

Housing, Regeneration and Planning



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



social
research

**REVIEW OF SECTION 5 OF THE HOUSING
(SCOTLAND) ACT 2001**

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EXECUTIVE SUMMARY

Background

1. The Housing (Scotland) Act 2001 extended the duties of local authorities towards homeless people in Scotland, while also recognising that Registered Social Landlords (RSLs) had an increasing role to play in providing housing for statutorily homeless households. Crucially, the impact of whole stock transfer of local authority housing stock to the RSL sector would be to remove any capacity for the local authority to access permanent (or temporary) accommodation for homeless households from within their own provision.

2. The 2001 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.

3. A growing body of evidence suggests the use of Section 5 differs across Scotland and that its use may be less than had originally been anticipated. There also seems to be confusion regarding the purpose and scope of the requirements. The Scottish Government intends to review the policy and guidance on Section 5 referrals and, as the first step, commissioned research looking at its use. The main aims of the research were to:

- Establish strengths and weaknesses of local authority procedures to help homeless households access RSL housing;
- Explore and map views and current practices;
- Establish the use of pre-referrals, including how often they are used, their usefulness and impact, and how they are recorded;
- Establish use of protocols, whether and how the SFHA/COSLA model protocol is being used, and recommendations on ensuring their status;
- Establish views on Guidance and options for potential revisions;
- Identify what information is exchanged and best practice between local authorities and RSLs and recommend what information should be exchanged and what processes should be in place to allow interaction;
- Establish outcomes for homeless applicants, including levels of choice, support, and tenancy sustainability.

4. The research was undertaken using a mixed methodology which included key player interviews, a survey of all RSLs and local authorities in Scotland and case study research in 5 local authority areas.

Context

5. RSLs are required to meet the duty placed on them unless they have a good reason for not doing so. Any RSL operating within a local authority should also comply with any request for information in relation to a Section 5 referral. Equally, local authorities should be aware of the availability of suitable accommodation before making a referral to an RSL. Ministerial Guidance has been issued to clarify these issues.

6. A model protocol has been issued by the SFHA and COSLA to provide a degree of consistency and to be used by local authorities and RSLs as a basis for their own local protocol. It is assumed that the final protocol should reflect the day to day operation in the particular local authority area.

7. Since May 2007 the work of national and local government has become increasingly outcome focused, with the Scottish Government leading on developing overall outcomes, and local authorities charged with prioritising these and meeting them at a local level. The most relevant indicator is that '*all unintentionally homeless households will be entitled to settled accommodation by 2012*'. Social landlords will also be expected to meet the performance standards developed by the Scottish Housing Regulator's predecessor organisation, Communities Scotland, in conjunction with the SFHA and COSLA.

8. 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 only used under specific circumstances.

Use of Section 5

9. National datasets with information on RSL lets include the APSR and HL1s. The APSR provides the number of lets made by each RSL, while the HL1 is based on information collected by local authorities about each homeless applicant household including the re-housing 'outcome'. Scottish Government analysis shows that just under a quarter of non-transfer lets were made to statutorily homeless households in 2006/07, ranging from above 50% in Dumfries and Galloway (a stock transfer area) to under 15% in Inverclyde (which had not transferred its stock at this time). This range is even greater between individual RSLs, with some RSLs reporting more than 70% and some under 5% of non-transfer lets as made to statutorily homeless households in 2006/07.

10. The APSR data distinguishes between RSL lets made after Section 5 referrals and those made by other means. The balance between the two varies significantly between RSLs. However, there was no clear pattern between high use of one method of referral and a high proportion of lets being made to statutorily homeless households.

11. 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 the 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.

12. 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.

13. Where both nominations and Section 5 referrals were being used, it was not always clear why one referral route was selected and there was often inconsistency of practice between different offices and staff. Nevertheless, front line RSL staff generally preferred to receive Section 5 referrals, as they tended to be accompanied by more comprehensive and up to date information than was the case for nominations. However, the management team within RSLs often saw considerable value in use of the ‘traditional’ nominations route.

14. Some RSL representatives were concerned that housing households holding statutorily homeless status through their general waiting list was not sufficiently reflected through current performance reporting systems.

Local processes

15. Ten authorities used a vacancy led approach, nine used an applicant led approach and nine used a combination of the two 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. The fact that many areas are currently reviewing, or have recently reviewed, their agreements and procedures may reflect a need to reconsider often long standing arrangements in the light of increasing duties in the lead up to the 2012 abolition of priority need.

16. 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 expected to cause significant tenancy management problems.

17. Most local authorities undertook pre-referral discussions with RSLs in at least some circumstances. Among those that held pre-referral discussions, there was strong support for their continued use. The main reasons given were around avoiding abortive referrals and unnecessary work. However, some very significant concerns about the use of pre-referrals also emerged, particularly from senior staff within local authorities, and including those that had previously used pre-referrals but no longer did so. The decision to stop their use had generally been taken because of significant concerns that the use of pre-referrals made the system less transparent and, in particular, could be used by *some* RSLs to minimise the number of referrals made to them.

18. 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.

19. RSLs generally preferred a system in which the referral for any single household was sent to one RSL at a time and saw it as the most administratively efficient process from their perspective. However, RSLs operating in applicant led systems had a clear understanding of

the reasoning behind making multiple referrals, albeit some had concerns that it could potentially lead to ‘administrative chaos’ unless managed effectively by the local authority.

20. Nearly two thirds of RSLs stated that they sometimes received referrals which they considered to be inappropriate. The research findings suggest 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.

21. Overall, the study findings suggest that there remains some confusion around the number of offers that should be made to a statutorily homeless household. 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

22. Local authorities often appeared to provide more information in the context of a Section 5 referral than they did for nominated statutorily homeless households. RSLs reported that information accompanying Section 5 referrals was often more accurate and current than that which accompanied nominations. Some RSLs commented that the information might be provided but could be very limited in its coverage and in particular might make it difficult to enter into informed discussions with the local authority about what would be needed to help sustain a tenancy.

23. Overall, the research has identified an inconsistency in approach between and within local authorities around the level and type of information that is passed onto RSLs regarding support requirements or support packages. Some saw the sharing of relevant information as key to creating sustainable tenancies; others feared that sharing information could lead to RSLs trying to avoid making an offer of housing.

24. With relation to the outcome of Section 5 referrals, most local authorities collected a range of information: most commonly collected information was whether any offers had been made, the outcome of those offers, the date of re-housing and the location of that housing.

25. Most, but not all, local authorities considered that the information they received from RSLs enabled them to assess whether statutorily homeless households 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.

26. More than a third of RSLs stated that there were problems with the information exchange between their RSL and the local authority. This group of RSLs were 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.

Local authority and RSL views on effectiveness

27. 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. It is the extent to which views of effectiveness differed among RSL

respondents which is striking: in one area the 6 RSL respondents ranged from those who considered the local arrangements to be 'very effective', 'neither effective nor ineffective', 'quite ineffective' and 'totally ineffective'.

28. RSLs were asked whether they considered that the basis on which referrals were made to them was transparent and equitable. Just over two thirds 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. There is certainly a close link between views on transparency, on equity and on the overall effectiveness of local arrangements.

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

30. For their part, most local authorities considered that statutorily homeless households referred by them are treated equitably by RSLs compared to other applicants. 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.

31. It was very clear that front line staff and the management in both local authorities and RSLs placed great value on the generally good working relationships they 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.

Resolving issues

32. One area of obvious tension between local authorities and RSLs arose when an RSL declined to make an offer to a statutorily homeless household that had been referred to them. It was evident that differences of opinion were often resolved after informal discussion. It is of interest that not all of these local authorities would challenge the RSL when, on occasion, they disagreed with the action it had taken.

33. It was striking that any discussions held were generally between front line operational staff and it was only occasionally considered necessary to involve council or RSL management. Staff were often motivated by maintaining what were prized working relationships and generally reported that any disagreements were resolved with a good deal of 'give and take' on both sides.

34. Tensions between RSLs and local authorities also arose around the support needs of applicants. This could be about the initial assessment, of the lack of one, or could be about the nature of the support package that had been put in place. Support packages, or the absence of them, certainly emerged as one of the more contentious issues within the case study areas, although it rarely led to a refusal of a referral.

35. The time needed for a review of an offer to be undertaken is a possible area of tension between local authorities and RSLs. Councils generally felt it was reasonable to expect an RSL to hold any vacancy that was involved in an appeal until the review had been conducted. Some RSLs expressed concerns about the length of time these appeals could take and the consequence this could have in terms of lost rental income and increased re-let times.

36. The Section 5 arbitration process had only rarely been used. In broad terms, both local authorities and RSLs noted that good working relationships and effective local arrangements mean that disagreements arise infrequently and, where they do, informal discussion will resolve them. As a consequence it is not necessary to resort to arbitration.

Changes sought to legislation and guidance

37. What is perhaps most striking is that there was only really one consistent theme to emerge from local authority based consultees, namely that many would like to see RSLs giving greater priority to re-housing statutorily homeless households. For some respondents this translated into RSLs (in non stock transfer contexts) being required to make the same proportion of their available lets to statutorily homeless households as the council does. In many ways this suggestion reflects one of the themes that emerged consistently throughout this study: that many local authorities and other stakeholders believe 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.

38. RSLs expressed a slightly more diverse range of views. The most commonly sought change was the provision of better support packages, although in essence this is not about Section 5 itself but rather about whether the associated arrangements lead to the creation of sustainable tenancies. 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.

39. There were also a number of RSLs and key player interviewees who were looking for improvements to be made to the recording of lets made to statutorily homeless households by RSLs and local authorities; specifically inconsistencies between the main national datasets (HLIs and APSR) were a concern.

1. INTRODUCTION

Background

1.1. The Housing (Scotland) Act 2001 significantly changed the duties of local authorities towards homeless people in Scotland, while also recognising that Registered Social Landlords (RSLs) had an increasing role to play in providing housing for statutorily homeless households. Crucially, the impact of whole stock transfer of local authority housing stock to the RSL sector would be to remove any capacity for the local authority to access permanent (or temporary) accommodation for homeless households from within their own provision.

1.2. The 2001 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.

1.3. The role of RSLs, and hence of Section 5, also has particular significance given the forthcoming abolition of the priority need test by 2012 and the requirement on local authorities to plan for a 50% reduction in non priority needs assessments by 2009. This will inevitably increase demand for permanent social rented accommodation, and as awareness spreads about the new obligations, this increase may be at a higher level than indicated by current non priority presentation rates. In this context, the Scottish Government's decision to commission research into the use of Section 5, as the first step in its wider review of policy and guidance on Section 5 referrals, is extremely timely.

Study aim and objectives

1.4. Over the last few years a growing body of evidence¹ has suggested that the use of Section 5 varies across Scotland, that the extent of use may be less than had originally been anticipated and that there is some confusion about the purpose and scope of both local authorities' powers and RSLs' obligations. The Scottish Government required this study to gather evidence on current practice and specifically how local authorities and RSLs are using Section 5, along with alternatives, to house homeless people in social rented accommodation.

1.5. The specific research outcomes required the study to quantify, categorise and map the extent of Section 5 referrals, as well as those alternative arrangements local authorities have put in place to assist homeless people access accommodation within RSLs. Within these broader aims, the specification required that the research:

- Explore and map the views and current practices of local authorities and RSLs;
- Establish the use of pre-referrals (informal discussions with RSLs before a referral is made) including how routinely they are used, their perceived usefulness, recording and monitoring of these processes, and their impact;

¹ This includes studies by Shelter Scotland (2005), the Chartered Institute of Housing and the Scottish Council for Single Homelessness (2007).

- Establish the use of protocols, and whether the model protocol drawn up between the SFHA and COSLA is being used, how it is being used, and recommendations on ensuring the status of these agreements;
- Explore views on current Scottish Government guidance and options on potential revisions;
- Identify what information is exchanged and best practice between local authorities and RSLs and recommend what information should be exchanged and what processes should be in place to allow local authorities and RSLs to interact; and
- Establish outcomes achieved for homeless applicants, including levels of choice, follow up support and tenancy sustainability.

Methodology

1.6. To meet the aims and objectives of the research we have used a combination of quantitative and qualitative research methods. The research was undertaken between January and September 2008 and was managed by a Research Advisory Group chaired by the Scottish Government and made up of representatives from a range of organisations, including local authorities and RSLs.

1.7. In the early stages of the project a review of key national datasets was undertaken. Data sources examined included HL1 data², the Annual Performance and Statistical Return³ (APSR), and the Scottish Continuous Recording System⁴ (SCORE). The team also undertook a review of relevant existing research along with key guidance, policy and practice literature.

1.8. In parallel, nineteen key player interviews were conducted with representatives from the Scottish Government, a number of national voluntary sector organisations, local authorities and RSLs.

1.9. In March 2008 a survey was issued to all local authorities and RSLs in Scotland. The survey could either be completed electronically (via a web link) or as a word document. The survey gathered a range of information to support the mapping of current practice but also sought respondents' views on their local system's effectiveness, the national guidance etc.

1.10. A total of 251 surveys were issued and 157 analysable returns were received, 30 from local authorities and 127 surveys from a total of 114 RSLs⁵. Around a third of the RSL surveys returned (40) came from Glasgow based RSLs. Given this relatively high proportion, the survey data has been analysed to assess how, if at all, the Glasgow responses may have influenced the overall results⁶. Generally, the 'Glasgow effect' was minimal and not significant.

² The return made by local authorities to the Scottish Government on each homeless household that presents to that local authority.

³ The return made by RSLs to the (then) Communities Scotland, now the Scottish Housing Regulator, setting out activity levels.

⁴ Information about lettings that RSLs have made and profiles of new tenants.

⁵ National and regional RSLs were invited to submit a return for the local authority area in which they had the highest annual turnover of stock, along with as many other local authority areas as they chose.

⁶ In Glasgow all referrals of statutorily homeless households to RSLs are now made using Section 5.

1.11. The research then moved on to the case study stage. Case studies were undertaken in five local authority areas. The importance of contextual issues such as stock transfer and allocations systems, were taken into account when making the case study selection and the cases to be examined were agreed with the Research Advisory Group.

1.12. All of the 5 case studies that were approached agreed to participate. That agreement was based on assurances that the case study areas *would not* be identified within the research findings. This approach was taken in order to maximise the chances of participants feeling able to speak candidly and openly to the study team without being concerned about the impact any comments made could have on local working relationships.

1.13. The case studies were designed to gather qualitative information and explore the issues to emerge from the survey in greater depth and focussed on tracking individual cases through the system for securing permanent accommodation. In larger case study areas the fieldwork focussed on 2 or 3 smaller areas. These smaller areas were selected to reflect the range of contexts within each case study area and, in particular, any variations in housing pressure.

1.14. Twenty household cases were examined within each case study area, including cases where permanent accommodation had been secured as well as some in which it had not. Case records were examined and each case was discussed with relevant staff within the council (including homeless assessment staff, accommodation team members etc). At least 10 of these cases (although generally many more) were then followed up with the RSL to which the household had been referred.

1.15. Interviews were also undertaken with some of the households that had sought permanent accommodation through the statutorily homeless route and that had been housed or made an offer of housing within an RSL. The study team had hoped to undertake 10 interviews in each case study area. However, it proved difficult to recruit participants, despite trying a number of different approaches. A total of 15 applicant interviews were achieved, ranging from 2 in one of the case study areas up to 4 in another.

1.16. Interviewees had all accepted an offer of an RSL tenancy and had been in their new homes for between 4 weeks and a year. Seven of the interviewees were single households, 6 were single parents and 2 were couples with children.

1.17. Given the relatively low number of interviews achieved, the evidence from this source should be taken as indicative rather than robust. However, it should be noted that findings from the applicant interviewees entirely confirmed the wider findings from the case study research and suggest that both council homelessness staff and frontline staff within RSLs generally have an accurate understanding of the views and experiences of the homeless applicants they are seeking to house.

1.18. Finally, it is worth noting that the primary research for the study (including both the conduct of the survey and the case study fieldwork) has corresponded with a period of change to referral agreements and arrangements in a number of local authorities. This meant that surveys were often being completed, or interviews given, at a time when organisations were developing or implementing new policy or practice. Inevitably, this meant that the actual impact or effectiveness of these new policies or procedures could not really be commented on by research participants.

Structure of report

1.19. The report is structured as follows:

Chapter 2 Context. This chapter sets out the key aspects of the context relevant to understanding the way in which Section 5 and other arrangements are operating.

Chapter 3 Review of Existing Data Sources on Lets. This chapter examines some of the key national data sets that contain information relating to the referral of statutorily homeless households to RSLs and the use of Section 5.

Chapter 4 Use of Section 5. This chapter sets out how Section 5 referrals fit with other approaches to housing statutorily homeless households in RSL accommodation.

Chapter 5 Local Processes. This chapters maps in detail the processes used by local authorities and RSLs in referring and housing statutorily homeless households in RSL accommodation, and identifies the issues with these processes.

Chapter 6 Information Exchange. This chapter sets out the information which is exchanged between local authorities and RSLs, and the issues and difficulties encountered in this process.

Chapter 7 Local Authority and RSL Views on Local Arrangements This chapter sets out the views of respondents on the effectiveness of their local arrangements, what worked well and less well in these arrangements and their views on whether they considered the local arrangements to be transparent and equitable.

Chapter 8 Resolving Problems. This chapter sets out the means by which RSLs and local authorities resolve disagreements between them. It then considers views on changes to legislation which might address any difficulties encountered.

Section 9 Conclusions and Recommendations. This final chapter sets out the conclusions arising from the research findings and then gives recommendations for addressing the issues identified.

1.20. In line with the overall methodological approach taken, this report does not identify the case study areas in which fieldwork was undertaken and presents any comments or quotes (whether taken from the key player interviews, case study fieldwork or the survey) anonymously.

2. CONTEXT

Legislative framework

2.1. The duties on Registered Social Landlords (RSLs) in relation to providing accommodation for statutorily homeless households were introduced by Sections 5 and 6 of the Housing (Scotland) Act 2001. The Act (amending the Housing (Scotland) Act 1987) requires local authorities, amongst other duties, to provide accommodation for those households which they have assessed to be in priority need and unintentionally homeless. The 2001 Act gives local authorities the power to require that another social landlord that operates in their area provide that accommodation for a homeless household.

2.2. RSLs are required to meet this duty unless they have a good reason not to comply with the request. Any RSL should respond to a request for information in relation to housing in connection with a Section 5 referral. Equally, local authorities should be aware of the availability of suitable accommodation in the area where an RSL operates before making a referral to them.

2.3. Ministers have specific powers to issue guidance (as set out in s.5(7) of the 2001 Act). In September 2002 Ministerial Guidance⁷ was issued which sought to clarify what is a reasonable period within which an RSL must accept a referral and what is a good reason for refusing a request

2.4. In terms of reasonable period, the Guidance notes that it is difficult to be prescriptive about timescales but anticipates that a referral should result in accommodation being provided by the RSL within a 6 week period unless there is good reason not to do so. It is considered good practice that RSLs should respond to a referral as soon as possible, irrespective of whether they can comply immediately. If they cannot comply they should respond quickly with reasons for non-compliance. In cases where a property is unavailable at the time of referral, but where the RSL is aware of one that will soon be available, the local authority may accept the reasons for non-compliance at the time, but return with a referral at a time in the future when a property will be available. Equally, where an RSL agrees in principle to house a household, but cannot do so within a reasonable period, the local authority may agree to withdraw the referral.

2.5. Non-compliance is also appropriate when the RSL in question does not have a property which would be suitable for any referral made, for example because any available vacancies are within some type of specialist or adapted accommodation and would not suit the needs of the applicant. Guidance states that inappropriate accommodation should not be used as the sole reason for non-compliance but that regard should be had to the sustainability of the accommodation.

⁷ <http://www.scotland.gov.uk/Resource/Doc/46737/0028748.pdf>

2.6. When disagreement occurs, such as where an RSL believes it has a good reason for being unable to make an offer of housing but the local authority disagrees and the parties are unable to come to an equitable agreement, then they must appoint an arbiter to rule on the issue. If an appropriate arbiter is not agreed upon, then the local authority may approach the Scottish Housing Regulator (formally the Regulation and Inspection Division of Communities Scotland) to appoint from a group of specially trained people.

2.7. When making referrals the local authority should take into account both the views of the applicant and any agreements or protocols that exist between it and the relevant RSL. If the applicant disagrees with any decision made then they are entitled to request a review of decisions made.

Roles of local authorities and RSLs

2.8. The introduction of Section 5 recognised the extension of local authority duties in relation to homeless households, including the requirement to provide temporary accommodation for all homeless households, and the implications of the proposed abolition of the priority need test in 2012 on requirements for permanent accommodation.

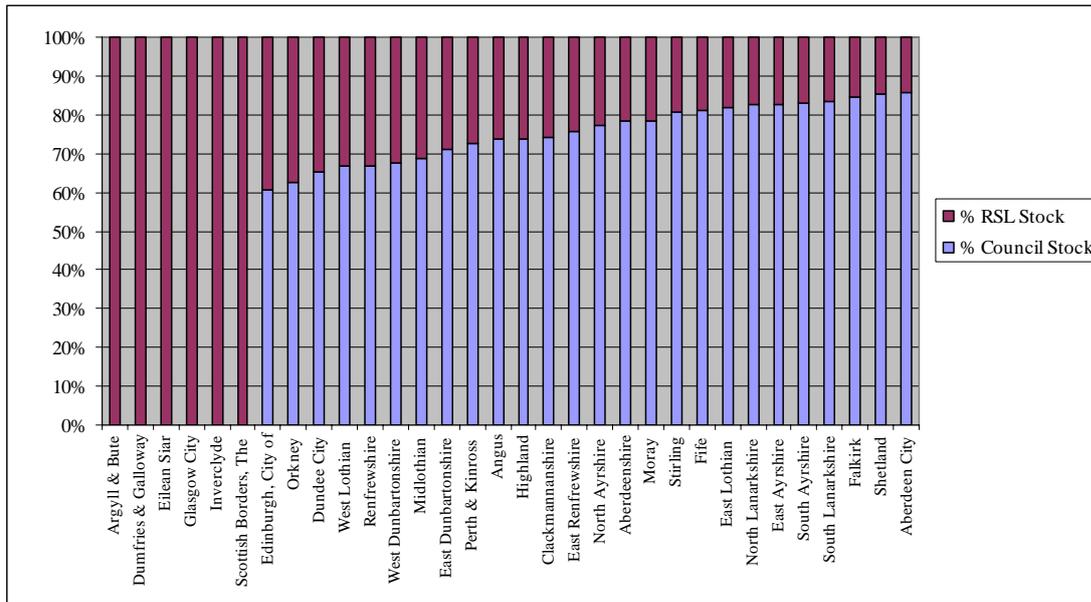
2.9. It also recognised very clearly that, for local authorities operating in areas where whole stock transfer had or could take place, they no longer have or would have a pool of their own stock to assist them to meet these extended duties. Rather, there is an absolute imperative that robust joint working arrangements allow them to fulfil these obligations by accessing permanent and temporary tenancies from the RSL sector. Given the size of their stock holdings, the stock transfer RSLs (such as the Dumfries and Galloway Housing Partnership or Glasgow Housing Partnership) would be key partners, but other RSLs would also have a vital role to play.

2.10. With tackling homelessness remaining a priority for the Scottish Government, the discussion paper *Firm Foundations* recognises the pressure these extended duties place on all social landlords, including RSLs. These additional pressures are often felt strongly by landlords at a local level, as was evident from the 2007 Scottish Government research into the tensions between allocations policy and practice⁸.

2.11. It also recognises the growing proportion of the social rented sector which is provided by RSLs. Aside from those areas which have only RSL housing as a result of stock transfer, the proportion of social rented housing in the RSL sector ranges from less than 15% in Aberdeen City to slightly less than 40% in Edinburgh.

⁸ <http://www.scotland.gov.uk/Resource/Doc/200453/0053598.pdf>

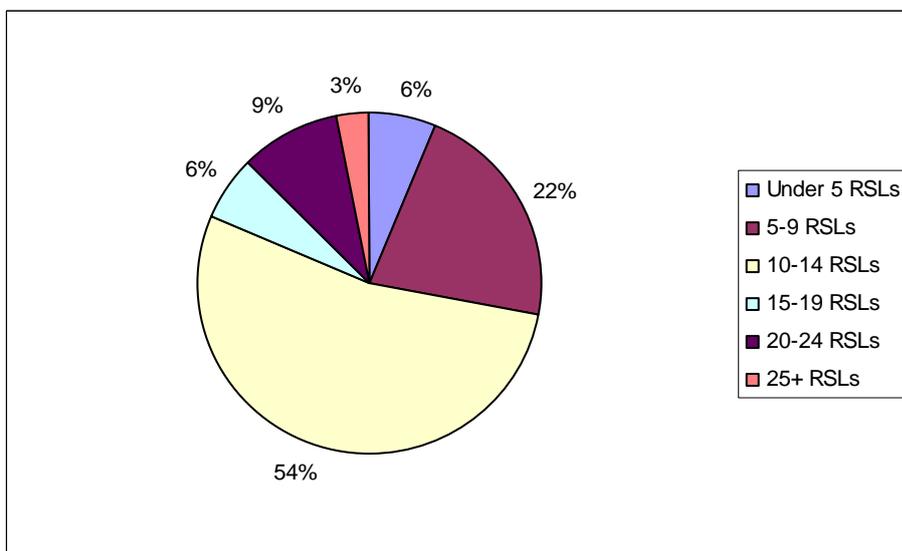
Figure 2.1 Proportions of local authority and RSL stock



Source: APSR and Annual Reporting of Local Authority Housing Stock (Stock 1) 2006/7

2.12. The implications for local authorities of working with RSLs in tackling homelessness are also affected by the number of RSLs operating in their area. More than half of local authorities (54%) have between 10 and 14 RSLs operating in their area, with a further 18% having more, and 28% fewer.

Figure 2.2 Numbers of RSLs in local authority areas



Source: Figures are taken from Scottish Housing Regulator Public Register of Social Landlords.
 Note: There are 14 RSLs for which no local authority area is identified.

2.13. The collaboration between local authorities and RSLs in meeting local housing needs pre-dates the 2001 Act; indeed many developments of RSL properties only received local authority support on the condition that 50% of lets would be made available to local authorities. Nominations have, therefore, long been part of local relationships. Equally it has always been the case in relation to nominations that the extent to which they are used by local authorities has varied significantly. Research undertaken by the School of Planning and Housing at Heriot-Watt in 1996 for the (then) Scottish Office found that the proportion of lets to those nominated by local authorities varied by area and by type of RSL⁹.

2.14. The use of Section 5 has, therefore, been super-imposed on an existing pattern of relationships between local authorities and RSLs in relation to a particular group of applicants, namely homeless households. It is perhaps not surprising that the evidence which has existed to date on the use of Section 5 has suggested that there is a rich tapestry of different approaches at local level, probably both between and within local authorities in relation to different types of RSL (particularly specialist/non specialist), and different types and sizes of housing stock. This very mixed picture was recently confirmed by the 2012 Homelessness Support Project report¹⁰ which found little consistent practice in securing RSL lets for statutorily homeless households.

2.15. The 2012 Homelessness Support Project report also identified a general feeling among councils that RSLs needed to play a greater role in tackling homelessness across a range of areas, including the provision of more permanent accommodation. There are, of course, likely to be particular issues for those local authorities which have transferred their housing stock to RSLs – Scottish Borders, Glasgow, Dumfries & Galloway, Western Isles, Inverclyde and Argyll & Bute. In these areas it is only through RSLs that the local authorities can access social rented sector tenancies for those assessed as homeless¹¹. Taylor (2008)¹² found that all stock transfer authorities had agreed a protocol with the acquiring RSL at the point of transfer, but had separate agreements with other RSLs. In the post transfer period the respective councils have generally been leading on the revision of protocols and agreements into one single agreement with all RSLs with provision in their area.

2.16. The relationship between, and the respective roles of, the local authority and the local RSLs are also affected by the local allocations arrangements and in particular whether there is an operational Common Housing Register (CHR). The development of CHRs in Scotland has been driven by a range of factors, including the requirements of the Housing (Scotland) Act 2001. Most importantly, CHRs are expected to have potential benefits for applicants who, by registering with the CHR, could then potentially be considered for suitable vacancies within any of the participating social landlords. If a CHR has been agreed as a mechanism through which the local authority will access tenancies for statutorily homeless applicants, homeless households will usually be assisted or encouraged to register with the CHR¹³.

⁹ Nomination Arrangements in Scotland, School of Planning and Housing, 1996

¹⁰ The 2012 homelessness support project supported local authorities in achieving the national target to abolish priority need by 2012. The report is independent of government and is by officers seconded from local authority homelessness teams to the Scottish Government. The report is available at <http://openscotland.gov.uk/Publications/2008/03/27152416/0>.

¹¹ The role of the private rented sector in securing permanent accommodation for statutorily homeless households is currently being consulted on by the Scottish Government under its consideration of the Homeless Person Interim Accommodation (Scotland) Regulations 2002.

¹² Dr Mary Taylor (2008) Managing Homelessness without Housing – a report for the SCSH and its partners. Summary available at <http://www.scsch.co.uk/>.

¹³ This is likely to be part of a wider discussion on housing options

2.17. Underpinning CHR is the development of a partnership between the local authority and RSL partners in meeting local need; almost by definition a fully operational CHR will have required local partners to resolve any existing differences they have about respective roles in relation to re-housing applicants, or about the relative priority awarded to respective applicants by partner landlords. In addition, a CHR involves sharing of information about housing stock, turnover and lettings made in the course of a year; this means that there is likely to be greater understanding and greater transparency concerning arrangements in the local area.

2.18. The process which applicants follow to find accommodation in the social rented sector also differs with a CHR, with landlords drawing down names of applicants from a common list. This list will often, although not necessarily, include statutorily homeless households. It is for this reason that the relevance of 'nominations' from the local authority to an RSL, whether by Section 5 or other means, has been questioned in the context of a CHR. Unsurprisingly, it is evident from this research that where a CHR is operating it is likely to have a significant influence on local processes for housing statutorily homeless households.

Basic approaches to referring statutorily homeless applicants

2.19. Perhaps unsurprisingly given the reasons behind the commissioning and primary focus of this study, the research has found a complex, rapidly evolving and at times very hard to categorize variety of arrangements being used to refer statutorily homeless households to RSLs across Scotland. To set the rest of the report in context an overview of the core features of the 3 main approaches is set out here.

2.20. It is important to note that actual practice varied significantly around these approaches and categorization proved problematic as a result. Even within these 3 broad approaches it is not possible to undertake a process mapping exercise of any value since this would essentially result in the development of 32 (or more!) examples. It must be stressed that the categorisations set out below are 'in principle' and that even within these broad approaches the research findings suggest that there is a very wide range of variations in policy and practice both between local authority areas and, on occasion, within local authority areas.

Applicant led

2.21. This approach is based on the local authority identifying a statutorily homeless household for which they wish to secure permanent accommodation, in other words the decision to refer is driven by the needs and requirements of the applicant household and the priority the local authority places on seeking permanent accommodation for that household relative to other statutorily homeless households and any other households in need of permanent accommodation.

2.22. Good practice suggests that the decision to refer to any particular RSL(s) will be based on the local authority's knowledge of RSL stock profile and turnover.

Void led

2.23. In a void 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 RSL will

forward relevant information, such as on the size, type and location of the vacancy, to the local authority.

2.24. The local authority will then select the applicant they wish to be offered that vacancy and make a referral accompanied by the relevant applicant related information.

Mixed approach

2.25. As suggested in the name, in the mixed approach both vacancy and applicant led referral may be employed. In reality one or other of the referral types is usually dominant with the other only used under specific circumstances. So for example, in an essentially applicant led system an RSL may approach the local authority with a specific vacancy if they are seeking to increase the proportion of their lets that are being made to statutorily homeless households. Equally, in a vacancy led system the local authority might approach an RSL(s) if they have an applicant with very specific requirements that are unlikely to be met otherwise.

Model protocol

2.26. In order to provide support to local partners, as well as a degree of consistency, the Scottish Federation of Housing Associations (SFHA) and the Convention of Scottish Local Authorities (COSLA) developed a model protocol in 2002. The protocol could be used by local authorities and RSLs as a basis for developing their own local Section 5 protocol. The protocol is based on an applicant led system.

2.27. The protocol is designed to be read alongside both the legislation and the Ministerial Guidance on what constitutes 'good reason' and 'reasonable period'. The model protocol is divided into 10 sections which cover the following:

- Introduction
- Liaison arrangements
- Stock information
- Tenancy information
- Quotas
- The referral process
- Arbitration
- Tracking and monitoring of referrals
- Ongoing review of the operation of the protocol
- Signatures

2.28. The SFHA, COSLA and the Scottish Government see the model protocol as a working document to be tailored to reflect the outcome of local discussions. It is assumed that, if the model protocol is used¹⁴, there will be a degree of local negotiation and flexibility and the final protocol will reflect the day-to-day operation of the particular local authority area.

Outcomes and standards

2.29. Over recent years, but particularly since the current Scottish Government was elected, there has been an important shift in the wider context within which public services operate.

¹⁴ The model protocol has no statutory status.

Since May 2007 the work of both national and local government has been increasingly outcome focussed, with the Scottish Government leading on the development of overarching national outcomes and local government tasked with prioritizing and meeting those outcomes at a local level. A Concordat sets out the terms of the new relationship between the Scottish Government and local government, which is expected to be based on mutual respect and partnership, and underpins the funding to be provided to local government over the period 2008/09 to 2010/11¹⁵. As part of this agreement, the Scottish Government undertook to simplify and streamline funding streams to local authorities, removing the ring-fencing from certain budgets; this has included the removal of ring-fencing from homelessness and Supporting People budgets.

2.30. A series of national outcomes (15) and indicators (45) accompany the Concordat and each local authority is required to reach a Single Outcome Agreement (SOA) with the Scottish Government which based on these national outcomes but also takes account of local priorities. Indicator 22 is most relevant to the context in which Section 5 operates, stating as it does that *'all unintentionally homeless households will be entitled to settled accommodation by 2012.'*

2.31. In addition to operating within this wider outcome focussed context, social landlords (both local authorities and RSLs) are expected to meet the performance standards of the Scottish Housing Regulator¹⁶. Local authorities are also expected to meet standards relating to their statutory duty to provide services to homeless households. The standards, which are organised into 20 Guiding Standards and 33 Activity Standards, provide the framework for the Regulator to assess the performance of social landlords and homelessness services.

2.32. The Activity Standards of most direct relevance to this study fall within the Housing Management (Activity Standard 1) and Homelessness (Activity Standard 4) groups and the key ones are set out below:

- **AS1.1 – ACCESS TO HOUSING** We ensure that all people have fair and open access to our housing list and assessment process. We work with others to maximise and simplify access routes into our housing.
- **AS1.2 – LETTINGS** We let houses in a way that gives reasonable preference to those in greatest housing need; makes best use of available stock; maximises choice; and helps sustain communities.
- **AS1.4 – HOUSING SUPPORT NEEDS** We are responsive to people's individual housing support needs and help them to sustain their tenancies.
- **AS4.2 – PARTNERSHIP** We work actively with other organisations, and within our own organisation, to ensure that the needs of homeless people are met appropriately and as quickly as possible

¹⁵ It also is worth noting that the 3 year budget settlement also signalled the end of ring-fencing of Supporting People Funding. Many recently developed homelessness services have depended upon Supporting People Funding in whole or in part and the removal of ring-fencing has the potential to affect a range of preventative services, temporary and specialist accommodation and resettlement services. The sums to be rolled into the overall local government settlement for 2008/09 are as originally anticipated, but the degree to which the ending of ring-fencing will have an impact on housing support services is unclear.

¹⁶http://www.scotishhousingregulator.gov.uk/stellent/groups/public/documents/webpages/shr_performancestandards.hcsp

- **AS4.4 – PREVENTION** We work to prevent homelessness arising in the first place and its recurrence when it has occurred.
- **AS4.8 – QUALITY OF ACCOMMODATION** When we arrange temporary or permanent accommodation, we treat homeless people fairly and appropriately in terms of tenancy provisions, quality of housing and location. We provide temporary accommodation when needed and maximise the availability of suitable permanent accommodation for homeless people.
- **AS4.10 – ACCOMMODATION PROVISION (RSLs ONLY)** We supply accurate and up to date information about our stock to local authorities as requested and in agreement with them. We comply with requests from local authorities to provide accommodation for homeless people, unless we have good reasons for not doing so. We make sure we treat homeless people fairly in terms of the quality of housing and location we offer them.

2.33. When considering the use of Section 5 specifically and the housing of statutorily homeless households more generally, the Scottish Housing Regulator¹⁷ is looking for the following outcomes:

- Housing that meets the homeless household's needs;
- Minimisation of the wait for that housing;
- A good level of choice;
- Support needs being considered and met; and
- A proactive approach from RSLs.

2.34. A brief analysis of the recent Scottish Housing Regulator/Communities Scotland Regulation and Inspection Division inspection reports for both local authorities and RSLs suggests that while there is much positive practice, there is also considerable room for improvement in many areas. Of particular relevance to this study are the Regulator's concerns about the proportion of RSL lets that were being secured for statutorily homeless households in some areas.

2.35. There were occasions on which the Regulator found that local arrangements could be improved. Suggested improvements included putting in place agreements and working arrangements on the use of the local authorities' powers under Section 5, improving recording practice around the discharge of duty and better information exchange around RSL turnover.

¹⁷ 2006 Shelter Scotland conference presentation by the Acting Head of Inspection, Regulation and Inspection. Available at: http://scotland.shelter.dev.squiz.co.uk/professional_resources/training_and_conferences/seminars_and_conferences/event_presentations/section_5_homelessness_referrals

3. REVIEW OF EXISTING DATA SOURCES ON LETS

3.1. This section examines some of the key national data sets that contain information relating to the referral of statutorily homeless households to RSLs and the use of Section 5.

Key Issues

- Overall in Scotland, the analysis shows that just under a quarter (24%) of non-transfer RSL lets were made to statutorily homeless households in 2006/07. The variation between different local authority areas is, however, substantial, ranging from over 50% in Dumfries and Galloway to a little under 15% in Inverclyde.
- The proportion of lets to statutorily homeless households within individual RSLs shows an even wider range, with some RSLs reporting rates of over 70% while others are under 5%. Nearly all RSLs who made lets in 2006/07 had made a proportion of them to homeless households referred from the local authority.
- The APSR data shows that overall, considerably more statutorily homeless households were housed following a Section 5 referral (16% of all lets in 2006/07) than following a referral from the local authority by other means (4% of all lets).
- Reflecting the range of local arrangements, the balance between Section 5 lets and other statutorily homeless lets varies significantly between RSLs, with some RSLs letting only following a Section 5 referral, others making lets only from referrals by other means and some making lets as a result of referrals by a range of routes.
- There was, however, no clear pattern between high use of one referral means or another and high proportions of RSL lets being made to homeless households. In other words, there was no apparent relationship between the use (or not) of Section 5 and the proportion of all lets available that went to statutorily homeless households.

3.2. There are a number of sources of information on lets made by RSLs; this includes reported lets to different ‘types’ of applicant (such as transfer applicants and statutorily homeless households) and by the ‘source’ of that application (such as through direct application to the RSL, Section 5 referral, or nomination). In principle this data should provide evidence on the extent to which RSL lets are made to statutorily homeless households, and the extent to which these lets have originated from a Section 5 referral.

3.3. The national datasets of particular interest are the Annual Performance Statistical Return (APSR), and the HL1s. The APSR provides information on the number of lets made by each RSL, identifying the type and source of that let. The information is based on data provided by RSLs on an annual basis. The HL1 dataset is based on details collected by local authorities of homeless applicant households; this dataset includes information on the ‘outcome’ for that household, including if re-housed in the social rented sector whether by the local authority or an RSL.

3.4. Both datasets therefore record the number of lets made by RSLs to statutorily homeless households, although APSR reports this by RSL while HL1 reports by local

authority. In order to identify the proportion of RSL lets made to statutorily homeless households in each local authority area, data needs to be drawn from both datasets.

3.5. The requirement to draw data from both sources creates some difficulty due to discrepancies between APSR and HL1 data. Specifically, the number of RSL lets recorded as being made to statutorily homeless households can differ by a significant margin between APSR and HL1 data. The reasons for this discrepancy are not wholly clear although the extent of variation in some local authority areas suggests that recording errors may be a factor.¹⁸

3.6. Notwithstanding difficulties in the interpretation of national data, it provides useful contextual information on the scale of lets made by RSLs and the extent to which these are to homeless households. To set this information in context it is worth noting that for their part, across Scotland overall local authorities¹⁹ are reported as letting 43% of their non-transfer lets to homeless households in 2006/07, with a range between 77% in East Lothian to 16% in Aberdeen City. By 2007/08 49% of non-transfer local authority lets were to statutorily homeless households, with a range between 87% in East Dunbartonshire to 22% in Aberdeen City²⁰.

3.7. The chart below shows the proportion of RSL lets made to statutorily homeless households as a proportion of all 'non-transfer' lets – in other words it excludes lets made to existing tenants.²¹

3.8. Overall in Scotland, this analysis shows that just under a quarter (24%) of non-transfer RSL lets were made to statutorily homeless households in 2006/07. The variation between different local authority areas is, however, substantial, ranging from over 50% in Dumfries and Galloway to a little under 15% in Inverclyde²².

3.9. Since this initial analysis was undertaken there has been an increase in the number of lets made by RSLs to statutorily homeless households, rising by a little over 500, or 10%, between 06/07 and 07/08: this represents an increase from 23% to around 25% in the proportion of all RSL non transfer lets made by RSLs to statutorily homeless households.

3.10. The proportion of lets to homeless households within individual RSLs also shows a wide range, with some RSLs reporting over 70% while others are under 5%. Nearly all RSLs who made lets in 2006/07 had made a proportion of them to homeless households referred from the local authority.

3.11. In addition to the general caveat about the data on which the chart is based, it should also be noted that the data on lets includes those to all RSL properties, including both general needs and special needs. Around 14% of RSL housing stock, a higher proportion than in local authorities, is 'not self-contained', and around 11% of RSL housing stock (some of which will also be 'not self-contained') is specifically for older people; only a relatively small

¹⁸ For example in some areas the number of Section 5 referrals recorded by APSR data exceeds the total number of RSL lets to homeless households recorded by HL1 data. Difficulties with national data sources on lets to homeless households are discussed further in *Managing Homelessness without Housing*, Dr Mary Taylor, SCSH 2007

¹⁹ Figures exclude total stock transfer authorities.

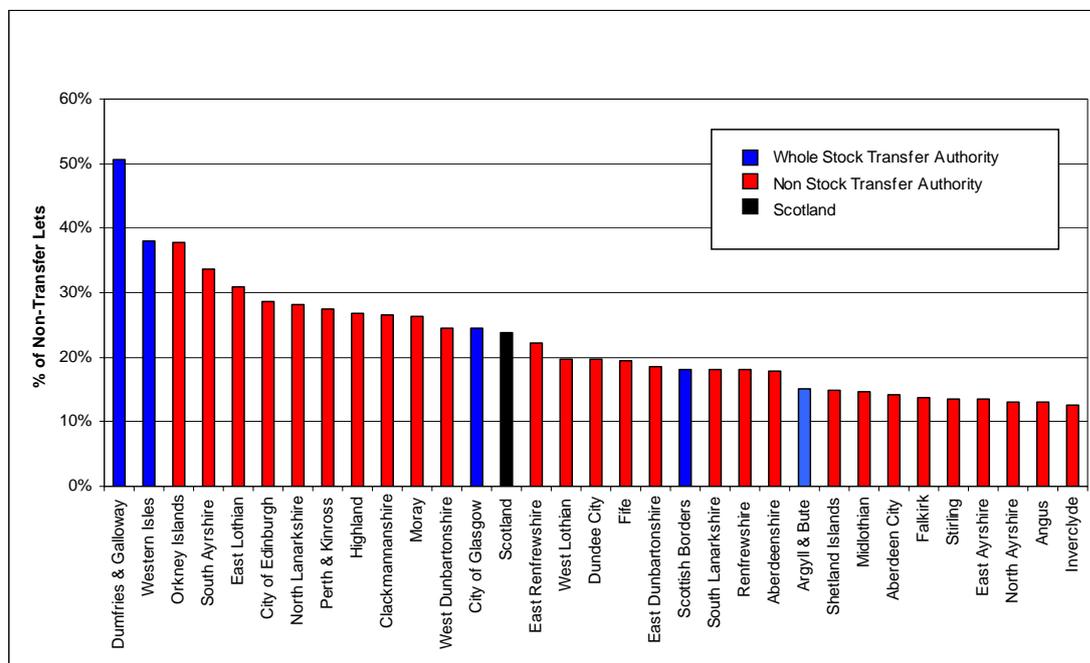
²⁰ Lettings Returns by local authorities to the Scottish Government, Communities Analytical Services (Housing Statistics)

²¹ This is based on additional analysis undertaken by the Scottish Government, which combined APSR and HL1 published data by using the higher of two figures recorded for RSL lets to homeless households.

²² The Inverclyde whole stock transfer took place in December 2007 and hence it was not a stock transfer authority during the 2006/07 data collection period.

proportion of statutorily homeless households require this type of housing. The proportion of RSL non-transfer *general needs* lets going to homeless households is likely to be higher than that illustrated below.

Figure 3.1 Percentage of RSL non-transfer lets to homeless households 2006/07



Source: APSR and HL1 2006/07 Scottish Government Analysis

Note: The Inverclyde stock transfer took place in December 2007 and hence it is not identified as a stock transfer authority in the chart. The Western Isles transfer took place in September 2006 and hence the data presented here covers the pre and post transfer period.

3.12. Interestingly some of the case study areas are starting to move to local area performance reporting based on lets that are suitable for offer to statutorily homeless households rather than all available lets; for example, if some of the lets that become available are within sheltered accommodation, but there are no homeless households that could be appropriately referred for these lets, they will be excluded when calculating the percentage of all RSL lets that went to homeless households.

3.13. The APSR data distinguishes between RSL lets made to those who were referred to the RSL from the local authority using Section 5 and using other means. This data shows that in Scotland overall:

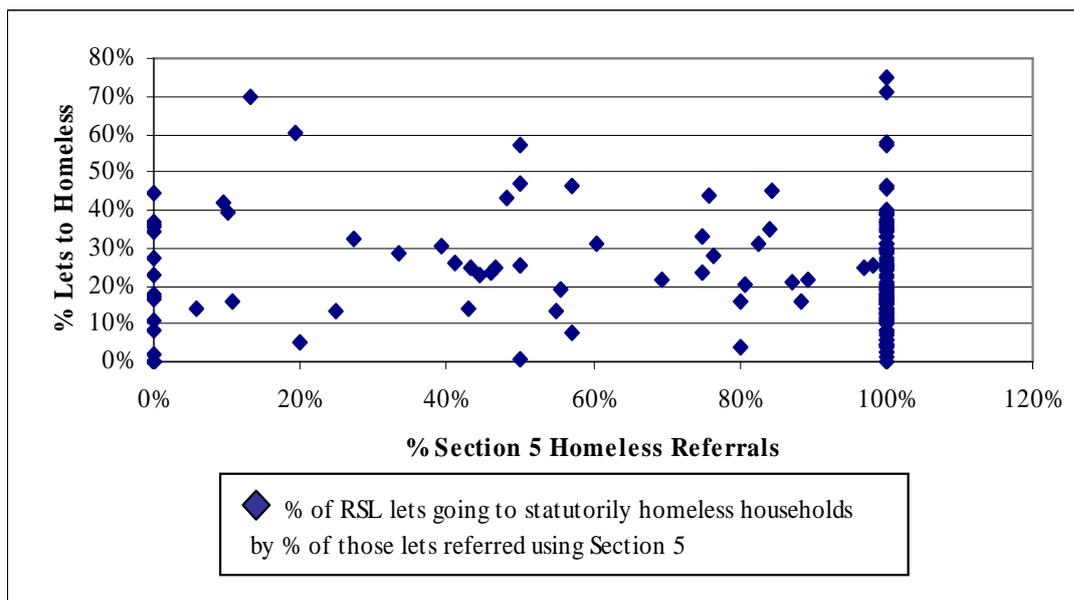
- Considerably more homeless households were housed following a Section 5 referral (16% of all lets in 2006/07) than following a referral from the local authority by other means (4% of all lets); and
- Reflecting the range of local arrangements, the balance between Section 5 lets and other homeless lets varies significantly between RSLs, with some RSLs letting only following a Section 5 referral, others making lets only from referrals by other means and some making lets as a result of referrals by a range of referral routes.

3.14. The survey found that around two thirds of RSLs (63%) received all referrals of statutorily homeless households using Section 5 and reported that their lets to homeless

households referred by the local authority had *all* been following a Section 5 referral; this proportion was affected by the large number of RSLs in Glasgow, where all referrals are made using Section 5.

3.15. There was, however, no clear pattern between high use of one referral means or another and high proportions of an RSL's let's being made to statutorily homeless households. In other words, there was no apparent relationship between the use (or not) of Section 5 and the proportion of all lets available that went to statutorily homeless households.

Figure 3.2 Percentage of RSL lets going to statutorily homeless households by percentage of those lets referred using Section 5



Source: APSR 2006/07, Craigforth Analysis

3.16. Both the APSR and the HL1s report lets made to statutorily homeless households. Other data reports on lets made by RSLs to other households which RSLs identify as homeless, but who are not determined as such by the local authority. SCORE (Scottish Continuous Recording) data for 2006/07 shows that 24% of all non-transfer lets were made to statutorily homeless households, the same as the APSR figure. In addition, RSLs reported through SCORE that a further 15% of lets went to 'non-statutorily' homeless households.

4. USE OF SECTION 5

4.1. An objective of the research has been to quantify, categorise and map the extent of use of Section 5 and alternative methods to place statutorily homeless households in RSL accommodation. The previous chapter examined information held in national datasets. This chapter considers the primary data gathered through this research. The key issues contained within this chapter are set out in the box below.

Key Issues

- 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 of the stock transfer authorities did not make referrals because of the operation of a CHR.
- 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.
- In these ‘mixed’ systems the decision to use Section 5 for any particular referral was often driven by meeting pre-determined targets and quotas as set out in nomination or Section 5 agreements.
- Some RSL representatives were concerned that housing households holding statutorily homeless status through their general waiting list was not sufficiently reflected through current performance reporting systems.
- Local authority staff sometimes chose to use Section 5 when they were looking for a let for a household with relatively specific needs or preferences. In general, a Section 5 referral was seen as more likely than a nomination to result in an offer being made under these types of circumstances.
- Where both nominations and Section 5 referrals were being used, there was not always consistent decision making practice across the local authority area.
- When both Section 5 and nominations were being used, front line RSL staff generally preferred to receive Section 5 referrals as they tended to be accompanied by more comprehensive and up to date information than nominations.

Overview of arrangements

4.2. This section considers the arrangements that are in place at council area level across Scotland. To set these findings in context it is worth clarifying at the outset that the research has identified a broad range of understanding and practice within local areas:

- There may be some differences in how senior and middle management and policy staff expect their local system to work and the actual practice as reported by front line

staff. Survey returns have tended to be completed by staff in management or policy posts and will tend, therefore, to more accurately reflect the ‘official position’;

- Where actual practice differs from official policy/procedure this was not necessarily happening consistently across any local authority area or even within any organisation; and
- There are inconsistencies in the way terminology is being used. In particular, some people used the term Section 5 to suggest a subset of nominations e.g. “We have a 50% nomination agreement and around half of those nominations would be Section 5s”. Others saw Section 5 and nominations as 2 distinct referral mechanisms e.g. “The council can refer for 50% of our lets and that’s split between nominations and Section 5s”.

4.3. To provide an overall context within which to explore the use of Section 5, the survey sought information from both local authorities and RSLs about whether they make or receive *any* referrals, whether of statutorily homeless, non statutorily homeless or other households:

- All local authorities stated that they made referrals to RSLs on at least some occasions;
- All but 7 of the RSLs stated that they received referrals from local authorities; and
- Reasons for not making or receiving referrals included the operation of a CHR and/or the use of Choice Based Lettings policies.

4.4. In terms of statutorily homeless households specifically:

- 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. They included 5 total stock transfer authorities plus one non-transfer authority. One of the stock transfer authorities does not make referrals because of the operation of a CHR;
- For most RSLs (64%) all referrals they received were of statutorily homeless households; and
- Less than a third of RSLs (31%) said that they also received referrals of other households.

Table 4.1 Referrals of statutorily homeless households received by RSLs

	No	%
Yes, <i>all</i> of the referrals we receive are statutorily homeless households	79	64%
Yes, <i>a proportion</i> of the referrals we receive are statutorily homeless households	38	31%
No, we <i>never</i> receive referrals of statutorily homeless households	7	6%
Total	124	
No reply	3	

Source: Survey of RSLs

Note: percentages do not sum to 100% due to rounding

4.5. RSLs were also asked what other arrangements they had in place to assist statutorily homeless households to access lets within their housing stock:

- More than two thirds (68%) stated that households can apply directly to them and that some had already made a waiting list application to the RSL before presenting as homeless; and
- Some gave increased priority to statutorily homeless households through their allocations policies and may house such applicants directly from their list irrespective of whether they have been referred by the local authority.

4.6. The potential for RSLs to be housing statutorily homeless applicants through their general waiting list, and concerns that under these circumstances they are not being ‘credited’ with housing a statutorily homeless household within performance reports was raised by a number of research participants. The RSL representatives who raised this issue overwhelmingly felt that statistics (whether local or national) should more clearly reflect the contribution their individual RSL makes towards housing households with a statutorily homeless decision, irrespective of whether the household is referred by the local authority.

‘The Government should be aware that only a percentage of statutorily homeless applicants are housed via S5 referrals by RSLs. Many are housed via own lists and nomination agreements that may not be recorded by councils’. (RSL)

4.7. However, local authority and voluntary agency representatives generally suggested that, even if these lets were recorded as being made to statutorily homeless households, they should not be credited against any statutorily homeless letting quotas or targets that had previously been agreed with the local authority.

Extent of use of Section 5

4.8. Local authorities divided relatively evenly between those that always used Section 5 to make a referral of a statutorily homeless household to an RSL (14) and those that sometimes used Section 5 (12). There are no obvious connections (in terms of stock transfer or not, operation of a CHR etc) between the 4 authorities that reported never using Section 5.

4.9. In line with the analysis of the APSR, around two thirds of RSLs (62%) stated that statutorily homeless households were always referred to them using Section 5. When Glasgow based RSLs are excluded the proportion falls to just over half (51%).

Table 4.2 Use of Section 5 for statutorily homeless referrals to RSLs

	Local Authority	RSL	
	No.	No.	%
We <i>never</i> use it / It is never used	4	2	2%
<i>Always</i> for <i>all</i> statutorily homeless households	14	73	62%
<i>Varies</i> depending on the particular circumstances	12	42	36%
Total	30	117	

Source: Surveys of Local Authorities and RSLs

Note: percentages do not sum to 100% due to rounding

4.10. When varying referral routes are used, both local authorities and RSLs identified a number of factors that could influence the referral route employed. These include simply meeting pre-determined targets and quotas as set out in nomination or Section 5 agreements, such as 50% of all referrals are made using Section 5 and 50% are made as standard nominations.

4.11. The council may decide which referral route to use, in other words the decision will be driven by the council looking to meet its targets. Alternatively an RSL may request either a Section 5 referral or a nomination. In almost all instances to emerge during the fieldwork, the RSL’s decision to request a Section 5 referral or a nomination was based on meeting quotas or targets and there was only one occasion on which an RSL had chosen the nominations route in order to exercise a greater degree of control over who would be offered a particular property.

4.12. From the council’s perspective the decision to refer using Section 5 was also sometimes taken when the local authority was looking for a let for a household with relatively specific needs or preferences, for example they needed a property of a very specific type or an applicant had asked to be housed in a specific area. Under these types of circumstances, a Section 5 referral was seen as more likely than a nomination to result in an offer being made to that specific household and was essentially being used as a mechanism to ensure “best use” of an available vacancy.

4.13. However, this was not necessarily because a Section 5 referral was seen as imposing a greater responsibility to make an offer on a RSL, but was sometimes part of a collaborative approach being taken to secure an appropriate let for a particular household.

‘Section 5 is used co-operatively. For example, where our allocations policy dictates that an applicant would not normally be housed by us, we have jointly agreed to use Section 5 to ensure a successful outcome without contravening our policy.’ (RSL)

4.14. Where both nominations and Section 5 referrals were being used, there was not always consistent decision making practice across the local authority area. In some areas,

some staff and/or offices were making decisions about whether to use the Section 5 or nomination route based on quotas, others based on the particular needs of applicants. Among RSLs, around 1 in 3 respondents (31%) said that they did not know why the local authority sometimes used Section 5 and sometimes did not.

4.15. A corresponding lack of clarity emerged from some of the case study areas and while it was often considered to be more puzzling than problematic by front line staff, it sometimes led to concerns about how transparent and equitable the system could be in these circumstances.

4.16. Perhaps surprisingly, in some case study areas in which both Section 5 and nominations were being used for statutorily homeless referrals (and there is no operational CHR), front line RSL staff tended to report an overall preference for receiving a referral via the Section 5 route. This was because:

- Section 5 referrals were generally seen as being accompanied by accurate household profile and up to date contact information;
- In contrast, the information accompanying nominations was often reported to be out of date and/or inaccurate. As a result, some RSLs reported that letting via the nominations route could often be time consuming and resulted in an increased administrative burden and a longer void rent loss period; and
- Front line RSL staff also generally reported that applicants were less likely to have been informed that a nomination had been made to their association than was the case for households referred via Section 5.

4.17. However, middle and senior managers within RSLs tended to either prefer the nominations route or at least feel it was a valuable alternative mechanism for housing statutorily homeless applicants within RSL stock.

Classification as Section 5

4.18. There is differing practice among local authorities about the point in the process at which a referral is categorised as either a Section 5 or a nomination. The majority of local authorities categorised a referral as Section 5 at the point at which a referral was made: only one local authority stated that the categorisation was after consultation with the RSL. However, a number of those authorities stating that they categorised Section 5s at the point of referral also stated that they sometimes or usually held pre-referral discussions with RSLs, making it unclear what was considered to be the start of the referral process.

4.19. In some areas a referral may be made under Section 5 but may then be ‘withdrawn’ after discussions between the local authority and the RSL in question. These discussions were often prompted by the RSL uncovering information, at either first contact with the applicant or at interview, which made the referral inappropriate. However, there were occasional instances when the referral was withdrawn for other reasons, usually where the referred household did not meet the profile of household the RSL was looking for in a sensitive letting situation.

4.20. This was sometimes because the procedures were not in place to allow the RSL to request a sensitive let in advance. In other instances a sensitive let had been requested but the

RSL was not satisfied that the terms had been met. The case study team found only one occasion when a referral had been withdrawn because of previous rent arrears.

Case Illustration 1

In March 2008 a housing association working in a 'vacancy led' system had a flat to let in one of its small flatted blocks. The association alternates between offering vacancies to the council and letting from their own list simply on the basis of the date when properties become available. They notified their local council office that this let was available for a referral of a statutorily homeless household. The let was within a block where 3 older tenants had been living for some time and the RSL requested a referral that would be sensitive to the existing dynamic. Two days later they received a Section 5 referral for an 18 year old man looking for his first tenancy. Despite some reservations, the RSL invited the applicant for interview. At the interview RSL staff discovered that the man was completely unfamiliar with the area and did not want to live there because of the distance from his family and friends. As a consequence, RSL staff had real concerns that he would struggle to maintain his tenancy. After discussions between the RSL and the council, and then between the council and the applicant, the referral was withdrawn and replaced with a nomination list of 3 names.

5. THE LOCAL PROCESSES

5.1. This chapter maps in detail the processes used by local authorities and RSLs in referring and housing statutorily homeless households in RSL accommodation, and identifies the issues with these processes.

Key Issues

- 10 authorities used a vacancy led approach, 9 used an applicant led approach and 9 used a combination of the two approaches. Four out of the 5 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. The fact that many areas are currently or have recently reviewed their agreements and procedures may well reflect a need to reconsider often long standing arrangements in light of increasing duties in the lead up to the 2012 abolition of priority need.
- There appeared to be an element of ‘conflict avoidance’ taking place, with staff within local authorities sometimes reluctant to jeopardise working relationships with their counterparts in RSLs by referring applicants that they expected to cause significant tenancy management problems.
- Overall, the study findings suggested that there was some confusion as to how the Code of Guidance on Homelessness should be interpreted with regard to the numbers of offers to be made, and that the Guidance is not being interpreted consistently across all housing providers. 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.
- Most local authorities undertook pre-referral discussions with RSLs in at least some circumstances. Among those that held pre-referral discussions there was strong support for their continued use. The main reasons given were around avoiding abortive referrals and unnecessary work.
- Recording of pre-referral discussions is patchy and when information is gathered, it is rarely used as part of a broader monitoring of the operation of Section 5 or other referrals.
- RSLs generally preferred a system in which the referral for any single household is sent to one RSL at a time and saw it as the most administratively efficient process from their perspective. However, RSLs operating in applicant led systems had a clear understanding of the reasoning behind making multiple referrals, albeit that some had concerns it could potentially lead to ‘administrative chaos’ unless managed very effectively by the local authority.

Key Issues Continued

- 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.

Type of referral approach used

5.2. As stated earlier, in broad terms, there are 2 main approaches used to refer an applicant, whether or not they are statutorily homeless, to an RSL: ‘vacancy’ led, and ‘applicant’ led. Both local authorities and RSLs were asked whether the referral of statutorily homeless households was vacancy or applicant led. The responses from local authorities show a very even spread across the different approaches²³:

- 10 authorities used a vacancy led approach;
- 9 used an applicant led approach; and
- 9 used a combination of the 2 approaches.

5.3. Understandably, applicant led systems were most common amongst stock transfer local authorities, with 4 of the 5 respondents²⁴ always using an applicant led system and one combining applicant and vacancy led systems: none always used a vacancy led system.

5.4. The evidence suggests that within some areas operating applicant led systems, RSL staff may nevertheless advise the council of vacancies on occasions. Informal discussions will then lead to an ostensibly applicant led Section 5 referral being sent, although in reality the applicant and property have already been ‘matched’ before the referral is made. This flexibility was seen as particularly useful where the council was looking for a very specific property in terms of type or location. RSL partners were often aware of the requirement for a property for a particular household and were ‘on the look out’ for a suitable vacancy and would notify the council should such a vacancy arise.

²³ Two authorities did not answer the question.

²⁴ One of the stock transfer authorities did not answer this question

Case Illustration 2

In an applicant led system, a wheelchair user with 2 young children needed a wheelchair accessible 3 bed property. One of her priorities was to allow her children to stay at the same schools, but she also wished to be as far away as possible from her abusive former partner and his network of family and friends. All local RSLs were notified of the applicant's needs at one of the regular meetings between council and RSL staff. Two weeks later a possible RSL let became available and an RSL housing officer contacted the homeless team. The homeless team then contacted the applicant to discuss the location of the vacancy and whether it would be appropriate to make a referral. The applicant was keen to view the property, a Section 5 referral was sent and the family moved in 3 weeks later.

5.5. The reasons for adopting a combined approach appeared to be essentially pragmatic, with local authorities reporting that it gives them the capacity to respond to the needs or choice of the applicant, to the needs of the local community, and availability of RSL stock in a particular area. However, even when a combined approach is used, there tended to be a dominant system, which was deviated from in particular circumstances.

'Vacancy led can be used where a particular house type or area is required e.g. medical need. Applicant led is where they request a referral to a particular RSL and there is a realistic opportunity of accessing housing.' (Council)

Relationship between approach adopted and local context

5.6. The primary and secondary data has been analysed to consider whether there were any significant relationships between the type of approach adopted and aspects of the local context. The categories considered, such as whether it is an urban or rural area and the number of RSLs operating in the area, were amongst those that might potentially affect the type of approach adopted. The analysis suggests that:

- Urban areas²⁵ were more likely to adopt applicant led systems; 6 out of 10 urban areas used an applicant led system, 3 a void led system and one a mixed system. There were no particular patterns to emerge in mixed or rural areas;
- There was no clear relationship between high pressure in the social rented sector market and the approach adopted²⁶. Of the 10 local authorities identified as having highest pressure and that responded to the survey, 5 have adopted a mixed system, 3 a void led system and 2 an applicant led system;
- However, there does appear to be a relationship between low pressure and approach. Of the 10 local authorities identified as having lowest pressure and that responded to the survey, 7 have adopted an applicant led system, 2 a void led system and 1 a mixed system;

²⁵ Based on the Scottish Government Urban Rural Classification 2007/08

²⁶ Assessment of pressure on the housing market is taken from Local Housing Need and Affordability Model for Scotland (2005 Update). Available at http://www.communitiesscotland.gov.uk/stellent/groups/public/documents/webpages/pubcs_016552.pdf

- There was no relationship between the type of approach adopted and the number of RSLs operating in an area, or the proportion of households in the area that live in the social rented sector or within RSL properties;
- Applicant led systems dominate in stock transfer areas; 4 of the stock transfer areas that responded to the survey use an applicant led approach and one a mixed approach.

5.7. In addition to comparing the type of approach adopted to the wider context, analysis has also been undertaken against available data on homeless presentation rates and on RSL lets to homeless households. However, these results need to be considered in a slightly different light to those above. In particular, any relationships between cause and effect are likely to be complex. For example, would the rate of presentation influence the type of system adopted or could the type of system adopted influence the rate of presentation? Infact, no significant relationships have emerged:

- There is no clear relationship between rate of homeless presentation²⁷ and approach taken. In the 10 local authorities with the lowest rates of homeless presentation, 5 use an applicant led system, 3 a void led system and 2 a mixed system. In the 10 areas with the highest rates of presentation, 4 use a mixed system, 3 an applicant led system and 3 a void led system;
- There is no relationship between the type of system in operation and the proportion of non transfer RSL lets that go to statutorily homeless households. Among the 10 authorities in which the highest proportion of non transfer RSL lets went to statutorily homeless households in 2006/07, 4 operate a void led system, 3 an applicant led system and 3 a mixed system;
- Among the 10 authorities with the lowest proportion of non transfer RSL lets going to statutorily homeless households, 4 operate a void led system, 3 an applicant led system and 3 a mixed system;
- There is no relationship between approach adopted and the proportion of priority need households that secure permanent accommodation as the outcome of their homeless presentation²⁸.

5.8. Overall, this analysis supports the qualitative findings from the study: namely that the approaches have generally developed out of existing agreements and practices, particularly those relating to nominations, rather than being developed ‘from scratch’ in response to Section 5 powers. The fact that many areas are currently, or have recently, reviewed their agreements and procedures may well reflect a need to reconsider often long standing arrangements in the light of increasing duties in the lead up to the 2012 abolition of priority need.

Deciding to refer to an RSL

5.9. The process by which the decision was taken to refer a particular statutorily homeless applicant to an RSL was explored both through the surveys and the case studies:

²⁷ Operation of the Homeless Persons Legislation in Scotland 2007-08: Detailed tables. Scottish Government. Available at <http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/DatasetHomeless0708>

²⁸ Operation of the Homeless Persons Legislation in Scotland 2007-08: Detailed tables. Scottish Government. Available at <http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/DatasetHomeless0708>

this included consideration of both how the decision was reached to refer an applicant to an RSL, and then how it was decided which RSL or RSLs to approach.

5.10. In part, the nature of the decision as to whether to refer to an RSL depended on the type of system in place:

- For stock transfer local authorities there was no decision to make, since the only available social rented sector accommodation is held by RSLs;
- In areas with CHRs, or where Choice Based Letting is operating, making a referral was either less common or not relevant;
- In vacancy led systems the decision to refer any particular household to an RSL is frequently driven by the applicant's position on an ordered list (generally ordered according to the date on which a priority need decision was made). When a vacancy becomes available, irrespective of whether it is within the council or RSL sector, the household at the top of the list for a property of that type and in that location will be referred;
- In applicant led systems, the decisions to refer to an RSL is often driven by the applicant's preference for being housed in a location in which an RSL is the major stock holder. These findings were confirmed through the applicant interviews, with a number of interviewees stating that they had asked for accommodation in a specific area, often close to family and friends or a child's school;
- In high demand areas, the council often pursued a range of options, including referring to RSLs and looking for a possible council let, to minimise the period that an applicant had to wait for an offer.

5.11. There was also some evidence that, on occasions, council staff in non stock transfer areas decided not to refer an applicant to an RSL because they had concerns that the applicant might have difficulty in sustaining the tenancy. This appeared to happen primarily when applicants were assessed as having high support needs and/or a history of anti-social behaviour leading to the loss of a previous social rented tenancy. Staff reported that it would be easier for them to intervene, and in particular to tap into intensive tenancy support services, if the household was living in a council tenancy.

5.12. There also appeared to be an element of 'conflict avoidance', with staff within local authorities reluctant to jeopardise good working relationships with their counterparts in RSLs by referring applicants that they expected to cause significant tenancy management problems.

5.13. In terms of *which* RSL or RSLs to refer to, within a vacancy led system this will clearly relate to available lets. In other words, it will depend on which of their available vacancies any RSL requests a referral for. More than two thirds of RSLs (68%) stated that they decide which vacancy to refer to the council on the basis of agreed quotas, with many simply requesting a referral for every second vacancy that arises.

5.14. Other RSLs reviewed voids as they became available, deciding which vacancies to offer to an applicant on their own housing list and which to seek a referral for. The factors that informed these decisions included:

- The demand for transfers from their own tenants;
- The characteristics of a particular local community; and
- The profile of the immediate neighbours.

5.15. One RSL aimed specifically to offer the council a range of different types of provision, while others seem to be more focussed on addressing the needs of their own organisation or their existing tenants.

‘Consider our own waiting list and transfer list initially. We will also consider the void - are there any sensitive issues within the scheme?’ (RSL)

‘We have regular team meetings on a weekly basis at which we discuss voids and we try and give the council a spread of the re-lets that are coming up. We are aware of our performance as it is recorded on a spreadsheet.’ (RSL)

5.16. In areas operating an applicant led or mixed system, the local authority will decide which RSL or RSLs to refer any household to:

- The most common reason for deciding to refer to a particular RSL was that they held appropriate stock in the area required by applicant, with 9 out of 19 local authorities saying that this would be their primary consideration;
- A further 4 stated that the decision depends on which RSL had vacancies, although it was not clear whether this was about specific vacancies or their understanding of turnover rates.

5.17. The case study fieldwork found that the majority of council staff, and all staff in some of the case study areas, took a range of factors into consideration when choosing which RSL to refer to. In line with national guidance, particular care was often taken to minimise disruption to childcare arrangements and schooling. In cases where violence or abuse had been perpetrated against the applicant, council staff also appeared to be taking every care not to refer to an area close to where the perpetrator, or their family and friends, lived. Case Illustration 2 provides an example of this working in practice.

5.18. In some of the case study areas, albeit primarily where pressure on the housing stock is relatively low, there was also clear evidence of the council trying to respond to applicant preference if at all possible. Where housing pressure was higher, this was tempered by a much stronger emphasis on securing any appropriate permanent accommodation.

‘Referrals can also be made at the service user’s request where it is their choice and their housing aspirations are realistic and can be satisfied by making a Section 5 referral.’ (Council)

‘If they have a clear idea where they’d like to go we’ll try there first’ (Council)

5.19. In a few areas, the council took account of the RSL’s allocations policy, accepting that the RSL would review the referral made against their own set of criteria. This was the case in both vacancy led and applicant led systems.

5.20. However, there was also some evidence of referrals being made without reference to the receiving RSL's allocation policy, and in particular their occupancy standards. As a result referrals were sometimes returned. Discussions were ongoing to address this issue.

5.21. In other areas, RSL housing stock was seen almost as an extension of the council's own provision: in this particular instance the council owned a relatively high proportion of the social housing provision in the area.

'The council considers all...applicants as being suitable for a Section 5 referral to an RSL. There would need to be exceptional circumstances for us to restrict the applicant to "council only".' (Council)

5.22. For both councils and for RSLs, referrals to specialist housing tended to be treated differently. This is because fewer homeless households had a requirement for specialist housing. The approach here tended to be more flexible, with the RSL contacting if they had a vacancy which they could not let, or make best use of, from their own list, or the council approaching the RSL where an applicant had a particular need.

'The other RSLs are small and only provide specialist accommodation so referrals are often only sent when the RSL advises of a vacancy.' (Council)

5.23. The difference in processes in either a CHR or CBL context was also evident in relation to identifying 'referrals'. Depending on local arrangements, all partners in a CHR may be able to monitor both available vacancies and the list order of applicants. When a match of property to a statutorily homeless applicant was made, the RSL generally contacted the council to confirm that the information held on the application was still current. In some cases this may be being done in advance, as an applicant comes close to the top of the list of all priority need applicants, to ensure that any let can be made as quickly and efficiently as possible.

'We meet regularly to discuss who's getting to the top of the list and what vacancies are coming up...whichever association is making the let will contact us just beforehand to check whether its OK to go ahead' (Council)

5.24. In the CBL context the decision to bid for any property will be driven by the applicant, albeit with possible encouragement or support from council staff. In this case the RSL may choose to contact the council to confirm the successful applicant's continuing eligibility for offer i.e. effectively whether they still hold the statutorily homeless status that had entitled them to bid for that particular property.

'...we advertise weekly and applicants apply for the properties that they are interested in. We contact the Local Authority before an offer is made to ensure that the person is still homeless.' (RSL)

5.25. Two of the applicants interviewed had secured their new homes through a CBL bidding process. In both cases their focus appeared to have been very clearly on the location of the property while the landlord (RSL or otherwise) had not been a determining factor in deciding to make a bid.

5.26. Finally there was some, albeit limited, evidence to emerge from the case studies to suggest that some council staff will choose not to refer certain applicants to particular RSLs

because they anticipate that the RSL will not want to accept the referral. This reluctance was likely to stem from the applicant's previous tenancy history and in particular rent arrears issues. However, it should be stressed that this tended to be the practice of an occasional member of staff rather than being consistent or established practice across any of the case study areas.

Case Illustration 3

In a vacancy led system a member of the council homeless team was looking for a 2 bed property for a young single parent who had rent arrears relating to a previous RSL joint tenancy she had held with her former partner. The applicant was keen to live in a relatively specific location in order to be near her family. Most of the smaller properties in that area were owned by 2 locally based RSLs. Both RSLs had notified the council of 2 bed vacancies that were available for Section 5 referral. In the past the homelessness officer had contrasting experiences of referring an applicant with rent arrears to these 2 associations. One association had returned a referral as inappropriate whilst the other had housed the referred applicant.

He told the study team that, if he had referred to the 'less co-operative' association it would have caused delays and that, in a situation of this kind "I'm not going to have a battle for the sake of it...the lassie needed a house and this was the quickest way". However, this effectively meant he referred the applicant to the same association that had housed the last 2 households he had referred via Section 5. The young woman had moved into her new tenancy within 10 days of the Section 5 referral being made.

5.27. It is interesting to note that, as the above case illustrates, staff generally adopted a clearly outcome focussed approach when making these decisions and genuinely seemed to be motivated by a desire to secure appropriate accommodation for clients as quickly as possible. Hence, this tended to be occurring when a range of housing options were available, whether from the council or RSLs, and staff did not perceive that they were disadvantaging an applicant by not making any particular referral. While this clearly has potentially wider implications, particularly in terms of all RSLs accepting their strategic responsibility to house statutorily homeless households, front line council staff tended to make a pragmatic decision intended to result in an applicant being made an offer as quickly as possible and without having to attend an interview at an RSL that might then decline to make them any offer.

Pre-referrals

5.28. The research sought to identify the extent to which there was discussion between local authorities and RSLs ahead of a referral being made: these discussions are termed 'pre-referrals'.

Extent of Pre-Referrals

5.29. Most local authorities (19 of the 28 that answered this question) undertook pre-referral discussions with RSLs in at least some circumstances, although for most this was only 'sometimes'. Only one authority always held pre-referral discussions and 9 'never' did so. The distribution amongst RSL respondents was slightly different, with the highest proportion of RSLs reporting that pre-referral discussions never took place.

Table 5.1 Extent of pre-referral discussions

	LA	RSL	
	No	No	%
Always	1	10	9%
Usually	3	20	17%
Sometimes	15	42	36%
Never	9	45	38%
Total	28	117	
No reply	2	0	

Source: Local Authority and RSL Surveys

5.30. More detailed analysis shows a difference in understanding between some local authorities and the RSLs operating in their area, with the local authority stating that pre-referrals are never undertaken, while the RSLs report that they were sometimes, usually or even always used. The case study research found similar differences in understanding between the council and RSLs within council areas and also some differences in understanding between different local council offices.

5.31. In some instances this can be explained by recent changes in the approach locally, of which RSLs in particular may not yet have been aware. However, another explanation is that the local authority survey captured information about the policy position on this issue, but RSLs and some council staff reported on practice from the frontline. The evidence from the case study element appears to support this as an, at least partial, explanation.

Reasons for pre-referrals

5.32. Most commonly, local authorities reported that they used pre-referrals when the applicant had some kind of special requirement. Some of the special circumstances mentioned by local authorities were a need for adapted housing, applicants with specialist support needs, a young person's first tenancy, lifestyle issues and sensitive allocations. Based on the case study evidence, the focus of these pre-referral discussions was very much on creating sustainable tenancies, rather than on giving RSLs any opportunity to 'gate keep'.

'If the household has certain support needs or lifestyle issues which may require further information from the RSL. If, for example, a member of the household is a currently on a drug programme, it may not be feasible to offer housing where there are known drug problems in the building/area.' (Council)

Table 5.2 Reasons for making pre-referrals

	No
Applicant has special circumstances/needs/issues	15
Avoids unnecessary referral/avoids delays	3
Part of agreement with RSLs	1
When referral might be unsuitable	1
Base	19
Total	20
No reply	1

Source: Local Authority Survey

Case Illustration 4

In an applicant led system, the homelessness team were looking for a property for an applicant with significant support issues and a history of chaotic behaviour. The applicant had family living in various villages throughout the area and they were willing to offer some support if the applicant could be housed nearby. A formal support package was also in place. The homelessness officer realised that the applicant would probably be well known to all the local housing providers and that they could have some concerns about the likelihood of her sustaining her tenancy. The next time she met with the allocations officer from the association with most stock in the area, the homelessness officer outlined the support package that was in place. She also reassured the allocations officer that the homelessness team would have ongoing involvement with the applicant and that any tenancy management issues could be referred back to them. The applicant received an offer of housing 3 days later, accepted and moved in within 10 days. The homelessness officer and a housing officer from the RSL made a joint visit the day after the tenancy started and close contact has been maintained (between the homelessness team and the RSL and the homelessness team and the applicant) over the 4 months for which the tenancy has now been sustained.

5.33. A slightly different picture emerged from the RSLs, who perceived that the most common reason for local authorities to enter into pre-referral discussions was to check whether a property was available (49%). Many RSLs suggested that the pre-referral process is often informal and seen as an integral part of good working relationships.

'Case by case, if there is a good working relationship then cases are discussed, with, in my view long term tenancy sustainability benefits' (RSL)

'They (the Council) don't pick up the phone anymore...they just bombard my 'inbox' with referrals whether I've got houses or not' (RSL)

Content of discussions

5.34. In large part the content of pre-referral discussions reflects the reasons for making them in the first place, and most commonly they cover issues to do with the availability of housing stock from the RSL, and/or the particular needs of the applicant.

Table 5.3 Content of discussions

	LA	RSL
Applicant's particular requirements	14	25
Property availability	14	45
Issues of security (risk assessment, joint visits etc)	4	1
Support issues/potential housing	3	10
Appropriateness of referral	1	1
Previous tenancy history	1	1
Other	2	3
Total	39	87
Base	20	69
No reply	1	3

Source: Local Authority and RSL Surveys

5.35. In addition, however, issues of security (for both staff and applicant) and support needs were identified as topics for discussion by some local authorities and RSLs. As noted earlier, the case study findings suggest that council staff are often very sensitive to the requirements of applicants who have been the victims of domestic or other violence and abuse. In this context, pre-referral discussions were often used to identify whether the perpetrator or their contacts lived near the available let.

'Issues of security, whether applicants should be interviewed in secure surroundings, whether joint visits are required etc.' (Council)

'If applicant has any support needs; history of violence/abuse; sensitive issues within the scheme; vulnerability of any existing residents; previous tenancy history; new developments (multiple units).' (RSL)

5.36. Where a CHR is operating, and it has been agreed to suspend the use of Section 5 referrals in favour of direct lets from the CHR, discussions will essentially be 'pre-offer' rather than 'pre-referral'. They tended to focus on any applicant's particular needs and generally took place as the applicant approached the top of the list and was, therefore, likely to be made an offer within the near future.

5.37. Although not explicitly stated as one of the reasons for having pre-referral discussions, most local authorities (84%) and most RSLs (82%) stated that pre-referral discussions do sometimes result in no referral being made. Similar evidence emerged from the case studies. The most common reason given by both RSLs and local authorities was that no suitable accommodation was available. This would be consistent with an applicant led system, where the local authority is using the pre-referral process to identify the existence and/or likelihood of a suitable vacancy arising; however the responses included almost equal numbers of authorities who operated vacancy, applicant and mixed systems. These findings also suggest that the local authorities do not have sufficient access to information on vacancies and/or turnover from other sources.

5.38. In addition, however, it is evident that account is also being taken of the 'suitability' of the match between the applicant and the property, including its location.

'It may be agreed that the RSL stock available does not offer a suitable sustainable housing option for that particular applicant.' (Council)

5.39. Three of the 19 local authorities that hold pre-referral discussions stated that they will continue to make a referral irrespective of the response of the RSL: in these instances the reason for the discussion is to transfer information and to discuss the arrangements for the referral.

5.40. Among those that hold pre-referral discussions, there was strong support for their continued use from both local authorities and from RSLs. In fact, RSLs' rating of the effectiveness of their local arrangements tended to reduce as the frequency of pre-referral discussions reduced.

Table 5.4 RSL views on effectiveness of local arrangements depending on use of pre-referrals

Use of pre-referrals	View of effectiveness of local arrangements					Base
	Very effective	Effective	Neither/nor	In-effective	Totally in-effective	
Always	5	4	1	-	-	10
Usually	10	7	3	-	-	20
Sometimes	12	23	3	2	1	41
Never	18	18	5	4	-	45
Base	45	52	12	6	1	

Source: RSL survey

5.41. The main reason given by local authorities for considering such discussions to be helpful was that they avoided abortive referrals; similarly, for RSLs the main reason was that they avoided unnecessary work.

Table 5.5 Helpful aspects of pre-referral discussions

	LA	RSL
Save unnecessary time/work/referrals	3	23
Ensures appropriate/successful referrals	7	10
Better communications between parties	2	9
Find out applicants' needs	3	5
Provides early feedback to service user	3	1
Other	3	-
Helps mix in new build developments	-	1
Total	21	49
Base	20	47

Source: Local Authority and RSL Surveys

5.42. More detailed discussions with RSLs operating within the case study areas suggest that pre-referrals are generally highly valued. In areas where pre-referrals are being used less, or no longer being used at all, many staff expressed concerns that the referral process would become more time consuming and administratively cumbersome as a result.

‘Very helpful. It means that we do not raise false hopes for applicants and delays in securing permanent accommodation can be avoided.’ (Council)

‘Helpful to applicant who may be subject to long waiting time for suitable accommodation and who may be able to be assisted by another RSL more quickly.’ (RSL)

5.43. It is also worth noting that, in some areas, the applicant may also be involved in the equivalent of pre-referral discussions: the council will contact the applicant to discuss an upcoming vacancy and whether it would meet their needs. Case Illustration 2 provides an example of this. There was evidence of this happening in both higher and lower pressured housing markets. The discussion often centred on location and was particularly likely to take place if the vacancy was in a relatively remote rural area. By and large, council staff took the applicant’s view into account and a referral would not be made if the applicant had indicated that they would be likely to decline the offer. In some cases, the applicant was given the opportunity to view the property before making that decision.

5.44. Council staff also generally, although not always, contacted applicants that had been the victims of violence or abuse to discuss whether there were any reasons why they would not want to be referred for a property in a particular location. This provides further evidence that council staff respect applicants’ wishes and will not refer them to properties if the applicant has a good reason for avoiding a particular area.

Recording of Pre-Referrals

5.45. Of the 19 local authorities who used pre-referrals to a greater or lesser extent, the content of these discussions was usually recorded: the survey did not gather further information about the nature of this recording. Interestingly, only 3 local authorities recorded the number of pre-referral discussions taking place, a significantly lower number than recorded the content of the discussions. RSLs were less likely to record information about pre-referral discussions, unless they resulted in a formal referral.

Table 5.6 Recording of Pre-Referrals discussion

	LA	RSL
Number taking place	3	11
Content of discussions	12	10
Whether a formal referral follows	3	16
Other	3	4
Total	18	72
No reply / none	6	38

Source: Local Authority and RSL Surveys

5.46. Findings suggest that this information is used in relation to the individual applicant, rather than as part of a broader monitoring of the operation of Section 5 or other arrangements. This would explain the relatively low number of both local authorities and RSLs who reported that they recorded the number of such discussions.

'These are infrequent and informal discussions which may be noted on applicant's paper work but not formally recorded.' (Council)

'No formal record of informal referrals kept if no accommodation available (i.e. if it doesn't lead to a formal referral).'' (RSL)

5.47. The informality of many of the pre-referral discussions does appear to mean that some of them do go unrecorded and there was considerable variation in practice both between and within areas. In all case study areas there was evidence of 'significant' pre-referral discussions not being recorded.

5.48. Many of the staff that took part in the case study research expressed concerns around the recording of pre-referrals; this applied equally to council and RSL staff. There was a general perception that practice which they consider to be effective in terms of achieving sustainable outcomes for their clients would be considered to be poor by external agencies and most notably by the Scottish Housing Regulator. As a result, some staff were reluctant to record information around pre-referrals and relied on colleagues in other organisations to recognise that discussions were 'off the record'. Of course, this may be as much about perception as reality, but whichever is the case it does appear to be affecting the way front line staff operate.

5.49. A representative of the Scottish Housing Regulator has confirmed that, if pre-referral discussions are taking place, they would expect both the local authority and the RSL to record some basic information about the discussion. The Regulator would expect to see that information used to assess how pre-referral discussions were affecting the outcomes being achieved for applicants.

Case Illustration 5

A member of a council homelessness team had been liaising with his counterparts in a couple of locally based RSLs over a case in which he was looking for a one bedroom property for a statutorily homeless applicant with priority need because of mental health issues. The applicant had previous criminal convictions for drug dealing. A support package was in place with a specialist agency that works with people with substance misuse problems. The homelessness officer had not recorded any of the pre-referral discussions because he felt he would have been considered to be divulging too much information to staff within the RSLs. His priority was in securing a sustainable tenancy for the applicant, but he also wanted to 'play fair' with his colleagues in the RSLs. One of the local RSLs did house the applicant. The housing officer who had allocated the property had recorded that discussions had taken place but not their content.

Individual or multiple referrals

5.50. Both local authorities and RSLs were asked about the approach they used to refer statutorily homeless households to RSLs:

- The most common approach was to refer a single household to a single RSL, with more than half of local authorities (19 of 29) and 54 RSLs (60%) stating this was how referrals were made;
- A further 4 local authorities and 16 (18%) RSLs used an approach of one household referred to more than one RSL at a time;
- Short lists of households to RSLs were much less common, reported by under 10% of local authorities and RSLs when lists were sent to one RSL at a time, and were very rare when lists were sent to more than one RSL at a time;
- The referral of one household to one RSL at a time was much more common where a vacancy led system was used, with 9 of the 10 vacancy led systems using this approach. All 4 of the local authorities that referred one household to multiple RSLs used an applicant led system; and
- For those local authorities which used both Section 5 and other arrangements to refer statutorily homeless households to RSLs, most did not use the same procedures for both. For non Section 5 referrals, local authorities more commonly provided RSLs with shortlists of applicants.

Table 5.7 Approach to referring statutorily homeless households to RSLs

	LA	RSL	
	No.	No.	%
<i>One household to one RSL</i> at a time	19	54	59%
<i>One household to more than one RSL</i> at a time	4	16	17%
<i>Short lists</i> of households to <i>one RSL</i> at a time	3	8	9%
<i>Short lists</i> of households to <i>more than one RSL</i> at a time	0	3	3%
Other	3	11	12%
Total	29	92	
Not sure / never been told	NA	21	
No reply	1	6	

Source: Local Authority and RSL Surveys

5.51. It is worth noting that a significant minority of RSLs (21) were either not sure or had never been told what the approach was in their area: the reasons for this response were not explored in the survey but the case study evidence suggests that some of the confusion could result from inconsistent practice among front line staff within local authorities.

5.52. Interestingly, there was a relatively strong correlation between the number and combination in which referrals are made and RSLs' views on the effectiveness of local arrangements. Where a referral for a single household is sent to one RSL at a time, 94% of RSLs consider the overall system to be effective or very effective. This compared to 69% among those who received referrals that were also being sent to other RSLs at the same time.

5.53. Evidence from both the key player interviews and the case studies certainly suggests that many RSLs prefer a system in which an applicant is referred to one RSL at a time and

see it as the most administratively efficient process from their perspective. However, RSLs operating in applicant led systems did have a clear understanding of the reasoning behind making multiple referrals: that it was expected to increase the chances of an applicant receiving an offer. Nevertheless, some remained to be convinced that this would be the result of a multiple referral system, fearing instead that it could end in administrative ‘chaos’ if not managed very efficiently by the council.

Inappropriate referrals

5.54. Nearly two thirds of RSLs (62%) stated that they sometimes received referrals which they considered to be inappropriate. In only one local authority did all RSLs state that they never received inappropriate referrals: all the RSLs and the local authority in this area also rated the local arrangements as ‘very effective’.

Table 5.8 Whether inappropriate referrals are sometimes received

	No.	%
Yes	72	62%
No	44	38%
Total	116	
No reply	1	

Source: RSL Survey

5.55. The reasons why RSLs considered referrals to have been inappropriate in the past²⁹ can be grouped into 3 broad categories:

- Those where information was incorrect or out of date;
- Where there were unspecified or unmet support needs; and
- Where there were tenancy management and sustainability concerns.

5.56. Often RSLs suggested that there could be a combination of issues that led them to consider referrals to be inappropriate.

*‘Previous history of tenancy related issues along with lack of suitable vacancies.’
(RSL)*

‘Known and existing management difficulties where the property on offer is located, which will be exacerbated by the applicant’s particular circumstances e.g. alcohol or drug dependency, previous eviction by the Association for non payment of rent or antisocial behaviour or mental health issues.’ (RSL)

²⁹ This is based on RSLs perceptions of what is considered an inappropriate referral rather than what may be set out within relevant guidance

Case Illustration 6

An RSL in an area operating a vacancy led system requested a Section 5 referral for a 2 bed property on the fourth floor of a low rise blocks with no lifts. The paperwork that was sent to the council notifying them of the vacancy identified the property as being unsuitable for young children. A week later the RSL contacted the council to 'chase' the referral. The next day they received a Section 5 referral for a woman with 2 children under 5. The RSL contacted the council to remind them that the property was not suitable for young children.

The referral was withdrawn and another promised. A week later the RSL received a nomination list of 3 names. The first applicant was not interested in the property because of a 'no pets rule'. The second applicant had already been housed by the RSL via their waiting list 2 months previously. The third nominated applicant accepted the property. Six weeks elapsed between the RSL first notifying the council of the vacancy and the tenancy being let. The RSL officer reported that she could have 'got that away from our list within a couple of days' and was frustrated because her association's void rent loss performance was being seriously affected by the speed and appropriateness of statutorily homeless referrals being made by the council.

5.57. The research suggests 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. Again, strong working relationships and high levels of trust appeared to underpin an effective sensitive letting request process, with council staff needing to trust that RSLs would not abuse the process and RSLs needing to believe that the Council would do their best to respond to their requests.

'The housing associations can request a sensitive let although they have to explain their reasons. But I have to say they've hardly used it at all.....which means when they do, we do everything we can to respond.' (Council)

Making contact

5.58. The case study evidence suggests that some councils will be more directly involved in the offer stage than others. In some areas council staff will have been informed that an offer is to be made and will contact the applicant to advise them that they have been referred to an RSL and an appropriate property is available. In other areas the RSL is likely to be the first to contact the applicant and will not necessarily have informed the council that they are going to do so. The applicant interviews confirmed that the role of the council in this stage of the process can vary quite considerably between local authority areas. Where the council had been closely involved in the process, applicants appeared to welcome this approach.

5.59. Well over half of RSLs (60%) reported that, on occasions, they had difficulties in making contact with applicants referred by the local authority. Of interest is that the proportion was higher (66%) amongst those RSLs in vacancy led systems.

5.60. Given the profile of homeless households, and the speed with which personal circumstances can change, it is perhaps more surprising that well over a third of RSLs (40%) reported that they never had any difficulties in making contact. This tended to be the

situation in the case study areas where the council contacted the applicant first to advise them of an upcoming offer; contact details were correct and the applicant was ‘waiting for the call.’

5.61. It also appeared that the smaller RSLs had fewer difficulties; while 53% of RSLs with 1,000 properties or under were sometimes unable to contact the applicant, the proportion rose to 70% of those with more than 1,000 properties. There was no evidence from the cases studies to explain these differences; in the case study areas the size of the RSL did not appear to be a factor, rather it depended on the council team with which they were dealing.

5.62. The vast majority of RSLs encountering difficulties in making contact got back in touch with the local authority. In the first instance this was usually to confirm the contact details for the applicant or to ask the case worker to try contacting them. Some RSLs in the case study areas reported that they would check their own waiting list information to see if the applicant was already registered with them (which they often were) and, if so, whether they had different contact information.

Table 5.9 RSL response to difficulties in making contact

	No	%
Contact caseworker/LA	61	90%
Allocate to someone else	4	6%
House visit/letter	3	4%
Total	68	
Base	66	

Source: RSL Survey

5.63. One RSL commented that the issue of returned referrals because of no contact was important ‘*in terms of what councils count as successful referrals or not*’. Case study evidence suggested that councils would tend not to record an unsuccessful referral under these circumstances.

Making offers

Number of offers

5.64. The key factors likely to influence the number of offers made are the type of system being used, namely vacancy led, applicant led or mixed and the referral mechanism being used, namely Section 5 or other nomination along with whether the referred household holds statutorily homeless status.

5.65. The Code of Guidance on Homelessness (2005) states that local authorities’ duty to secure accommodation for unintentionally homeless households in priority need can be fulfilled by a single offer of housing, even if this offer is refused, provided the offer is a reasonable one.

5.66. However, it is also expected that homeless households be treated on the same basis as other housing applicants to local authorities in relation to the number of offers of accommodation they receive.

“Local authorities’ duty to secure accommodation for unintentionally homeless people in priority need would be fulfilled by a single offer of housing, even if this is

refused by the applicant, provided that the offer was a reasonable one. Homeless people should however be treated on the same basis as other housing applicants to local authorities in relation to the number of offers of accommodation they receive, where the local allocations policy is offers based” (Code of Guidance on Homelessness, para 9.57)

5.67. The Guidance itself raises a number of issues since:

- It suggests that it is the responsibility of the local authority to ensure that, overall, the system allows each statutorily homeless household to receive the same number of offers as any other housing applicant would be entitled to according to the local authority’s own allocations policy. This implies that the onus is on the local authority to manage the total number of offers made, irrespective of the source of those offers;
- The guidance does not appear to suggest that there is any onus on individual RSLs to make the same number of offers to a statutorily homeless households referred to them as they would to a housing applicant from their own housing list; and
- In stock transfer authorities the local authority will not have an allocations policy against which equitable treatment can be established.

5.68. Overall, the study findings suggest that the Guidance is not being interpreted consistently across all social housing providers, with the perceived lack of clarity a concern for some RSLs in particular. Specific study findings relating to the number of offers being made to statutorily homeless households by RSLs are:

- More than half of RSLs (53%) that received Section 5 referrals made only one offer to that household and less than a quarter (22%) would make unlimited offers to that household;
- In comparison, only 38% of RSLs that received referrals of statutorily homeless households using another mechanism, such as via nomination, would only make one offer and 34% would make unlimited offers to that household;
- When households that were not statutorily homeless were referred to an RSL by a local authority, more than half of the RSLs concerned (51%) reported that they would make unlimited offers;
- Whether the referral was vacancy or applicant led affected the number of offers to some extent but perhaps not as much as might have been anticipated. In vacancy led systems, half of RSLs (51%) made only a single offer, i.e. they only offered the property for which they had sought a referral, but 26% of RSLs said they would make unlimited offers. Even in applicant led systems, 42% of RSLs reported that they would only make one offer to a household referred using Section 5, with 28% reporting that they would make unlimited offers;
- The vast majority of RSLs reported that they make the same number of offers to statutorily homeless applicants irrespective of whether they are referred using Section 5 or as a nomination. Only 3 RSLs reported that they make a higher number of offers to statutorily homeless applicants if they are referred as a nomination rather than using Section 5;

- In mixed systems (where both vacancy and applicant led approaches are being used), most RSLs reported making the same number of offers to the referred household irrespective of whether it is a vacancy or applicant led referral. Only 2 of the RSLs in a mixed system area reported that they would make a higher number of offers to an applicant led referred household than a vacancy led referred household; and
- Less than a third of RSLs (29%) suggested that they would make fewer offers to statutorily homeless households referred to them by the local authority than to any other type of housing applicant, such as an applicant from their own housing list or a non statutorily homeless household referred by the local authority. A number of those that said they do make fewer offers noted that the number of offers to be made to statutorily homeless applicants was determined by the local authority rather than the RSL itself.

Table 5.10 Number of offers made by RSLs by referral type

	Section 5 referrals	Non Section 5 referrals statutorily homeless households	Referrals on non statutorily homeless households
1 offer	53%	38%	11%
2 offers	20%	22%	26%
3 offers	3%	3%	10%
Unlimited offers	22%	34%	51%
Other/varies	2%	3%	2%
Base	167	133	82

Source: RSL Survey

5.69. When reporting on the number of offers being made, some RSLs expressed uncertainty. For example, some stated that they ‘thought’ a certain number of offers should be made, or that local authority caseworkers determine the number of offers that should be made, but it was not always clear how these decisions were made. Similar findings emerged through the case study fieldwork, with a number of front line staff, particularly within RSLs, unclear about how many offers their organisation should make to any one applicant household.

5.70. From the local authorities’ perspective there was evidence of some staff monitoring the total number offers made to each household during the course of their presentation. In other areas this was clearly not happening with staff aware of the number of RSLs an applicant had been referred to rather than the total number of offers those RSLs had made. If the number of offers made by RSLs is not being monitored and recorded by local authorities there is the potential that referred households may actually be receiving a different number of reasonable offers than other applicants on the local authority housing list would be entitled to.

No Offer

5.71. Just over two thirds of RSLs (69%) reported that there were circumstances in which an offer of housing is not made to a statutorily homeless household referred to them. Again, it is perhaps more surprising that nearly a third (31%) reported that they were always able to make an offer.

Table 5.11 Ever circumstances in which offer not made?

	Number	%
Yes	80	69%
No	36	31%
Total	116	

Source: RSL Survey

5.72. The proportion not able to make an offer varied depending on the type of system by which referrals were being made: it was lowest for vacancy led systems (52%) and highest for applicant led systems (82%). This is likely to be primarily a feature of the system itself, since RSLs which are seeking a referral for a vacancy (vacancy led systems) will at least have a property available, whereas those in applicant led systems may receive a referral but not have a property available within a reasonable period. The research within the vacancy led case studies has certainly suggested that most RSLs do make an offer in response to the vast majority of referrals and any diversion from this practice is very much seen as the exception rather than the rule.

5.73. The reasons that an RSL might not be able to make an offer to a Section 5 referral are very similar to those reported for considering that a referral was inappropriate. Most common by far was a lack of available lets (64%).

Table 5.12 Main reasons unable to make offer to Section 5 referrals – 2006/07

	No	%
Property unavailable	51	64%
Unsuitable property	17	21%
Likely that tenancy would be unsustainable	6	8%
Lost contact	4	5%
Property withdrawn	4	5%
Geography	3	4%
Re-housed elsewhere	3	4%
Applicant refusal	2	3%
Other	2	3%
Total	80	
Base	80	

Source: RSL Survey

5.74. Less commonly, but still reported by more than a fifth of RSLs, was that there was a ‘mismatch’ between the applicant and the property available (21%). This was sometimes an issue directly about the needs of the applicant, and sometimes more about the mix of households in the immediate neighbourhood: this links back to the issue around sensitive lettings raised earlier. Often closely linked were concerns that the location was unsuitable for that particular applicant.

Action taken

5.75. Once a referral has been received:

- More than half of RSLs (53%) reported that they passed a referral back to the local authority immediately or as soon it was clear that they were unable to make an offer;
- A significant proportion (22%) held the referral until the 6 week 'reasonable' period had elapsed; and
- Others (15%) held the referral beyond the 6 weeks and until a vacancy became available: as would be expected none of the 9 RSLs concerned operated in a vacancy led system. However, where it was clear that there was little or no prospect of a vacancy arising, RSLs would return the referral immediately.

Table 5.13 Point at which referral returned to local authority

	Number	%
Immediately/as soon as it is clear no offer	32	53%
Once 6 weeks are up	13	22%
Hold referral until void becomes available	9	15%
Other	6	10%
Never happened/not applicable	3	5%
Total	63	
Base	60	

Source: RSL Survey

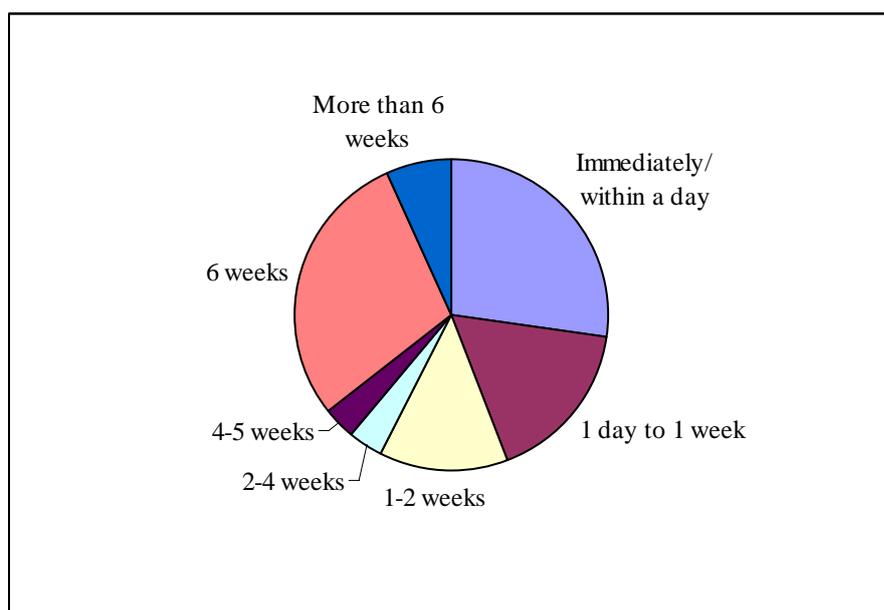
5.76. One of the issues in relation to holding the referral is whether this action reduces the re-housing options for the applicant; this might apply particularly where the local arrangements are that the referral is made to one RSL at a time. However, it should be borne in mind that in non stock transfer authorities the applicant will probably be considered for suitable council vacancies during this period.

5.77. The average timescales given by RSLs between the receipt of a referral and its return to the local authority (where this occurs) were broadly split between returns made within a week (44%) and those which are held for 6 weeks or longer (36%).

5.78. Longer timescales were associated with pressured markets, or where supply of a particular type of property is very low, as illustrated by this comment

'Some referrals can be on our "waiting list" for 12 months. The LA has asked that referrals are not returned as they would just need to re-refer back due to lack of alternatives/vacancies within other RSLs. (RSL)

Figure 5.1 Average timescale between receipt of referral and return



Source: RSL Survey

5.79. For those operating Choice Based lettings, the issue of ‘returns’ is not relevant and becomes a matter of review of why statutorily homeless applicants have not made a bid, or been unsuccessful in bidding, for housing.

Refusals by the applicant

5.80. Where a referred applicant refuses offers made, more than 8 out of 10 RSL respondents stated that they would contact the local authority, usually to pass the referral back but sometimes to discuss the case with the caseworker. Immediate referral back to the local authority does suggest that these RSLs consider that the ‘ownership’ of finding a re-housing solution for the homeless household rests solely with the local authority rather than being in any way shared with them. This is an understandable position for those RSLs who have a small housing stock or very low turnover generally or of a particular size of accommodation. Equally, as noted above, ‘holding on’ to a referral may prejudice the chances of an applicant finding housing with another RSL.

5.81. However, there were some interesting differences in approach, with some RSLs interpreting their role slightly differently. Some RSLs stated that they would interview the applicant to try to find out why the offers were considered to be unsuitable, others that they would withdraw their priority as a Section 5 referral but keep the application on their direct housing list.

‘One offer is made as Section 5 Priority referral which is given priority over all other applicants. If this offer is ‘reasonable’ and is refused, they will lose their Section 5 Priority and the referral returned to the LA. However, they will still have statutorily homeless priority on our direct list via our Allocations Policy. We would try to discuss options with applicant to enable them to secure most suitable accommodation to meet their needs.’ (RSL)

5.82. Many of the RSLs operating in the case study areas did make efforts to find an alternative offer when the applicant did not wish to accept the first offer made for an understandable reason. For example, one RSL reported that on a few occasions an applicant had only realised that an available property was near the family of an abusive partner when they had gone to view. On these occasions, the RSL made every effort to make another offer as soon as possible.

5.83. Two of the applicant interviewees had declined an offer of housing within the course of their most recent homeless application. In one case, the applicant had declined a council offer because of the amount of work needed to be done to the interior of the property. They had then received an offer from an RSL which they had accepted. The other applicant had refused an RSL offer because of the size of the property but had gone on to accept a second offer from the same RSL. Both applicants were very pleased with the final outcome of their application.

5.84. Some applicant interviewees, and particularly those who were seeking housing in relatively highly pressured housing markets, suggested that they did not really consider that they had any genuine choice as to whether or not to accept an offer that had been made. In some cases this was because they were aware that they would only receive one reasonable offer. In other cases, and in systems where the applicant was entitled to 2 offers, this was because they were concerned about how long they would wait for that second offer.

*'... never even thought about saying no...I'd have been daft...'
(Single parent applicant who had spent 6 months in a temporary flat before receiving a first offer of permanent accommodation)*

Review of reasonableness of offers

5.85. Eleven per cent (11%) of RSLs reported that they have had offers made to Section 5 applicants reviewed to assess their reasonableness. RSLs operating in the west of Scotland were more likely to report that the local authority had undertaken such a review of an offer. While the review is essentially undertaken by the local authority it is clearly the case, from both the survey and case study findings, that the review is often triggered by an applicant's wish to refuse an offer without losing the chance of receiving further offers.

5.86. The types of reasons why offers had been reviewed and action taken are illustrated by the comments provided by RSLs.

'There have only been a couple of cases where there were valid reasons for refusing the property. This was due to the applicants being harassed by family members who would have been living nearby, therefore it would have been unreasonable to ask them to take up residency in nearby areas. On both occasions both families were offered alternative accommodation.' (RSL)

'In one instance, the homeless applicant felt it would be detrimental to accept the property for which the Council had nominated her for as it would have resulted in a loss of support and possibly employment – the Association offered to request nominations for the next suitable property in an area which the applicant was able to accept. On receipt of the applicant's appeal, in conjunction with the Association's offer of another property, the Council agreed. More commonly, right to reviews made have not been upheld and the applicant has either taken up tenancy or accepted that no further offer will be made under homeless provisions.'
(RSL)

6. INFORMATION EXCHANGE

6.1. This chapter sets out the information which is exchanged between local authorities and RSLs, and the issues and difficulties encountered in this process.

Key Issues

- Local authorities often appeared to provide more information in the context of a Section 5 referral than they did for nominated statutorily homeless households. Some RSLs reported that Section 5 information was often more accurate and current than that which accompanied nominations.
- Some RSLs commented that the information provided but can be very limited in its coverage and, in particular, may make it difficult to enter into discussions with the local authority about what will be needed to help sustain the tenancy.
- Overall, the research has identified an inconsistency in approach between and within local authorities around the level and type of information that is passed on to RSLs about support requirements or support packages. Some saw the sharing of relevant information as key to creating sustainable tenancies. Others feared that sharing information could lead to RSLs trying to avoid making an offer of housing.
- With relation to the outcome of Section 5 referrals, the information most commonly collected by local authorities was whether any offers had been made, the outcome of those offers, the date of re-housing and the location of that 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 the information exchange between their RSL and the local authority. This group of RSLs were 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.

At referral stage

6.2. Local authorities were asked to identify what information, in addition to basic contact details, they provided to RSLs when they made a referral. It is important to remember in this context that 14 local authorities stated in their survey responses that they only use Section 5 to make referrals of statutorily homeless households to RSLs. Nevertheless, the responses showed that local authorities tended to provide more information in the context of a Section 5 referral than they did for other referrals of statutorily homeless households. The case studies confirmed these findings, but also suggested that the information accompanying a Section 5 referral was often more accurate and current than was the case with nominations.

Table 6.1 Information provided to RSLs at referral

	Section 5 referrals	Other statutorily homeless referrals
Household composition	26	13
Reason for homelessness	11	5
General housing needs assessment	17	9
Medical housing needs assessment	20	10
Assessment of support needs	21	8
Support package to be provided	22	10
Previous tenancy problems	17	8
Other (please specify)	12	7
Base	26	13

Source: Local Authority Survey

Note: 14 local authorities only use Section 5

6.3. Key points to note are:

- Household composition information was always provided, both in the context of Section 5 referrals and referrals of other statutorily homeless households;
- Information about support packages, support needs assessment and medical housing needs were all also commonly provided;
- The reason for homelessness was provided by around a third of local authorities;
- For non Section 5 referrals, 2 local authorities only provided information about household composition. Seven local authorities provided RSLs with the same information regardless of whether or not the referral was a Section 5 or another statutorily homeless referral;
- In terms of ‘other’ information provided by the local authority to the RSL, this was most commonly in relation to general support needs, such as relating to anti-social behaviour. This was the case for both Section 5 and other referrals of statutorily homeless households;
- Some local authorities would also provide information about previous tenancies; and

- One local authority noted that they would advise the RSL if they considered that an environmental scan was required if the applicant was a convicted sex offender.

6.4. The responses from RSLs largely confirmed those from the local authorities with the exception of previous tenancy problems: a higher proportion of local authorities (65%) stated they provided this information with a Section 5 referral than the proportion of RSLs that stated they received such information (25%).

Table 6.2 Information received from local authority

	Section 5 referrals	Other statutorily homeless referrals
Household composition	113	51
Reason for homelessness	56	23
General housing needs assessment	75	34
Medical housing needs assessment	65	30
Assessment of support needs	65	21
Support package to be provided	60	15
Previous tenancy problems	28	13
Other	6	2
Base	114	52

Source: RSL Survey

Note: 73 RSLs stated that they only received Section 5 referrals

6.5. Some RSLs took an unprompted opportunity to comment that while information may be provided it could be very limited in its coverage: this was also a concern that was raised by some of the RSLs that participated in the case studies. This may offer an at least a partial explanation for the differences reported around previous tenancy problems: in other words, a council may think it is providing information but the RSL does not consider it sufficient to be of real meaning.

6.6. Some of the RSLs participating in the case studies also raised concerns about the quality of information relating to support packages and, in particular, whether it was sufficient to allow them to have informed discussions with the local authority about how they can support new tenants to sustain their tenancy. RSLs across a range of areas also reported that they often received no information about which organisation would be providing support and if there were any ongoing problems with the support package they sometimes had difficulty in securing the engagement of local authority staff to resolve any issues.

6.7. Overall, the research has identified an inconsistency in approach between and within local authorities around the level and type of information that is passed on to RSLs about support requirements or support packages. Some saw the sharing of relevant information as key to creating sustainable tenancies. Others feared that sharing information could lead to RSLs trying to avoid making an offer of housing.

‘...more often than not they are ticked N/A and our own paperwork and interviews pick up clearer information...’ (RSL)

‘Must be stressed that there is the absolute minimum of information given by Council.’ (RSL)

Information about outcomes

6.8. In relation to both Section 5 referrals and referrals of other statutorily homeless households, most local authorities collected most of the types of information asked about in the survey form; the most commonly collected information was whether any offers had been made, the outcome of those offers, the date of re-housing and the location of that housing.

Table 6.3 Information gathered about the outcome of referrals of statutorily homeless households

Local authorities	Section 5 referrals	Other statutorily homeless referrals
Whether any offers have been made	24	13
Date of any offers made	22	12
House type of offers made	22	12
Location of offers made	23	12
Outcome of any offers made	24	12
Reasons why any offers of housing are refused	23	12
Reasons why no offer has been made	19	10
Date of re-housing	24	12
Statutorily duty discharged by re-housing	23	12
Location of housing provided	24	12
Whether support provided	14	7
Type of housing provided	21	12
Whether applicant feels the property meets their needs	7	4
Other (please specify)	3	1
Base	25	13

Source: Local Authority Survey

Note: 14 local authorities always make referrals using Section 5

6.9. Least commonly, both in relation to Section 5 referrals and referrals of other statutorily homeless households, local authorities gathered information about whether support needs had been met, and the views of the applicant on whether the property met their needs. While it was more commonly collected, it is interesting to note that not all local authorities collected information about why no offers had been made to an applicant referred to an RSL.

6.10. In overall terms, the profile of information collected by RSLs follows a similar pattern to local authorities, with RSLs most commonly collecting information on whether offers had been made and the outcome of those offers: least commonly, RSLs collected information about whether the applicant felt the property meets their needs, and whether support had been provided. A few RSLs also collected information about whether the statutorily duty had been discharged: this may link to other findings and suggest that RSLs see this responsibility as resting with the local authority and not one which they should monitor.

Table 6.4 Information collected and sent to local authority on outcomes of referrals of statutorily homeless households

RSL	Collected for our own purposes or for national returns	Also provided to the local authority
Whether any offers have been made	110	92
Date of any offers made	102	81
House type of offers made	100	83
Location of offers made	100	86
Outcome of any offers made	108	93
Reasons why any offers refused	102	91
Reasons why no offer has been made	88	78
Date of re-housing	103	90
Statutory duty discharged by re-housing	25	24
Location of housing provided	98	85
Whether support provided	41	17
Type of housing provided	90	70
Whether applicant feels property meets needs	20	9
Other (please specify)	4	3
Base	111	97
No reply	12	

Source: RSL Survey

6.11. Forty five RSLs shared all the information they collected with the local authority. Most, however, reported that they collected information for their own purposes or for the purposes of national reporting, which is not shared with the local authority. Most common in this category were whether support was being provided, whether the applicant felt the property met their needs, and the type of housing provided.

6.12. It is also interesting to note that relatively few RSLs or local authorities collected the reasons why no offer of housing had been made. This supports the earlier evidence about whether the local authority ever entered into further discussions with them about the reasons no offer was made: 54% stated that this never occurred.

6.13. In spite of these responses in relation to information collection by local authorities and RSLs, most local authorities (22 out of 28) considered that the information they received from the RSL enabled them to assess that the statutorily homeless household had been satisfactorily housed.

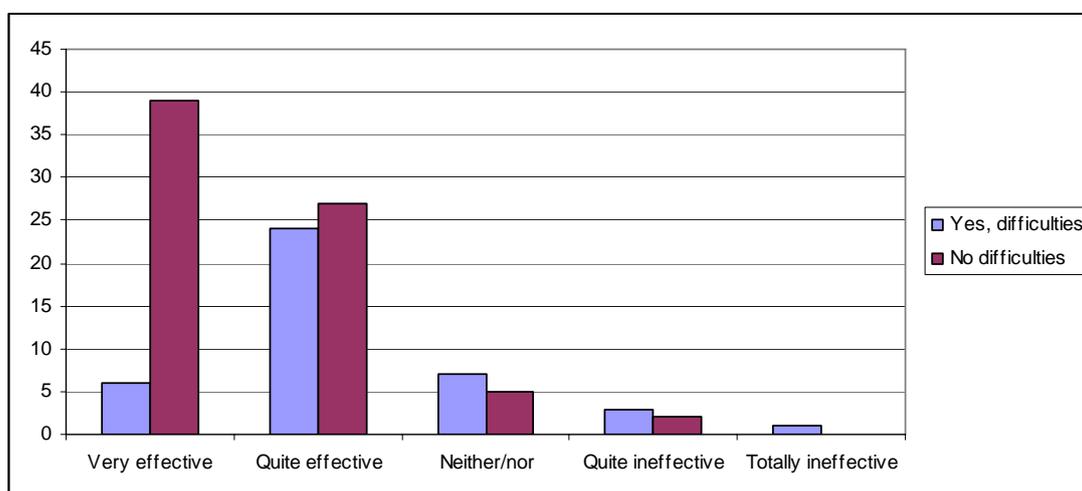
6.14. Four considered that it is sometimes, but not always, sufficient, and a further 2 stated that it was not sufficient. These 6 local authorities tended to be amongst those authorities who gathered information in nearly all of the categories listed, apart from whether the applicant felt the property meets their needs. The lack of feedback from households was given as the reason for considering the information to be insufficient, and was also suggested as a change which would give them greater confidence that a successful outcome had been achieved by 3 of the 6 local authorities.

Satisfaction with information exchange

6.15. More than a third (35%) of RSLs stated that there were problems with the information exchange between their RSL and the local authority. This group of RSLs were more likely to consider that the local arrangements were not transparent (54% compared to 31% of all RSLs), that the basis on which referrals were made to them was not equitable (49% compared to 28% of all RSLs), or that they sometimes received inappropriate referrals (80% compared to 62% of all RSLs).

6.16. Not surprisingly, the existence of problems in relation to information exchanged affected the RSLs' assessment of the effectiveness of their local arrangements. Only 15% of this group of RSLs rated their arrangements as 'very effective', compared to 38% of all RSLs.

**Figure 6.1 Difficulties with information exchange and views on effectiveness
RSLs**



Source: RSL Survey

6.17. Reported difficulties with information exchange were overwhelmingly related to the lack of information provided, with 85% of RSLs identifying this unprompted. There were also particular issues identified in relation to the information around support needs, anti-social behaviour, reasons for homelessness, and rent arrears.

'Not enough information on reasons for homelessness, support required or in place, rent arrears or anti-social history.' (RSL)

'Council is poor at giving us detailed information about referrals despite a number of requests to improve flow of information. For example, a number of referrals clearly require support but this is not identified and we struggle to get support put in place as Supporting People budget inadequate.' (RSL)

6.18. Comments also reflected concerns about the accuracy of the information provided by the local authority and the inefficiencies which can arise as a result of these shortcomings.

'Referrals received do not always reflect the information which the applicant has provided to the Council re house type, required area etc.' (RSL)

'...there have been occasions where applicant has been re-housed by another RSL and we have not been informed.' (RSL)

7. LOCAL AUTHORITY AND RSL VIEWS ON LOCAL ARRANGEMENTS

7.1. The survey sought the views of respondents on the effectiveness of their local arrangements, what worked well and less well in these arrangements and their views on whether they considered local arrangements to be transparent and equitable.

Key Issues

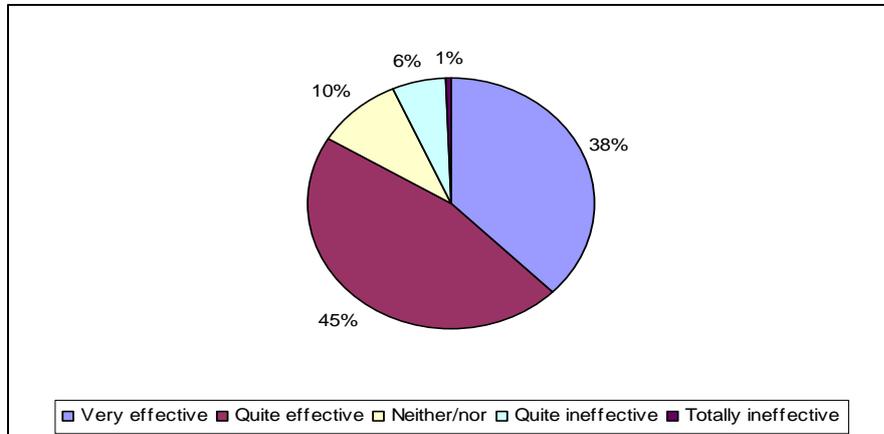
- Overall, most landlords considered that their local arrangements were either very or quite effective in assisting statutorily homeless households to access accommodation in the RSL sector. There was very little difference in the overall balance of views between local authorities and RSLs.
- It is the extent to which views of effectiveness differs among RSL respondents which is striking: in one area, the 6 RSL respondents ranged from those who consider the local arrangements to be ‘very effective’, ‘neither effective nor ineffective’, ‘quite ineffective’ and ‘totally ineffective’.
- RSLs were asked whether they consider the basis on which referrals were made to them to be transparent and equitable. Just over two thirds considered that 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. 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 to others in the area and hence did not consider the current arrangement to be transparent.
- For their part, most local authorities considered that statutorily homeless households referred by them were treated equitably compared to other applicants to RSLs. There was a level of distrust evident between some local authorities and RSLs, but it appears to be restricted to the local authority’s relationship with particular associations, rather than reflecting a wider culture within any of the areas.

Overall assessment of effectiveness

7.2. Overall, most landlords (83%) considered that their local arrangements were either very or quite effective in assisting statutorily homeless households to access accommodation

in the RSL sector. Only 7% (10 respondents) considered that their local arrangements were either quite or totally ineffective.

Figure 7.1 Local authority and RSL views on effectiveness



Source: Local Authority and RSL Surveys

7.3. Generally, this is a positive picture that was supported by the findings from the case studies. However, it is worth emphasising that the responses are in relation to effectiveness in providing access to statutorily homeless households and are not about satisfaction with actual arrangements.

7.4. There was very little difference in the overall balance of views between local authorities and RSLs. However, comparing responses from RSLs and the local authority within particular areas does produce some differences:

- In only 2 local areas did all the RSL respondents and the local authority have the same assessment of their local arrangements; in one instance this was that the arrangements were very effective and in the other they were quite ineffective;
- In other areas the differences in assessment were considerable: for example, one local authority rated their local arrangements as ‘very effective’, while 4 of the 5 RSL respondents considered it to be ‘quite ineffective’;
- RSLs tended to have a less positive picture of the local arrangements than the local authority;
- Overall, however, it is the extent to which views of effectiveness differ among RSL respondents which is striking: in one area the 6 RSL respondents ranged between those who considered the local arrangements to be ‘very effective’, ‘neither effective nor ineffective’, ‘quite ineffective’ and ‘totally ineffective’.

Transparency and equity

7.5. RSLs were asked whether they considered the basis on which referrals were made to them to be transparent and equitable. Just over two thirds of survey respondents (69%) considered that the local arrangements were transparent, while closer to three quarters (72%) considered them to be equitable. Given that transparency and equity could be considered to be core requirements of such a system, these responses are not wholly positive.

Table 7.1 RSL views on transparency and equity of local arrangements

	Transparent		Equitable	
	No.	%	No.	%
Yes	81	69%	78	72%
No	36	31%	31	28%
Total	117		109	

Source: RSL Survey

7.6. Both the survey and the case studies suggest there is a close link between views on transparency, on equity and on the overall effectiveness of the local arrangements. In areas where RSLs were generally positive about the effectiveness of the local arrangements, they also considered their local system to be transparent and equitable. Ninety percent (90%) of RSLs that thought the basis on which referrals were made to them was transparent, and 88% of those who said that their system was equitable, considered their local system to be quite effective or very effective.

7.7. Most commonly RSLs gave a lack of information, or an inconsistency in the approach being used, as the reasons for considering that their local arrangements were not transparent or not equitable. Some RSLs expressed concern that the process did not appear to be equitable or transparent because the applicant did not seem to have been involved in the decision about being referred to any RSL or to their particular RSL.

'It has not always been discussed with nominees whether they wish to be housed by an RSL.' (RSL)

'Sometimes I'm clearly contacting them (applicants) out of the blue...and they've not heard of us...or at least if they have it was too long ago.' (RSL)

7.8. There were wider concerns expressed about the equity of the process by which certain households received a homeless priority. This echoed findings in the recent Scottish Government research on tensions between allocations policy and practice³⁰, in which a significant number of social landlords expressed concern about the current balance of priority between statutorily homeless households and those in other 'reasonable preference' categories.

³⁰ *Tensions between Allocations Policy and Practice, Craigforth, Scottish Government 2007*

7.9. 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 to others in the area, and hence did not consider the current arrangement to be transparent.

'The local authority does not provide the Association with details / statistics of the types of households nominated and the number of applicants re-housed by other RSLs across XXX. I feel that this prevents the Association from being able to compare its performance and therefore fails to demonstrate transparency and accountability.' (RSL)

7.10. For their part, local authorities mostly considered that statutorily homeless households referred by them were treated equitably with other applicants to RSLs, with 17 out of 29 respondents stating this was always the case and a further 5 considering that it was sometimes but not always the case. These findings were borne out by the case study element of the research, with local authorities generally considering that applicants were treated equitably by the majority of RSLs they referred to.

7.11. As was the case with the RSL responses, those local authorities who considered that referrals were always treated equitably were more likely to consider their system to be very effective (10 out of 17 local authorities).

Table 7.2 Local authority views on the equity of treatment of statutorily homeless households

	No.
Yes, always	17
Sometimes but not always	5
No	2
Not sure / Don't know	5
Total	29
No reply	1

Source: Local Authority Survey

7.12. There was a level of distrust evident between some local authorities and RSLs as evidenced by the reasons given for considering that statutorily homeless households were not always treated equitably. The case study findings found limited evidence of this and it tended to be restricted to the local authority's relationship with particular associations, rather than reflecting a wider culture within any of the areas.

'...have concerns with this organisation of taking previous tenancy history/arrears history into account to an unequal degree when dealing with homeless applications.' (Council)

'They "cherry-pick" the best applicants and seem to decline applicants that have support needs or may be poor tenants.' (Council)

'As vacancy led, would question if on occasions the Council is offered low demand properties such as flats rather than houses when a vacancy occurs.' (Council)

7.13. This issue of trust was also recognised by RSLs, some of which suggested that some of the problems of lack of transparency, and associated lack of information being provided, were because the local authority did not trust the RSL with this information. As one RSL noted:

'Insufficient information sharing based perhaps on a lack of trust of RSL that information may be used for NOT supplying accommodation when in fact it is required to enable appropriate support to be put in place to help sustain tenancies.'
(RSL)

7.14. It was noticeable that in those case study areas where staff and management generally felt their system was working well, there tended to be a high level of transparency, not only between individual RSLs and the Council but also between the RSLs themselves: RSLs tended to be aware of the contribution that their neighbouring associations were making and how it compared to their own organisation's contribution towards housing statutorily homeless households.

Case Illustration 7

In 2 case study areas, the high level of transparency was partly seen as stemming from regular scheduled joint meetings between the Council and all the RSLs with a significant stock holding in their area³¹. These meetings tended to be held at the equivalent of local area level, had a clear operational focus and covered issues such as:

- *Presentation of monthly or quarterly statistical performance reports;*
- *Discussion of day to day operational issues around referral, information exchange etc;*
- *General discussions around the profile of lets that would be required over the following weeks and the likely availability of properties for let;*
- *Discussions of any specific requirements of households that the Council would be seeking to re-house in the near future e.g. in terms of property type or very specific location needed etc.*

³¹ RSLs with relatively small stock holdings, and particularly national specialist RSLs, generally did not attend these meetings but were often kept informed of the issues via circulation of minutes etc.

7.15. It is very clear from the case study fieldwork in particular, that front line staff and the management in both local authorities and RSLs valued highly 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.

7.16. In some case study areas organisations had built on already good existing working relationships and in some the development of Section 5 and other referral protocols and procedures was identified by some as the catalyst that has led to improving working relationships. However, it was also clear that this is a potentially difficult area in which to develop agreement and build consensus.

'There was already a really positive approach to partnership working in XXX, nominations already worked really well and that made all of this (introducing Section 5) a lot easier...and if anything things are even better now.' (RSL)

'I thought the idea of developing a protocol was to get agreement...but we were effectively told to sign up or they'd just send referrals through anyway...' (RSL)

What works well or less well

7.17. The survey went on to ask respondents which aspects of their local system for statutorily homeless households accessing RSL accommodation they felt worked well and which less well:

- Working relationships were identified as one of the elements that work well by 14 local authorities;
- This was considerably higher than the 1 out of 5 RSLs (18) that identified working relationships as one of the elements that worked well;
- Views on information exchange divided RSLs. This aspect was most commonly identified as something that worked well but also most commonly identified as not working well;
- Other areas that were identified as working less well were support packages, the lack of stock, general procedures and too many inappropriate referrals; and
- There were 13 RSLs that felt there was nothing about their local system that did not work well.

Table 7.3 ‘Top 5’ areas identified as working well or less well

	Local authority	RSL
Works well		
1. Good working relations	14	18
2. Information exchange	5	33
3. Improved access for homeless households	3	3
4. Void led system	2	8
5. Effective procedures	2	13
Works less well		
1. Lack of stock	7	9
2. Information exchange	5	23
3. Ineffective procedures	4	7
4. Issues with support needs packages	1	14
5. Not enough referrals being accepted/made	1	1

Source: Local Authority and RSL Surveys

7.18. Finally in this section it is worth noting that, for the applicants interviewed as part of this study, satisfaction with the final outcome of their application emerged as key to whether they felt the overall system had worked well for them. All but 2 of the fifteen people interviewed were very pleased with the final outcome, namely the home they were now living in. Even when applicants had waited some time before receiving an offer of permanent housing they still considered the system to have worked well. This may be because applicants often had a very clear understanding of the realities of looking for social rented housing in a pressured housing market.

8. RESOLVING ISSUES

8.1. This chapter highlights some of the difficulties that appear to be arising around the referral of statutorily homeless households to RSLs and some of the steps that are being taken to resolve them. It includes the views of a range of stakeholders (obtained through key player interview, survey and case study) on changes they would like to see to the legislation and national guidance on Section 5.

Key Issues

- One area of obvious tension between local authorities and RSLs arises when an RSL declines to make an offer to a statutorily homeless household that has been referred to them. It was evident that differences of opinion were often resolved after informal discussion. Of interest is that not all of those local authorities which sometimes disagreed with the action taken by an RSL would challenge that RSL.
- It was striking that any discussions held were generally between front line operational staff and it was only occasionally necessary to involve council or RSL management. Staff were often motivated by maintaining what they considered to be prized working relationships and generally reported that any disagreements were resolved with a good deal of 'give and take' on both sides.
- Tensions between RSLs and local authorities also arise around the support needs of applicants. This could be about the initial assessment, or the lack of one, or could be about the nature of the support package that had been put in place. Support packages, or the absence of them, certainly emerged as one of the more contentious issues within the case study areas, although it rarely led to a refusal of a referral.
- The time needed for a review of an offer to be undertaken appears to be a potential area of tension between local authorities and RSLs. Councils generally felt it was reasonable to expect an RSL to hold any vacancy that was involved in an appeal until the review had been conducted. Some RSLs expressed concerns about the length of time these appeals could take and the consequence this could have in terms of lost rental income and increased re-let times.
- The Section 5 arbitration process has only rarely been used. In broad terms, both local authorities and RSLs noted that good working relationships and effective local arrangements mean that disagreements arise infrequently and, where they do, informal discussions would resolve them. As a consequence it is not necessary to resort to arbitration.

Key Issues continued

- In terms of changes to legislation or guidance it is striking that only one consistent theme emerged from local authorities, namely that many would like to see RSLs giving greater priority to re-housing statutorily homeless households. For some respondents this translated into RSLs (in non stock transfer contexts) being required to make the same proportion of their available lets to statutorily homeless households as the council does.
- RSLs expressed a slightly more diverse range of views. The most commonly sought change was the provision of better support packages, although in essence this is not about Section 5 itself but rather about whether the associated arrangements lead to the creation of sustainable tenancies. 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, and this issue was also raised by a number of key player interviewees, that were looking for both local and national recording practices to be improved.

8.2. One area of obvious tension between local authorities and RSLs arises when an RSL declines to make an offer to a statutorily homeless household that has been referred to them. Local authorities most commonly identified tenancy history issues as the reason for a referral being refused by an RSL. Of the 6 of 12 local authority respondents, 3 mentioned that RSLs were sometimes unwilling to accept an applicant who had previously had significant problems with rent arrears in a social rented sector tenancy. Others referred to a history of tenancy problems leading RSLs to question whether an applicant might 'be a risk to a balanced community'.

8.3. It was evident from the survey that differences of opinion between the local authority and the RSL were often resolved after informal discussion; this was not always the case, however, with one local authority suggesting that on occasions an RSL in their area even challenges their homelessness assessment decisions.

8.4. Tensions between RSLs and local authorities also arose around the support needs of applicants. This could be about the initial assessment, or the lack of one, or could be about the nature of the support package that had been put in place. Support packages, or the absence of them, certainly emerged as one of the more contentious issues within the case study areas, although it rarely led to a refusal of a referral.

Case Illustration 8

An RSL received a Section 5 referral for a 19 year old man who had been asked to leave the family home by his parents. The referral paperwork recorded that he had no support requirements. The applicant was invited to a pre-offer interview. He attended but the RSL housing officer was concerned that he appeared to be intoxicated and she had concerns about whether he would be able to sustain his tenancy without a significant amount of support. After discussions with the council homelessness team the referral was withdrawn and the young man was offered a place in a supported accommodation unit for young people in a nearby town. He stayed there for 6 months and was then referred back to the same RSL under Section 5. An outreach support package was in place and was to be provided by the same organisation that runs the supported accommodation. An offer was made and accepted within a week of the second Section 5 referral being received.

8.5. The generally good relationships between local authorities and RSLs is reflected in reports from 17 (of 28) local authorities that there were never occasions when they disagreed with actions taken by their local RSLs in relation to Section 5 referrals. Not surprisingly, there was a link between the lack of disagreements and a positive rating of the local arrangements in terms of their effectiveness, with 16 of these 17 local authorities stating that they considered arrangements to be effective (7) or very effective (9).

Table 8.1 Ever occasions where local authority disagrees with RSL action on Section 5 referrals

Local authorities	No
Yes	11
No	17
Total	28
No reply	2

Source: Local Authority Survey

8.6. Of note is that not all of those local authorities that on occasions disagreed with action taken by an RSL reported that they would challenge that RSL: 3 of the 11 local authorities said that they would not. There was no pattern evident from the survey responses as to why the local authority would not challenge the RSL.

'It can jeopardise wider working relations with the RSL and there is sometimes a feeling that it is just easier to house the applicant ourselves.' (Council)

'We sometimes accept that there is good reason (which we were not aware of at the time of the referral).' (Council)

'Because it is rarely that nominations are refused and RSLs would argue that they must have some influence in who occupies their tenancies.' (Council)

Response to inappropriate referrals

8.7. When asked how they responded to the receipt of a referral they considered inappropriate, more than 8 out of 10 RSLs (83%) reported that they would talk to the council. Some (13%) stated that they would refuse the referral, while slightly more (15%) would find a solution to the problem, such as by finding another more suitable property or identifying the necessary support for the applicant being referred.

Table 8.2 RSL response to inappropriate referrals

	No
Talk to Local Authority	34
Discuss with Local Authority to ensure it is an appropriate offer	16
Discuss with Local Authority then refuse referral	5
Discuss with Local Authority then take on case anyway	5
Identify necessary support	5
Refuse	4
Find other suitable property	1
Nothing	1
Speak to applicant	1
Total	72
Base	72

Source: RSL Survey

‘Generally we try and fix them up with another property if we can or identify support which is appropriate if we house them.’ (RSL)

‘We accept that the Council has deemed the referral appropriate under their obligations and assessment procedures.’ (RSL)

8.8. Responses mostly suggested that RSLs would enter into negotiation with local authorities, depending on the particular circumstances. Again the comments mostly suggested that where working relationships were good, a resolution would be found. It was striking from the case studies that any discussions held were generally between front line operational staff and it was only occasionally necessary to involve council or RSL management. Staff were often motivated by maintaining what they considered to be prized working relationships and generally reported that any disagreements were resolved with a good deal of ‘give and take’ on both sides.

‘Generally the referral is discussed between the Housing Manager of HA and the Housing Manager of (Council) and a resolution is sought.’ (RSL)

Right to review and the use of arbitration

8.9. The time needed for a review of an offer to be undertaken appears to be a potential area of tension between local authorities and RSLs. Councils generally felt it was reasonable to expect an RSL to hold any vacancy that was involved in an appeal until the review had been conducted. Some RSLs expressed concerns about the length of time these appeals could take and the consequence this could have in terms of lost rental income and increased re-let

times. There were also concerns that ‘holding’ a property during the review period could impact on how their organisation appeared to be performing according to statistical returns such as the ASPR.

8.10. The Section 5 arbitration process has only rarely been used, and the survey sought the views of both local authorities and RSLs as to why this is the case. Within the tables below, the survey responses have been divided between those that could broadly be considered to be positive, those that are generally negative and other reasons.

8.11. In broad terms, both local authorities and RSLs noted that good working relationships and effective local arrangements meant that disagreements arise infrequently and, where they do, informal discussions allow them to be resolved. As a consequence it is not necessary to resort to arbitration.

8.12. Of 29 local authorities, 9 noted that their relationship with local RSLs is good and this meant that real difficulties rarely arise. Good working relationships were even more commonly identified by RSLs as the reason why arbitration had not been necessary, with 42 (41%) mentioning it.

‘We have established a very good working relationship with the RSL partners. They accept that they have a role to play in housing homeless applicants and there has never been a situation where they have refused to deal with a referred homeless applicant.’ (Council)

Table 8.3 Reasons given by local authorities for not using arbitration

	No
Positive Reasons	
Local Authorities and RSLs enjoy good working relations and always reach agreement	9
Resolve situation through informal measures	8
Clear protocols in place	2
Pre-referrals used to iron out potential problems before hand	2
RSLs operate transparently	1
Void led system lessens the likelihood for dispute	1
Negative Reasons	
Too complicated a process - likely to damage working relations	2
Legislative approach not strong enough	1
Other Reasons	
Don't or rarely do section 5 / RSL never refused to house an applicant	7
Easier for LA to house applicant themselves	1
Monitor approach with RSL	1
Base	29
Total	35
No reply	1

Source: Local Authority Survey

8.13. The lack of any difficulties was linked not only to good relationships but also to the existence of clear arrangements for resolving any issues which did arise.

'Referral protocols have been set up on a partnership basis and communication such as pre or informal referrals usually identify and resolve any areas of potential conflict before the formal referral stage thereby reducing the possibility of inappropriate referrals and possible conflict.' (Council)

'We have close and productive working relations with the Council and any problems are dealt with within the terms of the Section 5 protocol.' (RSL)

8.14. The reasons why RSLs thought that arbitration had not been used were similar: good working relationships, an efficient system and the ability to always reach agreement. However, some RSLs also reported that they thought people were unaware of the arbitration process or had little choice but to accept a referral anyway.

'Informal negotiations have negated the need for arbitration.' (RSL)

'All our challenges to date have resulted in an offer of housing being made. We therefore have not required to go to arbitration. We would use this route if it were necessary.' (Council)

Table 8.4 Reasons why RSLs think arbitration has not been used

	No
Positive Reasons	
Good working relations	42
Efficient system	12
Have always reached agreement	12
Applicants always satisfactorily housed	3
Not need to use it	3
Clear legislation	2
Informal negotiations	2
Transparent system	1
Negative Reasons	
People unaware of the arbitration process	6
RSLs have little choice but to accept referral	6
Other Reasons	
Unsure	5
Would only be a last resort	5
Receive minimal referrals	2
Council changes assessment when there is potential for arbitration	1
Other housing providers available	1
Referrals only refused when no property available	1
Base	103
Total	104
No reply	13

Source: RSL Survey

8.15. There was a general mood from both the survey respondents and most of those that took part in the case studies that the arbitration process would always be a last resort, and that both parties would do as much as they possibly could to avoid using it. There was a definite feeling that going to arbitration could seriously damage future relationships between the involved parties.

8.16. However, it was not only that local authorities and RSLs had either rarely disagreed about referrals or had developed informal local arrangements to resolve or avoid these disagreements: there was also a strong perception that going down the arbitration route would be cumbersome.

'It is complicated, time consuming and ultimately is very unlikely to benefit either the RSL, Local Authority or the client. Lets face it with all the other pressures faced by Homeless Services who needs the hassle of taking a RSL to arbitration.'
(Council)

'The arbitration system is also cumbersome, time-consuming and not in the best interests of the applicant, RSL or Council.' (RSL)

Use of protocols and agreements

8.17. Earlier findings have suggested that both local authorities and RSLs often consider that the effectiveness of their local system is built on having agreed protocols in place. Both parties were asked what agreement(s) or protocol(s) are in place in their area to govern the arrangements by which statutorily homeless households are referred between the council and RSLs:

- Almost 3 out of 4 local authorities (21 out of 29) said protocols were in place;
- Of the remainder 3 are currently developing protocols and 3 have a nominations agreement in place; and
- One authority reported that arrangements in their area were based on a CHR Partnership Agreement.

Table 8.5 Local agreements in place – local authorities

	No
Section 5 protocols in place with RSL(s)	21
In process of developing a Section 5 protocol	3
Nominations agreement	3
Access to housing agreement with RSLs. Based on SFHA model.	1
CHR Partnership Agreement	1
Homeless Duty Protocol in place with 50% of RSLs	1
RSL protocol in place - agreement that they can 'assess referral according to the associations' allocations'	1
Base	29
Total	30
No Reply	1

Source: Local Authority Survey

8.18. The survey returns suggest that there may often be a range of different agreements and arrangements in place within any one local authority area. This was sometimes a reflection of different allocations processes and systems, for example that some RSLs operate a CBL system and others do not. In other cases it appears to reflect historical precedent or simply the different outcome of negotiations between the council and RSLs in the area.

8.19. The majority of RSL respondents (53%) also reported that they had signed up to a Section 5 protocol, while a further 20% had both a Section 5 protocol and nominations agreement with the council. Only 4 RSLs said they only had a nominations agreement with the council and 3 that they only had informal arrangements in place with the local authority. At the other end of the spectrum, 2 RSLs had signed up to a Section 5 protocol, a nomination agreement and agreed CHR arrangements.

Table 8.6 Local agreements in place – RSLs

	No
Section 5 protocol in place	61
Section 5 protocol and nominations agreement	23
Nominations agreement	4
Access to Housing Agreement with LA	3
Informal arrangements - work well	3
CHR agreement	2
CBL agreement	2
Section 5 protocol, nominations agreement, and CHR	2
Nominations agreement / CBL scheme	1
Other	9
None	4
Base	113
Total	113
No reply	4

Source: RSL Survey

8.20. The SFHA/COSLA protocol referred to above has been available to councils and RSLs since 2002 and is designed to offer a ‘starting point’ model which can then be adapted to reflect local circumstances. Very much in line with the way it was intended to be used, most local authorities (19 out of 29) and RSLs (62 out of 104) said the Section 5 protocol they had agreed was based on the model but had been adapted to reflect local arrangements. However, a significant minority of respondents (6 out of 29 local authorities and 21 out of 104 RSLs) said they had simply adopted the model protocol without alteration. Two local authorities and 14 RSLs reported that their local Section 5 protocol was not based on the model protocol at all.

Table 8.7 Use of the SFHA/COSLA model protocol

	LA	RSL
Yes – we have used the SFHA/COSLA model to some extent but adapted it to suit local circumstances	19	62
Yes – we used the exact SFHA/COSLA model protocol	6	21
No – we didn’t use the SFHA/COSLA protocol at all	2	14
Not applicable - we do not have any Section 5 protocols in place	2	7
Total	29	104
No reply	1	13

Source: Local Authority and RSL Surveys

8.21. Of the 6 RSLs that said they had not signed up to a Section 5 protocol and which answered the question, two said they did not agree with their local protocol. Other reasons given included awaiting the findings from the Scottish Government review of the use of Section 5 and being content to rely on legislation and good working relationships.

Table 8.8 Reasons why no Section 5 agreement in place – RSLs

	No
Do not agree with LA's protocol	2
Awaiting outcome of Section 5 review	1
Previous protocol abandoned after adoption of CHR	1
Rely on legislation and partnership working	1
Still being drawn up	1
Base	6
Total	6
No reply	1

Source: RSL Survey

'Awaiting outcome of Review of Section 5 of the Housing (Scotland) Act 2001.'
(RSL)

'We have not agreed to a protocol. Our questions regarding the protocol have still to be answered.' (RSL)

8.22. Survey respondents were invited to forward copies of their local agreements to the study team and an analysis of the types of adaptations that have been made to the model protocol has been undertaken. Unsurprisingly, given that the model protocol is based on an applicant led system, changes were greatest where a vacancy led approach had been adopted. Examples of adaptations made to the model protocol include:

- Any request for previous tenancy information by the local authority to an RSL will be accompanied by a signed mandate from the applicant agreeing to the release of the information;
- Arrangements for an RSL to offer a Short Scottish Secured Tenancy under prescribed circumstances;
- Reference to quotas removed as not relevant within an applicant led system;
- Inclusion of pre-arbitration dispute resolution arrangements;
- Provision to make local area based quota arrangements (in an authority with remote communities);
- Reference to local Single Shared Assessment arrangements; and
- Adaptations to take account of CHR or CBL contexts.

Changes sought to legislation and guidance

8.23. The powers given to local authorities under Section 5 of the Housing (Scotland) Act 2001 and the supporting national guidance have now been available for around 6 years. Survey respondents were asked to identify any changes they would like to see introduced to either the legislation or the guidance. The findings are supplemented by views expressed by key player interviewees, along with the broad range of council and RSL staff who took part in the case studies.

8.24. What is perhaps most striking from these findings is that there was only really one consistent theme to emerge from local authority based consultees, namely that many would like to see RSLs giving greater priority to re-housing statutorily homeless households. For some respondents this translated into RSLs (in non stock transfer contexts) being required to make the same proportion of their available lets to statutorily homeless households as the council does. In many ways this suggestion reflects one of the themes that has emerged consistently throughout this study: that many local authorities and other stakeholders believe that RSLs should, but do not always, see themselves as having an equivalent responsibility to the local authority for achieving sustainable outcomes for statutorily homeless households.

8.25. It is also notable that 5 local authority survey respondents were looking for no changes to the legislation or guidance. These included both stock transfer and non stock transfer authorities, and areas that ranged in both size and level of overall pressure on the social rented housing stock.

Table 8.9 ‘Top 4’ changes suggested by local authorities

	Number of times suggestion made
RSLs to give greater priority to statutorily households	11
Clarification in relation to the provision of support and tenancy sustainability issues	2
Examples of good working practice to be highlighted	2
More consistent protocols with RSLs	2

Source: Local Authority Survey

Note: only 4 suggested changes were made by more than one local authority

8.26. RSLs expressed a slightly more diverse range of views. The most commonly sought change was the provision of better support packages, although in essence this is not about Section 5 itself but rather about whether the associated arrangements lead to the creation of sustainable tenancies. 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.

8.27. There were also a number of RSLs, and this issue was also raised by a number of key player interviewees, that were looking for both local and national recording practices to be improved. In particular, some RSLs would like to see lets made to statutorily homeless households via their waiting list acknowledged within local and national statistics.

8.28. Some RSLs also suggested that greater thought needed to be given to the impact the use of Section 5 could have on creating sustainable communities. The development of

clearer guidance, particularly in relation to what constitutes an appropriate referral, was among the other suggestions made.

8.29. Finally, national and regional RSLs were asked to contribute general comments, if more appropriate than commenting on one area, about how Section 5 affected the operation of their organisation. Although the number of responses was small, those that responded suggested that a greater standardisation in approach across Scotland would be helpful from their perspective.

Table 8.10 ‘Top 5’ changes suggested by RSLs

	Number of times suggestion made
Better support packages in place, including the possibility of minimum support packages to accompany referrals	20
Acceptable reasons for an RSL to refuse a referral to be broadened	9
Recoding/national reporting of <i>ALL</i> RSL lets to statutorily homeless households, including recognition of direct lets made via RSL waiting list	9
Greater consideration given to creating sustainable communities when making referrals	6
Clearer guidance, including on what constitutes an appropriate referral	4

Source: RSL Survey

9. CONCLUSIONS AND RECOMMENDATIONS

9.1. The aim of the research was to develop an understanding of how RSLs and local authorities are using Section 5 and other arrangements to place statutorily homeless households in RSL accommodation. This is to inform a review of Section 5 of the Housing (Scotland) Act 2001..

9.2. As owners of a growing proportion of the housing in the social rented sector, RSLs have an increasingly important role in providing housing for homeless households. With the target to remove the distinction between priority and non-priority need homeless households by 2012 and progress to be made by 2009, the process by which homeless households access RSL housing is key. Research completed in 2007³² found concerns amongst both local authorities and RSLs about balancing the needs of homeless households and others on housing lists: abolition of the priority need test could be expected to increase those concerns.

9.3. Overall, however, this research found that the current arrangements for accessing RSL housing for statutorily 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.

9.4. That said, there were difficulties experienced by some local authorities and some RSLs, with aspects of the process where improvements appeared to be required. It also has to be remembered that the implications of the abolition of priority need would not yet have been evident at the time of the research (2008) and this may still generate additional pressures on current local arrangements.

9.5. We set out below the conclusions in relation to the key themes which emerged from the research. Recommendations are then made in relation to addressing the issues identified.

Varying approaches, few patterns

9.6. 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 to RSL accommodation for statutorily homeless households.

Varying use of Section 5

9.7. In circumstances where referrals of statutorily homeless households were made, we found variation in the extent to which Section 5 or other arrangements were used. Around two thirds of both local authorities and RSLs stated that Section 5 was always used to refer statutorily homeless households. Most of the remaining respondents stated that the use of Section 5 varied depending on the particular circumstances: most commonly this related to the availability of property in the area of the size and type required or was about the particular needs of the homeless household. Some areas, however, do not use Section 5 in any circumstances, referring statutorily homeless households by other means.

9.8. The evidence from the case studies and from the initial key player interviews is that the decision about how to use Section 5 was heavily influenced by the existing arrangements

³² *Tensions between Allocations Policy and Practice, Craigforth*, Scottish Government 2007

between the council and RSLs for accessing housing: areas have tended to modify rather than scrap and re-develop these existing arrangements. 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 which were working effectively to a greater or lesser extent. In this context, the variation in approaches is less surprising.

9.9. Accessing RSL housing for statutorily homeless households does not always involve a referral from the council. In some areas the wider allocations arrangement, in particular the existence of a CHR or the adoption of Choice Based Lettings (CBL), rendered referrals unnecessary. Given the continuing interest in both CHRs and in CBL, this has important implications for the future role and use of Section 5 and other referral arrangements such as nominations.

9.10. Agreement around the operation of a CHR might include arrangements for local RSLs to select names of statutorily homeless households directly from the Register, without the need for a process of referral by the local authority. With CBL, the process of identifying a property involves the applicant expressing an interest in a particular property ('bidding') and again the process of referral may not be required. These arrangements did not tend to remove the need for, or use of, referral completely (whether by Section 5, nomination or other arrangement) in that local authority area, reflecting the fact that local arrangements were often specific to the RSL, and sometimes to the individual applicant, rather than being standardised across the local authority.

Varying local processes

9.11. The variation in approach at local level was not simply about the extent to which Section 5 was used to refer statutorily homeless households. There was also mixed use of 'vacancy' led and 'applicant' led approaches to making referrals. Vacancy led approaches were most common, with a little under a half of respondents to the survey stating that they always used these: under a quarter stated that an applicant led approach was always used. However, it was evident that in some areas the approach used by the local authority varied between different RSLs and between different referrals to the same RSL. It was also apparent that even where the approach was mainly applicant led, RSLs might still approach the local authority for a referral.

9.12. Actual practice varied amongst RSLs operating in a vacancy led system. Some simply referred every second vacancy to the local authority: others reviewed the profile of the vacancy against demand from existing tenants and from others with high priority on their list: still others sought to provide the local authority with a representative cross section of types and sizes of vacancies.

9.13. The case study research suggests that, when working within an applicant led system, frontline staff will often adapt practice to introduce an element of vacancy sensitivity. Local authority staff reported that being aware that an RSL already had, or was likely to have, a suitable property available before issuing an applicant led referral made the system work more efficiently; it reduced the need for abortive paperwork and helped to secure an appropriate let for applicants as quickly as possible. RSL staff reported that if they made the council aware of vacancies and prompted the sending of a referral, they could minimize void periods and take a more pro-active role in meeting any quota arrangements that were in place.

9.14. Analysis by a wide range of characteristics and factors (whether the area was urban or rural, the level of demand for social rented housing, the number of RSLs operating in the area and whether the council had transferred its stock) showed very few patterns which could help explain the variations in approach, practice or views on effectiveness.

Process and outcomes

9.15. The issue is whether it matters that there is a lack of consistency in the extent to which Section 5 or another referral method is used, or what more detailed local processes for referring households from the local authority to an RSL are followed. 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. 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.

9.16. 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 placed 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.

9.17. Consideration of the implications of these research findings for the Scottish Government's subsequent review of Section 5 needs to take into account that local variation is not an issue in itself, so long as the outcomes delivered meet requirements.

9.18. We are aware that this variation in local practice is of concern to some national bodies, who would like to see greater consistency in process by requiring Section 5 to be used for all referrals of statutorily homeless households. 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. Different processes across and within local authorities certainly makes it more complicated to gather a national overview, but this is in our view a consequence of the principles underpinning the Concordat.

9.19. Since we found no evidence that this variation in use of Section 5 or of vacancy or applicant led approaches was more effective (either on the basis of proportion of lets or the views of local partners), we recommend that local authorities and their partners should continue to be able to use arrangements which suit their local needs and circumstances, providing that they deliver key requirements particularly in relation to the abolition of priority need by 2012.

Recommendation 1 *The Review of Section 5 should acknowledge the key role played by Section 5, but should also recognise and accept that Section 5 is one of a number of instruments which can achieve the outcome of providing access to RSL housing for statutorily homeless households. The review should also acknowledge that both applicant led and vacancy led approaches may be appropriate.*

Nationally collected data

9.20. We encountered significant challenges in using nationally collected data to inform the outcomes achieved in this area, with irresolvable inconsistencies in the data collected from RSLs through the Annual Performance and Statistical Return (APSR) and from local authorities in the homelessness return (HL1). Overall, and in line with the emphasis on outcomes rather than process, the review of the nationally collected data should ensure a focus on measuring outcomes achieved, with less emphasis being given to the referral method.

9.21. There were also, in our view legitimate, frustrations amongst RSLs about the failure of these data collection instruments to gather information about the contribution they make in housing statutorily homeless households which have not specifically been referred to them by the local authority. Inclusion of these households would be consistent with a greater emphasis on outcomes rather than process.

Recommendation 2 *The Scottish Government should review national data collection on lets by social landlords to ensure that outcomes for statutorily homeless households rather than referral type or mechanism are collected. This should include data on the sustainment of re-housing arrangements for statutorily homeless households.*

Recommendation 3 *The data collected nationally and at local level should recognise the whole contribution of RSLs to re-housing statutorily homeless households, by whatever route or mechanism.*

Outcomes for homeless households

9.22. The feedback from applicants, interviewed for the research, on the final outcome was generally very positive. Interviewees were overwhelmingly pleased with the outcome, with a high level of awareness that when the system had been 'slow' it was about lack of availability of property. Issues of concern which were raised during interviews tended to be typical of lettings processes, including concerns about the state of gardens and grass cutting, rubbish and the state of decoration, rather than about choice or equity.

9.23. The importance of property availability was clear in relation to the outcomes for homeless households. The evidence from both applicant interviews and discussion with frontline staff suggests that, where there is a pressured housing market and applicants are being made very aware of the likely wait for an offer, they are unlikely to decline an offer if it broadly meets their immediate needs. For statutorily homeless households, as for other households in need of urgent re-housing, real 'choice' is a luxury that can only realistically be available to those seeking housing in areas of lower demand.

9.24. That said, there was also evidence that in some areas frontline staff are sometimes 'pre-offering' informally in order to try and allow applicants some degree of choice. This was most likely to be happening when there were issues around local support, such as schooling

or family networks, or in more rural or remote areas. Staff are effectively sidestepping a situation where an applicant may decline what would be deemed to be a ‘reasonable’ offer. Again, this suggests that front line staff are generally clearly focused on achieving positive outcomes for applicants and are aware that, if an applicant accepts an offer simply because they are concerned that they may not receive another one, this may not result in a sustainable tenancy being established.

9.25. Applicants did not appear to be actively involved in the process of referral to an RSL. Sometimes this was because there was sufficient pressure in the system that the focus of staff was to identify housing and get an offer made, with no time to be able to involve applicants beyond their broad area choices. Sometimes it appeared that further involvement was not necessary or desired by the applicant: at the outset applicants state preferences on area and type of housing, with staff operating as their ‘advocates’, doing their best to meet these preferences (sometimes based on ongoing discussions with applicants but only when there is a specific need to do so).

9.26. The distinction between local authority and RSL housing appeared neither to be clear or important to applicants. Some of those interviewed did not understand the difference between RSLs and the local authority: many frontline RSL staff also confirmed that this was the case. Perhaps linked to this, there was no evidence of any applicants declining an offer because it was from an RSL.

9.27. In principle, an assessment of the impact and effectiveness of delivering outcomes of particular policies should capture information about the outcome for the individual household. In practice, however, there are significant practical difficulties in gathering this information. Various approaches are currently being developed, such as the Housing Support Outcomes Framework and the UDSET (User Defined Service Evaluation Tool). Both collect information about homeless households along with the experiences of other households and should be capable of modification, or being related to other data sets, so that they identify those housed by RSLs following a referral from the local authority.

Recommendation 4 The relevance and potential application of tools to assess the outcomes for individual homeless households should be explained and illustrated to local authority landlords and RSLs.

Local processes

9.28. The importance of a focus on outcomes does not mean that process is unimportant.

9.29. Some of the inconsistencies evident in the research are not, in our view, justifiable. In particular, some landlords appear to provide a different number of offers to homeless households depending on the referral route. We recognise that the Code of Guidance states that a statutorily homeless household should receive the same number of offers as other households under the local authority’s allocations policy rules. This does, however, leave open the possibility that a homeless household referred under an applicant led system may receive more or fewer offers than other applicants to that RSL.

9.30. We consider that clarification of what is required should be provided.

9.31. Variable approaches within a local authority area will also make it more difficult to provide transparency for applicants, for partners and for other stakeholders. Certainly at the

moment, some of the distrust which was expressed by both local authorities about RSLs, and by RSLs of local authorities, appeared to be based on suspicions rather than evidence. This is not, however, to say that variable approaches and transparency are incompatible, simply that it becomes more difficult where arrangements are local area, and possibly even RSL, specific. A variation in approach increases the importance of good information exchange, both between partners and more widely with other local stakeholders.

9.32. This exchange of information needs to be undertaken on a regular, ongoing basis, rather than annually and based on previous year's lets, so that it can inform discussions and adjustments of respective contributions by local social landlords.

Recommendation 5 *The Scottish Government should issue clarification to local authorities about the total number of reasonable offers, whether from an RSL or the local authority, which should be made to a statutorily homeless household.*

Recommendation 6 *Local authorities and RSLs should be encouraged to share information amongst themselves about respective contributions to housing statutorily homeless households in relation to overall lets on a regular and continuing basis.*

Local partnerships

9.33. The strength of the partnership between the local authority and RSLs overall, as well as with individual RSLs, appeared to have the greatest influence on the operation of referrals. Where there was a shared understanding of levels and types of need, and of the relative contribution RSLs' needed to make to meet that need, the overall system appeared to work effectively from both the local authority and RSL perspective. It was not, however, possible from the research findings to establish whether strong partnerships resulted in better outcomes for homeless households.

9.34. Where there was an operating Common Housing Register (CHR), the local partnership appeared to be stronger: it was not a focus of the research to establish whether this was cause or effect, whether the existence of a CHR was the result of good working relations or whether the existence of a CHR promoted those good working relations.

9.35. There were, however, some common difficulties in relationships. This appeared to relate to a lack of collective ownership of the housing needs of statutorily homeless households. Homelessness services within the local authority have responsibility for cases until such point as re-housing is secured. At that stage, responsibility passes from the local authority homelessness service to the RSL. Where there was a strong local partnership, this separation of roles was less evident.

9.36. Achieving sustainable outcomes for statutorily homeless households involves a collaboration between those who assess the needs (the local authority) and those who meet those needs (in this case the RSL): the views of many RSLs participating in the research is that there needs to be a more effective system in place for needs which emerge, or which increase, at a later date to be addressed in order to reduce the level of repeat presentations. It would be helpful for there to be encouragement of the continuing, collective responsibility of both local authorities and RSLs for previously statutorily homeless households.

9.37. Not all areas had good working relations. One of the commonly requested changes to legislation by local authorities was that RSLs should be required to make a greater

contribution to housing statutorily homeless households. For their part, a commonly requested change by RSLs was an extension of the reasons for which they could refuse a referral made by the local authority. This reflected pressures, which are likely to grow in the run up to 2012, felt by all social landlords in finding housing for homeless households.

9.38. The pressures are clear. However, we do not support these suggested changes. Local authorities already have significant, and in our view sufficient, powers to require greater contribution from RSLs under Section 5. Nor do we support an extension of the reasons for a refusal of a referral by an RSL. We do, however, suggest that RSLs could usefully be given greater flexibility in the way in which they meet their obligations towards statutorily homeless households.

9.39. We consider that the current focus on an individual application within Section 5 is not helpful and that an emphasis on the overall role which RSLs are expected to play in meeting the needs of statutorily homeless households is also required. This would focus greater attention on the strategic partnership between local authorities and RSLs and encourage monitoring of that overall role and respective contribution rather than debates around individual cases. We are aware that the legislation is framed in terms of individual cases. However, we would suggest that agreements between local authorities and RSLs should focus more on RSLs' overall role and contribution than they currently do, or are encouraged to do, by the model Section 5 protocol.

Recommendation 7 *Local authorities and RSLs should develop arrangements by which RSLs can obtain an immediate, local authority led case review for any formerly statutorily homeless household, housed by them within the last 6 months and as a result of a referral from the local authority, if they have concerns that there is a serious risk of repeat homelessness occurring.*

Recommendation 8 *The reasons for which an RSL can refuse a referral under Section 5 should remain unaltered.*

Recommendation 9 *The current Section 5 Protocol should be replaced with a guide to developing an agreement between the local authority and local RSLs that sets out how RSL housing in the local area, by whatever route or mechanism, will be made available to statutorily homeless households. This should include agreement on respective roles and responsibilities, expected contributions to providing housing to statutorily homeless households, referral processes, and information exchange arrangements.*

Resolving disputes

9.40. Disputes appeared to be less common, and were resolved more quickly and easily to the satisfaction of both parties, where there was a strong local partnership between the local authority and local RSLs.

9.41. One important caveat remains. Good working relations between the local authority and RSLs will not necessarily result in good outcomes for homeless households. Some challenge and some friction in a partnership may be important to ensure that some of the difficult issues which arise in relation to housing statutorily homeless households are addressed rather than being 'smoothed over'.

9.42. There was an undoubted reluctance to go to arbitration when disputes did arise. This was primarily for positive reasons, namely that working relationships were strong enough to allow the parties to talk through and resolve the problem without arbitration being necessary. However, there were also concerns that the process would be difficult and cumbersome with the potential to damage longer term relationships. There is no reason in principle why independent review of a dispute should be seen as unhelpful and indeed it may be positive if it avoids staff 'giving way' primarily to avoid creating bad feeling: in addition the process could, over time, deliver a set of decisions which could support local good practice. The difficulty is that this is not how it is currently seen either by local authorities or RSLs, who rather see it as a last resort and best avoided.

9.43. This reluctance to use formal processes, where these are seen to be a significant 'statement' potentially prejudicing longer term working relationships, is not likely to be changed by modifications to the arbitration process. This process has an important role to play and, even though it has only very rarely been used, it is needed and is in any case a statutory requirement. Further use of it may reveal that there are changes needed but these are not evident at the moment.

9.44. Instead, however, we have concluded that it would be helpful if there were a source of advice and guidance around particular issues encountered by local partners. Effectively this would be 'pre-arbitration' and enable local partners to talk through their problems and hear about potential solutions. Over time, this could develop into a bank of practice examples based on these discussions.

Recommendation 10 Develop a mechanism, possibly based on peer review, by which guidance or advice on individual cases can be accessed. Develop a bank of practice examples based on those discussions.

Local information issues

9.45. It was noted above that there were few patterns or common issues across the research findings to suggest that particular practices were effective and others less so. A notable exception was in relation to information, where responses from RSLs in particular made it clear that information exchange was of key importance to them. RSL respondents to the survey most commonly identified information exchange as the feature of local arrangements, which both worked well *and* worked less well. More than a third of RSLs stated that there were problems with the information exchange between their RSL and the local authority: this group of RSLs was more likely to consider that the local arrangements were not transparent, or that the basis of referrals was not equitable. The existence of problems around information exchange also affected the RSLs' assessment of the effectiveness of their local arrangements.

9.46. Overall the information provided by the local authority at the referral stage and gathered in relation to the outcomes of referrals varied substantially between different local authorities. Most commonly, information provided at referral included household composition and support needs and packages. RSLs were as often concerned about the quality of the information which was provided: its depth, its relevance and its accuracy. There were particular concerns, and frustrations, at the information provided in some areas about support needs, with RSLs considering that the information was not sufficient to enable them to ensure an appropriate package of housing and support is in place: but it was also in this area that some local authorities expressed concern that supplying more information might result in the RSL finding a reason for not accepting the referral.

9.47. It was striking, however, that both local authorities and RSLs reported that more information, and more accurate information, was provided by the local authority in relation to Section 5 referrals than with other referrals of statutorily homeless households. This latter point may relate to the more common practice of sending a list of names to the RSL where it is another type referral, not Section 5: in these arrangements, the expectation may be that the RSL will gather the information directly from the applicant in order to inform a decision about which applicant will be offered housing.

9.48. A similar pattern of more information being collected by the local authority from the RSL in relation to Section 5 referrals compared with referrals of other statutorily homeless households was also evident. Most commonly collected information was about whether any offers had been made, the outcome of these offers, the date of re-housing and the location of that housing. Whether the applicant feels that the property meets their needs was the least commonly collected information.

Pre-referrals

9.49. There is a connection here with pre-referrals, where discussion takes place in advance of a referral being made, and information is exchanged between the local authority and the RSL. For those undertaking pre-referrals, there was strong support for them, both from local authorities and from RSLs. RSLs in particular valued them, considering that they saved unnecessary time and work and helped to ensure that referrals were appropriate and the subsequent tenancies were sustainable. The focus of these discussions was very often simply about the availability of an appropriate property. In part, these discussions appeared to form an integral part of local partnerships, where the local authority and the RSLs placed emphasis and value on an open dialogue.

9.50. There were, however, counter views about pre-referrals particularly from local authorities. In some areas, there were concerns that the process would become more time consuming and cumbersome if pre-referrals were used, or that RSLs would use it as an opportunity to reject homeless households with higher needs or more challenging behaviour.

9.51. Recording of pre-referral discussions tends to focus on the content of the discussion and be held on the individual case records. This makes it more difficult to identify whether pre-referral discussions tend to result in higher levels of 'rejections', or whether particular RSLs use it as a means by which to 'cherry pick' future tenants.

9.52. Of themselves it is difficult to conclude that pre-referrals are either desirable or undesirable. The issue appears to be more about the reason for the discussion and whether they result in a better or worse outcome for homeless households, or in inequity between RSLs, with certain RSLs contributing more either in overall numbers of lets or by making offers to more vulnerable households. It is also difficult to envisage an effective partnership where informal exchange of information does not take place.

Recommendation 11 The Scottish Government should respond to concerns around information accompanying a referral, and in particular achieving the appropriate balance between privacy for the applicant and equipping RSLs with sufficient information to allow them to work towards a sustainable tenancy, by producing a good practice note.

Recommendation 12 The Scottish Government should consider preparing a good practice note on using pre-referrals.

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