

# HOUSING SUPPORT REGULATIONS

## Final Business and Regulatory Impact Assessment

### 1. Title of Proposal

**HOUSING (SCOTLAND) ACT 2010: HOUSING SUPPORT REGULATIONS**

### 2. Purpose and Intended Effect

#### Background

2.1 Local authorities have existing statutory responsibilities to anyone threatened with or experiencing homelessness. They must offer a minimum of temporary accommodation, advice and assistance.

2.2 When commenced, section 32B of the Housing (Scotland) Act 1987 (inserted by Section 158 of The Housing (Scotland) Act 2010) will place a new statutory duty on local authorities to assess the housing support needs of homeless applicants to whom they have a duty to secure settled accommodation. The local authority must then ensure that housing support services are provided to those assessed as being in need of them.

2.3 In addition to this duty, Section 32B allows Scottish Ministers to make regulations relating to the housing support assessment and provision, including:

- the housing support services to be considered
- the conduct of the assessment by local authorities and
- the provision of housing support services (which may include specifying the duration of service provision and matters to which a local authority must have regard)
- making different provision for different purposes and different areas.

2.4 We have taken a three stage approach to developing policy on the duty of local authorities to assess for, and provide, housing support. The first stage involved a public consultation which sought views on what the regulations should address and include. The second stage involved drafting regulations which were then issued to a smaller group of key stakeholders for consultation. The last stage involves submitting the regulations for Parliamentary debate and approval under affirmative procedure.

#### Objective

2.5 This policy contributes to the Scottish Government's work on alleviating and tackling homelessness.

2.6 The objective fits with the Scottish Government's strategic 'Safer and Stronger Scotland' objective. This helps local communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life. It also fits with the 'Healthier Scotland' objective which helps people to sustain and improve their

health, especially in disadvantaged communities, ensuring better, local and faster access to health care.

2.7 The Scottish Government's Housing Vision is that 'all people in Scotland live in high quality, sustainable homes that they can afford and that meet their needs'. Commencement of the duty and introduction of the regulations contributes to the intermediate Housing Vision outcomes of 'A Well Functioning Housing System' and 'Homes that Meet People's Needs'.

### **Rationale for Government Intervention**

2.8 Housing support can help people to sustain their tenancies, leading to better outcomes for them and their families. The form and duration of housing support varies depending on the individual's circumstances.

2.9 To give effect to the housing support duty, Scottish Ministers must prescribe in regulations the housing support services to which the duty applies.

2.10 The public consultation exercise helped to identify the scope and detail of the housing support needs assessment and provision.

## **3. Consultation**

### **Within Government**

3.1 We have worked closely with colleagues in the Directorate for Legal Services (solicitors to the Scottish Government) to establish the powers of Scottish Ministers to establish regulations under Section 158 of the Housing (Scotland) Act 2010. We have also consulted with colleagues in a range of relevant Scottish Government departments to develop the consultation including Housing Research, Housing Transitions and Equalities.

3.2 A copy of the consultation was issued to the Scottish Government/COSLA 2012 Joint Steering Group. The Steering Group was set up in October 2009 to drive and oversee progress towards the 2012 target of ensuring that all unintentionally homeless households are entitled to settled accommodation.

### **Public Consultation**

3.3 Before making any regulations under section 32B, Scottish Ministers must consult with such bodies representing local authorities, such bodies representing homeless persons and such other persons as they see fit.

3.4 A public consultation commenced on 18 January 2012 and ran until 11 April 2012. A total of 66 written responses were received. These included responses from local authorities (including COSLA and ALACHO), third/voluntary sector, housing associations/RSLs, justice, health, and individuals. Reid Howie Associates undertook an independent analysis of the responses in May 2012. The research findings and consultation responses were published on the Scottish Government website in June

2012.

3.5 On the basis of the consultation analysis, we proposed to commence the duty and prescribe only the categories of housing support service to which the duty applies, rather than the means by which they should be provided.

3.6 In August 2012 we carried out further consultation with key stakeholders proposing that four services seemed particularly relevant to the provision of housing support and should therefore be prescribed. These four categories of housing support service were adjusted as a result of stakeholder feedback. Some other suggestions from the initial consultation were not taken forward as they were already covered by primary legislation or are more relevant to detailed guidance.

### **Business**

3.7 As part of the consultation process, we gained an understanding of the business impact of commencing the duty under Section 32B with and without making regulations, by visiting a number of businesses including registered social landlords and support providers. These included ALACHO, Chartered Institute of Housing, COSLA, Dunedin Canmore HA, Glasgow Homelessness Network, Scottish Council for Single Homeless, Shelter, Scottish Federation of Housing Associations and members of the Supported Accommodation Implementation Group.

## **4. Options**

4.1 Local authorities have a number of duties under homelessness legislation, and many of their duties to homeless people are set out in Part II of the Housing (Scotland) Act 1987 as amended.

4.2 These duties include a statutory responsibility to anyone threatened with or experiencing homelessness. By law, local authorities must offer a minimum of temporary accommodation, advice and assistance to all homeless households and those at risk of homelessness. They also have a duty to ensure that housing and homelessness advice and assistance is provided to all people, free of charge, in their areas. They must also have regard to the Best Interests of Children Facing Homelessness guidance issued by Scottish Ministers in exercise of their homelessness functions.

4.3 More generally the Scottish Government publishes a statutory Code of Guidance on Homelessness, which councils must have regard to when carrying out their duties.

4.4 When commenced, Section 32B of The Housing (Scotland) Act 1987 (inserted by The Housing (Scotland) Act 2010), will place a new statutory duty on local authorities to assess the housing support needs of homeless applicants to whom they have a full housing duty, and to ensure the provision of any required housing support.

4.5 Under this duty, Scottish Ministers can make further regulations regarding the content and scope of the assessment of housing support needs and on the content and scope of housing support provision. The consultation exercise helped to determine what regulations should cover.

4.6 There are 2 options available, to take this policy forward. In order to commence the duty the Housing Support Services to which the duty applies must be prescribed.

**Option 1:** Commence the duty on local authorities and establish detailed regulations on the means of assessment and provision of housing support for those homeless persons to whom local authorities have a full housing duty

**Option 2:** Commence the duty on local authorities but **do not** establish detailed regulations on the means of assessment and provision of housing support for those homeless persons to whom local authorities have a full housing duty. Establish only regulations on the categories of housing support to be provided by local authorities.

**OPTION 1: Commence the duty on local authorities and establish detailed regulations on the means of assessment and provision of housing support for those homeless persons to whom local authorities have a full housing duty**

### **Sectors and groups affected**

4.7 Local authorities and homeless applicants to whom they have a duty to secure settled accommodation

### **Benefits**

4.8 The purpose of consultation was to seek views and proposals on what regulations on housing support should cover. Respondents were asked to provide an explanation for their proposals, and to identify any impact. The most common reason for choosing Option 1 was consistency in housing support assessment and provision. Further detail on the benefits which arose from the consultation responses can be found in the [Analysis of Consultation Findings](#).

### **Costs**

4.9 Local authorities currently demonstrate good practice in assessing and providing housing support for homeless applicants as required. Through the housing support duty and regulations, all local authorities would require to carry out these duties, ensuring good practice and consistency across Scotland. As many of the housing support services are currently being provided, the duty and regulations should not place an onerous financial burden on local authorities.

4.10 As part of the consultation process we sought views on the costs and impact of commencing Section 32B and making detailed regulations on the means of assessment and provision of housing support. Comments included general concern about the resource implications, the potential for micromanagement by government to impede on local authority autonomy, and increased costs of the duty or proposals. Concerns were also raised about current financial constraints, and the need to take account of other national and local priorities in resource considerations. More detail on these responses can be found in the [Analysis of Consultation Findings report](#)

4.11 In establishing the financial memorandum for Section 158 of the Housing (Scotland) Act 2010, the Scottish Government estimated that the cost of housing support assessment and provision would be in the region of £21.613m. This cost is based on 2009/10 figures and is calculated in [Table 1](#).

**OPTION 2:** Commence the duty on local authorities but **do not** establish detailed regulations on the means of assessment and provision of housing support for those homeless persons to whom local authorities have a full housing duty. Establish only regulations on the categories of housing support to be provided by local authorities.

### **Sectors and groups affected**

4.12 Local authorities and homeless applicants to whom they have a duty to secure settled accommodation

### **Benefits**

4.13 This option would not require any further legislative changes to the duties on local authorities regarding housing support assessment and provision.

4.14 Consultation respondents were asked to identify their preferred option, provide an explanation for their proposals, and identify any impacts. The most common reasons for choosing Option 2 were that non statutory guidance based on existing good practice or a broad framework would suffice/be preferable, and that current legislation and processes made regulations unnecessary. Further detail on the benefits which arose from the consultation responses can be found in the [Analysis of Consultation Findings](#).

### **Costs**

4.15 Local authorities currently demonstrate good practice in assessing and providing housing support for homeless applicants as required. Through the housing support duty, all local authorities would require to carry out these duties, ensuring good practice and consistency across Scotland. As many of the housing support services are currently being provided, the duty should not place an onerous financial burden on local authorities.

4.16 As part of the consultation process, respondents were asked to identify the impact and costs of their proposals. Details of responses can be found in the [Analysis of Consultation Findings report](#)

4.17 In establishing the financial memorandum for Section 158 of the Housing (Scotland) Act 2010, the Scottish Government estimated that the cost of housing support assessment and provision would be in the region of £21.613m.

## **5. Scottish Firms Impact Test**

5.1 As part of the consultation process, we engaged with a number of firms including registered social landlords and housing support providers. This assisted in

understanding the business impact of commencing the duty on local authorities, under Section 32B with and without regulation relating to the assessment and provision of housing support, and identifying costs associated with this.

- **Competition Assessment**

We have applied the OFT Filter questions and find there will be no impact on competition.

#### **4 OFT Filter questions**

Does the policy:

##### **1. Directly limit the number or range of suppliers?**

No.

##### **2. Indirectly limit the number or range of suppliers?**

No.

##### **3. Limit the ability of suppliers to compete?**

No.

##### **4. Reduce suppliers' incentives to compete vigorously?**

No.

- **Test Run of Business Forms**

No new business forms are expected to be introduced as a result of the commencement of the duty and regulations.

#### **6. Legal Aid Impact Test**

6.1 The Scottish Government Legal Services Access to Justice team has indicated that it is unlikely there will be any cost implications for the Legal Aid Fund.

#### **7. Enforcement, sanctions and monitoring**

7.1 Through the commencement of the duty all local authorities would be required by law to assess and provide housing support for those to whom they have a duty to secure settled accommodation. This duty also extends to any person who lives with an applicant.

7.2 Under the Concordat between Scottish Government and COSLA, local authorities develop and report on a Single Outcome Agreement. Therefore no separate report on Housing Support is submitted.

7.3 Any applicant who feels that a local authority is not fulfilling its responsibilities can make a formal complaint through its formal complaints procedure. Once exhausting this procedure the Scottish Public Services Ombudsman can decide whether or not to investigate it further. Beyond these avenues of redress it would be a matter for the courts.

7.4 Statistics on Housing Support are collected annually by Communities Analytical Services division and are published in the Operation of Homeless Persons Legislation statistics each year.

**Implementation and delivery plan**

8.1 The housing support duty will commence on or by 1 June 2013.

- **Post-implementation review**

8.2 The regulations will be formally reviewed within ten years of the commencement date..

8.3 The Scottish Government collects information on homelessness applications, assessments, and outcomes and identified housing support needs. This information is published annually on a quarterly basis in the Operation of the Homeless Persons Legislation in Scotland statistics.

**Summary and recommendation**

9.1 We are proceeding with Option 2, to commence the duty and establish regulations. To give effect to the housing support duty, Scottish Ministers must prescribe in regulations the housing support services to which the duty applies. On the basis of the consultation analysis we propose to prescribe only the housing support services to which the duty applies, rather than the means by which they should be provided.

- **Summary costs and benefits table**

Option	Benefits	Costs
1	<p>Through the commencement of the duty all local authorities would require by law to assess and provide housing support for those to whom they have a duty to secure settled accommodation. They would have to assess and provide the services as directed by the detailed regulations.</p> <p>The prescription of four categories of housing support service, as agreed with stakeholders, should ensure good practice and consistency in assessment and provision across</p>	<p>In establishing the financial memorandum for Section 158 of the Housing (Scotland) Act 2010, the Scottish Government estimated that the cost of housing support assessment and provision would be in the region of £21.613m.</p>

	Scotland.	
2	<p>Through the commencement of the duty all local authorities would require by law to assess and provide housing support for those to whom they have a duty to secure settled accommodation.</p> <p>The prescription of four categories of housing support service, as agreed with stakeholders, should ensure good practice and consistency in assessment and provision across Scotland, without the need for regulations to stipulate how support services should be delivered.</p> <p>Consultation respondents suggested that non statutory guidance based on existing good practice or a broad framework would suffice/be preferable to more detailed regulations, and that current legislation and processes made regulations unnecessary.</p>	<p>Local authorities currently demonstrate good practice in assessing and providing housing support for homeless applicants as required.</p> <p>As many of the housing support services are currently being provided, the duty should not place an onerous financial burden on local authorities. They will be expected to meet the costs of fulfilling their duty to assess and provide housing support within existing budgets.</p> <p>In establishing the financial memorandum for Section 158 of the Housing (Scotland) Act 2010, the Scottish Government estimated that the cost of housing support assessment and provision would be in the region of £21.613m.</p>

## **Declaration and publication**

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

**Date:**

**Margaret Burgess**  
**Minister for Housing and Welfare**

**Scottish Government Contact point:**

Alex McGhie  
Homelessness Policy Officer  
Housing Options & Services Unit  
Highlander House  
58 Waterloo Street  
GLASGOW. G2 7DA  
Tel. 0141 305 4143 (Mon & Tues)  
Tel. 01698 392112 (Wed & Thurs)

**EQUALITY IMPACT ASSESSMENT**  
**HOUSING SUPPORT FOR HOMELESS HOUSEHOLDS**

Policy title	Housing Support for Homeless Households
Which national outcome(s) does the policy contribute to?	<p>Commencement of the duty and introduction of the regulations will contribute to the Housing &amp; Regeneration outcomes of A Well Functioning Housing System and Homes That Meet People's Needs. These contribute to a number of national outcomes, in particular:</p> <ul style="list-style-type: none"> <li>• We live in well-designed, sustainable places where we are able to access the amenities and services we need.</li> <li>• We have improved the life chances for children, young people and families at risk.</li> <li>• Our people are able to maintain their independence as they get older and are able to access appropriate support when they need it</li> </ul>
What is the purpose of the policy (or changes which are to be made to the policy)?	<p>When commenced, <u>Section 32B of the Housing (Scotland) Act 1987 (as inserted by the Housing (Scotland) Act 2010</u> will place a statutory duty on local authorities to assess the housing support needs of homeless applicants to whom they have a duty to secure settled accommodation. The local authority must then ensure that housing support services are provided to those assessed as being in need of them.</p>
Name of Branch or Division	Housing Services and Regeneration Division

Directorate or Agency	Directorate for Housing, Regeneration, The Commonwealth Games and Sport
Lead EQIA official	Alex McGhie

## STEP ONE - Describe the assessment process and its scope

Please describe the process that you plan to follow (or have followed) in order to complete your EQIA (e.g. holding workshops with equality stakeholders, consulting, conducting research, using existing evidence).

Identify the “pool of people” affected by the proposals and their characteristics.

Identify those groups of people affected positively and negatively.

### Background

Local authorities have a number of duties under homelessness legislation, and many of their duties to homeless people are set out in Part II of the Housing (Scotland) Act 1987 as amended.

These duties include a statutory responsibility to anyone threatened with or experiencing homelessness. By law, local authorities must offer a minimum of temporary accommodation, advice and assistance to all homeless households and those at risk of homelessness. They also have a duty to ensure that housing and homelessness advice and assistance is provided to all people, free of charge, in their areas. They must also have regard to the Best Interests of Children Facing Homelessness guidance issued by Scottish Ministers in exercise of their homelessness functions.

More generally the Scottish Government publishes a statutory Code of Guidance on Homelessness, which councils must have regard to when carrying out their duties.

When commenced, Section 32B of The Housing (Scotland) Act 1987 (inserted by The Housing (Scotland) Act 2010) will place a statutory duty on local authorities to assess the housing support needs of homeless applicants to whom they have a duty to provide settled accommodation. The local authority must then ensure that housing support services are provided to those assessed as being in need of them. In commencing the duty, Scottish Ministers must prescribe in regulations the housing support services to which the duty applies.

The duty and regulations come into force on 1 June 2013. This parallels timescales for the homelessness target that all unintentionally homeless households will be entitled to settled accommodation by the end of 2012.

Section 32B (9) of the Housing (Scotland) Act 1987 (as introduced by the Housing (Scotland) Act 2010) states that ‘housing support services’ include any service which provides support, assistance, advice or counseling to an individual with particular needs with a view to enabling that individual to occupy, or to continue to occupy, residential accommodation as the individual’s sole or main residence. The form and duration of housing support varies depending on the individual’s circumstances.

**Who will be affected by the housing support duty and regulations and how will they be affected?**

Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty. The duty and regulations seek to benefit all equality groups. Any housing support needs relating to age, disability, gender, gender reassignment, sexual orientation, race, religion or beliefs are expected to be met where appropriate.

No specific issues relating to any of the equality groups were raised through the housing support consultation.

**The process followed in order to gather relevant evidence for the EQIA.**

Before making any regulations under section 32B, it was a requirement that Scottish Ministers consulted with such bodies representing local authorities, such bodies representing homeless persons and such other persons as they saw fit.

Between January and April 2012, the Scottish Government carried out a public consultation on commencement of the duty and the establishment of detailed regulations for the assessment and provision of prescribed housing support. The consultation sought views on the equalities impact of proposals and feedback on the draft Equalities Impact Assessment. As part of the consultation process, the Scottish Government also met with a number of organisations including registered social landlords and housing support providers. This assisted in understanding the equalities and business impacts of commencing the duty.

No significant issues relating to equality groups were identified through the consultation process. Regulations were drafted based on the responses and were issued to key stakeholders for further comment. Four types of support service are prescribed insofar as they are relevant to enabling a person to occupy, or to continue to occupy, residential accommodation as that person's sole or main residence.

The duty and regulations contribute to the Scottish Government's work on alleviating and tackling homelessness. Housing support can help people to sustain their tenancies, leading to better outcomes for them and their families.

## **STEP TWO – Gathering and Analysing the Evidence (with help from the Analytical Services Division)**

You have now identified those affected by the proposal and the characteristics of this wider pool of people, identifying those people affected positively and negatively by the proposal. At Step 2 you will now gather relevant evidence of these impacts on persons who share relevant characteristics. Look at how these impacts differ to the wider pool of people for whom the policy is targeted.

The Specific Duties means that we **MUST** consider relevant evidence relating to people with the protected characteristics, including evidence and information received from people with those protected characteristics. This means that we must be able to demonstrate how we have gathered and considered relevant equality evidence in relation to our policy development and how it might impact – both positively and negatively on equality groups.

## AGE

### 1) Evidence

In relation to your policy, what does the evidence tell you about the needs and experiences of people in different age groups? Include:

- a) evidence from research & statistics
- b) evidence from consultation & engagement

#### **Statistics**

Homeless households have a young age profile – over half are headed by someone aged under 30 (51% in 2011/12). Female applicants typically have a slighter younger age profile than males - around 40% of female applicants are aged under 25 while this figure is only 29% for male applicants.

#### **Research**

The research suggests that people in younger age categories are more affected by homelessness and endorses the statistics already presented in the EQIA. However, there is some research which shows that over 50s and those of retirement age may have a greater need when age is considered alongside health and disability as factors in determining the suitability of a home.

#### **Consultation & Engagement**

No significant equalities issues relating to age were identified through the consultation. Many respondents recognised that the housing support duty and regulations will impact on and ultimately benefit people in all equalities groups (including children, young people and older people), and stressed the importance of considering the needs of these groups in the development of the regulations.

Some respondents felt that the duty and regulations would have little or no impact on equalities as there was no adverse effect on any group.

### 2) Effects / Impacts

Describe how your policy may affect people of different ages, and respond to their different needs. Describe any:

- a) positive effects and ways by which your policy helps respond to different needs, promote equality, and helps foster good relations<sup>1</sup>
- b) negative effects<sup>2</sup> including, in relation to the first need, whether anyone is treated less favourably because of age or whether people who share an age group are put at a particular

<sup>1</sup> Refer to the EQIA guidance (Step two) for more information on positive effects and promoting equality (i.e: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations).

<sup>2</sup> Refer to the EQIA guidance for more information on potential negative effects.

disadvantage compared to people who do not share that age group

- a. Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty i.e. to provide settled accommodation. Any housing support needs relating to age are expected to be met where appropriate.
- b. We do not consider that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of age.

## **DISABILITY<sup>3</sup>**

### **1) Evidence**

In relation to your policy, what does the evidence tell you about the needs and experiences of disabled people? Include:

- a) evidence from research & statistics
- b) evidence from consultation & engagement

#### **Statistics**

Between 1 April 2011 and 31 March 2012, of those applicants that were assessed as being in priority need, 4,605 required mental health support, 680 had a learning disability, 1,047 a physical disability, and 2,120 a medical condition.

#### **Research**

EHRC research suggests that people who have experienced homelessness are more likely to be disabled or have a long term illness. However, applications to local authorities from disabled people have remained at a constant level for a number of years. The research also notes the relationship between age and disability.

#### **Consultation & Engagement**

No significant equalities issues relating to disability were identified through the consultation. Many respondents recognised that the housing support duty and regulations will impact on and ultimately benefit people in all equalities groups (including people with physical impairments; learning disabilities; mental health issues, and long term conditions), and stressed the importance of considering the needs of these groups in the development of the regulations.

Some respondents felt that the duty and regulations would have little or no impact on equalities as there was no adverse effect on any group.

---

<sup>3</sup> The definition of disability is broad and includes people with physical impairments, sensory impairments and mental impairments.

## 2) Effects / Impacts

Describe how your policy may affect disabled people, and respond to their different needs. Describe any:

- a) positive effects & ways by which your policy helps respond to different needs, promote equality, and foster good relations<sup>4</sup>
- b) negative effects<sup>5</sup> including whether anyone is treated less favourably because of disability (or unfavourably because of something arising in consequence of that disability) and whether people who share a disability are put at a particular disadvantage compared to people who do not share that disability

a. Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty i.e. to provide settled accommodation. Any housing support needs relating to disability are expected to be met where appropriate.

b. We do not consider that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of disability.

## GENDER, INCLUDING PREGNANCY AND MATERNITY

### 1) Evidence

In relation to your policy, what does the evidence tell you about the different needs and experiences of women and men? Include:

- a) evidence from research & statistics
- b) evidence from consultation & engagement

#### **Statistics**

Of all members of a household presenting as homeless in 2011/12, 53% were male (37,491) and 47% female (34,330).

4,112 applications were assessed as homeless in 2011-12 where the main reason for presenting as homeless was a violent or abusive dispute within the household.

#### **Research**

The reason for presenting as homeless for women can often be as a result of fleeing

<sup>4</sup> Refer to the EQIA guidance (Step two) for more information on positive effects and promoting equality (i.e: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations).

<sup>5</sup> Refer to the EQIA guidance for more information on potential negative effects.

domestic abuse at the hands of a male partner. Some studies also suggest that due to domestic abuse, some women either do not disclose this as the reason when seeking homelessness services or seek alternatives to state provision, such as staying with friends. There is research which also draws a link between female prostitution and homelessness.

### **Consultation & Engagement**

No significant equalities issues relating to gender were identified through the consultation. Many respondents recognised that the housing support duty and regulations will impact on and ultimately benefit people in all equalities groups, and stressed the importance of considering the needs of these groups in the development of the regulations.

Some respondents felt that the duty and regulations would have little or no impact on equalities as there was no adverse effect on any group.

## **2) Effects / Impacts**

Describe how your policy may affect women and men and respond to their different needs. Describe any:

- c) positive effects & ways by which your policy helps respond to different needs, promote equality, and foster good relations<sup>6</sup>
- d) negative effects<sup>7</sup> including whether anyone is treated less favourably because of gender (including pregnancy and maternity) and whether men or women are put at a particular disadvantage compared to the opposite sex

a. Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty i.e. to provide settled accommodation. Any housing support needs relating to gender are expected to be met where appropriate.

b. We do not consider that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of gender.

## **GENDER REASSIGNMENT<sup>8</sup>**

<sup>6</sup> Refer to the EQIA guidance (Step two) for more information on positive effects and promoting equality (i.e: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations).

<sup>7</sup> Refer to the EQIA guidance for more information on potential negative effects.

<sup>8</sup> The characteristic of gender reassignment applies to a person who proposes, starts or completes a process to change his or her sex. A transsexual person has the protected characteristic of gender reassignment. (Please refer to the EQIA Guidance for a further definition of these terms).

## 1) Evidence

In relation to your policy, what does the evidence tell you about the needs and experiences of different people in respect of gender identity/transgender people? Include:

- a) evidence from research & statistics
- b) evidence from consultation & engagement

### **Statistics**

There is not currently a fully tested and recommended question to measure gender identity or transgender identity included in any social survey and there are no official population estimates.

### **Research**

The literature on lesbian, gay, bisexual and transgender (LGBT) homelessness is limited. With no population-based information on LGBT people there is no baseline on which to chart housing information. The research suggests that LGBT people face a number of issues that can lead to homelessness such as domestic abuse and family breakdown. LGBT people may face additional issues such as homophobia which can have an impact on the need to find alternative accommodation. Much of the research on LGBT people and homelessness is focussed on young people.

In a study by the Scottish Transgender Alliance (STA) of 71 transgender individuals, 25% of respondents stated that they have previously had to move out of their home due to the transphobic reactions of their families, flat-mates or neighbours. A further 4% of the respondents were currently homeless (Morton, 2008).

<http://www.scottishtrans.org/>

### **Consultation & Engagement**

No significant equalities issues relating to gender reassignment were identified through the consultation. Many respondents recognised that the housing support duty and regulations will impact on and ultimately benefit all equalities groups, and stressed the importance of considering the needs of these groups in the development of the regulations.

Some respondents felt that the duty and regulations would have little or no impact on equalities as there was no adverse effect on any group.

## 2) Effects / Impacts

Describe how your policy may affect different people in relation to gender identity and respond to their different needs. Describe any:

- a) positive effects & ways by which your policy helps respond to different needs, promote equality, and foster good relations<sup>9</sup>
- b) negative effects<sup>10</sup> including whether anyone is treated less favourably because of gender reassignment and whether transsexual people are put at a particular disadvantage compared to people who are not transsexual

a. Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty i.e. to provide settled accommodation. Any housing support needs relating to gender reassignment are expected to be met where appropriate.

b. We do not consider that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of gender reassignment.

## SEXUAL ORIENTATION

### 1) Evidence

In relation to your policy, what does the evidence tell you about the needs and experiences of people in respect of sexual orientation (lesbian, gay, bisexual)? Include:

- a) evidence from research & statistics
- b) evidence from consultation & engagement

#### **Statistics**

The Scottish Government does not collect data on the number of LGBT homeless applicants. However, Stonewall Scotland reports that there are 300,000 LGBT people in Scotland which represents 6% of the population.

#### **Research**

The literature on lesbian, gay, bisexual and transgender (LGBT) homelessness is limited. With no population-based information on LGBT people there is no baseline on which to chart housing information. The research suggests that LGBT people face a number of issues that can lead to homelessness such as domestic abuse and family breakdown. LGBT people may face additional issues such as homophobia which can have an impact on the need to find alternative accommodation. Much of the research on LGBT people and homelessness is focussed on young people.

<sup>9</sup> Refer to the EQIA guidance (Step two) for more information on positive effects and promoting equality (i.e: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations).

<sup>10</sup> Refer to the EQIA guidance for more information on potential negative effects.

## **Consultation & Engagement**

No significant equalities issues relating to sexual orientation were identified through the consultation. Many respondents recognised that the housing support duty and regulations will impact on and ultimately benefit all equalities groups, and stressed the importance of considering the needs of these groups in the development of the regulations.

Some respondents felt that the duty and regulations would have little or no impact on equalities as there was no adverse effect on any group.

## **2) Effects / Impacts**

Describe how your policy may affect people on relation to their sexual orientation and respond to their different needs. Describe any:

- a) positive effects & ways by which your policy helps respond to different needs, promote equality, and foster good relations<sup>11</sup>
- b) negative effects<sup>12</sup> including whether anyone is treated less favourably because of sexual orientation and whether people who are either gay or lesbian, heterosexual or bisexual are put at a particular disadvantage compared to people who do not have that particular sexual orientation

a. Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty i.e. to provide settled accommodation. Any housing support needs relating to sexual orientation are expected to be met where appropriate.

b. We do not consider that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of sexual orientation.

## **RACE<sup>13</sup>**

### **1) Evidence**

In relation to your policy, what does the evidence tell you about the needs and experiences of people from different racial and ethnic groups?<sup>14</sup> Include:

<sup>11</sup> Refer to the EQIA guidance (Step two) for more information on positive effects and promoting equality (i.e: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations).

<sup>12</sup> Refer to the EQIA guidance for more information on potential negative effects.

<sup>13</sup> The definition of race includes colour, nationality and ethnic or national origin.

<sup>14</sup> This includes Gypsies/Travellers

- a) evidence from research & statistics
- b) evidence from consultation & engagement

### **Statistics**

In 91.8% of applications in 2011/12, the main applicant was recorded as White, 1.2% were recorded as Black, Black Scottish or Black British, 1.3% were recorded as Asian, Asian Scottish or Asian British and 2.7% as in other ethnic groups.

An ethnic group was not recorded for 3% of all applicants. Also, 412 applicants described themselves as a gypsy/ traveller. However, it is important to note that no response was given to this question for 999 applicants, so the number of gypsy/travellers applying for assistance may be understated slightly.

### **Research**

The EHRC report on equalities issues in Scotland highlights that no systematic analysis in the annual reports on homelessness is offered on the ethnicity of people who apply for housing as homeless. However, it does mention a number of studies which look at this issue, highlighting that ethnic minorities are over represented among homeless applicants in Scotland and can face specific cultural issues which may lead to homelessness.

For some ethnic minority groups, overcrowding can be an issue as they often have large family groupings so require more rooms. This can be a challenge for landlords with a limited stock of larger properties.

### **Consultation & Engagement**

No significant equalities issues relating to race were identified through the consultation. Many respondents recognised that the housing support duty and regulations will impact on and ultimately benefit all equalities groups (including gypsies /travellers, migrants, refugees, asylum seekers, and those with no recourse to public funds), and stressed the importance of considering the needs of these groups in the development of the regulations.

Some respondents felt that the duty and regulations would have little or no impact on equalities as there was no adverse effect on any group.

## **2) Effects / Impacts**

Describe how your policy may affect people of different races and ethnicities and respond to their different needs. Describe any:

- a) positive effects & ways by which your policy helps respond to different needs, promote equality, and foster good relations<sup>15</sup>

---

<sup>15</sup> Refer to the EQIA guidance (Step two) for more information on positive effects and promoting equality (i.e: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations).

- b) negative effects<sup>16</sup> including whether anyone is treated less favourably because of race and whether people who share a particular racial group are put at a particular disadvantage compared to people who are not of the same racial group

a. Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty i.e. to provide settled accommodation. Any housing support needs relating to race are expected to be met where appropriate.

All local authorities have a statutory general duty to work to eliminate unlawful racial discrimination, and to promote equal opportunities and good race relations. The duty is not optional and local authorities have to meet it even if the ethnic minority populations in their areas are small.

b. We do not consider that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of race.

## RELIGION AND BELIEF

### 1) Evidence

In relation to your policy, what does the evidence tell you about the needs and experiences of people in grouping respect of their religion and belief? Include:

- a) evidence from research & statistics
- b) evidence from consultation & engagement

#### **Statistics**

The Scottish Government does not collect data on the religion and beliefs of homeless applicants.

#### **Consultation & Engagement**

No significant equalities issues relating to religion and belief were identified through the consultation. Many respondents recognised that the housing support duty and regulations will impact on and ultimately benefit all equalities groups, and stressed the importance of considering the needs of these groups in the development of the regulations.

Some respondents felt that the duty and regulations would have little or no impact on equalities as there was no adverse effect on any group.

---

<sup>16</sup> Refer to the EQIA guidance for more information on potential negative effects.

## 2) Effects / Impacts

Describe how your policy may affect people in relation to their religion and belief, and respond to their different needs. Describe any:

- a) positive effects & ways by which your policy helps respond to different needs, promote equality, and foster good relations<sup>17</sup>
- b) negative effects<sup>18</sup> including whether anyone is treated less favourably because of (or a lack of) religion or belief and whether people who share a particular religion or belief are put at a particular disadvantage compared to people who do not share it

a. Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty i.e. to provide settled accommodation. Any housing support needs relating to religion and belief are expected to be met where appropriate.

b. We do not consider that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of religion and belief.

---

<sup>17</sup> Refer to the EQIA guidance (Step two) for more information on positive effects and promoting equality (i.e: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations).

<sup>18</sup> Refer to the EQIA guidance for more information on potential negative effects.

### **STEP THREE – Shape your policy as required to ensure that it fulfils the needs of the equality duty**

a) Describe any additional action which has been/will be taken in response to the conclusions reached at step two of this EQIA. Here you need to demonstrate how the evidence you have gathered has helped shape and inform your policy. You should demonstrate how, in the development of the policy and in deciding whether to apply the policy, you have appropriately considered (had due regard to) the need to:

- eliminate discrimination, harassment, victimisation and other conduct that is prohibited under the Equality Act 2010,
- advance equality of opportunity between persons who share a relevant protected characteristic and those who don't share it,
- foster good relations between persons who share a relevant protected characteristic and those who don't share it.

In particular, where the conclusions reached at step two indicate that one or more groups of people who share a protected characteristic are put at a particular disadvantage, you must include an assessment of whether this is a proportionate means of achieving a legitimate aim.

The commencement of the housing support duty and introduction of regulations will seek to benefit all applicants irrespective of age, disability, gender, gender reassignment, sexual orientation, race, religion or belief. The duty and regulations are part of a positive process of change in meeting the needs of homeless households in Scotland delivered through the homelessness legislation.

Part 3 of the Housing (Scotland) Act 2010 , Section 39 - 'Performance of Social Landlords: Encouragement of Equal Opportunities' states that "social landlords when performing housing services must act in a manner which encourages equal opportunities and in particular the observance of the requirements of the law for the time being relating to equal opportunities".

b) Describe any equality issues that you identified in Step 2, which you haven't addressed or mitigated against, and explain the reasons why.

Not applicable.

c) Explain whether your EQIA analysis had an impact on the size of your resource and/or the way you use resources.

EQIA analysis has had no impact on Scottish Government resources.

d) Explain whether there are implications on costs, and the focus of spend, arising from your EQIA analysis. Do you have the budget to cover your costs, and has the EQIA changed how you use your budget?

There are no financial resources allocated to this policy. No impact on costs arising from EQIA analysis.

## **STEP FOUR – Review and/or Monitoring**

Describe how you will review and/or monitor and/or evaluate the effect of your policy and in particular the impact on equality.

Under the Concordat between Scottish Government and COSLA, local authorities develop and report on a Single Outcome Agreement. Therefore no separate report on Housing Support is submitted.

The Scottish Government collects information on homelessness applications, assessments, outcomes and identified housing support needs. This information is published annually in the Operation of the Homeless Persons Legislation in Scotland statistics. The most recent publication was on 2 October 2012.

## **STEP FIVE – Prepare a Summary**

Prepare a summary using the summary template at **Annex A** below.

This can also be added as an annex to any relevant Ministerial submissions, helping ensure that the Scottish Ministers, in the exercise of their functions, have had due regard to the needs mentioned in section 149(1) of the Equality Act 2010.

## STEP SIX - Authorisation and Publication

Your EQIA will need to be signed off by your Deputy Director (or equivalent).

Before signing off the EQIA, a Deputy Director should ensure that she/he is satisfied that the equality impact assessment is robust, has addressed all the relevant equality issues and that appropriate actions have been taken. Opportunities to promote equality in respect of age, gender, disability, race, religion/belief, sexual orientation and gender identity/transgender people should have been considered.

By signing off the EQIA, the Deputy Director is confirming that the impact of applying the policy has been sufficiently assessed against the needs of the equality duty:

- eliminating conduct prohibited by the Equality Act 2010, including:
  - direct discrimination
  - indirect discrimination
  - harassment
  - victimisation
- advancing equality of opportunity, including by:
  - removing or minimising any barriers or disadvantages
  - taking steps which assist in promoting equality and meeting people's different needs
  - encouraging participation (e.g. in public life)
- fostering good relations, including by:
  - tackling prejudice
  - promoting understanding

The Specific Duties place a requirement on us to publish, within a reasonable period, the results of the equality impact assessment. Once completed the Summary template document should be sent to APS for conversion as a **fully accessible** document.

Once converted, please send the Summary to the Equality Unit for publication. The full assessment must be stored by the lead policy official on Objective as a corporate record and made available should any stakeholder or member of the public request it.

## EQUALITY IMPACT ASSESSMENT SIGN OFF

Policy title	Housing Support for Homeless Households
Which national outcome(s) does the policy contribute to?	<p>Commencement of the duty and introduction of the regulations will contribute to the Housing &amp; Regeneration outcomes of A Well Functioning Housing System and Homes That Meet People's Needs. These contribute to a number of national outcomes, in particular:</p> <ul style="list-style-type: none"> <li>• We live in well-designed, sustainable places where we are able to access the amenities and services we need.</li> <li>• We have improved the life chances for children, young people and families at risk.</li> <li>• Our people are able to maintain their independence as they get older and are able to access appropriate support when they need it</li> </ul>
What is the purpose of the policy (or changes which are to be made to the policy)?	<p>When commenced, <u>Section 32B of the Housing (Scotland) Act 1987 (as inserted by the Housing (Scotland) Act 2010)</u> will place a statutory duty on local authorities to assess the housing support needs of homeless applicants to whom they have a duty to secure settled accommodation. The local authority must then ensure that housing support services are provided to those assessed as being in need of them.</p>
Name of Branch or Division	Housing Services and Regeneration Division
Directorate or Agency	Directorate for Housing, Regeneration, The Commonwealth Games and Sport
Lead EQIA official	Alex McGhie

**I confirm that the impact of applying the policy has been sufficiently assessed against the needs of the equality duty:**

<i>Name and job title of a Deputy Director or equivalent</i>	<i>Date authorisation given</i>
<i>Ann Nelson, Head of Housing Services and Regeneration Division</i>	<i>16 October 2012</i>

Once signed off, you MUST file and store this EQIA on eRDM as a corporate record.

## Annex A

### EQUALITY IMPACT ASSESSMENT – SUMMARY

<b>Directorate: Division: team</b>	Housing Services and Regeneration Division
<b>Title of Policy</b>	Housing Support for Homeless Households
<b>Date of completion of EQIA</b>	October 2012

Set out your summary in narrative form using the following guide headings:

#### Background

When commenced, Section 32B of The Housing (Scotland) Act 1987 (inserted by The Housing (Scotland) Act 2010) will place a statutory duty on local authorities to assess the housing support needs of homeless applicants to whom they have a duty to provide settled accommodation. The local authority must then ensure that housing support services are provided to those assessed as being in need of them.

In commencing the duty, Scottish Ministers must prescribe in regulations the housing support services to which the duty applies. The duty and regulations contribute to the Scottish Government's work on alleviating and tackling homelessness.

Housing Support for Homeless Households complements existing homelessness policy and should lead to better and sustainable outcomes for service users. The policy relates specifically to two of the Scottish Government's strategic objectives 'Safer and Stronger' and 'Healthier'. The 'Safer and Stronger' objective helps local communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life. The 'Healthier' objective helps people to sustain and improve their health, especially in disadvantaged communities, ensuring better, local and faster access to health care.

#### Key Findings

Between January and April 2012, the Scottish Government carried out a public consultation on commencement of the duty and the establishment of detailed regulations for the assessment and provision of prescribed housing support. The consultation sought views on the equalities impact of proposals and feedback on the draft Equalities Impact Assessment. 66 written consultation responses were received and an independent analysis was undertaken by Reid Howie Associates. The research findings and consultation responses were published on the Scottish Government website in June 2012.

No significant issues relating to equality groups were identified through the consultation process. The themes which emerged from the consultation included perceived benefits of the duty and regulations for equality; specific equalities issues to consider; the identification of no impact on equality; the importance of equality; and examples of practice.

The Scottish Government also met with a number of businesses including registered social landlords and housing support providers. This assisted in understanding the equalities and business impacts of commencing the duty. No specific equalities issues were raised during these visits.

Regulations were drafted based on the consultation responses and issued to key stakeholders for further comment. Four types of support service are prescribed insofar as they are relevant to enabling a person to occupy, or to continue to occupy, residential accommodation as that person's sole or main residence.

## **Action Taken**

The consultation process identified no significant equalities issues and did not identify changes required to the draft EQIA.

## **Conclusion**

Housing support assessments and any subsequent provision is intended to assist all homeless applicants to whom the local authority has a full housing duty.

Any housing support needs relating to equality groups are expected to be met where appropriate. The policy does not discriminate on the basis of age, gender, gender reassignment, sexual orientation, race, religion or belief. Through our public consultation and engagement with key stakeholders there is no evidence that commencement of the housing support duty and introduction of regulations will have a negative impact in respect of equality groups.

Local authorities and other social landlords are currently expected to adhere to equal opportunities legislation. Part 3 of the Housing (Scotland) Act 2010, Section 39 - 'Performance of Social Landlords: Encouragement of Equal Opportunities' states that "social landlords when performing housing services must act in a manner which encourages equal opportunities and in particular the observance of the requirements of the law for the time being relating to equal opportunities".