

# Preventing Homelessness the Need for Legislative Change

## Introduction

It is widely acknowledged by Agencies and Departments dealing with the issue that Section 10 of the 1988 Housing Act, which governs the scope of the remit of local authorities to meet the needs of those that are experiencing homelessness, is now out of date. In particular, the drafting in the 1988 Act focuses exclusively on people who have already become homeless, and does not reflect the increased priority given to preventative measures in Government policy. While many local authorities do have housing welfare teams that can and do undertake prevention work, there are instances where provision of independent advice and advocacy or the utilisation of skills from other sectors would make a real difference but is difficult to resource due to the limitations of the legislation.

The proposed amendments to the Housing Act 1988 in this submission would facilitate local authorities to harness skills from other sectors and to more effectively meet the needs of the homeless strategy. The amendments have two elements:

The first is an amendment to Section 2 that introduces the concept of and provides a definition of 'at risk of homelessness'. This serves to locate the point at which local authorities can interact with a person's housing support issues, and focus attention on practical steps to avert homelessness. A similar definition of 'threatened with homelessness' was introduced in the UK in 1996.

The second element is to create, under Section 10, provisions which enable the funding of suitably approved bodies to deliver the various types of intervention that will deliver on the objective of preventing homelessness.



### Prevention

The importance of housing advice, advocacy and tenancy support in relation to preventing homelessness has been acknowledged in both the government strategy on homelessness and the Dublin action plan.

*The Way Home* (2008:34-5) locates housing advice in the section on preventing homelessness, identifying it as a possible preventative measure in cases of notice to quit or eviction, where someone is new to an area, or in cases of domestic abuse. *The Key to the Door* (2007:41) includes housing advice and advocacy, targeted at vulnerable groups, as part of core action 3: "Implement an information and awareness strategy" aimed at preventing homelessness.

The Homeless Agency *Comprehensive Strategy to Prevent Homelessness 2005-2010* states that a "great deal can be done to prevent homelessness through information, advice, tenancy support and mediation, particularly when this is targeted in the most disadvantaged areas". It sets out a range of actions to make information, housing advice and mediation available in local areas through mainstream services, with specialist services providing a more specialised second tier service (2005:15).

A full understanding of homelessness prevention must include preventing the reoccurrence of homelessness among households that have moved out of homelessness. According to *Counted In*, the majority of people who are currently experiencing homelessness can move on to mainstream housing with either no support or time limited support (such as provided by SLI), while a significant minority of households require a low level of on-going support to maintain their tenancies. This is particularly likely to be the case with people who experience episodic mental health issues. In these cases,



while advice and advocacy can be important, appropriately designed tenancy support services can be crucial.

### **Advice, Advocacy and Homelessness**

While it is particularly on the prevention of homelessness that we focus here, it is important to be mindful that successful prevention will make the remaining aims of the strategy, including the elimination of long-term homelessness, attainable. The evaluation of homeless services by Brooke and Associates (2008) reported that 69% (1,409) of the people surveyed in emergency accommodation could move into mainstream housing with either no support (259) or short term support (391). This suggests that some at least might not have required emergency accommodation in the first place if timely housing advice, information and assistance were available, either to secure their existing accommodation and/or to help them source an alternative.

Information and advocacy services can prevent and reduce homelessness both directly and indirectly:

- Diverting people who are at immediate risk of homelessness away from emergency accommodation through information, advice and referral;
- Reducing the length of time people spend in homeless accommodation through information on housing options and assistance with securing tenancies;
- Preventing unsustainable tenancies through quality advice and information on housing options for people seeking housing, including those leaving homeless services;



## Preventing Homelessness the Need for Legislative Change

- Securing tenancies when there is an immediate threat of eviction through advocacy and representation;
- Reducing tenancy loss and breakdown by improving public knowledge and understanding of housing options, rights, entitlements and responsibilities through public information, leaflets, website etc., thereby enabling people to make informed decisions and assert their rights as necessary;
- Reducing illegal evictions and bad practice by landlords and lenders by improving information available to them and householders and by challenging bad practice through negotiation and mediation and where necessary legal action.

These are specialist services and the people delivering these interventions require a diverse range of knowledge, skills and competencies including: listening, problem diagnoses, giving information, advising on options, referral as appropriate, negotiation, representation and enabling and empowering service users to take action on their own behalf.

### Tenancy Support and Sustainment

The Department of Environment's *Homelessness – A Preventative Strategy* (2002) highlights the importance of helping 'to prevent people becoming homeless in the first place.' The focus in the Strategy was meeting and supporting vulnerable populations by going into prisons to meet with ex-offenders, going into schools in disadvantaged areas, and providing supports to people leaving different forms of institutional care. To this can be added vulnerable households who may be engaging in, or subject to, anti-social behaviour.



## Preventing Homelessness the Need for Legislative Change

Currently in Dublin tenancy support and sustainment for households who have previously been homeless is carried out by *Support to Live Independently* (SLI) teams. SLI teams provide visiting support to households who have formerly experienced homelessness to address any issues that might cause them to lose their new homes. The funding for these teams is made available through Section 10 (b)(i) of the 2009 Housing Act that allows for provision of assistance to households that were formerly homeless. These resources are not available for those who have never experienced homelessness but are at risk of homelessness.

If we are to end long-term homelessness and the need to sleep rough then prevention must be at the heart of the Strategy. This has been acknowledged in the 2009 Housing Act (Section 37 Article 2(a)) where local authorities are specifically directed to set out how they or other responsible bodies will work toward *the prevention of homelessness*. The proposed amendments to Section 10 of the 1988 Act augment and reinforce in a practical way the provision in the 2009 Act.

### Conclusion

Actions to prevent homelessness must be at the forefront of all homeless services. Housing advice and advocacy have a critical role to play in minimising the need for, and the time spent in, emergency accommodation. Tenancy support has an equally important role to play in assisting people in sustaining their existing accommodation, or retaining it where they have moved out of homelessness. While the importance and cost effectiveness of these interventions is widely accepted in legislation, policy documents and research literature, the current wording of Section 10 of the Housing Act limits the scope of such interventions, with the result that they are underdeveloped and piecemeal.



**Proposed Sections 2 & 10 of Housing Act 1988**

2. — (1) A person shall be regarded by a housing authority as being homeless for the purposes of this Act if—

(a) there is no accommodation available which, in the opinion of the authority, he, together with any other person who normally resides with him or who might reasonably be expected to reside with him, can reasonably occupy or remain in occupation of, or

(b) he is living in a hospital, county home, night shelter or other such institution, and is so living because he has no accommodation of the kind referred to in paragraph (a),

and he is, in the opinion of the authority, unable to provide accommodation from his own resources.

(2)A person shall be regarded by a housing authority as being at risk of becoming homeless for the purposes of this Act if—

(a)a housing authority, or a body approved of by the Minister for the purposes of providing housing support, advice and information, is satisfied that, due to circumstances beyond that person’s control or due to the existence of unavoidable causative factors, it is likely that he will become homeless without positive preventative action being taken by the authority or such an approved body; or

(b)it is likely that he will become homeless within 28 days.

10. — (1) A housing authority ~~may~~ shall, subject to such regulations as may be made by the Minister under this section—

(a) make arrangements, including financial arrangements, with a body approved of by the Minister for the purposes of *section 5* for the provision by that body of accommodation for a homeless person,

(b) provide a homeless person or a person who is at risk of becoming homeless with such assistance, which may include financial assistance, as the authority considers appropriate,



## Preventing Homelessness the Need for Legislative Change

(c) rent accommodation, arrange lodgings or contribute to the cost of such accommodation or lodgings for a homeless person,

(d) provide or make arrangements, including financial arrangements, with a body approved of by the Minister for the purposes of section 5 for the provision by that body of such support, advice and information as is necessarily required for the purpose of assisting a homeless person with putting an end to his homelessness, or

(e) provide or make arrangements, including financial arrangements, with a body approved of by the Minister for the purposes of section 5 for the provision by that body of such support, advice and information as is necessarily required for the purpose of assisting a person who is at risk of becoming homeless with remaining in occupation of his accommodation.

(2) A request for accommodation may be made to a housing authority by or on behalf of a homeless person and a person who is at risk of becoming homeless.

(3) Where accommodation or lodgings are made available to a person by virtue of *subsection (1)*, the housing authority may at any time specify a period for which the accommodation or lodgings are to be so made available to that person.

(4) The Minister may, with the consent of the Minister for Finance and subject to such regulations as may be made by the Minister under this section, recoup, out of moneys provided by the Oireachtas, all or part of any payment made by a housing authority by virtue of *subsection (1)*.

(5) Where accommodation or lodgings are made available to a person by virtue of *subsection (1)*, the housing authority may require that person to pay to them such charge as they see fit, having regard to the means of the person, the cost to the authority of such accommodation or lodgings and such other matters as the authority consider appropriate.

(6) A charge due to a housing authority under *subsection (5)* shall be recoverable by them as a simple contract debt in any court of competent jurisdiction.

(7) A charge under *subsection (5)* shall not be subject to the terms of any rent scheme in relation to houses let by the housing authority.

(8) Where accommodation or lodgings are made available to a person by virtue of *subsection (1)* and—



## Preventing Homelessness the Need for Legislative Change

(a) the circumstances of that person change to the extent that, in the opinion of the housing authority—

(i) if the accommodation or lodgings being made so available were no longer available, the person would not be homeless,

(ii) the person is now able to provide accommodation from his own resources, or

(b) that person has failed to pay a charge under *subsection (5)*,

the authority may cease to have such accommodation or lodgings made so available and may require the person to vacate the accommodation or lodgings.

(9) Where accommodation or lodgings are made available or assistance is provided to a person by virtue of *subsection (1)*, such person shall not be precluded for that reason from being included in an assessment under *section 9* or being accepted for inclusion in the next such assessment.

(10) A housing authority may, while making enquiries to enable them to determine if a person is homeless, exercise the powers provided for in *subsection (1)*.

(11) Regulations under this section may, in particular, but without prejudice to the generality of *subsections (1)* and *(4)*, make provision in relation to all or any one or more of the following:

(a) the manner in which housing authorities exercise their powers under this section;

(b) the amount and conditions of recoupments under *subsection (4)*;

(c) the notification by a housing authority of the decision on a request for accommodation and the reasons therefor;

(d) the furnishing of information to a housing authority in relation to a request for accommodation or assistance from the authority;

(e) such other incidental, consequential or supplementary provisions as may appear to the Minister to be necessary or expedient.

