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# Delivering the Right to Housing? Why Scotland Still Needs an 'Ending Homelessness' Action Plan

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➤ **Abstract\_** *In 2018, the Scottish Government launched the 'Ending Homelessness Together Action Plan', just 6 years after the earlier '2012 target' for implementation of the previous major review of homelessness policy. Scotland had introduced a modernised legislative framework for homelessness, with the Homelessness etc. (Scotland) Act of 2003, strengthening the legal rights of homeless people to assistance with housing. Using a policy analysis framework, this paper revisits the impact of the earlier legislation, identifying perceived gaps in implementation, which framed the context for further review. The paper examines the work programme of the Homelessness and Rough Sleeping Action Group (HARSAG), which contributed to policy review, and outlines key components of the 2018 action plan. The analysis reflects critically on the potential for meaningful progress on ending homelessness over the five years from 2018-2023. Given international interest in prior homelessness policy in Scotland, this research was conducted to inform a European and wider international audience of the further ambitions to end homelessness in Scotland. The study adopted desk-based methods, drawing on published administrative data on homelessness, publicly available policy and practice documents, and the wider research evidence on homelessness. The analysis demonstrates that while the Scottish approach still compares favourably internationally, robust commitment to policy delivery, as well as monitoring of implementation and review of outcomes all remain essential to ensure policy effectiveness.*

➤ **Keywords\_** *Homelessness Law, Policy Review, Housing Rights*

## Introduction

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Local housing authorities in Scotland have had legal duties to respond to homelessness since the introduction of the Housing (Homeless Persons) (Scotland) Act 1977. The provision of affordable rented housing by local authorities (Merret, 1979) and housing associations (Malpass and Murie, 1999) provided a pool of housing through which local authorities could meet their duties to homeless households. In Scotland, public sector housing provision peaked in the 1970s with local authorities providing 54% of the dwelling stock in 1976 (Stephens *et al.*, 2019, p.111, Table 17b). The Housing (Scotland) Act, 1980 introduced discounted sales to sitting tenants (the 'Right to Buy') precipitating the subsequent decline of council housing, while growth in the voluntary Housing Association sector's contribution to affordable housing supply continued through the late 20<sup>th</sup> century. The Housing (Scotland) Act 1987 consolidated much of Scotland's prior housing legislation, including the powers and duties of local authorities in relation to homelessness.

The early 21<sup>st</sup> century saw enhanced control over law and policy on housing and homelessness within Scotland. These were core policy areas devolved to the Scottish Parliament created in 1999. Homelessness has remained a key social issue throughout the first 20 years of the Parliament's operation (Berry, 2019). In November of 2018, the Scottish Government and Convention of Scottish Local Authorities (COSLA) launched the 'Ending Homelessness Together Action Plan'. This marked a second major review of Scottish homelessness policy since the creation of the Scottish Parliament. The Action Plan (COSLA and Scottish Government, 2018) emerged from the work programme and recommendations of the Homelessness and Rough Sleeping Action Group (HARSAG, discussed below) and a report on homelessness produced by the Scottish Parliament Local Government and Communities Committee (2018). Following a short introduction to the research approach, the paper revisits previous phases of homelessness policy change to identify how gaps in effectiveness led to the review programme undertaken by HARSAG, and the launch of the 2018 Action Plan. The final discussion reflects critically on the prospects for meaningful progress on ending homelessness by 2023.

## Research Approach

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This paper provides a critical analysis of homelessness policy review in Scotland to inform an international, mainly European audience. The analysis builds directly on prior contributions to the policy debate (Anderson, 2004; Anderson, 2007; Anderson and Serpa, 2013). While the author has longstanding interests in homelessness policy and research in Scotland (and internationally) they were not directly involved in the 2017-18 review or in producing evidence for that review. Rather, the

research method adopted was desk based policy analysis in order to produce a timely critique, to inform an international audience of researchers, policy makers and homelessness practitioners. The analysis draws on existing research evidence, publicly available administrative data and policy documentation, including published papers of HARSAG and content of the Ending Homelessness Action Plan.

The policy process is commonly conceptualised as problem solving (Melcher and Schwartz, 2019), involving either stages or a cycle of problem definition, identification of policy options and desired outcomes, decision-making, implementation and evaluation. The move from policy making as being simply government driven, to a collaborative governance process has been increasingly recognised (Stoker, 1988; Klijn and Koppenjan, 2012) with a wide range of stakeholders potentially influential in a policy community. Policy analysis has also adopted evidence-based approaches in the drive to generate workable solutions to seemingly intractable social problems (Nutley, Walter and Davies, 2007). In considering policy change over the longer term, and across different nation states, Anderson, Dyb and Finnerty (2016) applied institutional theory and the notion of path dependency (North, 1990; Mahoney, 2000; Bengtsson and Ruonavaara, 2010) to homelessness policy review. Path dependency (the idea that history and political governance ‘matter’ for policy outcomes) was found to be an emerging approach in European homelessness literature, but valuable in comparing countries that shared some characteristics but diverged in others:

‘despite institutional inertia and converging processes at European level, the analysis suggested that national ‘politics’ matters – as policies can defend inclusive, housing led approaches to homelessness, even in an era of neoliberal political convergence, economic crisis and austerity politics.’ (Anderson, Dyb and Finnerty, 2016, p.120).

While drawing on concepts of nation state-level institutionalism and path dependency, this paper also considers multi-level and networked governance as influences on the implementation of homelessness policy in Scotland over a medium-long term period. The ‘problem solving’ approach to policy also remained critical. The Scottish approach to homelessness over 2003-2012 had been widely referred to as ‘world-leading’ and significant for international lesson learning (COSLA and Scottish Government, 2018; Watts *et al.*, 2018), prompting the core research question addressed here as to why further policy review and a new action plan were needed within less than a decade?

## Helping Homeless People – Policy Review in the 2000s

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Early in the life of the Scottish Parliament, a multi-agency Homelessness Task Force (2000; 2002) was convened to review the homelessness legislation, which had been in place since 1977. The aim was to ensure that a modernised framework was appropriate for helping homeless people in the 21<sup>st</sup> Century. A key element of the review (Homelessness Task Force, 2000; 2002) was revision of the four longstanding ‘tests’ of eligibility for assistance with housing:

1. *Is the household homeless?* The Task Force retained the established broad definition of homelessness as ‘having no reasonable accommodation’.
2. *Is the household in priority need?* Households considered to have priority need included those with a pregnant woman or dependent children; those homeless in an emergency; and those considered ‘vulnerable’ due to at least one of a complex range of characteristics (Scottish Executive, 2005, pp.41-42). This test had created a significant divide in eligibility for assistance, with considerable local discretion in decision making on vulnerability (discussed by Bretherton, Hunter and Johnsen, 2013 in the English case). The Homelessness Task Force recommended the abolition of this test so that all households who met the legal definition of homelessness would have equal priority under the legislation.
3. *Is the household ‘intentionally’ homeless?* The Task Force also recommended revision of this test of whether a deliberate act or omission resulted in homelessness, so that homeless households would be supported to address any behaviour which might be considered intentional homelessness.
4. *Does the household have a ‘local connection’ to the authority where they are applying for assistance?* The Task Force also recommended abolition of this test, which allowed referral to another area depending on relative strength of local connection through family, residence, employment or similar ties.

The vision of the Homelessness Task Force (2002) was that there would effectively be only one test of eligibility for housing assistance – *is the household legally homeless?* It was in this respect that the review came close to recommending a legal right to housing for all (Anderson and Serpa, 2013), with parallel recommendations on meeting care and support needs and tackling poverty as a driver of homelessness. The Scottish Executive was recognised by the United Nations for its contribution to human rights and dignity in relation to this homelessness policy review (Goodlad, 2005).

Early recommendations of the Task Force were taken forward as part of the Housing (Scotland) Act 2001 (Figure 1), demonstrating commitment to a strategic approach to homelessness, enshrined in law. However, the change to the definition of home-

lessness to exclude those with accommodation overseas questioned the eligibility of migrant households who became homeless in Scotland – a theme that would re-emerge in the subsequent review and a significant point of tension with reserved powers of the Westminster Parliament. Other than this, the new provisions conveyed enhanced entitlement to assistance for those experiencing homelessness.

**Figure 1: Homelessness provisions of the Housing (Scotland) Act 2001**

Sections	The Housing (Scotland) Act 2001
1	Local authorities to produce a homelessness strategy (subsequently incorporated into local housing strategies)
2	Local authorities to ensure freely available homelessness advice services (taken forward in the Homeless Persons Advice and Assistance (Scotland) Regulations 2002)
3	Changes to the Housing (Scotland) Act 1987 Definition of homelessness to exclude those with reasonable accommodation overseas Unintentionally homeless people entitled to permanent accommodation, as defined in the Act People can be assessed as ‘threatened with homelessness’ within 2 months (increased from 28 days) Right to temporary accommodation whilst enquiries are made, for anyone assessed as homeless All homeless people entitled to a minimum of temporary accommodation, advice and assistance Accommodation offered must be reasonable to occupy and meet any special needs of the applicant Local authorities to have regard to the best interests of children in exercising their functions.
4	Applicants have right of internal review of a decision
5	Registered Social Landlords (RSLs) to comply with local authority request to provide accommodation for a homeless household (‘Section 5 referral’)
6	Procedures for arbitration between local authority and registered social landlord
7	Ministerial power on subsequent regulations for hostels and short-term accommodation

Source: Amended from Scottish Government (2019a, pp.116-7).

The Housing (Scotland) Act 2001 also introduced a single tenancy arrangement (the Scottish Secure Tenancy) across local authorities and housing associations/ Registered Social Landlords (RSLs), effectively confirming a unified ‘social rented sector’, which would continue to play a crucial role in resolving homelessness. Despite some continuing decline through sales, demolition and lack of new investment, the social rented sector still constituted almost 30% of the Scottish housing stock at 2001 (Stephens *et al.*, 2019, p.111, Table 17b).

The final Homelessness Task Force report made 59 recommendations for policy and practice, a number of which translated into further legislative change (Homelessness Task Force, 2002; Figure 2). Notably, the package of measures

strengthened the homelessness legislation in comparison to the other UK jurisdictions of England, Wales and Northern Ireland, with recommendations which would deliver what was broadly regarded as a legal right to housing by 2012.

**Figure 2: Provisions of the Homelessness etc. (Scotland) Act 2003**

Sections	Homelessness etc. (Scotland) Act 2003
1, 2, 3, 5 and 6	Ministerial powers and duties relating to abolition of the priority need test (taken forward in The Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012)
4	Local Authority discretionary power, rather than duty, to investigate whether a household is intentionally homeless (not implemented by 2012, but came into force on 7 November 2019 by virtue of The Homelessness etc. (Scotland) Act 2003 (Commencement No. 4) Order 2019, discussed below)
7	Accommodation provided for asylum seekers under the Immigration and Asylum Act 1999 does not constitute accommodation of the applicants' own choice so does not establish a local connection
8	Ministerial power to restrict referral of a homeless applicant to another local authority in certain circumstances (local connection – not commenced until 7 November 2019 by virtue of The Homelessness etc. (Scotland) Act 2003 (Commencement No. 4) Order 2019, see below)
9	Ministerial power to specify accommodation that is not suitable as temporary accommodation (taken forward by The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014)
10	Replace references to domestic “violence” with references to domestic “abuse”, to include behaviour other than physical violence
11	Landlords and mortgage lenders to notify the local authority when they raise repossession proceedings
12	Sheriffs to consider reasonableness in repossession proceedings where rent arrears are due to a delay or failure in Housing Benefit

Source: Amended from Scottish Government (2019a, pp.117-8).

The agreed implementation date for completion of these changes was 31 December 2012 (referred to as the ‘2012 target’). During this period, Scottish Government acquiesced to local-level resistance to changing the tests on intentional homelessness and local connection. These sections were not enacted by 2012, resulting in some dilution of the original vision of the review (Anderson and Serpa, 2013). As will be discussed below, the 2017-18 review would revisit these recommendations (Figure 2 above, sections 4 and 8). However, even on its own, the abolition of the priority/non-priority division represented a significant enhancement in equality of rights under the homelessness legislation in Scotland. Working age adults who did not have dependent children in their care and had been most likely to be considered as not ‘vulnerable’, not in priority need (and therefore only entitled to advice and assistance, rather than an offer of housing) were brought into the legal safety net for housing assistance by this policy change (Anderson and Serpa, 2013).

Such a strong legal framework raised practical challenges of helping homeless people into settled housing. There were early indications that without an expanded supply of affordable housing, an unintended outcome of the strengthening of the legislation would be that some homeless households would spend more time in temporary accommodation (Anderson and Serpa, 2013, p.34). Pressures on housing stock also resulted in acceptance of a 12-month private sector tenancy as 'settled accommodation' for homeless people, even though this was a less secure outcome than a Scottish Secure Tenancy in the social rented sector (Figure 3, 2010 regulations). Analysis also emphasised the need for continued monitoring of homelessness outcomes. Importantly, parallel developments in homelessness prevention needed to be monitored to ensure they focused on tackling the root causes of homelessness, rather than 'gatekeeping' access to the strong legal safety net. Nonetheless, the modernised homelessness framework was regarded as a progressive policy review and an early indicator of Scottish 'nation building' (Anderson and Serpa, 2013).

**Figure 3: 2010-2012 additional legislative change**

Year	Legislative Change
2010	The Homeless Persons (Provision of Non-permanent Accommodation) (Scotland) Regulations 2010 prescribed two sets of circumstances in which local authorities can provide non-permanent accommodation to homeless applicants who otherwise would be entitled to permanent accommodation: where an applicant requires housing support services which it is not appropriate to provide within permanent accommodation where a short assured tenancy in the private sector can be made available with various conditions fulfilled. [Short Assured Tenancies were subsequently replaced by Private Residential Tenancies with the introduction of the Private Housing (Tenancies) (Scotland) Act 2016].
2010-12	The Housing (Scotland) Act 2010 commenced reforms to reduce the scope of the right to buy social housing and introduced a duty on local authorities to conduct a housing support assessment for applicants who were unintentionally homeless, where there was reason to believe housing support services were needed (taken forward in The Housing Support Services (Homelessness)(Scotland) Regulations 2012).
2012	The Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 abolished the priority need test for homeless households. From 31st December 2012, all unintentionally homeless households were entitled to settled accommodation.

Source: Scottish Government (2019a, p.118).

## Post-crisis Austerity and Continuing Homelessness – the Roots of Further Review?

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The Homelessness etc. (Scotland) Act 2003 was introduced in a time of relative prosperity across the UK, and certainly in a period of policy optimism in Scotland with its newly devolved responsibilities. By 2008, the UK was engulfed in what was to become known as the Global Financial Crisis (GFC). The failure (and subsequent nationalisation) of a major Scottish Bank was a significant factor in the UK'S experience of the GFC, indicating both the global significance of Scotland's financial institutions and the associated risk of excessive and unregulated marketisation and the financialisation of housing (Financial Services Authority, 2011; Ryan-Collins, 2019). As in many other European countries, the financial crisis precipitated tough austerity measures in Scotland, largely driven by the Westminster UK government, which cut public expenditure to reduce the public sector deficit, disproportionately impacting upon poorer households (Institute for Policy Research, 2015).

At least ten major welfare reforms were implemented in the United Kingdom between 2010 and 2015, a number of which interacted with housing and homelessness for low-income groups:

1. Local Housing Allowance changes to assistance for low-income households in the private rented sector
2. Housing Benefit claw back for under-occupation in the social rented sector (known as 'the bedroom tax')
3. Increases in deductions from benefits for expected contributions from 'non-dependent' household members
4. A cap on total benefits payments per household
5. Reductions in the entitlement of working age claimants to Council Tax Support
6. Replacement of Disability Living Allowance with Personal Independence Payment, with more stringent medical tests
7. Incapacity Benefit replaced by Employment and Support Allowance with more stringent medical tests and greater conditionality of benefit terms
8. Three-year freeze on Child Benefit and its withdrawal from households with a high income
9. Reductions in payment rates for Tax Credits and reduced eligibility for Child Tax Credit and Working Tax Credit



10. Up-rating of benefits limited to 1%, for three years for most working-age benefits (two years for Child Benefit and the Local Housing Allowance) (Beatty and Forthergill, 2018, p.951).

Welfare Reform was further complicated by a number of key benefits being repackaged as 'Universal Credit', and benefit sanctions were applied where recipients failed to meet particular criteria, for example on seeking work (Reeve, 2017). Beatty and Forthergill's (2018) impact analysis of the ten changes above indicated that the largest reductions to household income arose from changes to Tax Credits, Child Benefit, and the 1% benefit up-rating limit as these affected very large numbers of households (p.954). Welfare reforms impacted mainly on adults of working age (16–64) (p.957); and those geographical areas where the population profile disproportionately included benefit recipients (including older industrial areas of Scotland) were hit hardest by change (p.957). Despite the hardship caused to the poorest households, savings to the Treasury fell short of what was anticipated (p.963).

Benefit rules applied across the UK, but the uneven impact of reform was 'an uncomfortable reality that needs to be logged by government' (Beatty and Forthergill, 2018, p.963). Moreover, financial losses in the poorest places likely exceeded spending on policies to strengthen local and regional economies and evidence from an exploratory study in Scotland suggested welfare reforms had not delivered lower numbers on benefit or higher numbers in employment (Beatty and Forthergill, 2018).

Scotland fared poorly from Welfare Reform, even though the devolved administration did not pass the reduction in Council Tax Support on to claimants and the Scottish Government fully mitigated the impact of the "bedroom tax" through Discretionary Housing Payments (Beatty and Forthergill, 2018, p.954). Such measures, however, resulted in reductions in other devolved budgets. The Scottish Government imposed a Council Tax freeze on its 32 local authorities from 2008-09 until 2016-17, constraining their capacity to raise funding for local service provision (Scottish Government, 2018). The freeze only ended with the 2017-18 Local Government Finance settlement, but with Council Tax increases still capped at 3 per cent. Anderson, Dyb and Finnerty (2016) also identified significant cuts to welfare and public expenditure in Scotland in their comparison of the impact of the 2008 financial crisis on homelessness in Scotland, Ireland and Norway. While national survey data confirmed the key role of household-level poverty in the generation of homelessness, Scotland faced a slow pace of economic recovery combined with the impact of welfare and housing reform (Fitzpatrick *et al.*, 2015).

The Scottish government promoted homelessness prevention during this austerity period, acknowledging that it would not be feasible to 'build a way out of homelessness' (Anderson, Dyb and Finnerty, 2016, p.116). Indeed, by 2015, house building levels were well below their 2007 peak and social housing completions fell by 44%

between 2010 and 2014, to just 3217 in 2014 (Powell *et al.*, 2015). The Scottish Government had aimed to build 6000 affordable dwellings per year over 2011-2016, while the estimated affordable housing requirement for Scotland was 12014 dwellings per annum over five years (Powell *et al.*, 2015). Figure 4 summarises further legislative change during this period. The Housing (Scotland) Act 2014 gave greater discretion to social landlords in terms of who should be prioritised for housing, but also announced the full abolition of the 'Right to Buy' in order to preserve the remaining social housing stock. The Private Housing (Tenancies) (Scotland) Act 2016 provided for modernisation of the terms of private rented tenancies in parallel with policy goals to better support access to private renting for lower income households.

**Figure 4: Legislative change 2014-2016**

Year	Legislative Change
2014	<b>The Public Bodies (Joint Working) (Scotland) Act 2014</b> established a legal framework for the integration of health and social care services in Scotland. Health Boards and local authorities to delegate some statutory functions and budgets to the Integration Authority. Homelessness services <i>may</i> be delegated, but this is not compulsory.
2014	<b>Housing (Scotland) Act, 2014</b> did not introduce new provisions on homelessness but amended provisions for the allocation of social rented housing and announced full abolition of tenants Right to Buy social rented housing from 2016.
2014	<b>The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014</b> superseded the 2004 Order and prescribed accommodation which may not be used to fulfil the homelessness duty in relation to households which include a pregnant woman or children.
2016	<b>Private Housing (Tenancies) (Scotland) Act 2016</b> introduced a new type of tenancy (private residential tenancy) for the private rented sector in Scotland to replace the short assured tenancy and assured tenancy for all future lets.

Source: Amended from Scottish Government (2019a, pp.118-9).

In this period, homelessness policy was overseen by a Homelessness Prevention and Strategy Group (HPSG) with representation from central and local government (housing, health and social care services), third sector service providers and homelessness charities. The group had a brief to embed homelessness prevention activity in Scotland (Scottish Government, 2015a). Scotland's Housing Options (housing advice) approach was criticised by the Scottish Housing Regulator (2014) for lack of clarity in relation to the legal homelessness system. In addition, research by Mackie and Thomas (2015) revealed that 80% of approaches to homelessness prevention services were from single people, who remained more likely than families to become homeless, to experience drug/alcohol dependency or mental health issues, to be temporarily accommodated in hostels or Bed and Breakfast (B&Bs) and to wait longer for settled accommodation. Revised Housing Options guidance was issued in 2016 (Scottish Government, 2016a).

Despite austerity, Scotland achieved a reduction in recorded homelessness in the five years up to 2015 associated with homelessness prevention (Fitzpatrick *et al.*, 2015; Scottish Government, 2015a; Scottish Government, 2015b) and indicating some resilience in the homelessness framework (Anderson, Dyb and Finnerty, 2016). Yet homelessness persisted at a significant level, time in temporary accommodation increased and use of new services such as food banks emerged in the austerity period (Anderson, Dyb and Finnerty, 2016). In 2015-16, 34 662 homelessness applications were recorded in Scotland, of which 16 395 were assisted into settled housing, following assessment (Scottish Government, 2016a). However, Scottish Government (2015a, 2015b; 2016b) acknowledged that while some reduction in homelessness had been achieved through homelessness prevention strategies, further large reductions were unlikely, with two thirds of homeless applicants already having been through the housing options service. Similarly, the number of homeless households in temporary accommodation remained substantial at 10 555 households on 31 March 2016, only slightly lower than the 11 254 recorded in 2011. The reasons for recorded homelessness remained closely linked to the breakdown of a relationship or the breakdown of living arrangements in shared accommodation, reflecting a lack of alternative housing availability (Scottish Government, 2015b) and the proportion of applicants reporting needs for support beyond housing increased from 34% in 2012/13 to 42% in 2015/16 (Scottish Government, 2016b).

A key challenge, which emerged in this period, was the lack of accurate data on what appeared to be a growing crisis of street homelessness. Homeless people who applied for assistance were asked if they had previously slept rough but the Scottish Government did not maintain distinct rough sleeping counts (Anderson, Dyb and Finnerty, 2016). The separate Scottish Household Survey indicated rough sleeping experienced by as many as 5 000 persons a year with around 660 people (mostly men) sleeping rough on a typical night (Fitzpatrick *et al.*, 2015). The modernised rights based approach to homelessness in Scotland had not effectively addressed the most acute forms of street homelessness, often experienced by people with highly complex health and social care needs (Macias Balda, 2016), precipitating considerable public health interest in homelessness in Scotland (Hetherington and Hamlet, 2015; Tweed, 2017). During this austerity period, Scotland's homelessness statistics did not fully reflect the evident street homelessness crisis, which was highly visible to the public and mass media, as adequate data on street homelessness had not been collected. A focus for new action gradually emerged with non-government agencies and informed citizens (see, for example, Social Bite, 2019) highlighting the state's apparent failure to resolve acute homelessness experienced by people with complex health and social care needs.

Political concern led to an influential enquiry by the Scottish Parliament's Local Government and Communities Committee (2018), which gathered research and expert evidence from across the homelessness policy community and made recommendations to the Scottish Government. The report addressed causes of homelessness; tackling and preventing homelessness; temporary accommodation; and future service options for those with complex needs (including Housing First and learning from Finland). A key finding that the true level of rough sleeping was unclear meant it was difficult to ensure that appropriate services were in place to assist those facing street homelessness (Para 196). More accurate information on rough sleeping was required to assist in identifying the barriers and potential solutions to supporting people into accommodation (Scottish Parliament Local Government and Communities Committee, 2018).

### **The Homelessness and Rough Sleeping Action Group (HARSAG)**

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Set up in 2017 to report to Scottish Government, the multi-agency 'Homelessness and Rough Sleeping Action Group' included very strong representation from the non-government organisation (NGO) sector (Scottish Government, 2019b). Crisis and Shelter Scotland represented two UK-wide homelessness charities, alongside other established Scottish NGOs: Glasgow Homeless Network (now Homeless Network Scotland), Social Bite (a social business with a mission to end homelessness), Glasgow Simon Community/Streetwork and Street Soccer. Public sector statutory agencies were represented by Glasgow City Council and the Association of Local Authority Chief Housing Officers (ALACHO). The other members were Queens Cross Housing Association (RSL), The Church of Scotland, Govan Law Centre (provides independent legal advice) and the academic sector, represented by Heriot-Watt University.

The group focused on four key questions (COSLA and Scottish Government, 2018, p.7).

1. What can be done to reduce rough sleeping this winter (2017-18)?
2. How can we end rough sleeping?
3. How can we transform the use of temporary accommodation?
4. What needs to be done to end homelessness?

The group produced early recommendations to address rough sleeping in 2017-18 (HARSAG, 2017) and developed a series of working papers across five work streams: measuring rough sleeping (HARSAG, 2018a), frontline support (HARSAG, 2018b), legal reform (HARSAG, 2018c); prevention (HARSAG, 2018d) and access to

housing (HARSAG, 2018e). While there was some repetition/duplication of issues across these outputs, this also indicated the significance of issues crossing over work programme areas and a degree of triangulation of problem identification, evidence and proposed solutions.

*Measuring rough sleeping.* HARSAG (2018a) clarified shortcomings that contributed to the crisis of rough sleeping, despite the strong legal framework:

‘current data collection and recording on rough sleeping does not support joint working at the case level, and is not complete enough to be as effective as it could be in service or policy planning and design, or on tracking trends and measuring the impacts of policy and practice change’(p1).

A key issue was that recorded homelessness only gave a partial picture of rough sleeping at the point that people made a homelessness application to a local authority. HARSAG identified scope to develop a system similar to the ‘CHAIN’ approach in London, where data sharing between agencies enabled regular reporting of numbers, locations and other data to support monitoring the reduction in rough sleeping (2018a, p.5).

*Front line support.* The review recognised that staff across homelessness services required further training to be confident in responding positively to homeless people in a wide range of circumstances and to effectively deliver accommodation and support solutions which met their needs (HARSAG, 2018b).

*Legal reform.* The group revisited the 2003 proposals to abolish the tests of intentional homelessness and local connection which had not been implemented (HARSAG, 2018c, p.4, and Figure 2 above). The case to fully implement the Homelessness, etc., (Scotland) Act 2003 was made on the basis that removing barriers for people who were sleeping rough (or at risk of doing so) outweighed any perceived perverse incentives in accessing homelessness services. To further strengthen the existing legal framework, HARSAG (2018c, p.2) recommended examining the case for a homelessness prevention duty, learning from recent experience in England and Wales. Updating the 2005 code of guidance on homelessness legislation was considered a necessary element of legal reform and HARSAG argued that ‘cost savings’ should be demonstrable from reduced homelessness achieved through new legislation.

*Homelessness prevention.* The aim of ending rough sleeping was clarified as ‘to get to zero and sustain this’ (HARSAG, 2018d, p.1). The need to address ‘predictable’ routes to homelessness was recognised, including leaving institutions (prison, care, hospital, armed forces) and tackling known risks of homelessness (domestic abuse, childhood poverty, adverse childhood and youth experiences, using alcohol and drugs, lacking recourse to public funds, relationship breakdown, eviction and

rent arrears). The paper recognised strengths in the framework and innovative local practice (p.9) and concurred with the proposed consideration of a legal ‘prevention duty’, drawing on the approach developed in Wales (Mackie, 2015), further involving social security and a wide range of public services, and ensuring preventive ‘housing options’ were available (p.11).

*Access to housing.* The action group acknowledged ‘overwhelming’ evidence supporting more rapid rehousing and Housing First, largely informed by an international evidence review on what works to end rough sleeping (Mackie, Johnsen and Wood, 2017; HARSAG, 2018e). A key recommendation was for local authorities to produce Rapid Rehousing Transition Plans to deliver a transformation in the temporary accommodation sector (Watts *et al.*, 2018) and faster routes to secure tenancies in ordinary housing within communities. Other evidence-informed proposals included agreeing a definition of affordable housing in Scotland and the adoption of person centred, psychologically and trauma informed approaches to homelessness services. Importantly, this paper raised the issue of homeless people subject to immigration control (including asylum seekers and some other visa categories) who may have no access to welfare benefits and no recourse to public funds. This crucial theme to emerge throughout the 2017-18 review largely related to UK Parliament reserved powers over Immigration, with Scotland having no effective power to amend law in this sphere.

*Valuing lived experience of homelessness.* Working with homeless people was embedded in the review through the “Can we fix homelessness in Scotland? Aye<sup>1</sup> we can” project (Glasgow Homeless Network, 2018). This national consultation with 425 people with experience of homelessness identified clear preferences for safe, secure, affordable housing and choice in location. Homeless people did not want to live in temporary accommodation, but sought access to their own home as quickly as possible. They also required services to work together and for staff to be respectful, approachable, and understand the complexities of homelessness.

HARSAG’s interim report (2018f) set out a potential programme across the five work streams, and an early recommendation on putting in place measures to protect people with no recourse to public funds from destitution. The interim report set out 28 recommendations across seven key themes:

1. Prevention of predictable homelessness
2. Prevention of homelessness from known risks
3. Quickly help people sleeping rough into settled accommodation
4. ‘Make temporary accommodation the stop-gap it was meant to be’

<sup>1</sup> ‘Aye’ is a Scottish vernacular term for ‘yes’.

5. Ensure adequate housing provision and access
6. Ensure the legislative framework fits with other recommendations
7. Improve measuring and monitoring of rough sleeping.

The final report to Scottish Government defined the goal of ending homelessness in Scotland as:

- No one sleeping rough
- No one forced to live in transient or dangerous accommodation such as tents, squats and non-residential buildings
- No one living in emergency accommodation such as shelters and hostels without a plan for rapid rehousing into affordable, secure and decent accommodation
- No one homeless as a result of leaving a state institution such as prison or the care system
- Everyone at immediate risk of homelessness gets the help they need to prevent it happening (HARSAG, 2018g, pp.4-5).

Although this perhaps does not imply that ‘no one ever needs to apply to a local authority as homeless or threatened with homelessness’, it nonetheless sets a high threshold for homelessness prevention and alleviation, covering most of FEANTSA’s ETHOS categories of homelessness and housing exclusion (FEANTSA, 2019). A further 29 recommendations (plus sub-recommendations) were set out across five revised themes in the final report:

1. The need to address wider causes of homelessness: poverty, welfare reform, housing supply, migrant homelessness
2. Early intervention with high risk groups
3. Effective responses to those facing crisis, including the importance of collaborative working
4. Recommendations for local housing strategies and the assessment of housing need and demand
5. A wider societal and government approach to homelessness.

Consideration of the HARSAG review by Scottish Government was quickly followed up with the launch of an action plan to end homelessness.

## The Ending Homelessness Together Action Plan

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Launched in November 2018, ownership of the 'Ending Homelessness Together' action plan sits with the Convention of Scottish Local Authorities (COSLA) and the Scottish Government, though its content acknowledges the Scottish Parliament Local Government and Communities Committee report on homelessness (2018) and responds to '70' recommendations from the HARSAG review programme. The Action Plan built upon Scottish Government's renewed commitment to tackle homelessness in the 2017 Programme for Government (COSLA and Scottish Government, 2018, p.3), with continuing coordination of implementation through the Homelessness Prevention and Strategy Group (p.4) and with partnership across housing, health, education, social work, community support, social justice and the third sector.

With a fundamental vision that 'Everyone has a home that meets their needs and homelessness is ended' (COSLA and Scottish Government, 2018, p.10), the action plan publicly acknowledged the 'need to get better at knowing how many people are actually homeless'. Underpinned by the core National Performance Framework value, to 'treat all our people with kindness, dignity and compassion' (p.13), the action plan restated analysis and actions on:

1. Person centred approaches across public services
2. Preventing homelessness from happening
3. Prioritising settled housing for all
4. Responding quickly and effectively whenever homelessness happens
5. Joining up planning and resources, and,
6. Other supporting actions.

While it is not feasible to discuss all evidence and actions, some innovative strands are worthy of comment. The plan very strongly supports person centred approaches across public services (COSLA and Scottish Government, 2018, pp.14-17), based on a broad acceptance of structural drivers of homelessness (Bramley *et al.*, 2019). Recognition that the proportion of homeless households with one or more support needs had increased to 47% at 2017-18 (COSLA and Scottish Government, 2018, p.14) indicated the need for additional resources to support front line workers (p.17). On preventing homelessness, the plan focused on the lack of supply of affordable housing (p.20) and the proposal to introduce a legal homelessness prevention duty (pp.21 and 23), which would mark a significant change to the Scottish framework. Rapid Rehousing Transition Plans for all Scottish local authorities were introduced alongside ambitious goals to ensure tenancy sustainment and housing support; to



make it easy for people to access their right to assistance; and to bring about cultural change to improve joint working (p.22). The plan incorporated a commitment to pursue welfare and social security issues with the UK Government (p.23).

The number of households in temporary accommodation had increased to 10933 at 31 March 2018 (p.24) and the plan announced that Housing First Pathfinder Projects were to be developed from 2018-19 in five local authorities, supported by £6.5m of Scottish Government funding and £3.5m partnership funding from Social Bite (pp.26-27). Although there was no clear definition of 'rapid' for the local authority rehousing plans, £15m was available to support implementation from Scottish Government's five-year Ending Homelessness fund, with the first tranche announced in August 2019 (Scottish Federation of Housing Associations (SFHA) News, 2019). Allocations ranged from £22 000 for Orkney Islands to £1.3m for Edinburgh City. Only two councils (Glasgow and Edinburgh) received more than £1 million with nearly half (14) receiving between £100 000 and £250 000 for initial implementation of Rapid Rehousing Transition Plans (SFHA, 2019). The national Action Plan embraced a wider goal to 'transform the landscape of temporary accommodation' by 2023 (p.26), including a proposed new funding framework to ensure lower rents as part of tackling poverty and work disincentives (p.28). Time spent in temporary accommodation varied across different types of accommodation. Although most hostel placements were around 12 weeks, and B&B stays tended to be a week or less, some stays in temporary accommodation lasted six months to a year (COSLA and Scottish Government, 2018, p.30).

The Action Plan followed through quickly on commitments to implement the intentionality and local connection provisions of the 2003 Act, some 13 years after the law had been passed (Figures 2 above, and 5 below). Scottish Government (2019c) consulted on local connection and intentionality proposals during January to April 2019. Responses were mixed but sufficiently in favour of the proposed direction of change, to go ahead. Intentionality provisions announced later in 2019 would come into force immediately, while the Local Connection changes would be taken forward through a further statement within 12 months. Similarly, by September 2019 an announcement had been made limiting time spent in Bed and Breakfast accommodation to a maximum 7 days, for all household types (Scottish Housing News, 2019).



away from'. The HARSAG review and the Action Plan also achieved publication of an updated code of guidance for homelessness practice (Scottish Government, 2019), another measure which had been resisted since 2005.

Training and support for the frontline workforce could prove much more challenging to implement. Some early resources emerged, such as the Housing First Scotland (2019) guidance, but the adequacy of planned training for frontline staff was still not clear. While high-level policy objectives may drive a cultural change, it is also likely that real increases in staffing numbers will be required in order to ensure the capacity to deliver the desired person centred approach. The Ending Homelessness Fund should go some way towards achieving this.

The proposed legal duty to prevent homelessness marked something of a 'reversal of lesson learning' from England and Wales to the Scottish context. However, it should be noted that the Welsh duty to prevent signifies:

'no duty to provide accommodation; instead, the duty is to provide assistance to retain existing accommodation or assistance to find alternative accommodation within the housing market. People will have a right to assistance not to housing'

(Mackie, 2015, p.57).

Scotland may require to develop its own approach to an effective prevention duty, which ensures settled accommodation as an outcome. Nevertheless, ensuring the duty rests across public services (not just with housing) could be a major step towards more realistically joining up collaborative working on homelessness.

New national rough sleeping data collection and equality proofing practice for protected characteristics should be readily achievable, but are required rapidly to enhance information for monitoring outcomes. The development of a new framework for temporary accommodation addressing funding, range of accommodation, and standards could be more challenging in terms of the degree of embedded path dependency in the current system, which would require disruption to achieve change.

Tensions remain between the Scottish and Westminster Parliaments, notably in terms of influencing UK Social Security policy, despite some further devolution of welfare powers to Scotland. Moreover with Britain due to leave the European Union in January 2020 on a platform of 'taking back control of Britain's borders', the realistic prospect of influencing UK immigration policy in the sphere of 'no recourse to public funds' also seems remote.

The pace of change to deliver on HARSAG and the Ending Homelessness Action Plan appears substantially more ambitious compared to the earlier Homelessness Task Force review. The Task Force commissioned 14 distinct research studies, while HARSAG was able to draw rapidly on an existing evidence base. Both were

ambitious in terms of final recommendations (50 from the Task Force and a combined 70 from HARSAG) with all accepted by the governments of the day in both cases. Co-production with homeless people had moved on very significantly since 2002, with the Glasgow Homeless Network (2018) 'Aye we can' project contributing significantly to policy review and the value of the lived experience of homeless people much more embedded in the 2018 Action Plan.

Across the policy community, there appear to be few dissenting voices on the direction of the latest review, although Taylor (2019), in a practitioner journal, commented that the goal to end homelessness was 'a bold claim and one it seems the programme will struggle to live up to' (p.24). Focusing mainly on the Housing First programme, Taylor reported that some Scottish housing providers had expressed concern about the level of funding for the required support, given that local authorities and health boards had cut budgets in the face of austerity. Long-term support was being 'promised' but budgets were still set annually and there was a need to ensure mental health and support services were adequately funded.

Scotland's 2018-23 Ending Homelessness Together Action Plan is hugely ambitious, and appropriately so, given the nation's claim to lead the world on homelessness policy. This new phase of legislation and strategy seeks to deliver a truly comprehensive, person centred, approach to meeting homeless people's needs across housing and welfare service provision. The plan is due to be delivered within five years (compared to ten years for implementation of the Homelessness etc. (Scotland) Act 2003, with a shift towards 'SMART' (specific, measureable, achievable, realistic and timed) objectives and an emerging monitoring framework, for annual reporting to Scottish Parliament (COSLA and Scottish Government, 2020).

With hindsight, the question could be asked as to whether the Scottish homelessness policy community had lost some momentum around 2016? For example, online information suggested a lull in formal strategy meetings from August 2016 until March 2018, after which the review period saw eight meetings of the Homelessness Prevention and Strategy Group up to September 2019 (Scottish Government, 2019d). Motivation for the 2017-18 review does appear to have been driven by voluntary sector lobbying from an ever improving and reliable research evidence base. There seems to have been a strong impetus/pressure from established 'insider' NGOs (Grant, 2000) and from the cross-party Parliamentary Committee, compared to the 2000-2002 review which was a high priority within the then Scottish Executive. Going forward, HSPG retains a remit to 'bring about positive change for those experiencing or at risk of experiencing homelessness in Scotland', taking joint ownership of the goal of ending homelessness in Scotland, and demonstrating measurable progress towards that goal (Scottish Government, 2019d).

The goal of joining up services and resources is not new, with only limited progress over the lifetime of the Scottish Parliament. Similarly, homelessness prevention has been a priority since at least 2009, again with limited success. Delivering direct routes to settled housing for known risk groups, other than through 'the homelessness route' represents another challenge to the embedded, path dependent homelessness system (Anderson, Dyb and Finnerty, 2016). Fundamentally, success will depend on a strong supply of affordable housing, a perennial research and policy analysis conclusion, which finally appears to have been accepted, along with the need to address the whole housing system. By 2017, Scotland's social rented housing sector accounted for only 23% of the total dwelling stock (Stephens *et al.*, 2019, p.113, Table 17d), but with augmented national plans and funding for additional new construction.

Early outcomes included production of the local Rapid Rehousing Transition Plans across Scotland, commencement of the Housing First pilots, some further legislative change, and publication of an updated code of guidance on the homelessness legislation. Nonetheless, the Watts *et al.* (2018) report on transforming temporary accommodation highlighted that:

'Scottish Government should be cognisant of widespread concerns about the feasibility of current recommendations to transform temporary accommodation and responses to homelessness in Scotland. Key areas requiring attention included: assurances of an adequate supply of affordable housing to facilitate the rapid rehousing model; the availability of resources to fund support for people in and after they leave temporary accommodation to ensure sustainable outcomes; and the need for buy-in across all levels of local authority staff and among relevant third sector and public sector agencies' (p.16).

The Watts *et al.* study concluded that there was still some need to strengthen consensus on the HARSAG proposals across the homelessness sector (p.17).

Arguably, 'soft policy' in the form of financial incentives and good practice guidance was as important a policy tool in the 2018 review, as legislative change. The question remained as to whether the resources in place would prove adequate to achieve meaningful progress towards ending homelessness by 2023. Some further unanswered questions would require more detailed research. Policy review may have been heavily influenced by homelessness interest group politics, but delivery continued to rest largely with statutory local authorities and documentary analysis tells us little about the day-to-day operational challenges they face in implementing the raft of policy and legislative change. The effectiveness of partnership working across statutory and voluntary agencies also merits ongoing scrutiny, and the core need for continued and transparent monitoring concurs strongly with the conclusion of McMordie and Watts (2018) in the context of Northern Ireland.

## Conclusions

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The documentary analysis conducted for this paper, points to three main conclusions. Firstly, although the Homelessness Task Force review (2000, 2002) was in many ways ground breaking, it wasn't fully implemented and failed to adequately deal with the most excluded groups experiencing street homelessness. While the legislation proved reasonably resilient, the overall housing supply and sector workforce were negatively affected by the great financial crisis and post-2010 austerity measures further constrained implementation of the 2003 legislation. Second, the HARSAG review and Ending Homelessness Together Action Plan recognised these gaps in earlier policy implementation and proposed an even more ambitious and inclusive approach, with a key focus on ending rough sleeping and reducing time in temporary accommodation. Third, early implementation appeared to reflect a high level of political commitment from Scottish Government (e.g. the Homelessness Strategy and Prevention Group was chaired by the Housing Minister), combined with broad support across the statutory and voluntary housing and homelessness sectors. In power since 2007, the Scottish National Party government had 'inherited' the earlier 2012 target from the previous Labour-Liberal Democrat coalition, but 'owned' the 2018 Action Plan, jointly with the local government sector.

Looking to 2023, Scotland still needs an Ending Homelessness Action Plan in order to more effectively deliver a 'Right to Housing', by filling the gaps in the earlier policy review and building the social rented homes which did not materialise in the years of austerity from 2010-2018. Even 'world leading policy' will require periodic review and Scotland now needs to demonstrate 'world leading delivery' of equal rights to housing for all. So will homelessness be ended by in Scotland by 2023? The optimistic answer is 'possibly'. Such a positive outcome would depend on some important differences of ambition between the current action plan and the 2002 Task Force, as well as developments in the wider political and economic climate.

One highly significant change has been the simple commitment to increased housing supply both in Scotland and across the UK more generally. With the Scottish commitment to building 50 000 new homes by 2021 (including 35 000 social rented homes), expanded housing supply may well prove a critical defining factor in relieving the wider housing crisis, with a positive impact on homelessness up to 2023. The pool of social housing remains a key solution to homelessness in Scotland. The effectiveness of new private residential tenancies as an additional affordable housing resource should become apparent by 2023, but private rent levels may remain significantly higher than the social sector.

2019 also saw some realistic prospect of British public services emerging from the long period of austerity in place since the 2008 financial crisis. Actual outcomes remain to be seen, with the UK government promising investment away from

London and the South East of England. In its election manifesto, the Conservative and Unionist Party (2019) aimed for 'levelling up every part of the UK' (p.26) though it was not clear if this implied a commitment to tackling income inequality. On housing policy for England (pp.29-30), the manifesto heralded help to access home ownership, creating a fairer private rental market and:

'a commitment to renewing the Affordable Homes Programme, in order to support the delivery of hundreds of thousands of affordable homes. This is a key part of our efforts to prevent people from falling into homelessness, along with fully enforcing the Homelessness Reduction Act. We will also end the blight of rough sleeping by the end of the next Parliament by expanding successful pilots and programmes such as the Rough Sleeping Initiative and Housing First, and working to bring together local services to meet the health and housing needs of people sleeping on the streets. We will help pay for this by bringing in a stamp duty surcharge on non-UK resident buyers.'

(Conservative and Unionist Party, 2019, p.29)

Reaching a target of 300000 homes a year by the mid-2020s, would see the UK Government build a million more homes, of all tenures, over the next Parliament (p.31).

Capital resources for additional affordable housing are a necessary, but not sufficient condition for ending homelessness. The other key part of the equation is adequate revenue funding for effective support to help people move out of homelessness and get by in ordinary housing. In Scotland, the acknowledgement of the substantial evidence base on the effectiveness of Housing First marks another key distinction of the 2018 Action Plan from the 2002 Homelessness Task Force Review. However, there remains a requirement for substantial change from longstanding embedded practice in local homelessness services. Revenue funding for housing support needs to be maintained in perpetuity, moving away from short term initiatives towards robust and reliable long term housing support mechanisms. Significant support is needed for Scottish local authorities to move to the rapid rehousing model envisaged by the Ending Homelessness Action Plan. This will be key to meeting the definition of ending homelessness which includes 'a plan for rapid rehousing into affordable, secure and decent accommodation' for everyone in emergency accommodation.

What factors may yet get in the way of ending homelessness by 2023? Working with those without recourse to public funds still represents one of the most significant (or resource intensive) challenges for Scottish Government. Scotland needs to ensure its homelessness interventions are fully accessible to all in need, especially those most vulnerable to sleeping rough. Housing options and homelessness prevention approaches equally need to deliver secure housing outcomes, and

support as needed. And new structures may be required to ensure joined up working across housing, health, care, social security and criminal justice, beyond simply encouraging collaboration. Possibly the most significant determining factor will be the continuing political commitment of the Scottish Government and the homelessness sector to sustain the momentum of HARSAG, the Action Plan, the recognition of lived experience of homelessness, and the high level Ministerial leadership of the Homelessness Strategy and Prevention Group. The first annual report on the action plan confirms such commitment to date (COSLA and Scottish Government, 2020).

Questions remain, of course, as to what will happen in practice, not least in terms of relations between the UK and Scottish Governments. As the dust settled on the December 2019 UK General Election, the convincing SNP victory in Scotland was forebodingly juxtaposed against the achievement of a substantial working majority for the Conservative party UK Government at Westminster. Undoubtedly, core tensions on the reserved governance matters of social security and immigration policy could still constrain full implementation of Scotland's Ending Homelessness Together Action Plan. One response will surely be to campaign for a second referendum on full Scottish independence. In the fervor of a repeat of such high level constitutional action, there is a risk of a classic cycle of policy review (Smith, 1976) resulting in further partial implementation of homelessness policy without ever fully resolving the problem. Scotland would do well to put in place robust mechanisms, to ensure it never again 'takes its eye off the ball' of meeting the housing and support needs of its homeless and other most disadvantaged citizens.



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