

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Commencement of Intentionality provision in Homelessness etc. (Scotland) Act 2003
Summary of aims and desired outcomes of Policy	To change the way local authorities assess households applying as homeless by amending the Intentionality regulations in the Housing (Scotland) Act 1987.
Directorate: Division: team	Housing and Social Justice Directorate, Better Homes Division, Homelessness Unit

Executive summary

1. This policy commences legislation which has been available since 2003 but was not previously enacted.
2. Currently, where an applicant is assessed as being homeless or threatened with homelessness, Section 28(2) of the Housing (Scotland) Act 1987 ("the 1987 Act") requires local authorities to make a further distinction between intentional and unintentional homelessness.
3. The proposal is to commence the intentionality provisions in Section 4(1) of the Homelessness etc. (Scotland) Act 2003 ("the 2003 Act"), to amend Section 28(2) of the 1987 Act to remove the duty for local authorities to investigate for intentionality and replace it with a discretionary power to investigate, if they think fit.
4. Equality issues were considered during the policy development process and views on the impact on each of the protected characteristics were sought as part of a public consultation issued by the Scottish Government on 31 January 2019. The Scottish Government concluded that none of the proposals were considered to give rise to the possibility of those affected being treated less favourably due to any of the protected characteristics.

5. No changes to the policy were considered necessary following the EQIA. However, the Scottish Government will monitor the impact of the changes on people with protected characteristics and will continue to work with stakeholders during implementation to ensure full account is taken of equality issues.

Background

6. This policy change will mean that local authorities will be able to exercise discretion in how they assess people making homelessness applications. The aim of the change is to remove barriers homeless households can face in trying to access settled accommodation and encourage and enable local authorities to adopt a person-centred approach to assessing homelessness applications.

7. The legislation allows for local authorities to choose how they deliver the policy, reflecting their local housing and homelessness situations including their Rapid Rehousing Transitions Plans. However, the Code of Guidance for Homelessness will set out that the intention of the policy is to provide a more person-centred support to people experiencing homelessness.

8. This policy change will have the biggest impact on groups at highest risk of experiencing homelessness, including young people and people experiencing poverty. It is recognised that, under current rules, many of those assessed as intentionally homeless have difficulties in their lives which are out of their control, for example paying their rent or experiencing mental health issues.

9. Allowing local authorities greater choice about whether to investigate this will mean that people get the support they need when they need it. It is also acknowledged, however, that it will be necessary to investigate intentionality in some circumstances, to aid housing management and to increase the likelihood of establishing a sustainable solution to homelessness for the household involved.

10. By replacing the duty to investigate with a power to do so, if they think fit, local authorities will be given discretion in considering an application and will be better able to focus administrative effort on those, expected to be few, cases where there is a real concern.

The Scope of the EQIA

11. Policy and analytical services officials from the Scottish Government were involved in carrying out the EQIA. The Scottish Government took account of available research and statistical evidence and views expressed in response to a public consultation issued by the Scottish Government on 31 January 2019. The consultation received 72 responses from a range of individuals, local authorities, housing associations, tenants groups, third sector organisations, legal groups and others. There has also been ongoing consultation with key stakeholder groups during the policy development process, both before and after the public consultation.

Key Findings

12. The EQIA confirmed that the proposals to commence the intentionality provisions in the 2003 Act are unlikely to have any significant differential effect on the basis of the protected characteristics.

13. In respect of advancing equality of opportunity there is no evidence to suggest that the proposal will have either a positive or negative impact on anyone due to their protected characteristic.

Recommendations and Conclusion

14. The Scottish Government has concluded that no changes to the policy are necessary as a result of the EQIA. The proposals are intended to support those at greatest risk of homelessness to access settled accommodation and appear to have no detrimental effect on the basis of the protected characteristics.

15. In recognition that the EQIA is an iterative process, the Scottish Government will continue to ensure that full account of equality issues is taken into consideration as the legislation progresses and through the implementation stage.