A consultation on local connection and intentionality provisions in homelessness legislation: a consultation by the Scottish Government

Healthcare Improvement Scotland response

April 2019

Introduction

Healthcare Improvement Scotland’s aim is better quality health and social care for everyone in Scotland. Our priorities are aligned with the National Health and Wellbeing Outcomes which set out what health and social care partners are working to achieve through integration. We work in partnership with those delivering care including integration authorities, the third and independent care sector, housing organisations and NHS boards to make improvements in health and care services which are cost effective and sustainable.

Question 1

Commencing the local connection provisions in the Homelessness etc. (Scotland) Act allows Scottish Ministers to modify referrals relating to local connection. The HARSAG has recommended that referrals should be suspended between all local authorities for all groups. Do you think we should:

- Suspend all local connection referrals
- Modify local connection referrals in another way (please give details)
- Not commence these provisions i.e. do nothing

Answer

Healthcare Improvement Scotland broadly agrees with the recommendation of the Homelessness and Rough Sleeping Action to suspend all local connection referrals.

This change would be consistent with a person-centred approach to homelessness, enabling people making an application under homelessness legislation to apply to the most appropriate Local Authority for them. This would also remove delay in progressing applications for those who seek assistance while Local Authorities negotiate local connection referrals.

However, there is a need to be clear about exactly what improvement this change seeks to achieve and how this will be measured. This should make reference to the National Health and Wellbeing Outcomes. Local Authorities, Health and Social Care Partnerships and their delivery partners should all be part of any conversation on policy aims and measures of success.
Question 2

Please tell us about any potential impacts of suspending referrals relating to local connection for people who are homeless or at risk of homelessness. Please include any positive or negative impacts.

We are particularly interested in your views on the potential impacts for the following:

i. People with multiple and complex needs....
ii. Families with children....
iii. Other disadvantaged households/groups, including those experiencing poverty and/or material deprivation....
iv. Local authorities and partner organisations....
vi. Business or third sector organisations...
vi. People experiencing domestic abuse...
vi. Others....

Answer

Suspending all local connection referrals has the potential to provide greater flexibility within the homelessness system for people with complex needs, families with children and those experiencing domestic abuse. This is because people would be able to apply to the local authority most appropriate for them and the delay associated with local connection referrals would be removed. However, to enable people approaching a Local Authority for homelessness assistance to make informed decisions about their application, they should be provided with advice and information on locally available services, housing waiting list information etc.

For areas where the demand for homelessness and related services is high, it will be necessary for Local Authorities and Health and Social Care Partnerships to explore their capacity to accommodate any potential increase in homelessness presentations if the local connection test is removed. Healthcare Improvement Scotland recommends the application of Quality Improvement Methodologies to develop services which best meet the needs of people who experience homelessness.¹

Question 3

We propose monitoring the impact of any changes to the local connection legislation through continued collection and analysis of HL1 data. Please give us your views on this.

Answer

Gathering evidence on the impact of any change to local connection legislation is critical to measuring the success of this policy decision. However, as set out in our answer to Question 1, this is reliant on there being a clear aim connected to this change. Clearly articulating this will be critical when it comes to monitoring and analysing any improvement connected to this change. Ideally this should also be aligned to the National Health and Wellbeing Outcomes.¹
Question 4

Commencing the intentionality provisions in the Homelessness etc. (Scotland) Act 2003 leads to giving authorities a discretion, rather than a duty, as to whether to investigate whether or not a household is intentionally homeless. Do you think we should:

- Remove the duty on local authorities to assess households for intentionality
- Not remove the duty on local authorities to assess households for intentionality

Please explain your answer.

Answer

Healthcare Improvement Scotland broadly agrees with the recommendation of the Homelessness and Rough Sleeping Action Group to remove the duty on Local Authorities to assess households for intentionality. This has the potential to enable more people to get help with their housing and access support through the homelessness route, in particular those with multiple and complex needs. However, similar to our answer to Question 1, there is a need to be clear about what improvement we want to see and how this will be measured. To develop a shared understanding of what improvement looks like an exercise which sets out the current problem in relation to intentionality decisions, for example through cases studies, would be beneficial.

Further, this change should be accompanied by a strong emphasis on getting the right support in place for homeless households who need it. This should include an assessment of the homeless household’s health and social care needs accompanied by a plan which sets out how these needs will be met. As evidence shows, for people who experience homelessness there is often an increase in interactions with health services in the years before a homeless application is made, with interactions peaking at the point of the homelessness application. Therefore the homelessness application and the interactions with health services which lead up to this should be identified by Local Authorities, Health and Social Care Partnerships and Health Boards to identify and implement a coordinated response to meet that person’s health, social care and housing needs.

Within this there is also a need to develop a greater understanding of repeat homelessness, as this can often be an indicator of someone’s capability to sustain independent living. This intelligence combined with getting the right support in place will likely yield the greatest success in relation to tenancy sustainment and improving health outcomes.

Question 5

Please tell us about any potential impacts for people who are homeless or at risk of homelessness, of commencing the intentionality provisions in the Homelessness etc. (Scotland) Act 2003. Please include any positive or negative impacts.

We are particularly interested in your views on the potential impacts for the following:

i. People with multiple and complex needs....
ii. Families with children....
iii. Other disadvantaged households/groups, including those experiencing poverty and/or material deprivation....
iv. Local authorities and partner organisations....
vi. Business or third sector organisations...
vii. People experiencing domestic abuse...
viii. Others....

Answer
As referred to in our answer to Question 4 above, research which linked data on interactions with the health service and homelessness applications shows that people with an experience of homelessness have a higher number of interactions with health services than people with no experience of homelessness. It is within this context that a decision as to whether someone is intentionally homeless can be negative. In some circumstances this may be a missed opportunity to engage with a person with multiple and complex needs and ensure that their housing, health and social care needs are met.

Removing the intentionality test also presents Local Authorities with an opportunity to further embed trauma informed practice within homelessness services. This has the potential to enable practitioners to see beyond someone’s current situation and explore what may be driving someone’s decision making. For people with experience of trauma, abusive relationships and material deprivation this could provide another avenue through which to secure the support they need. Fully embedding such an approach within homelessness services will require training and ongoing professional support.

Question 6
Please detail any potential costs that may be incurred should the local connection and intentionality provisions be commenced.

Answer
It is likely that front line practitioners will require training to understand the change and the improvement it seeks to drive. In addition to creating capacity within the workforce to understand these changes, efforts should be made to ensure frontline workers are emotionally equipped to resolve homeless applications in the interests of the applicant. Effective support and supervision for staff is an essential component of managing the challenges that coincide with meeting the needs of people with experience of homelessness.

Question 7
HARSAG recommended narrowing the definition of intentionality to focus only on instances of deliberate manipulation. Please provide your initial views on the advantages and disadvantages of amending the definition. As noted in section 2 we intend to carry out further work on this at a later date and your initial thoughts will help inform this.
**Answer**

If homelessness legislation is amended to include the phrase ‘deliberate manipulation’ it will need further clarification through guidance. Flowing from this guidance frontline staff within local authority homelessness departments will require training to ensure that this new provision is clearly understood.

Further, making determinations of ‘deliberate manipulation’ must be subject to appeal and review in line with the current review processes under homelessness legislation.

This guidance must include how Local Authorities manage applications from people who, in their view, have ‘deliberately manipulated’ the homelessness system. This should include how evidence is to be presented and what is the duty of the Local Authority in securing the right support and advice for someone who has been found to have deliberately manipulated the homelessness system.

**Question 8**

**While we are in a position to commence these provisions in 2019 we would welcome your views about the most effective timing, including reasons for your response.**

**Answer**

Before implementing these legislative change there should be extensive engagement with Local Authorities, Health and Social Care Partnerships and their delivery partners. This should clarify what improvement is being sought and how this will be measured. Not only will these changes expand the number of people eligible for permanent housing through the homelessness route, it will also broaden the range of people who will be assessed for housing support needs. Therefore engagement with Health and Social Care Partnerships is essential in relation to their role as providers and commissioners of support to people who are homeless or at risk of homelessness.

These changes should also be a key part of the Scottish Government’s ‘Housing Post 2021’ strategy discussion as it reflects on the emerging learning from the Homelessness and Rough Sleeping Action Group’s programme of work. This provides an opportunity to further enhance joint working between housing and homelessness. Importantly, it is important to recognise that the long term success of this policy change will rely on there being an adequate supply of affordable housing to meet need and demand. Without this the overall picture in relation to the demand for homelessness services will likely remain the same.¹

**Question 9**

**Please give us your views on the impact of these proposed changes on people with protected characteristics (see Annexes E and F for currently available national statistics):**

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Answer

These changes to homelessness legislation are likely to affect people within the most disadvantaged group of homeless people, i.e. those with multiple and complex needs. More needs to be done to understand the presence of people with protected characteristics within this group, however, it is likely to contain people with mental health issues, long term health conditions and some with learning disabilities. Further, evidence indicates that health outcomes for women who are homeless are worse than for men. Consequently, any change to homelessness legislation should seek to improve the health outcomes of people within these groups by making sure that their housing, health and social care needs are met. These changes would also benefit from a human rights impact assessment and an assessment of its impact on health inequalities.

Question 10

In relation to local connection and intentionality provisions in homelessness legislation, please outline any other comments you wish to make, including whether you think there may be unintended consequences (you have not mentioned elsewhere) related to commencing these provisions.

Answer

Healthcare Improvement Scotland’s experience suggests that implementing a swift legislative change in itself will not drive improvement. Therefore, in order to achieve effective policy change in this area there is a need to first engage with Local Authorities and Health and Social Care Partnerships on what the overall aim of this change is, and how success will be measured.

In general, removing potential barriers to homelessness assistance is welcome. However, what must be encouraged in this context is a shared understanding of what the specific problem is, and what contribution health and social care services can make.