

Scottish Women's Aid

response to Prevention of Homelessness Duties - A Joint Scottish Government and COSLA Consultation 31st March 2022

Consultation Questions

Section 2: Proposed recommendations by the Prevention Review Group (PRG) and consultation questions on duties to prevent homelessness on wider public bodies and landlords

Principles of the Prevention Review Group (PRG)

Overarching 'foundation principles'

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

While we agree with the principle that preventing homelessness should be a shared public responsibility we believe the principles require further consideration. The Scottish Government has made a commitment to the incorporation of the Right to Adequate Housing within Scots Law, this is therefore an opportunity to bring a more explicit rights' and equalities-based framing to any new housing legislation and in particular the development of any new duty on public authorities as duty bearers. The principles as currently worded do not actively reflect that approach and should be revisited to reflect how the proposed duty will uphold and protect the rights of rights holders as well as providing new responsibilities on public authorities as duty bearers. For example, in relation to how issues of consent, control of the process, confidentiality, information sharing and referral will be dealt with.

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

An overarching principle of equality and non-discrimination should be included within the foundational principles. The public sector equality duty of the Equality Act 2010 requires public bodies to address discrimination and promote equality for protected groups, including in terms of sex. This means that public authorities must proactively and routinely tackle inequality in policy development, service delivery and as an employer. It is unclear if and how equality impact assessments shape Scotland's housing and homelessness policy, including the proposals set out in this consultation. Including this as a principle would assist greater compliance with PSED and the mainstreaming of equality within homelessness policy, statutory guidance and legislation.

The principle of 'ask and act' duties

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

In principle we agree with the proposals to introduce new duties on public bodies to prevent homelessness. However, the limited development of the prevention duty contained in the consultation makes it difficult to understand how this will work in practice. We have serious concerns about the additional barriers and risks that the prevention duty, as set out, could create for victim-survivors of domestic abuse. As well as concern about the level of resourcing necessary for training, skills development, relationship building, operational protocol and practice development, monitoring and evaluation, that will stretch existing public services even more thinly.

In feedback from our members there was a unanimous view that it was essential to “fix the existing homelessness system first to make it work for women, before adding to the process” and that a duty on public bodies would create “another layer of a system that generates exactly what - a referral, to a system that consistently fails women and their children.” Domestic abuse is the main cause of women’s homelessness in Scotland, with a high incidence of repeat homelessness. For many women looking for support, this can mean that they are made homeless by the very services that are meant to help them: forced to leave the family home and then move multiple times.

A recent survey of our members found that almost a third of Women’s Aid groups reported that the response victim-survivors received from social landlords was worse now than when good practice guidance on domestic abuse was published in 2019. With few social landlords implementing measures to prevent victim-survivors homelessness.¹

Preventing and addressing homelessness as a result of domestic abuse requires a coordinated community response. While housing plays a critical role there has to be close collaboration with partners, from the outset including with the specialist voluntary sector. However, involving other agencies in referring victim-survivors won’t prevent their homelessness if the key part of the system continues to fail to take specific measures to prevent their homelessness. Without taking a gender-based approach, homelessness prevention strategies risk further perpetuating gender-based inequities.² We are disappointed that the commitment in the Ending Homelessness Together Action Plan to “Apply a gendered analysis to our actions, ensuring the homelessness system meets the needs of diverse groups of women”³ was not implemented in the development of the proposal for a prevention duty. There is no analysis or consideration given as to how a homeless prevention duty will apply across equalities groups. This includes disabled women, BME women, LGBT women, refugee and asylum-seeking women, older and younger women, and women from deprived and rural areas.

¹ <https://womensaid.scot/wp-content/uploads/2019/08/Domestic-abuse-guidance-for-social-landlords-FINAL.pdf>

² Housing interventions for women experiencing intimate partner violence: a systematic review Alexa R Yakubovich, Alysha Bartsch, Nicholas Metheny, Dionne Gesink, Patricia O’Campo

³ <https://www.gov.scot/publications/ending-homelessness-together-updated-action-plan-october-2020/documents/>

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

We agree in principal that prevention of homelessness requires a collaborative, whole system approach. However, the of the ‘ask and act’ duty as set out in the consultation have not been thought through for women. Domestic abuse is the main cause of women’s homelessness in Scotland. For women in this situation it is domestic abuse that is the cause of their and their children’s risk of homelessness. For women to be asked about potential homelessness will require a disclosure of domestic abuse. Women may not feel safe disclosing as they do not trust the response they will receive and/or their previous help seeking approaches to public services may have been unsupportive or put them at increased risk.

A disclosure of domestic abuse places makes women and children more vulnerable, if the response is inappropriate, risks are poorly understood and confidentiality is not strictly adhered to. There is a lack of understanding that domestic abuse does not end if a woman ends a relationship with the perpetrator. Indeed, this time of high risk of serious or lethal harm for her and her children. There are specific issues, risks and differential needs of BME women, LGBT women, women with NRPF, women living in rural and isolated areas, of disabled women and younger or older women in disclosing domestic abuse in the ask and act process.

Public bodies including housing and homelessness services will require gender-responsive, trauma-informed domestic abuse training to be able to ask victim-survivors about their risk of homelessness. In order to act they will require protocols, guidance and practice development to address and prevent service generated risks.

In research for SWA women shared what it was like to have to tell their story repeatedly to different people, often publicly in open-plan offices, sometimes feeling that they were not believed or that what was happening to them was either their fault or not that serious.⁴ In the lived experience section of the consultation survivors provide their views on this question and provide examples of the barriers and risks they experienced when they approached public services for help.

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

Equally Safe Scotland’s Strategy to eradicate violence against women sets out which services, most of them public bodies, should provide an appropriate, safe and consistent response which would then support their competence to incorporate a new duty to prevent homelessness.

“It’s vital that practitioners working across the range of mainstream services that come into daily contact with women and girls are able to identify those at risk and offer an appropriate, safe and consistent response - from police officers, teachers, community

⁴ <https://womensaid.scot/wp-content/uploads/2017/07/Change-Justice-Fairness.pdf>

workers, social workers and housing officers, to GPs, midwives, dentists, bar reporters, and children and young people's services. Then and only then can we be sure of offering those affected or at risk a professional, capable and compassionate response from their very first point of contact; an integrated response that's quick and easy to access, shares information between services and in doing so, spares women the ordeal of having to repeat their experiences over and over."⁵

However, the ambition set out in Equally Safe is some considerable distance from being realised, while good practice has developed in some areas, victim-survivors of VAWG do not receive an appropriate, safe and consistent response from mainstream public services and this is an essential requirement prior to the introduction of a new duty that requires them to 'ask and act' about women's risk of homelessness resulting from domestic abuse.

The principle that no-one should be discharged from institutions without anywhere to sleep that night

Q6. Do you agree to introducing a statutory duty on public bodies to prevent homelessness for anybody leaving an institution within six months?

Yes, there should be sufficient time to enable a housing and support plan to be put in place.

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

In 2008 NHS Scotland introduced routine enquiry on domestic abuse as part of a 3-year action plan to improve the NHS response to gender based violence.⁶ It was established in maternity, sexual health, health visiting, substance misuse and mental health settings. This was due to the disproportionate number of women accessing these services who have experience of abuse. Routine enquiry involves asking all women at assessment about abuse regardless of whether there are any indicators or suspicions of abuse. The development included a roll out of a national training programme which trained almost 3,000 staff, in the six key priority settings. An evaluation of health visitors' experiences of the programme found that health visitors found 'routine enquiry' difficult for several inter-related reasons; these have been termed as 'process' and 'relational':

- the majority of health visitors were unclear as to whether they were required to ask about domestic abuse, how to ask and how to record it.
- The study highlighted the importance of developing a good relationship and strong liaison with the woman before they could ask about safety and domestic abuse. Trust was seen as central to this relationship.⁷

⁵ <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/documents/>

⁶ https://www.sehd.scot.nhs.uk/mels/CEL2008_41.pdf

⁷ https://www.pure.ed.ac.uk/ws/portalfiles/portal/70009394/Routine_enquiry_Briefing_paper_Final.pdf

The evaluation, carried out in 2017, several years after the introduction of routine enquiry, makes a number of policy and practice recommendations to support 'asking and acting' including the need for ongoing training, clarity on implementing policy, improved guidance and increased "time and resourcing to adequately address the highly complex issues associated with domestic abuse." There are lessons to be learned from the NHS Scotland routine enquiry programme in the development of a new public duty and SWA would want to see much more detail on this before we could support the proposal.

Duties on wider public bodies and landlords

Prevention Review Group proposed recommendations for health and social care

Q8. Do you agree with the proposal that Integration Authorities should identify the housing circumstances of people using health and social care services, and where necessary work with partners to ensure that service users are assisted into suitable housing or prevent the risk of homelessness?

No response

Q9. Do you agree that a new legislative duty on Integration Authorities to identify housing circumstances of patients is the best way to prevent homelessness?

No response

Q10. Do you agree that the Integration Authority should have primary legal responsibility for meeting accommodation and support needs where cases are so complex that they cannot be met in mainstream accommodation even with support?

No response

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

No response

Q12. Do you think a duty on the Integration Authority would positively impact on preventing homelessness for people with a range of more complex needs?

No response

Q13. Do you agree with the proposal for a social worker or social care worker to have a duty to 'ask and act' about housing issues or the risk of homelessness?

As per our previous answers our concerns are that social workers are not appropriately trained, supported and resourced to provide a "appropriate, safe and consistent response" to victim-survivors of domestic abuse. Women are often worried about asking for assistance from social work for fear of being blamed as mothers. In the lived experience section of the

consultation women provide examples of their interactions with social work which were unsupportive, their situation was not seen as a priority and reinforced the messaging from perpetrators that they were unfit mothers.

As recognised by the Scottish Government the Safe and Together Model provides a framework for partnering with domestic abuse survivors and intervening with domestic abuse perpetrators in order to enhance the safety and wellbeing of children. It partners with the non-abusive parent and holds the abusive parent accountable for their abuse which is framed as a parenting choice.⁸ Integration of the Safe and Together principles and practice will be critical for the involvement of social work in a duty aimed at preventing women and children's homelessness.

Q14. Do you agree that a duty to co-operate on the Integration Authority is the best way to ensure that people who are homeless or at risk of homelessness, as a result of unmet health or social care needs, get the support they need from health and social care services?

No response

Q15. What changes to existing practice do you think local authorities and relevant health and social care services would have to make, to ensure they meet the needs of those leaving hospital and those with mental illness and impairment?

No response

Q16. Do you agree with the proposal that the local authority must provide assistance to anyone who is going to be discharged from hospital?

No response

Q17. What would be the main challenges of introducing a statutory duty on local authorities to house those due to be discharged from hospital within the next six months?

No response

General Practitioners (GP)

Q18. Do you agree with the proposal that GP practices are required to refer to local authorities where there is a risk of homelessness identified?

GPs are well placed to provide support to victim-survivors and while many survivors experience safe, knowledgeable and supportive responses from their GP, others experience the opposite. The lived experience section of the consultation provides survivors experiences of contact with GPs. The same concerns apply as outlined above.

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

⁸ <https://safeandtogetherinstitute.com/about-us/about-the-model/>

As outlined above – GPs will require gender-responsive, trauma-informed domestic abuse training to be able to ask victim-survivors about their risk of homelessness. In order to act they will require protocols, guidance and practice development to address and prevent service generated risks and positive outcomes for women and children.

Prevention Review Group proposed recommendations for case co-ordination for people with multiple or complex needs

Q20. Do you agree with the proposal that a statutory duty to put a case co-ordination approach in place for people requiring input from two or more public services is the right approach? If you disagree, please say how public services can best work together to prevent homelessness for people with more complex needs.

Multi-Agency Risk Assessment Conferences (MARACs) are regular, local meetings where information about domestic abuse victims at higher risk is shared between representatives from a range of local agencies, including homelessness, to inform a coordinated action plan to increase the safety of the victim and their children. The Scottish Government consulted on improvements to MARAC in 2018, SWA in response to the consultation stated that “we are confident that well-run MARACs reduce harm, improve safety, and, in some cases, increase community responses to domestic abuse.” We recommended that MARACs are re-framed as a coordinated community response rather than as a risk-only mechanism for reducing fatalities.

MARACs are not a statutory requirement in every local authority. In our consultation response we recommended that multi-agency arrangements for protecting victims of domestic abuse should not be placed on a statutory footing. As “we are not convinced that a statutory footing would deliver improved safety for women and children. However, additional authority and resources should be committed to current multi-agency arrangements.” We are concerned that a statutory footing could result in statutory agencies dominating the process which could undermine the partnership approach and collaborative multi-agency arrangements and effectively side line voluntary sector services.

Q21. If this statutory duty is established:

How would it work in practice?
What challenges would it present, and how could these be best addressed?

As above, MARACs require greater resourcing to be able to develop an enhanced community response to homelessness prevention for a wider range of women and the provision of a wrap-around specialist support service for women and children. As well as more robust monitoring and evaluation.

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

As above

Prevention Review Group proposed recommendations for children's services

Q23. Do you agree with the proposal to establish a duty on health visitors or head teachers to identify a housing issue or risk of homelessness to a local authority?

Health visitors are well placed to identify and support women and children experiencing domestic abuse and consequent risk of homelessness. They are currently required to carry out routine enquiry on domestic abuse and there is existing statutory guidance which includes housing and inter-agency working. We have outlined earlier research findings on inconsistency of health visitor's approach to routine enquiry.

There is a lack of statutory guidance available to schools on responding to domestic abuse. Women's Aid services in Scotland report incidences of schools disclosing information about children and young people to perpetrators of abuse, including information about where a child and their mother is living if they have left the perpetrator, and information about the Women's Aid services they are receiving. Without statutory guidance and training for educators on domestic abuse and the roles of schools and other public bodies in keeping victim-survivors safe, women and children will be at risk.

The Scottish Government Getting it Right for Every Child (GIRFEC) policy aims to ensure needs are identified as early as possible and "**requires joined-up working** - it is about children, young people, parents, and the services they need working together in a coordinated way to meet the specific needs and improve their wellbeing."⁹ Joining up homelessness prevention policy with existing national policy such as GIRFEC, Routine Enquiry and Equally Safe and resourcing and training local partnerships is essential to an effective response prior to any new duty being put in place.

Q24. How would a duty on health visitors or head teachers to identify a housing issue or risk of homelessness to a local authority work in practice? At what stage should a request for assistance be made to the local authority?

As previously gender-responsive, trauma-informed domestic abuse training to be able to ask victim-survivors about their risk of homelessness. In order to act they will require protocols, guidance and practice development to address and prevent service generated risks as well as increased resourcing and robust evaluation.

Prevention Review Group proposed recommendations for young people

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

⁹ <https://www.gov.scot/policies/girfec/>

The gender dynamics of youth homelessness are under-researched. Young women and men share multiple vulnerabilities and share what can often be common experiences during childhood, but there is evidence that their trajectories through homelessness can be variable and it cannot be assumed that their needs are the same.¹⁰ Youth homelessness experienced by women is also associated with domestic abuse.¹¹ The group most likely to experience abuse appears to be mothers aged 20 or younger when the study child was born (29%)¹²

A recent national research project investigating young women's experiences of unhealthy relationships, domestic abuse and access to support found that over a third (36%) of respondents aged 12 - 25 had been in an intimate relationship with someone who was abusive or harmed them physically or emotionally. Almost three quarters (74%) knew someone who had been in an intimate relationship with someone who was abusive or harmed them physically or emotionally.¹³

It is essential to ensure the participation of a diverse range of young people at risk, along with services which support them to design homelessness prevention services which do not provide the same intervention for all young people but meet their individual and specific needs.

Q26. Do you agree that a local authority, possibly in partnership with others, should have a family mediation service as part of its legislative duties to prevent youth homelessness?

Family mediation is not appropriate in cases of domestic abuse. As recently outlined in our work on the Children's (Scotland) Act 2020 in relation to alternative dispute resolution.¹⁴ As detailed above there needs to be greater awareness within social work and housing services of the prevalence of young women's experience of domestic abuse and other forms of VAWG and of young people's experience of domestic abuse within their family to ensure family mediation is not prescribed inappropriately.

Prevention Review Group proposed recommendations for 16 and 17 year olds

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

The Youth Homelessness Prevention Pathway recommends that "youth housing services and housing for care leavers should be planned, commissioned, and delivered by housing

¹⁰ [Women's Homelessness, European Evidence Review March 2021](#)

¹¹ Ibid

¹² Prevalence and Social Inequality in Experiences of Domestic Abuse Among Mothers of Young Children: A Study Using National Survey Data from Scotland, Skafida, V., Morrison, F., Devaney, J., 2021

¹³ Scottish Women's Aid and YWCA Scotland - The Young Women's Movement, national research project report to be published June 2022

¹⁴ <https://womensaid.scot/wp-content/uploads/2020/06/Joint-Briefing-on-Stage-Two-Children-Scotland-Bill.pdf>

departments in partnership with social work or throughcare departments and informed by the overall youth housing and homelessness need.”¹⁵

It is unclear if the proposal will support improved partnership working between housing and social work in the planning and commissioning of services that meet the diverse needs of young people. It’s also critical that any change does not undermine 16 and 17 year olds rights to a tenancy or restrict their housing options.

Q28. Could there be any ‘unintended consequences’ for 16 and 17 year olds in taking this approach to legislation? If so, how can this best be addressed so that any new legislation improves outcomes for 16 and 17 year olds at risk of homelessness?

☐ Yes, there could be ‘unintended consequences’

☐ No, there could not be any

Please say what the ‘unintended consequences’ could be, and how can this be addressed so that any new legislation improves outcomes for 16 and 17 year olds at risk of homelessness?

As answered above.

Prevention Review Group proposed recommendations for criminal justice – prisons, court services and Police Scotland

Prisons

Q29. Do you agree with the proposal to introduce new legal duties on prisons to ask about and work with partners to address housing issues to prevent homelessness?

We agree that ensuring housing and support are in place before leaving prison are essential to deliver better outcomes for people - and partnership working is central to that process. It is also crucial in this process to ensure protection of victims of crime. Victim-survivors are often made homeless when an ex-partner is released from prison as they no longer feel safe, or they have not been notified of his release until he returns with the expectation of moving back in and no protective measures have been put in place prior to his release.

There is already a statutory duty on partners to have regard to the National Strategy for Community Justice which makes it clear that ‘Housing should be safe, timely and appropriate to the person’s needs as well as taking the victim’s safety into account’, especially where the person committing the crime and the victim are known to each other, for instance in cases of domestic abuse.”¹⁶ It is unclear that a further statutory duty proposed in the consultation would result in improved co-ordination and consistency of service across the country between prisons and local authorities and third sector partners. The Shore standards include little detail on how prisons, housing services and partners will

¹⁵ <https://www.awayhomescotland.org/wp-content/uploads/sites/13/2021/03/YHPP-for-All-Young-People-1.pdf>

¹⁶ <https://www.sps.gov.uk/Corporate/Publications/Publication-5363.aspx>

take victim's safety into account and prevent their homelessness. Or which partners will be involved in this process.

While the imprisonment rate for women in Scotland has decreased, it still remains one of the highest in Northern Europe and a high proportion are mothers. A study of women in custody in Scotland in 2018 found that 70% had experienced domestic abuse.¹⁷ The Shore Standards for people leaving prison contain one short paragraph on women prisoners. The development of gendered standards "to ensure that the housing needs of individuals in prison are handled at an early stage, in a consistent way across Scotland" requires development in partnership with relevant women's support organisations to ensure any new duty meets individual needs across the prison population.

Q30. How would a statutory duty on prisons to identify and work with partners on housing issues change existing practice already in place to prevent homelessness amongst those leaving prison?

As above. Partners should also include advocacy. organisations representing victim-survivors including Women's Aid and Rape Crisis

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

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

As above

Prevention Review Group proposed recommendation for court services

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

In principle we agree that housing options advice should be available in court settings. We would again reiterate the importance of specific domestic abuse training for advisors, this will be essential when the Domestic Abuse (Protection) (Scotland) Act 2021 is introduced.

Prevention Review Group proposed recommendations for Police Scotland

Q34. Do you agree with the proposal to place a statutory duty on the police to ask about somebody's housing circumstances if there is 'reasonable belief' they may be homeless or at risk of homelessness?

¹⁷ <https://www.sps.gov.uk/Corporate/Publications/Publication-6069.aspx>

As stated above, we do have concerns about the barriers and risks to victim- survivors of domestic abuse of the ‘ask and act’ duty as set out in the consultation.

The issue is what concrete and helpful steps the police will actually be able to take if they ask the question, women confirm the risk of homelessness exists if they leave the abuser and what happens next. Given that when attending a domestic abuse incident, the police have a duty to ensure the parties are safe but also to undertake investigation of the crime and evidence gathering, our concern would be how this duty would fit in with existing police roles.

The “ask and act duty” could prove positive in ensuring perpetrators have alternative accommodation where conditions preventing return and entry to the home are imposed by the police via DAPNs, investigative liberation and liberation on undertaking. The concern is around the additional work, procedures and obligations the duty would impose on police, specifically how this would impact on existing procedural responses to domestic abuse, particularly given the time sensitive deadlines around investigating and questioning in custody of persons arrested but not officially accused.

Further, we are aware from calls to the SDAFM Helpline that police can be unclear on civil matters such as parties’ entitlement to occupancy rights and when this right does and does not exist, which has resulted in perpetrators erroneously being allowed to return and re-enter the home by police when they have no actual legal right to do so.

Q35. How would a statutory duty on police to ask about somebody’s housing circumstances, if there is ‘reasonable belief’ they may be homeless or at risk of homeless, work in practice?

As above

Prevention Review Group proposed recommendations for Domestic Abuse

Q36. Do you agree that the set of proposed measures on domestic abuse are complementary to each other and consideration should be given to implementing them in full?

While appreciating the policy intent behind the proposed measures on domestic abuse we don’t agree that they should be implemented in full. Implementation in full of the recommendations from the Scottish Government working group report on improving housing outcomes for women and children experiencing domestic abuse will provide greater systemic change to prevent women and children’s homelessness.¹⁸

Q37. Do you have any comments about the implementation of any specific proposal made in relation to preventing homelessness as a result of domestic abuse, and is there anything missing from these proposals?

¹⁸ <https://womensaid.scot/wp-content/uploads/2020/12/Improving-Housing-Outcomes-for-Women-and-Children-Experiencing-Domestic-Abuse-Report.pdf>

Specific comments on the proposals:

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

Exclusion orders are infrequently obtained by women experiencing domestic abuse. One reason is that they are dependent on occupancy rights to the property, which are only automatically available if the woman is married or in a civil partnership and is a joint tenant and they also require renewal. Research carried out for SWA found that “Exclusion orders are not contributing to the prevention of homelessness. The remedy is used by very few women leaving an abusive partner.”¹⁹

Free legal access to exclusion orders on their own won’t meet the range of legal issues that women and children require help with. In recent research carried out by the Legal Education Foundation for SWA, requests for legal advice covered 13 types of legal issues, of the 219 issues that required legal assistance from a solicitor during the research period only 4 were in relation to exclusion orders. Women and children experiencing domestic abuse require a range of interconnected legal advice and representation when ending a relationship with an abusive partner. This includes divorce and separation, child contact and residency, parental rights and responsibilities, child welfare hearings, protective orders, relationship dissolution, criminal justice, immigration and asylum.

The recommendation on legal advice from the improving housing outcomes for women and children experiencing domestic abuse report is that “The Scottish Government should ensure that women and children who experience domestic abuse are able to easily access free domestic abuse-competent legal advice and representation.”²⁰

This recommendation reflects a broader recognition of the wide range of interconnected legal advice and representation that victim-survivors require. It also reflects the underlying problem that in some areas of Scotland accessing a solicitor is more difficult because there are fewer solicitors operating in and even fewer still with an understanding of domestic abuse and/or a willingness to take on legal aid cases. Addressing both these issues is critical to provide women and children access to justice.

The definition of abuse within homelessness legislation is expanded to cover both the Protection from Abuse (Scotland) Act 2001 and the Domestic Abuse (Scotland) Act 2018.

We do not agree with expanding the definition of domestic abuse to include abuse in general as defined in the Protection from Abuse (Scotland) Act 2001. The Domestic Abuse (Scotland) Act 2018 defines domestic abuse as abuse carried out by a partner or ex-partner. This definition is included within the Domestic Abuse (Protection) (Scotland) Act 2021, is used by Police Scotland and COPFS as detailed in the Joint Protocol “In Partnership challenging domestic abuse” and is embedded within Scottish Government and COSLA’s Equally Safe Strategy. As Police Scotland stated in their response to the consultation on the Domestic Abuse (Protection) (Scotland) Bill;

¹⁹ <https://womensaid.scot/wp-content/uploads/2017/07/ExclusionOrderReport.pdf>

²⁰ <https://womensaid.scot/wp-content/uploads/2020/12/Improving-Housing-Outcomes-for-Women-and-Children-Experiencing-Domestic-Abuse-Report.pdf>

“The dynamics of domestic abuse are distinct to those relationships involving partners or ex-partners and we know that there can be risks created by universally applying the same risk assessment processes to other relationships or circumstances.”

The report from the working group on improving housing outcomes for women and children recommends that the definition of domestic abuse in housing legislation should be the definition as set out in the Domestic Abuse (Scotland) Act 2018.

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.

The provision of specialist gender sensitive domestic abuse support for women and children is critical in enabling them to navigate the myriad of interlinked issues in dealing with the aftermath of domestic abuse and recovery from trauma. Generic housing support and/or gender-neutral services fail to provide an understanding of the impact of domestic abuse on women and children.

The good practice guidance on domestic abuse for social landlords includes that social landlords, “Support a tenant who is experiencing domestic abuse to remain in her own home, or to move to another home, including providing security measures, specialist support and details of the action you will take against the perpetrator.” (Checklist for good practice in responding to domestic abuse)²¹

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. Collaborative working, including specialist support providers is central to the good practice guidance on domestic abuse for social landlords. A recommendation from the Scottish Government working group’s report on improving housing outcomes for women and children experiencing domestic abuse was that this guidance should be placed on a statutory footing to ensure that social landlords prioritise domestic abuse within an equality and human rights-based framework.

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.

We are concerned about the use of the phrase ‘other party in the abuse’ within this recommendation, it is the perpetrator of domestic abuse who is solely responsible for the abuse.

Landlords are not better placed to make that decision on a victim-survivor’s behalf. Often social landlords refuse to allocate a victim-survivor housing in an area she wants to live in because her ex-partner or his family live in the vicinity, even though it will allow the children to remain at the same school, is near family, friends or work. Or landlords allocate the perpetrator housing near to the victim-survivor without taking the necessary risk

²¹ <https://womensaid.scot/wp-content/uploads/2019/08/Domestic-abuse-guidance-for-social-landlords-FINAL.pdf>

assessment or survivors views into account. Ensuring victim-survivors have choice and control over their housing options must be central. Social landlords should follow good practice guidance when allocating housing to perpetrators of domestic abuse.

Social landlords should put in place protocols to address housing issues relating to domestic abuse

Protocols should be based on good practice and adhere to Scottish Government and COSLA's definition of domestic abuse and strategy to eradicate VAWG. The recommendation from the improving housing outcomes for women and children experiencing domestic abuse report is that a Homelessness Prevention Duty should "require social landlords to develop and implement domestic abuse housing policies based on the Good Practice Guidance on Domestic Abuse for Social Landlords."

What's missing?

Perpetrators of domestic abuse remain invisible within the recommendations set out to prevent victim-survivors homelessness. It will be more effective if public services were required to use targeted enquiry and act after identifying perpetrators of domestic abuse to ensure the focus is not solely on the victim-survivor but also on identifying and responding to the agent of the abuse. Included within a homelessness prevention duty there should be a requirement for a consistent approach from local authorities, housing providers and their public sector partners to holding perpetrators to account.

Prevention Review Group proposed recommendations for a local authority duty to respond to referrals

Q38. Do you agree with the proposal that there should be a statutory duty on a local authority to accept a referral from a public body to prevent homelessness, as part of legislative change that places a duty on public bodies to 'ask and act'?

If there is duty on a public body to refer there would require an equivalent duty to accept the referral within agreed parameters. This would require the informed consent of the individual and in accordance with information sharing protocols. These would need to be domestic abuse informed and risk assessed to ensure a referral to which a victim-survivor gave consent would not compromise her safety. For example, how will homelessness services contact a woman following a referral that will be safe, Citizens Advice found that 47% of survivors had their mail intercepted by a perpetrator.²²

²² <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Post%20and%20Telecoms/DA%20report%20-%20final.pdf>

Q39. If a statutory duty on local authorities to accept a referral from a public body to prevent homelessness was introduced, what would be the primary advantages and challenges compared to existing arrangements?

What would be the primary advantages:

No response

What would be the primary challenges:

No response

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

Yes, consent must be given by an individual to a referral, which will require the sharing of personal information in the process. The consultation refers to the principle of choice and control, rights holders' agency and autonomy in this process should not be undermined. The Information Commissioners' Office defines consent as "giving people genuine choice and control over how you use their data. If the individual has no real choice, consent is not freely given and it will be invalid. This means people must be able to refuse consent without detriment, and must be able to withdraw consent easily at any time. Consent should not be bundled up as a condition of a service."

Prevention Review Group proposed recommendations for joining-up services through strategic planning

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

☐ The requirements should be included in legislation

☐ The requirements should be included in guidance

No response

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

No response

Data sharing and data protection

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

There are considerable implications on data sharing and data protection particularly as highlighted elsewhere in our response on service generated risks to victim-survivors. Our members highlighted this as an issue in our consultation session, stating that information sharing is only as good as the relationship between the bodies sharing it. There are examples of good practice where relationships have been developed for referral and information sharing that work locally and it will be important to learn from and build on these. In the lived experience section survivors also stressed concerns about information sharing and service generated risks.

Prevention Review Group proposed recommendations for social landlords

Q44. Do you agree with the new legislative duties to ensure social landlords take specified reasonable steps to prevent homelessness where a risk is identified?

Yes, we agree that social landlords should take specified reasonable steps to prevent homelessness. The good practice guidance for social landlords on domestic abuse sets out how social landlords can implement policy and practice to prevent women and children's homelessness.

The legislation also offers the scope for local authorities to work with RSLs.

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

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

Yes. The report, improving housing outcomes for women and children experiencing domestic abuse, recommends that "social landlords should develop and implement domestic abuse housing policies based on CIH/SWA 2019 guidance." All, of the recommendations in the report have been accepted by the Scottish Government. Publication of guidance, campaigning and training availability have not succeeded in persuading social landlords to develop policy to prevent women and children's homelessness and improve their responses to domestic abuse. Social landlords have numerous opportunities to respond to and prevent women and children's homelessness that they do not undertake. The response women told us in recent interviews and focus groups is they are told they "can go on a housing list", "go to homelessness if things get worse", "come back when they reach crisis point", they are not "high enough tariff", "call the police," "put him out," "get a lawyer." Which very much reflects the findings of SWA's research on women's homelessness published in early 2016 and little progress has been made in the last six years.

The working group on improving housing outcomes for women and children experiencing domestic abuse reviewed the barriers to policy implementation and identified the main barriers as lack of any statutory requirement, low prioritisation and absence of leadership.

47. Do you agree with the proposal to legislate for the establishment of protocols by social landlords in relation to where tenants face court proceedings?

No response

Q48. Given that landlords are already expected to notify local authorities of raising proceedings for possession, do you agree with a new legislative provision to ensure it happens earlier than under current arrangements?

No response

Q49. What further statutory measures beyond the existing Section 11 provision are needed so landlords notify and work with local authorities as soon as possible to prevent homelessness?

No response

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

Prevention Review Group proposed recommendations for private landlords

Q51. Do you agree with the proposal to make pre-action requirements on private landlords in cases of rent arrears permanent in legislation?

Yes, no reason that tenants in the private rented sector should not have the same protections as tenants of social landlords.

No response

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

We would have the same concerns as outlined previously on the competence of private landlords, and local authorities to provide an appropriate, safe and consistent response to victim-survivors of domestic abuse.

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

Gender-responsive, trauma-informed domestic abuse training to be able to ask victim-survivors about their risk of homelessness. In order to act they will require protocols, guidance and practice development to address and prevent service generated risks.

Q54. Do you agree with the proposal that a local authority should have a power to request a delay to eviction to allow time to secure a positive outcome for the tenant?

No response

Q55. The Prevention Review Group propose that the homelessness advice and assistance is designed to meet the needs of people living in and seeking to access the private rented sector. Do you agree with this proposal?

The provision and resourcing of high standard advice and advocacy on housing rights and homelessness prevention, that meets the needs of diverse groups of people is required across the whole of the rented sector.

Q56. How would a specific legislative duty on local authorities to provide homelessness advice and assistance relating to living in and/or accessing the private rented sector work in practice?

As mentioned above, high quality, accurate advice and advocacy services require resourcing. Determining additional provision requirements and development costs across Scotland would be necessary as part of developing any duty.

Section 3: Proposed recommendations by the Prevention Review Group and consultation questions on reforming the homelessness legislation to prevent homelessness

Principles of the Prevention Review Group

Q57. Do you agree with these principles?

SWA has outlined earlier that we believe the principles require further consideration. This is an opportunity to bring a more explicit rights' and equalities-based framing to new housing legislation.

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

An overarching principle of equality and non-discrimination should be included within the foundational principles.

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

Principles in themselves do not deliver outcomes. We have outlined the series of systemic changes required during the course of this consultation.

Prevention Review Group proposed recommendations for changing the current homelessness legislation

An extended prevention duty

Q60. Do you agree with the recommendation that there should be changes to existing homelessness legislation to ensure that a local authority must assist somebody threatened with homelessness within the next six months to prevent homelessness?

Agree in principle, as outlined previously opportunities to assist women at risk of homelessness earlier currently exist as women themselves often identify their precarious housing situation and look for advice and support from social landlords without receiving an 'appropriate, safe or consistent response'.

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

A legislative requirement to provide earlier assistance will necessitate a much more informed and flexible approach, this requires gender sensitive domestic abuse specific training, staff resourced and supported to respond, implementation of a domestic abuse policy, protocols, guidance, partnership working with specialist services, monitoring and evaluation, and leadership.

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

As outlined above

Duty to take reasonable steps to prevent homelessness

Q63. Building on the experience of housing options approaches in Scotland, do you agree with the proposal to regulate for making specific measures available or reasonable steps to prevent homelessness in legislation?

As outlined earlier in our response and in the lived experience section of our response a housing options approach to prevent women's homelessness as a result of domestic abuse is not being consistently, appropriately or safely delivered across Scotland. Specific measures to address this are set out below.

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

The Scottish Government working group report in improving housing outcomes for women and children experiencing domestic abuse recommends specific measures that should be included in a homeless prevention duty to prevent women and children's homelessness.

These include ensuring women's and children's rights to:

- Remain in the home are protected, realised and supported
- Choice and control in deciding their housing options
- Support, advocacy and legal advice in order to have protection, housing, specialist support and a social security safety net
- Require all social landlords to develop and implement domestic abuse housing policies based on CIH/SWA 2019 guidance.
- CIH/SWA 2019 guidance is made statutory to ensure that social landlords prioritise domestic abuse within an equality and human rights-based framework.
- All social landlords should be required to ensure that staff are trained to understand the gendered dynamics of domestic abuse and receive housing-related domestic abuse training.
- These rights should be available to all women, regardless of their immigration status

Q65. Do you think the specific measures made available, or reasonable steps duties outlined, are clearly and unambiguously set out so that it is possible to measure their achievement? Do they need to be more specific?

As detailed above.

Q66. If you agree with these new duties, what processes or procedures do you think should be put in place to encourage local authority compliance?

No response

Personal Housing Plans

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

As set out previously and below an assessment would require a trauma informed understanding of the dynamics and impact of domestic abuse.

Q68. Should personal housing plans form part of a statutory assessment for preventing homelessness by local authorities, or just be an option for local authorities to use with an applicant?

☐ Yes, they should form part of a statutory assessment

☐ No, they should be an option

Please say why

No response

Q69. Do you agree with the proposal that a local authority should assess housing support needs, and make provision to meet them, as part of a new prevention of homelessness duty?

Assessment of housing support needs for victim-survivors of domestic abuse requires knowledge and understanding of the dynamics and impact of domestic abuse. We know from research, our members and victim-survivors that their support needs are not identified, are unacknowledged and unmet in most cases by local authorities. The lived experience section provided examples of this. While some local authorities will make referrals to Women's Aid for specialist support, many do not. Generic housing support services do not provide the gender sensitive domestic abuse trauma informed support that women and children require. Provision to meet these needs has been cut year on year, identification of different support needs and adequate resourcing of these would need to be included as a core element of any new duty.

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

No response

Q71. An applicant during the time they are receiving prevention assistance under a new prevention duty from the homelessness system experiences loss of accommodation, or other change of circumstances which make the reasonable steps agreed to be carried out no longer valid. What should the process look like to ensure someone always has access to the right assistance for the circumstances they are in?

No response

Q72. What assistance should be provided to those who are defined as statutorily homeless but where it may be possible to prevent them from becoming homeless from their current accommodation (while ensuring it meets the definitions of suitable and stable)? This might include:

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

It is important that victim-survivors rights to make a homelessness application are not removed, that they continue to be treated as statutorily homeless and are able to make a homeless application and entitled to temporary accommodation. For many women and children ensuring their safety and to avoid re-traumatisation will require immediate rehousing. At the same time the local authority should advise and support women to

explore all their housing options, where they wish to do so. When women wish to remain in or return to their home they are still likely to require interim temporary accommodation while action is taken to remove and rehouse a perpetrator. Or to obtain legal advice and representation in relation to their rights to remain in the property, or where additional protective orders are necessary to ensure their safety. Victim-survivors must have choice and control in this process and a domestic abuse trauma informed approach to meet their housing needs.

In our members and victim-survivors experience most local authorities are not able to provide an appropriate, safe and consistent housing options response to prevent women's homelessness. In a recent survey of our members, they reported that measures that could support the prevention of homelessness such as management transfers, rehousing perpetrators, supporting planned moves, or supporting women to get legal advice are seldom or never used.

Meeting the needs of specific groups

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

The proposals set out in the consultation for how local authorities should meet the needs of specific groups are too vague to be able to provide any detailed comment. It is unclear what status these protocols will have, or what 'ways of working' are that don't currently exist? In terms of meeting the needs of specific groups, particularly of victim-survivors of domestic abuse where current needs are far from being met this proposal lacks any substantive analysis or development.

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

No response

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

As explained in response to question 37 the proposals will not address the issue of homelessness as a result of domestic abuse in a comprehensive, holistic, women and child-centred manner. The report, improving housing outcomes for women and children experiencing domestic abuse, sets out a combination of systemic change, legislation and actions to prevent homelessness for victim-survivors of domestic abuse. Implementation of these recommendations and incorporation into the development of a prevention duty is essential to preventing homelessness.

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

What else should be included

- Include a new obligation to ensure domestic abuse has been fully considered before commencing legal action to recover possession of a property for rent arrears.
- Ensure a joint tenant can end their interest in a private rented sector tenancy; and
- joint tenants who experience domestic abuse in a private rented sector tenancy, can, where appropriate, remain in the family home as a sole tenant.
- Require social landlords to develop and implement a domestic abuse policy, which includes the Scottish Government definition of domestic abuse and is based on the CIH/SWA good practice guidance
- Place the good practice guidance on domestic abuse for social landlords on a statutory footing.

Prevention Review Group proposed recommendations for stability and suitability of accommodation

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

No, we do not agree with the proposals put forward to enable local authorities to discharge their duty to those experiencing homelessness to non-secure 12-month tenancy options. We believe this proposal represents a derogation of rights that exist in current legislation, i.e. a private residential tenancy or a Scottish secure tenancy. This runs counter to the Scottish Government's commitment to incorporate the right to adequate housing into Scots Law.

Security of tenure is critical for victim-survivors who have often experienced multiple moves, in SWA's research on women's homelessness we found that 44% of women had moved multiple times from one temporary housing situation to another after being forced to leave their family home. A council or housing association tenancy provides essential security that is critical in preventing homelessness and supporting women and children to rebuild their lives.

Q78. Do you agree that 12 months is an appropriate minimum expected period for accommodation to be available (regardless of the type of tenure) for people who are threatened with homelessness or have become homeless?

No, as above

Q79. How do you see this working in a) a private tenancy; b) accommodation with an occupancy agreement; and c) those returning to the family home or to live with another relative?

a) private tenancy:

b) accommodation with occupancy agreement:

c) return to family home/living with relative:

Q80. Are these the right grounds to consider in deciding on the suitability of housing outcomes? Are there any other grounds that should be considered?

It is difficult to assess from this list of grounds whether these criteria are likely to result in “All accommodation must be suitable to the needs of the household.” The Scottish Government are committed to incorporating economic social and cultural rights into legislation. It is an opportunity to ensure the core components of the Right to Adequate Housing are central to defining standards within a prevention duty.

Housing standards and women’s economic inequality are linked. The UN special rapporteur on adequate housing notes: ‘gender as a social construct fundamentally impacts the ways in which women and men experience their housing situations, and that in order for women to enjoy adequate housing on the basis of equality their needs must be understood and made visible within the framework of the right to adequate housing.’¹⁴

Affordability for example must take into account women’s circumstances: precarious employment, low pay, low pensions, occupational segregation, inflexible working, child and other caring responsibilities, dependence on social security, and the gender pay gap. Safety and security are not mentioned in the list of grounds as the United Nations Committee on Economic, Social and Cultural Rights has emphasised that the right to adequate housing should not be interpreted narrowly. Rather the right to housing should be seen as the right to live somewhere in security, peace and dignity.¹⁵

Q81. Do you think the criteria proposed for both stability and suitability of housing outcomes would allow people a wider range of housing options to either prevent homelessness or rehouse someone who has become homeless, and that could lead to better outcomes for the applicant?

☐ Yes

☐ No

No response

Safeguards for non-standard accommodation options as part of a new prevention of homelessness duty

The Prevention Review Group suggested that accommodation not protected by other legal safeguards (referred to “non-standard” options in the PRG report) must have additional safeguards in place:

- The accommodation must have appropriate facilities for settled living (such as 24-hour access, adequate toilet and washing facilities, access to kitchen facilities, a private bedroom)
- A statement of rights and responsibilities in relation to the accommodation
- Applicants must give written consent to be discharged into a non-standard form of accommodation (i.e. they have a veto).

Q82. When taken with the general criteria for suitability and stability, do these additional safeguards provide the right safeguards to ensure these accommodation types (non-standard) are always suitable and stable? Are there any additional safeguards that could be put in place?

☐ Yes

☐ No

Please say why, and if there are additional safeguards that could be put in place

No response

PRG proposed recommendations for enforcing people’s rights

Right to review

Q83. Do you think any additional measures are needed to ensure a right to review by the local authority within the proposed legislative measures to prevent homelessness?

The recommendations for enforcing people’s rights focus only on part of the proposed duty, the aspects of the duty including how public bodies ensure an individual’s consent, make

referrals and share information are not included. It is important that individuals are able to review and challenge the accuracy of the information shared as well as the processes for doing so in any new legislative measures.

Right to appeal

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

There is limited awareness of the Housing and Property Chamber of the First-tier Tribunal for Scotland and their role in negotiating tenant/landlord disputes. Individuals can also only use an appeal process if they have access to independent information and advice to enable them to realise their rights. Both these issues would require to be addressed and resourced to ensure an individual right to appeal can be meaningfully enforced.

Regulation

Q85. Do you have anything to add to the proposal on the role of the Scottish Housing Regulator in relation to proposals for new legislative duties to prevent homelessness?

There is scope for the SHR to have greater assurance and evidence that social landlords have considered equality and human rights issues properly when making all of their decisions, in the design and review of internal and external policies, and in its day-to-day service delivery, including in the implementation of any new legislation.

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

No response

Q87. Do you agree that there should be a general assessment of housing support needs of persons (separate to assessments for individuals) in an area as part of the Local Housing Strategy?

It would depend upon what a 'general assessment' involved, providing it was non-homogenous and based on a robust EQIA process and also mapped the provision and resourcing of appropriate services to meet the support needs identified.

Section 4: Questions on the package of proposals, resources and monitoring

The package of proposals

Q88. Do you agree this is this the right package of reforms to meet the policy principles of early intervention and preventing homelessness?

☐ Strongly Agree

- ☐ Agree
☐ Disagree
☐ Strongly Disagree

Please say why
 As detailed previously

Q89. If you do not agree this is the right package of reforms to meet the policy principles of early intervention and preventing homelessness, what do you recommend in terms of other ways of reforming the system to meet these policy principles?

Women’s homelessness is rooted in the structural inequalities women face and in gender-based violence. Homelessness strategies should be based on a human rights framework and on the wider understanding of gender inequalities and intersecting inequalities based on race, class, sexual orientation, or immigration status.²³ We recommend that the Scottish Government fulfil its commitment made in the Ending Homelessness Together action plan (2020) to “Apply a gendered analysis to our actions, ensuring the homelessness system meets the needs of diverse groups of women.”

Q90. How do you feel about the overall package and the balance it strikes between the different objectives, interests and principles outlined? Does it work as a whole package? If not, how can the package be adjusted overall to better meet the principles of early intervention and prevention?

No response

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

The Public Sector Equality Duty regulations say that “the impact of applying a proposed new or revised policy that must be assessed. This means the assessment process must happen before a policy is decided. The assessment cannot be retrospective, or undertaken near the end of the process, but should instead be integral to the earliest stage of the development of proposed policies or practices, and in the revision of existing policies or practices.”²⁴ A thorough EQIA should have been undertaken in order to inform the content of the proposals.

Engender have highlighted the critical absence of EQIAs in the development of housing strategy and policy in Scotland, calling for the quality of equality impact assessments (EQIA) conducted on housing strategy, policy and programmes to be improved, both nationally and

²³

<https://www.feantsa.org/public/user/Resources/resources/Guide%20supporting%20and%20solutions%20for%20women.pdf>

²⁴ <https://www.equalityhumanrights.com/sites/default/files/assessing-impact-public-sectory-equality-duty-scotland.pdf>

locally Stating that “absent entirely from the housing and homelessness landscape in Scotland are the realities of women who face multiple discrimination, including disabled women, women from black and ethnic minority communities, refugee and asylum-seeking women, LGBT women, younger and older women, and women from deprived and rural areas.²⁵” As noted earlier in this response without taking an intersectional gender-based approach, homelessness prevention strategies risk further perpetuating gender-based inequities.

(Different groups of people with protected characteristics in the Equality Act 2010 include: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, sexual orientation).

Resources

Q92. What do you think are the potential implications for your role or for your organisation’s role of the implementation of new duties to prevent homelessness in terms of time and resource?

No response

Q93. What do you think you or your organisation would be doing to meet new prevention duties as outlined in this consultation that you were not doing before?

No response

Q94. Do you think these proposals offer an opportunity for potential savings or benefits to services through an increased focus on early intervention and preventing homelessness?

No response

Q95. What additional training needs do you think will be required for your role or your organisation’s role in implementing any new prevention of homelessness duties, and what do you think the timescales for this would be?

No response

Monitoring

Q96. What monitoring information do you think should be collected in order to best assess the implementation, progress and outcomes of new legislative duties to prevent homelessness?

Our response to question 91 focuses on the absence of an EQIA for the development of this policy proposal, this should be the mechanism that supports the development of specific monitoring and evaluation methods.

²⁵ <https://www.engender.org.uk/content/publications/A-WOMANS-PLACE---GENDER-HOUSING-AND-HOMELESSNESS-IN-SCOTLAND.pdf>

Section 5: Questions on the Prevention Review Group proposals on prevention of homelessness duties for people with lived or living experience of housing crisis, homelessness or risk of homelessness.

SWA carried out interviews and a focus group with women who had experienced domestic abuse and homelessness or risk of homelessness from across Scotland to ensure their views and experiences inform this section of the consultation. This included members of SWA's survivors reference group.

Q97. When you most recently or previously became homeless were there any earlier actions that you think could have been taken by the council or other public bodies (health, education, justice services, etc.) that would have prevented it?

Women talked about the interactions they had with a range of services, including the council to seek information and advice and support prior to leaving an abusive partner and becoming homeless. These included GPs, the police, health visitors, mental health services, social services, housing and homelessness services, Job Centres. These often took place months and in some cases years before they received an appropriate response. Women talked about the impact of having to repeat themselves over and over again, often in public spaces, extremely distressed and then being disbelieved or their experience diminished or the response putting them at greater risk. This experience then left them lacking trust in public services to assist them, caused further trauma and resulted in some women having to return to or stay longer with an abusive partner. Women talked about the affect this had on their and their children's mental health.

"I was treated really badly, like rubbish I was back at the council every two weeks, they didn't care. No one gave me a chance or was concerned about my mental health, no one told me about women's aid."

"I didn't know where to go, I was homeless and asked friends where to go. There was a problem with my ex-partner, the Police told me to ask the council about accommodation that I could get put in a B&B. I was in a rented house, in my ex-partners name from an agency, the agency didn't care, I was pregnant and they wouldn't help me told me I had to leave."

"It was embarrassing going to housing because I didn't want people to know. Having to disclose what's happening, felt very personal, my family didn't even know. Having to talk about it to a stranger was really difficult. The response I got was call the police, put him out. No understanding whatsoever what would happen to me if I did that, it was all up to me to do something about it."

"I had been in contact with the council two years before and had spoken to a homeless officer. This was a housing options interview looking at various options such as rented accommodation housing associations etc. The only way for me to access council housing immediately was to make myself homeless and go into temporary accommodation and await a council house. My husband would have manipulated the situation to take my

children away if I took them into homeless accommodation. That fear kept me there for another couple of years.”

“The council in my experience were less than helpful. When I left my partner, I stayed with my mother, which was only 50 yards down the road from where I’d lived with my ex-partner. It’s very isolated in the countryside only 3 houses. It meant when he was attacking me in the road in front of the houses no-one saw or heard anything. The council’s attitude was well you’re at your mothers, you’ll be fine.”

Women talked about the threat of homelessness and entering the homelessness system being a huge consideration in their decision-making when trying to end a relationship with an abusive partner.

“There is no guarantee you will even get the correct size of house (I was offered a single bedroom for me and a double for 3 kids). There is also the disruption and length of time on a waiting list - living in limbo, changing schools or having to give up work and losing any support in terms of local friends. Not being able to properly start over because you still have to be permanently relocated.”

Q98. What was the main action taken by the council or other public bodies to help prevent your most recent or previous homelessness?
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In most women’s experience there were no actions taken by the council or other bodies that prevented their homelessness. They talked about their experience of the homelessness system and for some women how the failure of the system to keep them safe meant they returned to an abusive partner.

“In the B&B the first time, the conditions were terrible, I was scared, pregnant staying in difficult conditions. I was in contact with the council a lot, they told me there weren’t enough flats and after 3 – 4 weeks in the B & B I decided to leave and return to my partner. The second time I got put in a temporary flat, it was also horrible, I was 7 months pregnant and scared, didn’t feel safe.”

Another woman was referred to the local multi-agency risk assessment committee (MARAC), which coordinates an action plan for higher risk victims of domestic and, should include actions to prevent her homelessness, but in her experience failed to do so.

“I didn’t think my situation was serious enough to go to women’s aid, when I did I was referred to a MARAC, as it was really serious. Still the council dragged their heels. I had to bid for houses, wasn’t given any additional priority, despite the fact he’d assaulted me had been arrested and then was sectioned by the police medical examiner.”

One woman was able to give an example of the type of response that did prevent her homelessness although this occurred two years after she had first approached the council, this time a different homelessness officer took her experience seriously.

“When I went back again, two years later the homeless officer this time said no this is a homeless interview, she was the one who made the difference. My situation wasn’t any different. I didn’t have to make myself homeless and take my children out of the family home, I could apply from where I was living.”

Q99. What other actions taken by the council or other public bodies do you think would have helped prevent your most recent or previous homelessness?

Women said that for public bodies to have prevented their homelessness they would have to understand and respond safely and appropriately to domestic abuse as the underlying cause of their risk of homelessness. Practitioners they came into contact with, apart from a few individual exceptions, did not provide that response. Women’s experience was that public bodies including homelessness services are not able to provide a consistent safe and appropriate response to victims of domestic abuse. The importance of the initial contact with a service was mentioned as critical in establishing trust and preventing further harm.

“There’s a lot of judgement as well, that comes from saying “I’m homeless or I need refuge” – there’s the silent question of “are you really homeless?” Then you have to explain yourself in a much deeper level to get help.”

“When I think back it’s that initial contact that is critical. I was told you need to go and find somewhere to rent, you aren’t going to get a council house anytime soon. They phoned to check if I had found somewhere or was searching. They had no comprehension of the impossibility of that, they have to get it right otherwise there’s so much damage and risk.”

“I found it particularly difficult, you are having to retraumatise yourself all the time, I had good support from my women’s aid worker, but in terms of going to local authority, picking up the phone I wouldn’t want to have to explain my situation to a complete stranger.”

“Councils need to look at the way they interact in relation to domestic abuse, they need to be trauma informed. If someone dies they have the death ‘one service’, you only have to tell someone once and it carries across the service – need something like that for domestic abuse within the council.”

“What could be done differently? Stop treating people like only a number, I was treated really badly, like rubbish I was back at the council every two weeks – they didn’t care. No one gave me a chance or was concerned about my mental health, no one told me about Women’s Aid.”

“The person who made the biggest difference was the second homeless officer who said ‘this is now a homeless interview’ a firmer, serious approach, tells you what your options are – where your situation is taken seriously. Finally, someone understood what I needed.”

Women mentioned that even getting some practical support with the homelessness process would have made a difference.

“Anything could have been done differently, I’m not sure, they could have offered support to help me complete forms, I was panicking, someone could have taken me through the process and asked what I needed.”

Q100. Please list some of the different services, homeless and otherwise, that you were in contact with in the time before you most recently or previously became homeless?

Women talked about a range of services they came into contact with these included social services, health visitors, GPs, the police, legal services, Job Centres, Schools, the council homelessness service, housing associations.

Q101. How long (if at all) before you most recently or previously became homeless did you start receiving support?

Few women managed to access support through their contact with public services. Some had supportive family and friends and referrals or sign posting to women’s aid came mainly from family and friends. Women talked about having to find sources of support themselves, in a couple of cases the police made referrals.

“Lots of women are isolated because of the abuser or sometimes because it can take many attempts to leave you become embarrassed and feel uncomfortable asking friends or agencies for help.”

“The police were pretty useless, they just said go to your friend’s house or go to your parent’s house, they didn’t tell me or guide me to women’s aid. It was myself that had to do all of the work to steer to safety.”

Q102. Did any services you were interacting with pick up on warning signs prior to your most recent or previous homelessness?

All of the women had been in contact with a number of public services often on several occasions, to seek support prior to becoming homeless. They were themselves raising warning signs of their risk of harm and homelessness. Their experience was that they were not taken seriously, were dismissed or told they lacked priority.

“The frustration is that with social work, even with having a Women’s Aid support worker and being in contact with the council we weren’t high tariff enough. You think do we actually need to be at the point of being on the street, actually dead, actually having a serious case review before you’re high tariff enough. You’ve got a duty social worker you can phone but this not being high tariff enough is really frustrating.”

"The GP didn't take it seriously, had no understanding of domestic abuse."

"The council made to feel I was a pest, you're letting him back in, I was to blame. I could go on a waiting list, we can't just put you somewhere, just call the police and no priority just go on a waiting list."

"The Police were no help he was a special constable so they dismissed me."

"The CPN believed everything he said even after he attacked me in the hospital, said he would be discharged back home, I can easily see why women get killed."

"Social work were involved at one stage, it was as if I was the one getting the blame, I was putting my child's life in danger not him."

Even in public services such as health visiting where there is training and routine enquiry on domestic abuse warning signs were not picked up.

"There would have been a chance to speak to health visitor but my partner was always there, which should have alerted the health visitor but they didn't pursue it, or try to see me on my own."

"I liken it to the Edinburgh post-natal depression exercise that's done with every woman, it becomes a check box exercise that you go through, have you done every single thing on the list and that's how I was missed I think, I had an opportunity to disclose things but it was very much tick the box and off you go. It's relying on the practitioners really as well as their training."

Other women's experience meant that they did not trust that the response that they would receive would be domestic abuse informed, understand their needs or be supportive.

"The opportunity might have been there to speak to my son's head teacher or the health visitor but the problem with that was that I didn't think either of them had a good grasp of domestic abuse and I hadn't disclosed anything. If I had spoken to them I don't know that they would have sign posted appropriately."

Women living in remote or rural areas had specific concerns about the risk of disclosure when contacting public services.

"Living in isolated area it's difficult going into a place where your ex and their family knows everyone. There is no safe place, no confidentiality at all. I went to the GP to get help with stress and my mental health and the GP told me they had a duty of care to inform social work, I freaked out, my children are with me at home they are ok. Going to the GP was not supportive at all, I was unable to get any confidential help."

"She gave me the homelessness application forms I said I needed to do it right then, while my partner was away. She said I could fill them in in the reception. No offer of a private room, no privacy or confidentiality or to help me to complete them, I was in a blind panic, I don't know what I wrote. But this put me at more risk, my partners cousin walked in asked what I was doing. It wasn't a safe space to be doing it in."

Duty on wider public bodies and landlords to prevent homelessness

There is a proposal that public bodies would need to identify or 'ask' whether the people they work with have a risk of homelessness, and then would have a different role and opportunities to 'act' on this information. In some cases, the action required would be a referral to the local authority.

Q103. Do you agree with the proposal for a new duty to 'ask and act' about homelessness for public bodies such as health, justice, education, etc.?

Women had serious concerns about a new duty to 'ask and act'. While they welcomed the role, other public services could have in preventing homelessness they said that this would require these services including the council to be able to provide a domestic abuse trauma informed approach to respond appropriately.

"If someone came across as understanding and experienced about domestic abuse and was to ask about homelessness then that would be a good thing, but they'd need to understand, have the knowledge."

"If you're going to take on this responsibility great, but you need to have someone that is trained in there for it. Not have people going in – in a very vulnerable situation and explaining their situation, with judgement. If we're going to have this 'ask and act' responsibility we should try and do it in the right way if not people won't use it."

"Going back to ask and act I think it would just put you in limbo sooner. We had the option of going into refuge before he was arrested but outside women's aid I think it would have just flagged something, I don't think it would have done anything practically."

Women wanted more clarity on what an 'ask and act' duty would lead to that would be meaningful for their circumstances and that it would be safe.

"With referral and I suppose and with consent as well, is the intention that this would be an opportunity to plan your leave with that person too?"

"Unless they are going to remove you from the situation if it becomes dangerous to start making moves they really need to have a safe space to escape if required or a safety plan in place."

Women also had specific concerns about providing consent, on how referrals would be dealt with safely and on information sharing.

Women were clear that consent was required before any referral could be made. They were very aware of the risks to women especially when thinking or planning to end a relationship - that in their experience these risks were poorly understood or taken seriously by public services including the council.

“Being asked to consent kind of happens now in my experience my local authority asked if I would be ok if my details being passed on. But then what does that mean, my details going into another process, would we need to go and get more information, get more proof, what do we need to do, what are we consenting to?”

“Consent has to be agreed – unless there are child protection concerns – although children aren’t listened to enough and sometimes their concerns are dismissed. Policies are all very well, training people to be trauma informed, to know about domestic abuse is needed.”

Women were also concerned about how public services would ‘act’ if risk of homelessness as a result of domestic abuse was disclosed. How would a referral and the council’s duty to act on it be carried out so as not to compromise women and children’s safety.

“How would the council contact you once you were referred? If a phone call or letter that could put women at risk, my ex-partner intercepted my mail and checked my phone he would know that I was thinking of leaving so that’s not safe. You’d need a safe process in place – a plan of what happens next. Otherwise it’s worse than not going to leave.”

“I used a friend’s address for all correspondence, you’ve got to have that set up.”

“Need to think about processes that are safe, maybe the original referrer can be the point of contact. Because everything is monitored and searched. To the point of being in the shower and hearing him going through the computer and drawers.”

“I know someone who works at the council, who is the conversation going back to – will it get back to him? How would they contact you, can’t be getting a phone call if he was sitting there he’d want to know who it was from? That would make that worse, horrible. How would they know it was safe to call?”

“How would referral work that would be safe? I’d managed to get another phone that I hid at my mothers. It could be done through the GP practice, if the GP referred you to homelessness they could contact the GP and they could send a text calling you in for a routine smear test or breast examination, blood test of some kind which would be a reason to see you privately.”

Women were concerned about what and how information about them would be shared in a referral process. They had concerns about confidentiality as well as how women experiencing domestic abuse are judged, how *“when you’re a victim of domestic abuse someone else starts filtering what your story is.”*

Others gave examples of the service they were in contact with breached their confidentiality and shared information with their abuser, putting them at increased risk of harm.

“The Job Centre was absolutely horrendous, when I went to make a claim for UC. I was in hysterical tears for the entire time I was there. I’d recently been in A & E because he’d spiked my drink it was very frightening. The work coach said, I know it’s difficult but you’re out of it

now and just need to get on with it. She later phoned my ex-partner to make an appointment for me to go in again. She must have known that you don't do that. I'd given her my mobile number and my mother's number for contact I'd not given his."

Q104. Do you think such a duty on public bodies would have made a difference to your experiences, and do you think it could have prevented your most recent or previous homelessness?

Women were unsure that an ask and act duty on public services would have made any difference to their experiences or prevented their homelessness.

"I don't know if being identified and then being able to act on it are two different things really. I don't think it would have helped. We're about to be made homeless and that's through civil court we're being forced out of our family home even though I'm a mortgage holder. We're just in a situation of being on a list and once missives are signed we then qualify for practical help, so we're just in limbo. Going back to ask and act I think it would just put you in limbo sooner."

"If someone had asked me when I was on my own and they'd need to ask quite specifically about domestic abuse and asked along lines of DASH and about coercive control. They could then ask do you own the house or rent it, whose name is it in – do you want to leave or do I want him to leave, not social services maybe member of mental health team, trained health worker or women's aid worker. They need to do the first part about domestic abuse before the second part about housing."

"Two days before I left went to see my GP with my mother, she was fantastic. I was in such a state, she said leave you need to leave and go and stay at your mothers. If the GP had then contacted the council I don't know if anything would have been better or quicker as they were less than helpful."

Women's main suggestions were that until public services, including homelessness were able to understand their experiences ad

Prevention of homelessness legislation

There are proposals for making changes to the law so that action to prevent homelessness needs to be taken up to six months before you may become homeless.

Q105. Do you agree with this approach, and would it have helped prevent your most recent or previous homelessness?

In many cases women talked about having approached the council several months previously, in one case two years before and in another 6 years before they became homeless. The responses they received meant that they remained with their abusive

partner much longer than was necessary and at considerable cost to themselves and their children.

“That’s my biggest regret that I was there for another two years and the damage that caused my son what a difference it would have made if he’d got out then. Five years on he has mental health issues that potentially could have been reduced if we had left sooner.”

“I went to the council after 2 years in the relationship and they didn’t help. The violence and abuse continued for another 6 years. He kept coming back and the violence was getting worse, he got given bail conditions but as soon as he was out he would be straight back at my door. He eventually got sentenced for 18 months when he left me for dead.”

Q106. How would you know if you are 6 months away from homelessness, and how would you know where to go for help?

As previously.

Q107. There are proposals for making changes to the law so that local authorities can prevent or resolve your homelessness by providing you with accommodation that is ‘stable and suitable’? Do you have a view on this proposal?

Women stressed the importance of safe and secure and permanent accommodation. They talked about having lived in really unsafe and precarious situations for so long meant that having somewhere that would be their own permanent home was even more important, especially for their children.

Q108. Is there anything else you wish to add to the proposals in this consultation to change the law on preventing homelessness based on your lived or living experience of homelessness?

Women discussed the inflexibility of the council for example in enabling women to move quickly into a tenancy when they eventually got offered one.

“The council found a property fairly quickly, but then it needed some work done, which involves so much bureaucracy, it wasn’t even that much work but it took 4 – 5 months, I had to keep phoning and do it all in secret. It was getting to the point of him finding out as time went on it was really traumatic. Trying to leave and keep the children safe.”

About Scottish Women's Aid

Scottish Women's Aid (SWA) is the lead organisation in Scotland working to end domestic abuse and plays a vital role in campaigning and lobbying for effective responses to domestic abuse. We provide advice, information, training and publications to our 36 member groups and to a wide variety of stakeholders. Our members are local Women's Aid groups, which provide specialist services, including refuge accommodation, information and support to women, children and young people. <https://womensaid.scot/>

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