

## Members' Library Service Request Form

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Document Title	Scottish Government Consultation on Local Connection and Intentionality Provisions in Homelessness Legislation

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Designation	Head of Development
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**REPORT TO:** Members' Library Service

**MEETING DATE:**

**BY:** Head of Service (Development)

**SUBJECT:** Scottish Government Consultation on Local Connection and Intentionality Provisions in Homelessness Legislation

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## **1 PURPOSE**

- 1.1 To advise members of the proposals being consulted on by the Scottish Government to implement the Homelessness and Rough Sleeping Action Group (HARSAG) recommendations to commence the Local Connection and Intentionality provisions in the Homelessness etc. (Scotland) Act 2003 and narrow the definition of intentionality to focus on 'deliberate manipulation' of the homelessness system.

## **2 RECOMMENDATIONS**

- 2.1 Members are asked to note the contents of this report and the Council's response to the proposals set out in the Consultation Paper. A link to the response can be accessed at 7.1 of this report.

## **3 BACKGROUND**

- 3.1 The Scottish Government established the Homelessness and Rough Sleeping Action Group (HARSAG) in October 2017 to provide recommendations to Scottish Government Ministers on the actions and solutions needed to eradicate rough sleeping and transform the use of temporary accommodation in Scotland.

In June 2018, HARSAG completed their work, producing a comprehensive set of 70 recommendations aiming to secure strategic changes at both the national and local level which would help support delivery on the front-line. All 70 recommendations have been accepted by the Scottish Government in principle and translated into the Ending Homelessness Together High Level Action Plan, published by the Scottish Government and COSLA in November 2018. The Plan,

available at <https://www.gov.scot/publications/ending-homelessness-together-high-level-action-plan/>

sets out the actions the Scottish Government will take in partnership with others to realise shared ambitions to end rough sleeping and homelessness. It sets out a commitment to remove the legislative barriers to people accessing the help they need when and where they need it, by revising arrangements on local connection and intentionality.

In accordance with this, the Scottish Government published a consultation on 31 January 2019 on a proposal to implement the (HARSAG) recommendations to commence the Local Connection and Intentionality provisions in the Homelessness etc. (Scotland) Act 2003 and narrow the definition of intentionality to focus on 'deliberate manipulation' of the homelessness system. The Consultation closed on 25 April 2019 and is available at <https://consult.gov.scot/housing-regeneration-and-welfare/local-connection-and-intentionality/>

3.2 The HARSAG recommended the following actions in respect of local connection:

- Commence the provisions on local connection in the 2003 Act.
- Suspend referrals between local authorities to remove barriers to support for people who are homeless or rough sleeping or at risk of homelessness or rough sleeping.
- Scottish Government should monitor the impact of these changes on local authorities to respond to any local authorities coming under undue pressure as a result of disproportionate net inflows.

In line with the HARSAG recommendation the Consultation is proposing to bring forward secondary legislation under section 33A of the 1987 Act which will then enable suspension of the local connection referral provision currently in place, with the Consultation seeking views on the timing.

3.3 The HARSAG recommended the following actions in respect of intentionality:

- Commence the current provisions on intentionality in the Homelessness etc. (Scotland) Act 2003.
- Narrow the definition to focus on instances of 'deliberate manipulation' of the homelessness system.

In line with the HARSAG recommendation, the Consultation is proposing to change the wording of intentionality provisions under Section 28 of the 1987 Act in order to give local authorities a discretion, rather than a duty, as to whether to investigate whether or not a household is intentionally homeless. The Scottish Government is in a position to commence these provisions in 2019 and is seeking views on the timing.

Currently, there are no provisions in the legislation for the definition of intentionality (in the Housing (Scotland) Act 1987) to be changed. The Scottish Government is carefully considering the options regarding this

element of the recommendation and plans to take this forward separately (timing to be confirmed).

- 3.4 The Council's response is clear that notwithstanding the benefits of commencing the current provisions on local connection and intentionality, until Rapid Rehousing Transition Plans are fully funded and the service transformation required by rapid rehousing is implemented, the Council is not in a position to contemplate this.

It is recognised that achieving the outcomes of rapid rehousing by 2024 will be challenging in East Lothian, with significant service transformation required against the backdrop of a major shortage of affordable housing. Rapid rehousing is a key priority for the Council and to divert attention and resources to new provisions in relation to local connection and intentionality could compromise the ability of the Council to achieve the outcomes of rapid rehousing. East Lothian Council considers that in order to transform services and make a real, meaningful difference to vulnerable people with limited resources, the pace of anticipated change needs to slow down to a rate that is realistic for local authorities to cope with.

The response sets out concerns with regard to a likely increase in acceptances and associated requirements for temporary and permanent accommodation, particularly given the close proximity to Edinburgh. The response notes the potential increase in administrative, accommodation and support costs and possible breaches of the Unsuitable Accommodation Order in East Lothian arising from proposed change. It notes a likely requirement for increased cross border co-operation and collaboration and associated issues in relation to GDPR; potential issues that could arise in relation to an inconsistent approach nationally and corresponding equalities / human rights issues and concerns in relation to offenders.

The response sets out a view that any changes to current provisions should be monitored through collection and analysis of HL1 data, with local authority staff requiring support in adopting proposed changes. Monitoring the impact of the changes should enable individual local authorities to be able to demonstrate additional pressure and to make the case for reversing changes / suspensions where appropriate.

## **4 POLICY IMPLICATIONS**

- 4.1 There are no policy implications directly arising from this Consultation, however further consultation is not anticipated in relation to the implications of proposed change (with the exception of potential changes to the definition of intentionality). The Scottish Government Ending Homelessness Together High Level Action Plan sets out a commitment to commence the local connection and intentionality provisions in the Homelessness etc. (Scotland) Act 2003 in 2019, following consultation with stakeholders. The Plan states that within 12 months after the

commencement, a Ministerial Statement will be published, setting out the circumstances in which the power is to be exercised, as well as the criteria to be considered before using the power. Current data collections will be amended as required to ensure the impact of the changes can be measured and the Code of Guidance updated.

- 4.2 The Council will publish an East Lothian Rapid Rehousing Transition Plan in 2019 and subsequent annual review and monitoring will take cognisance of any new duties or powers arising following the Consultation.

## **5 INTEGRATED IMPACT ASSESSMENT**

- 5.1 The Consultation seeks views on the potential impact of the proposed changes on people with protected characteristics including potential impacts for people who are homeless or at risk of homelessness.

## **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – None, although there is likely to be a resource implication following commencement of provisions, with increased spend on B&B and temporary accommodation and associated administrative and support costs.
- 6.2 Personnel – None
- 6.3 Other – None

## **7 BACKGROUND PAPERS**

- 7.1 The East Lothian Council response can be accessed at the following link:

[https://consult.gov.scot/housing-regeneration-and-welfare/local-connection-and-intentionality/consultation/view\\_respondent?uuld=332378708](https://consult.gov.scot/housing-regeneration-and-welfare/local-connection-and-intentionality/consultation/view_respondent?uuld=332378708)

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