
Response from The Housing Coordinating Group

1 The Housing Coordinating Group and the housing contribution

- 1.1 The Housing Coordinating Group (HCG) welcomes this opportunity to comment on the draft Scottish Statutory Instruments (Set 1) to accompany the Public Bodies (Joint Working) (Scotland) Act 2014.
- 1.2 The HCG consists of the Association of Local Authority Chief Housing Officers (ALACHO); the Chartered Institute of Housing in Scotland; the Scottish Federation of Housing Associations (SFHA); Glasgow and West of Scotland Forum of Housing Associations (GWSF); the Housing Support Enabling Unit (HSEU); and Care and Repair Scotland. Thus, this response comes from representative bodies of strategic housing authorities, social housing providers (councils, housing associations and co-operatives), the housing profession, and many third sector providers, particularly Care and Repair services.¹ To reflect our common views, in this response we use the collective term “the housing sector”.
- 1.3 The Housing Coordinating Group has made clear its support for the principles and objectives underpinning the integration agenda. Our focus is on ensuring that there is full recognition of the importance of people’s home and neighbourhood to their health and wellbeing. We have developed a clear, shared position about the role and contribution that the housing sector makes to national health and wellbeing, which we have set out consistently in various documents.
- 1.4 Collaboration between housing and health and social care is needed at different “levels”, which must be consistent and mutually supportive
- **Strategic** – setting the long term priorities and desired outcomes
 - **Locality** – ensuring that local plans firmly accord with local needs , which may differ between communities
 - **Individual** – “problem solving” for the individual to meet personal outcomes, ensuring that people can access the right services at the right time
 - **Service** – designing services which work well together and collectively deliver not only better outcomes for the individual but the strategic (long term) outcomes we hope for, and indeed which will be essential in the current economic climate to make best use of limited resources.

¹ The Joint Improvement Team provides support and assistance to the Housing Coordinating Group

- 1.5 Ensuring full recognition of the importance of 'home' and the contribution of the housing sector requires the overall national framework – primary legislation, secondary legislation, guidance and investment – to improvement support. We recognise that the regulations form just one part of that overall framework, and that many of the benefits can be achieved by effective partnership in practice as well as legislation.

GENERAL COMMENTS

2.1 Home and housing

- 2.2 The importance of home and housing to achieving national health and wellbeing outcomes was recognised during the parliamentary process. The Act requires that 'housing persons' are consulted on changes to national health and wellbeing outcomes. Although the draft outcomes now include reference to 'at home or in a homely setting', there is only limited mention of home and housing in the current draft regulations.

- 2.3 Our objective is to achieve engagement and discussion between partners in housing, health and social care, and we are concerned that the limited reference to housing in the regulations will not advance the cause of better engagement.

- 2.4 Within the regulations, the references to housing are in relation to 'non commercial providers of housing'. We have concerns that it may be taken to exclude some key housing interests, specifically

- Local authority strategic housing functions – strategic housing planning, private sector development and renewal, homelessness. These functions remain with the local authority even where housing stock has been transferred.
- The housing workforce – which is much wider than just those employed by 'non commercial providers of housing'.
- Care & Repair, which is key provider of housing-related services, but is not a provider of housing

- 2.5 We are keen to avoid situations where decisions are made about the future of key housing functions (such as homelessness) without drawing on relevant expertise and experience.

3 Sector involvement

- 3.1 In a number of areas, the sector has found it difficult to understand the links between the stated policy intention and the content of draft regulations. At this late stage, there are still aspects that are unclear in terms of their implications (particularly in relation to housing support and adaptations). This has hampered our ability to comment, or to suggest alternative approaches. For housing's contribution in supporting integration to be most effective, dialogue has to take place at an early

stage, something which has not always happened in relation to the Public Bodies Act and associated Regulations. We would ask that from here on, housing are seen as key partners and involved accordingly.

- 3.2 We have offered to work closely with the Government on the technical housing aspects of integration. We repeat this offer in resolving some of the issues identified.

4 Consultation on outcomes

- 4.1 The Act states that 'such persons having functions in relation to housing as the Scottish Ministers think fit' will be consulted about national health and wellbeing outcomes. While 'health professionals' and 'social care professionals' are defined in draft regulations, we are aware that there is no such definition of the reference to housing 'persons'.
- 4.2 We would request clarification of the Minister's intent as to which housing persons are to be consulted from the housing sector, and suggest that, as a minimum, this should include local authority Heads of Housing and CEOs, or equivalent, from national representative housing bodies such as, but not exclusively, ALACHO, Care and Repair, SFHA and Shelter and should be defined as such.

SPECIFIC COMMENTS ON DRAFT REGULATIONS SET 1

5 Information to be included in Integration Scheme, Annex 1

- 5.1 Our general comment made above has relevance to this Annex. Integration Authorities are required to consult 'non commercial providers of housing' under the current draft regulations, and to incorporate information about this consultation in the Integration Scheme. This may not however ensure that *relevant housing stakeholders* have been appropriately involved in the development of the Scheme.
- 5.2 The lack of engagement with and by housing stakeholders is a very real issue, as demonstrated at the recent JIT/HCG event on housing and integration. As noted above, we suggest that we discuss potential ways to address this with the Scottish Government before the final draft of regulations is prepared.

6 Prescribed functions (Annex 2) - general comments

- 6.1 We comment below on functions of specific interest to the housing sector. In general, we note that a number of housing and property related functions are included on the list of local authority functions which must be delegated to the integration authority. It is unclear how some of these functions support the policy intentions of the Act and, for councils in particular, delegation of these functions

could, by resulting in fragmentation, have significant repercussions on the effective delivery of remaining services.

- 6.2 That said, few housing practitioners would disagree that appropriate housing support can and must play a key role in the effective integration of services for vulnerable adults, by helping people to live independently at home as long as possible. The HCG would contend that this desired outcome can best be achieved by managing and delivering housing led support services at a local level, working collaboratively with health and social work services in pursuit of National Health and Wellbeing Outcomes.

7 Prescribed functions (Annex 2) – Adaptations

- 7.1 We have been aware of, and acknowledge, the policy intention to include housing funded adaptations as one of the functions that must be delegated by local authorities: health, housing and social care all have an interest in effective arrangements for housing adaptations.
- 7.2 The 2012 report from the Adaptations Working Group made clear that current arrangements for housing adaptations are far from adequate, and we support its recommendations the goals of creating equal access to housing adaptations (irrespective of tenure), a single funding pot, with a personalised approach, and a greater emphasis on 'upstream', preventative adaptations. We are closely involved with, and support, the current national policy review of housing adaptations which will be testing new approaches to addressing the issues identified and the recommendations made in the AWG's report and supported by the housing Minister .
- 7.3 The Act and the regulations will change where responsibilities lie, but responsibilities for planning and delivery will not rest with a single lead agency as the Adaptations Working Group recommended. The challenge of creating a single access point for customers, equal access irrespective of local area and tenure, and a greater emphasis on upstream, preventative focused services remains. The sector is understandably concerned that integration does not set back the momentum that has gathered amongst housing organisations (all tenures) and partners in Occupational Therapy. In particular, we have concerns that it is not in the gift of the Act to bring together all the sources of funding relating to housing adaptations in quite the way anticipated. Indeed, there is a risk that access to housing adaptations could become more complex for people who need them if the draft regulations were to be adopted as they stand.
- 7.4 Our understanding is that the Act and the regulations will require local authority functions in relation to grants to be delegated. This affects owners and private tenants. It will not apply to funding for RSLs (Stage 3 adaptations). We also understand that, due to recent Scottish Government guidance limiting the beneficiaries of Housing Revenue Account expenditure to council tenants,

adaptations funded through this source are unlikely to be affected – though we would ask for confirmation of that understanding.

7.5 Further, we understand that the scope of the prescribed functions relates only to adults. Adaptations are of course not only provided for adults, but also for children: indeed, there is growing demand for adaptations to enable independent living for disabled children. There is of course interconnectedness in the context of adaptations between support for adults and the impact on children, as well as important considerations as disabled children ‘transition’ to adults.

7.6 We are currently unclear whether adaptations to meet the needs of a disabled child are included within the prescribed functions.

7.7 Our specific comments are as follows:

- The regulations currently prescribe s71 of 2006 Act in its entirety. This includes functions much wider than grants for housing adaptations, including a wide range of other Scheme of Assistance functions unrelated to the policy intent of the Regulations. In line with the policy intent, the HCG asks that the regulations be amended to limit the prescribed function to grants for adaptation only.
- The regulations need to be accompanied by guidance, requiring integration authorities to develop joint arrangements with housing partners around strategic needs assessment, planning, delivery and review of adaptation services.
- The current national policy review of adaptations services must continue and inform, as intended, the future delivery arrangements for housing adaptations. In particular, the conclusions of the final report of the Scottish Government’s Adaptations Working Group, published in 2012, should be acknowledged, and cognisance given to the on-going work in testing various approaches to improving outcomes for those requiring housing adaptations.
- The national framework for delivering health and wellbeing outcomes needs to ensure that the preventative focus of adaptations is *at least* maintained, and any risk of existing resources shifting to ‘crisis’ responses is avoided. Any such shift, without additional investment, would simply result in greater costs to the public purse.

8 Prescribed functions (Annex 2) – Housing support

8.1 We recognise the complexity that surrounds ‘housing support’, with multiple different definitions in use. We have attached a note prepared by the Housing Support Enabling Unit on some of the background as we understand it. Given the widely

varying use of the term, different local practices and different funding streams, we recognise the challenge in drafting the regulations.

- 8.2 We note that one of the delegated functions prescribed in the current draft regulations affects housing support, that is, the Social Work (Scotland) Act 1968 function listed in Annex 2(B) (housing support associated with care). Although we did not expect see housing support listed as a function which must be delegated, we realise that this particular type of housing support would be difficult to separate out from its related care elements.
- 8.3 However, we think it is confusing that the text within Annex 2(A) (p.29) incorrectly gives the impression that housing support *as a whole* is included in functions that must be delegated. Therefore, it would seem more straightforward if the Scottish Government either remove reference to Housing Support from the bulleted list of prescribed functions that must be delegated – or provide a more detailed definition of what they mean by ‘Housing Support’.
- 8.4 The housing support duties related to homelessness remain as functions that may be delegated within the Act. Currently local authorities have a duty under the Housing Scotland Act 2010 to assess the need for, and provide where appropriate, housing support to homeless households. Generally this is of a temporary nature and typically offers assistance with budgeting, daily living skills, social skills and dealing with housing options. In other cases people facing homelessness may present challenging behaviour and/or chaotic lifestyles and it is important to identify those individuals who face longer term social care issues.
- 8.5 Whilst we are content for the housing support duty relating to homelessness to remain as a function which may be delegated (rather than must be delegated) by the local authority we wish to emphasise the fundamental relationship between homelessness, health and wellbeing. Many housing support services work with homeless people with more enduring problems such as addiction and mental health problems which may need more intense support than the sort of housing support introduced by the 2010 Act. This ‘low level’ support has significant benefits in reducing the likelihood of more intensive services being required
- 8.6 It should also be noted that some councils are of the view that the enabling legislation for their tenancy support related homeless prevention services is Section 32B of the Housing (Scotland) Act 1987 – which is not mentioned within the schedule of prescribed legislation - and therefore draw the conclusion that council housing support services are excluded from the functions that must transfer to the integration authorities.
- 8.7 Similarly, with regard to sheltered housing warden services it would appear that these services are delivered under section 5A of the 1987 Act. This too is not specifically mentioned in the schedule, again inviting the conclusion that the sheltered housing warden service is excluded from the functions that must transfer.

8.8 The HCG does agree that the policy of integrating health and social care presents an excellent opportunity to promote a more holistic approach to providing services for vulnerable homeless people, through for example the widespread adoption, implementation and monitoring of the national Health and Homelessness Standards. However, we believe this approach should be promoted at a strategic planning level and makes the strategic housing role on the Strategic Planning Group all the more crucial. It is at this level that local housing strategies (which includes homelessness) should be considered and should mesh with Joint Strategic Commissioning Plans so that, for instance, there are clear pathways into mental health services (generic and psychiatric) from homeless services.

8.9 Our specific comments are as follows:

- Housing support which must be delegated should be limited to the function listed in the Social Work (Scotland) Act 1968 annex 2(B) (housing support associated with care). This type of support would be difficult to separate out from the related care functions.
- To avoid confusion, revise reference to 'housing support' in the list of prescribed functions and replace with a more detailed description such as 'housing support associated with care'
- The relationship of prescribed housing support with other types of housing support should be made clearer, perhaps in guidance, whilst acknowledging the important and desirable contribution of that support to integration.
- Links between the new integration authorities and local authority homelessness functions (including the 2010 housing support duty) should be expected at planning and delivery levels as part of the shared responsibility in improving health and wellbeing.

9 Prescribed functions (Annex 2) - The Housing (Scotland) Act 2001, s92

9.1 The draft regulations include s92 of the 2001 Act, describing this as relating to 'The promotion of the formation or development of registered social landlords and the provision of assistance to a registered social landlord or any other person concerned with housing matters.'

9.2 We seek clarification on the contribution of this provision to the policy intent of the legislation, and the thinking behind including this as a prescribed function that must be delegated.

10 National Health and Wellbeing Outcomes (Annex 3)

10.1 Integration is not an end in itself, but must be a means of achieving better outcomes for people. We support the principle that pursuit of national outcomes should drive the new health and social care partnerships.

- 10.2 The draft national health and wellbeing outcomes have been the subject of extensive discussion over the past couple of years. We expressed concern in previous comments that earlier drafts did not recognise the key role that people's homes play in their health and wellbeing. We are delighted that draft outcome 2 now includes 'at home' as integral to the ambition to achieve independent living.
- 10.3 The suitability and quality of people's homes, and the contribution that housing organisations make, is much wider than just in relation to outcome 2. At the recent JIT/Housing Coordinating Group event, which focussed on the housing aspects to integration and was designed to improve stakeholder awareness and engagement with this agenda, those attending identified numerous ways in which their work supported all 9 draft national health and wellbeing outcomes.
- 10.4 Given this, it is critical that it is not just the outcomes that recognise the contribution that 'home' makes: the performance framework – the national indicators, the links to community planning, and the relationship between joint strategic commissioning and strategic housing planning – must support and deliver that vision and analysis.

11 Summary

- 11.1 We offer these observations in a spirit of collaboration and in the interests of improving the prospect of achieving the intended outcomes of the legislation, with which we are in complete agreement. We would be happy to continue this dialogue when the consultation period ends, with this objective in mind.

On behalf of the Housing Co-ordination Group

Association of Local Authority Chief Housing Officers ALACHO

Chartered Institute of Housing CIH

Scottish Federation of Housing Associations SFHA

Glasgow West of Scotland Forum of Housing Associations GWSF

Housing Support Enabling Unit HSEU

Care and Repair Scotland CRS

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Glasgow and West of Scotland
Forum of Housing Associations

Annex on Housing Support

The following annotation is intended to provide some context and background to our comments on housing support, reflecting on the diverse nature of housing support.

Background to Housing Support: Supporting People through the Housing (Scotland) Act 2001

The driver for setting up a separately funded programme of housing support through the creation of the Supporting People programme was a realisation in the 1990s that the housing benefit system was paying for activities which related to a tenant's support needs rather than to the property they lived in. Typically this sort of support related to resettlement support for those moving on from homelessness or coming out of care (e.g. developing budgeting skills and social skills associated with managing a tenancy).

Section 91 of the Housing (Scotland) Act 2001 introduced Supporting People and in particular the powers of Scottish Ministers to offer grants to LAs to purchase housing support. In the run up to the commencement of the Supporting People programme in 2003 longer term support services for people with more intense needs were developed or identified as being within the scope of the programme eg support for people with learning difficulties. The way housing support was delivered developed considerably during this period particularly as they were required to register with the Care Commission (now the Care Inspectorate) and adhere to national care standards. This resulted in a more consistent approach to support planning and record keeping.

Defining housing support

Under Supporting People housing support was set out as '21 tasks' in [The Housing \(Scotland\) Act 2001 \(Housing Support Services\) Regulations 2002](#). These regulations are the most detailed attempt to define housing support. The '21 tasks' cover all aspects of managing a home including support to maintain it, deal with neighbours, manage finances, manage security as well as more personal support to manage daily living and social connection. When the ring fence on Supporting People funding was lifted in 2008 housing support services were able to extend their range of activities to include assistance with training, employment and structured activity. (The '21 tasks' did not include this sort of support because at the time of Supporting People there were other grants available to promote this.)

The 2001 Act sets a couple of boundaries in terms of what housing support is not – housing support cannot be delivered in a care home nor in accommodation for offenders or those under supervision (i.e. accommodation provided under section 27B of the Social Work (Scotland) Act 1968).

In terms of regulation, housing support services are defined under Section 2 (27) of the [Regulation of Care \(Scotland\) Act 2001](#) making reference to the Housing (Scotland) Act 2001. *'A "housing support service" is a service which provides support, assistance, advice or counselling to a person who has particular needs, with a view to enabling that person to occupy residential accommodation as a sole or main residence; but a service may be*

excepted from this definition by regulations and such residential accommodation does not include accommodation specified as excepted accommodation in regulations under section 91(9) of the Housing (Scotland) Act 2001 (asp 10).'

Homeless Housing Support duty – (Section 32B of the of the Housing (Scotland) Act 1987 inserted by [section 158 of the Housing \(Scotland\) Act 2010](#)) states there is a duty on local authorities to conduct a housing support assessment for applicants who are unintentionally homeless or threatened with homelessness and that they have 'reason to believe' need the housing support services prescribed in regulations.

Gardening

The maintenance of gardens can be a burden and can become the tipping point for a person (particularly older people) to feel they cannot cope in their home any longer and look to moving onto a setting with more support. Equally gardening can be a useful and healthy activity to help people with disabilities / mental health problems to take part in. The sixth item in the '21 tasks' setting out housing support recognises this: *Providing life skills training in maintaining the dwelling and curtilage in appropriate condition.*

[Section 24 of The Local Government and Planning \(Scotland\) Act 1982](#) deals with the scope for local authorities to provide 'gardening assistance' and to recover the cost that assistance through charges where this is deemed affordable.