

Housing Development Briefing Note

To: Housing Solutions Partnership
Person to Contact: Jennifer MacMahon, Strategic Housing Officer
Date: 10 October 2019
Tel No: 01389-737721
Subject: The Homelessness etc. (Scotland) Act 2003 (Commencement No.4) Order 2019

Background

As a result of the Homeless and Rough Sleepers Action Group (HARSAG) and the subsequent Ending Homelessness Together High Level Action Plan, published in November 2018, the Scottish Government published a consultation in January 2019 looking at the issues of Intentionality and Local Connection within the homelessness legislative framework.

Main Issues

Intentionally Homeless

Local authorities in Scotland have to accept an application for help from anyone who appears to be homeless or is likely to become homeless within two months. As it stands today, a homeless assessment will look at whether the applicant is homeless or not, intentionality and local connection.

The Housing (Scotland) Act 1987, as amended by the Homelessness etc. (Scotland) 2003 Act, describes when a person is Intentionally Homeless. This is the case if they deliberately did, or failed to do, anything leading to the loss of accommodation that was reasonable for them to occupy. Local authorities currently have a legal duty to investigate whether an applicant has become homeless intentionally.

Under the change which will come into force in November 2019, this legal duty becomes a discretionary power. Removing the statutory requirement to assess Intentionality can improve access to housing and appropriate support, particularly for more vulnerable people. However, there is a concern that this may lead to inconsistency of practice, with some Councils choosing to investigate intentionality and others choosing not to do so.

An Intentionally Homeless decision means that whilst the household can still access advice and assistance, temporary accommodation for a reasonable period and support services, there is no duty to provide permanent accommodation.

Local Connection

Local connection is defined in the Housing (Scotland) Act 1987 as a connection which a person has with an area because they:

- have lived in the local authority area for six out of the last 12 months;
- have lived in the local authority area for three out of the last five years;
- have permanent employment or be self employed in the local authority area;
- have a family association;
- have any special circumstances, for example in education or undergoing medical treatment in the area;
- have served in armed forces and have been stationed in the area.

A local authority may refer someone to another council and ask them to assist, if the individual has no connection to the area they presented but does with another area.

For local connection, commencing the order on 7 November 2019 will have no immediate effect. Instead, a process begins where Scottish Ministers are granted the power by statutory order to modify referrals relating to local connection. Ministers are required to consult on and publish a Ministerial Statement within 12 months on how the new power is to be used. Subject to this consultation, it is anticipated that local connection changes will be introduced in May 2021.

What it means for West Dunbartonshire

West Dunbartonshire Council remains supportive of the proposed changes. In our consultation response developed via the Housing Solutions Partnership, we highlighted concerns around collection of data and we are pleased that it is planned for the impact of these changes to be monitored using the HL1 statistics.

In terms of Intentionality, it is not anticipated there will be a significant impact in West Dunbartonshire. In 2018/19 only 64 households were assessed as being Intentionally Homeless (6% of all assessments), Whilst this is above the overall Scottish figure of 4%, it is worth noting that in West Dunbartonshire these households are already provided with a comprehensive service, with 50% provided with secure accommodation, compared to a Scotland wide figure of 25%.

Discussion has currently begun in relation to our approach to using the discretion to assess Intentionality from November 2019 onwards and the Housing Solutions Partnership is invited to help inform these discussions.

In relation to local connection, we will wait to see how the new power will be used but again West Dunbartonshire currently refers relatively low numbers of households to other areas due to having no local connection and received few from other local authorities. Changes will likely increase demand for services in some areas and this needs to be monitored closely and services adapted accordingly.