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# Homelessness in Scotland

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This briefing provides an update on the development of homelessness policy in Scotland and explores the impact of these changes.



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# Executive Summary

Homelessness is complex. It encompasses much more than Rough Sleeping and includes short term 'sofa surfing' or living in overcrowded or other unsuitable situations. It also embraces a variety of circumstances and experiences, which may require assistance from local authorities or other agencies.

A number of factors have influenced the nature and extent of homelessness in recent years, including policy and legislative changes.

In 2018/19, 36,485 homelessness applications were made to local authorities of which 29,894 were assessed as homeless or threatened with homelessness.<sup>1</sup> This is a 2% increase on the previous year and the second consecutive year that homelessness applications have risen, after 8 years of consistent decline. This is partly a result of legislative change, in particular the [Housing \(Scotland\) Act 2001](#) (the 2001 Act) and the [Homelessness etc. \(Scotland\) Act 2003](#), (the 2003 Act) which enhanced the rights of homeless persons.

Changes in practice within local authorities may have contributed to the fall in [Housing Options](#) presentations and an increase in homelessness presentations. Homelessness is also affected by underlying structural drivers, such as pressured housing markets and poverty, which affect housing supply and affordability.

Other factors affecting homelessness include:

- **Applications and client demographics:** the number of applicants citing a support need, at the point of making a homelessness application, has increased. This suggests applicants present for housing assistance with more complex needs in addition to a housing need.
- **Temporary Accommodation:** The use of temporary accommodation has consistently increased, partly in response to increasing numbers of homelessness applications and housing supply constraints. The number of homeless households with children has increased since 2017/2018 as has the number of single people, who account for 66% of the homeless population.<sup>2</sup> The Scottish Government have undertaken a recent [consultation](#) to ensure consistent standards across all Temporary Accommodation.
- **The Homeless Persons (Unsuitable Accommodation) (Scotland) order 2014:** The recent [consultation](#) on Temporary Accommodation, undertaken by the Scottish Government, proposed that this order be further amended to state that no homeless person spends more than 7 nights in unsuitable accommodation. This will increase demand for alternative temporary accommodation. It is anticipated that this change will be implemented by 2021.
- **Housing Options and Prevention:** The Government has encouraged a “housing options approach” to homelessness prevention and [provided guidance](#). All 32 local authorities are signed up to one of five housing options hubs which encourage joint working around prevention and sharing best practice.<sup>3</sup>

- **Welfare Reform:** Changes to welfare reform legislation, including changes to the way Local Housing Allowance is calculated and the introduction and implementation of Universal Credit, have impacted on homelessness. This is mainly due to housing affordability issues resulting from delays in receiving Housing Costs and the rates of Local Housing Allowance being frozen at the 30th percentile of the market rental costs across wide market areas. A complete list of these changes is found in [Appendix 2](#).
- **Current Scottish Government Priorities:**
  - The [Affordable Housing Supply programme](#) aims to provide 50,000 new affordable homes by 2021.
  - The Scottish Government asked every local authority to produce and implement a [Rapid Rehousing Transition Plan](#) and has provided a total of £24million over three years to facilitate this. A focus on [Housing First](#) is part of this initiative.

The Scottish Government monitor the provision of Homelessness services through a series of statistical reports. They are currently working to implement the [Homelessness and Rough Sleeping Group \(HARSAG\)](#) recommendations to reduce homelessness in Scotland and monitor and evaluate prevention initiatives.<sup>4</sup> The Scottish Housing Regulator additionally monitors the performance of local authorities and Registered Social Landlords (RSL's) on an annual basis.

# Legislative Context - Homelessness

The main legislation relevant to homelessness in Scotland is the [Housing \(Scotland\) Act 1987](#) (as amended by the [Housing \(Scotland\) Act 2001](#) (the 2001 Act) and the [Homelessness Etc. \(Scotland\) Act 2003](#) (the 2003 Act). Homelessness legislation is supplemented by a [code of guidance](#) which provides local authorities with good practice on meeting the requirements of the legislation. The Code of Guidance is currently under review, with an interim document expected in November 2019 to coincide with legislative changes.

In November 2012, the Scottish Parliament approved the [Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012](#) which was implemented from 31 December 2012. From this date, unintentionally homeless households no longer have to be assessed as priority need to be considered for settled accommodation.

Since the abolition of priority need in 2012, there have been a number of changes to homelessness legislation. The Housing (Scotland) act 1987, has been amended several times and there have also been reforms regarding the regulation of the private rented sector, in particular the [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#). The [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2004](#) was revoked and replaced in 2014 and amended in 2017. A further amendment to this Order is expected in 2021.

A chronological list of legislation impacting on Homelessness, both directly and indirectly, can be found in [Appendix 1](#).

# Homelessness Policy and Economic context

Homelessness has become a key policy priority for the Scottish Government. In September 2017, £50million for additional expenditure was announced, for tackling homelessness over the next five years (the 'Ending Homelessness Together Fund').<sup>5</sup> In October 2017, a short-life Homelessness and Rough Sleeping Action Group (HARSAG) met for the first time to discuss how homelessness could be ended and prevented.

The '[Ending Homelessness Together Action Plan](#)' was published by the Scottish Government in November 2018. This looked to address the recommendations from the Homelessness and Rough Sleeping Action Group.<sup>6</sup> The main priorities include rapid rehousing for homeless people through localised [Rapid Rehousing Transition Plans](#) (RRTPs) within all 32 Scottish Local Authorities and developing [Housing First Provision](#) for clients with the most complex needs.<sup>7</sup>

RRTPs provide a framework for permanently housing homeless people without requiring them to spend long periods in Temporary Accommodation. The Scottish Government has identified challenges about achieving this. The delivery of more affordable homes is essential, but a 50,000 affordable homes target for the next Parliament would cost around £4 billion. The Scottish Government have said that this is not considered sufficient to meet Scotland's housing needs.<sup>8</sup>

Housing First provides permanent tenancies for homeless people with complex needs, which incorporate appropriate wraparound support. This removes barriers to accommodation which can be put in place by Housing Associations and local authorities, for clients considered not to be ready for their own tenancy due to their support needs, or lack of a prior tenancy history.

Under Housing First, health and social care partners are required to provide the support needed by homeless people with complex needs. Evidence of strong links between homelessness and increased mortality and morbidity emerged from recent research published by the Scottish Government.<sup>9</sup> This reinforced the need for strong connections between homelessness services and health services in particular.

In November 2019, the intentionality and local connections provisions of the [Homelessness etc. \(Scotland\) Act 2003](#) will begin to come into force. The Scottish Government agreed that intentionality rules would change from 7 November 2019 and it is anticipated that the more involved process for changing the referral process under the current local connection rules will begin at the same time.<sup>10</sup>

The [Right to Buy Scheme](#)<sup>11</sup> began to be phased out in Scotland from 2011 and, in August 2016, ended altogether. This has meant that social housing stock levels have been maintained and that new social housing complements existing provision. Low cost home ownership provisions, such as the [Open Market Shared Equity](#) scheme and [Help to Buy](#) have provided affordable options for those wishing to buy a property.

The Scottish Government has dealt with the impact of welfare reform by enabling Discretionary Housing Payments from Housing Benefits to be used to fully mitigate the

Spare Room subsidy (Bedroom Tax) in Scotland. The Scottish Government has used its powers to allow claimants to receive Universal Credit payments more frequently and to have housing payments paid directly to landlords where possible.

# Governance

The Homelessness Sector is governed and monitored through a variety of organisations

The Scottish Government has overall responsibility for national policy development. Local authorities and their key partners implement legislation and develop local approaches where appropriate. Local authorities are required to provide statistical evidence of their performance. These figures are then collated into annual reports.

The Scottish Housing Regulator has a role in assessing the effectiveness of local authorities' homelessness services and inspects registered social landlords (RSLs). The Social Housing Charter monitors how homeless services are delivered, and how social housing is managed is regulated by the Scottish Housing Regulator.



# Homelessness Applications

The fall in homelessness applications (from 57,672 in 2008/09 to 36,485 in 2018/2019) is likely to be due, for the most part, to the impact of Housing Options and homelessness prevention strategies adopted by most local authorities over the past few years.<sup>12</sup> Underlying drivers of homelessness, such as pressured housing markets, poverty and changes to the welfare system, are unlikely to have changed enough during this period to greatly impact these figures.

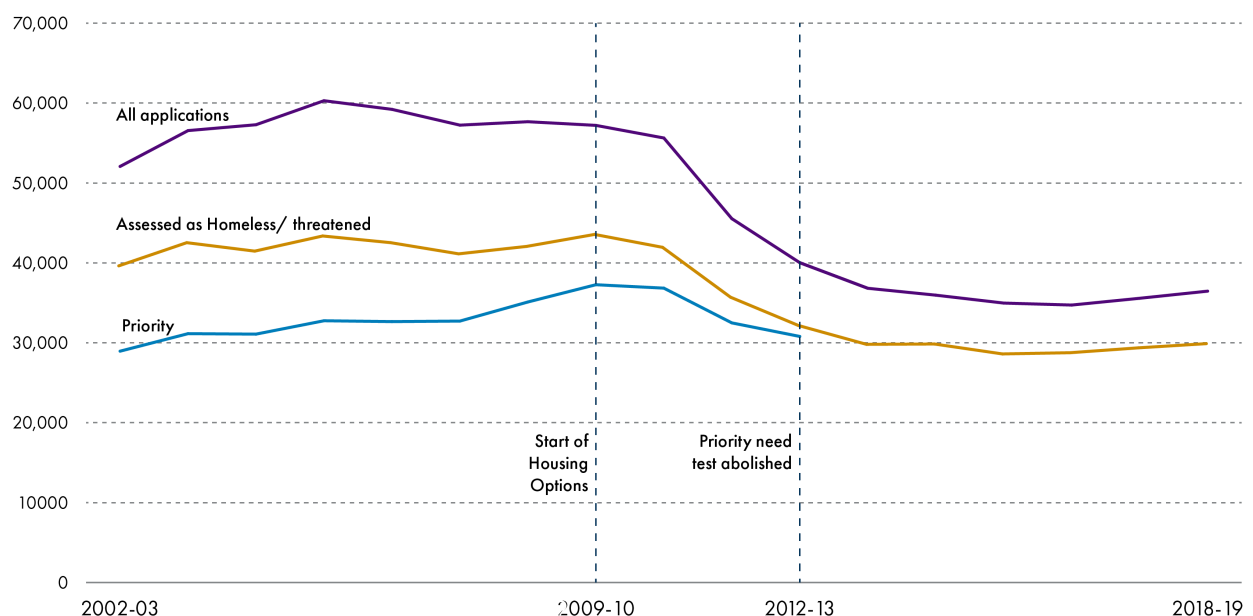
Until 2017/18, accepted homelessness assessments had decreased for eight successive years. This can be attributed to the abolition of Priority Need in 2012, as the figures coincided with an increase in Housing Options presentations. This might suggest that the Housing Options approach was used as an effective prevention tool during this period.

However, a 1% rise in homelessness assessments in 2017/18 and a 2% rise in 2018/19 suggests an increasing demand for housing assistance. This may reflect a change in client groups making applications. A rise in single person households has coincided with this increase, as has the number of applicants citing additional support needs, such as mental health or drug and alcohol issues.<sup>2</sup> This may show, however, that the Housing Options approach towards preventing homelessness is no longer having an effect.<sup>13</sup>

Figure 1 (below) shows the changes in the number of homelessness presentations made in Scotland between 2002/03 and 2018/19.

**Figure 1**

Number of Homelessness presentations 2002/03-2018/19



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The proportion of applicants accessing the Housing Options route varies by local authority. This reflects the localised nature of Housing Options and services and facilities available in a particular area. In 2018/19, 20,191 out of the 36,465 homelessness applications (55%) made a Housing Options approach prior to (or on the same day as) making a

homelessness application. This suggests applications for housing are being made as a last resort and a homelessness application is a realistic housing option in several areas.

Housing Options are explored in more detail later in this paper.

## **Why do people make homelessness applications?**

Being asked to leave accommodation is consistently one of the main causes of homelessness applications. Usually people are asked to leave accommodation provided by family or friends. In 2018/19:

- 25% of applicants cited being asked to leave their accommodation as the main reason for homelessness.
- 18% cited Dispute within household / relationship breakdown: non-violent
- 13% cited Dispute within household: violent or abusive behaviour. <sup>2</sup>

There has been a consistent rise in applications from households in all of the above categories since 2015/16. This may be a consequence of more households feeling able to report such incidents, or an increased awareness of a local authority's responsibilities to house them in these circumstances. The higher number of those citing relationship breakdown may contribute to the rise in homelessness applications.

Of the 29,894 households assessed as unintentionally homeless in 2018/19, 49% cited having one or more support needs. This is an increase of 2 percentage points since 2017/18 and 16 percentage points since 2007/08 when support needs were first recorded.

The two most commonly identified support needs were mental health problems (51%) and support for basic housing management/ independent living reasons (47%). <sup>1</sup> This suggests that homeless households are presenting with more complex needs and are better at identifying their needs and requesting support for them.

In 2018/19, there was a 6% decrease in people presenting as homeless from Private Rented Sector tenancies from the previous year. <sup>2</sup> This suggests that the Private Tenancies (Scotland) Act 2016 has created longer and more secure tenancies, making it more difficult for landlords to evict tenants now that the "no fault clause" has been removed.

## **Age, Gender and background of Homeless applicants**

Most applicants in 2018/19 (66%) were single person households, of whom 45% were men and 21% were women. This is a 3% increase in single person homeless households on the previous year.

The proportion of total applications from those aged 34 and under were, for males, 54%, and, for females, 61%. Around 28% of applications were from households with children and 21% from single parent households, most of which were from females. <sup>2</sup>

The number of applications from Armed Forces Veterans (3%) and those formerly looked after by a local authority (7%) have largely remained the same in the past decade. However, these figures are dependent on the applicant highlighting these categories when they apply for housing assistance. Members of these groups may not present immediately after leaving the Armed Forces or when they have left local authority care and may not state their background when applying for housing assistance.

The number of males in the very youngest group of homeless applicants, those aged 16 and 17, has remained static since 2017/2018, but there has been a 3% decrease in the number of young females in this group. The number of the oldest applicants, however, is increasing. There has been a 12% increase in presentations from males over 60 and an 8% increase in females over 60 since 2017/2018. These groups make up 5% and 4% respectively of the total number of applicants.<sup>1</sup>

These figures suggest that the large number of single person households may account for the recent rise in the number of Homeless Applications. The increase in older applicants suggests a need for accommodation options to cater for an older population in the future. Fewer younger applicants may be due to factors, such as restricted accommodation options for young people and welfare reform changes, which have adversely affected young people.<sup>14</sup>

## Local Authority Duties to Homeless Persons

Section 1 of the 2001 Act places a duty on local authorities to carry out assessments of homelessness and to prepare homelessness strategies, now incorporated into Local Housing Strategies. Section 2 of the 2001 Act places a duty on local authorities to ensure that information about advice and information services, which may assist in preventing homelessness, are freely available to everyone in the area.

Applicants approaching a local authority for housing assistance can be offered a Housing Options assessment. If a household is homeless or threatened with homelessness within 56 days a homelessness application must be made.

In 2018/19, 58% of presentations went on to make a homelessness application. This suggests that available Housing Options may be limited or unsuitable for the majority of those applying for housing assistance.

A homelessness assessment is conducted in three stages and is based on the following questions:

Is the applicant homeless or threatened with homelessness?

Is the applicant homeless or threatened with homelessness intentionally?

Has the applicant got a local connection with the area to which they have made their homeless application?

The duties owed to homeless persons differ depending on the outcome of the assessment of the homelessness application. The local authority currently only has a duty to secure

settled accommodation for those who are **Unintentionally Homeless**. The applicant may have to spend some time in temporary accommodation before a suitable property becomes available.

**Temporary Accommodation** is provided while an application is being investigated. This is the [Interim Duty to Accommodate](#). Should an applicant be found to be **Intentionally Homeless**, they can access Temporary Accommodation for a reasonable period while support is provided to access alternative housing options.

If an applicant is **Threatened with Homelessness**, housing advice and assistance is provided. The aim of this is to prevent homelessness and, where possible, enable the household to remain in their current accommodation or access alternative housing options.

No statutory duty is owed to those who are **Not Homeless or Threatened with Homelessness**. However, under the Housing Options ethos, advice and assistance is available.

Under the [Housing Support Duty to Homeless Households](#), local authorities have a duty to conduct a [housing support assessment](#) for applicants who are unintentionally homeless or threatened with homelessness and who are believed to need housing support services.<sup>15</sup> This duty came into force on 1 June 2013 and specified the relevant housing support services as:

- advising or assisting with personal budgeting, debt counselling or dealing with welfare benefit claims.
- facilitating engagement with individuals, professionals or other bodies with an interest in the welfare of the household
- advising or assisting in understanding and managing tenancy responsibilities and rights, including assisting in disputes about those responsibilities and rights
- advising or assisting a household in settling into a new tenancy.

If an applicant is unhappy with a local authority decision on their homelessness application, they have the right to request an internal review of that decision. If this review is unsuccessful, it may still be possible to challenge the decision by means of a Judicial Review in the Court of Session.

## Settled Accommodation

Local authorities must provide settled accommodation for unintentionally homeless households. Settled accommodation includes:

- A Scottish Secure Tenancy (SST). This is the most common type of tenancy within social housing.
- A Short Scottish Secure Tenancy (SSST). This is a fixed term tenancy which is offered to certain households, including those which have been previously evicted due to Antisocial Behaviour. The Housing (Scotland) Act 2014 extended the minimum period for this to 12 months. The SSST becomes a SST after the minimum period if there are no further issues.

- A Private Residential Tenancy. This replaced the Short Assured Tenancy in the Private Rented Sector after 1 December 2017.

Registered Social Landlords (RSLs) are expected to work with local authorities in the rehousing of homeless persons and, under Section 5 of the 2001 Act, RSLs must, within a reasonable period, comply with a request from a local authority to provide accommodation for homeless persons.

[The Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) created the Private Residential Tenancy which provides an open-ended Tenancy Agreement for households in the Private Rented sector. The Act provides 18 grounds under which a landlord can evict a tenant and, if challenged, any eviction can be raised with the First Tier Tribunal. This type of tenancy may be considered settled accommodation by local authorities as there is no end date.

Moving tenancy disputes from sheriff courts to the tribunal system is intended to make the system easier and cheaper to use for both tenants and landlords. The reforms provide for controls over excessive rent rises in the private rented sector and for the introduction of Rent Pressure Zones. However, there are many barriers to local authorities wishing to introduce Rent Pressure Zones.<sup>16</sup> These include the lack of available data about rents in Scotland and that statistics on private sector rents are based on advertised rents rather than actual rents paid.

The biggest increase in private tenants has been among 25-34 year olds. Almost one-quarter of lone parents are private tenants and 15% of children live in private rented accommodation.<sup>14</sup> The private rented sector has grown in Scotland, from 5% in 1999 to 15% in 2017. Many areas have seen a fall in the percentage of social rented homes between 1999 and 2017 which may account for this.<sup>17</sup>

Local authorities record the final outcomes for households. In 2018/19, 71% of unintentionally homeless people were housed in settled accommodation with a local authority, RSL and in the private rented sector. This is a rise of 1% on the previous year. The number of households considered housed in settled accommodation within the private rented sector had decreased over the last year by 5%, suggesting that fewer people are choosing this tenancy as a housing option. This may be due to affordability or supply issues or both.

## Housing Allocations

Changes to homelessness legislation have increased the perception amongst some local communities that the only way to access social housing is to make a homelessness application. A disproportionate amount of social housing is perceived to be allocated to homeless persons.<sup>18</sup> Many local authorities have more demand than there is housing provision. This is not an issue just for the more pressured housing areas; there can be shortages in all areas for certain household types, like single person households or larger households.

The Housing (Scotland) Act 2014 [amended S20 of the Housing \(Scotland\) Act 1987](#) to specify three categories of applicants for whom reasonable preference should be given in Housing Allocation policies.

- people who are homeless or threatened with homelessness and who have unmet housing needs
- people living in unsatisfactory housing conditions and who have unmet housing needs
- social housing tenants who are under-occupying

Local authorities are required to ensure that their housing allocation policies reflect legislative changes and changing priorities. The number of lets to homeless applicants in the social rented sector has risen because of a higher proportion of lets being made to this group. A higher proportion of Scottish council lets in 2018/19 (41%) than housing association lets (25%) were made to homeless people.<sup>2</sup>

Often, allocation policies allocated accommodation on a 'needs' basis, where priority is usually based on the number of points awarded for each housing need. Some landlords operate a 'choice-based' letting system. Applicants 'bid' for advertised properties to let and have more control over the process. Priority status is given to homeless households.

In some areas 'common housing registers' allow applicants to make an application for housing to more than one landlord at a time. This can involve the local authority and local housing associations or Registered Social Landlords (RSLs).

Under Section 5 of the 2001 Act, RSLs have a duty to make appropriate accommodation available to homeless people. Local authorities can make a referral under this legislation. This means that more homeless people can be housed.

Rapid Rehousing Plans suggest that more priority should be given to homeless people and to the provision of secure housing to those with more complex needs. This may be to the detriment of those who have not applied as homeless or have few or no support needs. Until Rapid Rehousing Transition Plans have been implemented, however, the impact on allocation policies cannot be fully evaluated.

# Temporary Accommodation

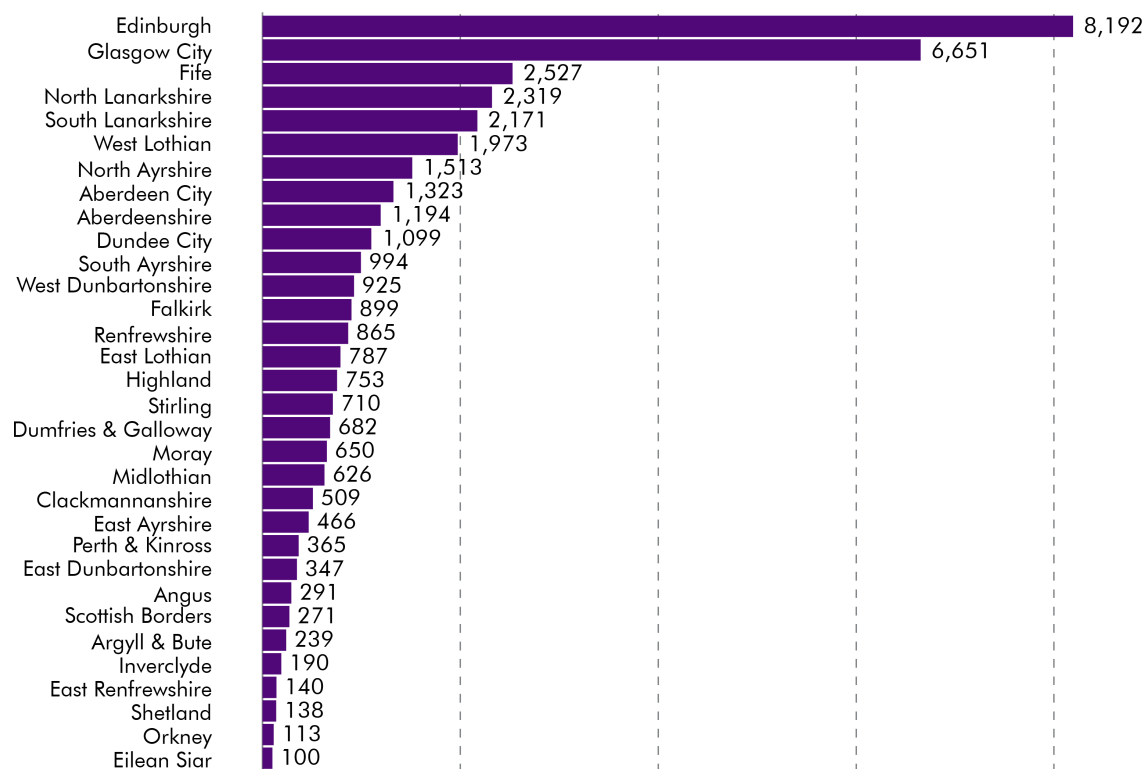
Local authorities have a duty to provide Temporary Accommodation to households making a homeless application:

- while they are awaiting a decision on their assessment
- while they are waiting for settled accommodation to be sourced
- if intentionally homeless, while they seek advice and assistance to help source and secure alternative accommodation.

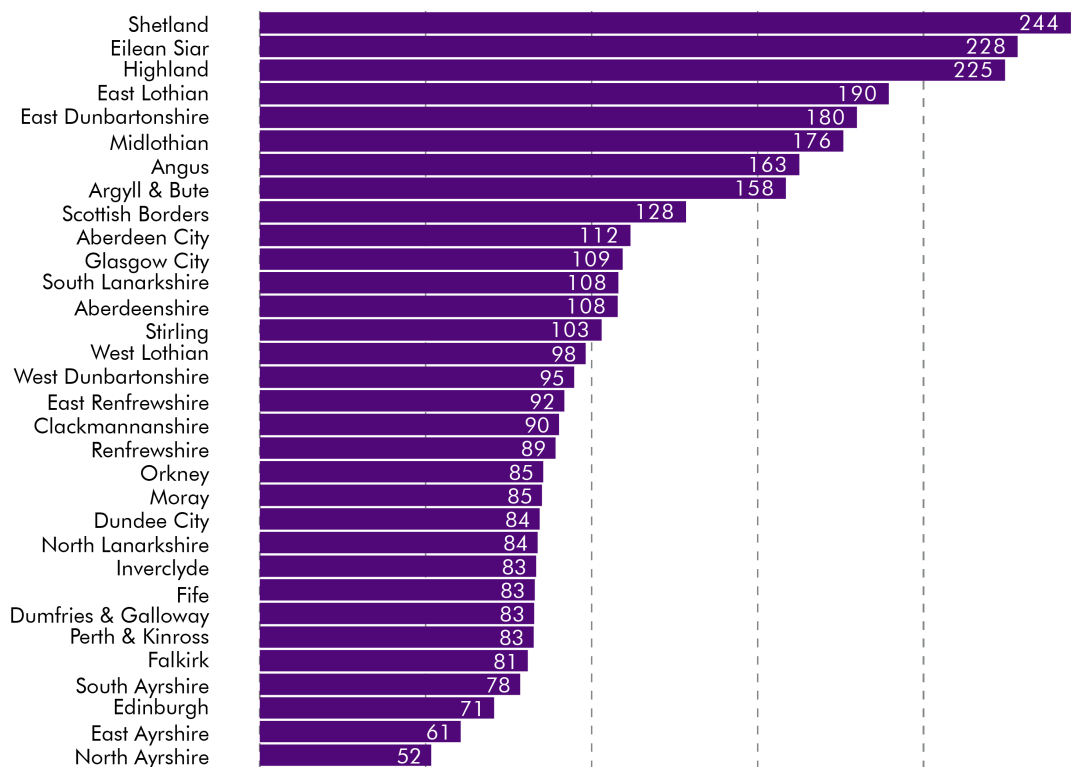
In March 2002, there were 4,153 households in temporary accommodation. By March 2019 10,989 households were living in temporary accommodation. In 2018/19, the average time a household spent in temporary accommodation was 180 days.<sup>2</sup> Of these households, 61% were temporarily housed in local authority or housing association accommodation, 14.5% in hostels and 10% in B+B. Single person households are more likely than families to be placed in hostels and B+B accommodation; 89% of households entering temporary accommodation in hostels are single people whilst 50% of households entering temporary accommodation in housing association dwellings contain children.<sup>2</sup>

Of these households in temporary accommodation, 3,415 included children or a pregnant woman – an increase of 2% compared to the same date the previous year, and the fifth consecutive annual increase.<sup>2</sup>

There has been an overall rise in the use of temporary accommodation since 2002. The increase in homeless applications since 2017/18 may be a recent explanation for this, as is the rise in single person households.<sup>2</sup> The increase over time may reflect the changes in housing legislation which placed new duties on councils to provide temporary accommodation and advice and assistance for priority and non-priority homeless households.<sup>1</sup> However, this increase could also be a result of a lack of secure accommodation options for homeless households.

**Figure 2****Number of Temporary Accommodation placements 2018/19**Scottish Government, 2019<sup>2</sup>



**Figure 3****Length of time in Temporary Accommodation (Days) 2018/19**

Scottish Government, 2019<sup>2</sup>

Figure 2 and Figure 3 (above) indicate that local authorities with the fewest Temporary Accommodation placements tend to have households staying in those placements for the longest time. Conversely, authorities with larger numbers of Temporary Accommodation placements, tend to move households on more quickly. There are some exceptions to this rule, as demonstrated by South Lanarkshire, which has the fifth largest number of temporary accommodation placements, but the twelfth longest length of stay for clients in that accommodation. Similarly, Aberdeen City has the eighth largest number of temporary accommodation placements, but is tenth in terms of the length of time households spend in this accommodation.

Longer placements in Temporary Accommodation are often due to insufficient appropriate settled accommodation being available in the areas in which the household wishes to live. Figures 2 and 3 (above) suggest that this may be the case particularly in Island or Rural Communities.

There may be issues of affordability due to welfare reforms, including the benefit cap and Local Housing Allowance restrictions, limiting housing options for applicants. However, as mentioned above, this may be due to a lack of secure housing options in a particular area.

The Scottish Government has said that it will enforce and monitor standards for temporary accommodation by 2023. A consultation on what these standards should look like closed in August 2019. An analysis of the submissions, due in October 2019, will inform any action to be taken.

### **How Temporary Accommodation is funded**

Rents in Temporary Accommodation are significantly higher than normal social rents.<sup>19</sup> There is currently no cap on the amount of rent and service charges that can be charged by local authorities for temporary accommodation. Most local authorities operate Full Cost Recovery, and rent and service charges are paid through Housing Benefit. Any change to this policy could have a detrimental effect on, for example, furniture provision and support services, which can be provided in temporary accommodation. Maintaining these services may put pressure on other budgets affecting non homeless related services.

Temporary Accommodation can be 'supported' or 'unsupported'. Supported accommodation involves the provision of care, support and/or supervision to tenants. Most Supported Accommodation will be funded under specified/exempt Housing Benefit rules which helps to pay for the support services provided. [Support Exempt Accommodation](#) is either a resettlement place or accommodation provided by a local authority, housing association, registered charity or voluntary organisation that provides care, support or supervision. This accommodation includes hostels, refuges, sheltered housing, supported living complexes and adapted housing for the disabled. The benefit cap and spare room subsidy (bedroom tax) does not apply. If accommodation is defined as [specified accommodation](#) (a wider definition than supported exempt accommodation) it is exempt from the benefit cap, but not the bedroom tax.

## Universal Credit

The introduction of Universal Credit (UC) across the UK was intended to change Temporary Accommodation funding by reducing dependency on housing benefit. It was introduced first in Scotland in 2013 in the Inverness area. Roll out of 'Full service UC' (the final digital version of UC) for new claimants was completed in Scotland at the end of 2018.

The Universal Credit housing cost element was supposed to cover costs based on the appropriate LHA rate for the household size (including the Shared Accommodation Rate) regardless of who owns and manages the accommodation (excluding supported accommodation). A management cost element was provided for Temporary Accommodation. However, local authorities found that Universal Credit Housing Costs did not cover all the costs of Temporary Accommodation so Temporary Accommodation reverted to being funded through the Housing Benefit system.

The finite amount of Housing Costs paid led to increased rent arrears for tenants in all forms of accommodation. However, they affected people in Temporary Accommodation because:

- UC is paid in arrears, so claimants can wait for five weeks for their first payment. Whilst advances can be paid during the waiting period, these have to be paid back, reducing the amount claimants then receive.
- UC is paid monthly, but rent in the social sector is normally due weekly.
- Payment is made to the claimant, not direct to the landlord as it was under HB for social housing tenants. Some tenants, particularly if they have fluctuating earnings, may find monthly budgeting difficult, especially if they have not previously had responsibility for rent payments.
- Some clients had reached the maximum amount of benefits they were eligible to receive and so did not receive their full housing allowance. This element was reduced

due to the benefit cap. This meant rent payments needed to be met from other benefits which often proved unaffordable.

- The cost of Temporary Accommodation, mainly due to the cost of support provision, was more than the amount of housing costs paid to the claimant. The claimant was therefore expected to make up any difference, which many were unable to do.

Not all households entitled to Temporary Accommodation will receive or take up an offer for this form of accommodation. This suggests that there may be more pressure on permanent social housing lettings from statutorily homeless households than indicated by the numbers of households in Temporary Accommodation. Some people are not entitled to welfare benefits to pay for accommodation, although they are entitled to the accommodation itself. This may apply to persons arriving in the UK from abroad and is an example of where Housing Legislation and Welfare Reform Legislation can conflict.

## The Unsuitable Accommodation Order

[The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2014](#) revoked the [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2004](#). It effectively prohibits families and pregnant households being placed in B+B, or other unsuitable accommodation, unless there are exceptional circumstances. The Order stated that these households and pregnant households should not be in B+B accommodation, or any other unsuitable accommodation, for more than 14 days and that this accommodation should be wind and watertight. This was amended by the [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2017](#) which reduced the period spent in B+B or other unsuitable accommodation to 7 days for these groups.

In total, there were 620 breaches of the Homeless Persons Unsuitable Accommodation Order during 2018/19. <sup>2</sup> This will be partly due to the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2017, which was implemented from October 2017.

In September 2019, it was announced by the Minister for Local Government, Housing and Planning, Kevin Stewart MSP that the Unsuitable Accommodation Order would be further amended by May 2021 to provide that no homeless applicant will spend more than 7 days in Unsuitable Accommodation.

# Housing Options

Under Section 2 of the [Housing \(Scotland\) Act 2001](#), local authorities have a duty to prepare strategies for preventing and alleviating homelessness.<sup>13</sup> While this has reduced homelessness applications, recent statistics appear to suggest that this approach alone cannot adequately address homelessness levels in Scotland.<sup>12</sup>

[The Housing Options Guidance](#), published in March 2016, is a non-statutory guide which was designed to complement the existing Homelessness Code of Guidance (2005) to ensure consistent good practice.<sup>20</sup> The Homelessness Code of Guidance is currently being reviewed due to recent legislative changes.

## What is 'Housing Options'?

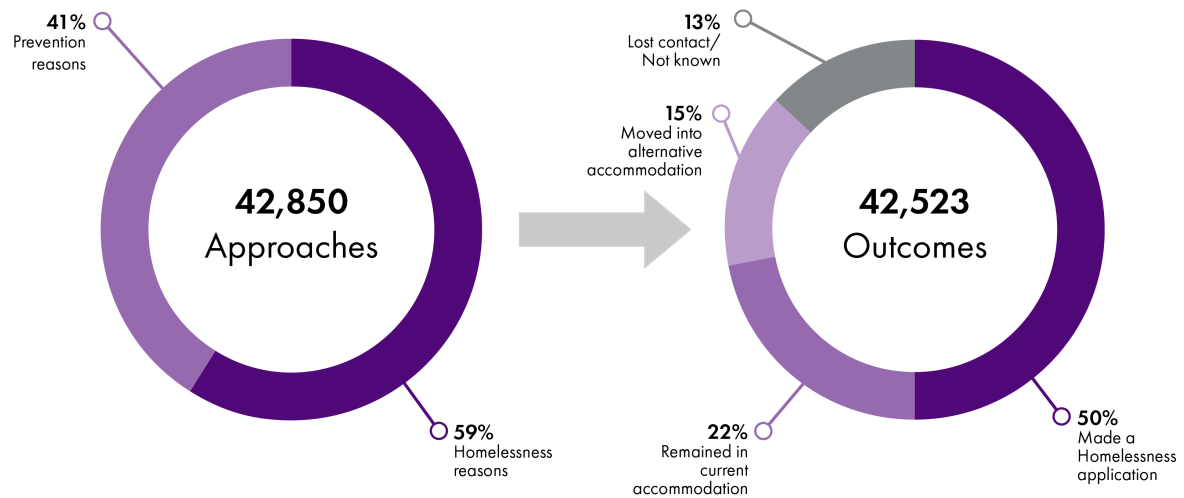
The Housing Options approach was introduced to ensure that all of those assessed as unintentionally homeless receive settled accommodation as a right. Housing Options is:

“ a process which starts with housing advice when someone approaches a local authority with a housing problem. This means looking at an individual's options and choices in the widest sense. This approach features early intervention and explores all possible tenure options, including council housing, RSL's and the private rented sector. The advice can also cover personal circumstances which may not necessarily be housing related, such as debt advice, mediation and mental health issues. Rather than only accepting a homelessness application, local authority homelessness services will work together with other services such as employability, mental health, money advice and family mediation services, etc, to assist the individual with issues from an early stage in the hope of avoiding a housing crisis.<sup>3</sup> ”

Five Housing Options Hubs, operated by local authorities and supported by the Scottish Government, help promote localised housing options approaches to homelessness and share best practice across all Scottish local authorities.<sup>12</sup>

The Scottish Housing Regulator (2014) was concerned about differing practice across local authorities in the operation of Housing Options.<sup>21</sup> A [Housing Options Training Toolkit](#) was suggested to further promote consistent practice.

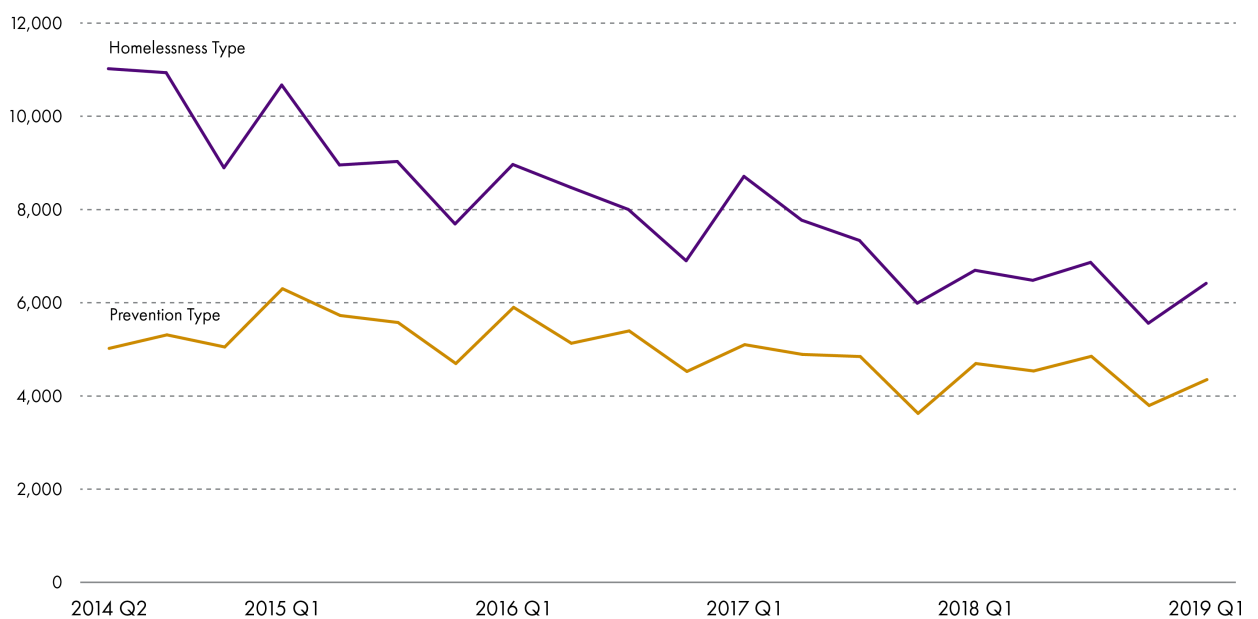
Since April 2014, The Scottish Government has been collecting local authority data (Prevent 1) to evaluate Housing Options.<sup>12</sup> As local authorities decide for themselves what constitutes a Housing Options approach, this leads to differences in the number and type of approaches they record. The outcomes achieved for people who get advice through the Housing Options process also varies. Figure 4 provides an overview of Housing Options approaches in Scotland in 2018/19.

**Figure 4****Housing Options: Approaches and Outcomes 2018/19**

Scottish Government, 2019<sup>12</sup>

Facilitating sustainable housing solutions may require support other than the provision of housing. Housing Options is a person-centred and holistic service, which commonly includes Housing Advice services, health advice, advice on aids and adaptations, financial inclusion and budget management support. Practice may include focussing on addressing physical or mental health needs and signposting clients to external organisations for specialist support.

Figure 5 (below) shows the reasons for Housing Options approaches in 2018/19.

**Figure 5****Reasons for Housing Options Approaches to 2018/19**

Scottish Government, 2019<sup>12</sup>

Most Housing Options approaches cite 'homelessness type' reasons for an approach in 2018/19. These are reasons where the client is at direct risk of losing accommodation, such as receiving a notice to remove from their accommodation. Advice and assistance may be provided by signposting clients to specialist agencies and explaining their rights to them (54%), or through more detailed casework (46%). The major outcome from a Housing Options approach in 2018/19 was a homelessness application to the local authority and around half of applicants chose this option.

The overall number of Housing Options approaches decreased by 7% between 2017/18 and 2018/19, continuing the downward trend since 2014. However, the proportion of homelessness applications which were made directly (and did not go through the Housing Options process first) increased over the last year. This could explain the decrease in Housing Options approaches and the increase in homelessness applications. The number of repeat homelessness applications has remained static, suggesting Housing Options provide more settled accommodation for applicants.<sup>12</sup> The decrease in Housing Options approaches, however, suggests structural issues, such as housing affordability and supply, are major reasons why households require housing assistance. These cannot be solved through the Housing Options model as they affect the availability and sustainability of housing in the longer term.<sup>13</sup>

# Policy discussion - Scottish Government priorities

A shortage of adequate housing seriously limits local authorities' ability to reduce homelessness. Some local authorities face restrictions in expanding the supply of private rented sector accommodation, particularly in areas where there are high levels of holiday lets. Rents in the private rented sector tend to be higher than in the social rented sector which may leave tenants who are working, or seeking work, in a 'benefits trap' where they are financially better off on benefits. Welfare Reforms, such as the introduction of Universal Credit, have adversely affected the amount of housing available to households. Housing Costs, which replaced Housing Benefit under Universal Credit, are based on the [Local Housing Allowance Rate](#) (LHA). This can make some rents in the private sector unaffordable in areas where there is high demand and high rents, as Local Housing Allowance rates are based on [Broad Market Rental Areas](#).

## Broad Market Rental Areas

Broad Market Rental Areas often span large areas and cross local authority boundaries. Local factors, including location and employment opportunities, can affect rent prices. The LHA rate is implemented across the whole area and economic circumstances may vary, making some rents unaffordable. This is demonstrated within Edinburgh, East Lothian and Midlothian, where the LHA rate has been set across areas with widely fluctuating rental costs. The rate may make rents in the City, where the housing pressures are high, unaffordable. In less pressured areas, where rents may be lower, landlords may inflate rents to get the maximum amount from clients on welfare benefits.

## Local Housing Allowance

Since 2011, LHA rates have largely remained around the lowest 30% of local market rents. From April 2016, LHA rates were frozen for 4 years, and are currently set at the 2015/16 LHA rate, or at the 30th percentile of local market rents, whichever is lower. Additionally, from January 2012, the 'shared accommodation rate' (SAR) was extended to those under 35. This means that the maximum HB/UC housing element that single people under 35 can receive is limited to the LHA rate for a room in a shared property in the private sector.

14

## The Benefit Cap

The Benefit Cap threshold, which limits the total amount of income from certain benefits a household can receive, was reduced in 2016, almost trebling the number of households in Scotland affected, two-thirds of which are lone parent households. Three-quarters of Scottish local authorities anticipate that Universal Credit will exacerbate homelessness in their area over the next two years, and concern was almost as strong with respect to the lowering of the Benefit Cap. <sup>14</sup>

## Housing Supply

The increasing number of homeless applications increases the pressure on housing stock. In 2016, The Scottish Government committed to build 50,000 houses, of which 35,000 were to be social rent, over the five year term of the parliament. This target looks set to be

achieved. The Scottish Government is considering how affordable housebuilding might continue beyond the current parliament and highlights that increased supply across all tenures could be promoted through a broader range of government led interventions, currently unspecified, in the housing market.<sup>8</sup>

## Multi-Agency Working

Multi-agency working has been encouraged through the creation of Health and Social Care Partnerships and the resulting joined up working between health and housing partners. An example, [The SHORE standards](#), are an agreement between the Scottish Prison Service and partners, in response to the Housing (Scotland) Act 2010, to ensure prisoners and those leaving prison receive housing support and assistance.<sup>22</sup> This enables homes to be retained and those leaving prison to be supported into accommodation and not left to rough sleep.

The Scottish Government is prioritising Rapid Rehousing Transition Plans. Some of these incorporate Housing First initiatives. This may have implications for social housing allocation policies and resources, but should also promote multi-agency working for those clients with multiple and complex needs.

The following sections expand upon the priorities to provide more affordable housing and Rapid Rehousing for homeless households.

## Affordable Housing Supply Programme

The Affordable Housing Supply Programme is a Scottish Government policy initiative to assist local authorities with building more social housing to reduce homelessness.

“ We will deliver at least 50,000 affordable homes by 2021 backed by over £3.3 billion. This target represents a 67% increase in affordable housing supply, and 35,000 of the 50,000 target will be for social rent”

<sup>23</sup>  
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In 2019/20, The Scottish Government has provided £827.1 million to achieve its target.

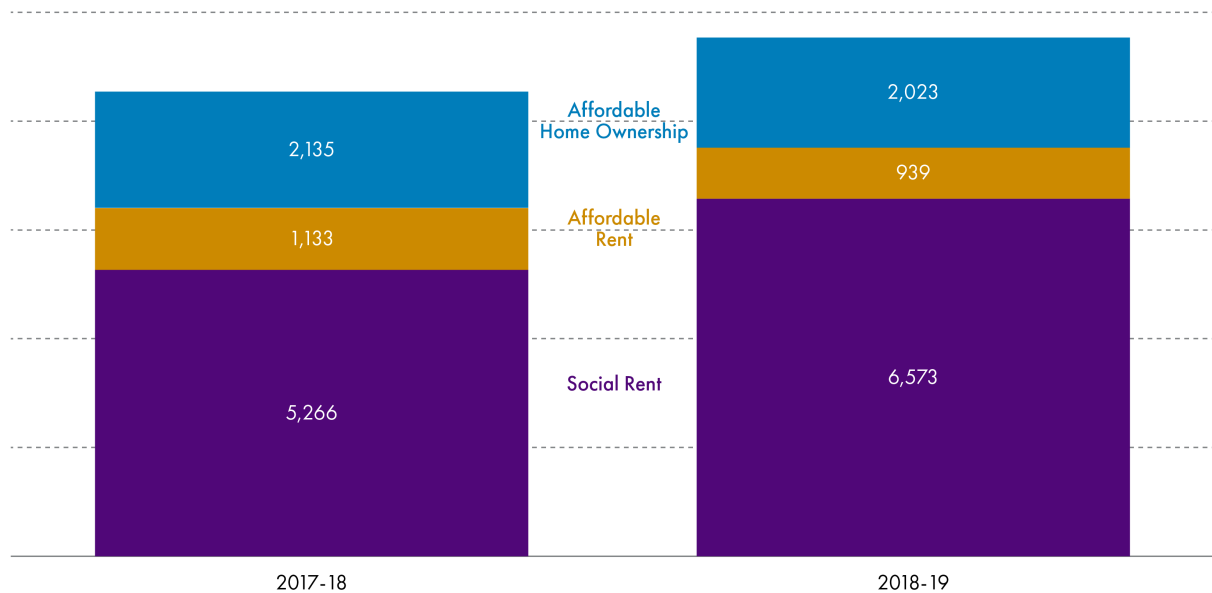
The Scottish Government is anticipating that the target of 50,000 units, 35,000 of which are to be social rented, will be met by 2021. The end of the Right to Buy scheme has served to preserve the amount of social housing stock, so the new properties being built will represent a real increase in social housing and affordable housing lets.

Figure 5 (below) highlights the growth in affordable housing since 2017/18.



**Figure 6**

Affordable Housing Supply Programme: New affordable completions 2017/18-2018/19



Scottish Government, 2019<sup>24</sup>

Figure 6 (above) shows that the largest increase in affordable homes has been in the social rented sector. Affordable rented properties, such as Mid Market Rented properties and properties for Affordable Home Ownership have decreased over the last year.

## Rapid Rehousing Transition Plans and Housing First

### Rapid Rehousing Transition Plans

The concept of the Rapid Rehousing approach emerged from the work of [HARSAG](#), which published their [final report](#) in June 2018. The vision behind Rapid Rehousing Transition Planning is for:

- A settled, mainstream housing outcome as quickly as possible;
- Time spent in any form of temporary accommodation reduced to a minimum, with the fewer transitions the better; and
- When temporary accommodation is needed, the optimum type is mainstream, furnished and within a community.<sup>25</sup>

The Scottish Government asked all 32 Scottish local authorities to develop and cost Rapid Rehousing Transition Plans (RRTPs) by 31 December 2018.

The Rapid Rehousing approach changes the way social housing is allocated and requires a move away from the 'tenancy readiness' culture. Where support needs are identified,

these would be addressed in the person's own settled home. A key feature of Rapid Rehousing is preventing homelessness in the first place. Barriers to accessing accommodation, such as rent in advance or having a history of rent arrears, are removed.

## **Housing First**

There has been growing interest in the Housing First model since it was first developed in the USA in 1992.<sup>26</sup> This model has since been introduced throughout the world. In Scotland, Turning Point managed the pilot project and is involved in the current pathfinder projects which are promoting Housing First projects.<sup>27</sup>

The Housing First approach targets those with multiple and complex needs, such as mental health issues, drug or alcohol misuse and, often, those who are, or have been, sleeping rough. It allows people to move straight into permanent accommodation. Once housed, intensive, unconditional and open-ended support is provided to help support the person to stay in their home. There are 7 guiding principles to this initiative which are intended to provide normality, flexibility and longevity to housing.<sup>7</sup> There is no requirement for the tenant to engage with the support in the tenancy, although it is likely that engagement will facilitate sustainability.

Funding concerns are related to the level of housing support required to support people with complex needs in individual tenancies. Concerns have been raised about the level of investment in Housing First.<sup>28</sup> Monies from the Scottish Government have been announced until 2021. There is no information available as to what will happen after that date, although it is envisaged that local authorities and Health and Social Care partnerships will fund these projects in the future.

An initial £8 million has been allocated to local authorities for 2019/2020 to begin to implement their Rapid Rehousing Transition Plans. The Scottish Government has increased its funding of £15 million, from the 'Ending Homelessness Together fund' to **£24 million** to account for the additional resources required to implement the plans.<sup>29</sup>

# Appendix 1

## **Housing (Scotland) Act 1987**

- Provides the framework for the management and allocation of social rented housing
- Gives local authorities duties with respect to homelessness
- Sets out the provisions regarding the operation of the right to buy
- Provides local authorities with powers to tackle sub-standard housing in their areas
- Provides that local authorities must maintain a housing revenue account for income and expenditure relating to its own housing stock

## **Housing (Scotland) Act 1988**

- Introduced two new forms of tenancy in the private sector from 2 January 1989 – the assured tenancy and the short assured tenancy, with less security of tenure.

## **Law Reform (Miscellaneous Provisions) (Scotland) Act 1990**

- Section 65 of this Act amended the Housing (Scotland) Act 1987, in that it outlines the need to consider whether it is reasonable to occupy the accommodation. It also says to consider the threat of violence to the applicant household when making this decision.

## **Housing (Scotland) Act 2001**

- Introduced the Scottish Secure Tenancy (SST) for tenants of RSLs and local authorities.
- Made reforms to the right to buy and homelessness legislation.
- Created a single regulatory framework covering housing across the social rented sector and enhanced the strategic role of local authorities in assessing and tackling local housing needs.

## **Homelessness etc (Scotland) Act 2003**

The policy intention of this Act was to improve the rights of homeless people, largely through amending the 1987 Act. The Act provided the framework for the eventual abolition of the priority need test by 31 December 2012.

## **Antisocial Behaviour (Scotland) Act 2004**

This Act established the framework for the private landlord registration scheme and the system for serving anti-social behaviour notices on private landlords.

## **Tenements Act (Scotland) 2004**

This Act provided a structure for the maintenance and management of tenements if this is not provided for in the owner's title deeds. A key innovation is that it provides for decision making by majority.

## **Housing (Scotland) Act 2006**

- Reformed local authority powers to deal with disrepair in their areas and the system of supporting owners to undertake repairs.
- It contained provisions governing the “Home Report” (the set of documents that sellers must provide to potential buyers) and re-enacted, with changes, the system of licensing of houses in multiple occupation which is now contained in secondary legislation.

## **Home Owner and Debtor Protection Act 2010**

- Strengthens protection for home owners facing repossession.
- Requires all repossession cases to call in court, lenders to demonstrate to the court that they have considered reasonable alternatives to repossession.
- Enables home owners to be represented in court by approved lay representatives.

## **Housing (Scotland) Act 2010**

This Act modernised the system of regulation of social housing and provided for the end of the right to buy for new tenants and new supply social housing. This also set out the responsibilities of the Scottish Housing Regulator.

## **Property Factors (Scotland) Act 2011**

This Act provides that Scottish Ministers must prepare and maintain a register of property factors and makes it an offence to act as a property factor without being on the register. The Act also makes provision in relation to the resolution of disputes between homeowners and property factors.

## **Private Rented (Housing) Scotland Act 2011**

- Amended the private landlord registration system provisions in the 2004 Act with the aim of improving enforcement of the scheme.
- Introduced a power for local authorities to serve a statutory overcrowding notice that local authorities can use to address overcrowding in the private rented sector.
- Made changes to the system of HMO licensing in the 2006 Act and other miscellaneous provisions such as the duty on private landlords to provide a document (a tenant information pack) at the start of a tenancy.

## **The Housing Support Services (Homelessness)(Scotland) Regulations 2012**

- came into force on 1st June 2013.
- These Regulations make provision in relation to the duty of Local Authorities to assess whether some persons found to be homeless or threatened with homelessness (“an applicant”) need housing support services.
- Regulation 2 prescribes four types of housing support services which apply for the purposes of that duty.

- If a Local Authority has reason to believe that an applicant may be in need of one or more of these services, it must assess whether the applicant, or any person residing with the applicant, is in need of such support. If so, the Local Authority must ensure that the service is provided to the person who needs it.

### **Housing (Scotland) Act 2014**

- Included provisions to end the right to buy
- Included reforms to the mobile home site licensing system
- Introduced a letting agent regulation system and the transfer of private rented housing civil cases from the sheriff court to a new Tribunal.

### **Private Housing (Tenancies) (Scotland) Act 2016**

- Introduced a new private residential tenancy that superseded assured and short assured tenancies.
- Tenancies must be ended with one of 18 grounds.
- Tenancies are open ended.
- Tribunal in place to deal with any dispute between landlord and tenant.

### **The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004:2014:2017**

Initially the [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2004](#) stated that:

- Local Authorities should not put households with children and pregnant women into unsuitable temporary accommodation, unless exceptional circumstances apply.
- Accommodation does not meet the defined standard as outlined below:
  - the physical properties of the accommodation (the physical standard)
  - its proximity to health and education services (the proximity standard)
  - its suitability for use by children (the safety standard).
- The 2004 order was revoked by [The Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Order 2014](#), which came into force on the 21st November 2014. This adds the additional requirement that the accommodation must be wind and watertight.
- Specifies the local authority may provide an applicant with “unsuitable” temporary accommodation for no longer than 14 days.
- The [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2017](#), came into force in October 2017 This reduced the number of days from 14 to 7 days before a ‘breach’ is recorded for the applicant remaining in such unsuitable accommodation.

# Appendix 2

## Chronological List of benefit changes since 2011

Change	Sector Affected	Date
Local Housing Allowance (LHA) rates capped and set at 30th percentile of local rents, not 50th	Private	2011
LHA rates capped at 4 bed properties - 5 bed property rate was removed		
Removal of provision that had allowed LHA claimants to keep up to £15 of the difference between the LHA rate and their actual rent level (this implemented previous Labour Government policy)		
First phase of uprating of non-dependent deductions	Private and Social	2011
Shared Accommodation Rate (SAR) for single people living in shared accommodation extended from under 25s to under 35s	Private	2012
Bedroom tax (Removal of the Spare Room Subsidy) - Housing Benefit reduced for under-occupying tenants of working age.	Social	2013
Benefit Cap for working age households - caps the total amount of benefit a household can receive at the national average earnings	Private and Social	2013
LHA capped at previous years' figure plus 1% (or 30th percentile if lower).UK Government introduced Targeted Affordability Funding (TAF) is available in areas where rents are rising excessively	Private	2014 and 2015
First Universal Credit new claims in Scotland. To be followed by a phased migration of existing claimants.	Private and Social	2014
Uprating of working-age benefits and tax credits capped at 1%	Private and Social	2014
Family Premium in Housing Benefit will be removed for new claims and new births from April 2016.	Private and Social	April 2016
Freeze working age benefits and LHA rates for 4 years - applicable amounts for Housing Benefit From 2016/17 to 2019/20	Private and Social	April 2016
Backdating of Housing Benefit limited to 4 weeks rather than 6 months	Private and Social	April 2016
Housing Benefit payments limited to 4 weeks for claimants who are outside Great Britain	Private and Social	April 2016
Reduced Benefit Cap for working age households - Reduced to £20k (£13,400 for single people) a year outside London	Private and Social	Phased introduction from April 2016
Support for Mortgage Interest changed from a benefit to an interest-bearing loan, secured against the mortgaged property	Owner Occupier	April 2018
The maximum LHA levels will receive a 3 per cent increase. This means any rates previously at the maximum levels and identified to receive Targeted Affordability Funding in 2018/19, will be allowed a 3 per cent increase instead of remaining capped.	Private	2019

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