Rights, Needs and Stigma: A Comparison of Homelessness Policy in Scotland and Ireland

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❯ **Abstract_** *This paper considers the contrasting approaches to homelessness in Scotland and the Republic of Ireland. Scotland has developed a strong legal safety net for homeless households, which in effect now gives the vast majority of homeless households an individually enforceable legal right to settled housing. This approach has attracted international recognition, reflecting an emerging consensus that 'rights-based approaches' offer the best response to homelessness. In Ireland, homelessness policy has also become a focal point for reform. A rights-based approach has been rejected, however, in favour of a 'social partnership' model that seeks to build consensus and develop a 'problem solving approach' among key stakeholders. Drawing on primary research with national experts, service providers and homeless men in both jurisdictions, this paper considers whether legal rights better meet the housing needs of homeless men than alternative approaches and whether they help mitigate the stigma of homelessness. It is argued that rights-based approaches crowd out alternative policy objectives, providing a blunt but effective tool in prioritising housing needs, and help minimise stigma by casting homeless people as rights-bearers with legitimate entitlements.*

❯ **Key Words_** *Homelessness, right to housing, access to housing, social housing, Scotland, Ireland.*

Introduction

Scotland and the Republic of Ireland have pursued markedly different approaches to homelessness over the last 15 years. Legislative reforms in the early 2000s in effect established an individually enforceable legal right to settled housing for virtually all homeless households in Scotland. These reforms have been internationally lauded as progressive, inclusive and ground breaking (Pawson and Davidson, 2008; Anderson, 2012, Anderson, this volume), reflecting an emerging consensus that 'rights-based approaches' offer the best response to homelessness. FEANTSA (The European Federation of National Organisations Working with the Homeless), for example, has a longstanding commitment to 'a rights-based approach to tackling homelessness' (FEANTSA, 2008 and 2010). In contrast to the direction of reforms in Scotland, since the mid-1990s Ireland has pursued a 'social partnership' approach to homelessness, rooted in a consensual or negotiated problem-solving approach (O'Sullivan, 2008) between key partners. This path reflects a resistance to responses to social problems founded on justiciable rights (O'Donnell, 2003) and a hope that a more 'low key, incremental' approach 'may provide more robust and intended outcomes than those offered by the legalistic route' (O'Sullivan, 2008, p.229).

The legal rights-based approach to homelessness established in Scotland is unusual in an international context. A number of European countries (Belgium, Finland, Portugal, Spain and Sweden) articulate a programmatic 'right' to housing in their constitution. Such rights 'express goals which political actors… agree to pursue' (Mabbett, 2005, p.98) committing the state 'to the development and implementation of social policies, rather than to the legal protection of individuals' (Kenna and Uhry, 2008, p.1; see also Glendon, 1992). Individually enforceable legal rights to housing for homeless people are rare internationally (Fitzpatrick and Stephens, 2007). Where they do exist (in Germany, Sweden, Poland, Hungary and New York City), in the main they entitle those who are literally 'roofless' to emergency accommodation, rather than settled housing (Fitzpatrick and Stephens, 2007; Fitzpatrick and Watts, 2010). Legal rights to settled accommodation are rarer still, with the only clear examples of such an approach being the UK (including Scotland) and France (Loison-Leruste and Quilgars, 2009) and there remains a paucity of empirical evidence that such legal rights-based approaches achieve significantly better outcomes than non-rights-based approaches in practice (Fitzpatrick and Watts, 2010).

Taking the Scottish model as a starting point and Ireland's 'social partnership' approach as a comparator, this paper considers the impact of legal rights to housing for homeless households by exploring the perspectives and experiences of key national stakeholders, service providers and single homeless men. The next section describes the evolution of current approaches to homelessness in Scotland and Ireland. This is followed by an account of the comparative qualitative research

methods and approach to analysis employed in the study. The discussion of empirical findings focuses on two questions: first, do rights-based approaches better meet the housing needs of homeless households (in supporting their access to settled housing) than alternative approaches? Second, do rights-based approaches to homelessness ameliorate the stigma of homelessness? On the balance of evidence presented, it would appear that the Scottish approach offers significant advantages in both regards. The paper closes by considering some of the key disadvantages associated with 'legalistic' approaches.

Policy Context

Responses to homelessness in Scotland and Ireland have seen major shifts over the past few decades. In Scotland, these shifts were accelerated by the devolution of housing powers to the Scottish Executive (now Scottish Government) in 1999. While the devolution of housing powers was (and remains) limited by budget constraints set in Westminster and reserved powers around the regulation of financial institutions and housing benefits, it left scope for a 'distinctively Scottish agenda' to emerge (Anderson, 2007, p.164) and enabled policy makers to 'radically diverge' from a legislative framework on homelessness introduced in Great Britain in 1977 (Pawson and Davidson, 2008). According to the 1977 Housing (Homeless Persons) Act, only certain 'priority need' groups (namely, households including children and pregnant women) were owed the 'main homelessness duty' (i.e. the statutory entitlement to settled housing, see Fitzpatrick *et al*, 2012). Crucially, this legal right was not accorded to single homeless people in the majority of cases.

Recommendations from the *Homelessness Task Force* (1999-2002) – which brought together central and local government, practitioners and voluntary and campaigning organisations – were taken forward in the Housing (Scotland) Act 2001 and the Homelessness etc. Act 2003. The 2001 Act obligated local authorities to provide temporary accommodation for all homeless households during (and for a short period after) the time their application was being assessed. It also required local authorities to produce comprehensive strategies to assess levels of homelessness in their area and develop multi-agency responses. In addition, new legal duties were imposed on Registered Social Landlords to provide accommodation for homeless households nominated or referred to them by local authorities. Of most relevance here, the 2003 reforms made provisions to phase out the 'priority need' criterion in statutory homeless assessments. Its elimination in Scotland (as of December 2012) means that virtually all homeless people now owed the main duty, discharged by the local authority making available settled housing to qualifying households, and

normally through the offer of a social housing tenancy (Fitzpatrick *et al*, 2009; Fitzpatrick *et al*, 2012). These rights are individually enforceable through domestic courts (and ultimately, by judicial review).

These reforms have attracted international attention, with the Scottish Executive receiving a Housing Rights award from the Centre for Housing Rights and Evictions (an international NGO) in 2003 (Goodlad, 2005) and the United Nations Committee on Economic, Social and Cultural Rights endorsing the Scottish framework in 2009 (Anderson, 2012). The legal safety net has been held up as an exemplar of approaches to homelessness (Anderson, 2007), including in the US (Tars and Egleson, 2009). Moreover, the Scottish model played a key role in debates surrounding the introduction of an enforceable right in France (Loison, 2007).

Ireland's 'revolution' in responses to homelessness began in the mid-1980s, in response to concerted action by the voluntary sector and related media attention. An attempt to oblige local authorities to provide suitable accommodation for homeless households in a 1983 private members' bill generated strong opposition on the basis that it would create an unsustainable financial burden on the state; fuel costly court cases; and interfere with social housing allocations by prioritising certain groups (Harvey, 2008). Eventually, the Housing Act 1988 was passed, which gave local authorities flexibility in how they dealt with homelessness: an obligation to assist was replaced with an expectation they would do so, and various steps were taken to enable a local service response (O'Sullivan, 2008).

By the mid-1990s, the limits of this approach were becoming clear. Reviews of implementation highlighted issues about the range of services on offer to homeless households, a lack of planning and coordination and the small number of homeless people being accommodated (Harvey, 2008; O'Sullivan, 2008). The Dublin Homeless Initiative was established in 1996 to coordinate services across the capital and provide mechanisms for stronger partnership between statutory and voluntary organisations in the sector. Two years later a Cross-Departmental Team on Homelessness was established under the Cabinet Committee on Social Inclusion, leading to the first national homelessness strategy in 2000 (*Homelessness: An Integrated Strategy*), which specified that homeless forums involving local authorities, health boards and voluntary organisations were to be established in each county to co-ordinate service delivery.

An independent review of the strategy published in 2006 was positive about progress, but pointed to inconsistencies of provision across the country (Fitzpatrick Associates, 2006). It recommended that Homeless Action Plans be placed on a statutory footing, something realised in the 2009 Housing Act, which legally requires local authorities to establish homeless forums and produce these plans. The review also recommended a shift from focusing on emergency accommodation to focusing

on long-term housing and care options. The National Homeless Consultative Committee was established to revise existing strategies and a new strategy *(The Way Home: A Strategy to Address Adult Homelessness in Ireland, 2008-2013)* was published in August 2008.

A 2008 evaluation of Dublin's homelessness services raised similar concerns about improving access to settled accommodation to prevent the 'silting up' of emergency accommodation (Homeless Agency, 2008). The Dublin Region Homeless Executive (formerly, the Homeless Agency) is now carrying forward a reconfiguration of homeless, housing, support and care services in the capital in line with the Pathways to Home model (Homeless Agency, 2009; Downey, 2011). This seeks to ensure 'swift and speedy exit[s] from homelessness into housing with support (as required)' and has the core aims of preventing homelessness and eliminating both the need to sleep rough and long-term homelessness (Downey, 2011, p.101).

The evolution of these policies in Ireland has been influenced by the 'social partner-ship' arrangements between the government, employers, trade unions and voluntary sector that characterised policy-making processes from the late 1980s (O'Sullivan, 2004 and 2008). The approach emphasises stakeholder negotiation (supported by government coordination) and drawing on new theories of govern-ance, (O'Donnell, 2003) continuous improvement, transparency and monitoring. The aim is to 'ratchet up' standards, rather than enforce compliance with minimum standards through sanctions for poor performance (NESC, 2002; O'Donnell, 2003). As such, responses to homelessness have focused on 'generating, through dialogue, a shared understanding of policy issues with a consequent focus on problem solving' (O'Sullivan, 2012). The reform programme has benefited from sustained political will and investment in homeless services has, to date, proven resilient in the face of heavy austerity measures (FEANTSA, 2012; O'Sullivan, 2012).

Key Concepts

Applying the concept of need

One of this paper's key aims is to consider the difference legal rights make to meeting the housing needs of single homeless men. Need has been identified as 'arguably, the single most important organising principle in social policy' (Dean, 2010, p.2), and indeed, remains a key organising principle in the design and delivery of housing and homelessness policy, employed as a tool for rationing resources and prioritising certain claims over others. Nevertheless, the concept has drawn criticism for being 'too imprecise, too complex [and] too contentious to be a useful target for policy' (Bradshaw, 1994, p.45). Conceptions of need vary from approaches that seek to understand need through people's claims or demands for certain things (Bradshaw,

1974 and 1994), to those that draw on some theory or doctrine of what it is to be human in order to identify needs (Doyal and Gough, 1991). Conceptions also vary regarding whether need satisfaction is understood as fulfilling subjective preferences ('thin' conceptions of need) or attaining a more ambitious 'eudaemonic' notion of wellbeing ('thick' conceptions of need) (Dean, 2010).

These theorisations imply different policy responses. In the case of homelessness, meeting housing need might be conceptualised (in minimalist terms) as ensuring that people have access to shelter to survive (to avoid pain). Alternatively, and more commonly in the literature, meeting housing need is seen (in line with 'thicker' conceptions) to involve ensuring access to housing of a standard that ensures its function as 'a base for emotional development, social participation, personal status and ontological security' (Kenna, 2011, p.192; Doyal and Gough, 1991; King, 2003; McNaughton-Nicholls, 2010).

Meeting housing needs, however, competes with other policy objectives as an allocative principle in the design and delivery of homelessness policy. Alternative objectives include avoiding spatial concentrations of deprivation (leading to 'negative externalities' for local residents) and ensuring 'social mix' (Atkinson and Kintrae, 2002; Busch-Geertsema, 2007; Fitzpatrick and Pawson, 2007; McKee and Phillips, 2012); and allocating housing to those who 'deserve' or merit it most (Phelan *et al*, 1997; Fitzpatrick and Stephens, 1999; Fitzpatrick and Jones, 2005). Moreover, whatever the intended objectives of policy, these may be skewed or subverted during implementation (Lipsky, 1980). 'Street-level bureaucrats' may be motivated to meet the needs of the service user, but are also likely to seek to meet organisational imperatives to ration resources; minimise the stress or workload associated with their role; and respond to managerially or legally imposed rules or guidance. Providers may also seek to (de)prioritise certain groups according to their own perceptions of desert and 'evaluations of social worth' (Brodkin, 1997, p.3; Lipsky, 1980; Jeffers and Hoggett, 1995). The extent to which they are able to do so will depend on the balance between rules and discretion that defines their role (Donnison, 1977), or in Goodin's (1985) language, the 'lacuna' left by the system of rules. It has consistently been argued that there is a continuum, rather than stark contrast, between discretionary and legalistic/rule-bound approaches in social policy (Jones *et al*, 1978; Goodin, 1986; cf. Donnison, 1977), but nevertheless, rights have come to be seen as the preferred alternative to 'more odious forms of official discretion' (Goodin, 1986, p.232, see also Titmuss, 1971). More specifically, it has been suggested, from various perspectives, that legal rights offer better opportunities to meet the housing needs of homeless people than discretionary approaches (Pleace *et al*, 2008; Loison-Leruste and Quilgars, 2009; Tars and Egleson, 2009; Pleace *et al*, 2012).

This paper focuses on the capacity of legal rights to meet the housing needs of single homeless men and, drawing in part on 'thicker' conceptions of need, specifically on their need to access settled accommodation. In so doing, the paper considers the quality of temporary accommodation and support available to homeless men in the case study areas. The parameters that Scottish and Irish homelessness policies draw around provider discretion – and the implications of this for prioritising the housing needs of homeless people over other (potentially conflicting) policy objectives and priorities at the level of implementation – is an area of particular focus.

Applying the concept of stigma

Stigma refers 'to an attribute that is deeply discrediting' (Goffman, 1963, p.13) and concerns the identity that people impute to a person or group on the basis of surface appearances. A stigmatised person is 'devalued, spoiled or flawed in the eyes of others' (Crocker and Quinn, 2000, p.153). The attributes that are stigmatised change over time and in different contexts (Lloyd, 2010). Stigma can be understood as an articulation of the 'moral voice' of the community (Etzioni, 1997); as promoting 'pro-social' behaviour; and as discouraging undesirable behaviour (for example, 'welfare dependence'). More critically, it may help provide a rationale for inequalities, devaluing disadvantaged groups and legitimising their position in the social hierarchy (Phelan *et al*, 1997). Stigma can therefore be seen as part of a system of beliefs and values that support the status quo. It has also been shown to have negative consequences for the stigmatised group, undermining self-esteem and psychological wellbeing, leading to depression in severe cases and dis-incentivising take-up of support services (Phelan *et al*, 1997; Lister, 2004).

Link and Phelan conceptualise stigma as the convergence of six interrelated components: labelling, stereotyping, separation, status loss, discrimination and a 'power situation' (2001, p.367). This account offers a useful framework through which to consider the impact of rights on stigma. Reflecting this study's most significant findings, the analysis below focuses on the impact of legal rights on labelling, stereotyping and status loss.

According to Wardhaugh, '"being at home" is an unselfconscious and taken-for-granted state: to be homeless brings with it an awareness of absence, a consciousness of difference, of deviation from the norm' (1999, p.93). Homelessness stands in contrast to people's 'natural', accommodated status. This analysis is borne out by empirical evidence that homelessness has important psycho-social implications. McNaughton, for instance, describes the 'acute sense of stigma' associated with being homeless (2008, p.140, see also Jones and Pleace, 2010) and research has highlighted stigma as a key barrier blocking young people from accessing support (YMCA, 2008).

The notion that rights-based approaches minimise stigma has clear lineage from the idea that social rights create a uniform status of citizenship, binding members of a community together with a common identity (Marshall, 1949) and casting homeless people as rights-bearers with entitlements, rather than recipients of state largesse. Titmuss proposed that in order to promote a sense of mutual obligation, 'welfare had to be provided as of right and without stigma' (Deacon and Mann, 1999, p.418). The application of these ideas to legal rights as a policy tool is prob-lematic however. Bengtsson (2001) has highlighted that legal rights are residual and selective, and that by differentiating particular groups as in need of assistance (and thus unable to meet their own needs in the general market) such rights risk height-ening stigma (see also Thompson and Hoggett, 1996). Titmuss recognised this in describing the core challenge of social policy as 'distributing social rights without stigma' (Titmuss, 1976, p.159).

Complimenting this perspective, comparative welfare state literature has high-lighted the low support for welfare in liberal welfare regimes (Larsen, 2006), where strictly targeted, ungenerous social assistance programmes create a clear distinc-tion between 'us' and 'them' (recipients of state welfare), leaving homeless people more visible, for example, and feeding negative attitudes towards them. Such stigmatisation is likely to feedback, reinforcing the dearth of public support for policies to improve the situation of those who are stigmatised (Phelan *et al*, 1997). In light of these perspectives, the proposition that legal rights help minimise stigma is brought into question. The claim appears to rest on a misinterpretation of the social rights literature and, more specifically, a conflation of 'legal rights-based approaches' with 'universalism'. Scotland and Ireland are both generally consid-ered to be liberal welfare regimes (for a discussion, see Cousins, 1997 and Benjaminsen *et al*, 2009) and both pursue selective and targeted responses to homelessness. This study asks whether within such contexts legal rights mitigate the stigma of homelessness.

Methodology

Comparative homelessness research has been identified as a priority in the field (Fitzpatrick, 2012). It offers the opportunity to bring the characteristics of social phenomena into relief, challenging local or national assumptions (Hantrais, 1999; Quilgars *et al*, 2009; Fitzpatrick, 2012) and shedding light on the clusters of causal relations underpinning variations in experiences and outcomes in different cases (Lawson, 2001; Oxley, 2001).

This study combined two phases of fieldwork. The first involved in-depth interviews with national-level key informants working in the fields of homelessness and social housing, across the statutory and voluntary sector and within academia (Scotland, n: 10, Ireland, n: 13). Sampling aimed to gather diverse perspectives, and in particular, 'insiders' (those involved in policy formulation) and 'outsiders' (those not involved in policy formulation and/or critical of current approaches) were sought. Initial participants were identified in discussion with academic contacts with experience in the sector, with further informants selected based on the recommendation of interviewees ('snowball' sampling). Interviews were framed by a semi-structured topic guide, which focused on exploring participants' perceptions of the rationale and objectives of national policy, its efficacy and outcomes, and drawbacks and trade-offs they perceived to be associated with the approach. They provided a snap-shot of current perspectives, opinions and 'institutional discourses' (Miller, 1997) on the nature and operation of homelessness policies in each country.

The second phase of fieldwork constituted two local case studies in Edinburgh and Dublin, cities selected as 'exemplars' of the countries' national homelessness policy. Responses to homelessness have tended to be focused in Dublin and remain most advanced there. Edinburgh offered a good comparison as both a large city and as a local authority that has performed well (receiving an A grade) in inspections of homeless services (Communities Scotland, 2006). Interviews or small focus groups were conducted with service providers from the voluntary and statutory sectors in Dublin (8 participants in total) and Edinburgh (10 participants in total). Guided by a standardised semi-structured topic guide, these explored experiences of working with homelessness policies in practice and perspectives on the strengths and weaknesses of the contrasting policy approaches. In addition, hypothetical vignettes of 'typical' homeless households were used to elicit comparable accounts of the support available to various kinds of homeless household in each country (Mangen, 1999; Hughes and Huby, 2004; Quilgars *et al*, 2009). Participants were asked to explain the likely route through and outcome of engagement with homeless services of the household and to explore how much discretion providers would have in responding to the case. This vignette is used in the analysis below:

> A 24 year old man has been asked to leave by the friend he's staying with. He has a history of drug use and mental health issues and has spent time in prison. He has exhausted family and friends as a source of accommodation.

A final set of interviews were conducted with homeless single adult men (Dublin: 15, Edinburgh: 11). Currently and recently homeless men were included in order to explore experiences of being homeless and of being rehoused in the contrasting policy regimes. Participants were accessed through three different homeless services (hostels or support agencies) in each city. Specific participants were discussed

between the researcher and the organisational contact and in the case of hostel residents, depended upon residents being present and willing to participate at the time of fieldwork. In this sense, sampling was 'opportunistic', although within constraints defined by a purposive sampling strategy. Selecting the sample in this way risked organisational contacts selecting those with positive experiences of services. In order to address this, discussions with staff emphasised the value of garnering a range of perspectives and that the participation of both individuals and organisations was anonymous. During fieldwork and analysis, it was not considered that 'positive bias' had compromised the data: service users and providers who took part were open and critical about services in both case study areas.

These interviews focused on experiences of accessing homelessness services (including expectations and anxieties); perceptions of the quality of support being received and of the (temporary and settled) accommodation being (or likely to be) accessed; and whether or not participants felt entitled (both morally and in fact) to this assistance. In Edinburgh, only men owed the 'main homelessness duty' (see above) were included (fieldwork took place in mid-2011, prior to the full elimination of the 'priority need' category in December 2012). Participants were all Irish or UK nationals. Concentrating on one household type enabled a detailed comparison of their experiences of homeless services in each city. Moreover, Scottish reforms of the early 2000s brought single homeless men (without any specific 'vulnerability') into the statutory safety net for the first time, making their experiences as 'rights-bearers' particularly significant. This focus also provided a means of accounting for varying official definitions of homelessness in Scotland and Ireland: despite Ireland's narrower definition of homelessness (Anderson *et al*, 2008), single men residing in temporary/ emergency accommodation are considered homeless in both countries.

All interviews were fully transcribed and the data managed using Atlas-Ti (qualitative analysis software). The material was systematically thematically coded using both deductive (or 'a priori') coding, using pre-specified codes (including rights, discretion, need, stigma) and inductive coding, which sought to allow categories and concepts to emerge from the data. Following initial coding, patterns were explored, with a particular focus on comparisons between the two jurisdictions and between groups of participants (national and local informants, and homeless men). The comparison covered (1) processes of accessing services, case management and monitoring/regulation (2) experiences of designing/implementing and using homelessness policy and services and (3) discourses, focusing on understandings of and normative perspectives surrounding homelessness.

Comparable quantitative data on both levels of homelessness and the 'inflow'/'outflow' of homeless men through services was not available. While local authority statistical returns provide information on the operation of the statutory

homelessness system in Scotland (Fitzpatrick *et al*, 2012), comparable data in Ireland is not collected. Indeed, despite ambitious plans to improve data collection, monitoring and reporting (Downey, 2011), implementation of these systems has run into serious problems and available data in Ireland remains patchy and out-of-date (FEANTSA, 2012). Gathering primary empirical qualitative data therefore offered one lens through which to compare the impacts of the contrasting policy approaches and institutional frameworks. Specifically, it allows for a systematic comparison of the qualitative experiences of single homeless men accessing homelessness services and of service providers' experiences of how people in similar positions are treated (through the vignette analysis). Where possible, available administrative and survey data is used to inform and provide a backdrop for the qualitative comparison offered here.

Rights, Needs and Discretion: Balancing Competing Policy Objectives in Scotland and Ireland

This study points to a significant contrast in the tenor and culture of service provision in Edinburgh and Dublin, which can be traced in part to the more rule-bound and less discretionary nature of Scotland's rights-based approach. One of the key advantages of this 'rule-bound' approach is the clarity it offers to a group typically considered 'hard to reach':

> 'People are clear on or can be made clear on what their rights are and that to a large extent forces local authorities to deal equitably with homeless people' (Voluntary sector leader, Scotland).

A local informant agreed: 'The government are quite clear to all local authorities: this is exactly what you have to provide and what you have to do… For the most vulnerable people it ensures that there is provision there' (Local authority manager, Edinburgh).

The different dynamics of provision are best illustrated by responses to the vignette presented above. Local informants were asked what the likely experiences and outcomes of engaging with homeless services would be for a 24 year old man who has been asked to leave by the friends he's staying with. According to the vignette, the man has a history of drug use and mental health issues, has spent time in prison and exhausted friends and family as a source of accommodation.

Edinburgh local informants had various concerns about 'the range of issues there which are going to impact on his ability to find and sustain accommodation' (Local authority manager, Edinburgh), namely his willingness to engage with services and

address his addiction issues. Nevertheless, this individual would be owed the 'main homelessness duty' and as such, would most likely be offered a social housing tenancy, with support. One local informant saw this as a key strength of the approach:

> 'If somebody was in that situation, a single homeless male, or anyone else, however difficult it is for us backstage behind the scenes, they always get people what they need, we never turn people away, we never say sorry we can't help you. And within that, whatever our case loads are like, we make absolutely every effort to re-house them' (Housing officer, Edinburgh).

It was not within the power of housing officers to take into account his perceived 'deservingness', motivation or commitment. Where needed, housing officers could ensure that this man accessed housing support and tenancy sustainment services, but his capacity or 'readiness' to sustain a tenancy was not a consideration informing his entitlement to settled housing.

Scotland's rights-based approach also crowded out concerns about 'social mix' (see above). The statutory homelessness system forces local authorities to meet their legal duties to homeless households even at the cost of concentrating lower income households in particular areas. Many in the sector supported this prioritisation of policy objectives:

> 'People quite often see meeting housing need and creating balanced communities as in opposition… but to me they're not in conflict, creating balanced communities means meeting the needs of everybody in the community, it's not about excluding people' (National stakeholder, Scotland).

Responses to this vignette in Edinburgh describe a transparent process of assessment, which foregrounds the objective of meeting a homeless person's need for settled housing over other objectives and limits the discretion of service providers to take into account other considerations. It does so by placing responsibility on local authorities to secure access to such accommodation, in a context where they have access to social housing, through their own stock or through Registered Social Landlords, who they have the power to compel to house homeless people where necessary.

Responses to this vignette were markedly different in Ireland. In the absence of local authorities and service providers having legal obligations, the processes around homelessness service provision appeared to be far more opaque and the outcomes of those processes more contingent. First, whether this man was deemed ready for his own tenancy was an important factor:

'The concern for us there in allocations is, would he be capable of independent living? So we wouldn't give a unit where we felt really he wasn't able to look after himself… we'd take the recommendation from [the temporary accommodation staff] to say yes, he can manage it' (Accommodation provider, Dublin).

'He's still young, he still wants to enjoy life and get up to mischief and things like that, so he's not stable enough I would feel… Being at that younger age, he hasn't really addressed all those issues of why he became homeless' (Accommodation provider, Dublin).

These considerations played an important role despite the fact that (as in Scotland) at the strategic level, Ireland emphasised a 'housing-led' approach to homelessness, aiming to get homeless households into settled housing, with appropriate supports, as soon as practicable. Nevertheless, a philosophy of progression and 'housing readiness' continues to permeate service delivery and stymie flow through and out of temporary accommodation.

If the man was judged 'housing ready' and came under consideration for a social housing tenancy in a particular area, the housing manager for that area would run an 'estate management check' establishing his criminal record. How the results of this are employed remains at the discretion of housing managers, but in practice a negative result would 'raise alarm bells' (Accommodation provider, Dublin) and weigh heavily against his chances of being allocated the property. As such, whilst considerations of 'desert' are not explicit in the policy framework, they appear to play a fundamental role in deciding whether, when and where homeless men are rehoused.

Considerations of 'social mix' also loomed large. Housing managers in Dublin could use their discretion on a case-by-case basis to resist rehousing a homeless person due to the perceived 'saturation' of certain areas of the city with 'needy' households:

'There are a couple of specific areas in Dublin… that have a disproportionately high level of social housing of various types, so there are times then when the housing manager will say look, you need to pepper-pot it more"' (Accommodation provider, Dublin).

It was not only ideas about how 'balanced' certain communities were, but also awareness of specific local dynamics that were significant, with providers avoiding rehousing homeless households in 'high demand area[s where]… residents are very active' (Accommodation provider, Dublin).

These dynamics were also reflected in service users' perspectives. Dublin participants expected (and were more accepting of) longer periods in temporary accommodation than their Scottish counterparts. A man who had been in temporary accommodation for three years commented: 'You wait years in Ireland and even

then you're not assured of a place… I don't know how long I'll be waiting. I was told 18 months on the homeless list"' (Hostel resident, Dublin). Another explained his understanding of being in temporary accommodation:

> 'It's supposed to be temporary and as I say, I've been here now a year… it's sort of a trial, in a place like this, to see who's worthy of getting [move on accommodation] and whose pulling their socks up… putting the effort in and staying clean and things like that' (Hostel resident, Dublin).

In sum, there appears to be a more plural concern and capacity to balance different policy objectives in Dublin and this works against the more 'needs-focused' response to homelessness evident in Edinburgh. The different policy frameworks allowed the issue of social mix to influence decisions within homeless services very differently, with Scotland's rights-based approach 'crowding out' these considerations. Similarly, while Scottish service providers may have had concerns about the deservingness of applicants (e.g. their criminal record) and their readiness to sustain a tenancy, their ability to bring these issues to bear in their response was minimised. Overall, these dynamics appear to create inertia in Dublin, stemming a more dynamic flow of service users through temporary accommodation. The statutory duties of Scottish local authorities seem to offer a blunter, less nuanced, but more effective policy tool, playing a role in creating greater momentum and flow, with considerations of need trumping competing policy objectives. More broadly, this analysis highlights (in line with Donnison, 1977) that, despite the commonly held view that discretion cannot be eliminated from policy implementation and service delivery (Lipsky, 1980), different policy and legal frameworks cast very different parameters around the discretion of street level bureaucrats, with significant impacts on the experiences of welfare users.

While there is no comparable quantitative data available to compare the 'inflow' and 'outflow' rates of single homeless men into and out of homeless services in the two cases, the analysis presented here on this basis of a qualitative study is supported by wider research and available (though non-comparable) data. A recent study of 13 European countries highlighted that where decisions about social housing allocations are left to providers, homeless households are likely to be largely excluded from the social housing stock (Pleace *et al*, 2012). In Dublin, a 2008 evaluation of homelessness services identified the lack of flow out of homeless services in the city as a major challenge (Homeless Agency, 2008). Based on a survey of 346 homeless households in 'private emergency' accommodation, this evaluation reported that 84 percent had spent over six months and 21 percent over five years in such accommodation (Homeless Agency, 2008, p.60). A 2005 survey of eight Irish local authorities found (where data was useable) that 8 percent of local authority housing allocations were made to homeless people in 2002, rising to 16

percent in 2003 (Bergin *et al*, 2005). This chimes with the perspectives of an Irish informant involved in this study who explained that single homeless people have tended *to* be 'fairly low down on the list of priorities in terms of being allocated local authority housing' (National stakeholder, academic, Ireland). In Scotland by contrast, 43 percent of social lets were allocated to homeless applicants across Scotland in 2011/12 (Scottish Government, 2012). Comparing 2011/12 and 2002/03, the number of social lets allocated to homeless households increased by 68 percent. Moreover, in 2011/12, 53 percent of all homeless households where the outcome was a social housing let were single households.[1] Taking into account Scotland's broader definition of homelessness, these figures suggest that a greater proportion of social housing is allocated to homeless households (and single homeless households specifically) in Scotland than in Ireland, in line with the analysis above that Scotland's legal rights-based approach appears to foster greater flow through homelessness services.

Legal Rights and Stigma

Labelling

Link and Phelan (2001) describe how certain differences between people (such as homelessness) are socially selected as salient, labelled and established as taken-for-granted and oversimplified categories. Scotland's rights-based approach appears to make little contribution to weakening this process of labelling in the case of homelessness, with participants in the study commenting on the continued stigma attached to homelessness. Indeed, it was suggested that legal rights may crystallise and render more salient the label of homelessness, by legally defining it and using it as a criterion in the allocation of scarce social goods (in this case, social housing). In Ireland by contrast, homelessness remains in the main a category 'socially selected as salient', hence the divergence between the (potentially broad) legal definition of homelessness in the 1988 Act and the (narrower) definition of homelessness employed in practice. That Ireland's legal definition of homelessness does not correspond to any enforceable legal entitlements allows for this divergence.

Furthermore, Scotland's wide definition of homelessness means that public understandings of homelessness may be subject to the stigmatising effects of the label:

> 'The label 'homeless' is something that's applied to more people, [it] becomes better known… the homeless label is still a problem. It's still something which gives you access to something valuable, but it's not necessarily in your interests' (National stakeholder, Scotland).

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[1]   Computed from Scottish Government homelessness statistics.

A local authority senior manager went so far as to describe this as 'one of the early failures of the legislation', arguing that 'people should be able to access what they need… without having to get the tag of being "homeless"' (National stakeholder, Scotland). This and other key informants however described how more nuanced approaches to implementation had evolved to account for some of these issues, in particular preventative approaches that can help people avoid the statutory system and label of homelessness where possible.

Stereotyping

This dimension of stigma refers to the linking of undesirable characteristic and attributes to the labelled group. The capacity of legal rights to help overcome stereotypes was recognised by some:

> 'By saying that it's a civil right [settled housing] and everyone's entitled to it [… homelessness is] promoted as something that could happen to anyone. (National stakeholder, Scotland).

By casting homeless people as active rights-bearing citizens making legitimate claims on public resources and identifying a wider section of the population as homeless than existing stereotypes might suggest, legal rights may support a move away from associations of homeless people as passive and/or undeserving and as failures in a society that values self-sufficiency and self-reliance. This alternative discourse emphasises structural and social inequalities and exclusion from the housing market as causes of homelessness, instead of (or as well as) factors at the individual level, working against an exclusively individualistic framing of homelessness.

In Scotland this alternative discourse appears to operate alongside continuing disparaging stereotypes and associations, rather than replacing them. This is clear from the fact that as well as seeing themselves as rights-bearers entitled to support (see below), the homeless men who took part in the research also felt vulnerable to negative stereotypes. It was also suggested that stigma had only been challenged 'in the circle that it immediately effects' i.e. homeless people and those who work in the sector. This key informant went on, 'I don't think the 2001 or 3 Act more widely moved any of those stigmas or stereotypes' (Voluntary sector leader, Scotland). It was noted that shifting public attitudes and addressing 'the picture someone has in their head when they hear the term homelessness or homeless person' (Voluntary sector leader, Scotland) has not been a main plank of recent homelessness policy.

Status Loss

Status loss involves the labelled person or group experiencing downward placement in the status hierarchy, shaping social interactions in a way that produces unequal outcomes, even where overt discrimination is not obvious (Link and Phelan, 2001).

Scotland's rights-based approach appears to offer advantages in this regard, by strengthening an alternative discourse around homelessness, emphasising the legitimate entitlements of homeless households, rather than their status as 'failed individuals' dependent on the generosity of the state. Such a discourse was almost entirely absent in Ireland.

One of the clearest ways in which this was manifested was in the sense of entitlement among services users, which appeared to be substantially stronger in Edinburgh than in Dublin. Scottish homeless men tended to be unapologetic about using welfare services, feeling that 'everybody has a right' to receive assistance. One commented, for instance, that 'everybody's entitled to help, it doesn't matter if you're poor or what country you come from, you're always entitled to help' (Hostel resident, Edinburgh).

This sense of legitimate entitlement also manifested itself in higher expectations about the level of services they should receive. Homeless men in Edinburgh were focused on how long they would have to stay in temporary accommodation, the quality of services and facilities they had access to, and their choice over resettlement options. Service providers reported high expectations among homeless service users, citing complaints about the absence of televisions in rooms or microwaves in kitchens. Service users therefore saw their use of public resources as legitimate, lessening the impact of homelessness as a status of failure. Homeless men in Edinburgh didn't always have an accurate awareness of their actual legal entitlements, such knowledge varied and the law was often 'unseen' (Cowan, 2004). Rather, they tended to have a sense of moral entitlement to assistance; they perceived such assistance as morally justified. As such, the efficacy of rights-based approaches in this regard (in minimising stigma by countering 'status loss') may not depend on people's accurate knowledge of their legal rights, but on the effects of this sense of moral entitlement and associated expectations.

In the main, those working in the sector saw this sense of entitlement as justified and desirable:

> 'There is a sense of people knowing that if they're homeless, they can expect a service provided to them… and I think that's an advantage' (Voluntary sector leader, Scotland).

Going further, another participant commented that service users being 'less grateful' and 'more angsty' is a positive trend (Voluntary sector leader, Scotland). It was acknowledged that this could lead to a 'clash' between users and providers in cases where housing officers 'have a less sophisticated understanding of life and are making harsh judgment on people who are coming either seeking help or sometimes asserting their rights' (Voluntary sector leader, Scotland). Another key informant

commented that people could approach the council 'quite aggressively' (National stakeholder, Scotland) demanding accommodation, resisting the advice of housing officers (about their need for support for example) or misunderstanding the local authority's legal duties. A local authority provider also acknowledged that service users can have 'unrealistic expectations' about the quality of services, but went on:

> 'If we go in and say well actually we're only statutorily obliged to provide you with this, if we get ourselves into that defensive position we've just lost everything we've tried to gain… What we're trying to do is move ourselves away from that and deal with individuals, and if they have issues then try and deal with them' (Local authority manager, Edinburgh).

These perspectives stand in stark contrast to those in Dublin, where homeless men (rather than having any sense of entitlement) emphasised their luck, gratitude and relief at receiving assistance. Asked whether he was anxious about approaching homeless services, a Dublin hostel resident answered: 'I didn't know which way to turn and I was never in that situation in me life, so… I was happy to get the help that I got'. Another described how he felt when he was told he could stay in his current hostel (which was downsizing as part of the reconfiguration of services in the city): "'I'm grateful… I was lucky when I got the letter under the door, I'm staying, they said… I was grateful for that'.

This set of dispositions and attitudes towards services (gratitude, luck and relief) is likely to reflect a number of factors; first, the high competition homeless men face for hostel spaces in Dublin. It may also reflect wider socio-political and socio-cultural factors, in particular Ireland's long history of charitable welfare provision and the tendency for homelessness services to be provided by voluntary (often faith-based) organisations (McCashin *et al*, 2002; Acheson *et al*, 2005; Baptista and O'Sullivan, 2008; Harvey, 2008). The propensity for those accessing services to feel gratitude, luck and relief (as opposed to a sense of entitlement) may also reflect (and makes sense in the context) that homeless men in Dublin have no legal entitlements to emergency or settled accommodation, and thus that their ability to access support and housing depends on other factors, including, crucially, the discretion of service providers.

Dublin service users also appeared to have lower expectations about the quality of services and appeared less frustrated at being in temporary accommodation than their Scottish counterparts. Edinburgh hostel residents described how being in temporary accommodation was like being 'in limbo' ('every day that goes past is just like a waste, cos I could've been doing something more constructive') and that they were 'champing at the bit, ready to go'. In contrast, when asked how they felt about where they were staying, comments from Dublin hostel residents included 'where I am here, is perfect' and

'this is like excellent… you can play pool, and snooker and stuff like that, and that's where people get together out there… I'm glad to be here… it's a good place to get breathing space, I can't knock it really'.

Even when Irish service users did feel dissatisfied with something, they seemed less likely to complain about it:

'I was told a couple of times to put complaints in about people and I wouldn't. I'm not that type, I don't know what it is, but I just didn't feel I was entitled to it' (Recently homeless man, Dublin).

This is despite the fact that the hostels in which Edinburgh participants were residing were of a markedly higher standard than the Dublin hostels. Although this study did not seek to, and cannot offer comparative evidence on, the respective quality of temporary accommodation in the two cities – and wider comparative evidence on this question is not available – the observed differences in quality (in terms of state of repair, cleanliness and levels of support) were substantial, an observation which makes considerable sense in the context of the monitoring, licensing and regulation regimes present in Scotland, but not in Ireland. This apparent disconnect between actual standards of and satisfaction with temporary accommodation may reflect that Scotland's rights-based approach fosters a sense of entitlement and higher expectations, promoting assertiveness among service users and encouraging providers to see these claims as a legitimate, rather than unreasonable. This may help drive up standards and nourish a 'virtuous circle' of improvements. These observations have implications for debates about 'service user involvement'. Specifically, they would suggest caution in relying on service user 'voice' to gain insight into the quality of hostels and temporary accommodation, as expectations and perceptions of standards may be affected by factors other than the quality of those services.

As well as having a greater sense of gratitude and lower expectations about levels of service, homeless men in Dublin tended to emphasise their personal responsibility for moving on from homelessness, rather than seeing statutory services and support as key. One hostel resident described how 'if I've got any fault let's say, it's towards meself, because I should've been personally linking in myself… so it's not the staff's fault… I've not been pushing it as hard as I should have' (Hostel resident, Dublin). Similarly, another Dublin hostel resident reflected on his experiences since becoming homeless:

'I never thought for a minute that I'd still be living in [homeless accommodation] in three years time… but… I fell into a rut, just of not doing anything, which is half my fault, because if you need help I suppose you need to look for it, you can't expect people to just ring and knock on your door' (Hostel resident, Dublin).

Thus, Irish homeless men appeared to be 'weighed down' by a sense of personal responsibility to have low expectations of the support they were accessing. The sense of agency and motivation that Scottish homeless men appeared to display, in the context of feeling a sense of legitimate entitlement to assistance, was absent.

The impact of legal rights to housing on stigma among homeless people appears to be complex. Rights crystallise and render more visible the 'label' of homelessness, while at the same time appearing to promote a more progressive understanding of homelessness among those working in the sector. The most significant difference between the two countries in this regard is in the different status of homeless men in the two cases: legal rights seem to promote higher expectations and a sense of legitimate entitlement. Service users in Dublin had lower expectations, were less critical of services and were grateful for the assistance they received, emphasising their own responsibility for their situation and thus appearing to take on or experience a 'lower status' as a 'failed' homeless person. In addition to having psycho-social impacts, these tendencies appeared to undermine more active and assertive attempts to drive up standards and access settled housing.

The Limits of Rights-Based Approaches

On the basis of this study, Scotland's rights-based approach appears to offer some significant advantages over Ireland's social partnership model in meeting the needs of single homeless men and ameliorating stigma. There are, however, certain risks associated with rights-based approaches. Three are considered here, concerning perverse incentives to 'go homeless' in order to access settled housing; the risk of creating an adversarial climate around homelessness provision; and the balance between meeting the needs of homeless households and others in housing need.

There have been 'consistent concerns about the apparent 'moral hazard' intrinsic to the structure of homelessness provisions in the UK, in that they may incentivise households to have themselves defined as homeless in order to gain priority access to social housing' (Fitzpatrick and Pleace, 2012, p.233). There was a consensus among Scottish informants that these perverse incentives are not acted upon frequently enough to undermine the fairness or effectiveness of the statutory homeless system. Moreover, Irish informants were also concerned about perverse incentives emerging as they improved access to settled housing for homeless people. Perverse incentives then, are not exclusive to rights-based approaches, but apply wherever social housing allocations prioritise allocations to homeless people (through quotas for instance). That the perverse incentive is 'sharper' in Scotland is therefore a direct consequence of the statutory system's success in responding to the housing needs of homeless households.

There have also been concerns that rights-based approaches lead to 'juridification', creating an adversarial climate, directing resources into the pursuit of costly legal battles (Dean, 2002; O'Donnell, 2003) and promoting a risk-averse focus on legal process rather than substantive outcomes. These concerns did not appear to manifest themselves in Edinburgh. On the contrary, partnership working and a focus on outcomes emerged as entirely consistent with a rights-based framework. Indeed, participants described a 'maturation' of approaches to homelessness in Scotland, which has involved a transformation of the role of housing officers from 'eligibility testers' processing applications, to a more 'person-centred' approach. By contrast, the absence of clear legislative requirements in Dublin appears to have hampered progress. Despite extensive efforts to improve services, 'getting traction on implementing change' has been problematic, and according to this informant, 'organisational needs tend to take precedence… over the needs of service users' (Statutory service provider, Dublin, see also Downey, 2011).

Third, a longstanding objection to the Scottish approach concerns the prioritisation of homeless households over other households in housing need (Fitzpatrick and Pleace, 2012). This criticism is particularly pertinent given Scotland's wide definition of homelessness. The distinction between homeless and non-homeless households was seen by some as arbitrary and problematic:

> 'There's a continuum of housing need and there are people who are homeless in any one's book, but there aren't very many of them. The numbers of people who get re-housed because they are homeless in administrative terms is vastly greater than that and there's something a bit artificial about that… I think that's the Achilles heel of it' (National stakeholder, Scotland).

This tension is most pronounced where the proportion of lets allocated to homeless households is highest. Other participants defended the statutory system, arguing that those qualifying as 'homeless' under the legislation were in fact those in the greatest housing need. In this regard then, and despite the capacity (suggested here) of legal rights to secure better outcomes for homeless households, the Scottish statutory system represents a 'contested settlement'. Increasing social housing supply would, of course, ease this tension and as such, was seen as a major priority among those working in the sector. Key informants suggested, in fact, that Scotland's legal rights have acted as a buffer, providing stakeholders with leverage in arguing for the protection of housing budgets (which have been substantially cut in Ireland, FEANTSA, 2012). Despite this, in unpropitious economic and housing market circumstances, demand for social housing continues to outstrip supply (Fitzpatrick *et al*, 2012). In this light, homelessness prevention and use of the private rented sector as a destination for homeless households were

seen as crucial means to help reconcile the apparent trade-off between prioritising the needs of homeless households and ensuring that reasonable resources flow to those lacking the legal entitlements of this group.

Conclusions

This paper has sought to bring evidence to bear on the claimed advantages of rights-based approaches to homelessness. Two central arguments have been advanced. First, that rights-based approaches crowd out considerations of desert, responsibility, housing readiness and 'social mix', ensuring a blunter, more effective focus on homeless people's need to access settled housing. Second, that Scotland's rights-based approach appears to ameliorate the stigma experienced by homeless men compared to their Irish counterparts. While legal rights crystallise and render more visible the label of homelessness, they also appear to encourage a sense of legitimate entitlement among those experiencing homelessness and encourage those working in the sector to see the claims of this group as justified.

It has been ventured that these contrasting homelessness policy regimes lead to very different experiences of being a homeless person. Those experiencing homelessness in Dublin felt the weight of personal responsibility for their situation more heavily than their Scottish counterparts, having a stronger sense of gratitude for support and related to this, a tendency to be uncritical of the at times poor quality of services they received. The different psycho-social experiences of homeless people in each country have implications for the outcomes of homelessness policy, specifically the standard of services available to homeless households and their ability to access settled housing. Dublin's homeless men emerge from this study as a more passive group, lacking the sense of agency and entitlement that might in the end lead to (demands for) better services. In comparison, Scotland's rights-based approach seems to foster a 'virtuous circle' of service user and provider attitudes, fed by a supportive licensing, regulatory and legal framework that helps drive up standards and encourage flow through homeless services.

The evidence presented here largely supports the growing international consensus in favour of rights-based approaches to homelessness. More specifically, the arguments developed suggest that individually enforceable, legal rights to housing offer significant advantages to homeless households over softer, consensual approaches that rely on the voluntary cooperation of relevant partners to cater to the needs of a group often perceived to be responsible for their circumstances and around which questions of deservingness and moral worth loom large.

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