

Housing, Regeneration and Planning

Review of Section 5 of the Housing (Scotland) Act 2001

Amanda Britain, Lucy Robertson, Jenny Tate and Stuart Livingstone, Craigforth

The research examined the use of Section 5 of the Housing (Scotland) Act 2001 and other routes through which local authorities assist statutorily homeless households in securing permanent accommodation from a Registered Social landlord (RSL). Section 5 gives Local Authorities the power to require RSLs operating in their area to provide accommodation for homeless households. The research has been undertaken by Craigforth for the Scottish Government and is to be used by the Government to inform their review of policy and guidance in this area.

Main Findings

- All of the 30 local authorities that contributed to the research stated that they referred at least a proportion of statutorily homeless households to RSLs. Section 5 was reported as the only referral mechanism used for statutorily homeless households in 14 local authorities. Others combined the use of Section 5 with the use of other referral mechanisms, such as 'traditional' nominations.
- There was a considerable variety of arrangements by which access to RSL housing was secured for statutorily homeless households, although 3 broad overall approaches were being used. Nine local authorities used an *applicant led* system; 10 used a *vacancy led* system and 9 combined the two approaches. The approach adopted appeared to relate closely to previous agreements and practices, particularly those relating to nominations.
- There appeared to be an element of 'conflict avoidance' taking place in making referrals, with staff within local authorities sometimes reluctant to jeopardise working relationships with their counterparts in RSLs by referring applicants that they expect to cause significant tenancy management problems.
- The research has identified an inconsistency in approach between and within local authorities around the level and type of information that accompanies a referral, particularly that relating to support requirements or support packages.
- Overall most landlords considered that their local arrangements were effective in assisting statutorily homeless households to access accommodation in the RSL sector. There was very little difference in the overall balance of views between local authorities and RSLs.
- Based on our findings there is no evidence to suggest one referral process to be more effective than any other. It is also important in this context to take into account the relationship between the Scottish Government and local authorities set out in the Concordat and the greater focus on the outcomes being delivered by particular policies or processes. To this extent variable processes are not necessarily a matter of concern: the emphasis on outcomes brings with it an acceptance that these may be achieved through different approaches or processes.

Research Aims and Objectives

The main aims of this research were to:

- establish the strengths and weaknesses of local authority procedures for helping statutory homeless households access RSL housing;
- explore and map views and current practices, including the use of pre-referrals and of protocols;
- gather views on the current guidance and options for possible revisions;
- identify what information is exchanged as part of the referral process and recommend what information should be exchanged; and
- establish outcomes for homeless applicants, including levels of choice, support, and tenancy sustainability.

Method

The research was undertaken using a mixed methodology which combined both quantitative and qualitative approaches including :

- A review of existing data sets, existing research and key guidance, policy and practice literature;
- Nineteen key player interviews with representatives of the Scottish Government, national voluntary sector organisations, local authorities and RSLs;
- A survey of all social landlords in Scotland, achieving a response rate of 62%;

Case study research in 5 local authority areas. The case studies gathered qualitative information and focussed on tracking individual households through the system for securing permanent accommodation. Twenty individual cases were examined within each case study area, including those where permanent accommodation had been secured as well as some in which it had not. Each case was discussed with relevant staff within the council (including homeless assessment staff, accommodation team members etc). Cases were then followed up with the RSL to which the household had been referred.

In addition, 15 applicant households were interviewed about their experience of being referred to an RSL.

Context

The Housing (Scotland) Act 2001 significantly changed the duties of local authorities towards homeless people in Scotland, while also recognising that RSLs had an increasing role to play in providing housing for statutorily homeless households. The Act requires RSLs to give 'reasonable preference' to homeless households and to provide accommodation for those households assessed as being unintentionally homeless and in priority need by the local authority. Through Section 5 it gives local authorities the power to require RSLs operating in their area to provide accommodation for homeless households.

These powers are crucial given that whole stock transfer of local authority housing stock means that all social rented stock is managed by RSLs in some areas. The role of RSLs and hence of Section 5 also has particular significance given the forthcoming abolition of the priority need test by 2012 with local authorities required to plan for a 50% reduction in non priority needs assessment by 2009. This will increase the demand for permanent accommodation with the social rented sector with RSLs playing a crucial role in assisting local authorities to meet their obligations towards statutorily homeless households.

Use of Section 5

Analysis of the APSR¹ and HL1s shows that in 2006/07 under a quarter of non transfer lets were made to statutorily homeless households. This ranged from over 50% in Dumfries and Galloway to fewer than 15% in Inverclyde. This range is wider among individual RSLs, with some reporting more than 70% and some less than 5%.

APSR data on RSL lets shows significant variation in the proportion of lets made to statutorily homeless households but this proportion does not appear to be affected by whether the referral has been made using Section 5 or another mechanism.

All local authorities stated that they referred at least a proportion of statutorily homeless households to RSLs. Six local authorities stated that they referred *all* of their statutorily homeless households to RSLs, including 5 areas where local authorities had transferred their housing stock to RSLs. One stock transfer authority did not make referrals because of the way their CHR operated.

Section 5 was reported as the only referral mechanism used for statutorily homeless households in 14 local authorities.

¹ Annual Performance Statistical Return

Others combined the use of Section 5 with the use of other referral mechanisms, such as 'traditional' nominations.

Local Processes

There are 3 broad approaches being used. In an *applicant led* system the local authority identifies a statutorily homeless household which they will refer to one or more RSLs. In a *vacancy led* system the onus is on the RSL(s) to inform the local authority of a vacancy they wish to make available to a statutorily homeless household. The local authority will then select an applicant whose needs will be met by that let and will refer them to the RSL. In a *mixed system* both the vacancy and applicant led referral may be employed although in reality one or other of the referral types is usually dominant with the other used under specific circumstances.

Ten authorities used a vacancy led approach, 9 used an applicant led approach and 9 used a combination of the 2 approaches. Four out of the five stock transfer authorities always used the applicant led approach. The approach adopted appears to relate closely to previous agreements and practices, particularly those relating to nominations.

There appeared to be an element of 'conflict avoidance' taking place in making referrals, with staff within local authorities sometimes reluctant to jeopardise working relationships with their counterparts in RSLs by referring applicants that they expect to cause significant tenancy management problems.

Most local authorities undertook pre-referral discussions with RSLs in at least some circumstances and among those that held pre-referral discussions there was strong support for their continued use. However, some very significant concerns about the use of pre-referrals also emerged, particularly from senior staff within local authorities. Recording of pre-referrals discussions was patchy and when information was gathered, it was rarely used as part of a broader monitoring of the operation of Section 5 or other referrals.

Nearly two thirds of RSLs stated that they sometimes received referrals which they considered to be inappropriate. The research suggests that some of the problems around inappropriate referrals can be eliminated if there are effective and meaningful processes by which an RSL can request a sensitive let for some of its vacancies.

Overall, the study findings suggest that there remains some confusion around the number of offers that a household is entitled to. From the local authorities' perspective there was evidence of some staff monitoring the total number of offers

made to each household during the course of their presentation but in other areas this was not happening.

Information Exchange

Overall, the research has identified an inconsistency in approach between and within local authorities around the level and type of information that accompanies a referral to a RSL. This applied particularly in the area of support requirements and support packages. While some saw the sharing of relevant information as key to creating sustainable tenancies some local authorities feared that sharing information could lead to RSLs trying to avoid making an offer of housing.

Most, but not all, local authorities considered that the information they received from the RSL enabled them to assess whether the statutorily homeless household had been satisfactorily housed. The lack of feedback from applicant households was the main reason why some local authorities felt they were unable to make that assessment.

More than a third of RSLs stated that there were problems with information exchange; this group of RSLs were also more likely to consider that local arrangements were not transparent, that the basis on which referrals were made to them was not equitable or that they sometimes received inappropriate referrals.

Views on Effectiveness

Overall most landlords considered that their local arrangements were either very or quite effective in assisting statutorily homeless households to access accommodation in the RSL sector. There was very little difference in the overall balance of views between local authorities and RSLs.

Just over two thirds of RSLs considered that the local arrangements were transparent, while just under three quarters considered them to be equitable. Given that transparency and equity could be considered to be core to the successful operation of a referral system these responses are not wholly positive and there is certainly a close link between views on transparency, on equity and on the overall effectiveness of the local arrangements.

The issue of insufficient information was noted as a factor both in relation to transparency and equity. A number of RSLs noted that they were not aware of the performance of their own RSL compared with others in the area and hence did not consider current arrangements to be transparent.

For their part, most local authorities considered that statutorily homeless households referred by them are

treated equitably compared to other applicants by RSLs. There was a level of distrust evident between some local authorities and RSLs but it appeared to be restricted to the local authority's relationship with particular associations rather than reflecting a wider culture within any of the areas.

It was very clear that front line staff and the management in both local authorities and RSLs placed great value on the good working relationships they generally had with their counterparts in other organisations and considered them to be a vital component of an effective referral system. However, it was also clear that the referral of statutorily homeless households is potentially a difficult area in which to develop agreement and build consensus.

The main area of tension between local authorities and RSLs was around RSLs declining to make an offer to a statutorily homeless household that had been referred to them. The support needs of applicants (either around the initial assessment or any support package in place) were also a possible area of friction along with the time needed for a review of an offer to be undertaken.

Changes Sought to Legislation and Guidance

Only one consistent theme emerged from local authority based consultees, namely that many would like to see RSLs giving greater priority to re-housing statutorily homeless households and that RSLs should, but do not always, see themselves as having an equivalent responsibility to the local authority for achieving sustainable housing outcomes for statutorily homeless households.

RSLs expressed a slightly more diverse range of views. The most commonly sought change was the provision of better support packages. A number of RSLs were also looking for the range of reasons why they can decline to house an applicant referred under Section 5 to be broadened. There were also a number of associations, that were looking for improvements to be made to the recording of lets made by RSLs and local authorities to statutorily homeless households and, specifically, to address the current inconsistencies between the main national datasets – the H1s, the APSR.

Conclusions

Overall, this research found that the current arrangements for accessing RSL housing for homeless households appeared to be working smoothly in most areas and in most cases. This conclusion is largely based on evidence from local authorities and from RSLs themselves: it proved more

difficult to establish the extent to which the arrangements for accessing RSL accommodation worked well for homeless households.

A striking finding of the research was the very considerable variety of different arrangements which exist between local authorities and RSLs in relation to securing access for homeless households to RSL housing. This may reflect the fact that Section 5 was, and remains, simply another instrument to achieve an outcome (access to RSL housing) for which there were a range of alternative methods already in place and working effectively to a greater or lesser extent. In this context, the variation in approaches is less surprising.

It is worth noting that the proportion of lets made by an RSL to statutorily homeless households does not appear to be affected by whether the referral has been made using Section 5 or another mechanism; nor was there any evidence that any other local variations in process, such as applicant or void led systems affected this outcome. Analysis by a wide range of characteristics and factors showed very few patterns which could help explain the variations in approach, practice or views on effectiveness. In other words, the referral processes appeared not to make any difference to this outcome at least.

On the basis of this research there is, therefore, no evidence to support one referral process over another. It is also important in this context to take into account the changed relationship between the Scottish Government and local authorities set out in the Concordat, and the associated National Performance Framework, and the greater focus which is being made on the outcomes delivered by particular policies or processes. To this extent variable processes are not necessarily a matter of concern: the emphasis on outcomes brings with it an acceptance that these may be achieved through different approaches or processes. The evidence from the research, however, shows that even a requirement to use Section 5 would not create a consistency in process. Moreover, other performance standards, such as in relation to transparency, can be achieved under different systems.

The strength of partnership between local authority and RSL exerts a strong influence on the operation of arrangements. The system appears to work better from both parties' perspective when there was a shared understanding of levels and types of need. However, it was not possible to establish whether these strong partnerships resulted in better outcomes for the homeless household. It should be noted that good working relations do not imply that good outcomes are being achieved for homeless household: some friction in the partnership may be useful to ensure difficult issues are being addressed and not bypassed.

This document, along with “Review of Section 5 of the Housing (Scotland) Act 2001” the full research report of the project and further information about social and policy research commissioned and published on behalf of the Scottish Government, can be viewed on the Social Research website at: www.scotland.gov.uk/socialresearch. If you have any further queries about social research, please contact us at socialresearch@scotland.gsi.gov.uk or telephone 0131 244 7573.



Social Science in Government

ISBN 978-0-7559-7515-0



9 780755 975150