

**NO ONE
TURNED
AWAY**



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Changing the law to prevent and tackle homelessness

Hannah Gousy

Crisis

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Foreword

Homelessness is devastating and dangerous. At Crisis we see the effects in our work with thousands of homeless people—including problems with mental and physical health, damaged confidence and social isolation. The average age of death for a homeless person is only 47 years old.

Homelessness legislation should serve as an important safety net to help protect some of the most vulnerable people in our society. However as the law in England stands, single homeless people who go to their councils for help can be turned away because they are not deemed to be a priority. This can be catastrophic for individuals, trapping them in homelessness for far longer, and is costly for local and national government.

It is nearly 40 years since the system of priority need was introduced. It's time to change the law so that all homeless people can get meaningful help and that where possible this happens before someone loses their home. Homelessness isn't inevitable, and we don't need to look very far to find alternative frameworks for dealing with it. Both Scotland and Wales have enacted legislation that helps to address the historic lack of entitlements for single people. Neither system is perfect, but they do represent a step-change in tackling homelessness.

Crisis has campaigned on this issue for many years and our vision is to end the discrimination that single people face within the system in the UK. In England we recently convened an independent panel of experts from across the homelessness and housing sector, housing lawyers, and local authorities to review the homelessness legislation and come up with an ambitious but practical alternative. This report sets out a new legal model that would ensure people facing homelessness receive a much more robust package of support at a much earlier point. If implemented I am convinced these thoughtful proposals would enable many more people to have their homelessness prevented and that over time significant financial savings would be made.

With cross party support for this legislative proposal, the backing of local authorities and support from across the housing and homelessness sector, the case for reform is both timely and compelling.

Homelessness has risen significantly over the past five years. Nobody should be forced to sleep rough because they can't get the help they need. I urge the government to seize this important opportunity to help end the devastation of homelessness for thousands of people.



Jon Sparkes
Chief Executive, Crisis

Executive Summary

At Crisis we believe that everyone deserves the appropriate support and assistance to resolve their homelessness. It is an isolating and frightening experience and homeless people are too often invisible, ignored and forgotten.

From its earliest days in 1967, Crisis has campaigned for single homeless people to be given a right to housing. Almost forty years since the homelessness legislation was introduced, the law still fails to give the majority of people proper access to the housing and support they need to prevent and end their homelessness.

For the first time, the Housing (Homeless Persons) Act (1977) gave households in 'priority need' a right to statutory assistance and an offer of settled accommodation, but in doing so excluded most single homeless people. By restricting help to those who are not 'intentionally' homeless and have a 'local connection', the Act also continued to divide homeless people into the 'deserving' and 'undeserving.' As a result, single people are too often turned away to sleep on the streets when they ask their local authority for help.¹ Even for those who do receive statutory assistance, the current legislation fails to mandate effective prevention work.

The Housing Act (1996) and the Homelessness Act (2002) refined and expanded the definition of priority need. Most recently a Supreme Court judgment redefined

the test for vulnerability, one of the factors that determines whether someone might qualify for statutory assistance. These changes have however been piecemeal and there has been no substantial reconsideration of the principles of the legislation for the last forty years.

At Crisis, we see the consequences of councils failing to intervene, trapping people in homelessness for far longer and ruining lives. In addition to the significant personal harm for individuals, there are also substantial financial costs incurred for both national and local government.²

Both Scotland and Wales have introduced new legislation to address the historic lack of entitlements for single people, both demonstrating the viability and success of an approach that provides a broader set of entitlements for people facing homelessness.

In response to the urgent situation in England Crisis convened an independent panel of experts from across the homelessness sector, including lawyers, an academic, local authorities, housing association sector representatives and homelessness charities to assess the strengths and weaknesses of the current homelessness legislation.³ The panel set out to design a new legislative model to prevent and tackle single homelessness more effectively, while ensuring that the current entitlements for those who are assessed as in priority need and owed the main statutory homelessness

1. Dobie, S., Sanders, B., Teixeira, L. (2014), *Turned Away, the treatment of single homeless people by local authority homelessness services in England*, London: Crisis; Mackie, P., with Thomas, I. (2014), *Nations apart? Experiences of single homeless people across Great Britain*, London: Crisis.
2. Pleace, N. (2015), *At what cost? An estimation of the financial cost of single homelessness in the UK*, London: Crisis; The Department for Communities and Local Government (DCLG) (2012) *Evidence review of the costs of homelessness*, London: DCLG; Shelter (2012), *Immediate costs to government of loss of home*, London: Shelter.
3. *The homelessness legislation: an independent review of the legal duties owed to single homeless people*, (2016), Crisis: London. The panel was chaired by Professor Suzanne Fitzpatrick (Heriot-Watt University) and included the following members: Veneze Augustine, Homelessness Team Manager (Royal Borough of Kensington and Chelsea Council); Matthew Downie, Director of Policy and External Affairs (Crisis); Matt Garrett, Head of Housing Services (Plymouth City Council) John Gallagher, Principal Solicitor (Shelter); Jacqui McCluskey, Director of Policy and Communications (Homeless Link); David Orr, Chief Executive (National Housing Federation); Giles Peaker, Partner (Anthony Gold Solicitors); Gavin Smart, Deputy Chief Executive and Director of Policy and Practice (Chartered Institute of Housing); Anna Whalen, Youth Homelessness Advisor (St Basils); Dominic Williamson, Executive Director of Strategy and Policy (St Mungo's); Mike Wright, Head of Housing Choice (Salix Homes). Available at: <http://www.crisis.org.uk/data/files/publications/The%20homelessness%20legislation,%20an%20independent%20review%20of%20the%20legal%20duties%20owed%20to%20homeless%20people.pdf>

duty were not undermined. The expert panel reached agreement on an ambitious and practical alternative system.

The new proposed model would ensure that more robust prevention work is brought within the scope of the statutory framework and is provided at a much earlier point, irrespective of priority need status. Furthermore, councils would be required to take action to relieve homelessness for anyone living in their authority. This report also outlines the estimation of the initial investment from national government required to implement these new duties based on the impact of the Welsh legislative reforms so far. Moving away from the current model, where statutory assistance is too often predicated upon crisis and requires expensive interventions, the report also outlines the long term cost savings of the new prevention based framework.

With cross party political support and strong backing from the independent panel and wider homelessness sector for this robust fully costed legislative proposal, the case for reform is strong. We therefore urge the government to seize this important political opportunity to help end the devastation of homelessness for thousands of people.

What's the problem?

The majority of single homeless people are not entitled to an offer of settled accommodation

Families with dependent children are automatically owed a statutory duty to secure settled accommodation (often referred to as the main homelessness duty) if they

are eligible for assistance, have a local connection and are unintentionally homeless. By comparison single people⁴ are only owed the duty if they can demonstrate that they are significantly more vulnerable than the ordinary homeless person. Only then will they be considered in priority need. The test case that played a key role in how the vulnerability threshold was applied was *Pereira v Camden Council* (1998), which stated that a person is considered vulnerable if they 'would suffer an injury or other detriment that the ordinary homeless person would not.'⁵ Subsequent cases further restricted this definition, to the point where the comparator was 'an ordinary street homeless person.'⁶ Given that rough sleepers are much more likely to suffer from physical and mental health problems and have significantly higher support needs compared to the rest of the population, this test created an almost insurmountable hurdle for vulnerable single homeless people to overcome in order to access the main homelessness duty.

Last year Crisis and Shelter, along with the Department for Communities and Local Government (DCLG), intervened in a case in the Supreme Court to argue that the application of the test was flawed. The Supreme Court subsequently ruled that local authorities must now consider how vulnerable someone is compared to the ordinary person facing homelessness, not someone who is already homeless.⁶ There has however been no significant increase in the number of single homeless people assessed as vulnerable and owed the main homelessness duty⁷ and the majority of local authorities surveyed for the latest Homelessness Monitor England 2016 report believe that this judgment will have little or only a slight impact on their current practice.⁸

Too often the support and advice provided to single people is very poor

For the majority of single homeless applicants, who will not be owed the main homelessness duty, the local authority only has a duty to provide basic advice and information. The legislation itself goes into very little detail about how the duty should be met. As a result the service provided is inconsistent and, when poor, difficult to legally challenge. In 2014, Crisis conducted a mystery shopping exercise to examine the quality of advice and information provided to single homeless people.⁹ In 50 of the 87 visits made people received inadequate or insufficient help. It was common for mystery shoppers to simply be signposted to written information or even turned away without any help or the opportunity to speak to a housing adviser. The consequences of being turned away with no support can be disastrous, leaving many people with no option but to sofa surf, squat in abandoned buildings or in the worst circumstances sleep rough.

People are often forced to crisis point before the local authority intervenes

Even for applicants who are owed the main homelessness duty, the failure of the current legislation to mandate effective prevention work at a much earlier stage often means that people are forced to crisis point before the local authority intervenes. Currently, an applicant is only assessed as threatened with homelessness if they are likely to become homeless within the next 28 days. This provides a local authority with very little time

to carry out significant meaningful prevention work.

Failing to prevent homelessness has significant financial costs to national and local government

The current legislation fails to mandate an effective prevention offer. As a consequence, local authorities often miss the opportunity to intervene early to resolve someone's homelessness. For the majority of single homeless people who are not entitled to statutory assistance and often receive poor advice and information, this can lead to repeat and entrenched homelessness. In addition to the devastating impact this has on the individual, there are significant financial cost implications for homelessness services, physical health and mental health services and the criminal justice system.¹⁰ Recent Crisis research has shown that failing to tackle homelessness early costs the taxpayer between £3,000 and £18,000 for every person in the first year alone.¹¹ The government has estimated that the annual gross cost of homelessness to the state is up to £1 billion.¹²

For those who are owed the main homelessness duty the failure to intervene early makes it more likely that the household will lose their home and need to be rehoused in settled accommodation. Where a local authority cannot immediately make an offer of settled accommodation, a household will be placed in temporary accommodation, at a much higher cost for government.¹³

4. For the purpose of the homelessness legislation, single people include couples without dependent children.

5. *Osmani vs Camden London Borough Council* (2004).

6. *Hotak (Appellant) v London Borough of Southwark (Respondent)*, *Kanu (Appellant) v London Borough of Southwark (Respondent)*, *Johnson (Appellant) v Solihull Metropolitan Borough Council (Respondent)* Crisis & Shelter, EHRG, SS for CLG interveners [2015] UKSC 30.

7. DCLG (2016) Statutory homelessness live tables, Table 773: reason for acceptance. The last release of statutory homelessness statistics showed that the proportion of applicants accepted as homeless and deemed vulnerable remained fairly steady at 26 per cent.

8. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016), *The homelessness monitor: England 2016*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis. As part of the latest homelessness monitor: England 2016 report, local authorities were asked about the implications of the ruling, and whether it is likely to mean that a higher proportion of their single homeless applicants will be accepted as being in priority need as a result. Just over half of councils anticipated that the ruling would have little impact on their practice (51%), while about one third (34%) felt that it would make some slight impact.

9. Dobie, S., Sanders, B., Teixeira, L. (2014), *Turned Away, the treatment of single homeless people by local authority homelessness services in England*, London: Crisis.

10. Pleace, N. (2015), *At what cost? An estimation of the financial cost of single homelessness in the UK*, London: Crisis; Reeve, K. (2011), *The hidden truth about homelessness*, London: Crisis; Bramley, G., Fitzpatrick, S., Edwards, J., Ford, D., Johnsen, S., Sosenko, F., & Watkins, D. (2015), *Hard Edges: Mapping Severe and Multiple Disadvantage*, London: Lankelly Chase Foundation.

11. Pleace, N. (2015), *At what cost? An estimation of the financial cost of single homelessness in the UK*, London: Crisis

12. DCLG (2012), *Evidence review of the costs of homelessness*, London: DCLG. Pawson, H., Netto, G., Jones, C., Wager, F., Fancy, C., Lomax, D., (School of the Built Environment, Heriot-Watt University) (2007), *Evaluating homelessness prevention*, London: DCLG.

13. Pawson, H., Netto, G., Jones, C., Wager, F., Fancy, C., Lomax, D., (School of the Built Environment, Heriot-Watt University) (2007), *Evaluating homelessness prevention*, London: DCLG.

Time for change

The Housing (Homeless Persons) Act 1977 defined which groups of homeless people were considered priority need and therefore owed a statutory duty to settled accommodation by local authorities. It has been a transformative legal change for many homeless people, but has also created a longstanding injustice between those defined as priority need (predominantly families with dependent children) whom the local authority owes a statutory duty to secure settled accommodation and those who are not (predominantly single people, including couples without dependent children). During the passage of the Bill through parliament, there was considerable debate, with many MPs, from a number of parties, arguing that the needs of single homeless people remained unaddressed.¹⁴

Julius Silverman, the Labour MP for Birmingham Erdington, was one of those who argued that the Bill would ‘do little for single people.’ Charles Irving, the Conservative MP for Cheltenham raised the objection that ‘the situation of the single homeless person is one for which too little concern has been shown, and the need for joint action is at its greatest for those at the point of discharge from prison and from psychiatric hospitals.’ Nicholas Scott, the Conservative MP for Chelsea, also highlighted the problems experienced by single homeless people and shared concern about

‘our continuing inability to do much to help them, even within the terms of this Bill, because clearly they do not represent a high priority.’

While there have been some subsequent amendments to the groups of people who are considered to be in priority need, the law remains largely unchanged.

Over the last five years there has been a significant increase in the number of people experiencing homelessness. Government statistics show that the number of people sleeping rough has doubled since 2010.¹⁵ In autumn 2015, 3,569 people were reported rough sleeping in England, a 30 per cent increase from the 2014 figure of 2,744.¹⁶ The more robust and comprehensive rough sleeper monitoring data collected by the St Mungo’s ‘CHAIN’ system record much higher figures for London. The CHAIN data shows that rough sleeping has risen since 2009/10 and that there are currently over 7,500 people sleeping rough in the capital.¹⁷

In 2014/15, 54,430 people were accepted as owed the main homelessness duty, an increase of over 14,000 since 2009/10.¹⁸ The majority of the increase in statutory homelessness over the past five years is attributable to the sharp rise in numbers of households made homeless from the end of an assured shorthold tenancy in the private rented sector.¹⁹

When compared to the number of applicants accepted as statutorily homeless, the total number of people approaching their local authority who are helped outside the main homelessness duty is much higher. In the last year, 220,800 people were provided with prevention and relief assistance, an increase of 55,600 (33.7%) since 2009/10.²⁰ The Homelessness Monitor England 2016 found that local authorities were concerned that beyond the number of people captured in the homelessness prevention and relief statistics, the real level of homelessness ‘footfall’ that they experience is much higher.²¹ These statistics are therefore a more accurate indication of assistance provided rather than demand.

Over the last five years both Scotland and Wales have enacted legislation which addresses the historical lack of provision for single homeless people. In Scotland a major amendment to the Homelessness etc. (Scotland) Act (2003) abolished the priority need criteria altogether. Since 2010, Scottish local authorities have had a duty to find permanent accommodation for all eligible applicants who are unintentionally homeless and have a local connection.

The Housing (Wales) Act (2014), which came into force in April 2015, has also significantly changed the treatment of single people. The key changes brought in by the new legislation were a stronger prevention and relief duty for eligible homeless households regardless of priority need status. The new legislation also extended the definition of threatened with homelessness from 28 to 56 days providing local authorities with a longer period in which to help prevent a household from becoming homeless. Evidence from the Homelessness

Monitor England 2016 found that the majority (56%) of English local authorities were in favour of moving towards the Welsh model, with only 25 per cent expressing disagreement.²²

Prevention and early intervention are prominent features of the current government’s approach to tackling a number of social issues and, more recently, this has gained traction with regards to homelessness policy. At the end of 2015, the government made a commitment to work with homelessness organisations and across departments to consider options, including legislative reform, to prevent more people from becoming homeless.²³ The Communities and Local Government Select Committee has also launched an inquiry on homelessness, which in part sets out to examine the potential for reform of the homelessness legislation in England.

“There are many factors that can lead to someone ending up homeless and early interventions can help to prevent people ending up at the crisis point which can be traumatic for those involved and expensive for councils. The legislation around duties on local authorities for homeless people is now outdated and the world has moved on, presenting very different challenges to when the laws were first introduced. So I fully support a review where this can be looked at once again as part of wider measures to end the problem of homelessness.”

**David Mackintosh MP,
Chair of the All Party Parliamentary
Group on Ending Homelessness**

14. Housing (Homeless Persons) Bill (1977), House of Commons Second Reading Debate, 18 February 1977, vol 926 cc896-99 Available at: <http://hansard.millbanksystems.com/commons/1977/feb/18/housing-homeless-persons-bill>

15. DCLG (2016), Rough sleeping in England: autumn 2015, Available at: <https://www.gov.uk/government/statistics/rough-sleeping-in-england-autumn-2015>

16. Ibid.

17. Greater London Authority (2015) Chain Annual Report, Greater London April 2014 – March 2015, Available at: <http://data.london.gov.uk/dataset/chain-reports/resource/dd12fe65-0a44-465d-96e6-5339fc5c505d#>

18. DCLG (2016), Statutory homelessness live tables, Table 774: Reason for loss of last settled home; households accepted by local authorities as owed a main homelessness duty by reason for loss of last settled home England. Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509778/Statutory_Homelessness_Live_Tables_2015_Q4.xls

19. Ibid. The number of people accepted as statutorily homeless increased by 14,410 between 2009/10 to 2014/15, of which more than three quarters (11,460) of this increase were those made homeless as a result of the end of a private rented tenancy.

20. DCLG (2015), Live homeless statistics, Homelessness prevention and relief statistics. Table 787: outcome of prevention and relief, England, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443452/Live_Tables_Homelessness_Prevention_and_Relief.xls

21. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016), *The homelessness monitor: England 2016*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

22. Ibid.

23. Jones, M. (17 December 2015), ‘Radical package of measures announced to tackle homelessness’. Available at: <https://www.gov.uk/government/news/radical-package-of-measures-announced-to-tackle-homelessness>

Crisis' solutions

Crisis' vision for tackling single homelessness

We believe that it is vital that the legislation is expanded to increase the entitlements for single people in order to effectively tackle homelessness.

Crisis therefore recommends that a much stronger duty be placed on local authorities to provide a more robust and tailored package of support to help prevent and relieve homelessness for all households at a much earlier point. A greater focus on preventing homelessness over time should, based on the Welsh experience, reduce the numbers of people who lose their home and require an offer of settled accommodation under the main homelessness duty. By reducing this demand, it is our vision that in the long term, the legislation should be reformed to remove the priority need categories altogether, creating a truly universal model of support and entitlement for all homeless households.

In order to design a system that would best help achieve these aims, Crisis established an independent panel of experts from across the housing and homelessness sector to review the legislation and devise an alternative framework.²⁴ Following the panel's discussions, they sought the advice of a leading housing law barrister with specialist knowledge of homelessness (Liz Davies at Garden Court Chambers) to draft the alternative legislation. This new model could be delivered through a set of amendments to the Housing Act (1996).

The work of the panel informs the solutions outlined in this report.

Crisis' proposal for reforming the homelessness legislation

1. A stronger prevention offer for anyone facing homelessness

a) A stronger advice and information duty

Section 179 of the Housing Act (1996) requires local authorities to provide anyone in their area with advice and information in order to help prevent and tackle homelessness. The legislation provides very little detail however about the steps a local authority should take in order to fulfil this duty and as a result it is legally very difficult to enforce. Crisis therefore recommends that this duty should be amended to more closely mirror Section 60 of the Housing (Wales) Act (2014), 'Duty to provide information, advice and assistance in accessing help', which is much more prescriptive about the types of advice that could be provided. Another key strength of the Welsh duty is that it requires local authorities to work in partnership with other public authorities and voluntary organisations to ensure that the service is designed to meet the needs of groups at particular risk of homelessness. The new duty would help ensure that a wider educative prevention service is available to everyone regardless of whether they are eligible for assistance or currently threatened with homelessness.

b) A homelessness prevention duty for all eligible households

We recommend that the government should create a new stronger prevention duty for anyone who is threatened with homelessness and eligible for assistance to ensure that homelessness is tackled at the earliest point and resources are used most effectively. In contrast to the existing duty, local authorities would have to demonstrate that they have taken reasonable steps to help prevent a person from becoming homeless, making local authorities much more accountable

for the work they carry out. Measures could include for example mediation with private landlords, assistance with rent arrears and debt management. This duty would apply irrespective of priority need, intentionality and local connection.

c) Extending the definition of threatened with homelessness from 28 to 56 days

In order to ensure that the new stronger prevention duty would be effective in preventing homelessness, Section 175 of the Housing Act (1996) should be amended to extend the definition of threatened with homelessness from 28 to 56 days. This will enable local authorities to respond to the threat of homelessness at a much earlier point, creating a better chance of people being able to remain in their home.

d) Ensuring that people evicted from private tenancies receive assistance at a much earlier point

The loss of an assured shorthold tenancy (the default tenancy in the private rented sector) is the leading cause of homelessness in England.²⁵ Crisis therefore recommends that Section 175 (2A), 'Homelessness and threatened with homelessness' should be amended to ensure that local authorities accept Section 21 eviction notices as valid evidence that an applicant is threatened with homelessness. Too often homeless applicants are made to wait until a possession order or bailiff's warrant has been issued before a local authority intervenes to provide support. This places a costly burden on landlords and county courts. Tenants also often accrue further rent arrears making them much more vulnerable to homelessness, and landlords less likely to let to homeless households or those at risk of homelessness in the future.²⁶

e) A wider care and support duty

Key to implementing an effective prevention duty will be the ability of local authorities to work with a range of partners in order to help address the multiple and overlapping factors that cause an individual's homelessness. Crisis therefore recommends that Section 213 of the Housing Act 1996, 'Cooperation between relevant housing authorities and bodies' should be redrafted to ensure that the NHS, drug and alcohol agencies, probation teams, debt advice services, children support services and mental health teams should also have a duty to cooperate with local authorities when they carry out their duty to help to prevent homelessness or secure accommodation.

2. Provide a more robust package of support and assistance for single people who are homeless

a) A relief duty for all eligible homeless people who have a local connection

Crisis recommends that for households whose homelessness cannot be prevented, a new duty should be placed on local authorities to take reasonable steps to help secure accommodation regardless of priority need status. This could include providing local authority accommodation or arranging for an applicant to be housed in a minimum 12 month fixed term tenancy in the private rented sector. In addition to providing accommodation, examples of how a local authority would help to secure accommodation should be set out in legislation in order to create a robust and legally enforceable duty. The relief duty would last for a period of 56 days.

25. DCLG (2016), Statutory homelessness live tables, Table 774: Reason for loss of last settled home.

26. Gousy, H (2016), *Home, No less will do. Improving access to private renting for single homeless people*, Crisis: London. A survey of 806 landlords found that 55 per cent of landlords were unwilling to let to tenants in receipt of housing benefits. Even more (82%) are unwilling to rent to homeless people. Reasons included a perceived greater risk of rent arrears and requirement for more intensive management.

b) Emergency accommodation for homeless people who have nowhere safe to stay

Under the current legislation, there is no duty on local authorities to provide temporary accommodation for households who are not in priority need. Crisis recommends that a new duty should be placed on local authorities to provide emergency interim accommodation for 28 days for people who are homeless and have nowhere safe to stay and would otherwise be forced to sleep rough or suffer the threat of violence. This provides a window of time for support teams to work with the applicant to help them move into some form of alternative accommodation. At the end of the 28 days, if the applicant re-applied, the local authority would not be under the 'nowhere safe to stay' accommodation duty if the applicant had had the benefit of that duty from any local authority in England in the six months preceding the date of application.

c) Incentivising people to engage in prevention and relief work

It is vital that applicants are incentivised to actively engage in prevention and relief work at the earliest point in order to ensure that the new duty is effective in reducing homelessness. Crisis therefore recommends that the government create a clause within the legislation, which would allow local authorities to discharge the prevention and relief duty if an applicant unreasonably refuses to cooperate with the course of action that they and the Housing Options team have agreed to undertake. Local authorities should only engage the clause in very exceptional circumstances, e.g. where an applicant had ceased all communication with the local authority over a reasonable length of time. If a local authority is considering discharging either duty because an applicant is unreasonably refusing to cooperate then they must send a letter to the applicant warning them that they are minded to cease assistance. This letter should set out the reasons why the local authority intends to cease to provide assistance and a time

period of no less than 14 days within which the applicant could re-engage. If a household in priority need refuses to cooperate at the prevention and relief stage they would still be able to access the main homelessness duty.

3. Ensure that the legislation is enforced and homelessness is tackled more effectively

a) Right to judicial review

In order to ensure that local authorities are held to account with regards to the duties outlined above, there should be a right to judicial review at the prevention, relief and main duty stages. Applicants should be given the right to challenge the action of local authorities on the following grounds: the decision about whether a duty is owed; the suitability of the offer made to them; and whether the steps taken to assist them were reasonable.

b) Data collection

In order to monitor the overall effectiveness of the new legislation, the government should require robust data collection from local authorities on the new prevention and relief duties. This data should include information on the types of households that are assisted, the action taken and the long-term outcome of that assistance. This data should be published on a quarterly basis in line with the current statutory homelessness statistics. Local authority data collection systems should allow for each individual household to be tracked via a personalised identification number. This will provide government with a much better sense of the overall work conducted by a local authority and a household's journey out of homelessness, as well as more effectively tracking repeat homelessness.

c) Cross government strategy to prevent homelessness

Preventing homelessness requires a cross-government approach. Homelessness policy sits within DCLG, but is heavily influenced, for example, by policy from the Home Office, the Department for Work and Pensions, the Department of Health, the Ministry of Justice and the Treasury. Often, policy from these departments affecting homelessness can be at best not joined up, and at worst contradictory. Crisis therefore recommends that a cross-government strategy to prevent homelessness is developed.

d) Other options for enforcement

There are a number of other options that the government could explore to ensure that the legislation is effectively enforced. These include: setting up a regulator of housing and homelessness services; appointing a team of specialist homelessness advisors to help disseminate best practice among housing teams in local authorities; and ensuring that local authorities, under sections 1 and 3 of the Homelessness Act (2002), keep their strategy for preventing homelessness in their district regularly updated.

Section 1. Homelessness legislation in England

The Housing (Homeless Persons) Act (1977) made local authorities responsible for the long-term rehousing of some groups of homeless people for the first time. The Act defined which groups of homeless people were considered to have a 'priority need' and therefore might be owed a statutory duty to be secured settled accommodation by local authorities. This is commonly referred to as the 'main homelessness duty'. The 1977 Act ushered in a transformative legal change for many homeless people, but also created a longstanding distinction between those defined as in priority need who are owed the main homelessness duty (predominantly families with dependent children) and those who are not (predominantly single people, including couples without dependent children).

Priority need

The homelessness duties in the 1977 Act were consolidated into the Housing Act (1996) (for England and Wales) and the definition of a household in priority need was specified as one including: a pregnant woman; dependent children; someone vulnerable as a result of old age, mental illness, handicap or physical disability or other special reason; as well as those made homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.

This was expanded further in England by the Homelessness (Priority Need for Accommodation) (England) Order (2002) to include homeless applicants who are:

- aged 16 and 17 years old and not owed any duty as a child in care or a care leaver as set out in the Children Act 1989;
- aged under 21 years old who were in local authority care between the ages of 16 and 18;

- aged 21 and over who are vulnerable as a result of leaving local authority care;
- vulnerable as a result of leaving the armed forces;
- vulnerable as a result of leaving prison; and
- vulnerable as a result of fleeing domestic violence or the threat of domestic violence.

For applicants whose claim to priority need status rests on being 'vulnerable as a result of...' (as in many of the categories above) local authorities have discretion in determining whether they are vulnerable enough to qualify for the main homelessness duty.

Statutory homelessness

In addition to being assessed as in priority need there are a number of other criteria an applicant must meet in order to qualify for the main homelessness duty. The local authority first needs to establish whether the applicant is homeless or threatened with homelessness. An applicant is considered homeless if they have no accommodation that is available for them either in the UK or elsewhere, in which they can live together with their family. A person is also considered to be homeless if it is not reasonable for them to continue to live in their existing accommodation. It is not considered reasonable for an applicant to do so if, for example, there is a threat of violence, accommodation is in a very poor condition or they were experiencing severe overcrowding. An applicant would be assessed as threatened with homelessness if it is likely that they will lose their home within 28 days. If an applicant is found to be eligible, homeless and at this stage assessed as likely to be in priority need then the local authority has a responsibility to provide them with

interim accommodation before they complete the rest of their inquiries.

Eligibility

The local authority will then need to establish whether the applicant is eligible for assistance, before conducting a more detailed assessment. An applicant will need to be a British citizen or have a right to remain and/or be 'habitually resident' in order to qualify. Certain applicants from outside the UK will not be eligible for housing assistance.

Intentionality

The local authority will then establish whether or not the applicant is unintentionally homeless (i.e. whether they became homeless through no fault of their own). An applicant will be deemed to be intentionally homeless if they have done anything or failed to do anything deliberately, which results in them losing their home.

Local connection

For the purposes of the homelessness legislation, households are deemed as having a local connection with a particular local authority as a result of normal residence, employment or family associations, or because of special circumstances. If a household owed the main homelessness duty has no local connection with the authority to which they have applied, the duty to secure settled accommodation for them can be transferred to another UK authority with which they do have such a connection (except if they run the risk of violence in that other area). Any interim duty to accommodate remains with the original authority.

Duties

The main homelessness duty

- If the local housing authority have reason to believe that an applicant is homeless, eligible for assistance and is in priority need, then they must provide them with temporary accommodation pending the outcome of their decision as to whether they are owed the main homelessness duty.

- The local authority which accepts the duty must secure that suitable settled accommodation becomes available to them. In most cases the main homelessness duty is discharged via an offer of social housing, but changes brought in under the Localism Act (2011) enable local authorities to also discharge this duty via a fixed-term assured shorthold tenancy in the private rented sector with a minimum term of 12 months so long as it meets certain other conditions. This is often referred to as a 'private rented sector offer' (PRSO).

- If the local authority is not able to make an immediate offer of settled accommodation then they must arrange for households to be temporarily accommodated until they can do so.

Short term accommodation for households in priority need who are intentionally homeless

- Applicants who are homeless, eligible for assistance, have a local connection and are in priority need but are intentionally homeless are entitled to short-term temporary accommodation for such period to give them a reasonable opportunity of securing alternative accommodation.

For everyone else

- For all other applicants, including those who are homeless, eligible, unintentionally homeless and have a local connection but are not in priority need, the local authority only has a duty to provide basic advice and assistance.

Section 2. Case for change

The intention of the current homelessness legislation is to limit the entitlement to settled accommodation to those households considered to be most vulnerable and victims of circumstances beyond their control. However, as it currently stands a significant number of homeless applicants, particularly single people, have no right to accommodation or adequate help to prevent or relieve their homelessness, even if they are vulnerable have support needs or are sleeping rough.

Between April 2014 and March 2015 fewer than half (48% - 54,430) of those who made

a homelessness application were owed the main homelessness duty.²⁷ During the same time period, eight per cent of the total number of applicants (8,990) were homeless and in priority need but were not owed the main duty because they were deemed to be intentionally homeless.²⁸ A further 18 per cent (20,420) were found to be homeless but not in priority need and were not owed the main duty.²⁹ Only 25 per cent (28,518) of the total number of applicants were considered not to be homeless³⁰ (see figure 1).

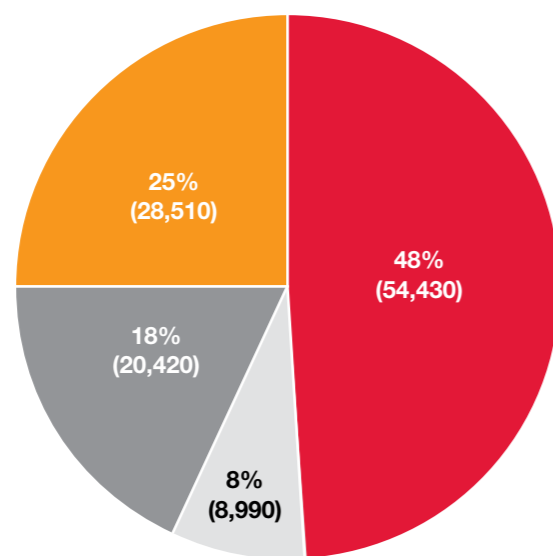
Single homeless people are much less likely to be owed the main homelessness duty. Of

the applicants who were owed the main duty in 2014/15, 72 per cent were households with dependent children and only 22 per cent were single applicants³¹ (see figure 2).

A much larger number of people are assisted outside the main homelessness duty. In the last year, 220,800 people were provided with prevention and relief assistance, an increase of 55,600 (33.7%) since 2009/10³² (see figure 3) The Homelessness Monitor England is an annual state-of-the-nation report commissioned by Crisis and funded

by the Joseph Rowntree Foundation looking at the impact of economic and policy developments on homelessness. As part of the study local authorities are surveyed to gauge an enhanced understanding of the impact of housing market trends, welfare reform and other key policy developments on homelessness. The latest report found that local authorities were concerned that beyond the number of people captured in the homelessness prevention and relief statistics, the real level of homelessness ‘footfall’ that they experience is much higher.

Figure 1. Outcomes for people who make a homelessness application

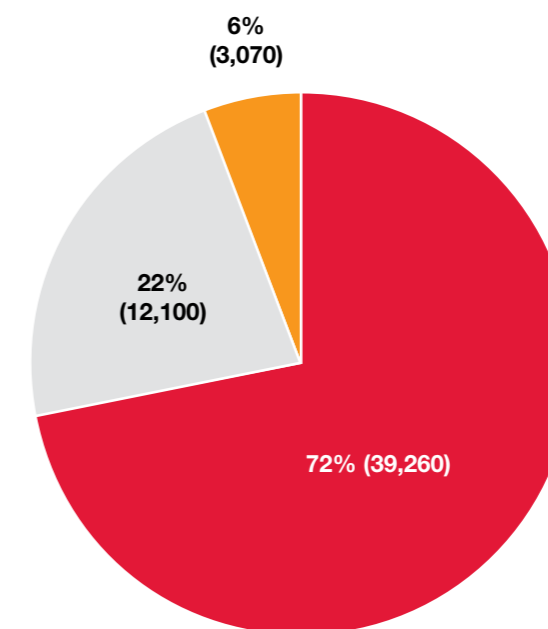


- Owed the main homelessness duty
- Owed the main duty - homeless, in priority need but intentionally homeless
- Not owed the main duty - homeless, but not in priority need
- Not owed the main duty - not homeless

Source: DCLG (2016), Statutory homelessness live tables, Table 770: decisions.

27. DCLG (2016), Statutory homelessness live tables, Table 770: decisions.
 28. Ibid.
 29. Ibid.
 30. Ibid.

Figure 2. Owed the main homelessness duty by household type

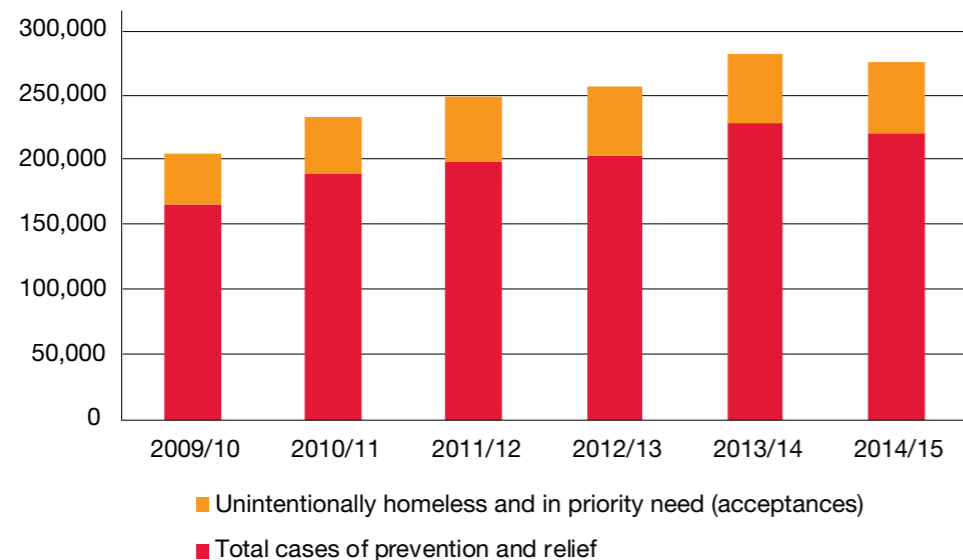


- Households with dependent children
- Single applicants
- All other household groups

Source: DCLG (2016), Statutory homelessness live tables, Table 780: accepted household type.

31. DCLG (2016), Statutory homelessness live tables, Table 780: accepted household type.
 32. DCLG (2015), Live tables on homelessness prevention and relief statistics, Table 787: outcome of homelessness prevention and relief.

Figure 3. Total number of prevention and relief cases compared to main homelessness duty acceptances



Source: DCLG Homelessness live tables, Table 787: outcomes of homelessness prevention and relief and Table 770: decisions.

Limited access to statutory assistance for single homeless people

For most single people they are only owed the main homelessness duty if they can demonstrate that they are significantly more vulnerable (based on the criteria set out above) than ‘the ordinary homeless person’. Over the past decade the proportion of people who have been accepted as statutorily homeless and owed the main homelessness duty because they are vulnerable has fallen from 38 per cent in 2004/2005 to 26 per cent in 2014/2015.³³ In part this has been due to the move to homelessness prevention strategies by local authorities since the Homelessness Act (2002) and the *G v Southwark* judgment (2009). This ruling has resulted in the primary duty to accommodate homeless 16 and 17 year olds falling to Children’s Services.

The accommodation outcomes of this group are therefore no longer recorded by housing departments through their statutory homelessness (P1E) data returns.

It is up to local authorities to decide whether an individual is considered sufficiently vulnerable to be in priority need and therefore owed the main homelessness duty.

Until recently the test case that played a key role in how the vulnerability threshold was applied was *Pereira v Camden Council* (1998). The case gave rise to the ‘Pereira Test’, which stated that a person is vulnerable if their circumstances are such that they would suffer more when homeless than ‘the ordinary homeless person’ and would suffer an injury or other detriment that the ordinary homeless person would not. Recent cases further restricted this definition, to the point where the comparator was ‘an ordinary street homeless person’.³⁴

Homeless Link’s Health Needs Audit found that the physical and mental health conditions of homeless people were significantly worse than the general population.³⁵ Physical health problems were reported by 78 per cent of those surveyed, with 44 per cent reporting long term health problems. Forty four per cent had been diagnosed with a mental health problem, with nearly double (86%) reporting one. Physical health problems were reported by 73 per cent of those surveyed, with 41 per cent reporting long-term health problems. Recent research carried out by St Mungo’s has shown that in London the number of people recorded as sleeping rough with an identified mental health support need has more than tripled over the last five years from 711 in 2009/10 to 2,342 in 2014/15.³⁶ Research commissioned by Crisis in 2014 found that the average age of death for people who die homeless is 47 (43 for women), compared to 77 for the general population.³⁷ By using such a vulnerable comparator group the test therefore created an almost insurmountable hurdle for single homeless people to overcome in order to qualify as vulnerable enough to be owed the main homelessness duty.

Last year Crisis and Shelter, along with DCLG, intervened in a case in the Supreme Court to provide specialist evidence to argue that the application of the test for vulnerability was flawed. The experiences of the three single homeless people at the centre of the Supreme Court’s judgment demonstrated just how high the test of vulnerability had become. One of the applicants had learning difficulties affecting his ability to cope with life on a day to day basis, had self-harmed and suffered symptoms of depression and post-traumatic stress disorder.³⁸ He relied

on his brother, who he was living with, for daily personal support, including help to change his clothes and to organise health appointments, meals and his finances. When he and his brother were evicted, he was told that he was not considered vulnerable enough to qualify for the main homelessness duty because, if he was street homeless, his brother could look after him.

Following this intervention the Supreme Court ruled that:³⁹

- local authorities must now consider how vulnerable someone is compared to the ordinary person facing homelessness, not someone who is already homeless;
- a lack of resources should not affect a local authority’s decision about whether or not someone is considered a priority for housing; and
- local authorities will no longer be able to rely on statistics relating to the overall homeless population to help them to assess whether someone is more vulnerable than the ordinary person facing homelessness.

This ruling marked an important step forward in terms of defining vulnerability. There has however been no significant increase in the number of single homeless people assessed as vulnerable and owed the main homelessness duty. The last release of statutory homelessness statistics showed that the proportion of people accepted as homeless because they were deemed vulnerable remained fairly steady at 26 per cent.⁴⁰ This is likely to be because it is up to the discretion of local authorities whether

33. DCLG (2016), Statutory homelessness live tables, Table 773: reason for acceptance.

34. *Osmani v Camden London Borough Council*, (2004).

35. Homeless Link (2015), *Health Needs Audit data tool*, available at: <http://www.homeless.org.uk/facts/homelessness-in-numbers/health-needs-audit-explore-data> (based on a survey of 3,335 respondent, 93 per cent of whom were in emergency, hostel or supported accommodation, sofa surfing, rough sleeping or squatting).

36. Dumoulin, D. (2016), *Stop the Scandal: an investigation into mental health and rough sleeping*, London: St Mungo’s.

37. Thomas, B. (2012), *Homelessness Kills: An analysis of the mortality of homeless people in early twenty first century England*, London: Crisis.

38. *Hotak (Appellant) v London Borough of Southwark (Respondent)*, Available: <https://www.supremecourt.uk/cases/docs/uksc-2013-0234-judgment.pdf>

39. *Hotak (Appellant) v London Borough of Southwark (Respondent)*, *Kanu (Appellant) v London Borough of Southwark (Respondent)*, *Johnson (Appellant) v Solihull Metropolitan Borough Council (Respondent)* Crisis & Shelter, EHRC, SS for CLG interveners [2015] UKSC 30

40. DCLG (2015), Statutory homelessness live tables, Table 773: reason for acceptance.

someone is considered significantly more vulnerable than the ordinary person facing homelessness.

As part of the latest the Homelessness Monitor England 2016 report, local authorities were asked for their view about the implications of the ruling, and whether it is likely to mean that a higher proportion of their single homeless applicants will be accepted as being in priority need. Just over half of councils anticipated that the ruling would have little impact on their practice (51%), while about one third (34%) felt that it would make some slight impact.⁴¹

Poor and inconsistent advice and information

The strict demarcation between applicants who are owed the main homelessness duty (predominantly families with dependent children) and those who are not (predominantly single people) has created a two-tier system with regards to the assistance provided. For the majority of single homeless applicants who are not owed the main homelessness duty, they will only be entitled to advice and information under Section 179 ('Duty of local housing authority to provide advisory services') of the Housing Act (1996). Local authorities are required to secure that advice and information about homelessness, and the prevention of homelessness, is available free of charge to any person in their district. The legislation itself goes into no significant detail about the steps a local authority should take in order to fulfil this duty. The Homelessness Code of Guidance for Local Authorities provides more detail about how a local authority might fulfil

this duty, but given that councils only have to 'have reference to' this document the reality is that single homeless applicants are often provided with very poor advice, which fails to prevent or relieve their homelessness and is very difficult to legally challenge.

In 2014, a Crisis mystery shopping exercise conducted to examine the treatment of single homeless people who approach their local authority for assistance found that there was a widespread problem with the advice and information provided.⁴² The most common type of help the mystery shoppers were given was signposting and information leaflets (of varying quality). Mystery shoppers frequently reported feeling they had been quickly 'dismissed' with a selection of leaflets and information sheets. It was also common for them to be given maps that were impossible to comprehend, signposted to written information about renting privately or even turned away without any help or the opportunity to speak to a housing adviser. In 50 of the 87 visits made, most of which were in London, they received inadequate help.

In a significant number of visits (29) mystery shoppers did not receive an assessment and were not given the opportunity to make a homelessness application. This mirrored the findings of Crisis' 2009 research in which only a very superficial assessment of people's circumstances and support needs ever took place by the local authority.⁴³ On a number of occasions, mystery shoppers, some of whom played very vulnerable characters (including people with mental health problems, learning difficulties and people fleeing domestic violence) were denied any type of help until they could prove that they were homeless and eligible for assistance, whilst the local

authorities in question made no effort to make enquiries themselves or provide temporary accommodation in the interim.⁴⁴

Experiences of single homeless people approaching their local authority for assistance

"I was told straight away that I was not a priority because I was single with no children and no medical problems or vulnerabilities" Rough sleeper (male) mystery shopper

"It is so discouraging going in for help and not being given somewhere to stay that night because I'm deemed fit and healthy... The information [about the outreach teams, night shelters and day centres] is not readily available." Rough sleeper (male) mystery shopper

"They just said I needed to go away and get a friend to come and help fill in the form... I thought that somebody might take the cue then to say, well look, this is what we do, or this is what we suggest with people who can't read and write, but there was no plan B, so that's what I was disappointed about really. And I left there feeling rather angry because there was no help." Learning difficulties (male) mystery shopper

Source: Dobie, S., Sanders, B., Teixeira, L. (2014), *Turned Away, the treatment of single homeless people by local authority homelessness services in England*, London: Crisis.

It is important to note that the mystery shoppers generally received considerably better support outside London.⁴⁵ Staff in most local authorities outside the capital were generally more proactive at looking at a few different options to address their housing needs, whilst only one of the seven London boroughs did so.

This geographical variation was mirrored by further research commissioned by Crisis in 2014 into the experiences of 480 single homeless people across Great Britain.⁴⁶ The research found that 35 per cent of single homeless people in London who approached their local authority received no assistance at all compared to 25 per cent of respondents across the rest of England. Far fewer people in London reported that assistance was helpful and that they were treated well. Only 14 per cent of respondents found the assistance they received in London helpful and only 11 per cent reported that their homelessness ended after seeking assistance from the local authority. Across the rest of England, 49 per cent of people said that the assistance they received was helpful and 38 per cent reported that it helped end their homelessness.

In depth interviews with the respondents from across Great Britain found that people were often given no assistance at all because the council did not perceive them to be vulnerable enough, that they had made themselves intentionally homeless or that they did not have a local connection. This is despite the fact that local authorities should be providing advice and information to anyone in their area regardless of these tests.

41. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016) *The homelessness monitor: England 2016*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

42. Dobie, S., Sanders, B., Teixeira, L. (2014), *Turned Away, the treatment of single homeless people by local authority homelessness services in England*, London: Crisis.

43. Crisis (2009), *No one's priority: the treatment of single homeless people by local authority homelessness services*. London: Crisis.

44. Dobie, S., Sanders, B., Teixeira, L. (2014), *Turned Away, the treatment of single homeless people by local authority homelessness services in England*, London: Crisis.

45. Ibid.

46. Mackie, P., with Thomas, I. (2014), *Nations apart? Experiences of single homeless people across Great Britain*, London: Crisis.

A forthcoming report from St Mungo's on the outcomes of the No Second Night Out (NSNO)⁴⁷ initiative shows an increase in the percentage of rough sleepers who approach their local authority before going on to access NSNO.⁴⁸ While this might be partly due to better recording, the fact that around 40 per cent of clients are seeking help from NSNO following a visit to Housing Options demonstrates that local authorities are missing the opportunity to provide meaningful early assistance to resolve their homelessness.

Lack of effective prevention work

As it stands, the homelessness legislation limits the drive towards more effective prevention work, including for households who are owed the main homelessness duty.

Within the statutory framework, there is little evidence of prevention work taking place. An applicant is currently only assessed as threatened with homelessness if they are likely to become homeless within the next 28 days. This provides a local authority with very little time to carry out meaningful prevention work. Of the 54,520 households who were owed the main homelessness duty in 2014/2015, 62 per cent were placed in temporary accommodation.⁴⁹ Eight per cent were immediately housed in settled accommodation.⁵⁰ Only 28 per cent of households were however able to remain in their existing accommodation for the foreseeable future.⁵¹

It is much more common for prevention work to take place outside of the statutory framework. The Homelessness Act (2002) placed a greater emphasis on the Housing

Options approach, which encouraged local authorities to assess a person's legal right to settled housing alongside broader consideration of other possible options open to them in order to prevent and relieve their homelessness. Immediately following the introduction of this approach the number of people accepted as statutorily homeless started to decline.

More recently there has been a steady increase in the number of 'homelessness acceptances', which were 14,000 higher across England in 2014/15 than in 2009/10.⁵²

During the same time period the incidences of homelessness prevention and relief have steadily increased since they started to be collected in 2009/10, albeit with a small decrease last year,⁵³ which continues to demonstrate that a much greater number of people are still assisted outside the statutory framework.

Housing Options can in principle generate positive outcomes for those who are unlikely to be housed by their local authority because they do not meet the criteria for statutory homelessness. There is currently however no quality framework or inspection regime of local authority Housing Options services to ensure that local authorities meet their responsibilities and that services are delivered consistently across all local authorities. As Crisis' mystery shopping research showed, the advice and information provided is often very uneven in coverage, and for a significant number of single people, they receive no help at all. Due to the weak wording of the legislation, it is very difficult for an applicant to challenge a local authority when the assistance provided is poor. To the

best of our knowledge no successful legal challenge has ever been brought against a local authority for failing to meet the duty.

In April 2013 the government introduced the new Gold Standard for homelessness services initiative, which aimed to support local authorities to improve the quality of their services. However, the only incentive is achieving the 'Gold Standard status' meaning that the local authorities that engage in this process are likely to be the better performing authorities and poor practice goes unchallenged.

Furthermore, in comparison to local authorities' reporting on work carried out in relation to the main homelessness duty, very little data is collected about the types of households assisted via more informal prevention and relief work. Following an investigation into the government's homelessness statistics in 2015, the UK Statistics Authority published a report, which made a series of recommendations on how their collection and publication could be improved.⁵⁴ The report concluded that given the growing importance of prevention and relief activity the government should bring these statistics up to the same standard as the statutory homelessness statistics with regards to the level of detail collected and the frequency of publication.

Whilst the government statistics do not indicate which households are being assisted, evidence suggests that, within the context of budget cuts, local authorities are struggling to deliver meaningful prevention work for applicants who are not owed the main homelessness duty. Recent research carried out by Homeless Link into the

experiences of young people found that homelessness was only prevented in 23 per cent of cases where they approached their local authority for help.⁵⁵ Overall, the report found that whilst there had been an increase in prevention work 42, per cent of councils said that they do not have the appropriate tools to prevent homelessness.⁵⁶

Some respondents to the Homelessness Monitor England 2016 survey of local authorities made an explicit link between the difficulties they face assisting single homeless people and the fact that the majority are not owed the statutory duty.

One local authority commented that:

'Single homeless non-priority applicants are the hardest group for us to help. This is because we have no statutory duty and budget pressures mean that we have to focus our resources on the statutory element of our service.' (Local authority respondent, London, 2015).⁵⁷

The research found that the majority (56%) of English local authorities were in favour of moving towards the Welsh model, with only 25 per cent expressing disagreement.⁵⁸ London boroughs were more evenly split, with 47 per cent in favour and 53 per cent opposed.⁵⁹

Crisis therefore recommends that in order to reap the full benefits of a Housing Options approach, this work should be brought within the statutory framework in order to ensure more effective and consistent outcomes.

47. No Second Night Out (NSNO) was launched on 1 April 2011 as a project aimed at ensuring those who find themselves sleeping rough in central London for the first time do not spend a second night on the streets.

48. St Mungo's (forthcoming), *No Second Night Out: The long view*. London: St Mungo's.

49. DCLG (2016), *Statutory live homelessness statistics, Table 777: immediate outcome*.

50. Ibid. Six per cent of applicants accepted Part 6 or other offer of an assured tenancy, one per cent accepted a qualifying offer of an assured shorthold tenancy and one per cent accepted an offer of an assured shorthold tenancy in the private rented sector.

51. DCLG (2016), *Statutory live homelessness statistics, Table 777: immediate outcome*.

52. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016) *The homelessness monitor: England 2016*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

53. DCLG (2015), *Homelessness prevention and relief live tables, Table 787: Outcome of homelessness prevention and relief*.

54. UK Statistics Authority (2015), *Statistics on Homelessness and Rough Sleeping in England*, London: UK Statistics Authority. Available at: https://www.statisticsauthority.gov.uk/wp-content/uploads/2015/12/images-assessmentreport320statisticsonhomelessnessandroughsleepinginengland_tcm97-45078.pdf

55. Homeless Link (2015), *Young and Homeless*, London: Homeless Link.

56. Ibid.

57. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016), *The homelessness monitor: England 2016*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

58. Ibid.

59. Ibid.

The cost of failing to prevent homelessness

If the opportunity for prevention is not taken, the failure to do so can lead to repeat and entrenched homelessness, which has much more significant cost implications for homelessness services, physical health and mental health services and the criminal justice system.

The Crisis commissioned 'Nations Apart?' research found that nearly 50 per cent of single homeless people first become homeless aged 20 or younger.⁶⁰ The research also found that the earlier a person becomes homeless, the greater the likelihood that they will have five or more experiences of homelessness. Whilst most single homeless people seek assistance from a local authority they rarely do so in the first instance of homelessness. Instead, people try to manage, using their own networks of family and friends before finally asking for local authority help.⁶¹ Worryingly a survey of 467 homeless people conducted for Crisis in 2011 found that more than one quarter had not approached their local authority for help, and a common reason given for not doing so was low expectations of what the outcome would be.⁶²

The 'Nations Apart?' research also found that the failure to deal with homelessness early is significantly impacting on the severity of peoples' support needs.⁶³ Fifty six per cent of people who had faced five or more periods of homelessness reported five or more support needs, much higher than the proportion of

people who had experienced homelessness once.⁶⁴ These support needs included: a significant period of unemployment, mental health problems, drug or alcohol dependency, self-harm and time spent in prison. The report also found that people were more likely to resort to desperate measures to secure accommodation if they had faced repeat homelessness.⁶⁵ These included committing a crime and undertaking sex work. In total a quarter of respondents had committed a crime in order to get accommodation and sixteen per cent had used Accident and Emergency (A&E) for the same purpose.

By contrast early intervention work can help prevent homelessness reducing personal harm to the individual and the additional costs incurred by the state.⁶⁶ A recent report from Homeless Link found that proactively targeting prevention activity is an effective way of preventing homelessness.⁶⁷ Drawing on research from Community Links' Early Action Task Force⁶⁸ and a number of other studies⁶⁹ they identified three stages of intervention work: 1) primary prevention to help minimise the risk of problems before they arise; 2) secondary prevention, which specifically targets individuals or groups who are particularly at risk of homelessness; and 3) tertiary prevention, which requires intervention once a problem arises. Within this, a number of prevention models were identified including: welfare rights and consumer advice; in tenancy holistic support; targeted support and advocacy for people leaving institutions; and critical time identification targeted at groups in the community.

Last year Crisis commissioned research to calculate the financial cost of failing to prevent single homelessness. Drawing on large scale studies of homelessness across Britain the research designed a number of illustrative vignettes, which showed that for every person who was not effectively helped the taxpayer incurred additional costs of between £3,000 and £18,000 in the first year alone.⁷⁰

The vignettes below outline the cost savings when early prevention work is taken:

A man in his 30s becomes homeless after informal arrangements to find accommodation break down and he ends up sleeping rough. He has lost his job and is heavily in debt.

- In the **first scenario**, after three weeks of sleeping rough, he seeks help from the local authority and is offered assistance to find a private rented flat and is offered low intensity floating support for 12 weeks. The low intensity floating support is used to facilitate resettlement and also enables him to begin managing and paying back his debts. He is able to get back into paid work within six months of becoming homeless.
- In the **second scenario**, rough sleeping persists after he is refused assistance by a local authority Housing Options team and is offered only housing advice services. After six months he has developed mental health problems associated with sustained isolation and his physical health has also started to deteriorate markedly. He has also begun drinking alcohol at a problematic level. He starts to make frequent visits to an

A&E department and gets admitted into hospital twice. He also starts to have regular contact with the criminal justice system. He makes some use of homelessness services, but spends much of his time living and sleeping on the street, becoming socially isolated. As homelessness persists to twelve months in duration, his support needs increase as his physical and mental health continue to deteriorate and his alcohol consumption increases. He is referred to high intensity homelessness services, but attempts to support him run into difficulties resulting from his experiences and support needs.

The research calculated that preventing his homelessness in the first scenario cost £1,426. By comparison, this cost increased to £20,128 when his homelessness was not properly resolved as described in scenario 2.

Source: Pleace, N. (2015), *At what cost? An estimation of the financial cost of single homelessness in the UK*, London: Crisis.

60. Mackie, P., with Thomas, I. (2014), *Nations apart? Experiences of single homeless people across Great Britain*, London: Crisis.

61. Ibid.

62. Reeve, K. (2011), *The hidden truth about homelessness*, London: Crisis.

63. Mackie, P., with Thomas, I. (2014), *Nations apart? Experiences of single homeless people across Great Britain*, London: Crisis.

64. Ibid.

65. Ibid.

66. Pawson, H., Netto, G., Jones, C., Wager, F., Fancy, C., Lomax, D., (School of the Built Environment, Heriot-Watt University) (2007), *Evaluating homelessness prevention*, London: DCLG.

67. Homeless Link (2015), *Preventing homelessness to improve health and wellbeing, evidence review into intervention that are effective in responding to health and wellbeing needs amongst households at risk of homelessness*, London: Homeless Link

68. Community Links (2014), *Towards effective prevention, practical steps for the next government*, London: Community Links.

69. Busch-Geertsema, V., (2002) & Fitzpatrick, S. (2008), 'Effective homelessness prevention? Explaining reductions in homelessness in Germany and England', *European Journal of Homelessness*, 2, pp. 69-95; Pawson, H. (2008), *Homelessness: The challenge of prevention*, FEANSTA seminar, Brussels, 6 June 2008.

70. Pleace, N. (2015), *At what cost? An estimation of the financial cost of single homelessness in the UK*, London: Crisis.

A woman fleeing domestic violence

- The **first scenario** shows how her homelessness is prevented by the use of a sanctuary scheme. She is able to re-establish her life and retain most of her social support networks and sustain her existing employment.
- In the **second scenario**, she is able to access a refuge service in another area. However, she is found not to be owed the main duty under the homelessness legislation. She is unable to keep her job. The refuge, under pressure to support other women in her situation, helps her secure shared private rented housing. However, she is located by her ex-partner and has to move back to her point of origin. There are further episodes of short-term homelessness, when she is forced to move, during which she stays in refuges. Moving around makes it difficult for her to remain registered with a GP, which means she becomes reliant on A&E as a source of medical care. She experiences deteriorations in her mental health, but is able to access NHS counselling services.

The research calculated that preventing her homelessness in the first scenario cost £1,554. By comparison, this increased to £4,668 when her homelessness was not properly resolved as described in scenario 2.

Source: Pleace, N. (2015), *At what cost? An estimation of the financial cost of single homelessness in the UK*, London: Crisis.

The government has estimated that the gross annual cost of homelessness to the state is up to £1 billion every year.⁷¹

For those who are owed the main homelessness duty failure to intervene early to prevent homelessness means that the household will likely lose their home and need to be rehoused in settled accommodation. Where a local authority cannot immediately make an offer of settled accommodation, a household in priority need will be placed in temporary accommodation. A government commissioned report into the cost effectiveness of homelessness prevention work concluded that most prevention initiatives were cost effective, largely because of the savings in the costs of temporary accommodation as well as the administration associated with homelessness.⁷² They found this to be the case particularly in areas such as Greater London, where the accommodation costs associated with someone owed the main homelessness duty far outweigh the prevention cost.

Section 3. Opportunity for change

Scotland

Both Scotland and Wales have introduced legislation to address the historic lack of provision for single homeless people. The governing legislation for homelessness in Scotland is the Housing (Scotland) Act (1987). A major amendment in the Homelessness etc. (Scotland) Act (2003) abolished the priority need criteria altogether. This came into effect at the end of December 2012. Local authorities in Scotland now have a duty to find settled accommodation for all eligible applicants who are unintentionally homeless. The 2003 Act also gave Scottish Ministers the power to disregard the test for intentionality for people making a homelessness application. This has not yet been brought into force however. Local authorities currently have discretion to refer applicants to another authority if they do not have a local connection. Under the Homelessness etc. (Scotland) Act 2003, Scottish Ministers have the power to modify the local connection test, however there are currently no plans to do so.

In preparation for the abolition of priority need, in 2010 the Scottish Government began promoting prevention measures far more strenuously in an effort to reduce statutory demand ahead of the amended duty. These measures are modelled on the English Housing Options approach and reflect the importance of prevention work in tackling homelessness, particularly within a legislative model where the entitlement to settled accommodation is extended beyond the historic priority need groups. Preventing homelessness at an earlier stage was held as an important measure to avoid 'silting up' in available accommodation.

The Housing (Scotland) Act (2010) also placed a new statutory requirement on local authorities to assess the housing support needs of applicants who are unintentionally homeless or threatened with homelessness and that they have 'reason to believe' need additional support from housing services. The services prescribed are: (a) advising or assisting a person with personal budgeting, debt counselling or dealing with welfare benefit claims; (b) assisting a person to engage with individuals, professionals or other bodies with an interest in that person's welfare; (c) advising or assisting a person in understanding and managing their tenancy rights and responsibilities, including assisting a person in disputes about those rights and responsibilities; and (d) advising or assisting a person in settling into a new tenancy.

Since 2010, local authorities in Scotland have also had the option to discharge their duty to find permanent accommodation for all eligible applicants who are unintentionally homeless in the private rented sector with tenancies of at least 12 months.

Statutory homelessness peaked in Scotland in 2005/06. For the past five years, however, there has been a reduction in the number of statutory acceptances. In 2014/15 Scottish local authorities recorded 35,764 homelessness applications, of which 28,615 were assessed as statutorily homeless. The total number of applications has fallen by 37 per cent since 2009/10.⁷³ In the most recent year, total applications fell by 4 per cent while 'assessed as homeless' cases dropped by 5 per cent.⁷⁴

71. DCLG (2012), *Evidence review of the costs of homelessness*, London: DCLG.

72. Pawson, H., Netto, G., Jones, C., Wager, F., Fancy, C., Lomax, D., (School of the Built Environment, Heriot-Watt University) (2007), *Evaluating homelessness prevention*, London: DCLG.

73. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2015), *The homelessness monitor: Scotland 2015*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

74. Ibid.

After a steady and substantial increase in the years to 2010/11, Scotland's temporary accommodation placements have subsequently remained fairly steady.⁷⁵ Most temporary accommodation placements in Scotland are in social housing stock, though single person households are more likely than families to be housed in non-self-contained temporary accommodation, such as hostels and Bed & Breakfast hotels. Local authorities across Scotland have reported substantially lengthening periods of time spent in temporary accommodation.⁷⁶

Wales

The Housing Act (1996) was the governing legislation for homelessness in Wales until it was superseded by Part 2 of the Housing (Wales) Act (2014). The majority of the new homelessness provisions came into force on 27 April 2015.

Prior to the introduction of the new legislation, the Welsh Government commissioned an independent review which identified two fundamental weaknesses with the existing legislation.⁷⁷ First, that a growing emphasis on preventative ('Housing Options') interventions sat uncomfortably alongside the statutory system, leading to concerns about both unlawful 'gatekeeping' and inconsistency in practice across Wales. Second, that very often no 'meaningful assistance' was made available to non-statutory homeless people.⁷⁸

The Housing (Wales) Act (2014) incorporates a significant number of the recommendations

made by the review. The recommendation to provide emergency interim accommodation for applicants who have nowhere safe to stay was dropped however following objections from local authorities over concerns about resource implications.

The key changes brought in by the Housing (Wales) Act (2014) were stronger prevention and relief duties for eligible homeless households regardless of priority need status. The new legislation also extended the definition of threatened with homelessness from 28 to 56 days, providing local authorities with a more realistic window of time within which to carry out meaningful prevention work. Crucially, the legislation is specific about the sorts of steps that local authorities should take, or at least explicitly consider, to demonstrate that they have helped relieve or prevent someone's homelessness, making it possible for applicants to challenge a local authority that is insufficiently proactive.

Local authorities now have a duty to help prevent homelessness for all eligible households threatened with homelessness within 56 days. While the prevention duties are subject to the availability of resources in the local area, they apply irrespective of priority need, intentionality or local connection.

If the local authority is unable to successfully prevent an applicant from becoming homeless within 56 days, then they have a duty to help them secure accommodation. The 'help to secure' duty is also applied regardless of priority need status and intentionality. Local connection is however

applied under this duty if the local authority thinks that it is likely that the household is in priority need. The local authority will conduct an assessment to find out: the circumstance under which someone has become homeless; the housing needs of the applicant and anyone they live with; and the support needs of all members of the household. The duty to help secure accommodation comes to an end after 56 days.

If an applicant's homelessness has not been successfully relieved after 56 days and they are in priority need, have a local connection and are unintentionally homeless, the local authority must make them an offer of settled accommodation under the main homelessness duty (now referred to as the 'final duty'). Importantly, however, applicants who 'unreasonably fail to cooperate' with relief assistance may not progress to the main homelessness duty to be secured accommodation.

The legislation provides examples of ways in which a local authority may secure or help to secure suitable accommodation in order to prevent or relieve an applicant's homelessness.

These include:

- mediation;
- payments by way of a grant or loan;
- guarantees that payments will be made;
- support in managing debt, mortgage arrears or rent arrears;
- security measures for applicants at risk of abuse; and

- advocacy or other representation.

Under the new legislation local authorities are able to discharge their main homelessness duty through suitable properties in the private rented sector with tenancies of at least six months. They can also make an offer of social housing.

Local authorities can decide to disregard the test for intentionality for priority need groups. To date only the Vale of Glamorgan has elected to disregard the test for intentionality and it has only done so for young people.⁷⁹ The Welsh Government has made a commitment to remove the intentionality test for households with children by 2019.⁸⁰

Under the new legislation, prisoners are no longer automatically considered to be in priority need. Mirroring the legislation in England, local authorities must now find that the applicant is particularly vulnerable as a result of their imprisonment in order to be assessed as in priority need.

The new legislation, which predated the Supreme Court's ruling on the definition of vulnerability under English homelessness law, has also enshrined the Pereira test into statute. Single homeless people therefore have to demonstrate that they would be less able to fend for themselves than an ordinary person who becomes street homeless in order to be assessed as in priority need.

In order to support local authorities to implement the new legislation the Welsh Government have provided additional transitional funding of £5.6 million in 2015/16 and a further £3.2 million will be provided in 2016/17.⁸¹ This funding is intended to help local authorities develop their approach to preventing homelessness.

75. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2015), *The homelessness monitor: Scotland 2015*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

76. Ibid.

77. Welsh Government (2012), *Homes for Wales. A White Paper for Better Lives and Communities*, Cardiff: Welsh Government.

78. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2015) *The homelessness monitor: Wales 2015*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

79. The Vale of Glamorgan Council confirmed that the intentionality test will be applied for the main homelessness duty with the exception of the following two categories: Those aged 16 or 17 years of age; and 18-21 year olds who were looked after, accommodated or fostered at any time whilst under the age of 18. Available: http://www.valeofglamorgan.gov.uk/en/living/housing/public_sector/Homeless/Intentionality.aspx.

80. National Assembly for Wales (2014), *Bill summary, Housing (Wales) Bill*, Cardiff: National Assembly for Wales. Available: [http://www.assembly.wales/Research%20Documents/Housing%20\(Wales\)%20Bill-17012014-253021/14-004-English.pdf](http://www.assembly.wales/Research%20Documents/Housing%20(Wales)%20Bill-17012014-253021/14-004-English.pdf)

81. Griffiths, L., Written statement, Additional transitional resources to Welsh local authorities - Housing (Wales) Act (2014). Available: <http://gov.wales/about/cabinet/cabinetstatements/2015/housingactadditionalresources/?lang=en>

The legislation has only been in place for one year, so it is difficult to assess the full extent of its practical impact. However, statistics from the Welsh Government indicate that the new model is working effectively to prevent homelessness and reduce the number of households who progress to the main homelessness duty.⁸² Following the enactment of the legislation, the last six months of data (July to December 2015) showed that only 405 households in both quarters were owed a duty, a decrease of 67 per cent. In the same period 3,605 households were provided with prevention assistance, of which 2,335 (65%) had a successful outcome. At the relief stage, 3,695 households were eligible for the duty to secure accommodation and 1,600 (43%) resulted in a successful outcome. The success rates at both the prevention and relief stage are slightly lower for single households (58% and 40% respectively) indicating it may be more difficult for local authorities to support and find appropriate accommodation for these people.

The Housing (Wales) Act (2014) introduced a new power for local authorities to end their duties towards a household who is 'unreasonably failing to cooperate' with the assistance provided. In total, 690 households (7 per cent of all assessed households⁸³) had their homelessness duties ended for this reason. These outcomes are unevenly distributed through the three stages, comprising 8.5 per cent of outcomes at the prevention stage, 9.6 per cent at relief stage and 3.7 per cent at final stage. Single households are over-represented among households deemed to have failed to cooperate. In total, 515 single households (9.1 per cent of all single assessed households)⁸⁴ had their homelessness duties

ended for this reason, comprising 11.6 per cent of outcomes for single households at the prevention stage, 12.1 per cent at the relief stage and 5.8 per cent at the final stage.

Shelter Cymru, who have a number of caseworkers based in councils to help deliver the new legislation, have reported that local authorities are achieving good success rates for the new prevention duty.⁸⁵ There are some concerns however that people are being assisted outside the legislation. They have also reported that some households are not being provided with assistance because they are being found intentionally homeless, not in priority need or because they are failing to cooperate.⁸⁶

“Since making homelessness prevention statutory in Wales, we’re seeing a rebalancing of services towards single households and a marked shift away from priority need and intentionality. What we’ve also found is that it draws the attention of policymakers to the importance of pushing prevention upstream. The natural consequence of thinking in this way about homelessness means a sharper policy focus on questions like security of tenure, tenants’ rights and - most crucially of all - the supply of affordable housing.”

Jennie Bibbings, Campaigns Manager, Shelter Cymru

Drawing on lessons from across the UK

The advantages of the legal system in Scotland are clear, and our ambition is to replicate the removal of priority need across the UK. However, there is some way to go until homelessness prevention reaches the effectiveness and scale being reached in Wales. In Wales, there is much to take from the new system that could and should apply to England, though it is also clear that some elements are far from perfect. These include the persistence of the Pereira test, the application of local resources as a reason to limit assistance available and the apparent ease upon which applicants can be found to be non-cooperative. In time we would advocate for the removal of priority need in Wales.

In order to broaden the entitlement to settled housing to anyone facing homelessness, prevention and relief work must first be incorporated into the statutory framework. Early evidence from the Welsh experience has shown that legislating for stronger prevention and relief work is essential if we are to reduce the overall levels of acute need and move closer to successfully abolishing the priority need criteria altogether.

Support for change

There has also been significant political interest and support from the homelessness sector, local authorities and the public for a shift towards greater homelessness prevention work. Prevention and early intervention are prominent features of the current government’s approach to tackling a number of social issues. More recently, the need for more robust homelessness

prevention work has also gained traction. At the end of 2015, the government made a commitment to work with homelessness organisations and across departments to consider options, including legislation, to prevent more people from becoming homeless.⁸⁷ The CLG Select Committee has also launched an inquiry on homelessness, examining the key causes of homelessness, the effectiveness of the current legislation and the re-establishment of the cross government Ministerial Working Group on Preventing and Tackling Homelessness.⁸⁸

There is strong support from many local authorities for a move towards a stronger prevention duty, with 56 per cent of respondents to the Homelessness Monitor England 2016 local authority survey in favour of the Welsh model and only 25 per cent expressing disagreement.⁸⁹ London boroughs were more evenly split, with 47 per cent in favour and 53 per cent opposed.

In response to the CLG Select Committee inquiry the following views were given by a range of local authorities regarding the introduction of a prevention and relief duty.

Birmingham City Council

“A re-framing of the legislation that gives primacy to homeless prevention has the potential to enable local authorities to more effectively use their resources to prevent households from experiencing homelessness whilst still providing protection for vulnerable households.”

82. Welsh Government (2016), Homelessness statistics. Available: <http://gov.wales/statistics-and-research/homelessness/?lang=en>

83. Shelter Cymru (2016), *Policy briefing: Key trends from six months of Welsh homelessness data*, Cardiff: Shelter Cymru.

84. Ibid.

85. Shelter Cymru (2016), *A brand new start: homelessness and the Housing (Wales) Act*, Cardiff: Shelter Cymru.

86. Ibid.

87. Jones, M. (17 December 2015), 'Radical package of measures announced to tackle homelessness'. Available: <https://www.gov.uk/government/news/radical-package-of-measures-announced-to-tackle-homelessness>

88. DCLG Select Committee homelessness inquiry. Available: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2015/inquiry1/>

89. Fitzpatrick, S., Pawson, H., Bramley, G., Wilcox, S. and Watts, B. (2016), *The homelessness monitor: England 2016*, Institute for Social Policy, Housing, Environment and Real Estate, Heriot-Watt University; Centre for Housing Policy, University of York; City Futures Research Centre, University of New South Wales, London: Crisis.

Brent Council

“We would support the introduction of a statutory duty to prevent homelessness for all, regardless of priority need, as in Wales. However the balancing ability in Wales to end this duty or the full homelessness duty for ‘unreasonably failing to cooperate with the authority in connection with the exercise of the function’ needs to be carefully drafted to ensure that people who are not sophisticated in their understanding of their legal rights and responsibilities are not unfairly penalised.”

East London Housing Partnership

“ELHP would support a change in legislation that further emphasises prevention and empowers applicants to work with local authorities to find a solution to their housing need, subject to local authorities receiving adequate resources to deliver this change.”

London Borough of Newham

“Prevention of homelessness is the most effective method for reducing homelessness and repeat homelessness, limiting the numbers of people who become street homelessness with increasing support needs that place a burden on local authority resources and other areas of the public sector, and for reducing homelessness which is a result of abuse... the Welsh model is under consideration in Newham and Personal Housing Plans are being piloted. We would welcome a conversation with Central Government about amending the English legislation to adopt a similar approach.”

Plymouth City Council

“Plymouth City Council does agree that a wider look at the use of legislation to support the work of Local Authorities in dealing with homelessness would be an effective way to reduce the impact of homelessness. We believe that widening the prevention duties

that currently exist and making all Local Authorities accountable for their actions would support reducing the numbers of people facing statutory homelessness.”

Manchester City Council

“We would support an increased focus on prevention as part of the review of the statutory framework on the basis that the duty applied to all statutory agencies coming into contact with people at risk of homelessness. To be effective this would include housing, offender, social care and health services.”

West London Housing Partnership

“We would support the introduction of a statutory duty to prevent homelessness for all, regardless of priority need, as in Wales & the ability to discharge this or the full homelessness duty for ‘unreasonably failing to cooperate with the authority in connection with the exercise of the function’.”

Polling conducted by YouGov of 2,157 adults living in Great Britain for Crisis in 2014 has also shown that there is strong public agreement that government should do more to tackle and prevent homelessness. Fifty six per cent of people thought that tackling homelessness should be a higher priority for the government.⁹⁰ Fifty nine per cent of people thought that local councils should have a duty to do more to prevent homelessness and 59 per cent thought that everyone who is homeless should receive some form of assistance from their local council.

Section 4. Solutions

The current homelessness legislation fails to provide a meaningful package of support and assistance for the majority of single people. Even for those who qualify for the main homelessness duty, intervention is too often predicated on crisis, making the system insufficient in effectively preventing homelessness. In order to reduce both the devastating personal costs of homelessness as well as the significant financial costs to national and local government it is vital that the legislation mandates much stronger prevention work for all homeless households.

During Summer 2015 Crisis established an independent panel of experts from across the housing and homelessness sector, including lawyers, an academic and local authority representatives to assess the strengths and weaknesses of the current homelessness legislation. The purpose of the review was to consider and recommend legislative change for England in order to prevent and tackle single homelessness more effectively, while ensuring that the current entitlements for families and others who are assessed as in priority need and are owed the main homelessness duty were not weakened.

Following the panel’s discussions, they sought the advice of a leading housing law barrister with specialist knowledge of homelessness (Liz Davies at Garden Court Chambers) to draft the alternative legislation. Her legal opinion has been used to inform this report. The panel met from July 2015 to February 2016. The panel sought to draft an alternative framework, which could be achieved through a set of amendments to the Housing Act (1996). Crisis fully endorses the panel’s recommendations.

The new proposed legislative model would:

- place a stronger duty on local authorities to prevent homelessness for all eligible

applicants regardless of priority need status, local connection or intentionality;

- extend the definition of threatened with homelessness from 28 to 56 days to provide local authorities with more flexibility to tackle homelessness at a much earlier stage; and
- place a new relief duty on local authorities requiring them to take reasonable steps to help to secure accommodation for all eligible homeless households who have a local connection, regardless of priority need and intentionality.

“It is unacceptable that so many people are left to sleep rough after asking local authorities for help. St Mungo’s No More report found that it’s common for people to be told that they are ‘not a priority’ without even having had a proper assessment. The reality is that failing to intervene at an early stage can make people’s problems worse and harder to solve. That’s why St Mungo’s wants to see a new duty to prevent and relieve homelessness in England.”

**Howard Sinclair,
Chief Executive of St Mungo’s**

Preventing homelessness early

A stronger advice and information duty

Section 179 of the Housing Act (1996), the ‘Duty of local housing authority to provide advisory services’, requires local authorities to provide anyone in their area with advice and information in order to help prevent their homelessness. At present Section 179 provides no significant detail about

⁹⁰. YouGov poll of 2,157 GB adults for Crisis (2014).

the steps a local authority should take in order to fulfil this duty and as a result is very difficult to legally enforce. Crisis therefore recommends that Section 179 should be amended to more closely mirror Section 60 of the Housing (Wales) Act (2014), ‘Duty to provide information, advice and assistance in accessing help’. This clause is much more prescriptive about the types of advice that could be provided. Furthermore, the clause sets out that the local housing authority must in particular work with other public authorities and voluntary organisations to ensure that the service is designed to meet the needs of groups at risk of homelessness. These groups include: people leaving prison or youth detention accommodation; young people leaving care; people leaving the regular armed forces; people leaving hospital after medical treatment for a mental health problem; and people receiving mental health services in the community.

The duty placed on local authorities to provide anyone in their area with advice and information would apply regardless of whether or not they are homeless or threatened with homelessness. It would therefore serve as an important early intervention service which could for example help anyone experiencing problems with debt, unemployment etc. and might be at risk of homelessness. It also serves to provide assistance for applicants who are not eligible for housing support, e.g. those who are not habitually resident.

A homelessness prevention duty for all eligible households

Crisis recommends that the government should create a new prevention duty for anyone who is threatened with homelessness and eligible for assistance. This duty would be blind to priority need status, intentionality and local connection. Reflecting Section 66 of the Housing (Wales) Act (2014), local authorities would have to demonstrate that

they have taken reasonable steps to help prevent a person becoming homeless. Measures that ought to be available in relevant cases could include mediation with private landlords, assistance with rent arrears and debt management. The local authority could discharge their prevention duty for applicants who are not in priority need if they unreasonably refuse to cooperate with a course of action that they and the Housing Options team have agreed to undertake.

“Research by Centrepoin’s Youth Homelessness Databank found that thousands of young people are turned away by their local council because they are not considered a priority under current national legislation. Supporting a young person at the point of crisis can help avoid even more problems down the road. Every young person facing homelessness deserves to be properly assessed to determine what support they need but councils cannot do this alone. As has already happened in other parts of the UK, we need the government to step up and ensure that councils have the funding and the powers they need to tackle youth homelessness and rough sleeping.”

Seyi Obakin,
Chief Executive of Centrepoin

Extending the definition of threatened with homelessness

In order to ensure that the new duty would be effective in preventing homelessness, Section 175 of the Housing Act (1996) should be amended to extend the definition of threatened with homelessness from 28 to 56 days. This will enable local authorities to respond to the threat of homelessness at a much earlier point, providing them with a greater number of options to help prevent someone becoming homeless, and therefore a higher chance of success. In her legal

advice, Liz Davies argued that ‘the longer period coupled with an effective performance of the duty at the end of the prospective 184 “Duty to help prevent an applicant from becoming homeless” could help to save resources’.⁹¹

The loss of an assured shorthold tenancy (the default tenancy in the private rented sector) is the leading cause of homelessness, accounting for 29 per cent of those accepted as homeless in England and 39 per cent of those in London.⁹² Landlords are required to provide tenants with two calendar months’ notice when evicting them from their home. In this context, extending the definition of ‘threatened with homelessness’ to almost two months would allow local authorities to begin prevention work at a much earlier point, with more chance of success. For example, if a landlord is evicting a tenant who is in rent arrears, this will allow a local authority to intervene almost as soon as the Section 21 notice requiring possession or (in the case of a fixed term tenancy) the section 8 notice seeking possession is served. Assistance could include help to pay off rent arrears or mediation with the landlord to help the tenant remain in their home.

Stronger support for people made homeless from the private rented sector

Crisis also recommends that Section 175 ‘Homelessness and threatened with homelessness’ should be amended to ensure that local authorities accept the expiry of a Section 21 eviction notice as proof that an applicant is homeless and would therefore be eligible for assistance under the relief duty (outlined below). The Homelessness Code of Guidance already advises that it is ‘unlikely to be reasonable for the applicant to continue to occupy the accommodation

beyond the date given in the Section 21 notice, unless the housing authority is taking steps to persuade the landlord to withdraw the notice or allow the tenant to continue to occupy the accommodation for a reasonable period to provide an opportunity for alternative accommodation to be found.’⁹³ In her advice, Liz Davies stated however that ‘local authorities... frequently decide that the applicant is not homeless at that stage. The proposed amendment to Section 175 (2A) “Homelessness and threatened with homelessness” would mean that there was no longer any consideration of whether or not it is reasonable for an applicant to continue to occupy after the date for possession.’⁹⁴ Waiting until a possession order or bailiff’s warrant has been executed places a costly burden on county courts, landlords and tenants. Furthermore tenants may accrue further rent arrears making them much more vulnerable to homelessness, and landlords less likely to let to homeless households or those at risk of homelessness in the future.

A wider care and support duty

“For those in the criminal justice system, particularly people leaving custody, lack of stable housing can disrupt any progress made during a sentence to turn lives around. Without a stable home people can’t access work, support, or health and recovery services which are fundamental to them rebuilding their lives. We cannot underestimate the impact housing someone securely has on turning their lives around, reducing crime and reoffending and keeping communities safe. We are certain that the duty to prevent and relieve homelessness irrespective of current

91. Davies, L., Garden Court Solicitors (2016), *Prospective amendments to Housing Act (1996)*, Part 7.

92. DCLG (2016), *Statutory homelessness live tables*, Table 774: Reason for loss of last settled home.

93. DCLG (2006), *Homelessness Code of Guidance for Local Authorities*, London: DCLG.

94. Davies, L., Garden Court Chambers (2016), *Prospective amendments to the Housing Act (1996)*, Part 7.

definitions of priority need would have a positive impact across a wide spectrum of vulnerabilities, making communities safer and reducing taxpayer costs of failures arising from repeat offending.”

**Joanne Drew,
Director of Housing at Nacro**

Key to implementing an effective prevention duty will be the ability of local authorities to work with a range of partners in order to help address the multiple and overlapping factors that cause an individual’s homelessness. Crisis therefore recommends that Section 213 of the Housing Act 1996, ‘Cooperation between relevant housing authorities and bodies’ should be redrafted to ensure that the NHS, drug and alcohol agencies, probation teams, debt advice services and mental health teams should also have a duty to cooperate with local authorities when they carry out their duty to help to prevent homelessness or secure accommodation. The government should consider how, beyond the scope of the homelessness legislation, other agencies should work in partnership with local authorities to effectively prevent homelessness.

Providing a robust package of support and assistance for single homeless people

“There are many reasons why someone might end up homeless. The fact the law isn’t on their side should never be one of those reasons. Current legislation denies too many vulnerable single people the support they need to avoid homelessness and presents too many barriers to Homeless Link’s member organisations that could help. Having taken part in the expert panel to review existing legislation, convened by Crisis, we’re convinced of the positive impact that reforming the law could have on homelessness.”

**Rick Henderson,
Chief Executive of Homeless Link.**

A relief duty for all eligible homeless people who have a local connection

If a local authority is unable to successfully prevent an applicant’s homelessness, Crisis recommends that a duty should be placed on the local authority to take reasonable steps to help secure accommodation for homeless households who are eligible for assistance and have a local connection. This could include providing local authority accommodation or arranging for an applicant to be housed in a 12 month fixed term tenancy in the private rented sector. In addition to providing accommodation, examples of how a local authority would help to secure accommodation should be set out in legislation in order to create a robust and legally enforceable duty. Reflecting the Housing (Wales) Act (2014), Crisis recommends that these examples should include: mediation; payments by way of grant or loan; guarantees that payments will be made; support in managing debt, mortgage arrears or rent arrears; security measures

for applicants at risk of abuse; advocacy or other representation; and the provision of accommodation.

While this relief duty would be priority need and intentionality ‘blind’, in contrast to the proposed prevention duty outlined above, an applicant would have to have a local connection to the local authority area as currently defined in Section 199 of the Housing Act (1996), otherwise the local authority could refer the applicant to a local authority with which they do have such a connection. This would help to ensure that local authorities, particularly in areas of high demand, are not put under undue burden with regards to providing relief interventions to applicants from other areas.

The relief duty would last for a period of 56 days. This duty could be brought to an end before this time if the applicant was unreasonably refusing to cooperate with relief efforts (see below). It could also be brought to an end if an applicant had accepted or refused a suitable offer of accommodation or if the applicant had ceased to be eligible for assistance. For applicants in priority need, the local authority could bring the duty to an end before this time if they had taken all reasonable steps to relieve their homelessness. The applicant would then be eligible for assistance under the main homelessness duty.

Emergency accommodation for homeless people who have nowhere safe to stay

Crisis recommends that a new duty should be placed on local authorities to provide emergency temporary accommodation for people who are homeless and have nowhere safe to stay. Under the current legislation, applicants who the local authority considers are likely to be in priority need are entitled to temporary accommodation until they have carried out their full assessment. Furthermore, local authorities are required

to accommodate households who are owed the main homelessness duty in temporary accommodation until they find them an offer of settled housing. No such provision exists for households who are not in priority need.

This new clause would entitle anyone who was homeless and would otherwise have nowhere safe to stay to interim accommodation for 28 days. This provides a window of time for support teams to work with that applicant to ensure that they do not sleep rough and instead move into some form of alternative accommodation. It can only be exercised once every six months. If at the end of the 28 days, the applicant re-applied, the local authority would not be under the nowhere safe to stay accommodation duty if the applicant had had the benefit of that duty from any local authority in England in the six months preceding the date of application.

Crisis recognises that further consideration must be given to how this clause will work in relation to the assistance provided to people who are at risk of sleeping rough and verified rough sleepers. However, rough sleepers suffer the worst outcomes of all homeless people and the current system provides inadequate protections and support for this group.

Incentivising applicants to engage in prevention and relief work

In order to ensure that the new legislative model works effectively, it is vital that applicants are incentivised to engage in effective prevention work at the earliest stage. Crisis therefore recommends that a clause should be included in the new legislative framework which would allow local authorities to discharge the prevention and relief duties if an applicant is unreasonably refusing to cooperate with a course of action that they and the Housing Options team have agreed to undertake.

The ‘refusal to cooperate’ provision would only apply at the prevention and relief stage however and could not be engaged to prevent a household in priority need from accessing the main homelessness duty. Local authorities should only engage the clause in very exceptional circumstances, e.g. where an applicant had ceased all communication with the local authority over a reasonable length of time. If a local authority is considering discharging either duty because an applicant is refusing to cooperate then they must send a letter to the applicant warning them that they are minded to cease assistance. This letter should set out the reasons why the local authority intends to cease to provide assistance and a time period of no less than 14 days within which the applicant could re-engage.

Crisis also recommends that provision should be made within this clause to allow the Secretary of State to prescribe (in the Homelessness Code of Guidance) grounds on which a person could not be deemed as unreasonably refusing to cooperate. This would be particularly important in helping to ensure that the clause was only engaged in exceptional circumstances and not used as an inappropriate form of sanction.

Maintaining the current protection for priority need groups

Under the new proposed legislative framework the intention would be that all eligible applicants would go through the prevention duty (if they are threatened with homelessness) and relief duty (if their homelessness could not be prevented or they are already homeless at the point they approach the local authority). If a local authority is not able to successfully prevent or relieve the homelessness of a household in priority need then they would proceed to the main homelessness duty, which would remain as it is currently drafted in the legislation.

A local authority would be able to fast track a household in priority need to the main homelessness duty if they thought that this was a more appropriate way to remedy their homelessness. The household would not be able to elect to do this themselves. Furthermore, if households that are in priority need refuse an offer of accommodation under the relief duty or refuse to cooperate with assistance given under either the prevention or relief duties they would not lose their entitlement to an offer of settled accommodation under the main duty.

The suitability of the offer of settled accommodation under the main homelessness duty would remain as set out in the current legislation, i.e. an offer of social housing or a 12 month minimum fixed-term private rented sector tenancy, which complies with minimum standards set out within the legislation regarding affordability, physical condition of the property and location. The suitability of an offer at the relief stage mirrors that of the main duty. Any offer of accommodation made at the prevention stage should be likely to last for six months and meet the same suitability criteria as an offer of accommodation made at the relief and main duty stage.

Effective enforcement

The current mechanisms for enforcing the homelessness legislation are relatively weak. There is no regulator of local authorities’ housing and homelessness services, which makes it very difficult to ensure that, beyond individual recourse to the law, the legislation is working as intended.

There are a number of options that the government could explore to ensure that the legislation is effectively enforced:

- Setting up a regulator of housing and homelessness services, whose role would be to carry out inspections of local

authorities’ services to ensure that they were meeting their duties as set out in the legislation and in line with the standards outlined in an updated version of the Homelessness Code of Guidance.

- Appointing a team of specialist homelessness advisors to help disseminate best practice among housing teams in local authorities.
- Ensuring that local authorities, under sections 1 and 3 of the Homelessness Act (2002), keep their strategy for preventing homelessness in their district regularly updated. The strategy must apply to everyone at risk of homelessness, not just people who may fall within a priority need group.

As a minimum Crisis recommends that the government implement the following:

Right to judicial review

Crisis recommends that Section 202 of the Housing Act (1996) ‘Right to request review of decision’ is amended to reflect the nature of the review in relation to the new duty to assess, duty to help to prevent homelessness and the duty to help to secure accommodation. There will not usually be a ‘decision’ to be reviewed (unless a specific offer of accommodation has been made and there is a challenge to its suitability), but Crisis’ recommended review will be in respect of the process of assessment and assistance, including the adequacy of any assistance and the outcome. This has the benefit of ensuring that applicants can challenge the process as well as the outcome.

Data collection

In order to monitor the overall effectiveness of the new legislation, the government should require robust data collection from local authorities on the new prevention and relief duties. This data should include information on the types of households that are assisted, the action taken and the long-term outcome of that assistance. This data should be published on a quarterly basis in line with the current statutory homelessness statistics. Local authority data collection systems should allow for each individual household to be tracked via a personalised identification number. This will provide government with a much better sense of the overall work conducted by a local authority and a household’s journey out of homelessness, as well more effectively tracking repeat homelessness.

Cross government strategy on preventing homelessness

Preventing homelessness requires a cross-government approach. Homelessness policy sits within DCLG, but is heavily influenced, for example, by policy from the Home Office, the Department for Work and Pensions (DWP), the Department of Health, the Ministry of Justice and the Treasury. Often, policy from these departments affecting homelessness can be at best not joined up, and at worst contradictory. For example, the Department of Health has recently committed £40 million, via DCLG, to improve hostel accommodation for homeless people. At the same time, DWP plan to cap the amount of housing benefit people living in homelessness hostels can receive, leaving some of the same accommodation providers potentially unable to deliver a viable service. This is a clear instance of policy across government departments not working towards a shared objective.

The Coalition Government set up the Ministerial Working Group, now reconvened, which was intended to bring together ministers from different government departments to plan a coherent response on homelessness. The group was effective in advising on the roll out of a number of new policy initiatives, including No Second Night Out, the Streetlink phone service and a planned programme of work for homeless people with complex needs. However, there is little evidence to date that the group has had an influence on the policy of departments other than DCLG.

Preventing homelessness will require action from the Department for Work and Pensions, on benefits and employment support, the Department of Health, on the health inequalities faced by homeless people, the Department for Business Innovation and Skills, on the low levels of skills and education that many homeless people face, the Ministry of Justice and Department for Education, to avoid prison leavers and care leavers becoming homeless, as well as from DCLG itself.

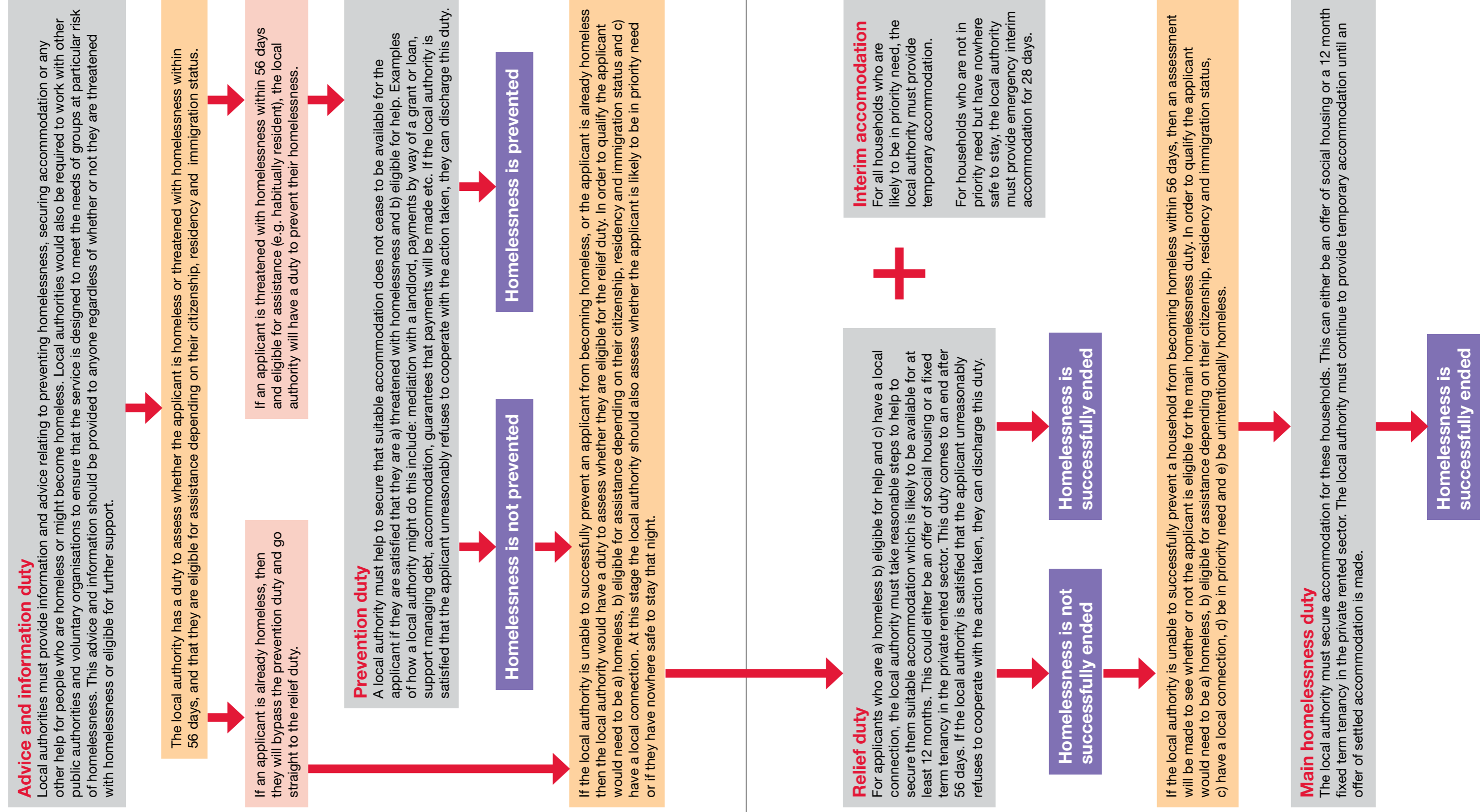
Crisis therefore recommends that a cross-government strategy to prevent homelessness is developed. It will be essential that this strategy has support from senior levels in government if it is to have the political leadership necessary to succeed. The Prime Minister has committed to an ‘all out assault on poverty’, and we believe that this and the expected ‘Life Chances strategy’ should include a commitment to end homelessness. This is particularly important in light of evidence that shows people who become homeless as children or teenagers are likely to become homeless repeatedly throughout their lives.⁹⁵

“Pathway teams work with homeless patients in hospitals across England. Our teams spend huge amounts of time working through patients’ housing problems so they do not leave hospital with nowhere to go. The current legislative framework does not help. It sets up perverse incentives for local authorities and other partners to deny sick vulnerable individuals the support they need, often in the hope that some other agency can be found to take responsibility. This can leave vulnerable individuals marooned in a hospital bed for weeks at a time, or worse, discharged directly from hospital to a night shelter, or even the streets. Pathway is delighted to support Crisis’ efforts to change the law on single homelessness.”

Alex Bax,
Chief Executive of Pathway

95. Mackie, P., with Thomas, I. (2014), *Nations apart? Experiences of single homeless people across Great Britain*, London: Crisis.

The new legislative model



Costing a new system

Crisis has commissioned research to examine the cost saving potential of enhanced homelessness prevention. The first stage of this research has produced provisional estimates of the financial implications of the new Welsh homelessness legislation and the estimated net effects on spending if the reforms were replicated in England. This section summarises the interim report but a full outline of this research and methodology is in Appendix 1 and 2.

As Table 1 shows, if the changes that have occurred in Wales were exactly replicated in England, an estimated additional £105.2 million would be spent on homelessness

prevention or relief activity in England. This would be offset by a £93 million reduction in expenditure on the main homelessness duty cases. Including the rise in the number of 'not homeless' cases, the total increase in expenditure would be nearly £19 million with a 28% increase in total homelessness cases (see Table 1).

However, England is not starting from the same position as Wales. Homelessness prevention is already more extensive in England. Pre legislation, it accounted for 49 percent of all homelessness cases in Wales, while in England it is currently 66 per cent.⁹⁷ As England would be introducing reforms in

a context where the prevention framework was already relatively well developed, it would be unlikely to see the kind of spike in preventative activity that occurred in Wales (a 48 per cent increase), where prevention was relatively underdeveloped. England can significantly increase preventative activity by replicating the Welsh reforms or introducing similar legislative change, but as this will be from a higher starting point, the relative increase in activity is likely to be smaller. Applying different assumptions, which for example would see an 11 per cent increase in total homelessness cases resulting from a 20 per cent increase in prevention and relief action (for full details see Table 3 in Appendix 1), leads to a different set of estimated net costs. In this scenario, an additional £43.9 million would be spent on prevention and relief activity. This would be offset by a £46.8 million reduction in expenditure on full homelessness duty cases. These estimates are based on a series of assumptions and changing those assumptions will produce differing results. Changing the English legislation is likely to have varying impacts across different local authorities in England based on existing prevention work, housing market dynamics and levels of homelessness.

In addition to upfront costs for local authorities, the research has also explored and estimated the financial implications for temporary accommodation, health and the criminal justice system. Early indications in Wales suggest they have achieved a 16 per cent drop in spending on temporary accommodation by local authorities per quarter. Over a six month period changes have resulted in 14 fewer convictions, up to a 23 per cent reduction on A&E spending and a 25 per cent reduction in hospital admissions and can offer some suggestions of the possible long term savings that will occur as a result of a new legislative model in England.

Table 1: Net difference in costs if England introduced the Welsh legislation reforms with identical projected effects (based on Welsh Government projected costs at 2015/16 prices⁹⁶)

Decisions 2014/15	2014/15	Unit cost (estimated average)	Estimated total	Patterns if parity with Wales	Spending if at parity with Wales	Spending change if at parity with Wales	Change if at parity with Wales
Unintentionally homeless and in priority need	54,430	£2,413	£131,339,590	17,962	£43,342,065	-£87,997,525	-67%
Intentionally homeless and in priority need	8,990	£383	£3,438,675	4,765	£1,822,498	-£1,616,177	-47%
Homeless but not in priority need	20,420	£383	£7,810,650	10,414	£3,983,432	-£3,827,219	-49%
Action to prevent and/or relieve	220,800	£993	£219,254,400	326,784	£324,496,512	£105,242,112	48%
Not homeless	28,510	£191	£5,452,538	66,143	£12,649,887	£7,197,350	132%
Totals	333,150*		£367,295,853	426,068	£386,294,393	£18,998,540	28%

*May not sum due to DCLG rounding

Source: DCLG Live homelessness tables, Welsh Government homelessness statistics

⁹⁶ Welsh Government (2013) Housing (Wales) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes. Available at: <http://www.assembly.wales/Laid%20Documents/PRI-LD9558-EM%20-%20Housing%20%28Wales%29%20Bill%20-%20EXPLANATORY%20MEMORANDUM-18112013-251741/pri-ld9558-em-e-English.pdf>.

⁹⁷ Mackie, P. K., Thomas, I. and Hodgson, K. (2012), *Impact analysis of homelessness legislation in Wales: A report to inform the review of homelessness legislation in Wales. Project Report*. Cardiff: Welsh Assembly Government and DCLG (2016) Live tables on homelessness.

Conclusion

For too long the homelessness legislation has failed to provide adequate support to single people. The Housing (Homeless Persons) Act (1977) for the first time defined which groups of homeless people were considered priority need and therefore owed a statutory duty to settled accommodation by local authorities. For the majority of single people however, they do not qualify as vulnerable enough to receive statutory assistance.

For this group of people the local authority only has a duty to provide basic advice and information. Crisis research has shown that too often people receive very poor support and in the very worst cases are turned away and forced to sleep rough. The legislation itself goes into very little detail about how the duty should be met. As a result the service provided is very inconsistent and, when poor, difficult to legally challenge. Even for those applicants who are eligible for statutory assistance, it often comes too late and people are forced to crisis point before the local authority intervenes.

The new model presented in this report would place a stronger duty on local authorities to prevent homelessness for all eligible applicants regardless of priority need status, local connection or intentionality. Extending the definition of threatened with homelessness from 28 to 56 days will help to provide local authorities with more flexibility to tackle homelessness at a much earlier stage. Bringing prevention work within the statutory framework will be vital in ensuring that local authorities provide a meaningful service and can be held to account when they fail to do so. The new model would also place a new relief duty on local authorities requiring them to take reasonable steps to

help to secure accommodation for all eligible homeless households who have a local connection.

With widespread political backing, support from across the homelessness sector and local authorities for this model, the case for reform is strong. Government must seize this opportunity to reduce homelessness and the costs incurred by national and local government.

Appendix 1: Analysis of potential net costs and savings of extending the prevention duty in England

The estimated costs outlined below are an interim output of a larger study on the cost effectiveness of homelessness prevention, involving Peter Mackie, Nicholas Pleace and Dennis P. Culhane. Drawing on preliminary results from Wales, Peter Mackie and Nicholas Pleace have estimated the net effects on spending if the Welsh legislative reforms were replicated in England. A full methodology of the initial cost analysis is outlined in Appendix 2. Drawing on the most recent data on the new preventative framework in Wales, estimations are made for expenditure and savings for local authority costs, temporary accommodation, the criminal justice system and the NHS.

The main report, due in the summer, draws on American and Australian methodologies for estimating the financial costs of homelessness and explores the potential savings from an expansion of effective homelessness prevention. The study also examines the scope for using administrative data merging to better understand homelessness pathways, the costs of homelessness and assessing the effectiveness of preventative services.

Estimated changes in net costs in Wales

Data limitations mean the total number of households assisted by homelessness services in Wales prior to the legislative changes of April 2015 cannot be quantified.

This is because homelessness prevention and relief actions were not routinely recorded by local authorities or reported to Welsh Government.

As part of the review of homelessness legislation in Wales, Mackie et al (2012)⁹⁸ identified six local authorities where homelessness prevention was recorded. This data was recoded, adding cases of homelessness prevention/relief to the local authority statistics. With this new data added, it was found that 49 per cent of all the households seeking assistance were homelessness prevention cases and that 12 per cent were not homeless.⁹⁹

Table 2 presents an estimated comparison of the type and number of decisions made under homelessness legislation prior to and following the legislative change in Wales. It is important to recognise that some households assisted under the new legislation will have been assisted at the homelessness prevention, relief and final duty stages. Rather than attempt to remove any double counting of households we have retained all actions/decisions as each action with a household has a resource implication.

The Welsh Government costed the legislative reforms at £4.9 million for the first year, drawing on estimates developed for the different options for legislative changes in 2013.¹⁰⁰ Transitional funding was found at a slightly higher level of £5.6 million.

Applying the figures used by the Welsh Government produces the following estimate of the changes to administrative costs for local authorities (Table 3). These figures

98. Mackie, P., Thomas, I. and Hodgson, K. (2012), *Impact analysis of homelessness legislation in Wales: a report to inform the review of homelessness legislation in Wales*, Cardiff: Welsh Government.

99. These revised figures suggest that the number of households assisted in Wales in the final quarter of 2013 is 1,855 households higher than indicated in the statutory return.

100. Welsh Government (2013) Housing (Wales) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes <http://www.assembly.wales/Laid%20Documents/PRI-LD9558-EM%20-%20Housing%20%28Wales%29%20Bill%20-%20EXPLANATORY%20MEMORANDUM-18112013-251741/pri-ld9558-em-e-English.pdf>

Table 2: Estimated total number of households assisted in Wales under the Housing (Wales) Act 2014 (Oct-Dec 2015)

Homelessness decisions	Oct-Dec 2013	Oct-Dec 2015	% change
Eligible, unintentionally homeless and in priority need	1,220	405	-67%
Eligible, homeless and in priority need but intentionally so	160	85	-47%
Eligible, homeless but not in priority need	800	405	-49%
Eligible, but not homeless or threatened with homelessness	685	1,585	132%
Action to prevent and/or relieve	2,796	4,135	48%
Ineligible	45	60	33%
Total decisions	5,705	6,675	17%

Source: Welsh Government homelessness statistics

suggest a net saving in the administrative costs for Welsh local authorities from the expansion of prevention. Two figures increase: the first is preventative activity itself; and the second is the number of households found eligible. But not homeless or threatened with homelessness, but while costs rise here, the fall in other areas of administrative cost is sufficient for there to be a projected net saving for Welsh local authorities of some £638,881 per quarter.

Alongside this, there are the estimated savings of £697,980 in temporary accommodation costs per quarter and the range of estimated savings in health and criminal justice costs. These figures are estimates but are based on the best of the data and estimations that we have available at the time of writing. There is sufficient data to indicate that the Welsh legislative reforms will generate significant financial benefits for the public sector, alongside early evidence of marked reductions in homelessness.

Annually, as is summarised, the savings could be in the order of £6,777,998, assuming health costs were in the lower range of the provisional estimates produced by Mackie and Pleace.

Estimating the net costs to local authorities in England

Before discussing the likely impacts of similar reforms in England it is important to note that Wales and England are not starting from the same position. At the point when Wales introduced the reforms, prevention was less extensively developed than was the case in England. Pre legislation it accounted for 49 per cent of all homelessness cases, while in England it is currently 66 per cent.¹⁰¹ As prevention already plays a significant role in local authority responses to homelessness in England, the key question is how much of an impact new legislation will have on the total levels of decisions and the proportions of these cases which are prevention or relief, compared to a full homelessness duty.

Table 4 is illustrative and shows the cost implications if England replicated the Welsh reforms and there was an identical effect. Additional costs would total nearly £19 million with a 28 per cent increase in total cases. However, there are several reasons why the Welsh experience would not be replicated in England.

101. Mackie, P. K., Thomas, I. and Hodgson, K. (2012), *Impact analysis of homelessness legislation in Wales: A report to inform the review of homelessness legislation in Wales. Project Report*. Cardiff: Welsh Assembly Government and DCLG (2016) Live tables on homelessness

Table 3: Net Differences in Costs. Estimated total number of households assisted in Wales under the Housing (Wales) Act 2014 (Oct-Dec 2015) (Based on Welsh Government projected unit costs at 2015/16 prices¹⁰²)

Homelessness decisions	Oct-Dec 2013	Unit cost (estimated average)	Total cost (estimate)	Oct-Dec 2015	Total cost (estimate)	Difference
Eligible, unintentionally homeless and in priority need	1,220	£2,413	£2,943,860	405	£977,265	-£1,966,595
Eligible, homeless and in priority need but intentionally so	160	£383	£61,200	85	£32,523	-£28,688
Eligible, homeless but not in priority need	800	£383	£306,000	405	£154,913	-£151,088
Eligible, but not homeless or threatened with homelessness	685	£191	£131,006	1,585	£303,131	£172,125
Action to prevent and/or relieve	2,796	£993	£2,776,428	4,135	£4,106,055	£1,329,627
Ineligible	45	£383	£17,213	60	£22,950	£5,738
Total decisions	5,705		£6,235,707	6,675	£5,596,826	-£638,881

Source: Welsh Government homelessness statistics

Preventative activity can expand in England, but not to the same extent as in Wales, because the existing level of homelessness prevention is much higher than was the case in Wales prior to the reforms. Although both preventative activity and statutory homelessness have been rising in recent years, the spikes in levels of statutory homelessness seen in previous decades have not occurred since 2003/04, when prevention began to significantly expand.

Yet while England has comparatively extensive prevention, the pressures generating homelessness create a context in which wider, more comprehensive and consistent preventative services could have real benefits. One issue here is the variation in housing market dynamics. England has seen a steady decrease in affordable housing and the private rented sector has become comparatively less affordable, while benefits to help lower income households to

meet housing costs have been significantly cut. Wales also has no equivalent to London, where the level of pressure on the statutory system and level of temporary accommodation use is acute.

Changing the assumptions which the analysis is modelled on and halving the projected effects on statutory homelessness and keeping the increase in preventative activity to a relatively modest 20 per cent would result in a marginal increase in expenditure of £672,848 (see Table 3).

The unit costs are predicated on the costs of homelessness administration and homelessness prevention being similar in England and Wales. Some previous estimations support this assumption. In 2010, an exercise comparing local authority costs for prevention against those of using the statutory system in England¹⁰³ indicated the potential for local authority savings

102. Welsh Government (2013), *Housing (Wales) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes* <http://www.assembly.wales/Laid%20Documents/PRI-LD9558-EM%20-%20Housing%20%28Wales%29%20Bill%20-%20EXPLANATORY%20MEMORANDUM-18112013-251741/pri-ld9558-em-e-English.pdf>

103. Shelter (2010), *Value for money in housing options and homelessness services*, London: Shelter. The original figures were an estimated £558 for a decision on a homelessness application and £927 for the administrative costs of finding someone statutorily homeless (£2,112 including average temporary accommodation costs).

Table 4: Net Differences in Costs if England introduced the Welsh Legislative Reforms with Half the Projected Effects and a 20% Increase in Preventative Activity

Decisions 2014/15	2014/15	Unit cost (estimated average)	Estimated total	Estimated change in activity	Estimated spending	Estimated spending change	Estimated change in activity
Unintentionally homeless and in priority need	54,430	£2,413	£131,339,590	36,196	£87,340,827	-£43,998,763	-34%
Intentionally homeless and in priority need	8,990	£383	£3,438,675	6,832	£2,613,393	-£825,282	-24%
Homeless but not in priority need	20,420	£383	£7,810,650	15,315	£5,857,988	-£1,952,663	-25%
Action to prevent and/or relieve	220,800	£993	£219,254,400	264,960	£263,105,280	£43,850,880	20%
Not homeless	28,520	£191	£5,452,538	47,327	£9,051,212	£3,598,675	66%
Totals	333,150*		£367,295,853	370,630	£367,968,700	£672,848	11%

*May not sum due to DCLG rounding

Source: DCLG Live homelessness tables, Welsh Government homelessness statistics

based on estimates of local authority costs that were very similar to those used by the Welsh Government. The Welsh Government estimated an average of £993 per prevention, while the estimate produced by Acclaim Consulting for England in 2010 was £826 per prevention (£954 at 2015 prices).¹⁰⁴

These estimates are based on a series of assumptions and changing those assumptions will produce differing results. In reality, changing the English legislation would have differing impacts, with some authorities probably experiencing increases in spending while others saw falls. Collectively, however, the financial risk from moving to greater prevention seems low, as the costs of expanded preventative activity are rapidly offset if there are corresponding reductions in assessments and households being found statutorily homeless.

Potential cost savings for temporary accommodation, criminal justice and health

Since the homelessness legislation was introduced in Wales, temporary accommodation use has fallen. Comparing the period July-September 2013 with the same period in 2015, a 16 per cent reduction in temporary accommodation use was found, saving in the order of £697,980 in spending on temporary accommodation by local authorities (Table 5 and 6).

Calculating the cost of temporary accommodation use in England is more challenging. There are marked variations between housing markets which have a significant impact on the costs of temporary accommodation. The majority (74%) of temporary accommodation use is concentrated in London. Recent work in London¹⁰⁵ has reported that, across 20

Table 5: Households in temporary accommodation by accommodation type and household type, July-September 2013 and 2015

Temporary accommodation type	(Jul-Sep) 2013			(Jul-Sep) 2015			Percentage change (2013-2015)
	Single	Family	Total	Single	Family	Total	
Bed and breakfast	230	15	245	140	15	155	-37%
Non B&B accommodation ¹⁰⁶	1,125	790	1,915	1,000	670	1,670	-13%
Total accommodated at end of quarter	1,355	805	2,160	1,140	685	1,825	-16%

Source: Welsh Government homelessness statistics

Table 6: Average temporary accommodation costs by accommodation type and household size¹⁰⁷

Temporary accommodation type	Household size	Unit cost (estimated average)
Bed and breakfast	Single (1 bed)	£2,842
	Family +1 (2 bed)	£4,809
	Family +2 (3 bed)	£6,573
Non B&B accommodation	Single (1 bed)	£1,692
	Family +1 (2 bed)	£1,790
	Family +2 (3 bed)	£2,055

Source: Housing Manager at a sample Welsh local authority

London boroughs, £463 million was spent on temporary accommodation in 2014/15. Improving prevention in those 20 boroughs, to the point of achieving half the reduction in temporary accommodation achieved in Wales (an 8 per cent reduction), would save some £37 million compared to 2014/15 spending across those 20 London boroughs (see Table 7).

Studies have shown an association between homelessness and recidivism.¹⁰⁸ Therefore, preventing homelessness, or providing accommodation where a person is already homeless, is likely to help promote reductions

in offending and reduce criminal justice costs. Repeat offending appears lower among housed people who have been in prison than it is for homeless people who have been in prison. Reducing total levels of homelessness in Wales has generated estimated savings in the order of £497,826 for the criminal justice system over a six-month period. This assumes a reduction in re-offending, due to a reduction in homelessness, that would result in 14 fewer convictions for sentences of no more than one year in prison, over a six month period.¹⁰⁹

¹⁰⁶. Includes private sector accommodation, public sector accommodation, hostels and women's refuges.

¹⁰⁷. Costs were reported by a Housing Manager at the sample local authority in April 2016.

¹⁰⁸. Fontaine, J. and Biess, J. (2012), *Housing as a platform for formerly incarcerated persons*. Washington, DC: Urban Institute; Baldry, E et al (2002): *Ex-prisoners and Accommodation: What bearing do different forms of housing have on social reintegration of ex-prisoners?* University of NSW Royal Melbourne Institute of Technology University with the Broxnan Centre, Australia; Pleace, N. and Minton, J. (2009), *Delivering better housing and employment outcomes for offenders on probation*, London: DWP; Quilgars, D. et al (2012), *Supporting short-term prisoners leaving HMP Leeds: Evaluation of the Shelter Prisoners Advocacy Release Team*, York: Centre for Housing Policy, University of York.

¹⁰⁹. Based on the Welsh data, if 14 people were arrested and detained by the Police, the cost would be approximately £719 per person. If a custodial sentence resulted, the cost of prison would be some £34,840 per person per year. Taking a worst case scenario, if all 14 people were arrested, detained and then imprisoned for one year, the cost would be in the order of £497,826 (over six months).

¹⁰⁴. Shelter (2010), *Value for money in housing options and homelessness services*, London: Shelter. Adjusted for inflation using the Bank of England inflation calculator.

¹⁰⁵. Rugg, J. (2016), *Temporary Accommodation in London: Local Authorities under Pressure*, York: University of York (for London Councils) http://eprints.whiterose.ac.uk/95010/1/Temporary_Accommodation_in_London_report_FINAL_VERSION_FOR_PUBLICATION.pdf

Table 7: Provisional Estimates of Annual Savings from reducing temporary accommodation use in London (based on 20 Boroughs)

Change in temporary accommodation use	Annual spending (2014/15 figures)	Projected saving
No reduction	£463,705,970	£0
3% reduction	£449,794,791	£13,911,179
5% reduction	£440,520,672	£23,185,299
8% reduction	£426,609,492	£37,096,478
12% reduction	£408,061,254	£55,644,716
16% reduction	£389,513,015	£74,192,955

Source: Rugg, J (2016), survey of 20 London boroughs, 8 inner, 12 outer.

If total levels of homelessness in England were reduced at the same rate as achieved in Wales, potential savings in the order of £2.88 million would result for the criminal justice system over a six-month period. This assumes a fall in re-offending, due to a reduction in homelessness, leading to 81 fewer convictions for sentences of no more than one year in prison, over a six month period.¹¹⁰

In looking at the potential cost savings for NHS Wales from enhanced homelessness prevention, it has been possible to draw on the results of a Scottish data merging pilot that has brought together NHS Scotland and local authority administrative datasets¹¹¹. Reductions in homelessness, following contact with a local authority, over a six-month period could be saving A&E departments in the order of £98,982 in Wales.¹¹² Examining reductions in emergency admission costs, assuming short stays the

savings would be £118,560 and for longer stays the reduction would be £558,285.¹¹³

Applied to England, reductions in homelessness, following contact with a local authority and at the same rate as achieved in Wales, over a six-month period, could be saving A&E departments in the order of £573,534. Reductions in total NHS spending could be in the range of £1.2-£3.8 million over a six-month period.

Net costs of the new preventative duties in Wales must for the moment rest on estimations. There appears to be a drop in total local authority costs alongside significant reductions in statutory homelessness and assessments. When linked to other possible and estimated savings, the beginnings of a clear financial case for the Welsh reforms is evident.

110. If 81 people were arrested and detained by the Police, the cost would be approximately £719 per person. If a custodial sentence resulted, the cost of prison would be some £34,840 per person per year. Taking a worst case scenario, if all 81 people were arrested, detained and then imprisoned for one year, the cost would be in the order of £2,880,279.

111. Hamlet, N. (2015), *Measuring Health and Homelessness in Fife* Accessed 31st March 2016. Available at: www.gov.scot/Resource/0047/00476237.pptx Based on 2013 figures, 171.2 homeless men out of every 1,000 (equivalent rate) and 158.9 homeless women, data based on heads of household for people using the Scottish statutory homelessness system in Fife.

112. Making a reasonably conservative set of assumptions, if a homeless person visits A&E at least six times a year, at a cost of approximately £702, without actually being admitted to hospital at any point, the cost under the old legislation would have been £129,168 and under the new legislation it would be far less at £30,186 (over six months).

113. The Scottish data indicate that 243 out of every 1,000 homeless people (24%) experience an emergency admission per year, compared to 63 out of every 1,000 housed citizens (6%). According to PSSRU figures for 2015, the average costs of a non-elective inpatient stay in England was £608 for short stays and £2,863 for longer stays.

In England, estimates suggest an increase in preventative activity would be cost effective, even with relatively lower reductions in assessments and numbers of households found statutorily homeless than have occurred in Wales (allowing for England having relatively more homelessness prevention to begin with). Depending on the assumptions used, local authority spending in England may only change marginally if the Welsh reforms were replicated. Potentially large savings look achievable elsewhere in the public sector if the Welsh reforms were replicated.

Importantly, there is potential to recoup some of the costs of homelessness prevention, for example by using low cost loans, rather than grants, to prevent eviction due to arrears or to enable someone to pay the deposit for private rented housing. Recovery of some of the costs of prevention is another potential advantage in relation to public expenditure. The other is that prevention is potentially a more efficient use of public money that more effectively addresses the most acute form of poverty and marginalisation in England.

Appendix 2: Cost analysis methodology

The study adopts a six-stage methodology. Stages one and two relate to financial implications for local authorities and stages three to six relate to health and criminal justice costs.

Net Costs of Extending Prevention

Stage One: The results of research that was designed to support the introduction of the legislative reforms in Wales¹¹⁴ has

been applied to administrative data from local authorities to estimate the changes in demands faced by local authorities in Wales. These data are then used to estimate the possible changes in demand, with cost implications, for England, allowing for the higher rate of preventative activity that currently exists in England, compared to the lower level of preventative activity prior to the introduction of the legislative reforms in Wales.

Costs to local authorities

Stage Two: Homelessness administrative data reported to Welsh Government are analysed to determine changes in temporary accommodation use by homeless people before and after legislative change.

Stage Three: We apply known costs of temporary accommodation to the observed changes in use in order to calculate financial impacts on local authorities.

Costs to health care and criminal justice

Stage Four: Homelessness administrative data reported to Welsh Government are analysed to determine changes in the number of people who remain homeless after seeking assistance (i.e. not in priority need) before and after legislative change.

Stage Five: We apply published data on the impacts of homelessness on health and offending to determine likely impacts of the legislative changes on access to healthcare and levels of offending.

Stage Six: Data on health and criminal justice costs are applied to estimate financial impacts of legislative change in Wales on these service areas.

114. Mackie, P. K., Thomas, I. and Hodgson, K. (2012), *Impact analysis of homelessness legislation in Wales: A report to inform the review of homelessness legislation in Wales. Project Report*, Cardiff: Welsh Assembly Government.

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About Crisis

Crisis is the national charity for single homeless people. We are dedicated to ending homelessness by delivering life-changing services and campaigning for change.

Our innovative education, employment, housing and well-being services address individual needs and help homeless people to transform their lives. We measure our success and can demonstrate tangible results and value for money.

We are determined campaigners, working to prevent people from becoming homeless and advocating solutions informed by research and our direct experience.

We have ambitious plans for the future and are committed to help more people in more places across the UK. We know we won't end homelessness overnight or on our own. But we take a lead, collaborate with others and together make change happen.

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