Housing, local government, the Scottish Government, housing associations and academia.

**December 2020:** The working group on improving housing outcomes for those experiencing domestic abuse [publishes its report](#) containing recommendations for both legislative and non-legislative change. The legislative recommendations include a homeless prevention duty for domestic abuse and a requirement for social landlords to develop and implement a domestic abuse policy.

**February 2021:** the Homelessness Prevention Review Group published its [recommendations](#) to prevent homelessness in Scotland. Many of its recommendations, including the 'Ask and

Act' duty is contained within the provisions of the new Housing (Scotland) Bill.

**December 2021:** The Scottish Government and [COSLA](#)<sup>52</sup> publish a [joint consultation on the prevention of homelessness duties](#) proposals. The recommendations of the Prevention Review Group (PRG) provided the framework for the consultation. An [analysis of the consultation results](#) is published in **September 2022**.

**March 2024:** The [Housing \(Scotland\) Bill](#) is introduced in the Scottish Parliament – Part 5 of the Bill contains provisions relating to homelessness prevention and improving outcomes for those experiencing domestic abuse. All documents relating to the Bill including a Scottish Parliament research paper on the bill are available [here](#).

This may demonstrate to the Committee that a comprehensive review of the homelessness legislative framework in Northern Ireland may potentially require a similar level of co-production, consultation, engagement and resources dedicated to it. Some work of a similar nature may already have been undertaken in Northern Ireland, the Committee may wish to identify what has already been achieved and work which may be required but is outstanding.

**Appendix 2** of this RaISe paper provides a summary of initial proposals put forward by the Scottish Government in its '[Prevention of homelessness duties: consultation](#)'. Whilst not all of these proposals made it into the new Housing (Scotland) Bill, the consultation proposals nevertheless may be a useful tool in identifying the extensive range of issues that may need to be considered as part of a review of the homelessness legislative framework in Northern Ireland.

#### **3.4.4 What are the financial implications of the homelessness provisions in the Housing (Scotland) Bill?**

It would be remiss not to mention that if enacted the homelessness provisions within Part 5 of the Housing (Scotland) Bill are likely to involve significant costs to the public as highlighted in the Bill's [financial memorandum](#). Costings may

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<sup>52</sup> [COSLA](#) is the voice of local government in Scotland.

subject to change by the time the measures are implemented. There may also be additional costs not within the table that are associated with resource and capital requirements for the Scottish administration. What may be more difficult to quantify is the potential longer-term savings that a preventative approach to homelessness could yield.

These costings may assist the Committee in considering that any legislative change to the homelessness framework in Northern Ireland, particularly substantive changes, are likely to require adequate funding to cover the associated costs. However, there is an argument that investing in prevention work now can impact positively in the immediate and longer term. In the immediate term households can be prevented from becoming homeless and protected from the emotional and social effects of losing their home.

Additionally, as is the case in Scotland, the new legislative prevention proposals are aimed at addressing the rising costs associated with the use of temporary accommodation. In the longer term, homelessness prevention potentially can lead to less resources having to be allocated to addressing the negative impact that homelessness can have on society. For example, this could include the impact on physical health, mental health, unemployment, crime, educational underachievement, and relationship and family breakdown. However, this is an issue that would require further evaluation.

## 4 A divergence between Northern Ireland and other jurisdictions?

This section of the paper looks in greater detail at some of the more obvious differences between the current homelessness legislative framework in Northern Ireland, and both the current and proposed changes to the legislative frameworks in Scotland and Wales. Issues covered in this section include:

- The definition of ‘threatened with homelessness’
- Priority need
- A statutory duty to prevent homelessness
- Partnership working and a statutory duty to ‘Ask and Act’

This is by no means intended to be definitive but rather an illustration of some of the ways in which the current legislative framework in Northern Ireland is diverging from the approach to homelessness in other jurisdictions. Whilst the paper sets out some of the differences one should be cognisant that, given time and resource constraints, this RaISe paper cannot:

- Explore all the relevant issues of divergence and similarities between the frameworks.
- Assess the views of all relevant stakeholders as to whether legislative change is necessary in Northern Ireland and what the nature of that legislative change should be.
- Assess the impact of the legislative reforms in England, Scotland and Wales with a view to identifying what aspects of the legislation are working well and not working as intended.
- The financial resources that would be required to support legislative change in Northern Ireland.

It is also worth reiterating that to end homelessness in Northern Ireland, legislative reform is likely to form only part of the equation. Other factors include, for example, adequate and suitable housing supply, adequate funding for housing and homelessness, inter-departmental co-operation, and appropriate workforce planning. This paper, therefore, is likely only to be a starting point for the Committee's consideration of the relevant issues.

#### 4.1 The definition of “threatened with homelessness”

This section of the paper begins by exploring perhaps one of the more fundamental questions relating to homelessness, that is, when does a person/household become threatened with homelessness? The statutory definition of threatened with homelessness in Northern Ireland has remained largely unchanged whilst it has been extended in both England, Scotland and Wales.

In Northern Ireland, [Article 3\(6\) of Housing \(Northern Ireland\) Order 1988](#) states that a person is “threatened with homelessness” if it is “likely that he will become homeless within 28 days from the day on which he gives written notice

to the Executive that he is threatened with homelessness”. This means that a person will become entitled to assistance if they are likely to become homeless within the next 28 days. Housing Rights provides the following examples of circumstances in which a person/household may find themselves threatened with homelessness (if they have no alternative accommodation which they are entitled to occupy)<sup>53</sup>:

- A person leaving custody, hospital or residential care.
- A private tenant who has been given a Notice to Quit.
- A person who is in tied accommodation who has lost or is about to lose their job.
- A homeowner whose home has been repossessed.

Further detailed information on “threatened with homelessness” is available from the [Housing Rights website](#).

In contrast with the current 28-day threshold in Northern Ireland, the legislative frameworks for Scotland, England and Wales has been amended to extend the definition of “threatened with homelessness” to **“56-days” in the case of England and Wales** and **“2-months” in the case of Scotland**. The rationale for this change was to facilitate an increased emphasis on homeless prevention by providing individuals and families with support at an earlier stage of the process. It is also notable that proposals have been recently explored in both Scotland<sup>54</sup> and Wales to extend this period further (from 56-days to six months).

#### 4.1.1 Definition of “threatened with homelessness” in Wales

In **Wales**, under [Section 55\(4\) of the Housing \(Wales\) Act 2014](#), a person is considered to be “threatened with homelessness” if it is likely they will become homeless within 56 days. Previously, the threshold was the same as in Northern Ireland (i.e. 28 days) but this was amended by the 2014 Act. The

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<sup>53</sup> Housing Rights, [threatened with homelessness](#) [Accessed 11 March 2025].

<sup>54</sup> This provision is included in Part 5 of the Housing (Scotland) Bill.

Welsh Government's [Code of Guidance on homelessness](#), however, urges local authorities in Wales to be "aware of the benefits" in identifying and working with applicants as soon as possible potentially even earlier than the minimum 56-days set out in the legislation.

Following an assessment, if the local authority deems an applicant to be threatened with homelessness the Code states that they are obliged to help an eligible applicant to prevent them becoming homeless. This can be through helping them to remain in their current accommodation, delay a move from their current accommodation, find alternative accommodation, or assisting them with sustaining independent living.

The policy context behind the 2014 Act was to provide an enhanced focus on prevention and in particular on the protection of children in households who are homeless or threatened with homelessness.

#### 4.1.2 Definition of "threatened with homelessness" in Scotland

The legislative framework for homelessness in Scotland is the [Housing \(Scotland\) Act 1987 \(as amended\)](#). [Section 24 \(4\)](#) of the 1987 Act states that a person is defined as threatened with homelessness if it is likely that they will become homeless '**within 2 months**'. Previously under the Housing (Scotland) Act 1987 a person would have been defined as being threatened with homelessness if it was likely that they would become homeless within "28 days". However, [Section 24\(4\)](#) of the 1987 Act was subsequently amended by [Section 3\(1\)\(c\) of the Housing \(Scotland\) Act 2001](#) to extend the 28-day timeframe to "2 months".

The Scottish Government's statutory [Code of Guidance on Homelessness](#) states that local authorities should "at all times" be aware that if someone is threatened with homelessness within 56 days they should start a homelessness assessment. The Housing (Scotland) Act 2010 introduced a duty, under [Section 32B of the 1987 Act](#), on local authorities to conduct a housing support assessment for applicants who are unintentionally homeless or threatened with homelessness [and who they 'have reason to believe' need housing support](#). [Regulation 2 of The Housing Support Services \(Homelessness\) \(Scotland\)](#)

[Regulations 2012](#) prescribes four types of housing support services which apply for the purposes of the duty. The purpose of these support services is advising or assisting a person<sup>55</sup>:

- With personal budgeting, debt counselling or in dealing with welfare benefit claims.
- To engage with individuals, professionals or other bodies with an interest in that person's welfare.
- In understanding and managing their tenancy rights and responsibilities, including assisting a person in disputes about those rights and responsibilities.
- In settling into a new tenancy<sup>56</sup>.

Where an applicant is still in accommodation but is assessed as being threatened with homelessness, the guidance states that a local authority has a duty to ensure that "accommodation does not cease to be available for occupation"<sup>57</sup>.

#### 4.1.3 Definition of "threatened with homelessness" in England

Section 175(4) of Part 7 of the [Housing Act 1996](#) (as amended) states that a person is "threatened with homelessness" if it is likely that he will **become homeless within 56 days**. The Housing Act 1996 was amended by the [Homelessness Reduction Act 2017](#) which extended the period during which a local authority should treat someone as threatened with homelessness from 28 to 56 days.

The Homelessness Reduction Act 2017 began as a Private Members' Bill introduced by Bob Blackman MP and was supported by the then Government. However, even before the Bill's introduction there were calls by a number of organisations within the housing and homelessness sector to extend the

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<sup>55</sup> Scotland Government, [Code of Guidance on Homelessness: Guidance on legislation, policies and practices to prevent and resolve homelessness](#), Interim Update, November 2019, p88.

<sup>56</sup> Ibid, p88.

<sup>57</sup> Ibid, p78.

definition of 'threatened with homelessness' from what was then the 28-day timeframe.

For example, in 2015 the homelessness charity Crisis, established an independent panel of experts from across the housing and homelessness sector, to assess the strengths and weaknesses of homelessness legislation in England. The Panel's report "[An independent review of the legal duties owed to homeless people](#)" included a wide range of proposals for legislative reform. This included extending the definition of threatened with homelessness from 28 days to 56 days to "provide local authorities with more flexibility to tackle homelessness at a much earlier stage".

The draft Homelessness Reduction Bill was scrutinised by the House of Commons Communities and Local Government Committee which published its [report](#) in October 2016. In evidence to the Committee, Shelter outlined the difficulties experienced as a result of what was then the 28-day timeframe for those threatened with homelessness and the benefits of an extension to 56 days:

*"It helps reiterate that this is about a cultural shift in the way we help people who are facing homelessness. Even though local authorities should be assisting someone within 28 days, we know at the moment ... that that often still means waiting until it is a real crisis situation with the bailiffs coming. By further extending that time period, you reiterate that the intention should be about prevention rather than intervening at the point of crisis. Beyond that point of principle, it makes a meaningful difference because it gives you more time to resolve issues like benefit delays and rent arrears, which are so often at the heart of a problem, and more time for mediation."*

The Committee stated that it welcomed the extension of the period that someone could be considered to be threatened with homelessness from 28 to 56 days and maintained "that the longer period will enable more effective work to prevent instances of homelessness occurring".

In May 2022 Crisis commissioned a [report](#) evaluating the impact of the Homelessness Reduction Act. It concluded that in general, a critical shortage of housing in England was preventing the Homelessness Reduction Act from working as effectively as it could. The report maintained that despite the general widening of homelessness duties under the Homelessness Reduction Act 2017 “significant numbers of people are still not getting the help they need to address and end their homelessness”.

It concluded that practices varied considerably between local authority areas and even by housing officer and that this impacted on the quality of support and whether people had their needs addressed. It further maintained that a statutory code of practice for England which provided local authorities with clear and enforceable standards was required along with a package of long-term funding for local authorities to meet their duties. A [Code of Guidance](#) for Local Authorities as to how they should exercise their homelessness functions under the Homelessness Reduction Act 2017 was subsequently published in February 2018.

The Guidance states that local authorities in England have a duty to take “reasonable steps” to help prevent any eligible person who is threatened with homelessness from becoming homeless. This means “either helping them stay in their current accommodation or helping them to find a new place to live before they actually become homeless”. The prevention duty continues for the whole 56 days unless it is brought to an end by an event such as accommodation being secured for the person or by the person becoming actually homeless (in which case different duties may apply depending on factors such as eligibility, priority need and intentionality).

#### **4.1.4 Potential further changes to the “threatened with homelessness” threshold in Scotland and Wales**

##### *Wales – White Paper on Ending Homelessness*

In October 2023, the Welsh Government published a [‘Consultation on the White Paper on Ending Homelessness in Wales’](#) which set out a wide ranging suite of proposals for changes to policy and law with a view on ending homelessness in

Wales. The White Paper included a proposal to **extend the current ‘threatened with homelessness’ timeframe from 56 days to six months**<sup>58</sup>.

The White Paper maintained that “this change will support a local housing authority to act to prevent homelessness more pro-actively and before the point of crisis”. The White Paper was the result of a commitment made in the Welsh Government’s ‘Ending Homelessness High Level Action Plan’. The Plan committed to evaluating the existing homelessness prevention legislative framework in Wales and to identify areas to improve the law. An [Expert Review Panel](#) was established and published its recommendations in ‘[Ending Homelessness in Wales: A Legislative Review](#)’ in 2023. The paper stated that in relation to the current “threatened with homelessness” timeframe of 56 days, both panel members and stakeholders felt that the 56-day timeframe did not afford local authorities enough time to effectively prevent an individual’s homelessness. The Panel recommended that the Housing (Wales) Act 2014 be amended to **extend the 56-day timeframe to six months**.

#### *Scotland – The Housing (Scotland) Bill*

The [Housing \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 26 March 2024. It contains, amongst many other homeless-related measures, a provision to extend the time in which someone is **considered to be threatened with homelessness from two months to six months**.

The Bill’s policy memorandum sets out the rationale for this provision:

*“This option provides for change to be made to current legislation to ensure local authorities are required to assist households 6 months before homelessness appears imminent as opposed to the current 2 months, and sets out the reasonable steps they should consider to prevent homelessness. The additional time will allow for considerations of household need and preference in a way that crisis response cannot. The changes to legislation will also ‘re-*

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<sup>58</sup> Welsh Government, [Consultation on the White Paper on Ending Homelessness in Wales](#), 10 October 2023, p28.

*balance' the system to put preventative activity on a more even footing with crisis response. The changes are not intended to affect existing housing rights for people assessed as being homeless by local authorities, but to allow earlier opportunities to consider a wider range of options and support to help people avoid becoming homeless in the first place".*

The Bill is currently at [Stage 2](#) in the Scottish Parliament and the Local Government, Housing and Planning Committee are [taking evidence](#) from experts and organisations.

The Scottish Parliament's research and information service (SPICe) has produced a [briefing paper on the new Housing Bill](#) including commentary on the provision to extend the threatened with homelessness threshold to six months (see pp41-42 in particular)<sup>59</sup>. The paper states that responses to the [Scottish Government/COSLA](#)<sup>60</sup> consultation on homelessness prevention agreed with the proposals to extend the time in which the prevention of duty applied but noted that there were some caveats to that support:

*"Almost nine in ten (87%) of those answering ... agreed with the proposal for an extended prevention duty; 38% strongly agreed. The most common theme in support was that the additional time is beneficial in allowing meaningful prevention activity to occur and for housing options to be explored. A few noted six months would mirror the tenancy notice period. Many, however, caveated their agreement or were unsure because of concerns about how an extended duty would work in practice. While a few stated their current prevention processes would simply begin earlier, concerns about training, capacity and resourcing due to increased caseloads was a recurring theme.*

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<sup>59</sup> K. Berry. & L. Haley, [The Housing \(Scotland\) Bill](#), June 2024.

<sup>60</sup> COSLA is the Convention of Scottish Local Authorities.

*The next most common theme was defining what constitutes a threat of homelessness. Some stated that a six-month timeframe is too broad for the proposal to be practicable, arguing that it could be hard to predict who may find themselves homeless in six months. For example, leaving an institution or receiving a Notice to Quit are clear risks, but other circumstances leading to homelessness such as relationship breakdown are harder to predict. Several stated that a referral through a clear referral pathway should trigger an assessment. Several respondents called for the legislation to clearly define what constitutes a risk and be supported by guidance about how to identify early warning signs of homelessness.”<sup>61</sup>*

The Committee may wish to keep a watching brief on developments with the Housing (Scotland) Bill. The progress of the Bill can be tracked on the Scottish Parliament website [here](#).

**Points for consideration:**

**In relation to the current 28-day threshold for the definition of “threatened with homelessness” the Committee may wish to consider:**

- **Exploring with key stakeholders in other jurisdictions the impact of extending the threshold from 28-days to 56 days. Also exploring research/work that has taken place around the potential extension of the threshold to six months in Scotland and Wales.**
- **Exploring with key stakeholders in Northern Ireland whether a 56-day threshold or six-month threshold would be more effective in preventing homelessness.**

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<sup>61</sup> Scottish Government and COSLA, [Prevention of Homelessness Duties A Joint Scottish Government and COSLA Consultation Analysis of Consultation Responses: Final Report](#), September 2022.

- **The financial and other resource implications relating to such an extension.**
- **Barriers that would impact on an effective roll-out of such a measure, e.g. availability of sufficient funding and resources, availability of social housing, availability of temporary accommodation etc.**

## 4.2 'Priority Need'

'Priority Need' is another one of the four statutory homelessness tests in Northern Ireland (along with eligibility, homeless/threatened with homelessness and intentionality)<sup>62</sup>. The priority need categories in Northern Ireland are, in some respects, quite similar to those used in England and Wales. They all recognise factors that can lead to individuals (and families) becoming particularly vulnerable, such as pregnancy and having dependent children, should they become homeless/threatened with homelessness.

However, as this section explores, there are also important differences between the jurisdictions. For example, the test of priority need was abolished in Scotland in December 2012 having been "phased out" over a ten-year period. In England and Wales, there are more distinct categories of priority need than there are in the Northern Ireland legislative framework.

### 4.2.1 Priority Need in Northern Ireland

Under [Article 5 of the Housing Northern Ireland Order 1988](#), the following are defined as having a priority need for accommodation:

- A pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside.
- A person with whom dependent children reside or might reasonably be expected to reside.

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<sup>62</sup> For further information on the four tests to be excepted as statutorily homeless in Northern Ireland see the Housing Executive website [here](#) and the Housing Rights website [here](#).

- A person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside.
- A person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- A person without dependent children who satisfies the Housing Executive that they have been subject to violence and is at risk of violent pursuit or, if they return home, is at risk of further violence.
- A young person<sup>63</sup> who satisfies the Executive that they are at risk of sexual or financial exploitation.

Article 5 of the 1988 Order also provides the Department (for Communities) with the power by order to specify further descriptions of persons having priority need for accommodation or to amend or revoke the existing categories. This order is subject to the affirmative resolution procedure.

#### **4.2.2 Similarities and variations between the jurisdictions**

As outlined in Table 2, there are a number of similarities and variations between the priority need categories in Northern Ireland and those in England and Wales.

In terms of similarities, the wording of the categories covering pregnancy, dependent children, and emergencies are similar in each of the jurisdictions. The priority need category for vulnerability is also similar and in all three jurisdictions with all three legislative frameworks providing the same examples of vulnerability. That is, vulnerability as a result of old age, mental illness, physical disability or other “special reason”.

However, it is important to note that whilst there is similar wording for these categories in each of the jurisdictions, this may not necessarily mean that they are interpreted in the same way by each of the housing authorities in the

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<sup>63</sup> A young person is defined in Article 5(2) as a person over compulsory school age (within the meaning of Article 46 of the Education and Libraries (Northern Ireland) Order 1986 and has not attained the age of 21 years.

different jurisdictions or that the operational response to people in these circumstances will be the same in each of the jurisdictions. This is an important point to note for all of the categories outlined in the table.

This RaISe paper, due to time and resource constraints, is unable to go into this level of detail but it would be an important area to examine as part of a potential review of homelessness legislation in Northern Ireland. There are many other terms within the priority need categories which also require comparative analysis. For example, what is the definition of “sexual or financial exploitation”? What is the definition of domestic abuse and is it the same across all the jurisdictions? Vulnerability is an important aspect of many of the categories. But, how is vulnerability defined? This is potentially a phrase that is open to much wider interpretation and would require further scrutiny.

**Table 2: Similarities and variations in the priority need categories in Northern Ireland, England and Wales<sup>64</sup>**

Category	Northern Ireland	England	Wales
<b>Pregnancy</b>	A pregnant woman or person with whom a pregnant woman resides or might reasonably be expected to reside.	A pregnant woman or a person with whom she resides or might reasonably be expected to reside.	A pregnant woman or a person with whom she resides or might reasonably be expected to reside.
<b>Dependent children</b>	A person with whom dependent children reside or might reasonably be expected to reside.	A person with whom dependent children reside or might reasonably be expected to reside.	A person with whom a dependent child resides or might reasonably be expected to reside.
<b>Emergency</b>	A person who is homeless or threatened with homelessness as a result of an emergency such as a flood, fire or other disaster.	A person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.	A person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster, or a person with whom such a person resides or

<sup>64</sup> The information in this table has been extracted from Section [Article 5 of the Housing \(Northern Ireland\) Order 1988](#), [Section 189 of the Housing Act 1996](#), [The Homelessness \(Priority Need Accommodation\) \(England\) Order 2002](#) and [Section 70 of the Housing \(Wales\) Act 2014](#).

			might reasonably be expected to reside.
<b>Subject to violence/abuse</b>	A person without dependent children who satisfies the Executive that he has been subject to violence and is at risk of violent pursuit or, if he, returns home, is at risk of further violence.	A person who is homeless as a result of that person being a victim of domestic abuse. Domestic abuse has the meaning given by Section 1 of the <a href="#">Domestic Abuse Act 2021</a>	A person who is homeless as a result of being subject to domestic abuse or a person with whom such a person might reasonably be expected to reside.  Additionally, a person who is vulnerable as a result of ceasing to occupy by reason of violence from another person or threats of violence from another person which are likely to be carried out <sup>65</sup> .
<b>A young person who satisfies the Executive that his at risk of sexual or financial exploitation</b>	A young person who satisfies the Executive that he is at risk of sexual or financial exploitation.  *Young person means a person over compulsory school age <sup>66</sup> and has not attained the age of 21 years.	There does not appear to be a similar separate category for young people at risk of sexual or financial exploitation in England. However, potentially they could fall within one of the other priority need categories. For example, one of the vulnerability categories or children and young people categories.	A person who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who is particular risk of sexual or financial exploitation or a person with whom such a person resides or might reasonably be expected to reside.
<b>Vulnerability</b>	A person who is vulnerable as a result of “old age, mental illness or handicap or physical disability or other special reason”, or with whom such a person resides or might reasonably be expected to reside.	A person who is vulnerable as a result of “old age, mental illness or handicap or physical disability or other special reason”, or a person with whom such a person resides of might reasonably be expected to reside.	A person who is vulnerable as a result of some special reason (for example, old age, physical or mental illness or physical and mental disability, or a person with whom such a person might reasonably be expected to reside.

<sup>65</sup> Article 6 of The Homelessness (Priority Need for Accommodation) (England) Order 2002.

<sup>66</sup> Within the meaning of Article 46 of the Education and Libraries (Northern Ireland) Order 1986

<p><b>Vulnerability – vulnerable children and young people, children and young people who are cared for, and young care leavers</b></p>	<p>There is no similar explicit category within the Housing (Northern Ireland) Order 1988, similar to those in England and Wales, that that covers priority need for children and young people who are vulnerable as a result of their age and having experienced or leaving care. Although the category relating to young people who are at risk of sexual or financial exploitation may cover a range of such circumstances.</p> <p>There are various pieces of legislation that do cover duties in relation to accommodating children “in need” or without parental responsibility. For example, Article 21 of the Children (NI) Order 1995 and Article 34C of the Children Leaving Care Act 2002.</p>	<p>A person who is aged 16 or 17 who is not a ‘relevant child’ or a child in need to whom the local authority owes a duty under section 20 of the Children’s Act 1989.</p> <p>A person under 21 who was (but is no longer looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a ‘relevant student’).</p> <p>A person who is aged 21 or more who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a ‘relevant student’).</p>	<p>A person who is aged 16 or 17 when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation or a person with whom such a person might reasonably be expected to reside.</p> <p>A person who has attained the age of 18 when the person applies to a local authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who was looked after, accommodated or fostered at any time while under the age of 18 or a person with whom such a person resides or might reasonably be expected to reside.</p>
<p><b>Vulnerability - people who have served a custodial sentence or been remanded in custody</b></p>	<p>There is no similar explicit category for those defined as vulnerable as a result of having served a custodial sentence, been on remand including remanded to youth detention. Although such a person may be defined as in priority need if they fall into</p>	<p>A person who is vulnerable as a result of having served a custodial sentence<sup>67</sup>, having been committed for contempt of court or any other kindred offence, having been remanded in custody<sup>68</sup>.</p>	<p>A person who has a local connection with the area of the local housing authority and who is vulnerable as a result of one of the following reasons:</p> <ul style="list-style-type: none"> <li>• Having served a custodial sentence<sup>69</sup>.</li> <li>• Having been remanded in or</li> </ul>

<sup>67</sup> Within the meaning of Section 76 of the Powers of Criminal Courts (Sentencing) Act 2000.

<sup>68</sup> Within the meaning of Section 88(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (paragraphs (b), (c) or (d).

<sup>69</sup> Within the meaning of section Section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 or Section 222 of the Sentencing Code.

	another category depending upon their circumstances.		committed to custody by an order of a court. <ul style="list-style-type: none"> <li>• Having been remanded to youth detention accommodation<sup>70</sup>.</li> </ul>
<b>Vulnerability – ex-Armed Forces personnel</b>	There is no similar explicit category for vulnerable ex-service personnel within the Northern Ireland legislation. Although such a person may be defined as in priority need if they fall into another category.	A person who is vulnerable as a result of having been a member of Her/His Majesty's regular naval, military or air forces.	A person who has served in the regular armed forces of the Crown who has been homeless since leaving those forces or a person with whom such a person resides or might reasonably be expected to reside.
<b>Street homeless</b>	There is no explicit separate category for "street homeless" in the Northern Ireland legislation. Although such a person may be defined as in priority need if they fall one of the other priority need categories.	There is no explicit separate category for "street homeless" in the legislation for England. Although such a person may be defined as in priority need if they fall into one of the other priority need categories.	A person who is street homeless <sup>71</sup> or a person within whom such a person might reasonably be expected to reside.

### Points for consideration

- **Are there terms within the current legislative definition of "priority need" in Northern Ireland that require updating (e.g. the use of the word "handicap" is not appropriate and is not used in equivalent legislation in the other jurisdictions).**
- **Are the current priority need categories in Northern Ireland working as they should, do they require further**

<sup>70</sup> Under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

<sup>71</sup> Within the meaning of section 71(2) of the Housing (Wales) Act.

**amendments or additional categories? If so, what amendments and/or additions should be made?**

#### **4.2.3 Some key differences in priority need**

There are some priority need categories within the current Northern Ireland legislation (that is the Housing (Northern Ireland) Order 1988) that are notably different to that of England and Wales. These are outlined very briefly in this section. But again, it is worth reiterating that a more comprehensive review may be necessary. This would involve discussions with key stakeholders to assess whether aspects of either the English or Welsh legislation could and/or should be adopted in Northern Ireland in terms of priority need.

Potential key variations include, for example:

**(i) Priority need for those experiencing violence/abuse, or under threat of violence/abuse**

The priority need category of those subject to violence, or under threat of violence, is potentially wider in Northern Ireland as it includes those subject or at risk of violence related to paramilitary violence. The Northern Ireland category does not explicitly reference domestic abuse within the existing priority need category in a similar way to that contained within the legislation for England and Wales. Although, potentially those experiencing domestic abuse may also fit into one or more of the other priority need categories depending on their circumstances.

**Points for consideration**

**Do the priority need groups within the Housing (NI) Order require amendment to refer specifically to domestic abuse or does the current priority need category sufficiently reflect this?**

**Does there need to be a separate priority need category in Northern Ireland that refers to domestic abuse?**

**Does the current priority need categories in Northern Ireland take sufficient account of racial, homophobic or transphobic abuse etc.?**

**Are there any additional factors to consider in relation to priority need status and those subject to, or under threat of, violence/abuse?**

## **(ii) Vulnerable children and young people**

The current priority need categories in the Housing (NI) Order 1988 do take account of children and young people in a number of ways. For example, a person is considered to be in priority need if they:

- Are a person with whom dependent children reside, or might reasonably be expected to reside.
- A young person who satisfies the Executive that he is at risk of sexual or financial exploitation.

Additionally, a child or young person may potentially fall under one or more of the other categories. For example, the pregnancy category, or potentially the vulnerability category (for example, if they have a physical or mental disability or fall under another “special reason”).

Youth homelessness is undoubtedly a complex issue involving a need for close working relationships between a range of statutory services including housing, social services, justice and the voluntary and community organisations. The support required by young people goes beyond the provision of accommodation. It can include, for example, supporting a young person to maintain their tenancy, providing crisis intervention, and helping a young person integrate within the community.

The experiences of youth homelessness was examined by a 2021 [report](#) commissioned by the Northern Ireland Housing Executive. It highlighted that the term ‘young homeless’ can cover quite a distinct range of categories and

circumstances. It identified three “groupings” of young people who can be exposed to homelessness or at risk of homelessness. These are<sup>72</sup>:

- Group 1: young people who have been looked after on or after their 16th birthday and who then become homeless at some later point.
- Group 2: young people aged 16 or 17 years old who have no current interface with social services or the care system, but who present as homeless.
- Group 3: young people aged 18-25 years old who present as homeless.

These groups are quite similar to those identified as priority need groups in the Welsh legislative framework, that is:

- A person who is aged 16 or 17 when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation or a person with whom such a person might reasonably be expected to reside.
- A person who has attained the age of 18 when the person applies to a local authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who was looked after, accommodated or fostered at any time while under the age of 18 or a person with whom such a person resides or might reasonably be expected to reside.

However, it may be of interest to note that the Welsh Expert Review Panel, convened at the request of the Welsh Government to review its homelessness legislative framework, recommended that the priority need categories be abolished by the Welsh Government at some date in the future. However, as an interim measure it recommended that that further recognition be given to people who have experienced care and that all people who are care-experienced (of any age) should be considered a priority need.

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<sup>72</sup> F. Boyle. [Experiencing of youth homelessness: a report for the Northern Ireland Housing Executive](#). October 2021.

The priority need categories within the Housing (Northern Ireland) Act 1988 do not make such explicit distinctions in comparison to those in Wales. However, there are various pieces of non-housing specific legislation that do cover duties in relation to accommodating children “in need” or without parental responsibility. For example, Article 21 of the Children (NI) Order 1995 and Article 34C of the Children Leaving Care Act 2002. Potentially, young people experiencing or at risk of homelessness may fall under one of the other priority need categories in Northern Ireland depending on their circumstances.

**However, the Committee may need to gain an understanding of the circumstances in which a young person may not be deemed to be vulnerable and fall outside of the current priority need groups.f**

The [research](#) into youth homelessness commissioned by the Housing Executive points to a number of potential difficulties with current housing law and how it is perceived by young people. It highlights that there is a perception amongst some young single people (particularly males) that there is little point in apply to the Housing Executive for accommodation as they will not be deemed to be in priority need.

Also, of note in the report is that it highlights that there is a significant difference between the total number of young people applying as homeless and the number accepted as having Full Duty Applicant (FDA) status. The report states that this is because young people do not generally fall within the categories of priority need unless there are other factors involved (e.g. a young person at risk of sexual or financial exploitation). Therefore, the applicability of the priority need categories in Northern Ireland to youth homelessness may be an area which may merit further scrutiny.

**Points for consideration:**

**The Committee may wish to consider the extent to which the current priority need categories reflect the needs young people who are homeless or threatened with homelessness. It may wish to consider consulting with relevant stakeholders including young people who have, or**

**are experiencing youth homelessness in order to ascertain whether amendments to the legislation are desirable.**

**(iii) Ex-prisoners, people who have been on remand, people who have been in institutions for young offenders**

In both England and Wales there is a priority need category for a person who is vulnerable as a result of having served a custodial sentence or been remanded in custody:

- In England, there is a priority need category for a person who is vulnerable as a result of having served a custodial sentence<sup>73</sup>, having been committed for contempt of court or any other kindred offence, having been remanded in custody<sup>74</sup>.
- In Wales, there is a priority need category for a person who has a local connection with the area of the local housing authority and who is vulnerable as a result of one of the following reasons (i) having served a custodial sentence<sup>75</sup>, (ii) having been remanded in or committed to custody by an order of a court, or (iii) having been remanded to youth detention accommodation<sup>76</sup>.

In Wales, the Housing (Wales) Act 2014 removed the previous priority need status for prison leavers and instead it provided that prison leavers could only be deemed to be in priority need if they had a “local connection” to the area and were “vulnerable” as a result of their detention<sup>77</sup>. A number of issues will be taken into consideration to determine whether such a person is vulnerable. For

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<sup>73</sup> Within the meaning of Section 76 of the Powers of Criminal Courts (Sentencing) Act 2000.

<sup>74</sup> Within the meaning of Section 88(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (paragraphs (b), (c) or (d)).

<sup>75</sup> Within the meaning of section Section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 or Section 222 of the Sentencing Code.

<sup>76</sup> Under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

<sup>77</sup> National Assembly for Wales, Equality, Local Government and Communities Committee, [Life on the streets: preventing and tacking rough sleeping in Wales](#), April 2018.

example, the length of time they have spent in custody or detention, advice from other agencies such as the Probation Service, and whether the applicant has existing supportive family or community networks available to them upon release<sup>78</sup>.

Unlike the legislation in England and Wales, the Housing (Northern Ireland) Order 1988 does not contain a separate distinct priority need category specifically for people who are vulnerable as a result of time spent in custody or detention. However, a person who has, for example, served a custodial sentence could be deemed to be vulnerable for the purposes of another category (e.g. due to physical or mental illness) depending upon their individual circumstances.

**Points for consideration:**

**The Committee may wish to consider whether a separate category of priority need is required for persons who are vulnerable as a result of having spent time in custody or detention.**

**As part of this process the Committee may wish to explore the current arrangements and protocols in Northern Ireland in respect of such persons. It may also wish to consider seeking views from key stakeholders in order to better inform itself as to whether the current legislative framework and priority need categories for this group are fit for purpose.**

**(iv) Ex-service personnel**

The priority need categories within the legislative frameworks in England and Wales contain a priority need category specifically for those who have served in

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<sup>78</sup> Welsh Government, [Code of Guidance for local authorities on the allocation of accommodation and homelessness](#), March 2016.

the regular armed forces and who have been homeless since leaving those forces. There is no similar specific category with the Housing (NI) Order 1988 for ex-Armed Forces personnel.

**Points for consideration**

**Again, the Committee may wish to consider whether a separate category similar to that which exists for ex-Armed Forces personnel within the Northern Ireland-legislative framework is required or whether their needs are/can be met through the existing priority need categories.**

**(v) Street homeless**

There is a specific priority need category for those who are “street homeless” in Wales. That is, a person who is street homeless or a person within whom such a person might reasonably be expected to reside, can be deemed to be in priority need. Street homelessness is defined in Wales as those who have no accommodation available to them that they have a legal right to occupy. This category of priority need was relatively recently added to the list of priority need groups in Wales. In 2022, the Welsh Government introduced an amendment to the Housing (Wales) Act 2014 to add this category as a reflection of its commitment to continue with its “no one left out approach” which began during the COVID-19 pandemic.

There is no such specific similar category for those who are street homeless within the priority need legal definitions in England or Northern Ireland. The Committee may wish to explore the extent to which people who experience street homelessness may fall within one of the other priority need categories in Northern Ireland.

**Points for consideration:**

**The Committee may wish to consider whether there is a need for a separate priority need category for those who**

**are street homeless similar to that in Wales. The Committee may wish to consider how effectively this category is operating in Wales.**

**The Committee may wish to consider whether there is a need for any other additional priority need categories, or an amendment to the current categories, taking into consideration the views of relevant stakeholders.**

#### **4.2.4 Abolition of the priority need test in Scotland**

The priority need test was abolished in Scotland on 31 December 2012 under [Section 2 of the Homelessness etc. \(Scotland\) Act 2003](#) and [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012](#). This means that all eligible non-intentionally homeless people in Scotland are now entitled to permanent accommodation. Whilst the 2003 Act provided Scottish Ministers with the power to abolish the priority need test, the actual abolition of the test did not become operational until nine years later. This was a deliberate longer-term timeframe set by the Scottish Government given that the abolition of priority need had significant resource and strategic planning implications. For example, widening support out to all unintentionally homeless would require securing that accommodation and associated services were available.

The longer-term timeframe was to allow sufficient space for consultation and preparation with local authorities and other bodies involved in the strategic planning and delivery of homelessness services. A Joint Steering Group was established to drive and oversee progress towards the eventual target of abolishing the priority need test. A Housing Options Hubs<sup>79</sup> approach to prevention was launched which involved looking at all housing options available to individual households. This included piloting the Hub Model in a number of local authority areas and an independent evaluation of the model. Therefore,

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<sup>79</sup> Housing Options is a process that begins with housing advice when someone approaches a local authority for assistance with homelessness or the threat of homelessness. The approach is based on early intervention and prevention and will explore with the individual/household their needs and housing options.

substantial work went into preparing for the abolition of the priority need test by 2012 (this target was commonly known in Scotland as the ‘2012 homelessness commitment’).

In practice, the 2012 homelessness commitment was intended to end the system of assessing people as ‘priority’ or ‘non-priority’ homeless and providing entitlement to permanent accommodation for all those who were unintentionally homeless<sup>80</sup>. There were, however, significant barriers to achieving the 2012 commitment. At that time Citizens Advice noted that the effects of the then financial recession, a reduction in local authority and housing budgets, and the UK Government’s welfare reform agenda were some of the main challenges in terms of achieving the target. It also maintained that, at that time, some local authorities were, in the context of rising homelessness numbers, still assessing people as ‘non-priority’ or making a distinction between priority and non-priority clients, ahead of the introduction of the 2012 commitment<sup>81</sup>.

#### **Where did the concept of abolishing the priority need test come from?**

One of the key places the concept originated was in a report of the Homelessness Task Force. In 2002 the then Scottish Executive set up the Task Force, which was a multi-agency forum and chaired by the Minister for Social Justice, to review Scottish homelessness legislation to ensure it was fit for purpose. The Task Force’s final report contained a 59-point action plan and the 2012 commitment had its origins in one of those 59 points.

The [final report](#) of the Task Force stated that the group felt that there was a “strong case, in principle, for extending the rights currently possessed by those assessed as being in priority need to all those assessed as being homeless”. It recommended a stepped-approach to eliminating the priority need test. However, the Task Force did acknowledge that this would be a significant piece of work and would “*need to be managed and phased so that accommodation*

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<sup>80</sup> Citizens Advice Scotland, [Homelessness in Scotland: The 2012 Commitment](#), April 2012.

<sup>81</sup> Citizens Advice Scotland, [Homelessness in Scotland: The 2012 Commitment](#), April 2012.

*and services are made available to those who do not currently come within the definition of priority need and so that those who are in the greatest need are not disadvantaged”*. It estimated that it could take around a decade to abolish to priority need test in Scotland and recognised that this would require careful planning and monitoring as well as additional resources (e.g. for accommodation and housing and homelessness-related support services).

#### **4.2.5 Recommendation of the Welsh Expert Panel to abolish to priority need in Wales**

The [report](#) of the Expert Review Panel (2023), convened at the request of the Welsh Government to review the homelessness legislative framework in Wales has recommended the abolition of the priority need test. It suggested that this should be a longer-term goal but that the Welsh Government should set a date for the implementation of the abolition in order to enable local housing authorities to prepare. The report stated that there were problematic features of the current priority need test that were acting as a barrier to securing accommodation. For example, it maintained that there was a:

- A degree of subjectivity in defining “vulnerability” and therefore it was applied inconsistently.
- That large groups of people, particular single males, were finding it difficult to access accommodation support as they were not deemed to be in priority need.
- That the definition of ‘disability’ and ‘mental health difficulties’ were subjective and that many local authorities were using medicalised assessments which it felt was putting people without a medical diagnosis at a disadvantage.

The Panel’s report acknowledged that many local authority stakeholders were concerned that if priority need was abolished, then local authorities would not have access to sufficient settled accommodation to meet the likely increase in cases where there would be a duty to accommodate.

The Panel recommended that there should be an appropriate lead-in period for local authorities to prepare and that there needed to be appropriate investment

in housing supply. It also stated that the profile of applicants coming through the system would also change as a result of the abolition and that this needed to be reflected in the type of accommodation available. For example, an increase in single bedroom accommodation or finding a means to mitigate the impact of the removal of the spare room subsidy (the 'bedroom tax'). The Panel also recognised that the abolition of priority need would require investment in the workforce, housing support services and more suitable temporary and permanent accommodation.

**The Committee may wish to consider the following:**

**What impact has the abolition of priority had on homelessness in Scotland?**

**Is the abolition of priority need a desirable and/or realistic long-term achievable goal for Northern Ireland? What are the views of the housing and homelessness sector on the abolition of priority need? What are the views of political representatives?**

**What are the potential opportunities, barriers and budgetary resource implications? What impact could such a development have on the use and availability of temporary accommodation in Northern Ireland? Could the social, affordable, private rented sectors absorb the impact of an abolition? If not, what would need to change?**

### 4.3 A statutory duty to prevent homelessness

Following the publication of the Northern Ireland Commissioner for Children and Young People's research report into the experience of children and families facing homelessness entitled '[a Place to Call Home](#)', the Housing Executive published a news release entitled '[NIHE calls for legislation to prevent](#)

[homelessness](#)<sup>82</sup>. The news release stated that the Chief Executive of the Housing Executive, Grainia Long, had not only called for a strategic shift towards the prevention of homelessness but also for the widening of the Housing Executive's statutory obligations:

*“A holistic approach to homelessness requires a strategic shift towards prevention. Widening the NIHE’s statutory obligations to ‘prevention’ would enable us to focus and invest more in preventative measures”.*

The news release obviously does not provide an indication as to what the widening of the statutory obligations would look like. However, as previously noted in this RaiSe paper, a shift towards statutory duties in relation to homelessness prevention has taken place in England and Wales. Further reforms to the legislative requirements on prevention are currently under consideration in Wales (see Welsh Government's proposals in the [White Paper on Ending Homelessness in Wales](#)) and in Scotland (see Part 5 of the Housing (Scotland) Bill).

It is important to recognise that this does not mean that homelessness prevention is not happening within Northern Ireland. The Housing Executive, other public bodies, and the third sector are involved in a wide range of often innovative homelessness prevention activities and services. However, arguably there is not the same legislative emphasis on prevention in the Northern Ireland homelessness framework in comparison to the other jurisdictions. Provided below are some examples of the preventative duties in other jurisdictions that are largely absent from the statutory framework in Northern Ireland:

**(i) A statutory prevention duty**

The Housing (Wales) Act 2014 and the Homelessness Reduction Act 2017 (for England) introduced quite similar homelessness prevention duties. Under [section 66](#) of the Housing (Wales) Act 2014, local housing authorities in Wales

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<sup>82</sup> [‘NIHE calls for legislation to prevent homelessness’](#), Northern Ireland Housing Executive, news release, 24 February 2023.

have a “duty to prevent an applicant from becoming homeless”. If a local housing authority is satisfied that an eligible applicant is threatened with homelessness (that is, likely to become homeless within 56 days) it must help the applicant to ensure that suitable accommodation does not cease to become available for the applicant’s occupation. This is commonly known as the “prevention duty” and the duty applies regardless of intentionality or priority need. The local housing authority is obliged to either directly meet their housing need if it deems this appropriate or by assisting them in one or more of the following ways<sup>83</sup>:

- To remain in their current accommodation.
- To delay a need to move out of current accommodation in order to allow a planned move into alternative accommodation.
- To find alternative accommodation.
- To sustain independent living.

A similar prevention duty applies to England and was introduced via the [Homelessness Reduction Act 2017](#). In England, the local housing authority is obliged to take “reasonable steps” to help the applicant either remain in their existing accommodation or secure alternative accommodation. The [statutory guidance on homelessness](#) in England elaborates upon what those “reasonable steps” could involve. For example:

- Attempting mediation/conciliation where an applicant is threatened with parent/family exclusion.
- Assessing whether applicants with rent arrears might be entitled to Discretionary Housing Payment.
- Providing support to applicants, whether financial or otherwise, to access private rented accommodation.
- Assisting people at risk of violence and domestic abuse wishing to stay safely in their own home through provision of ‘sanctuary’ or other measures.

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<sup>83</sup> Welsh Government, Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness, March 2016.

- Helping to secure or securing an immediate safe place to stay for people who are sleeping rough or at high risk of sleeping rough.

More recently the Welsh Government has consulted on a proposal to extend the threshold for the definition of threatened with homelessness from 56 days to six months (a similar provision is included in the new Housing (Scotland) Bill). If enacted, this would mean that the prevention duty in Wales, for example, would come into operation at an even early stage.

The [report](#) of the Scottish Homelessness Prevention Group, which was convened by Crisis at the request of the Scottish Government to recommend new legal duties to prevent homelessness, contains a useful table summarising the current and proposed duties to prevent homelessness in England, Scotland and Wales. The information in this table is replicated in Table 3 below.

**Table 3: current and proposed duties in Scotland, Wales and England<sup>8485</sup>**

	Wales	England	Scotland (current legislation)	Scotland (proposed)
<b>Duty to prevent homelessness</b>	<p>To take responsible steps to help to secure that accommodation does not cease to be available.</p> <p>Where there is a risk of homelessness in the next 56 days.</p> <p>“Reasonableness” steps set out in law.</p>	<p>To take reasonable steps to help the applicant secure that accommodation does not cease to be available.</p> <p>Where there is a risk of homelessness in the next 56 days.</p> <p>Steps set out in guidance but not law.</p>	<p>To take reasonable steps so that accommodation does not cease to be available.</p> <p>Where there is a risk of homelessness in the next 56 days.</p> <p>Reasonable steps not set out in law or guidance.</p> <p>No test for priority need or local connection.</p>	<p>To take reasonable steps to secure that accommodation is available or does not cease to become available.</p> <p>Where there is a risk of homelessness in the next 6 months.</p> <p>Steps set out in law.</p> <p>No test for priority need, intentionality,</p>

<sup>84</sup> Information in table extracted from Prevention Review Group, [Preventing Homelessness in Scotland: Recommendations for legal duties to prevent homelessness](#), February 2021, Appendix 2.

<sup>85</sup> Note that in these jurisdictions the ending of the prevention assistance duty is either set out within the legislation, or within guidance or both.

	No test for priority need, local connection or intentionality.	No test for priority need, local connection or intentionality.	Intentionality test at local authority discretion.	local connection suspended.
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There is no explicit statutory prevention duty within the legislative framework for homelessness in Northern Ireland similar to that in the Welsh and English legislative frameworks. A person is considered threatened with homelessness in Northern Ireland if it is likely they would become homeless within 28 days (from the day in which they give written notice to the Housing Executive), which is a shorter timeframe than in England, Scotland and Wales. The narrower definition of ‘priority need’ in Northern Ireland often means that younger people who are homeless or at risk of homelessness, particularly young men, find it difficult to secure suitable permanent accommodation<sup>86</sup>. Recent research commissioned by the Simon Community has also highlighted the problem of ‘hidden homelessness’ in Northern Ireland<sup>8788</sup>.

**The Committee may therefore wish to assess whether a statutory prevention duty for Northern Ireland similar to the other jurisdictions would help prevent homelessness, particularly amongst some of the most marginalised groups in Northern Ireland outlined above. Such an assessment could consider how well the prevention duty is operating in these jurisdictions. It would also need to consider factors that may impact upon a roll-out of a similar statutory duty in Northern Ireland (e.g. adequate funding, adequate housing supply, staffing and resources,**

<sup>86</sup> Gray, A-M. et al, [‘Hidden’ Homelessness in Northern Ireland](#), March 2022. Simon Community and Ulster University.

<sup>87</sup> Hidden homelessness has been defined in the [report](#) commissioned by Simon Community as circumstances in which people “may be considered homeless but whose situation is not ‘visible’ either on the streets or in official statistics”.

<sup>88</sup> Simon Communities of Ireland & Simon Community, [Under the Radar: Unveiling Hidden Homelessness Across the Island of Ireland](#), May 2024.

**the supply of temporary accommodation, affordability issues in the private rented sector etc.).**

**(ii) A duty on other specified public bodies to refer households/individuals whom they suspect are homeless or threatened with homelessness**

The legislation in England (Homeless Reduction Act 2017) was designed to prevent homelessness occurring at the earliest possible point and therefore there is a duty on specified public bodies in England notify a local housing authority of service users they may be homeless or threatened with homelessness. This must be done with the consent of the individual. Examples of public services that this duty applies to include prisons and young offenders institutions, probation services, Jobcentre Plus, emergency departments, social services, urgent treatment centres and hospitals (in their capacity of providing inpatient care). Further information on the 'duty to refer' is available in the Homelessness Code of Guidance for England [here](#).

The code states that the most appropriate approach to discharging the duty will vary between public authorities and that it "is their responsibility to decide to do so". However, the code also states that the expected response following a disclosure from a service user that they are homeless or at risk of homelessness is the for public authority (with the individual's consent) to refer the case to the local housing authority. Public authorities are not expected to conduct a housing needs assessment themselves as part of this duty. It is recommended by the Code that local housing authorities set up a single point of contact which relevant public bodies can use for submitting referrals<sup>89</sup>.

Both the Welsh and Scottish Governments have announced proposals to introduce duties on certain public bodies to identify, refer and co-operate to prevent homelessness. Part 5 of the Housing (Scotland) Bill, for example, proposes to place a new 'Ask and Act' duty on certain public bodies. The Welsh Government has consulted, as part of its [White Paper](#) on ending

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<sup>89</sup> Chapter 4, [Homelessness Code of Guidance for Local Authorities](#) in England.

homelessness', to introduce a 'duty to identify and refer' on specified public bodies the purpose of which is to ensure that the prevention of homelessness is shared amongst relevant public services and that there is holistic support to those with complex needs<sup>90</sup>.

#### 4.4 A statutory “duty to refer” or to ‘Ask and Act’

Whilst the Department for Communities has policy responsibility for housing and the Housing Executive leads on the issue of homelessness, they are not the only public bodies in Northern Ireland that have a pivotal role tackling the issue of homelessness. People experiencing homelessness can require support that goes beyond their housing needs including social work support, healthcare, access to employment and training opportunities, and support with social and community integration. Partnership working and a co-ordination of support and services is particularly crucial for vulnerable groups such as children and young people including young care leavers, older people, people with physical and mental illnesses and disabilities and those experiencing recurring homelessness.

The Northern Ireland Homelessness strategy '[Ending Homelessness Together](#)' (2022-27) reflects the continued need for the Housing Executive to work with a range of partners across the sector to “address the varied and complex factors that lead to homelessness, many of which extend beyond the provision of accommodation”. This includes not just statutory partners such as the Northern Ireland Executive departments and agencies but also with the voluntary and community sector who are often at the front-facing end of homelessness.

Therefore, “partnership working” is one of the key principles set out in the ‘Ending Homelessness Together’ strategy, “collaboration” and an “interdepartmental approach” are identified as key enablers for the strategy. Effective collaboration is crucial to preventing homelessness occurring in the

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<sup>90</sup> Welsh Government, [Consultation on the White Paper on Ending Homelessness in Wales](#), October 2023.

first place but also to tackle recurrent homelessness which is often a more complex issue.

This section of the RaISe paper looks briefly at what the current homelessness legislative frameworks in other jurisdictions require in terms of collaboration between public bodies and also the potential for further reforms in Scotland and Wales.

**The Committee may, however, wish to consider the current legislative frameworks in Northern Ireland in terms of collaborative working arrangements between statutory bodies and agencies and voluntary and community sector organisations and services. It may wish to assess, for example:**

- **To what degree these arrangements are working successfully with a particular focus on evidence of best practice.**
- **Whether any existing protocols/arrangements/collaborative arrangements require updating/strengthening/evaluation.**
- **Whether the current legislative frameworks around homelessness in Northern Ireland are sufficiently robust to encourage/facilitate partnership working and, if not, whether changes to the law are required.**

#### **4.4.1 The legislative framework for partnership working in Scotland, England and Wales**

It should be highlighted at the outset that the infrastructure for addressing homelessness in Great Britain is different to that in Northern Ireland in many respects. In England, Scotland and Wales, it is local authorities that lead on homelessness within their particular area. In contrast, Northern Ireland has a

regional housing body (the Housing Executive) and housing and homelessness is not devolved to local authorities as it is in the other jurisdictions.

Additionally, many local authorities in Great Britain are not only responsible for housing but also other policy areas that are closely inter-related with issues of direct relevance to homelessness. For example, social housing, social work and children's services, education, community safety, and safeguarding. In contrast, many of these relevant policy and operational issues are either partially or completely devolved to a range of Northern Ireland Executive Departments, agencies and bodies. Therefore, when considering the issue of co-operation and collaboration, Northern Ireland has a different system of governance.

The Northern Ireland Order 1988 does contain provisions in respect of co-operation on homelessness. [Article 14 of the 1988 Order](#) states that there should be a co-operation between the Housing Executive and health and social services, the Probation Board for Northern Ireland and registered housing associations. Those bodies should, where the Housing Executive requests it (in relation to its duties under Articles 7,8, 10 or 11) co-operate by "exercising such of its functions, providing such information or advice or rendering such assistance as is reasonable in the circumstances". But what does this mean in practice? How well are the current arrangements working? What does "reasonable in the circumstances" mean? Are the current list of bodies to which the requirement to co-operate applies (i.e. health and social care trusts, Probation Board, registered housing associations) sufficient or should further public bodies and services be added? If so, what should these be? How do stakeholders feel about the current legislative requirements as they relate to co-operation?

**In order to seek answers to such questions the Committee may wish to consider assessing the structure of the current policy and oversight arrangements for homelessness in Northern Ireland in terms of (a) identifying both strengths and potential weakness and (b) identifying if**

**there are barriers to partnership working and collaboration and how these could be addressed.**

There has been a noticeable shift in both England, Scotland and Wales to place co-operation between public bodies on a clearer legislative footing that arguably goes beyond that provided for in the Housing (Northern Ireland) Order 1988. This section of the paper explores the 'duty to refer' in England (introduced via the Homelessness Reduction Act 2017), proposals for a similar duty in Wales, and the 'Ask and Act' provisions of the Housing (Scotland) Bill which is currently making its passage through the Scottish Parliament.

#### 4.4.2 The 'duty to refer' in England

Under Section 213B of the [Homelessness Reduction Act 2017](#) a range of public bodies specified in the [Homelessness \(Review Procedure etc.\) Regulations 2018](#) are required to notify a housing authority of service users they consider to be homeless or threatened with homelessness (this is known as the 'duty to refer'). The public authorities which are subjected to the duty to refer are<sup>91</sup>:

- Prisons
- Young offender institutions
- Secure training centres
- Secure colleges
- Probation Services
- Jobcentre Plus
- Social services authorities
- Emergency departments
- Urgent treatment centres
- Hospitals in their function of providing inpatient care
- The Secretary of State for Defence is subject to the duty to refer in relation to members of the regular forces.

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<sup>91</sup> Chapter 4, [Homelessness Code of Guidance for Local Authorities](#) in England.

The '[Homelessness Code of Guidance for Local Authorities](#)' in England highlights that it is the responsibility of the various public bodies to decide how to discharge their duty to notify and that these public bodies are not required to conduct a housing needs assessment as part of their 213B duty to refer. The procedure for referrals should also be decided by service partners in each local area, so arrangements may vary according to location. However, the Code of Guidance notes that these arrangements should focus on identifying people at risk of homelessness as early as possible to "maximise the opportunities to prevent homelessness". An important part of this process is consent, and bodies referring individuals should, where necessary, obtain the consent of the individual to the referral to a housing authority.

**The Committee may wish to assess this duty further in terms of (a) the practical application of the duty (e.g. the procedure for referrals/what constitutes a referral, the process for consent, how the receipt of a referral is actioned by a local authority) and (b) evaluate how well this duty is working in England.**

#### **4.4.3 The current requirement to co-operate in Scotland and a potential new 'Ask and Act' duty**

Under Section 38 of the [Housing \(Scotland\) Act 1987](#) where a local authority in Scotland requests assistance in the discharge of its homelessness duties from another local authority or social services within England, Scotland or Wales or from a registered housing association, they are required to provide such assistance "as is reasonable in the circumstances". Although what is "reasonable in the circumstances" may be open to interpretation.

However, provisions within section Part 5 of the new [Housing \(Scotland\) Bill](#), which is currently at second stage in the Scottish Parliament would, if enacted, place greater requirements on specified public bodies (such as health boards or the police) to "Ask and Act". That is, to "ask" a person that they come into contact with in the course of their duties if they are homeless or threatened with homelessness and to "act" on that information. The aim of these 'Ask and Act'

measures is to both take a preventative approach to homelessness and to ensure that homelessness prevention is a shared responsibility across relevant bodies within the public sector<sup>92</sup>.

The Bill's [Explanatory Notes](#) (as introduced) states that the current legislation would be amended to make the following provisions:

- That if a relevant body, when assessing the needs of a person in the exercise of its functions, has reason to believe that the person may be homeless or threatened with homelessness, the body must ask the person if this is the case. The relevant body must also ask if the person is aware of any application having been made for accommodation or assistance in getting it under section 28 of the 1987 Act, and whether the person consents to the body making such an application if appropriate.
- That, if the relevant body has been informed or otherwise has reason to believe that the person is homeless, the body must make an application under section 28 of the 1987 Act to the appropriate local authority in respect of the person; but only if satisfied that this is appropriate and that it has the person's consent.
- That, if the relevant body has been informed or otherwise has reason to believe that the person is threatened with homelessness, the body must take such action as it considers appropriate to remove that threat or, where this is not possible, to minimise it (other than by making an application under section 28). If the body is satisfied that it is unable to take action itself to remove the threat, it must also make an application under section 28 the appropriate local authority in respect of the person; but only if satisfied that this is appropriate and that it has the person's consent.
- That a relevant body must, in the exercise of its functions, have regard to the need to prevent homelessness and any relevant guidance issued by the Scottish Ministers.

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<sup>92</sup> K. Berry & L. Haley., [The Housing \(Scotland\) Bill](#), SPICe, June 2024.

- Section 43A gives a regulation-making power to the Scottish Ministers to modify the meaning of “relevant body”. Where they propose to make regulations under this section to add a body to the definition, they must consult the person or a representative.

Collectively this is known as “Ask and Act” and its overarching policy objective, according to the Bill’s [Policy Memorandum](#), is to shift the focus away from crisis intervention and towards prevention activity. The Memorandum further states that:

*This will be achieved by involving a range of relevant bodies, many of whom already engage with people before they reach homelessness, so that they ask people about their housing situations, and act within their existing powers to provide support where possible to mitigate a risk of homelessness, or refer the household to their local authority where that is deemed necessary. It is not intended that a referral to the local authority should be the default action, but that it should be considered alongside other actions that can be taken within the relevant bodies’ existing powers.*

The Policy Memorandum identifies the bodies that this duty will apply to as:

- A local authority.
- The Police Service of Scotland.
- Health Boards (constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978.
- An integrated joint board (established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014.
- A special Health Board (constituted by order under section 2(1)(b) of the NHS (Scotland) Act 1978.
- A registered social landlord (within the meaning of section 165 of the Housing (Scotland) Act 2010).
- Scottish Ministers in so far as they have functions (including those delegated to another person) relating to prisons and young offenders institutions and those detailed in them.

These 'Ask and Act' duties go beyond what is current provided for the in the homelessness legislative framework for Northern Ireland. The bodies which the 'Ask and Act' duty would apply to go beyond what is provided for within the current framework (e.g. the Police Service of Northern Ireland is not included under Article 14 of the 1988 Order).

**The Committee may wish to consider maintaining a close watching brief on this aspect of the Housing (Scotland) Bill particularly its consideration by the relevant Committee in the Scottish Parliament.**

#### **4.4.4 Duty to promote co-operation in the prevention and alleviation of homelessness in Wales**

Co-operation between local authorities and other statutory and non-statutory partners in relation to homelessness is, according to the '[Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness](#)', one of the core themes of the [Housing \(Wales\) Act 2014](#). Section 95 of the 2014 Act was designed to strengthen the duty to co-operate between specific public bodies particularly in relation to early intervention on homelessness.

[Section 95](#) of the 2014 Act states that council of a county/county borough in Wales must make arrangements between the officers of the authority (specifically between the social service function and housing function) with a view to achieving the following objectives in its area:

- The prevention of homelessness.
- That suitable accommodation is or will be available for people who are homeless or may become homeless.
- That satisfactory support is available for people who are or may become homeless.

Under section 65 a local housing authority can also request that a number of other public bodies provides it with information in order for it to exercise its functions. These bodies include, for example, a registered social landlord or a social services authority. However, such bodies can decide not to comply with

a request if it considers it would be incompatible with their own duties or have an adverse impact upon their own functions. However, it must provide the local housing authority with reasons for the decision.

The [Welsh Code of Guidance](#) states that section 95 was considered to be a “significant strengthening of the duty to co-operate” on matters relating to homelessness. It states that:

*“the presumption is now clearly on the relevant service to co-operate unless it can demonstrate that the proposed action would be incompatible with its duties...it would not be sufficient to say that there were other priorities that had to take precedence. This means that the default position will be that the partner organisation will co-operate to meet a request for assistance”.*

The assumption is that local authorities and their partners will be expected to have established mechanisms for ensuring collaboration and addressing any area of difficulty before the requirements in legislation are revoked.

But are there potentially further reforms ahead in Wales? The Welsh Government, in its consultation on the [‘White Paper for Ending Homelessness in Wales’](#) (2023), consulted on proposals for a new “duty to identify and refer”, that is:

- A new duty to identify those at risk of homelessness and refer on to specified parts of the public service, so a local authority is notified as soon as possible if a person is facing a threat of homelessness or is already experiencing homelessness.
- That the duty to refer is accompanied by a duty on the specified parts of the public service to take action within their own functions to sustain standard or secure occupation contracts and mitigate the risk of homelessness.
- An expanded duty to co-operate (currently imposed by section 95 of the Housing (Wales) Act 2014), to ensure a wider number of public services

are engaged and responsible for making homelessness rare, brief and unrepeated.

- Strengthening strategic leadership of homelessness at a regional level.
- A statutory case co-ordination approach for those who are homeless or at risk of homelessness and experiencing multiple complex support needs.
- The formulation of supporting guidance and educational materials on the new identify and refer duty. The development of tools to assist the Welsh public service to identify homelessness earlier including an e-learning package.

The consultation stated that in line with the recommendation of the Expert Review Panel, the Welsh Government were proposing that the duty to identify and refer should apply to:

- Social service departments.
- Local health boards including primary care.
- Registered social landlords.

However, the consultation paper also stated that it would also be preferable for a wider range of other public bodies to adhere to the identify, refer and co-operate approach (but that these are not currently within the control of the Welsh Government):

- Department for Work & Pensions
- Youth Justice Services
- Probation
- Prisons and other criminal justice detention centres
- His Majesty's Courts and Tribunal Service
- The police
- The Home Office (in relation to asylum seekers who have been granted refugee status)
- The Secretary of State for Defence (in relation to armed forces personnel).

**The Committee may wish to consider maintaining a close watching brief on developments in Wales in respect of the ‘identify and refer’ duty and including discussions around the list of public bodies the duty could potentially apply to.**

#### 4.5 Is there a need to strengthen the legislative framework around co-operation in Northern Ireland?

To summarise, in light of the developments in other jurisdictions around strengthening co-operation and partnership working within their respective homelessness legislation frameworks, as well as the fact that one of the core principles of the [Northern Ireland Homelessness Strategy](#), is “partnership working” the Committee may wish to:

- **Explore the current homelessness legislative framework for Northern Ireland around partnership and co-operation.**
- **Explore, along with other relevant statutory and community and voluntary organisations, whether the legislative framework is still fit for purpose regarding partnership working. If it is not, what amendments/additions to the legislation could be made?**
- **Explore how the co-operation/partnership elements of the legislation are working in other jurisdictions and whether there is evidence of good practice that could be adapted for Northern Ireland (if it has not already been done).**

- **Maintain a watching brief on the progress of the Housing (Scotland) Bill including the “Ask and Act” provisions.**

## 5 Conclusion

One of the central objectives of the current [homelessness strategy](#) for Northern Ireland is to ‘prioritise homelessness prevention’. It is seen as a crucial component in the Housing Executive’s plans to end homelessness. The strategy notes that whilst ‘great strides’ have been made in prioritising prevention over the last five years “a significant amount of work is still needed to embed the prevention agenda”. The strategy also highlights that a review of the primary homelessness legislation is one of a number of key enablers that would improve the likelihood of delivering the strategy aim of homelessness prevention.

There undoubtedly has been a clear shift in England, Scotland and Wales towards enshrining a homelessness prevention approach within the legislation framework for homelessness in these jurisdictions. The approach in these jurisdictions has been informed by comprehensive and independent reviews of those legislative frameworks in each of these jurisdictions. The legislative framework for homelessness in Northern Ireland is now over 30 years old, and whilst it has been amended several times over the years, it has arguably not been subject to the same level of independent scrutiny.

This RaISe paper has touched on some of the relevant issues such as a statutory homelessness prevention duty, the definitions of ‘threatened with homelessness’ and ‘priority need’, and a statutory duty on other relevant public bodies to identify and refer people who may be homeless or threatened with homelessness. But this paper cannot be a substitute for a systematic review. Such a review would require the input of experts on the issue of homelessness both within the public sector and third sector. Most importantly, it would also require the voice of those who have experienced homelessness or the threat of homelessness and frontline service providers.

It is also likely that a review would require looking in much greater detail at legislative changes, and proposed legislative changes, in other jurisdictions with a view to evaluating if such changes would be supported in Northern Ireland, whether they could be practicably applied given our different governance structures, or whether they could be adapted and improved upon. They must also be considered within the context of a challenging fiscal climate in Northern Ireland, the rising levels of homelessness within our society, the increasing reliance on temporary accommodation and our current and future housing supply needs. This RaISe paper is therefore, only a starting point, for the Committee consideration of these relevant issues.

**Appendix 1:** Welsh Government, [Consultation on the White Paper Ending Homelessness in Wales](#), October 2023: Summary of proposals

Please note that the Welsh Government has published an [analysis](#) of the consultation responses but has yet to announce its final decisions on the proposals contained within the White Paper.

**Proposals: the meaning of “homelessness” and “threatened with homelessness”**

- A person is threatened with homelessness if it is likely that the person will become homeless within six months (currently this period is 56 days in Wales) or they have been issued with a Notice Seeking Possession.
- Where a person is permitted to reside in an area, but does not have access to clean water, waste facilities and toilet facilities, they should fall within the definition of homelessness under section 55 of the Housing (Wales) Act 2014.

**Proposals: securing or helping to secure the availability of accommodation**

- A statutory duty to draw up a Personal Housing Plan (PHP) containing the steps the local housing authority will take to secure accommodation for the applicant.
- A statutory duty to review the needs assessment and PHP with the applicant within a defined timescale of eight weeks.
- A statutory duty to include an applicant’s views on their accommodation needs in a PHP.

**Proposals: individual right to request a review of decisions**

- A right to request a review in relation to the reasonable steps taken to prevent homelessness or secure accommodation, outlined in an applicant’s assessment of housing need in their PHP.
- A right to request a review of the suitability of accommodation at any time during an applicant’s occupation of the accommodation (which should be available beyond 21 days).

**Proposals: Priority Need**

The abolition of priority need so this test is no longer necessary for homelessness, eligible applicants to benefit from the duties under sections 68, 73 and 75 of the Housing (Wales) Act 2014 (or the duties in reformed legislation). The abolition to have a clearly defined lead in period.

**Proposals: Intentionality Test**

The intentionality test is removed from legislation and is no longer applied in determining whether an applicant is entitled to the prevention and main duties (section 68 – interim duty to secure accommodation (in the context of ending the duty) and section 75 (duty to secure accommodation) or any future duties in new legislation.

**Proposals: Local Connection**

Adding additional groups of people to the list of exemptions to allow for non-familial connections with communities and to better take account of the reasons why someone is unable to return to their home authority. For example, it was proposed that the following people who cared-experienced and who are not accommodated under social services duties are exempt from the local connection provisions, also prison leavers who require a move to a different area as part of their rehabilitation, and people at risk of domestic abuse or other forms of abuse and exploitation. It was also proposed to consider more flexible arrangements for other groups, for example, young people aged 25 and under or disabled applicants requiring access to particular forms of support.

**Proposals: retention of accommodation**

A new duty on local housing authorities to help support a person to retain accommodation where the applicant has been helped to secure accommodation (which might be their existing accommodation) or where accommodation has been offered to and accepted by the applicant. The duty would be to provide support as the local housing authority considers is reasonably necessary having regard to the applicant's needs and the local housing authority's resources.

### Proposals: the unreasonable failure to co-operate test

The local authority has a number of homelessness duties and the legislation outlines when it is considered that the duty has come to an end. For example, when the applicant is deemed to be “unreasonably failing to co-operate” with the local housing authority in the exercise of its functions. According to the consultation paper, the application of the unreasonable failure to co-operate test requires more subjective decision-making. The proposal is seeking to ensure that the test is more person-centred and trauma-informed by putting in place a narrower test which sets out a small number of clearly defined and limited grounds for the unreasonable failure to co-operate test. For example, threatening behaviour towards local authority staff and consistent non-contact with housing options services.

### Proposals: communication between the local housing authority and the applicant

- (i) Feedback provided by people who are or have been homeless in Wales is said to have indicated that the process of applying for assistance is complex and unclear and the way in which decisions are communicated (in written letters, using legalistic language) can be inaccessible. The consultation paper proposed to make it clear that local housing authorities must ensure (based on a rigorous assessment of need and a Personal Housing Plan) they communicate with applicants in a way which is accessible and tailored to any individual needs.
- (ii) To set out in legislation that local housing authorities are required to communicate with applicants at regular intervals. Specifically, the progress of their application for longer-term accommodation and expected timescales, their rights to request reviews of the suitability of the accommodation and any other relevant decisions, and support that may be available to the applicant.

### Proposals: Wider duties on the Welsh public service to prevent homelessness (a duty to identify and refer)

- A new duty to identify those at risk of homelessness and refer on to specified parts of the public service, so a local authority is notified as soon as possible when a person is facing a threat of homelessness or is already experiencing homelessness.
- A duty to refer is accompanied by a duty on the specified parts of the public service to take action within their own functions to sustain standard or secure occupation contracts and mitigate the risk of homelessness.
- An expanded duty to co-operate (currently imposed by section 95 of the Housing (Wales) Act 2014) to ensure a wider number of public services are engaged and responsible for making homelessness rare, brief and unrepeatable.

- Strengthening strategic leadership of homelessness at a regional level.
- A statutory case co-ordination approach for those who are homeless or at risk of homelessness and experiencing multiple complex support needs.

### Proposals: children, young people and care experienced young people

- Strengthening of existing corporate parenting responsibilities to ensure individuals aged 16 and 17 years old who are homeless or at risk of homelessness do not fall between services. Social services and homelessness services to work in true partnership to secure suitable accommodation any broader support these young people need.
- In addition to strengthening practice under existing legislation, it is proposed to clarify within legislation that no 16 or 17 year old should be accommodated in unsupported temporary accommodation and for those leaving social care or the youth justice system, it is expressly prohibited to use the homelessness system as a route out of care or youth justice. Instead, planning should be done, and arrangements made for accommodation in advance.
- That in line with their corporate parenting responsibilities, and in order to prevent any care leavers or care experienced young people getting lost in the system, local authorities be required to make inquiries into whether an applicant is care-experienced, as they complete the assessment of housing need and Personal Housing Plan.
- To explore further, through this consultation exercise, whether the Renting Homes (Wales) Act 2016 should be amended to allow 16 and 17 year olds to be occupation contract-holders, and in doing so, broaden the accommodation options available to this group.
- It is proposed that care-experienced people should be considered priority need (unless the priority need test is abolished – see proposal on abolishing priority need).
- For young people leaving a 'secure estate', it is proposed that legislation and guidance should be clear that 16- and 17-year olds, who are expected to be released from the youth justice system within six months, are the responsibility of the local authority as part of their corporate parenting responsibility. Similarly, for young people in youth detention, who are or where care leavers aged 18 to 21 (or 18 to 24 in education or training) should also benefit from joint work between social services and the local housing authority to support accommodation.

**Proposals: Survivors of violence against women, domestic abuse and sexual violence**

- Ensuring the main housing duty should include a duty to help the applicant retain their existing accommodation (immediately or in the long term) if they wish to and it is safe to do so. Such help could include assisting them to obtain an occupation order, installing physical safety features, or helping them obtain advice to have the ownership or occupation contract transferred to their name.
- The involvement of specialist services in the decision-making for these service users should be strongly encouraged when the survivor is accessing support. The Welsh Government states that this will ensure safe and informed decisions.

**Proposals: Disability**

- That Personal Housing Plans will improve the service provided to disabled people through consideration of individual housing needs and support needed to retain accommodation, in addition to inclusion of any impairments of the applicant or any member of their household.
- To improve the efficiency of allocation of accessible accommodation, it is proposed all local authorities in Wales be legally required to hold an accessible housing register and undertake a regular review of the accessible accommodation within their stock.

**Proposals: Ex-Armed Services personnel**

In addition to the proposals on local connection and exemptions, it is also proposed to review the National Housing Pathway for Ex-Service personnel and seek ways to ensure it is consistently applied across local authorities.

**Proposals: People leaving prison**

- When an individual is first sentenced to imprisonment, an assessment should be made at reception stage of whether they are likely to lose any accommodation while serving their sentence of imprisonment, and if so, whether they are also likely to lose their possessions and whether they are likely to be released and homeless within six months.

- To set out clearly in legislation that someone held in custody is not homeless despite not having access to accommodation in the community.
- That those in custody (be it on remand, recall or sentence) do not meet the criteria for homelessness unless one of the three following conditions are met – they are already under an existing duty under the Housing (Wales) Act 2014, where existing accommodation is at risk as per the existing (or amended) definition, and/or six (or fewer) months prior to release.
- Where it becomes apparent a prisoner will be homeless upon release from prison, that the local connection test should be applied at the prevention duty stage.
- Legislation should set out that where a prisoner needs accommodation from a local housing authority in order to achieve an early release, parole or bail, the prisoner should be deemed to be homeless at the early release date.
- To make it clear that any time in custody must be considered a change or circumstances regardless of the length of detention or whether it is related to a recall to prison.
- To make clear that those who are recalled or sentenced to custody while in receipt of an existing duty must not have their duty automatically ended.
- To ensure there is consistency of access and assessment, it is proposed to make it clear that the duty to provide information, advice and assistance in accessing homeless support, places an expectation of local authorities where there is a secure establishment within its boundaries (e.g. a prison), to secure the provision of a sufficient advice service to those in both adult and youth custody.
- Retention of accommodation – it is proposed that, where possible, consideration is given to whether accommodation could be offered to a person in prison under the prevention duty, with a view to it being available on release, either under an occupation contract or on a more informal basis (accommodation with family or friends).
- Wherever possible, priority should be given to retaining a person's existing accommodation. To strengthen co-ordination and case management, it is proposed to develop further guidance in this area which will explore the detailed of implementation. This may include the role of lead co-ordinators for planning an individual's housing support.
- Retention of belongings – proposed to amend the Social Services and Wellbeing (Wales) Act 2014 to ensure retention of belongings is included as part of the reasonable steps that need to be taken under Part 11 of that Act.
- Proposed that legislation and guidance should be clearer about the link with Part 11 of the Social Services and Wellbeing (Wales) Act 2014 that 16 and 17-year-old children, who are expected to be released from the youth justice system within six months, receive a joint response across a local authority.

### People with No Recourse to Public Funds (NRPFs)

The consultation paper acknowledges that each of the Homelessness Action Group reports and the report of the Expert Review Panel (which reviewed the homelessness legislative framework) identified a need for the UK Government to lift its NRPF policy, in particular to address the key needs of survivors of violence against women, domestic abuse and sexual violence. It also acknowledged that given immigration is not a devolved issue, local housing authorities in Wales are reliant on the third sector to assist in accommodation people with an NRPFs condition and that demand outweighs supply. The consultation paper notes that the Welsh Government intends to procure training, online resources and other tools that can be applied by a local authority and other stakeholders in accurately assessing and legally determining the assistance that can be provided to people with NRPFs. It also proposes to explore options to establish an “independent host” for a specialist officer to advise and assist a local authority in managing cases of people with NRPFs.

### Proposals: suitability of temporary accommodation

Whenever a local authority secures accommodation for an applicant, that accommodation must be ‘suitable’ for their needs. The following proposals have been made in relation to suitability:

- That existing legislation be strengthened to prohibit accommodation which has Category 1 Hazards as being deemed suitable.
- That this also includes accommodation that is “unfit for human habitation” having regard for the 29 matters and circumstances listed in the Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022. If accommodation would be deemed unfit for human habitation then the accommodation must not be used.
- The consultation states that shared sleeping space is rarely used (e.g. sharing sleeping accommodation with someone who is not a member of the family or considered a member of the family), however, it is still permitted in basic and higher standard temporary accommodation. It is proposed to make it clear in legislation that shared sleeping space is never permitted, regardless of the temporary or emergency nature of accommodation. The consultation paper states that whilst emergency accommodation may require shared facilities such as bathroom or cooking facilities, a shared sleeping space is “never appropriate under any circumstance”.
- That the same standards of accommodation should be applied across both privately owned and local housing authority/registered social landlord owned or managed non-self-accommodation.

- Building choice into the system – proposed to introduce a requirement that the personal circumstances of an applicant must be given consideration in assessing suitability of accommodation, even if it is not possible at the time of the assessment to meet all of those needs through accommodation placement.
- Strengthening legislation to make clear when determining the suitability of accommodation at the point the main housing duty is owed, that placement in overcrowded accommodation is never permitted.
- That there must be no predilection for placing families in overcrowded conditions, however, it is noted such a placement (with family members or friends) may be preferential to households entering emergency accommodation and for that reason, it is proposed that the prohibition does not apply to the prevention duty, should this be in line with the applicant's wishes.

#### **Proposals: the use of unsupported temporary accommodation for young people**

- It is proposed that for people under the age of 25, the use of unsuitable temporary accommodation, including Bed and Breakfasts and shared accommodation, should not be permitted for any time period.
- To make it clear through legislation that where people of this age group are to be housed in temporary accommodation, it must be supported accommodation. Therefore, accommodation should be combined with support (which is tailored to the individual or household and their needs) and should be made available until the individual is ready to move on to an independent living setting.
- To make clear in legislation that those aged 16-17 years old must never be accommodated in adult-focused, unsupported temporary accommodation in Wales.

#### **Proposals: suitability, location and wider support needs**

- That accommodation cannot be deemed suitable unless it is located within reasonable travelling distance of existing or new educational facilities, caring responsibilities and medical facilities, unless the applicant wishes to move beyond a reasonable travelling distance from those facilities.
- That the local housing authority be required to take into account, in relation to both the applicant and any member of the applicant's household, any specific health needs and any impairment. Where the accommodation is situated outside the area of the authority, the distance of the accommodation from the authority's area, the significance of any disruption caused by the location of the accommodation to the employment, caring responsibilities or education of the person, and the proximity of alleged perpetrators and victims of domestic or other abuse.

- Legislation to provide for sites (rather than bricks and mortar accommodation) to be generally considered the most suitable accommodation for an applicant from the travelling community (Gypsy, Roma and Travellers). The local housing authority should be obliged to ask an applicant from the Gypsy, Roma and Travelling Community whether or not they are culturally averse to bricks and mortar and to ensure suitability of accommodation is culturally appropriate for the applicant.

### Proposals: “Homeless at Home”

“Homeless from Home” can refer to applicants who may remain in their accommodation in the short term but cannot remain in it for the long term.

It is proposed to formalise a Homeless at Home Scheme on a national basis. Such a scheme would allow those who are occupying accommodation in the short term (but must leave in the longer term) who are deemed to be homeless or threatened with homelessness, to make an application for homelessness assistance to the local housing authority. The consultation document states that this may be a preferable solution to some applicants having to move into temporary accommodation and is a policy that is already informally operated by some local housing authorities in Wales.

It is also proposed that a “Homeless at Home” definition would be provided to assist authorities in recognising their ongoing main housing duty and will set out that an individual who is “Homeless at Home” should be seen as any other applicant who is in temporary accommodation. That is, they should not be deprioritised in terms of finding longer-term more suitable accommodation. It is believed that this will ensure that applicants are not disincentivised from becoming Homeless at Home, a practice the consultation paper maintains will alleviate pressure on temporary accommodation.

### Proposals: Temporary accommodation stock

- To ensure that both a local and national level that the Welsh Government is able to profile the availability and stock of temporary accommodation in Wales.
- To review suitability standards in temporary accommodation every three years in order to assess whether developments in the supply of accommodation enable the Welsh Government to bring forward a high level of minimum standards. Higher standards may include, for example, an option of whether to prescribe that overcrowded temporary accommodation is never suitable.

**Proposals: Unacceptable behaviour test and power to remove people from the waiting list**

That the current test for unacceptable behaviour, which permits a local housing authority to exclude applicants from their allocation scheme, or to remove any reasonable preference from them, should only apply where:

- An applicant (or member of their household) has been guilty of unacceptable behaviour, serious enough to breach section 55 of the Renting Homes (Wales) Act 2016 so as to result in an outright Possession Order; and
- At the time of consideration of the application, the applicant remains unsuitable to be a tenant by reason of that behaviour (sections 160A(7) and (8) and 167(2B) and (2C) of the Housing Act 1996.

**Proposals: housing waiting list and allocations**

- To provide local authorities with the power to remove people with no housing need from the waiting list in their area. The power would be permissive only, local housing authorities would retain a discretion to admit all applicants onto their allocation scheme regardless of whether they have a housing need. If this proposal goes ahead, a definition of housing need will be provided in guidance.
- To assign additional preference to those who are homeless and owed a statutory homeless duty over other priority groups who are deemed to have an 'urgent housing need'. The consultation paper states that currently in Wales, local authorities are permitted to determine their own priorities between the priority groups. This proposal aims to ensure the needs of homeless applicants are prioritised in allocations.
- To introduce amendments to the legislation to allow for care leavers who are homeless, to be provided with additional preference over other priority groups defined as having an urgent housing need. This is to allow for greater prioritisation of care leavers within the existing allocation system, with the intention of increasing their access to affordable accommodation and mitigating the additional risk of homelessness they face.
- To introduce a similar change so local housing authorities are permitted to specify in their allocation schemes people who are homeless as a result of fleeing abuse should be awarded greater priority.
- To introduce legislation to require the use of a Common Housing Register and common allocations policies across all local authorities in Wales.
- To introduce a "deliberate manipulation test" to be applied at the allocations stage of the homelessness process. This test is intended to limit/remove priority given to those who are found to have engaged in deliberate manipulation of the homelessness system in order to gain advantage when applying for social housing. The test would permit local authorities' discretion to remove

any 'reasonable preference' the applicant would have been eligible for in relation to allocations. Examples, of deliberate manipulation could include falsifying evidence, misleading information such as claiming they could not afford private rented accommodation where the evidence suggests that they could.

### **Proposals: additional housing options for discharge of the main homelessness duty**

At present, the main homelessness duty in Wales can only end where the applicant is offered (and accepts or refuses) social housing accommodation or suitable private rented accommodation.

- It is proposed to increase the range of housing options through which the main homeless duty (at section 75 of the Housing (Wales) Act 2014) can come to an end. These options may include, for example, supported lodgings or supported accommodation. This recommendation would allow a local housing authority to utilise these options but only where they are satisfied that certain conditions are met and only where the applicant agrees that the accommodation is suitable for them and members of their household for at least 12 months. There would be certain "safeguards" put in place to accompany these additional discharge options. For example, a written agreement such as an occupation contract, applicants must be notified in writing of access to independent advice and notified of the consequences of accepting the offer. The main housing duty would not end if the applicant refuses such accommodation.

### **Proposals: implementation and oversight**

- To use and extend the existing structures provided through local government scrutiny and social housing regulation in order to monitor homelessness provision and the implementation of the proposed legislation.
- To consider whether it is appropriate to make changes to the Regulatory Standards that apply to Registered Social Landlords to encourage an even greater commitment to ending homelessness and to monitor performance and delivery.
- To consider the functions of existing inspectorates in Wales, such as Care Inspectorate Wales and Healthcare Inspectorate Wales to identify the role that these organisations can play in ensuring delivery of the aims outlined in the White Paper to achieve broader responsibilities for homelessness prevention across the Welsh public service.
- To review and consider whether additional powers for Welsh Ministers are necessary including possible direction making powers to compel a local authority to meet the requirements within the proposed new legislation. The consultation paper states that the policy intention, as the proposed reforms are developed, will be to ensure that where a local authority is failing to deliver the

requirements of the proposed Bill, or not delivering a service to the standards expected, the Welsh Government is able to intervene and support and, if necessary, challenge and direct improvement.

- To consider how to ensure that the views of people with lived experience of homelessness can continue to inform the Welsh Government's understanding of how the homelessness system works and to ensure this feedback influences the ongoing development of services. To work closely with expert partners to undertake such work and design methodology in partnership with them.
- In line with recommendations by the Homelessness Advisory Group and the recent Ending Homelessness National Advisory Board Annual Audit Report, the Welsh Government will work to improve continuous data collation across the housing and homelessness sector.
- The creation of a power by which the Welsh Government could 'call-in' data collected by a local housing authority when undertaking its homeless functions.

**Appendix 2: Prevention of Homelessness Duties in Scotland – Prevention Review Group proposals as contained in the Joint Scottish Government/COSLA ‘[Prevention of homelessness duties: Consultation](#)’<sup>93</sup>**

It is important to note that not all the recommendations of the Prevention Review Group (PRG) subsequently became provisions within the new [Housing \(Scotland\) Bill \(see clauses of the Bill \(as introduced\) for further detail\)](#).

Prevention Review Group (PRG) Proposals	Policy intention of the proposal
<p><b>Extended prevention duty</b> A local authority must assist anyone threatened with homelessness within the next six months (rather than the current two-month threshold).</p>	<p>The policy intention is to provide a longer timeframe that is currently in place to take action to prevent homelessness (especially in the light of tenancy notice periods under the Private Housing (Tenancies) (Scotland) Act 2016. This could mean that those facing homelessness could make informed decisions before having to respond in “crisis mode”.</p>
<p><b>Duty to take reasonable steps to prevent homelessness</b> A duty to take reasonable steps to secure that suitable accommodation is available, or does not cease to be available. This minimum statutory framework should include:</p> <ul style="list-style-type: none"> <li>• Housing options information, advice and advocacy.</li> <li>• Support for landlords and tenants in the private rented sector, including landlord negotiation and assistance, rent deposit guarantee schemes and other access schemes.</li> <li>• Welfare and debt advice and assistance.</li> <li>• Advocacy support.</li> <li>• Support for people experiencing domestic chose the best housing outcome, including assistance to remain safely in their own home where this is their preference.</li> <li>• Family mediation services</li> </ul>	<p>The policy intention behind this proposal is to build on the best practice of housing options developed in Scotland over recent years, and ensure a minimum consistency or offer in the prevention assistance offered across the country, which local authorities can then build on according to local needs and priorities. This is similar to the legislative approach taken in Wales, and in accordance with the recommendations of stakeholders to the PRG to put the preventative housing options approach on a more formal basis.</p>

<sup>93</sup> Scottish Government/COSLA, [Prevention of homelessness duties: consultation](#), December 2021. The Scottish Government/COSLA [joint statement](#) on the [consultation analysis](#) was published in November 2022.

<ul style="list-style-type: none"> <li>• Supply of furniture or similar goods.</li> <li>• Referral to other relevant agencies.</li> </ul> <p>The duty to take reasonable steps would end in range of circumstances. For example, the person has secured suitable and stable accommodation or where the person becomes statutorily homeless (and therefore is owed a homeless duty).</p>	
<p><b>‘Ask and Act’ duties</b> Public bodies in their role to prevent homelessness should identify a risk of homeless and “act” upon that information.</p>	<p>This concept emerged from the Prevention Commission, which was a group of people with lived experienced of the homelessness system. Each specified public body would need to identify whether the people they work with are homeless or at risk of homelessness. Each body, depending on their role and powers, would have to act on this information (e.g. referral to a local housing authority or more in-depth action if they are in a position to do so).</p>
<p><b>Personal Housing Plans</b> A local authority must take into account the applicant’s views as part of the statutory assessment, and try to reach agreement with the applicant on their housing needs, desired outcomes and what they advise the applicant to do to help resolve their circumstances. The statutory assessment should form the basis of a Personal Housing Plan agreed between the local authority and the applicant.</p>	<p>These proposals are intended to produce a minimum statutory framework to underpin an approach where the local authority and the applicant work together to identify the barriers, desired outcomes and a way forward to addressing the applicant’s housing situation. Scottish Government officials have explored the potential for a Scottish personal housing plan model, and note that there are existing and valid processes of recording people’s needs and options. It is not yet clear what additional benefits would be gained from implementing a standard personal housing plan approach, given the housing support assessments and outcome tools already in use.</p>
<p><b>Housing Support Needs</b> Where an applicant has housing support needs, the local authority must assess these and make provision to meet them.</p>	<p>The intention of these proposals is that where an applicant has housing support needs, the local authority must assess these and make provision to meet them, and that this should be irrespective of tenure. This may include housing support associated with Housing First as well as lower level support in order to prevent homelessness.</p>
<p><b>Discharge from institutions</b> That no one should be discharged from institutions without anywhere to sleep that night.</p>	<p>To see public bodies work together with homelessness and housing services to ensure that people have a seamless transition into settled accommodation at the point of leaving an institution. Anyone leaving an institution within the next six months with no accommodation arrangements should be considered as threatened with homelessness.</p>

<p><b>Health and social care</b> A statutory duty is placed on the Health and Social Care Partnership (integrated authorities) to identify the housing circumstances of service users, and where necessary work with partners to ensure that service users are assisted into suitable housing or that a risk of homelessness is prevented.</p>	<p>People with experience of homeless have a higher interaction with health services that those who do not. The Prevention Review Group identified evidence of a lack of co-operation between health and social care services and homelessness services to prevent homelessness.</p>
<p><b>Complex needs</b> Where needs are more complex, to the extent they cannot be supported in mainstream housing even with additional support, then primary responsibility for meeting those accommodation needs should sit with the Health and Social Care Partnership.</p>	<p>The policy intention is to capture the needs of those who require highly specialist medical or other support in supported accommodation. It is not intended to cover needs that might be met through Housing First provision, which is provided in mainstream settled accommodation with intensive support.</p>
<p><b>Social work, social care and referrals</b> Where a social worker or social care worker identifies a risk of homelessness, they should make a referral to the relevant part of the local authority. If they consider that there are unmet social care needs, a social care needs assessment should be carried out.</p>	<p>This is part of the 'ask and act' duty.</p>
<p><b>Individuals with health and social care needs</b> Where it is identified that an individual may have health and social care needs as part of a homelessness assessment or threat of homelessness, or an assessment of housing support needs, a statutory duty is placed on the health and social care partnership to co-operate with the local authority in planning to meet those needs.</p>	<p>The PRG identified this as a priority recommendation. The intention is that there is effective strategic planning across health and social care and housing services will support the fulfilment of these proposed duties. However, since the PRG made this recommendation the Scottish Government has published a consultation on establishing a new National Care Service and any potential legislative changes as a result of this will need to be considered.</p>
<p><b>People leaving hospital</b> By working with other partners, the local authority must ensure that the service for prevention and alleviation of homelessness is designed to meet the needs of people leaving hospital and people with mental illness or impairment. The local authority must provide assistance to anyone who is going to be discharged from hospital in the next six months and is considered as threatened with homelessness.</p>	<p>-</p>
<p><b>GP Practices and referrals</b> GP Practices should be under a requirement to refer to the local authority where a risk of homelessness is identified.</p>	<p>A theme emerging from the PRG was the role of GPs (GP practices are only public bodies for some purposes). In England, there is a duty to refer under prevention duties, but not for GPs. The consultation acknowledged that the proposal to place a requirement on GPs in</p>

	<p>Scotland may raise concerns about GP practices being asked to intervene in patients lives where not requested by patients and for a non-immediate clinical reason. In Scotland, a network of Community Link Workers are deployed (rather than employed by) some GP practices in Scotland to address some of the non-medical issues of patients.</p>
<p><b>Case co-ordination for people with multiple or complex needs</b>  For people with complex needs requiring input from two or more public services to support their health and wellbeing, or to facilitate community safety, a case co-ordination approach is put in place. These needs would include, but not be limited to risk of homelessness, substance misuse or involvement with criminal justice etc.  The approach to case co-ordination should consist of:</p> <ul style="list-style-type: none"> <li>• Identification of a professional to lead on contact with the individual and co-ordinate service provision.</li> <li>• A means of overseeing case co-ordination (e.g. to identify gaps in service provision or to manage and prevent the escalation of risk.</li> </ul>	<p>Following the publication of the <a href="#">‘Hard Edges Scotland’</a> report which highlighted the complexity of the lives facing multiple disadvantage, there had been recognition across the homeless sector of the need for better joined-up person centred and trauma-informed services. The intention of this proposal is to ensure this approach is consistent across Scotland through providing a statutory basis for the involvement of a range of appropriate partners needed to help prevent homelessness.</p>
<p><b>Children’s Services</b>  If a health visitor and head teacher identify that there is a housing issue or a risk of homelessness for a family, they should make a request for assistance to the local authority’s homelessness service.</p>	<p>This is part of the Ask and Act prevention duty proposal. The PRG noted that in Scotland 27% of households making a homeless application had children and that households with children spend longer in temporary accommodation. Schools and health visitors were identified as having key roles in support children and identifying factors that may present a homelessness risk such as poverty or relationship breakdown.</p>
<p><b>Proposals for young people</b>  Local authorities should work with partners to ensure the service needs of young people at risk of homelessness. Services should be able to respond to the diversity of this group.  Local authorities should ensure they have family mediation available as part of their homelessness prevention offer.</p>	<p>Under S57 of the Children and Young People (Scotland) Act 2014, young people are defined as those who have reached aged 16 but are under the age of 26. PRG noted that there was clear evidence of particular risk factors for young people. For example, experiencing homelessness at a young age is associated with the risk of homelessness later in life. Some PRG members and stakeholders felt that there a focus on tackling young homelessness may have lessened in some areas in recent years. They also felt that there was a lack of coherent housing and support offers for young people and those setting up home for the first time.</p>

<p><b>16 and 17 year olds at risk of homelessness</b>                  Young people at risk of homelessness must be treated as children under the law and should receive assistance from children’s social work, who have expertise in the needs of this group. Primary responsibility for assisting homelessness 16 and 17 year olds should sit with social work.</p>	<p>The intention behind this proposal is to prevent homelessness before it occurs for 16 and 17 year olds. However, the consultation states that this proposal needs to be assessed in the wider context of the law surrounding the age of legal capacity.</p>
<p><b>Prison and Young Offenders Institutions</b>                  That the Prisons and Young Offenders Institutions (Scotland) Rules 2011 are amended to ensure that:</p> <ul style="list-style-type: none"> <li>• People entering prison are asked about their housing situation as soon as reasonably possible following admission.</li> <li>• If people in prison are likely to need assistance to find housing for when they leave prison, a referral is made as soon as possible to the relevant local authority.</li> <li>• Where housing issues are identified, prisons work with partners including housing options and housing associations to address the issues.</li> </ul>	<p>The intention is that by working with other partners, local authorities must ensure the service for homelessness prevention and alleviation of homelessness is designed to meet the needs of people leaving prison or youth detention accommodation, and anyone at risk of homelessness due to impending court proceedings. Relevant partners include the Scottish Prison Service, the Scottish Courts and Tribunal Service and Community Justice Partnerships.</p>
<p><b>Court Services and Local Housing Options</b>                  Local Housing Options services work with the Courts Service to ensure housing options advice is easily accessible within a court setting.</p>	<p>Stakeholder consultation with the PRG suggested that there was a lack of housing options advice within the court setting.</p>
<p><b>Police Scotland</b>                  Where there is reasonable belief that someone may be homeless, police should ask about the individual’s housing circumstances. Specific circumstances may be identified in appropriate regulations or guidance, including someone rough sleeping, cases of domestic abuse or household dispute leading to possible homelessness.                  Where the police identify a risk of homelessness they should make a referral to the local authority (with a corresponding responsibility on the local authority to act on the referral).</p>	<p>Support for a duty on police was said to be expressed by police representatives at the criminal justice stakeholder group of the PRG (especially in conjunction with a duty on the local authority to respond).</p>
<p><b>Domestic Abuse</b></p> <ul style="list-style-type: none"> <li>• People at risk of homelessness as a result of domestic abuse should be able to access free legal aid in order to obtain an exclusion order.</li> <li>• The definition of abuse within homelessness legislation is expanded to cover both the Protection of Abuse (Scotland) Act 2001 and the Domestic Abuse (Scotland) Act 2018.</li> </ul>	<p>The PRG highlighted that a violent or abusive dispute is the biggest cause of homelessness for women in Scotland and that figures may significantly underestimate the scale of homelessness caused by domestic abuse.                  These recommendations are intended to be complementary to recent changes in law and policy including the Domestic Abuse (Protection) (Scotland) Act 2021, which when enacted, will give the courts a new</p>

<ul style="list-style-type: none"> <li>• Assistance from homelessness services to prevent homelessness must include support and security measures to enable applicants to remain in their homes safely where this is their preference.</li> <li>• Homelessness prevention services should work with other partners to ensure they are able to meet the needs of people requiring housing assistance due to domestic abuse.</li> <li>• Local authorities support victims of domestic abuse to access exclusion orders.</li> <li>• 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.</li> <li>• Social landlords should put in place protocols to addressing housing issues relating to domestic abuse.</li> </ul>	<p>power to impose Domestic Abuse Protection Orders. These can remove a suspected perpetrator of domestic abuse from a home of any tenure of a person at risk, and prohibit them from contacting them while the order is in effect. These also allow a social landlord to apply to the court to end a perpetrator’s interest in a social housing tenancy or joint tenancy, thereby enabling the victim to remain in the family home where they wish to do so. They are also intended to complement the implementation of the recommendations in the <a href="#">Improving Housing Outcomes for Women and Children Experiencing Domestic Abuse</a> report, which have been accepted by the Scottish Government.</p>
<p><b>Local authority duty to respond to referrals</b> A local authority should accept a referral from a public body or landlord as a formal application, unless the individual states that they do not wish to make an application for assistance, or unless the local authority cannot contact the individual after making reasonable efforts.</p>	<p>The intention of this proposal is to reflect the “no wrong door” approach set out in the <a href="#">Ending Homelessness Together Action Plan</a>. This approach aims to remove barriers to services and to assist people to connect with the most appropriate service for their needs.</p>
<p><b>Joined-up services through strategic planning</b></p> <ul style="list-style-type: none"> <li>• Community planning partners should set out and establish in Locality Plans the impact of homelessness, emerging issues and joint working to address this.</li> <li>• Health and Social Care Partnerships should set out a clear statement of their contribution to preventing homelessness within the Local Housing Strategy.</li> <li>• The next iteration of the National Performance Framework has an emphasis on housing which enables people to live in their home successfully.</li> </ul>	<p>PRG noted that a key driver of local outcomes was the <a href="#">National Performance Framework</a> for Scotland (which sets out a vision for collective wellbeing). The PRG identified that effective homelessness prevention required services to work together as early as possible and plan strategically to identify need. It also identified a need ensure structures and arrangements are in place to address issues that may lead to homelessness.</p>
<p><b>Social landlords</b> Where a social landlord identifies circumstances which may lead to a risk of homelessness, that social landlord must take relevant steps to mitigate that risk. Circumstances include:</p>	<p>The PRG recognised that social landlords are well placed to carry out work which prevents homelessness and that much of existing good tenancy management practice may already service to achieve this. The intention behind this proposal is to formalise responsibilities as duties so that social landlords take action within their power to identify and mitigate the risk of homelessness as early as possible.</p>

<ul style="list-style-type: none"> <li>• Rent arrears or other financial difficulty which may give rise to risk of homelessness.</li> <li>• Tenant behaviour or action which may give risk to homelessness.</li> <li>• Other circumstances including domestic abuse, court proceedings which may give rise to a loss of accommodation due to remand or imprisonment.</li> </ul> <p>Mitigation steps would include:</p> <ul style="list-style-type: none"> <li>• Housing management practices to sustain tenancies.</li> <li>• Engaging with the tenant to address relevant financial circumstances.</li> <li>• Engaging the tenant to address their behaviour.</li> <li>• Putting protocols in place to mitigate risk of homelessness at an early stage, including protocols relating to domestic abuse.</li> </ul>	
<p><b>Social landlords and proceeds for possession</b></p> <p>If the landlord considers the risk of homelessness for a tenant to require assistance beyond their powers, including where there is a growing risk of eviction, then they should notify the local authority as early as possible that there is a risk of homelessness.</p>	<p>This is similar to existing provisions (the Section 11 duty of the Homelessness etc. (Scotland) Act 2003, which states that landlords must notify a local authority where the landlord raises proceedings for possession. However, the intention of the proposal is to ensure that the referral is as far upstream, targeted and as preventative as possible, and to have a clear process in place between the social landlord and the local authority, so that a crisis point is avoided and no one is evicted from social housing without somewhere to stay that night.</p>
<p><b>Private sector landlords</b></p> <p>The pre-action requirements on private landlords in cases of rent arrears which were created in the emergency coronavirus legislation to provide information and put in place support for tenants in rent arrears should be made permanent.</p> <p>If the landlord agrees with tenants as part of the conversation around the pre-action protocol, or in any other circumstances, the landlord may make a homelessness prevention referral to the local authority where they are concerned that there may be an emerging risk of homelessness. A local authority must respond to a referral from a private landlord about a possible case of homelessness.</p> <p>Additionally, if a local authority is assisting a person threatened with homelessness as a result of a pending eviction from a private tenancy, the local authority should have a power to request that the First Tier</p>	<p>The intention behind these proposals is to prevent homelessness as much as possible from the Private Rented Sector (PRS) and that the PRS will be more widely used, where appropriate, to house people at risk of homelessness.</p>

<p>Tribunal delay execution of an eviction order proceedings where a landlord has failed to co-operate.</p>	
<p><b>Right to review</b>                  There should be a comprehensive right to review which covers the following decisions:</p> <ul style="list-style-type: none"> <li>• Decision as to whether someone is homeless or threatened with homelessness.</li> <li>• Decision to refuse an application.</li> <li>• Decision as to whether any accommodation secured discharges the local authority’s duty to the applicant.</li> <li>• Decision to terminate interim accommodation pending an assessment or review.</li> <li>• A review of the accuracy of the assessment.</li> <li>• Any decision relating to a housing support needs assessment.</li> <li>• Decision relating to the reasonable steps a local authority may take to prevent or alleviate homelessness.</li> <li>• Decision to end assistance to prevent someone’s homelessness.</li> </ul> <p>Any applicant should still be able to request a review even if they have accepted an offer of accommodation.</p>	<p>This recommendation was made by the PRG in relation to the issue of enforcing people’s rights.</p>
<p><b>Suitability of accommodation</b>                  The criteria for identifying appropriate housing options should shift to focus on the stability and suitability of the accommodation with suitable safeguards. All accommodation must be expected to be available for a minimum period of 12 months.</p> <p>All accommodation must be suitable to the needs of the household. Suitability will cover grounds relating to the accommodation and those relating to the household including affordability, the best interests of children in the household, location and access to relevant services, employment and further employment prospects, needs relating to health or disability, where abuse is a factor (domestic or otherwise) proximity to the perpetrator/abuser.</p>	<p>-</p>

<p><b>Safeguards for non-standard accommodation</b>  Social or private tenancy or owner occupation should be considered as 'standard' discharge. Any other form of accommodation ('non-standard') may be considered for the discharge of the prevention duty by only where the following additional safeguards are met – 24 hour access, adequate toileting and washing facilities, access to kitchen facilities, a private bedroom, a statement of rights and responsibilities in relation to the accommodation. The applicant must also give written consent to be discharged into non-standard accommodation (i.e. they have a veto).</p>	-
<p><b>Strategic housing needs assessment</b>  As part of the local authority Local Housing Strategy required under section 89 of the Housing (Scotland) Act 2001, an assessment should be carried out of the needs of persons in the area for housing support.</p>	-
<p><b>Regulation</b>  The Scottish Housing Regulator should report annually on the experiences of households facing homelessness and the threat of homelessness as it does currently for social tenants.</p>	The SHR currently report on landlords' performance in achieving the Scottish Housing Charter in their annual National Report, and that includes some reporting on homelessness.