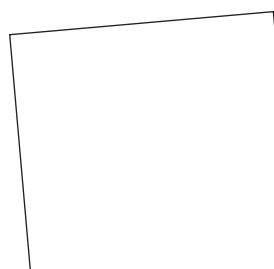


European Observatory on Homelessness

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Access to Housing for Homeless People in Europe

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Journal Philosophy

The European Journal of Homelessness provides a critical analysis of policy and practice on homelessness in Europe for policy makers, practitioners, researchers and academics. The aim is to stimulate debate on homelessness and housing exclusion at the European level and to facilitate the development of a stronger evidential base for policy development and innovation. The journal seeks to give international exposure to significant national, regional and local developments and to provide a forum for comparative analysis of policy and practice in preventing and tackling homelessness in Europe. The journal will also assess the lessons for Europe, which can be derived from policy, practice and research from elsewhere.

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Editorial

In September 2012, the 7th European Research Conference on Homelessness, entitled *Access to Housing for Homeless People in Europe* and organized by the European Observatory on Homelessness, the ENHR Working Group on Welfare Policy, Homelessness and Social Exclusion and the Centre for Housing Policy at the University of York, was held in York. Nearly 20 papers were presented at this one-day conference, and they explored and discussed the experience in different jurisdictions of providing housing for homeless people. We are delighted to publish a select number of these papers in this edition of the *European Journal of Homelessness*.

The context for the conference was research undertaken by the European Observatory on Homelessness, which explored *Social Housing Allocation and Homelessness* (Pleace *et al*, 2011). This report, the first of a new series of comparative studies of aspects of homelessness undertaken by the Observatory, looked at the relationship between social housing and homelessness in 13 EU member states, examining how different strategic roles for social housing and varying allocation policies determine the role of social housing in tackling homelessness. The report identified the ways in which social housing can provide a housing solution for some groups of homeless people, while often playing little or no role in addressing the housing needs of other groups of homeless people.

More broadly, there is now overwhelming research evidence from a number of jurisdictions, that housing led-approaches are more effective in ending homelessness than the 'staircase' approach (Busch-Geertsema, 2013). The 'staircase' approach, with an emphasis on hostels/shelters and transitional housing as a means of making people housing ready, had muted, in part, the debate about access to housing, as the evidence indicated that very few homeless people progressed through the required stages to access permanent housing. Thus, as housing first/led approaches are gradually gaining acceptance across Europe amongst policy makers, and to a lesser degree service providers, access to housing for homeless people is emerging as a major challenge facing those attempting to implement housing led policies. In particular, the attitudes of some landlords (private, public and not-for profit providers) towards homeless people, who can be viewed as undesirable tenants who might present housing management problems, can be a significant obstacle to the provision of rented housing. In addition, tensions in urban policy may also create obstacles to housing for

homeless people, such as the desire of urban planners to avoid spatial concentrations of poverty, which can effectively constrict the access of homeless people to the most affordable areas of some cities.

Although there are many pressures on housing supply in the European Union, affordable and adequate housing is potentially available for homeless people and different models for the allocation of housing are evident. One model that has generated particular interest is the Scottish model, where existing legal rights, previously confined to only certain categories of homeless people within 'priority need' groups, have now been extended to every homeless person or household who is a citizen of Scotland and can show they are not 'intentionally' homeless. In the first article in this edition of the *European Journal of Homelessness*, Isobel Anderson reviews the final phase of implementation of the Scottish model. She argues that the essence of the right to settled accommodation was successfully achieved, but incremental policy adjustment has meant that outcomes for those facing homelessness varied somewhat from the highest aspirations of the original 2002 policy review. She concludes that the extent to which the strengthened legal framework represents a policy success over the long term, will depend on whether its continued implementation withstands the risk of 'policy blurring' in the most recent shift towards blending homelessness assessment, homelessness prevention activities and the broader assessment of the 'housing options' available to those seeking assistance.

In the second paper, Beth Watts also explores the Scottish model, and compares the rights based Scottish approach to the 'softer' consensual approach to ending long-term homelessness in the Republic of Ireland. Drawing on primary research with national experts, service providers and homeless men in both jurisdictions, the paper considers whether legal rights better meet the housing needs of homeless men than the Irish approach, and whether they help mitigate the stigma of homelessness. The paper argues that the rights-based approach developed in Scotland, in contrast to the consensual or negotiated problem-solving approach between key partners evident in Ireland, provides a blunt, but effective tool in prioritising housing needs, and helps minimise stigma by casting homeless people as rights-bearers with legitimate entitlements.

Rights based approaches also feature in the third paper, where in England, the Housing (Homeless Persons) Act 1977 provides a set of justiciable rights to homeless people, whereby local authorities have a duty to assist homeless people who meet a set of eligibility criteria set out in the Act. One of the criteria, 'vulnerability', often requires consideration of medical evidence. Homelessness officers are the key actors in deciding whether or not an applicant is 'vulnerable', and Joanne Bretherton, Caroline Hunter and Sarah Johnsen in their paper examine decision-

making in relation to the use of medical evidence in homelessness cases in England. The paper explores how homelessness officers assess the 'expert' medical evidence that is put to them, how far they rely on their own intuition and judgement, and the other factors that influence their ultimate decision.

Despite the emerging consensus on the effectiveness of housing first/led approaches, the implementation of this approach to homelessness has been slow across the European Union. In a case study of Sweden, Marcus Knutagård and Arne Kristiansen note that only seven of Sweden's 290 municipalities have started or decided to start a Housing First project. The article identifies the nature of existing service delivery to homeless people in Sweden, which is characterised by a path dependency, in which the 'staircase' model has become an institutionalised practise, as a key obstacle to the implementation of housing first approaches. Of the Swedish Housing First services that have developed, the core elements of the Housing First philosophy have been adopted, but the authors note that they are not exact replicas of the original New York model.

Moving from Sweden to Austria, the next paper outlines the findings and analysis of the evaluation of *Haus Felberstraße*; a project in Vienna that offers supported transitional housing for homeless families with the aim of securing accommodation in the private rented housing sector. The project was initiated with the goal of testing a new approach within homelessness services policy, since efforts in Vienna to rehouse homeless families have in the past often focused on accessing the municipal stock. Sofia Martinsson, Tatjana Weiß and Andrea Zierler note that while immediate effective social support with a strong goal-orientation can influence and improve the capacity of vulnerable families in terms of stable housing, structural factors like rising costs for housing, lack of housing and low income levels and risk of poverty remain which ultimately require increased levels of affordable housing.

The final paper in the edition takes a broad overview of homelessness policy and access to housing by analysing 147 State Party reports under the International Covenant on Economic, Social and Cultural Rights (ICESCR). By exploring the states' consideration of homelessness, Michael Kolocek discusses housing, particularly homelessness, in the face of human rights and then conceptually differentiates between two basic forms of inadequate housing: homelessness and Spaces of Inadequate Housing. In part, the author aims to situate his discussion of the human right to adequate housing with an enhanced discussion of land policy as social policy.

The next special edition of the European Journal of Homelessness will feature selected papers from the 8th European Research Conference on Homelessness, which takes place in Berlin on the 20th of September 2013. The theme of the conference, '*Housing First. What's Second?*', will further elaborate on the issues raised

in this edition of the Journal, and we hope that the Journal continues to provide a platform for informed debate on all aspects of homelessness and housing exclusion in Europe and further afield.

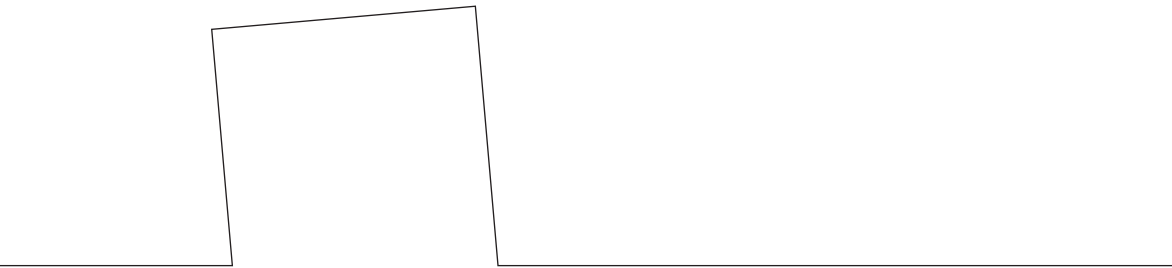
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Articles



The Right to Settled Accommodation for Homeless People in Scotland: A Triumph of Rational Policy-Making?

Isobel Anderson and Regina Serpa

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› **Abstract_** *This article presents a critical review of the final phase of implementation of the modernised Scottish homelessness framework, taking a 'classical policy analysis' approach to assessing its significance. The article draws on a combination of a review of evidence over the implementation period, new findings from research conducted in 2011-13 and critical observation of the policy process during implementation. Implementation was influenced by political change at Scottish and UK levels and by the impact of changes in other aspects of housing and welfare policy. The essence of the right to settled accommodation was successfully achieved, but incremental policy adjustment has meant that outcomes for those facing homelessness varied somewhat from the highest aspirations of the radical 2002 policy review, which set out the modernised framework. The extent to which the strengthened legal framework represents a policy success over the long term will depend on whether its continued implementation withstands the risk of 'policy blurring' in the most recent shift towards blending homelessness assessment, homelessness prevention activities and the broader assessment of the 'housing options' available to those seeking assistance.*

› **Keywords_** *Homelessness, access to housing, policy implementation*

Introduction

In November 2012, after a ten-year implementation programme, the Scottish Housing Minister confirmed that the commitment 'to ensure all people facing homelessness through no fault of their own would have a right to settled accommodation' would be fully in place by 31 December (Scottish Government, 2012a). Although not an unconditional 'right to housing', this final Parliamentary approval endorsed what is possibly the strongest legal framework in the world in relation to protecting people from homelessness.

This article presents a critical review of the most recent phase of implementation of the right to settled accommodation for unintentionally homeless people in Scotland. It begins by setting the context for this major policy shift, before summarising the evolution of the legislative right to settled accommodation, with some initial consideration of its international significance. The main body of the article sets out the approach to assessing progress in implementing legislative change over a ten year period, with a particular focus on the later phase (2009-2012). The analysis draws on published evidence, new research and critical observations of the policy process. Findings from new research are presented in relation to the national picture for Scotland, and local implementation including the perspectives of users of homelessness services. The conclusions identify considerable success in policy implementation along with constraints which impacted on outcomes, and the emergence of possible 'policy blurring' which somewhat limits a rigorous assessment of the original policy vision.

Homelessness in Scotland: the State's Shifting Response

Scotland is part of the UK, which has long been characterised as a liberal welfare state. However, the nature of welfare provision has shifted over the long term, including changes in the relationship between housing and welfare; changing patterns of income inequality; and changing governance, notably with devolution of aspects of welfare policy to Scotland, Wales and Northern Ireland in the post-1999 period (Anderson, 2004; Mooney and Scott, 2012). Legislation to protect certain types of households from homelessness was introduced in 1977, towards the end of the UK's main phase of expanding welfare provision. By the time of Esping-Andersen's influential work on welfare regimes (1990), the UK was shifting significantly towards a much more liberal approach to welfare, with reforms resulting in significant increases in income inequality and significant rises in levels of homelessness (Greve, 1990; Gardiner 2000). Income inequality grew to a historically high level in the UK through both Conservative (1979-1997) and Labour (1997-2010) governments (Joyce *et al*, 2010).

Law and policy on housing and homelessness have been fully devolved to the Scottish Parliament since 1999. The early years of the 21st century witnessed a particularly progressive era in homelessness policy review in Scotland, as the new Executive commissioned a multi-stakeholder *Homelessness Task Force* to undertake a comprehensive review of policy, legislation and practice to alleviate homelessness (Homelessness Task Force 2000, 2002). This strategic approach was mirrored across Europe and beyond, with moves towards comprehensive strategies to tackle the complexity of factors contributing to homelessness and targets to reduce levels of homelessness in many countries (Benjaminsen *et al*, 2009; Hermans, 2011). However, this 'golden moment' of homelessness policy development was somewhat short-lived, as the impact of the financial crisis, which began in 2007-8, resulted in a return shift to welfare retrenchment and austerity measures which impacted severely on the most vulnerable groups in those European countries hardest hit by the international crisis (FEANTSA, 2011).

In their study of the policy process in six European countries, Nutley *et al* (2010, p.136) argued that Scotland had forged a 'somewhat distinctive' path in evidence-based policy and practice, which was not always evident in UK-wide policy analysis. It has also been argued that the Scottish population broadly retains a stronger commitment to social justice and to universal welfare than is evident in England (Nixon *et al*, 2010; Mooney and Scott; 2012) and Scotland retains a slightly higher proportion of social rented housing than other parts of the UK: 23.5 percent in Scotland compared to 17.5 percent in England (Wilcox and Pawson, 2013). However, despite some post-devolution reduction, income inequality in Scotland remained high in absolute terms and relative to the rest of the UK (Morelli and Seaman, 2012). Comparing the achievements of post-devolution Scotland's anti-poverty strategies within Scotland and in relation to the rest of the UK, Sinclair and McKendrick (2012) also concluded that social inclusion policy was not as bold or innovative as expected, given the perceived strength of attachment to social democracy in Scotland. While there remains a need for more robust evidence of any Scottish collective commitment to social democracy and egalitarian social policy, the devolved approach to homelessness merits consideration as having a stronger social justice foundation than evident in other parts of the United Kingdom.

Across the UK, homelessness has been recognised as a state housing responsibility since the passing of the Housing (Homeless Persons) Act (1977) for England, Scotland and Wales (and later for Northern Ireland). For Scotland, this legislation was subsequently consolidated in the Housing (Scotland) Act 1987. The law placed duties on local housing authorities to take action if a household was homeless or threatened with homelessness and the framework remained unchanged in Scotland until the major review by the *Homelessness Task Force* (2000, 2002) which led to the expansion of the right to settled accommodation to all unintentionally homeless

households. It is important to note that Scottish legislation retains a particularly broad and detailed legal definition of homelessness, embracing a wide range of problematic housing situations as recognised in the ETHOS typology for international comparisons (Figure 1; Edgar *et al*, 2004; FEANTSA, 2013). The definition of homelessness remained unchanged by the modernisation of other aspects of the law and Scottish local authorities are required to use this definition when assessing the circumstances of potentially homeless households.

Figure 1: Housing (Scotland) Act 1987: legal definition of homelessness in Scotland

1. A person is homeless if they have no accommodation in the United Kingdom or elsewhere.
2. A person is to be treated as having no accommodation if there is no accommodation which they, together with any other person who normally resides with them are legally entitled to occupy. A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for them to continue to occupy, though regard may be had to the general housing circumstances prevailing in the local authority area.
3. A person is also homeless if
 - a. they have accommodation but cannot secure entry to it, or it is probable that occupation would lead to violence or threats of violence;
 - b. or the accommodation consists of a movable structure, vehicle or vessel for human habitation and there is no place where they are entitled or permitted to place and reside in it;
 - c. or the accommodation is legally overcrowded and may endanger the health of the occupants;
 - d. or it is not permanent accommodation and the local authority duty arose before occupation of the accommodation.
4. A person is threatened with homelessness if it is likely that they will become homeless within 2 months.

Scottish housing and homelessness legislation¹ placed a duty on the local authority (municipality) to secure housing if:

1. The household was homeless according to the legal definition
2. The household was in priority need (as illustrated below)
3. The household had not become homeless intentionally

and

4. The household had a connection with the local authority where they sought assistance (for example through prior residence, family or work).

Importantly, the duty was to secure 'permanent accommodation' defined as a Scottish Secure Tenancy in the local authority or Registered Social Landlord (RSL²) sector; or an Assured Tenancy in the privately rented sector (a relatively secure private sector contract). In practice, local authorities mainly discharged their homelessness duties by offering applicants tenancies in their own stock, supplemented to an extent by RSL tenancies. Private sector Assured Tenancies were rarely used and the much less secure Short Assured Tenancy did not meet the legal requirements for discharge of homelessness duty until regulations were subsequently changed in 2010.

The question of who was in priority need under the original legislative framework was at the heart of the changes implemented following the *Homelessness Task Force* policy review (2000, 2002). Essentially the legislation had prescribed key groups of homeless households considered to be in priority need (deserving of assistance). Some amendments were made to the prescribed groups over the years and by 2005 those listed in the Code of Guidance on implementing the homelessness legislation included households which contained someone who was:

- A dependent child (or children) and/or a pregnant woman (or a woman who had recently miscarried/terminated a pregnancy)
- Vulnerable due to old age; mental illness; personality disorder; learning disability; physical disability; chronic ill health; discharge from hospital, prison or armed forces; or 'other special reason'
- Homeless because of an emergency such as a fire, flood, or natural disaster
- Age 16-17

¹ Housing (Homeless Persons) Act 1977; Housing (Scotland) Act 1987; Housing (Scotland) Act 2001.

² The RSL housing sector includes housing associations, co-operatives and other non-profit landlords who are independent of central or local government, but registered by the Scottish Housing Regulator. The sector accounts for around half of the social rented housing sector in Scotland.

- Age 18-20 and at risk of sexual or financial exploitation; or serious alcohol or drug misuse
- Age 18-20 and been looked after by the state (social work services)
- At risk of domestic violence

or

- At risk of or a victim of harassment or violence on grounds of religion, sexual orientation or race/ethnic identity.

(Scottish Executive, 2005).

Notably there was no straightforward test of income as a means to secure housing; rather the legislation sought to identify other characteristics which were a proxy measure of lack of capacity to secure housing in the market. Households, which did not fall into one of these categories, were defined as not in priority need (not deserving of assistance). These were largely single adults or other adult-only households of working age who did not have any of the priority need characteristics set out in the legislation. In short, those excluded from the original homelessness safety net were mainly single people of working age, and mainly men.

The day to day assessment of homelessness applications is typically the work of frontline local authority housing staff, charged with making decisions based on the legal framework, practice guidance and their own professional judgement or discretion. This aspect of practice can be characterised as ‘street level bureaucracy’ in the sense used by Lipsky (1980), who argued that workers in public services had considerable influence over the outcomes of policy through their discretion in making decisions as part of day to day policy implementation. The combination of organisational policy discretion and frontline worker decision-making discretion, meant that outcomes for homeless people could vary across and within local authority areas, despite the existence of a national framework. Discretionary decision-making could result in simplistic decisions that single homeless people were not in priority need, without undertaking a full investigation of their circumstances and research in England indicated that many single homeless people may well have fitted the priority need criteria, if their characteristics had been fully assessed (Anderson *et al*, 1993).

In Scotland, when the *Homelessness Task Force* (2000, 2002) was charged with undertaking a wide-ranging, evidence-based review of the framework for responding to homelessness, one of its 59 recommendations was that the highly complex test of assessing priority need was no longer appropriate and should be abolished. Recognising that a secure home was a fundamental aspect of welfare for all in a modern society, the Homelessness, etc. (Scotland) Act 2003, set the

target date for the phased abolition of the priority need test by the end of 2012. The *Homelessness Task Force* also queried the test of 'intentionality' in the original homelessness framework, recommending provision of a (less secure) Short Scottish Secure Tenancy and social support to deal with the issue that led to the decision of intentional homelessness (for example rent arrears or antisocial behaviour). Although provision was made for this amendment in the 2003 Act there was no fixed time frame for implementation and this part of the framework was still not enacted by mid-2013. Consequently, Scotland's '2012 commitment' to homeless households was somewhat conditional, applying to all who faced homelessness through no fault of their own.

Approaches to homelessness have represented a key area of policy divergence across the UK's four jurisdictions, with Scotland's neighbours taking different approaches (Fitzpatrick *et al*, 2012a; Mackie *et al*, 2012a, b). The distinctive Scottish framework received some important early accolades, indicating its potential international significance. As early as 2003, the Centre on Housing Rights and Evictions (COHRE, an international Human Rights NGO) awarded the Housing Rights Protector Award to the Scottish Executive for this homelessness legislation, in recognition of its contribution to protecting human rights and safeguarding human dignity (Goodlad, 2005). In 2007, France also implemented a legal right to housing (Loison-Leruste and Quilgars, 2009) and in 2009, the United Nations Committee on Economic, Social and Cultural Rights recommended that the Scottish homelessness framework be adopted throughout the UK (Bowcott, 2009). The question for 2013 is, to what extent programme implementation measured up to the expectations of these initial praises?

The following sections assess the effectiveness of programme implementation, drawing on evidence over the ten-year phase of policy implementation, but with a particular emphasis on the later post-2009 period. The research methods adopted in order to develop the analysis included:

- Reviews of published scholarly literature; legislative, policy and practice change; and trends in Scottish Government housing and homelessness statistics. These reviews covered the period 2000-2013.
- Qualitative discussion groups with representatives of local authorities, RSLs, homelessness NGOs, and service users, conducted during 2011 and 2012 and focused on the later period of implementation (2009-12).
- Critical observations from direct engagement with the research, policy and practice communities, for example through participation in conferences and practice networks; delivery of education and training; monitoring of press and media debates; and direct dialogue with policy makers and practitioners.

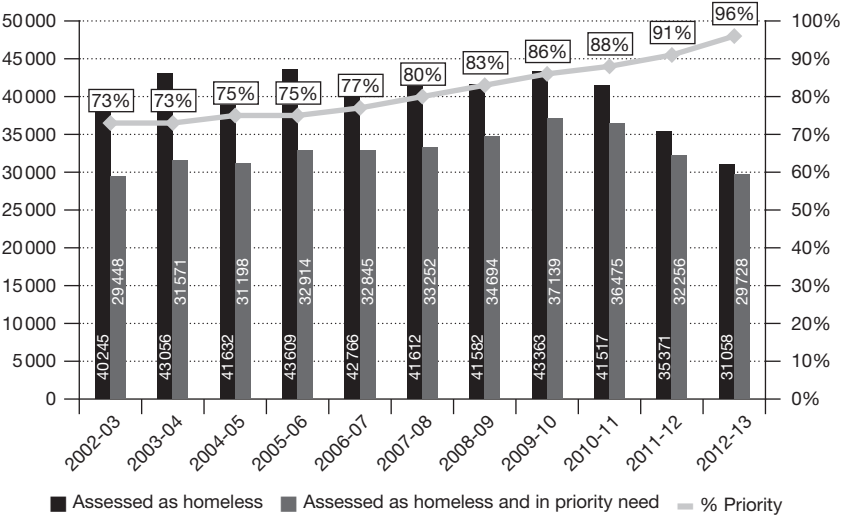
An ideal analysis would have included even more substantive empirical investigation and elements of this analysis are necessarily constrained by the evidence available.

National Level Outcomes

Official statistics on implementation of Scotland's homelessness legislation have been routinely collected and published by Government since the late 1970s. The analysis conducted for this research focused on full-year reporting (April-March annually), but Scottish Government also publishes interim quarterly returns (e.g. Scottish Government, 2013a).

In the implementation process, local authorities were given discretion in how they gradually incorporated an increasing proportion of 'non-priority' homeless applicants into the 'priority' category, so that when 100 per cent of applicants were recognised as having 'priority need', the test would effectively be abolished. Figure 2 shows that across Scotland, the proportion of homelessness acceptances assessed as being in priority need rose from 73 percent in 2001-2 to 96 percent in 2012-13, by which point, single people (26-65 years) had become the largest priority group, rather than an excluded group. For most of this period, more than 40000 households per year were accepted as homeless in Scotland. This figure reduced to less than 32000 households in 2012-13, a decline attributed to the implementation of homelessness prevention initiatives, and the introduction of the 'housing options' approach to applications for social housing which is discussed further below (Scottish Government; 2012b, 2013c). By the end of 2011-12, 8 of Scotland's 32 local authorities had fully abolished the priority need test; with another 14 more than 90 percent of the way towards meeting the target; and 11 authorities reporting 68 to 89 percent of all homeless households as in priority need (Scottish Government, 2012c). Quarterly statistics indicated that as Scotland passed the 31 December 2012 milestone, 96 percent of applicants assessed as homeless were accorded priority need, just a few percentage points below fully meeting the policy goal (Scottish Government, 2013b). The goal was fully met in 26 out of 32 local authorities, with two others achieving 98 and 99 percent of the target and just four in the ranges from 88-97 percent of the goal. As of 1st January 2013 it effectively became a breach of the law to distinguish between priority and non-priority need in homelessness assessments, and Scottish Government (2013c) reported that from January to March 2013, all Scottish local authorities met this commitment.

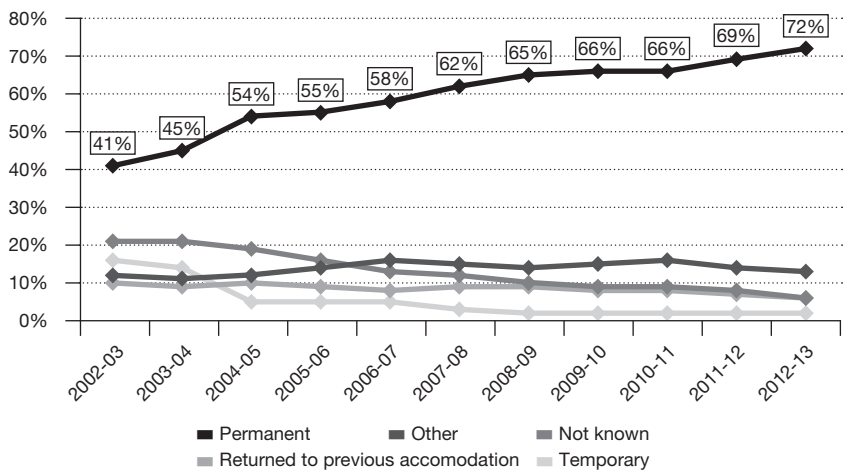
Figure 2: Number of applications to local authorities under the Homeless Persons legislation: 2002-03 to 2012-13



Source: Scottish Government, Operation of the Homeless Persons Legislation (2012-13), Table 1

As well as abolishing the priority need test, implementing the right to housing required local authorities to secure ‘settled accommodation’ for homeless households. During the implementation period, the term ‘settled accommodation’ came to replace the use of the term ‘permanent accommodation’ in the original framework. This ‘incremental change’ (Lindblom, 1959), related to the re-definition of settled accommodation in 2010 to include a 12 month Short Assured Tenancy in the private rented sector (Scottish Government, 2010). This still presented a considerable challenge for local authorities working with private landlords as the minimum Short Assured Tenancy period remained just six months. From 2002-3 to 2012-13, the proportion of all homeless households moving into permanent/settled accommodation (local authority, RSL or minimum 12 month private tenancy) as the final outcome of their application increased from 41% to 72% (Figure 3). Moreover, the use of temporary accommodation as a final outcome had decreased; as had the ‘outcome not known’ category, suggesting local authorities had become better at maintaining contact with applicants through to discharge of duty (Figure 3).

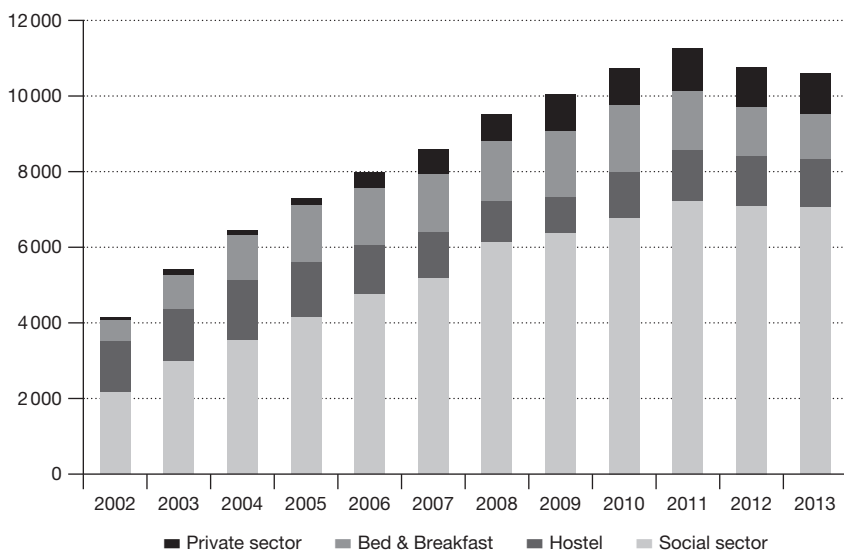
Figure 3: Outcomes for homeless households following final discharge of local authority duty: 2002-3 to 2012-13



Source: Scottish Government, Operation of the Homeless Persons Legislation (2012-13), Table 8a

Although temporary accommodation was rarely a final outcome for homeless households, applicants were often provided with temporary accommodation until the local authority made a decision on their application, or until settled accommodation became available. Figure 4 shows the increase in the number of homeless households in temporary accommodation from 2002 to 2013. The use of ordinary social housing for temporary accommodation increased very significantly. While other types of temporary accommodation were used less frequently in absolute numbers, the use of bed and breakfast accommodation also increased substantially. The use of hostels decreased slightly during the period, and the use of the private sector as temporary accommodation grew from almost non-existent up until 2005, to being used as frequently as hostels in 2013. A critical gap in the national data set however, is that it does not indicate the period of time homeless households spend in temporary accommodation until the final outcomes in Figure 3 above are achieved.

**Figure 4: Households in temporary accommodation by accommodation type:
31 March 2002 to 31 March 2013**



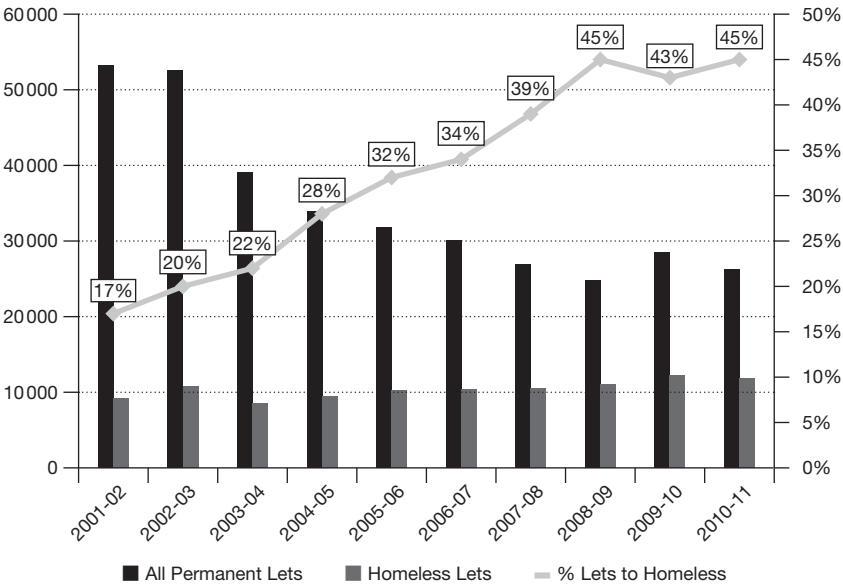
Source: Scottish Government, Operation of the Homeless Persons Legislation (2012-13), Table 11

A final key national indicator of programme implementation has been the share of social lettings allocated to homeless households. Figure 5 indicates the extent to which local authorities were able to use their own housing stock to provide settled housing for homeless people. However, the picture is quite complicated. During the period 2001-2 to 2010-11, the absolute number of vacancies let by local authorities declined significantly. This meant that relatively modest absolute increases in lettings to homeless households resulted in a disproportionately high share of the (declining) pool of total vacancies being allocated to homeless households. The number of local authority lets made to any household decreased by more than half over the ten-year period from 53 187 in 2001-2, to just 26 222 in 2010-11. So, local authorities were increasingly required to 'make best use' of a much smaller pool of vacancies. Some of this decline reflected whole-stock transfers of council housing to RSLs in six local authority areas during the period. The decline in vacancies at least partly explains why, in striving to meet the 2012 target, the proportion of total local authority lets to homeless households increased significantly from 17 percent in 2001/02 to 45 percent in 2010/11. However the absolute number of lettings to homeless households was just less than 3000 greater in 2010-11 (around 12 000) compared to 2001-2 (around 9000).



Although the high proportion of local authority lets to homeless households was explained by falling numbers of available vacancies, as well as the increase in the number of permanent lettings made to homeless households, debates in practice conferences and events during 2011-12 revealed the figures caused some concern to Scottish Government. It was argued that homelessness was becoming somehow too significant a route into council housing, even though this was directly a function of implementation of national government policy. Further, the trend in council housing allocations exaggerated the national picture as RSLs, with half of the social rented housing stock, allocated only 27 percent of lettings to homeless households in 2011-12 (Scottish Housing Regulator, 2012).

Figure 5: Local authority permanent lettings during 2001-2 to 2010-11 and lets to homeless households



Source: Scottish Government, Management of Local Authority Housing (2010-11), Lettings

All of the above national indicators disguise both the variation across local authorities and the complexity of the strategic and frontline processes behind policy implementation. These are considered in the following section.

Local Practice and Service Users' Views

Qualitative analysis of group discussions with local housing practitioners sought to provide a deeper insight into questions and issues emerging from the literature review and statistical analysis. Three discussion groups were conducted in late 2011 and early 2012: one group including representatives of local authority homelessness services and voluntary sector homelessness agencies; one group of local authority homelessness strategy officers; and one group with RSL representatives. There was no overlap in local authority representation between the first and second groups, with representation covering twelve local authorities, seven RSLs and two homelessness agencies.

Some participant local authorities had already fully achieved the abolition of priority need, but acknowledged difficulties in securing enough settled accommodation for homeless households. Others were at varying stages of progress. No single factor appeared to explain which authorities had and hadn't met the target. Participants made reference to both internal policy decisions and the balance between demand from homeless households and the available pool of stock.

'We have met the priority need target in terms of abolishing non-priority but month on month the homeless list is increasing. It was a huge commitment. There was not one policy decision or operational process. It was a huge combination of factors. There was a massive commitment from the council to improve services to homeless people. A poor Scottish Housing Regulator inspection report was also a driver. More resources were allocated, we introduced a common housing register, housing options, an allocations review, and improved void turnover. It was a whole range of factors together' (Local Authority Participant A).

Other participants mentioned similar processes, but one authority had taken a very different approach of implementing alternative solutions instead of pushing towards abolishing the priority need test:

'We haven't met the target. That was a deliberate policy decision by senior managers. Despite efforts to encourage removal of priority need, the senior management team said – no we don't agree. We will only deal with it when the legislation says we have to. In the mean time we will try to intervene more effectively to meet need and avoid crisis' (Local Authority Participant D).

Another participant recognised that the expanded safety net had resulted in very significant improvements in terms of homelessness services for single people.

'The service people get now compared to 19 years ago is very different. People weren't even assessed before – they became priority need anyway once a proper assessment was done' (Local Authority Participant E).

Local authority participants were equally clear that securing settled accommodation for all those accepted was a more significant challenge than abolishing the priority need test. One discussant commented that the code of guidance on homelessness did not specify a time period for finding settled accommodation and in another area the number of applicants for a property was commonly 'in the hundreds'. Part of the local authority's role then became 'managing people's aspirations about what is realistic, in different time scales' (Local Authority Participant E). In the homelessness strategy officer's group some participants agreed that fully implementing the right to settled housing for all non-intentionally homeless households was a huge challenge, but others commented that abolishing the priority need test saved time and resources in making complex enquiries.

All local authority participants reported extreme difficulty in securing settled accommodation for homeless households in the private rented sector, even where successful private schemes operated for different client groups. The following summary was a typical experience:

'We have not managed to achieve final discharge of duty. We have a lot of initiatives in place and work very closely with the private rented sector. We have everything in place to discharge duty. The difficulty has been getting the length of tenancy (12 months). Getting landlords to sign up to that. We have a landlord forum, a private sector team, a rent guarantee, private sector leasing for temporary accommodation..... There is still a huge amount more we can do in terms of engagement, and giving tenants support.... There may be an argument for letting local authority properties come back to mainstream letting and use more private rented housing for temporary accommodation' (Local Authority Participant A).

Other participants reported similar experiences, including where private landlords would accept tenants with support packages in place, but remained unwilling to extend the length of tenancies to the required 12 months. Consequently, the private sector was seen as more suitable for those seeking housing advice than those facing homelessness: 'We don't discharge duty in the private rented sector but we do use it for other groups' (Participant E). It was recognised that for some households, the private sector could be a positive option in terms of choice of location and speed of securing accommodation. Some participants commented specifically on the valuable role of the private rented sector in rural areas, where demand could not be met through social housing. However, participants in the Homelessness Strategy Officers' group reported private renting to be expensive and had concerns about quality. These challenges were compounded by changes to housing benefit (housing allowance) regulations which meant that adults aged up to 35 years of age could only receive benefit equal to the cost of shared accommodation (rather than an independent tenancy). Homelessness agencies

were aware of the constraints in securing settled accommodation in the private rented sector, with the Short Scottish Assured Tenancy acknowledged as one of the least secure tenancy types in Europe.

The group of RSL participants were less explicitly focused on meeting the 2012 homelessness target, although all were supportive of the legislative change and of the need for RSLs to play an active role in housing homeless people. Discussion focused on the processes by which local authorities referred homeless households to RSLs for rehousing, including participation in common housing registers and choice based lettings schemes in partnership with local authorities. RSLs sought to fit homeless households referred by the local authority to their available housing stock, through good housing management practice. While national statistics indicated the RSL sector housed a much lower proportion of homeless households than the council sector, RSL participants in this research were generally positive about housing homeless households. Debates about conflict with other applicant groups were acknowledged but not thought to call into question the fundamental principles of the modernised homelessness framework. Most participating RSLs had reviewed their procedures for managing referrals from local authorities. Importantly (and as was the case for local authority landlords) RSLs had implemented flexible lettings policies such as accommodating single homeless people in two bedroom properties.

'We deliberately under-occupied properties. We were encouraged to do that, for example to manage child densities. Also in terms of mutual exchanges, if we are alleviating overcrowding by slightly under-occupying in the exchanged property we will do that. Similarly, we do have a lot of people whose circumstances change, who are in two bedroom properties. The majority of our stock is two bedrooms' (RSL Participant G).

'We are the same. Our policy is that we will allocate a two bedroom property to a single person. Because otherwise we would just disadvantage the majority of people on the waiting list' (RSL Participant J).

However, participants were concerned that this strategy would be seriously undermined from April 2013 when welfare reform imposed by the UK government would claw back housing benefit from social tenants with a spare bedroom. Housing Benefit, along with other social security benefits, remained a reserved power of the Westminster/UK government, and emerged as a key area of conflict with devolved Scottish housing policy.

'We didn't for the last 15 years ever build anything less than 2 bedrooms, because we were told 'you want to have life time homes, you want to be able to accommodate carers'... so we have a huge pool of barrier-free 2 bedroom properties, and although some on disability benefits may be exempt from proposals, future tenants are the worry really' (RSL Participant H).

Some participants felt that the proposed benefit restrictions were largely unnecessary in the Scottish housing system and had emerged in order to tackle a 'London-centric problem': 'we are here in Scotland with our own housing needs and knowledge and everything is being run from Westminster, based on a few London authorities. I have not seen evidence in Scotland that large sums are being spent on people living in homes that are too big for them' (RSL Participant G).

A further discussion group was held with homeless or formerly homeless users of a Scottish local authority homelessness service. Their experiences were illustrative rather than representative, but they were encouraged to discuss the delivery of homelessness services from as general a point of view as they could. Participants were at varying stages of assessment, placement in temporary accommodation or having been recently rehoused into settled accommodation. Most were single, but one woman had applied with a partner and children. Participants were asked about their experience of using local authority services, rather than how they saw progress on legislative change. Their views were very similar to those of a larger group of participants in an earlier, substantive national study of the priorities of homelessness service users by Evans and Littlewood (2011).

Some service users had found it difficult to contact the homelessness service because of a lack of information about how to do so. They suggested wider advertising of how to get help in the event of homelessness, for example through job centres, the police, doctors' surgeries and radio and television. Participants also had varied experience of the homelessness application process. Service users wanted a quick response from local authorities, especially if urgent shelter was needed, and they required accessible emergency accommodation or help with transport to temporary accommodation. There was a strong recommendation for having one key worker who worked with an applicant throughout the assessment and rehousing processes. Participants also wanted to be treated with dignity and to receive clear explanations of the law and any local practice. Some expressed concern about the interview process and the 'evidence' needed to demonstrate their state of homelessness:

'I was just out of hospital with my bags in the car – how much more evidence do you need?' (Service User A).

The option to be able to work was very important to the homeless service users, and this had implications for the location, cost, tenure, and associated service charges in both temporary and settled housing. However, participants were also able to articulate a sense of fairness in relation to the needs of other groups waiting for assistance with housing. Participants acknowledged that many homeless people required social support in temporary and settled accommodation. Taking account of these needs, most participants expressed a preference for a council tenancy as their preferred outcome. Scottish homeless service users were able to articulate a rational preference for social rented housing based on its core characteristics of affordability, security, quality, and a supportive management ethos. Service users understood the process of waiting in temporary accommodation until settled housing was available, but felt this should not generally be for more than six months. They welcomed information about different options, but were resistant to sharing in the private rented sector. They also valued support with settling into a new tenancy, especially help with benefits and appreciated the efforts of friendly, understanding staff. When the discussion group participants were asked to name a key change which would improve local authority homelessness services the main suggestion was the provision or availability of more affordable one bedroom housing.

Participants were asked if they thought homelessness could be prevented – with differing views emerging. One person had become homeless because of relationship breakdown and did not think this could have been prevented while another had been invited to speak to young people about their experience of homelessness as part of a prevention programme for local schools. Other participants emphasised that their housing situation had been completely outwith their control, for example because of financial constraints, health issues or relationship breakdown. One participant pointed out that someone facing homelessness needed to have a certain amount of confidence to be able to ask the right questions of the right people, and that the advice received might be complex and challenging to take in. Few participants had heard of a housing options service, although most were receptive to the idea. However, they reiterated the importance of the actual final housing outcome, rather than just the existence of an advisory service.

Overall the qualitative group discussions indicated continuing support for implementation of the strengthened homelessness safety net. However, some practical challenges for delivery emerged which were not always evident from official statistics, for example: discretionary practice around the phasing in of the new framework; the increased time some homeless people spent in temporary accommodation; and the threat posed by UK government reform of housing benefit.

Discussion: Shifting Policy Implementation in a Changing Context

In many ways the policy review conducted by the Homelessness Task Force in 2000-2 represented a 'textbook' example of rational policy-making (Simon, 1959; Hogwood and Gunn, 1984). All of the Task Force's recommendations were accepted by the Housing Minister in 2002 and the very strong consensus in support of reform (across political parties and non-government stakeholders) no doubt helped sustain the commitment to implementation over a ten-year period. However, the political and economic environment did not stand still during the implementation phase and the evidence presented above suggests that while the core policy goals were largely achieved, there were some subtle shifts in the interpretation of what might be considered 'successful' implementation over the years.

A key contextual change in the policy landscape was the 2007/8 economic crisis, although the impact of ensuing austerity on implementation of the expanded homelessness safety net has not been accurately quantified (Fitzpatrick *et al*, 2012b). Nevertheless, the effects on mortgage finance, pressures in the home ownership and construction sectors, and constraints on budgets for welfare and investment in new social housing, all contributed to increasing the pressure on local housing authorities as they sought to expand their homelessness services to include previously excluded groups. While Scotland retained a more substantial social rented sector than the rest of the UK, the substantial decline in vacancies over the implementation period (Figure 5 above) suggests the risk of losing social housing as an effective solution to homelessness should not be ignored.

The implementation period also saw important changes in political power. During the early period of implementation (2000-2007), the Labour Party was in power at the UK level and was the stronger partner in the Labour-Liberal democrat coalition in the Scottish Parliament. This UK-wide political consensus changed sharply after 2007. First, a Scottish National Party (SNP) government was elected to the Scottish Parliament in 2007 and re-elected with a significant majority in 2011. Despite many other conflicts with Labour policies, the SNP Government adopted the commitment to the abolition of the priority need distinction in homelessness assessments. However, the Homelessness Monitoring Group which had followed progress of all 59 task force recommendations was replaced by a '2012 steering group' with a tighter focus on the abolition of priority need. Other policy changes arguably resulted in the dilution of the spirit of the Homelessness Task Force's review, as well as technical redefinition of the policy target. These measures included a shift towards homelessness prevention through the introduction of 'Housing Options' approaches to dealing with applications (Scottish Government, 2009; Shelter Scotland, 2011, 2013); greater emphasis on settled accommodation in the private rented sector (Scottish Government, 2010; SCSH, 2011) and a consultation on the

future role of social housing which questioned the longstanding categories of applicants (including homeless households) given reasonable preference for social housing allocations (Scottish Government, 2012d).

The evidence reviewed for this study indicated that policy development at the national level in Scotland (Scottish Government and the Convention of Scottish Local Authorities) drove local practice and could shift policy without further legal change. This was very much the case in relation to the introduction of homelessness prevention activities and the Housing Options approach which potentially blended the assessment of homelessness and the assessment of wider housing needs into one process. The perceived success of homelessness prevention in England during the mid-2000s was a factor in the shift towards prevention in Scotland (Scottish Government, 2009). This was despite the findings of Pawson (2007) that the fall in official homelessness figures in England concealed the extent to which homelessness prevention resulted from the adoption of more restrictive interpretations of the homelessness legislation, redefining rather than resolving the problem. The official New Labour (UK) position at the time of Pawson's study was that homelessness prevention should not be a tool to divert those at risk of homelessness from applying for assistance under the legal framework. This has equally been the position of Labour/Liberal Democrat and SNP administrations in Scotland, but there remains a lack of clarity on the impact of homelessness prevention measures in both jurisdictions. A different method of monitoring and evaluation is required for homelessness prevention compared to implementation of a housing duty to those accepted as homeless or at risk of homelessness, but recent Scottish evidence indicates challenges in interpreting available data as well as the possibility of diversion of applicants from the statutory system:

'the administrative changes associated with the increasingly robust implementation of homelessness prevention activities have somewhat undermined the value of the homelessness statistics as an indicator of trends over time in 'acute housing need'. This is because the 'housing options' approach now widely adopted has resulted in a narrowing of the scope of official statistical recording. As confirmed by our local authority interviews, applicants subject to prevention assistance tend to be considered as having been aided outwith statutory provisions' (Fitzpatrick *et al*, 2012b, p.12).

This perceived tension or policy blurring between homelessness prevention and the original vision of the Homelessness Task Force is a question which cannot be fully explained without further detailed empirical investigation. Evidence from England to date does not provide adequate data for direct comparison and there remains a need to systematically explore whether and to what possible extent preventative services in Scotland may divert homeless households from accessing

their statutory rights. It would have been highly unlikely that the policy landscape would not have changed over a ten year implementation period, but the shift towards a housing options approach, coupled with housing benefit reform appeared to somewhat overwhelm the final stages of implementation of the 2012 target to an extent that the different effects could not readily be disentangled. There remains a need to better capture the lived experiences of those facing homelessness and seeking housing advice in both national and comparative housing research. Researching these experiences almost inevitably involves the co-operation of statutory and non-statutory agencies working with homeless households and this may be another aspect of 'gatekeeping' which presents a challenge. Ethically, neither agencies, workers nor homeless households can be pressurised into research participation, but a research method which gets 'behind the statistics' (which say something about outcomes, but little about process or household satisfaction with outcomes) would significantly enrich the existing evidence base.

Other policy changes under the SNP government included a modest return to council house-building and the phased abolition of the right to buy for social tenants, both measures which should protect the social housing stock to some extent. However, the fundamental principle of a social housing tenancy as the primary outcome for homeless households was questioned in the consultation paper on increasing flexibility for landlords (Scottish Government, 2012d). Initial proposals fell short of a clear commitment that statutorily homeless households would remain a key priority group for access to social housing. This would be a significant shift from the previous SNP Government guidance on matching people to properties, which clearly prioritised homeless households along with other key needs groups (Scottish Government, 2011). McKee and Phillips (2012) also argued that Scotland's strengthened homelessness framework threatened social cohesion in the social rented housing sector, but the statistical analysis undertaken for this study indicated the problem of a declining pool of vacancies was much more significant than increase in the number of homeless households rehoused. Moreover, Pawson (2007) concluded that arguments that homeless households 'crowded out' access to social housing for other groups remained unproven; and Wilcox *et al*, (2010) found no substantive evidence that homeless households were more likely to result in concentrations of poverty than other groups in need of social housing. Beyond these studies, evidence of street level bureaucrats' practice of letting individual properties is also limited. As discussed above, flexibility with property size in allocations was subsequently threatened by housing benefit reform. Other mechanisms to smooth the allocations process included: mutual exchanges between tenants; using tenancy transfers to create vacancy chains; and local

authority nominations to RSLs. The use of strategic lettings plans to co-ordinate allocations across landlords in a local authority area emerged as a tool to facilitate fair quotas of lettings for different groups, including homeless households.

The political complexion of the UK government also changed in the late phase of policy implementation with the election of a Conservative-Liberal Democrat coalition government in 2010. This was a potentially much more challenging political change as the new UK government pursued a radical neoliberal welfare reform agenda in the aftermath of the financial crisis of 2007-8. Austerity measures impacted on both the overall financial settlement for Scotland and, crucially, on the welfare benefit system which underpinned aspects of housing policy implementation. Through powers reserved to the Westminster Government, the Welfare Reform Act 2012 introduced measures to reform welfare benefits (including housing benefit) which were contradictory to the goals of Scotland's homelessness policy reform and which undoubtedly made its long-term sustainability much more challenging to secure. The clawing back of benefits where social tenants were considered to be 'over-housed' was a key element of this package which caused considerable concern amongst participants in this study as discussed above. Nevertheless, the SNP government and its partner local authorities continued with implementation of the expanded homelessness safety net, while policy in England resulted in a diminution of housing rights and tenure security (Fitzpatrick *et al*, 2012a).

In their study of thirteen European countries, Pleace *et al* (2011) reported a variation in the proportion of national housing stock in the social rented sector of between 1 and 32 percent. Scotland therefore had a relatively generous, but not exceptional, supply of social housing; what was more exceptional was the expansion of an existing legal route into social housing for homeless people. Across Europe, landlord reservations in allocating social housing to homeless households related to the capacity of homeless people to sustain tenancies; increasing aversion to financial risk; and policies to avoid concentrations of poverty (Pleace *et al*, 2011). The evidence base for such assertions merits further investigation in both the Scottish and international contexts. While the requirement to meet a range of housing needs was acknowledged, Pleace *et al* (2011) argued for improved co-ordination of social housing allocations and concluded that in combination with a reasonable minimum income and help with housing costs, social housing remained an important resource in relieving homelessness. The Scottish evidence reported here supports those recommendations. However, there remains a gap in the international evidence base in terms of rigorous comparative analysis, in particular a specific comparison of the implementation of 'the right to housing' in Scotland with that of France. While the transfer of the Scottish or French systems to different national housing contexts may not be

feasible in any simple, mechanistic sense; the principle of the proven effective implementation of a legal duty to assist homeless households may well be adaptable to different housing tenure and welfare systems.

Conclusion

As Scotland passed the 2012 milestone in homelessness policy implementation, the evidence indicated considerable success in abolishing the priority need test, but continuing challenges in the provision of settled accommodation for all unintentionally homeless households. The Scottish Government's press announcement of 21 November 2012 stated that the commitment 'will be met and in force from 31 December' (Scottish Government, 2012a). However, official statistics (which lagged behind the ministerial statement) indicated that six local authorities fell short of the target (to varying degrees) at 31 December 2012 (Scottish Government, 2013b). There was no substantive public debate around what action would be taken where a local authority did not meet and/or sustain the commitment and Scottish Government (2013c) reported complete compliance from January – March 2013. Overall implementation demonstrated that with political consensus, policy goals could be achieved over a ten-year period but that political shifts also mediated planned outcomes: such as 'settled accommodation' in a 12 month private tenancy rather than a secure social tenancy; or after an unreasonably lengthy period in temporary accommodation. Continuing monitoring of the strengthened framework would remain essential to demonstrating *both* the abolition of the priority need test *and* the provision settled accommodation within a reasonable time period.

In terms of social justice, the expanded homelessness safety net removed long-standing discrimination between different groups of homeless households, thereby increasing equality in access to housing. It could be argued that Scotland was not fully free to implement completely egalitarian welfare policies as the core redistributive mechanisms of taxation and welfare benefits remained reserved powers of the UK government. Morelli and Seaman (2012) made the case for maintaining, and increasing, universal welfare in areas where Scottish Government had devolved power, for example through progressive reform of local taxation (the Council Tax), and some notable achievements do distinguish devolved social policy in Scotland. Along with free personal care for older people and free access to higher education, the strengthening of the Scottish homelessness legislation emerged as a beacon policy which survived political change at Scottish and UK levels. However, a key challenge for Scotland remained the extent to which the political rhetoric of social justice (evident in successive policy statements of the Labour, Liberal Democrat and Scottish National Parties) would be matched by the outcomes of policy programmes. Mooney and Scott (2012) acknowledged that devolution was more

fundamentally equated with territorial justice, than social justice, but they also suggested that social policy could be a nation-building tool, drawing comparisons with other contemporary examples of devolved government (Spain, Canada and Belgium) as well as with potential models for an independent Scotland (notably the Nordic nations). The modernised homelessness framework could be one indicator of such nation building.

As the Scottish Parliament moves into a more mature phase of governance (with a referendum on full independence in 2014), the implementation of the right to settled accommodation for all unintentionally homeless households can justly be cited as a major policy achievement. Whether it truly emerges as a triumph for housing rights and egalitarian social policy will depend on whether the Scottish housing policy community sustains this strengthened legal framework; or whether the risk of policy blurring becomes increasingly pronounced as homelessness assessment is blended with broader housing advice services. While the case for progressive measures which genuinely prevent the trauma of homelessness is irrefutable, this should not be at the expense of diluting Scotland's broad definition of homelessness or diverting those facing homelessness away from the strengthened legal safety net which has been such a focus of national and international acclaim. Perhaps most importantly, a good deal more empirical evidence of the actual lived experiences of those facing homelessness in Scotland is needed in order to 'de-blur' the picture and fully assess implementation of the right to settled accommodation for homeless people.

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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 partnership' 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 governance, (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 Kinrae, 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' (Brodin, 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).

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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 problematic 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 heightening 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 highlighted the low support for welfare in liberal welfare regimes (Larsen, 2006), where strictly targeted, ungenerous social assistance programmes create a clear distinction 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 considered 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).

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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).

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

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‘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 Pleave, 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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'You can judge them on how they look...': Homelessness Officers, Medical Evidence and Decision-Making in England

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› **Abstract_** *Unusually in the international context, in England the landmark Housing (Homeless Persons) Act 1977 provided a set of justiciable rights to homeless people. Local authorities have a duty to assist homeless people who meet a set of eligibility criteria set out in the Act. One of the criteria, 'vulnerability', often requires consideration of medical evidence. Homelessness officers are the key actors in deciding whether or not an applicant is 'vulnerable'. Previous research has often contended that there is both bias against some high need groups and inconsistency in the decisions made by local authorities in relation to vulnerability under English homelessness law. This paper builds on those critiques by examining decision-making in relation to the use of medical evidence in homelessness cases in England. It explores how homelessness officers assess the 'expert' medical evidence that is put to them, how far they rely on their own intuition and judgement, and the other factors that influence their ultimate decision. The study was able to investigate the intersection between law, administration, and medicine and add to the evidence base in the operation of English homelessness legislation.*

› **Keywords_** *Homelessness, UK homelessness law, medical evidence, vulnerability, housing rights, welfare rights.*

Introduction

Significantly, and unusually in the international context (Fitzpatrick and Stephens, 2007), the landmark Housing (Homeless Persons) Act 1977 gave homeless people in Great Britain a set of justiciable 'rights' and imposed duties on local authorities to assist homeless people who met a set of eligibility criteria. The legislation has been commended as providing 'a strong and effective framework for prioritising the housing needs of the most vulnerable' (Loison-Leruste and Quilgars, 2009: 95). Indeed international evidence suggests that it has led in the UK to a housing system that makes it more difficult for social landlords to exclude the most vulnerable households from the social rented sector (Fitzpatrick and Stephens, 2007).

Nonetheless the operation of the legislation has also been subject to much criticism because of the breadth of discretion given to local authority homelessness officers (Lidstone, 1994, Cowan, 1997, Cramer, 2005). Such discretion can lead to both subjective and personal decision-making by officers with ideas of merit and expectations about behaviour becoming part of the decision-making process (Cowan 1997; Cramer 2005). It can also lead to inconsistencies in decision-making between authorities (Loveland, 1995), with some authorities using gate-keeping practices to deny rights to the homeless (Anderson and Morgan, 1997; Homeless Link, 2004; Pawson, 2007).

This paper, using data from an Economic and Social Research Council (ESRC) funded project, builds on those critiques by examining decision-making in relation to the use of medical evidence in homelessness cases. It explores how far homelessness officers assess the 'expert' medical evidence that is put to them, how far they rely on their own intuition and judgement, and the other factors that influence their ultimate decision. In conducting a detailed examination of the use of medical evidence in local authorities' homelessness decision-making processes, the paper seeks to demonstrate the different information that local authorities take into account when assessing whether applicants are vulnerable. In particular we consider where medical evidence is obtained from and how it is weighed up by officers when deciding cases. It considers the extent to which 'vulnerable' applicants are socially constructed by officers and assesses whether the inconsistency and unfairness reported by past research on the interpretation of 'vulnerability' by local authority homelessness officers was present in decisions about vulnerability that were specifically linked to medical evidence.

UK Homelessness Legislation

The 1977 legislation originally applied throughout Great Britain. However, since devolution the systems in Scotland (particularly) and Wales (to a lesser, but increasing extent) have diverged. The focus of this paper is on England and the legislation that is now contained within the Housing Act 1996, Part 7. Within the law, there are five 'obstacles' (Robson, 1981) which homeless people have to overcome to be found eligible for the main homelessness duty. These are to be 'homeless' (see further below), 'eligible' (certain persons from overseas, notably asylum seekers, are ineligible), not 'intentionally homeless' (a deliberate act that would cause someone to lose their home such as rent arrears, anti-social behaviour or giving up reasonable housing), to have a 'local connection' (this could be family, a job or having lived within that local authority area for a specific amount of time) and finally to be in 'priority need' (Fitzpatrick *et al*, 2009).

The focus of this paper is on this last criterion of priority need, but it is worth noting that the definition of what constitutes 'homelessness' in the legislation is very broad by European standards. Alongside people living rough and living in emergency accommodation, the Act also defines people in accommodation in which they could not be 'reasonably expected to live' as being 'homeless'. In practice, this means people in housing they have no legal right to occupy, which is seriously substandard, which is overcrowded or in which there is a risk of gender based (domestic) or other violence are defined as 'homeless'. This is a broader definition of homelessness than that contained, for example, in the European Typology of Homelessness and Housing Exclusion (ETHOS)¹ as the English definition includes households that are defined in ETHOS as in situations of 'housing exclusion' rather than 'homelessness'. Many EU member states also define 'homelessness' in narrower terms than the 1977 English legislation (Baptista *et al*, 2012).

Any homeless household can ask for assistance, in the form of advice and information, from a local authority. The authority must conduct enquiries into the case if they have reason to believe that the applicant is homeless. If, following those enquiries, the authority concludes that an applicant is homeless, eligible, not intentionally homeless and found to be in priority need, he or she is owed the main homelessness duty. If they do not have a local connection to the authority to which the application is made, the duty can be transferred to a local authority in which they do. Since amendments in 1996 and 2002, the main homelessness duty is now, technically, to provide temporary accommodation until settled housing becomes available. In practice, almost all local authorities provide temporary accommodation and then work to provide homeless people found eligible for the main homelessness duty with settled housing. This settled housing has usually been in the

¹ <http://www.feantsa.org/spip.php?article120>

social rented sector, although since amendments to the legislation which came into force in 2012 the private rented sector is likely to play an increasingly significant role (Wilson, 2013).

Applicants who are rejected have a right to seek an internal review of the decision and to appeal to the county court against the review decision on 'a point of law' (Housing Act 1996, ss.202, 204). It is this legal right for individual applicants to challenge decisions, albeit limited, which gives the legislation its justiciable quality.

Local authority decision-making

Despite being characterised as giving rise to legal rights, there is within the legal framework a large space for the exercise of discretion by officers. This has been the focus of a number of studies (Loveland, 1995; Cowan, 1997; Halliday, 2000a, 2000b, 2004; Cowan and Halliday; 2003). In exercising it local authority staff interpreting homelessness law have been portrayed as working in an environment that 'can be characterised as a space where law and alternative normative influences co-exist' (Halliday, 2004, p.87). In addition to legal norms, Halliday suggests a range of other normative systems: financial management, performance audit and political pressure exist as influences in interpreting the law. Each of these may bring pressure for officers to exercise their discretion in a particular way.

In addition, Halliday (2000b) contends that homelessness decision-making appears to be 'professionally intuitive' and that 'bureaucratic knowledge' amongst officers is socially constructed. He explains that case workers learn to understand what a case 'is about'. They gain a professionally intuitive sense of what is the 'real story' behind a homelessness application and this can inform the nature of the casework which follows (Halliday, 2000b, p.465).

Further to this, Cramer (2005) notes that gender influences the way homelessness officers socially construct applicants and view their cases. She concludes (2005, p.749): 'Homeless people themselves were seen as drawing on or fitting in with, particular gender roles and to behave against these roles and rules affected the sympathy housing officers showed to the case'. Several researchers have concluded that it is not uncommon for local authorities to make inconsistent and unlawful decisions, and for these to go unchallenged by applicants (Hunter, 2007).

Priority Need and 'Vulnerability' Decision-making Under Homelessness Legislation in England

The priority need category is important because it differentiates those groups to whom a full housing duty is owed and those for whom only advice and assistance is available. Priority need is a particularly key criterion for 'single' applicants, i.e. those who do not fall within the priority need categories of being pregnant or having dependent children. To qualify for the main duty, a single applicant must be 'vulnerable as a result of old age, mental illness or handicap² or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside' (Housing Act 1996, s. 189(1)(c)). The categories of priority need were extended in 2002 by the Homelessness (Priority Need for Accommodation) (England) Order 2002. However, while some of the extended categories require an assessment of vulnerability, none expanded the categories of priority need in a way that necessarily required the consideration of medical evidence. It is thus in cases where an applicant is asserting that they are vulnerable under s.189(1)(c) that medical evidence most often comes into play.³

While one might think that to be homeless is in itself to be vulnerable, the homelessness law and associated guidance (DCLG, 2006) in England provides quite limited assistance to local authorities as to what precisely is meant by 'vulnerable.' The Code of Guidance summarises (although without acknowledging the source) the decisions in a number of cases where 'vulnerability' has been considered by the courts. The leading case is that of *R. v Camden LBC, ex p Pereira* (1998) 31 HLR 317, CA, which stated that vulnerability means an applicant being 'less able to fend for himself than an ordinary homeless person so that injury or detriment to him will result where a less vulnerable man will be able to cope without harmful effects.' What the *Pereira* test establishes is that when making a decision about vulnerability, the authority must look forward to the future, i.e. it is an assessment of risk: *Osmani v. Camden L.B.C.* [2004] EWCA Civ 1775; [2005] HLR 22 (Hunter, 2007).

However, while there is broad guidance from legal precedent, local authorities retain a high degree of discretion in how they interpret the homelessness law and have been under increasing central government policy pressure to reduce the number of homeless acceptances and to pursue homelessness prevention as an alternative policy (ODPM Select Committee, 2005).

² i.e. a learning difficulty or disability.

³ It is also relevant once a full duty has been accepted if an applicant wishes to contest the suitability of accommodation offered on medical grounds. However, decisions on the suitability of accommodation are often made by different officers from those considering vulnerability.

Previous research has suggested that inconsistencies exist in how 'vulnerability' is interpreted by local authorities and the decline in the number of acceptances is not necessarily simply a reflection of better preventative techniques and other policy improvements. Some evidence indicates that local authorities can sometimes act as 'gate-keepers' deliberately employing a narrow definition of vulnerability (and other statutory criteria) in order to limit the numbers of people to whom duty is owed, particularly when available social rented stock is under extreme pressure (Carlen, 1994; Lidstone, 1994; Anderson and Morgan, 1997; Homeless Link, 2004; Pawson, 2007). Research has also found that social housing landlords can also be resistant to housing homeless people, mostly due to concerns centred on housing and area management problems associated with people with high support needs and spatial concentrations of workless populations, not just in England, but also in France and much of Northern Europe (Bretherton and Pleace, 2011; Pleace *et al*, 2011; Ball, 2012).

Medical evidence and vulnerability

The use of medical evidence is an important, and contentious, issue within debates about the interpretation of 'vulnerability', and has been central to a number of court cases in recent years. The courts have found that if an applicant provides his or her own evidence and the local authority has no basis for refuting it, then it must be accepted (see *R v. Bath C.C., ex p Sangermano* (1984) 17 HLR 94, a case of learning impairment). The case law suggests that in most cases, however, local authorities seek to provide their own medical evidence or advice, rather than simply accepting that put to them by the applicant. Significantly, in giving evidence to the ODPM Select Committee (2005, p.24), the Housing Law Practitioners' Association argued that when deciding whether a person is in priority need by reason of vulnerability through physical or mental health, authorities pay little attention to consultant reports supplied by the applicant and shore up their decision that an applicant is not in priority need by obtaining favourable decisions from their own (in-house) district medical officers who will invariably (with some notable exceptions) provide negative advice despite their own lack of expertise, the limited information before them and the absence of any attempt to meet the applicant to assess his medical condition first-hand.

Such practice sometimes leads to a 'battle' in court between the experts for the applicant and the local authority regarding whether an applicant should be deemed 'vulnerable' and therefore owed the main homelessness duty (see *Bellouti v. Wandsworth LBC* [2005] EWCA Civ 602; [2005] HLR 46). A common thread in many such court cases has been the use of a particular private company, which provides services to over 50 local authorities in the UK. The practice of that company is generally not to medically examine or even meet applicants, but rather give a medical opinion based on the written evidence the local authority has compiled

(Marshall, 2007). Their decisions have featured in a number of court cases: *Bellouti v. Wandsworth LBC* [2005] EWCA Civ 602; [2005] HLR 46; *Khelassi v. Brent L.B.C.* [2006] EWCA Civ 1825; *Shala v. Birmingham C.C.* [2007] EWCA Civ 62; [2008] HLR 8; *Wandsworth LBC v. Allison* [2008] EWCA Civ 354 (see Hunter, 2007). Concerns regarding whether local authorities were being encouraged to externalise consideration of medical evidence (Marshall, 2007), were sufficient for questions to be raised about the practice in Parliament in 2006 (Hansard, 2006).

It has been said that the housing profession as such is relatively under-professionalised (see Franklin and Clapham, 1997; Franklin, 2000; Clapham *et al.*, 2000; Furbey *et al.*, 2001; Casey and Allen, 2004). Whilst none of these studies have looked directly at homelessness officers, Halliday's (2000a; 2000b) work on the operation of homelessness law suggests this is also the case for homelessness officers. Given this relative lack of 'professionalisation', wherein homelessness officers are generally of lower professional status than social workers for example, it might be anticipated that homelessness officers could be strongly influenced by medical views. In other areas of decision-making, such as mental health tribunals, the use of medical evidence has been described as leading to decisions that are made 'on the fraught borderland between law and medicine' (Richardson and Machin, 2000 p.110). Evidence from mental health tribunals suggests that decisions may be over-influenced by the views of the 'expert' medical member in reaching their legal conclusions (Richardson and Machin, 2000) and that it can be difficult to challenge medical evidence and to find independent medical experts (Campbell, 2008).

However it may be that in administrative decision-making not all medical expertise is accorded the same weight. Gulland (2011) reports that in applications for Employment and Support Allowance (ESA⁴) in the UK, administrative decision-makers are devaluing the evidence provided by professionals and claimants themselves in order to 'objectively' filter 'true' and 'false' claims. ESA decisions are made by Jobcentre Plus staff based on a test administered by health care professionals, together with the form filled out by the applicant and reports from the applicant's General Practitioner (GP) (a family doctor). Gulland concludes (2011, p.76) "The evidence produced by the medical assessment is more highly valued because it can be easily assimilated into quantifiable 'objective' facts and also has the additional moral status of 'medical' and therefore 'scientific' evidence. This contrasts strongly with evidence provided by claimants themselves... which is regarded as subjective and untrustworthy. The evidence provided by GPs, while having the moral status of 'medical' evidence, does not have the strength of that provided by the 'objective'... test."

⁴ See <https://www.gov.uk/employment-support-allowance>

Given the findings of Halliday (2000b; 2004), it might be expected that homelessness officers would develop a socially constructed understanding of medical evidence, which is influenced, at least in part, by the relative 'authority' (Lukes, 2005) attributed to its source. The legitimacy or significance accorded to various forms of medical evidence may thus differ depending on its source (e.g. the applicant themselves or doctors employed directly by the authority) or the nature of the evidence (e.g. from a doctor who has direct knowledge of the applicant compared to one just commenting on written evidence). Halliday's work also suggests that administrative norms, the socially constructed 'bureaucratic knowledge' of 'what a case is about' among homelessness officers, which is important to their decision making, may sometimes lessen the potential influence of medical evidence on decisions, even if that evidence comes from a highly respected source (Halliday, 2000b).

The Study

The study employed a mixed-method case study approach with case studies located in three different local authorities across England. The authorities (London Borough, Northern City and Eastern Town⁵) were purposively selected to include both urban and rural jurisdictions, large and small authorities (in terms of the annual number of homelessness applications), and different approaches to assessing medical evidence (with at least one council employing the services of external medical consultants). In order to understand the day-to-day decision-making practices of homelessness officers, detailed empirical work was required and thus the case studies in each area were comprised of four elements.

Firstly, a semi-structured in-depth interview was carried out with the local authority Housing Options⁶ manager (or senior representative in an equivalent role), which explored each local authority's organisational policies and procedures as regards the use of medical evidence (in both applications and reviews), and explored the rationale behind the different approaches adopted.

Secondly, a focus group was undertaken with frontline homelessness officers who have handled applications and/or reviews involving medical evidence. These involved between four and six participants, depending upon the size of each local authority. Given their immense value as a tool in studies examining sensitive issues

⁵ These geographic descriptors are used as pseudonyms for each of the study areas throughout the rest of the paper so as to preserve their anonymity.

⁶ The homelessness officers that assess eligibility are generally located in Housing Options teams. A Housing Option team administers the homelessness law but also has a role in homelessness prevention.

(Barter and Renold, 1999; Rahman, 1996; Schoenberg and Ravdal, 2000), vignettes – short written scenarios intended to elicit responses to typical situations (Hill, 1997) – were used to explore how officers would deal with particular cases. Although hypothetical, the scenarios used were loosely based on ‘real’ (anonymised) cases, where medical evidence had been used, to ensure they were plausible. The utilisation of uniform vignette ‘scenarios’ across all the case studies enabled consistent comparison of different organisational cultures.

Thirdly, individual homelessness application case files were examined in detail. Across the local authority areas forty-one case files of the most recent decisions (including both cases that were accepted and rejected), where a decision on vulnerability involved taking into account applicants’ medical issues, were examined. In addition, nine of these cases proceeded to internal review (the first stage in any challenge to the decision) and the review stage of the case file was also examined.⁷ This enabled the research team to consider ‘real’ cases and assess the actual medical evidence that was requested and provided in the case and how influential that medical evidence was in the final decision.

Finally, following the case file analysis, a semi-structured in-depth interview took place with the officer(s) handling each individual case. The researchers conducted forty-six interviews with decision-making homelessness officers regarding the individual decisions on each of the case files that had been analysed, including those that went on to review. With reference to each case, interviews explored: officers’ understanding of and response to the medical evidence before them; whether they sought particular types of medical evidence; how and to what extent medical evidence (from various sources) influenced their decision on the case; the other factors taken into account (e.g. council policy, targets, ‘intuition’ etc.); and their understanding of the application of the law to that particular case.

In summary, fieldwork across the three case studies comprised a total of three Housing Options manager (or equivalent) interviews, three focus groups involving a total of fourteen frontline homelessness officers, analysis of forty-one case files and forty-six in-depth interviews with homelessness officers and review officers. The data was analysed using thematic analysis, a theoretically flexible approach to analysing qualitative data (Braun and Clarke, 2006). Thematic analysis allows the researcher to combine the systematic element of the analysis of the frequency of codes with the analysis of their meaning *in context*, enabling the subtlety and complexity of a truly qualitative analysis (Joffe and Yardley, 2003).

⁷ The number of review cases to arise during the study period was small reflecting the relatively low number of cases recorded annually in England (Cowan and Halliday, 2003).

Findings

This section of the paper outlines the typical processes involved in a homelessness application where 'vulnerability' based on medical issues was being assessed. This is followed by a discussion of the core factors that were found to be important in officer decision-making.

Application process in cases of 'vulnerability' linked to medical need

In all three authorities, decision-making started with an initial assessment of the applicant's housing options, which included whether the applicant met the statutory criteria for homelessness enquiries to be made. In two of the authorities these were conducted separately by housing advice or housing options officers before being passed onto specialist homelessness officers. In one authority (Northern City) officers combined both functions and would carry out the initial assessments as well.

In all three boroughs the enquiries into homelessness were conducted by officers who had generally interviewed the applicant (occasionally interviews and further investigations were carried out by different officers). However the processes, which then followed, were very different in each authority. While all three authorities would look to the applicant's own GP for information, in only one area was this the main (and often only) source of information sought. In Northern City a standard letter requesting information was sent to all GPs. Unlike in the other two authorities, however, there was no specialised internal advice available, although there was some evidence that officers would on occasion seek information and advice from officers with expertise whose job was to advise on the suitability of accommodation and needs of applicants for support when being housed.

However even in the other two authorities references to internal services were not standard and/or routinised. In London Borough a 'medical assessment officer' was employed who was used mainly in relation to physical health issues, as this was where her main expertise lay. Although there was a formal referral process, case workers often discussed cases with her on a fairly informal ad-hoc basis. Where information was sought from other medical professionals such as the applicant's GP or other medical professionals treating the applicant, she would write to them and compile a report based on the information received. However, in cases involving mental health issues applicants were referred to a separate assessment service. Applicants referred here were interviewed again and a detailed assessment of support needs was carried out with a decision given within a set time-frame.

Eastern Town, by contrast, relied very heavily upon information from their in-house intensive support worker who was allocated to clients with higher support needs. This support worker did not have any professional medical qualifications or training herself, but instead gathered information from external sources and indeed the

clients through her regular contact with them. The two larger authorities (Northern City and London Borough) had contracted to have access to a third-party private service (MedicReview⁸). The MedicReview service was staffed by a small group of doctors. The procedure in this instance was to have all the documents that had been collected and held by the local authority faxed or emailed to MedicReview, which would then respond with an assessment of 'vulnerability'. MedicReview staff did not conduct a medical examination or even meet the applicant at any point during their assessment. The evidence showed that even within authorities different levels of use were made of MedicReview, with some officers stating that they had never made a referral, while noting that other teams did make greater use.

Thus the information on which decisions were based was not collected in a standardised manner and could be subject to input from a range of different persons, some with medical expertise, some without, some who had interviewed or were otherwise familiar with the applicant, and some who only saw the paper evidence.

Once the information had been collected a decision to accept or reject the applicant was made, often in consultation with the homelessness manager. The research showed that the manager, who in most cases has had little or no contact with the applicant, had priority of decision where there is any dispute in the assessment. They might advise that additional input into decision-making be sought from either the internal or external sources set out above.

Processes influencing decision-making

The research found several processes influencing and interacting with one another in decision-making. It was not necessarily the case that any one of these processes was in itself determinative of the outcome, that is, whether or not the applicant was deemed to be owed the main homelessness duty. There were variations in the influence of each factor, often depending on the extent to which an application was contested and thus exposed to more scrutiny.

'First impressions'

Given existing documentation of the way applicants are socially constructed by officers (see above) we were interested to what extent (if at all) first impressions made at the initial interview might be influential. The interviews with senior management gave some indication that initial impressions of the applicants were important. There was further support for this during the interviews with frontline officers when looking retrospectively at some of their cases. Certainly, physical infirmity (e.g. walking with a stick, shortness of breath, amputated limbs) was seen as a strong indicator of vulnerability even before any information had been collected. The influence of first impressions was also particularly acute where presentation might

⁸ Not its real name.

indicate that an applicant was not able to engage sufficiently with the application process. These findings suggested that *looking* ill, while not in and of itself necessarily a determinant of the eventual outcome of an application, created a sense of sympathy and empathy among some homelessness officers.

Your first interview is usually the most important. The first interview, how they present themselves, is very important and that kind of gives you your gut feeling of how you feel about his conditions.⁹

I think, from memory, not so much his physical appearance but the way he presented, he didn't really engage very well.... [He] wasn't particularly communicative, not very real eye contact; he was just sort of present but not really engaging. His key worker did most of the work.

He himself didn't...seem like he was a vulnerable person 'cos he was talkative, the way he was dressed, his behaviour, everything, he never showed any signs of any form of mental health issues whatsoever.

'Appropriate' behaviour

Previous research into homelessness services has suggested that 'shorthand' constructs of 'worthy' and 'difficult' service users are routinely developed by homelessness professionals and that snap judgements, based on assumed characteristics can inform some responses by service providers (Hutson and Liddiard, 1994, Cramer, 2005). For homelessness officers, a key basis for determining 'vulnerability' was whether someone showed capacities in understanding and using the homelessness system. From a homelessness officer's perspective an applicant could appear to be 'too clever' or too 'tuned in' to local authority procedures to be seen as vulnerable. Suspicions were reported to be raised by homelessness officers when an applicant seemed to 'know the system' a little too well.

... I mean him, even how he interacted in the interview, he didn't come across as like, like someone that was, you know what I mean, that was not intelligent. In fact he, he seemed quite intelligent and he seemed to know what, what he was talking about... I mean he's acknowledging that there are some issues in his life that he has to sort out. In my experience, I mean if you've got serious mental health issues, you wouldn't be able to have that, that, that sort of reasoning.

He didn't present as vulnerable to me, to be honest....again he knew... the procedure in regards to approaching the Council and the kind of questions he would be asked.

⁹ Unless stated otherwise, all quotes are taken from frontline homelessness and review officers.

Nonetheless impressions of appropriate behaviour were not necessarily always determinative. Officers did sometimes report that the way an applicant presented at interview did not always correspond with the final outcome assessment of vulnerability.

At the beginning I wasn't sure if it was a fifty/fifty chance because I've dealt with ADHD and autism before, but it's kind of depending on the severity of it. It's really hard to tell at initial, at an initial stage. So I couldn't really say at the initial stage of the application which way it was going to go really.

'Gut feeling'

The two previous headings are closely related to what might be termed 'gut-feeling'. While, as noted below, the research showed that medical evidence and advice of medical professionals, and more importantly the way in which this information is used, was important in assessing vulnerability, a substantial element of the decision-making process was found to rest upon 'gut feeling' and what homelessness officers attributed to professional intuition. This finding appears to echo the results of some earlier research, suggesting that homelessness officers relied heavily on their own feelings alongside reference to various sources of information and reference to senior managers (Halliday, 2000b).

I think you start with the gut feeling, the sort of feel you have for a case, and then you kind of work with that... You do get the odd one. But generally I think our gut feelings are pretty good indicators.

I think it just comes with time doesn't it? I must sound like an old... [laughter] When you start doing this job it's almost like you've been thrown in with the lions. You rely an awful lot on your colleagues for support and advice. And then the more you do it, you find that certain scenarios kind of repeat themselves.

Medical knowledge

Despite these intuitive feelings, the officers across the local authorities were absolutely clear in acknowledging that they did not have sufficient medical expertise to make decisions without assistance. Officers sometimes reported that they had interpreted an applicant's case as particularly severe, only to find that the medical professionals from whom they requested an opinion of vulnerability would then suggest otherwise.

... we're not medically trained, to be honest. I mean, fair enough, I can read a letter, think oh my God, you know, he is vulnerable, but then I can't make that decision. This is why we've got a medical advisor, this is why we have MedicReview, so we can refer it to get an opinion from them. And I just went by [the medical advisor's] opinion because obviously she's the one who deals with medical evidence and knows which... client should be vulnerable based on their medical health.

Homelessness officers generally did not deviate from the advice given by advisors, particularly internal medical advisors.

I'm not in a position to obviously issue any information or recommendation from a medical point of view. So if we have a team of, you know, professional doctors and, and our medical advisor as well saying that she's not vulnerable, there's not that much I can do to override that.

However, there was some distrust of MedicReview, particularly in relation to the speed with which assessments were made and a decision given, often within 24 hours, as well as the lack of an actual physical examination by a doctor.

MedicReview don't actually meet the client. They will just base their opinion on the information that we provide, or that we gather, and what the client has provided as well.

This scepticism about MedicReview extended to those cases that reached review stage. It was mentioned that while generally MedicReview would make an assessment of no 'vulnerability'; this would almost always be overturned by MedicReview if the case went to a review.

... there wasn't really that much additional information that they considered in terms of... (review officer) didn't really gather anything of any significance that, that wasn't already known in order for them to overturn the decision. But...this is just something that, that, you know, MedicReview do. I don't really know why. But they will tell the caseworker that they don't feel...that the applicant's vulnerable but then they would sort of change their mind and issue a totally different recommendation when it comes to the review stage. I don't know why but it, it's a pattern that we do see...

If information gathered by frontline officers did not result in an adequate level of confidence in making a decision on an applicant's vulnerability, the officers would seek the advice of a senior colleague. The research suggested that senior staff tended to follow the medical advisor or MedicReview advice in those instances when frontline officers passed on cases where there was ambiguity.

But because we're not medically trained, 9 out of 10 times we do agree with the medical advisor's recommendation. It's only when you feel so strongly about a client that you do sometimes go against the medical adviser's opinion. But I usually speak to a senior and he usually agrees with the medical advisor's negative recommendation! (laughter). He's like 'no'.

General practitioners

There was, however, much more doubt shown about the objectivity of those who had actually medically examined the applicant, typically their own GP. While GP accounts were not requested across all the areas, usually due to financial constraints, in the two areas that did use them, it was generally felt that GPs tended to be 'on the side of' the applicant. There was a perception among homelessness officers that GPs often exaggerated their patients' conditions so as to enable an assessment of vulnerability. It was assumed that GPs did not understand vulnerability in the specific terms of the homelessness legislation; rather, their assessments were based on a far more generic definition of 'vulnerability'. Consequently, some homelessness officers thought that an assessment undertaken by internal medical assessors or MedicReview would be more objective and accurate, because it used the criteria within the homelessness legislation and case law to assess vulnerability.

I think with our assessors they are more objective really, and they're just going to look at it as the facts stand, I think.

Intriguingly, the greatest degree of ambivalence towards medical evidence obtained from an applicant's GP came from the local authority that relied upon GP reports most heavily – although some similar views were also expressed in the other two authorities. As noted, Northern City in each case requested a full report from the GP in order to assess patients' vulnerability but distrust in the assessments was high among these homelessness officers.

I do worry about how objective the applicant's consultants and GPs are going to be. Because they're always going to try their best for their patients, aren't they? Obviously they're professional people and I'm not suggesting that they would deceive you, but they may kind of embellish someone's symptoms in order for them to secure housing.

Furthermore, during the case file analysis in this area it was evident that if the GP stated the applicant was 'vulnerable', the officer responsible would often make further checks or disagree. However, it was almost always the case in instances where the GP stated an applicant was 'not vulnerable' that the officer would accept this assessment. When a GP had said an applicant was not vulnerable, this would often be presented as the 'evidence' in the non-priority need decision letter that would then be sent to the applicant informing them of the negative decision given by the local authority.

Medication, dosage and the Internet

A striking feature in homelessness officers' decision making was their regular referral to levels of dosage of medication. Medication, and particularly the dosage prescribed, was used as a very important proxy of vulnerability for some homelessness officers. Decisions about the supposed 'severity' of a condition were sometimes being made by officers who were not medical professionals based on assessments of dosage level.

....dosage to us is very important as well, if it's a high dosage then that indicates the person could be vulnerable based on the high dose. If it's a standard or a very low one, you can always argue, well you're not priority, although you're on medication but they're just standard or they're the low dosage.

Because, I mean in order for MedicReview to, to sort of come up with an opinion that sort of information would be important for them, because obviously this is the big difference between kind of taking 40mgs of Fluoxetine to them taking 100mgs of Fluoxetine. So that basically gives an idea, well if he's on that sort of heavy medication then obviously he may have mental health issues that would impede his daily activity.

While some knowledge of dosage was built up through experience, officers frequently felt they needed to consult other sources in order to assess the implications of different prescription levels. For this type of information in particular the Internet was used as a source of information. Homelessness officers would often check websites such as Net Doctor or search for information using Google about an illness, what specific medication was for, the effects this could have on the applicant and what different dosage levels signified.

... you see I know some of them because obviously, well dealing with, with cases like on a daily basis, I would know what Aspirin is...but the rest I would usually Google them...go into the Net Doctor and just see which one is, well you know, what is this one and what's this... how you would use it, for what kind of illness.

Benefit entitlement

In a similar vein, the type and extent of welfare benefits homeless applicants were receiving were also taken into consideration. In cases where degrees of welfare benefit entitlement were used, the practice was justified on grounds that any necessary medical assessments had already been undertaken to ascertain the level of benefit to which the individual is entitled. To do so again would, in the opinion of some homelessness officers, entail a waste of public resources. The

welfare benefit most often referred to was Disability Living Allowance (DLA), which if being received at the 'higher rate', but not the 'lower rate' was widely seen as signifying vulnerability¹⁰.

...if somebody's in receipt of higher rate DLA, for care in particular, then that gives us a very good indication that they are vulnerable. If somebody's on a lower rate DLA we would generally, you know, there's a chance that they would not be a priority need.

Role of the applicant

Applicants' personal perspectives and opinions tended to have little influence on the decision-making process, with their role rarely extending beyond that of being a conduit to information and evidence as regards their poor health. In this respect, applicants were typically asked to complete the medical assessment form, but few attempts were made to glean additional information about their personal biographies or circumstances and their own views of the impact of their ill-health or disability on their homelessness:

[I] give it out to them and then while I go away to take the copies I come back and it's completed and then pass it on for, to get an opinion on it...So...generally I never actually question them about the stuff they write in the medical assessment form, especially during the interview.

....I generally just go with enquiries and, it's just the standard stuff that we do, don't get sucked in with their personal circumstances.

A number of homelessness officers noted that they sometimes mistrusted the information the applicant had revealed in relation to their medical issues, referring to 'anomalies' that would be 'found out' during the medical evidence collection process:

... from our point of view, to see that medical [evidence]...'cos some people may just take a walking stick, not necessarily need it but just have it. I mean I've come across clients that say they need wheelchairs and stuff like that and don't necessarily need them...

¹⁰ See <https://www.gov.uk/dla-disability-living-allowance-benefit/overview>

Conclusions

Earlier research in the UK, including that by Halliday (2004) and other studies of homelessness services such as that conducted by Cramer (2005), has indicated that frontline workers in the homelessness sector commonly refer to a social construct of the 'service worthy' homeless person when making their decisions. Similar conclusions have been drawn elsewhere, as US and Canadian research has found that even when someone has been accepted by a homelessness service, the operation of that service and the outcomes it delivers are heavily influenced by constructs of who is 'service worthy' and who is not (Lyon-Callo, 2000; Dordick, 2002; Schneider, 2010). The findings of this study show clear parallels, in that the social constructs developed by homelessness officers in England were derived from their own experiences, but also shaped by professional, administrative and legal norms in the UK (see also Hutson and Liddiard, 1994).

The process of social construction clearly begins at the point of initial interview, which, as the quotation in the title of this paper suggests, can set the impression with the decision-maker as to the nature of the applicant and the 'legitimacy' of his/her case. However, as the evidence presented has suggested, this is only the start of a highly complex process, where initial views are revised, often substantially, in light of the evidence that emerges. However, unlike the decision-making in ESA decisions, reported by Gulland (2011), a much more uneven and differentiated process emerges, involving a range of 'experts' and other sources of information which are accorded different weightings.

Across all three local authorities, the views of 'experts' were highly influential, but some 'expert' opinion was more influential than others. It was certainly not the assessment of the applicant's own doctor, which was often regarded with ambivalence, but rather that of the medical experts employed by the local authority that carried most weight. In so doing it would seem that homelessness officers were trying, very much like the JobCentre Plus staff in ESA cases, to construct an 'objective' assessment of an applicant's medical condition. Furthermore, and notably, it was clear that those persons who might understand such medical issues best (that is, the medical professionals treating the applicant) were generally regarded as being too subjective in their views.

It is interesting that different weightings were also accorded to avowedly 'objective' external sources of information. The lack of trust in MedicReview, for example, stemmed from the fact that the organisation's staff were perceived as being generally negative in their views and thus not objective. They were also considered to know too little of the applicants because they did not meet or interview them. There seemed to be a mid-point between being too much on the side of the applicant (GPs) and not knowing them well enough (MedicReview). In those authori-

ties where an internal medical assessor was present, these internal experts were perceived to be at this mid-point which enabled the homelessness officer to consider that an objective view of the medical condition was being made.

It seems that the Internet was also seen as providing 'objective' sources of information, and this might explain the confident reliance on information obtained this way. It has been said that the Internet exposes the health professional's knowledge to the public gaze and challenges previously hierarchical models of information giving and receiving. This shift in control, Hardey notes, is 'centre to the de-professionalization thesis and could be seen as contributing to the decline in trust in doctors' (1999, p.832). Given this emphasis of objective assessment, it is not surprising that the applicants' views of their situation were accorded so little importance. In creating an objective assessment medication, dosage and the officers' own professional 'gut feeling' or instincts were more fundamental.

Taking these different facets into account it seems that the picture painted by the Housing Law Practitioners Association in their evidence to the ODPM Select Committee (ODPM Select Committee 2005) is to some extent true of cases involving medical evidence today. That said these cases do not simply involve the utilisation of in-house or external medical experts with little or no knowledge of the applicant seeking to give negative decisions. On the contrary, homelessness officers weigh up a range of complex (and sometimes contradictory) forms of evidence, which they seek to assess in terms of the authority and objectivity of the sources, when endeavouring to come to a defensible decision under the legislation.

It has been suggested that the homelessness provisions in England (and their equivalents in the other parts of the UK) avoid the room for inconsistency and barriers to implementation that have emerged in relation to France's right to housing for example (Loison-Leruste and Quilgars, 2009; Ball, 2012). This study has however shown that one should not assume that decision-making is consistently implemented within the English legislative framework.

This is not to argue that we should move away from a rights-based approach. Despite the limitations of rights-based models (see Fitzpatrick and Watts, 2010 and Fitzpatrick and Pleace, 2012), it is not suggested that an alternative of giving more discretion back to public administrators would be an effective response to the problems that are outlined in this paper. Nor is it suggested that moving to a more standardised 'tick-box' model of decision-making as has happened in the case of ESA assessments would necessarily make for better decision-making. As this has not been a study directly involving applicants or indeed their advisers and their views of the process we cannot suggest what, if any, bottom-up reforms might help in avoiding these problems from their point of view.



This research is indicative of the real world problems that can arise even when seeking to guarantee rights to housing for vulnerable homeless people through law. The most obvious change that would end any need for decision-making regarding priority need based around medical evidence would be to follow the move in Scotland to dispense with differentiation based on priority need categories (Anderson, 2009). However, in considering the use of 'housing rights' responses to homelessness, the potential complexities and inconsistencies of bureaucratic process have to be taken into account.

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Not by the Book: The Emergence and Translation of Housing First in Sweden

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› **Abstract_** *The emergence of Housing First in Sweden is described and analysed in the light of the deregulation of the housing market and the existing organisation of service delivery for homeless people. The spread and growth of Housing First in Sweden was promoted by Lund University during 2009. Although widely disseminated, implementation of Housing First has been slow. Only seven of Sweden's 290 municipalities have started, or decided to start a Housing First project. An important reason for this is that the organisation of service delivery with homeless people in Sweden is characterised by a path dependency, in which the 'staircase' model has become an institutionalised practise. None of the Swedish Housing First services has adopted Housing First by the book, but the core elements of the philosophy have been adopted. An evaluation of one of the Swedish Housing First services shows housing stability rates of around 80 per cent and that the tenants feel that their lives have improved in several respects.*

› **Keywords_** *Housing First, housing policy, Sweden, secondary housing market, dissemination, path dependency*

Introduction

Interest in Housing First services as a response to ending long-term homelessness has grown during the past few years, not only in the US and Canada, but also in Europe. Housing First was first developed in New York in 1992 by the non-profit corporation Pathways to Housing (Tsemberis, 2010).¹ The increased popularity of Housing First services has been connected respectively to neoliberalism, marketisation of housing policies and the emergence of an evidence based practice movement (Hedin, Clark, Lundholm and Malmberg, 2012; Stanhope and Dunn, 2011; Willse, 2010). In particular, the themes of effectiveness and consumer choice, inherent to Housing First services, have been of great interest to policy makers (Stanhope and Dunn, 2011).

The aim of this article is to describe and analyse the emergence and translation of Housing First services in Sweden. Considering the fairly limited expansion of Housing First services so far, we discuss how this is to be understood in the light of the rhetorical drive towards evidence-based practise. In order to elucidate this phenomenon, we bring housing policy and the existing organisation of service delivery with homeless people into consideration. In the Swedish context, the spread and growth of Housing First services can be viewed as research driven. In many ways the stimulus for testing Housing First in Swedish municipalities was introduced by Lund University during 2009. The focus was on testing and translating the core principles behind the Pathways to Housing model, rather than importing an existing model without considering the local context. The reason for this was that previous research had identified many difficulties regarding the existing 'staircase' model.

Looking back over the last decade, it is evident that the ideas underpinning the Housing First approach were not new even in a Swedish context, but the years prior to 2009 were not the right time for change (Kingdon, 2003). In early 2001, the Swedish national homelessness committee published its final report with a policy recommendation that the right to housing should guide service delivery (SOU, 2001). The committee had introduced ideas similar to today's Housing First services by inviting experts from other countries that presented evidence from different projects; one of these was the so-called H13 project in Hanover (Busch-Geertsema, 2005). The H13 concept became extremely popular in Sweden, and many municipalities went to Germany to look into the project and thereafter they tried to import the model in very different ways.

¹ Waegemakers Schiff and Rook (2012, p.5) argue that Houselink, a community organization in Toronto, has promoted housing as a right for people that had been discharged from psychiatric institutions during the last 30 years. It can also be argued that the Swedish housing policy since the 1940s has been built upon the idea of housing as a universal right.

Over the last decade, a growing body of research has shown the positive effects of Housing First services, particularly that Housing First can provide housing stability for people with a long history of homelessness with high support needs (Pleace, 2012; Waegemakers Schiff and Rook, 2012; McNaughton and Atherton, 2011; Pearson *et al*, 2009; Stefancic and Tsemberis, 2007; Padgett, 2007; Tsemberis *et al*, 2004). This group has been, and still is, mainly serviced by the shelter system in many countries (Knutagård and Nordfeldt, 2007; Busch-Geertsema and Sahlin, 2007).

On November 6 2009, the University of Lund arranged a national conference on Housing First with the express intention of raising the awareness of homelessness in Sweden, and at the same time promoting new ways of tackling homelessness. The idea was that the core elements of the Housing First philosophy could be valuable for policy making within the homelessness field in a broader sense, than only targeting a specific group of homeless people and providing them with clinical Housing First services (Waegemakers Schiff and Rook, 2012; Kertesz *et al*, 2009). The interest in the conference and the concept was very high, and two municipalities decided almost immediately to start up Housing First services on a small scale. The first one was in the capital of Sweden, Stockholm and the other in Helsingborg, a municipality in the southern part of Sweden. In order to distinguish different forms of Housing First services, the researchers from Lund formulated criteria that needed to be in place to make the service compatible with the Housing First services in other countries. Since most of the international research on Housing First is based on services in the New York model, the principles of Pathways to Housing were adopted:²

- housing as a basic human right
- respect, warmth, and compassion for all clients
- a commitment to working with clients for as long as they need
- scattered-site housing; independent apartments
- separation of housing and services
- consumer choice and self-determination

² The principles were described as “Housing First according to Lund University”. Even though these were based on the principles of Pathways, the main reason for describing ‘Housing First according to Lund University’ was to make it possible to hinder the renaming process (Johnsen and Teixeira, 2010). Suddenly any sublet tenancy was described as a Housing First apartment. Even shelters that were transformed from dormitories to single-bed rooms were described as Housing First. The major difference from Pathways to Housing was that Lund University promoted direct contracts in order to challenge the system with a secondary housing market. Previous research had shown that many people lived for years in these apartments without any need of support and they still were not allowed to take over the contract. It is also within the secondary housing market that the majority of the people defined as homeless live.

- a recovery orientation
- harm reduction (Tsemberis, 2010, p.18)

Some of the principles were adapted to suit the results from homelessness research conducted in Sweden. One of the challenges was how to incorporate the philosophy of the Housing First model into the secondary housing market and the 'staircase' model. One difference was that the idea of consumer choice was translated into a service user involvement perspective. The reason for this was that the idea of the client as a consumer has been criticised on the basis that a consumer has the option to choose the services that he or she can pay for, but a client does not have that option within the welfare system (Salonen, 1998). Before looking more specifically into the Housing First services developed in Sweden, we will discuss the Swedish housing system and how homeless people are provided for within this welfare system. Research on Housing First has primarily been conducted in the US, although this is now changing, and it is important to translate the ideas of Housing First to a national and even local context (Atherton and McNaughton Nicholls, 2008; Pleace, 2012). It is not only important to take into consideration how the housing policy is organised, but also the organisation and delivery of social services in a broad sense. The Housing First services developed by Pathways to Housing have targeted chronically homeless people, that is long-term homeless people suffering from severe mental illness often combined with substance abuse. Housing First services has been provided for other groups of homeless people, but it is not always clear how homelessness is being defined (Waegemakers Schiff and Rook, 2012; Pleace, 2012). The concept of chronically homeless people can also be contested since it implies that the person will always be homeless, and in that sense may construct the homelessness situation as an individual problem (Willse, 2010).

In order to clarify what we mean by homelessness in this article, we will use the definition adopted by the Swedish National Board of Health and Welfare, which is divided into four categories:

1. Acute homelessness (4500).
2. Institutional care and category housing (5600).
3. Long-term housing solutions (e.g. the secondary housing market) (13900).
4. Short-term insecure housing solutions (6800) (NBHW, 2011).³

³ The last survey was conducted during the first week in May 2011. In total, approximately 34000 people were reported homeless. The number of homeless people within each situation is specified in brackets.

The definition does not include, explicitly, inadequate housing. In the last few years inadequate housing situations among homeless families have been recognised in the research literature – especially poor quality temporary housing provided by the social services (Knutagård, 2009). These housing alternatives are supposed to be temporary – but homeless families have been living in damp, pest infested dwellings for many years. This has put social workers in an ambivalent position because they are: “often forced to choose [inadequate] housing solutions that they themselves regard as inferior, but still better than the situation in which the client is found. The form of housing to which the client is referred is then neither the most suitable nor the most desirable one, but what is available ‘here and now’” (Knutagård, 2009, p.291). This implies the necessity of a functioning housing market. We will now turn our attention to the specific housing regime in Sweden and discuss, briefly, the system shift in housing politics and the consequences it has had on the housing market.

A Corporatist Housing Regime

The Swedish housing regime can be described as a corporatist-housing regime (Bengtsson, 2006a). Rather than subsidized social housing, the Swedish model is based on public housing, where a large share of the rental housing market is owned by municipal housing companies (Schwartz, 1987; Pittini and Laino, 2011; Fitzpatrick and Pawson, 2011).

One of the four pillars of the welfare state (Kemeny, 2001), housing has been described as the ‘wobbly pillar’ of the welfare state (Torgersen, 1987). That is, even if housing is seen as a universal right, housing is a market commodity and therefore it is market dependent (Bengtsson, 2001; Kemeny, 2006). Kemeny (2006) argues that this market dependency makes housing relevant to explore, since the relationship between the state and the market can elucidate the power relations that have an impact on housing. In the beginning of the 1990s, Swedish housing policy underwent substantial structural change. Housing policy was dramatically deregulated (Lindbom, 2001) and a very noticeable change for households in need saw the reduction of housing allowances. The only remaining policy after the dismantling was the so-called use-value system of rent regulation (Clark and Johnson, 2009, p.180; Hedin *et al*, 2012).

The Swedish housing market

A housing shortage exists in 135 of Sweden’s 290 municipalities. Eighty-nine per cent of the municipalities with housing shortage claim that it is particularly the case in the rental market (NBHBP, 2012). The decline in the production of new dwellings has put pressure on the existing housing market. The result is that overcrowding increases, but also speculation on the housing market, which could lead to a

potential burst of the housing bubble. There are differences between the housing systems in the Nordic countries. Sweden has the highest share of rental dwellings (40.3 per cent) and the lowest rate of owner occupied houses (36 per cent) in the Nordic countries (Bengtsson *et al*, 2006b; Statistics Sweden). Norway stands out as being the only social democratic home ownership society (Annaniassen, 2006). Bengtsson and Ruonavaara (2010, p.197) conclude that:

‘The point of departure of the Nordic project was the remarkable differences between the national systems of housing provision. Though housing policy in all five countries has been ‘social’, meaning that an important goal has been to provide decent housing to households of lesser means, the institutional arrangements chosen to achieve this goal differ fundamentally’.

At the same time housing researchers in Sweden pointed out that the Swedish housing market had become one of the most liberal markets in Europe. The reason for this is the lack of state regulation in the housing market (Lind and Lundström, 2007). This implies that the path dependency of the Swedish housing regime is undergoing dramatic change towards home ownership as the driving force (Malpass, 2011; Bengtsson, 2012; Ronald, 2008). The consequences of extreme home ownership policies, however, became obvious during the last crisis when the housing bubble burst in the United States – having a global impact in countries such as Ireland and Spain (Schwartz, 2009).

One trend in the housing market has been that the municipal housing companies have sold rental apartments to housing cooperatives. Due to new legislation, the municipal housing companies have to operate on a for-profit basis. As a consequence, the thresholds make it even more difficult to enter the ordinary housing market (NBHBP, 2010a; Olsson and Nordfeldt, 2008). Many municipal housing companies demand that the tenant should have a steady income, or a financial buffer of two or more down payments for the monthly rent. Many municipal housing companies do not consider income support as a steady income, which excludes an even larger group of people from getting a lease on the regular housing market.

Homelessness and the Secondary Housing Market

The model of homelessness intervention utilised by the majority of the municipalities in Sweden is often described as a ‘staircase model’ or ‘treatment first model’ (Sahlin, 2005; Johnsen and Teixeira, 2010). The logic underpinning this model is that homeless people are expected to qualify for housing by becoming housing ready. One of the arguments within this discourse is that the social services should not assist clients to fail the terms of the tenancy agreement by placing them in a flat of their own before the clients are able to live by themselves (Sahlin, 1996; Löfstrand,

2005; Knutagård, 2009). Instead, the homeless clients are placed in different forms of training flats where they are expected to “learn how to live” often without any real support in this “learning process” (Sahlin, 1998). The homeless clients are instead monitored and controlled by the social services in order to make sure that the homeless clients pay their rent and keep their apartment neat and tidy.

The difference between Housing First and ‘staircase’ / treatment model, is that in the former housing is seen as a necessity in order to make other changes on the path to recovery, while in the latter abstinence from alcohol and drugs is seen as a prerequisite in order to make the client progress within the staircase system. In Housing First services there is a clear distinction and separation between housing and support.

The secondary housing market can be defined as apartments that the social services lease from housing companies. These apartments are then sub-let to homeless clients. These types of contracts are often connected to different forms of special terms that dictate what the tenant can and cannot do in his or her own flat and the tenant does not have security of tenure. The lease is often on a monthly basis and the tenant can be forced to move with a week’s notice if they do not comply with the terms of the contract. The apartments in the secondary housing market are often spread out within the regular housing market, but in some cases the authorities rent blocks of flats where all the apartments are being used only for homeless clients.

Table 1. The expansion of the secondary housing market in Sweden 2007–2012

Year	Number of flats
2007	11 000
2009	13 400
2012	14 900

Source: The National Board of Housing, Building and Planning's (NBHBP) housing survey (2008; 2010b; 2012).

On a national level the secondary housing market continues to grow (see Table 1.). A secondary housing market has been established in 228 municipalities (NBHBP, 2012, p.48). The evaluation of 23 projects funded by the Government’s homelessness strategy showed that the expansion of the secondary housing market was rapid (Denvall *et al*, 2011). Previous research shows that it is fairly easy to adopt a secondary housing market – however, once it is introduced it tends to grow and is very difficult to get rid of (Sahlin, 1996; 2007; Löfstrand, 2005; Knutagård, 2009; NBHBP, 2011b). Benjaminsen and Dyb (2008) argue that the evolvement of a secondary housing market in Sweden can explain the higher rates of homeless people, relative to the population, compared to the other Nordic countries.

The dilemma with the secondary housing market is that the rate of homeless people who will finally take over the tenure and get a regular lease is very low. Less than ten per cent of all clients are able to take over their own lease during a year (NBHBP, 2012). One reason for this is that homeless clients are often expected to live in their apartment for a two-year trial period before they are considered to be housing ready. For those who cannot comply with these terms, there are a range of different housing alternatives (e.g. hostels, shelters, category housing, transition apartments and training flats) organised as a 'staircase' model where the clients have to prove that they are ready for the next step. Thus, the emergence of Housing First services in Sweden should be seen in the context of the marketisation of housing policies, the deregulation of the housing market and the existing organisation of work with homelessness.

Dissemination and Implementation of Housing First in Sweden

As noted above, in 2009 a group of researchers at the School of Social Work at Lund University started work to disseminate Housing First as an innovative and knowledge-based model to combat homelessness in Sweden. By dissemination, we mean "active and planned efforts to persuade target groups to adopt an innovation" (Greenhalgh *et al*, 2004, p.582). Dissemination is differentiated from diffusion, which is a more passive spread of an idea. Implementation is achieved by mainstreaming an innovation within an organisation, and if the innovation has become routine practise sustainability has been accomplished (*ibid.*, p. 582). When analysing the emergence of Housing First in Sweden one could focus on the diffusion of the idea. But we can clearly see how key individuals within different organisations have played a vital role translating the concept of Housing First to fit their organisations (Czarniawska and Sevón, 1996; Sahlin-Andersson and Wedlin, 2008). Instead of using the more passive concept of diffusion, the active concepts of translation and editing can be used in order to put the actor in the foreground. These key actors can be described as champions or institutional entrepreneurs (Greenhalgh *et al*, 2004; Hardy and Maguire, 2008).

By organising conferences and publishing articles on homelessness and Housing First, this research reached a large number of municipalities, other agencies and organisations within the homelessness field. The School of Social Work also offered support to municipalities that were interested in setting up Housing First services. For instance, a network between the Housing First projects was established in order to facilitate a mutual learning process, discuss similarities and differences concerning methods used, challenges and lessons learned. Support has also been given to create common indicators and criteria for evaluating the projects. The work

has frequently given homelessness and Housing First quite a lot of space in newspapers and other media. Nowadays it is rare to discuss homelessness in Sweden without mentioning Housing First.⁴

In 2009 and 2010, more than 20 municipalities demonstrated an interest in establishing Housing First services. Politicians, housing companies, social service representatives and service user organisations among others, contacted researchers at the School of Social Work to discuss how to implement Housing First in their local context. Many municipalities also made official statements to the media that they were in the process of setting up a Housing First service in their municipality. The homelessness researchers were invited to several of these municipalities to provide information on Housing First at conferences, seminars and workshops.

Two municipalities, Helsingborg and Stockholm, started Housing First projects in 2010. Two years later Malmö and Karlstad followed, while three other municipalities were in the process of setting up Housing First services (Sollentuna, Uppsala and Örebro). The Housing First services in all these municipalities can be seen as pilots or small-scale services. None of the municipalities abandoned their existing organisation of work with the homeless, i.e. the 'staircase' model.

It seems that the dissemination of the Housing First approach has worked well, but the implementation process has been slow. In Denmark and Finland, Housing First services have been a part of their national homelessness strategies. No such strategy currently exists in Sweden. After the end of the last strategy, the government appointed a national homelessness coordinator to support municipalities in the work against homelessness. No funds have been allocated to initiate Housing First services. In contrast, €80 million have been set aside by the Finnish government for building new apartments in order to deliver on their strategy.

Why have only seven of Sweden's 290 municipalities started or decided to start Housing First services? What factors prevent the implementation of Housing First, given that it is promoted as an evidence-based and cost-effective method (Larimer *et al*, 2009; Gaetz, 2012)? The recent political climate favours evidence-based and cost-effective methods in health and welfare services – in other words – there should be preconditions for a successful implementation (Greenhalgh *et al*, 2004; Durlak and DuPre, 2008). However, this is not surprising. Implementing new methods in welfare organizations is a complex process (see for example Pressman and Wildavsky, 1984).

⁴ A Google search on the terms "housing first" and "hemlöshet" (= homelessness) gives 19 100 hits (January 2013).

The organisation of service delivery for homeless people in Sweden is characterised by a path dependency (Pierson, 2000), which makes it possible for the 'staircase' model to be reproduced regardless of the model's limitations (Denvall *et al*, 2011). An important basis for this path dependency is that the organisation of service delivery is strongly linked and structured around the secondary housing market, to which homeless people are referred and which also excludes them from the regular housing market. The 'staircase' model can be seen as an institutionalised practise that plays a key role in relation to the secondary housing market (Knutagård, 2009, p. 303).

The path dependency is reinforced by the existence of a range of actors in public organisations, as well as in private and non-profit organizations, involved in activities related to the 'staircase' model on the secondary housing market. Many municipalities have built up organisational structures with shelters and other types of short-term accommodations, which would be threatened if they introduced Housing First. In spite of the fact that social services see Housing First as a relative advantage, those that will not benefit from its implementation can contest the model (Rogers, 2003; Greenhalgh *et al*, 2004). Additionally, large portions of the services for homeless people have been outsourced to private and non-profit entrepreneurs, who have strong economic interests in the 'staircase' model. There are no reliable estimates of how much the services for homeless people in Sweden cost per annum. In Malmö alone, with 300 000 inhabitants, with 2 381 homeless people in situation 1–4, the various types of short-term housing solutions and shelters cost more than €19 million in 2012.

Another factor contributing to the path dependency is that service provision for homeless people is infused with moral perceptions about homeless people, which have an impact on how the services are organised (Sahlin, 1996). The core element of harm reduction within the Housing First philosophy challenges the traditional substance abuse work in Sweden, which is based on the requirements of abstinence and control.

We have conducted a review on the Internet of homelessness services in all of the 290 municipalities in Sweden. We investigated the municipalities' websites, searched for newspaper articles, blogs, etc. regarding homelessness and Housing First. In addition to the seven municipalities that already had set up or planned to set up a Housing First service, we found 18 municipalities where, during the last three years, they had had discussions about initiating Housing First services. We contacted representatives (politicians, social workers, etc.) from these 18 municipalities by telephone to inquire how the work on implementing Housing First had progressed. It turned out that the implementation process had stalled in all municipalities. The most common reason, as stated, was that the municipality did not have

access to apartments, and that the private landlords, as well as the municipal housing companies, were not interested in helping out with allocating apartments for the intended service. In some cases, we were told that the municipal representatives thought that Housing First would compete with their existing services, which they believed worked in a satisfactory manner. From an institutional perspective it is evident that the existing organisation of work with homelessness in Sweden can be seen as a mature field where widely shared norms and values exists with established patterns of how homelessness should be handled.

Housing First – The Swedish Way

As we have mentioned, four municipalities in Sweden have started Housing First services. In this section we will give a brief description of each (see table 2). The descriptions are based on a questionnaire that we sent out to the four services in November 2012. The Housing First services in Helsingborg and in Stockholm were up and running in 2010. The Housing First services in Karlstad and Malmö started during the second half of 2012. All services are financed with municipal funds. The Housing First services in Stockholm and Helsingborg should be seen as pilots. They are experimental projects that will go on for a couple of years. After the results from the evaluations have been presented and taken into consideration it will be decided whether or not the projects will be permanent services within the existing social service organisation.

The number of tenants who participate in the four Housing First services varies. In December 2012, Helsingborg had 15 tenants, Karlstad 3, Malmö 6 and Stockholm had 21 tenants. All services intend to increase the number of tenants. For example, in Helsingborg the goal is to have 25 tenants within the project period, but the allocation process is slowed down by the lack of available apartments. In all of the four Housing First services, the tenants are able to access support 24 hours a day, seven days a week. In many ways the support offered and the methods used are fairly similar in the different services. In Stockholm, Helsingborg and Malmö the social workers use Motivational Interviewing. In Malmö they also use Case Management, which is also the case in Stockholm. None of the four services use ACT-teams like Pathways to Housing. ACT-teams (Assertive Community Treatment) exist in both Stockholm and Malmö, but they are not incorporated in the Housing First services.⁵

⁵ For a more elaborate descriptions of ACT, Intensive Case Management and Motivational Interviewing see the Housing First manual (Tsemberis, 2010)

Table 2. Four Swedish Housing First Services.

	Helsingborg	Karlstad	Malmö	Stockholm
Inhabitants	132 000	87 000	307 000	880 000
Number of homeless	878	260	2 381	4 059
Start	2010	2012	2012	2010
Project	Yes	No	No	Yes
Financing	Municipal	Municipal	Municipal	Municipal
Number of tenants	15 (the goal is 25)	3 (the goal is 10)	6 (the goal is 20)	21 (the goal is 30)
Type and extent of service to tenants	MI, 24/7	24/7	MI & CM, 24/7	MI & CM, 24/7

When we compared how the Swedish Housing First-projects related to the Pathways to Housing approach, we were guided by the criteria that Pleace (2012) used when he discussed various types of Housing First-services (see table 3). The aim of this comparison is not to test the services' fidelity, but rather to illuminate the similarities and differences between them.

The Swedish projects differ from the Pathways to Housing approach in two respects. First, the projects in Helsingborg, Malmö and Stockholm have explicit requirements that the tenants must be motivated to participate in the project. This means that a motivational interview is conducted in order to identify the tenant's potential for change. This selection of tenants does not imply that they have to be abstinent or willing to accept treatment. But the consequence of the referral process is that it is difficult to uphold a first-come, first-served practice. Similar to the Pathways to Housing approach, the tenant has to accept having regular contact with the social workers involved in the projects and to comply with the terms of his or her lease. Second, in these three projects, there is a trial period of one to two years before the tenants can get a lease of their own. During the trial period the tenant sub-leases the apartment from the social services similar to the system within the secondary housing market. However, there is a significant difference between the philosophy within the Housing First services and the secondary housing market. The Housing First services do not require abstinence from alcohol or drugs or compliance with treatment. In other words there is a clear distinction between housing and service. In these two respects the Housing First services in Karlstad is more similar to the Pathways to Housing approach – namely a first-come, first-served basis and with security of tenure from the start.

The Housing First services in Helsingborg and Stockholm target people with mental illness and problematic use of drugs and alcohol (situation 1), which is equivalent with Pathways to Housing. The primary target group in Karlstad and Malmö are also long-term homeless people with mental ill-health and problematic use of drugs and alcohol, but they can also have referrals from the other three situations of homelessness according to the definition.

Table 3. Four Housing First Services in Sweden compared with Pathways to Housing (see Pleace, 2012).

Service offered	Pathways to Housing	Helsingborg	Karlstad	Malmö	Stockholm
Target group	Sit. 1	Sit. 1	Sit. 1-4	Sit. 1-4	Sit. 1
Requirements to get housing	No	Yes	No	Yes	Yes
Security of tenure	Yes	No	Yes	No	No
Scattered-site housing	Yes	Yes	Yes	Yes	Yes
Tenants have to stop using drugs	No	No	No	No	No
Tenants have to stop using alcohol	No	No	No	No	No
Harm reduction	Yes	Yes	Yes	Yes	Yes
Tenants have to use mental health service	No	No	No	Yes	No
Uses mobile teams	Yes	Yes	No	Yes	Yes
Directly drug and alcohol services	Yes	No	Yes	Yes	No
Directly psychiatric and medical services	Yes	No	No	No	No
Service brokerage	Yes	Yes	Yes	Yes	Yes
Support to promote housing stability	Yes	Yes	Yes	Yes	Yes

With some exceptions, the Swedish Housing First services match the other criteria's of Pathways to Housing. This means that the apartments that the tenants get through the Housing First services are "scattered-site-independent housing" (Tsemberis, 2010, p.22). The projects are based on a harm reduction approach, which allows tenants to use drugs and alcohol. There are no requirements of the tenant to use mental health services, except in Malmö, where the tenant must comply with treatment if he or she is at risk of getting evicted. All projects, except Karlstad, use mobile teams in order to support the client in maintaining housing stability.

The support provided by the services is primarily delivered during regular business hours, but all Housing First services have staff available on call 24/7. All Housing First services provide service brokerage to support the tenants in their contacts with other types of agencies and organisations. The tenants can get direct psychiatric and medical services, and the Housing First services in Karlstad and Malmö also provides direct help with alcohol and drug services. It is important to note that the primary goal for the professionals within Housing First services is to support tenants in maintaining housing stability. In comparison to Pathways to Housing, the services provided in the Swedish Housing First projects are, in most cases, spread out within the existing organizational landscape. The possibility to swiftly deliver services that other agencies provide is more restrained than if an ACT-team is used.

Getting direct access to psychiatric services has been very difficult to achieve in a Swedish context, and the cooperation between social services and psychiatric services varies significantly between municipalities and also between different city districts within the municipalities.

Promising Results

The four Swedish Housing First services are currently being evaluated. Researchers from the School of Social Work at Lund University are responsible for a process evaluation of the Housing First project in Helsingborg, and one report has been published on the Housing First service in Helsingborg (Kristiansen and Espmarker, 2012). It is a qualitative study where tenants describe the impact Housing First has had on their lives, and how they view the social support that the Housing First services has offered them. The study is based on qualitative interviews with ten of the fourteen people who up to the summer of 2012, had signed a lease with the Housing First service in Helsingborg. Three out of fourteen clients had been evicted during the first two years of the project period. Even though the numbers are few, the housing stability rates are around 80 per cent. This is a promising result and it corresponds to the results from the Housing First service in Stockholm and from studies of Housing First services in other countries (Pleace, 2012; Busch-Geertsema, 2012). However, one should take into account that several of the eleven persons had lived in their apartments less than two years.

The preliminary results from the process evaluation show that the respondents felt that their lives had improved in several respects when given their own apartments. They stated that they have started to build up social relationships with people who are not homeless or using drugs. Most of the respondents who have children say that they now have better relationships with their children since they have a place to live and a place that they can turn into a home. Alcohol and drug use has declined, and some respondents say that they have decided to abstain from alcohol and other drugs. Several of the respondents are physically and mentally worn out after long period of homelessness. Some of them have chronic diseases, which became worse during their experience of homelessness. Having their own apartment gave them the opportunity to be able to rest, sleep and recover, which has improved their health.

Most of the respondents have not increased their incomes after they acquired apartments, but since they have pensions, income support or social security benefits their financial situation has improved. Having their own apartments means that they have somewhere to store their food and their belongings, and it enables them to plan ahead and to save up for the future. In terms of employment, some of the respondents have secured employment. But most of them are still not working,

which in most cases is due to injuries or chronic illness. Several of the service users say that they now have got the time and the opportunity to begin to engage themselves in voluntary organisations or leisure activities. Our findings are consistent with previous research. In a follow-up study of the re-housing of homeless people Busch-Geertsema notes that:

They have shown mainly positive outcomes even for many long-term and severely marginalized homeless persons – if those who need social support are adequately provided with it. On the other hand they prove that expectations should not be too high and – to put it drastically – re-housing usually does not make homeless poor people healthy, wealthy and – wise. Different degrees of relative autonomy and integration are achieved. (Busch-Geertsema, 2005, p.205).

The service users in Helsingborg present a positive image of the Housing First service, and the social workers involved in the project. Several of the service users feel that trust has been established between them and the social workers, which makes it possible for them to ask for help when they relapse or get into other difficulties without the fear of losing their tenure. The philosophy of Housing First seems to create the requisite conditions for establishing trusting relationships, which is an extremely important factor for success in social work (Kristiansen, 1999; Frank and Frank, 1991).

The Fine Line Between Translating and Renaming

One major challenge in a Swedish context has been the issue of security of tenure. In the secondary housing market, flats are sub-let to the homeless clients by the social services that rent the apartments from housing companies. Since Housing First services in Sweden have used the same form of contracts, with a few exceptions and different forms of contracts, some municipalities argue that they already have adopted a Housing First approach. By doing this they rename housing alternatives, that already exist, as Housing First type services without taking the principles of Housing First into consideration. Pleace (2012) concludes in his report on Housing First that 'although there is some scope for flexibility, immediate access to housing, the separation of housing and support and a harm reduction approach are crucial elements of the Housing First philosophy and of the effectiveness of the approach' (Pleace, 2012, p.45).

None of the Swedish Housing First services has adopted Housing First by the book. The core elements of the philosophy have been adopted, but the services provided have been adapted differently depending on the local resources within the organisational field. In this translation process, academics can play an important role stressing the crucial elements that Pleace (2012) puts forward. There is a need for

flexibility in the adaptation of Housing First services to a local context, but it is very easy for those working with homelessness to focus on ticking the right boxes in order to comply with the original model. But the nuances that play such an important role might be ignored. Therefore it has been important in a Swedish context to build up structures enabling mutual learning during the pilots. One challenge is to make the mind shift towards the underlying philosophy of Pathways to Housing.

Conclusion: Challenges and Implications for Practice

The four Housing First services that already have started and the three projects that are in the process of starting up Housing First services have incorporated the Housing First philosophy. They therefore have the potential to serve as interesting examples of how Housing First can be organised in a Swedish context. It is of course important to develop quantitative measures of outcome, but it will also require qualitatively oriented research in order to investigate the impact of Housing First, in various respects for those who are affected by the Housing First services – e.g. service users, social workers, landlords.

The continued development of Housing First in Sweden would be facilitated if there were better incentives for municipalities and organisations interested in establishing Housing First services. Organisational and financial resources are needed to stimulate the implementation of Housing First services, but the continued spread of Housing First in Sweden is not a question that can only be understood in terms of implementation. If so, we would have seen a more rapid growth of Housing First services in Sweden, given the shortcomings of the existing ‘staircase’ model that are so frequently adopted.

Sweden is experiencing a period of change within the welfare systems, having gone from a welfare state towards a welfare society (Hartman, 2011), and state involvement has been questioned (Rose, 1995; 1999). Since the 1980s, the governmental and collective responsibility for welfare and social development in Sweden has decreased considerably, while there has been an increasing emphasis on individual responsibility, decentralization and market solutions to solve various social problems (Dahlstedt, 2006). It is not an easy task in such a political climate to promote an understanding of homelessness as a housing policy issue and a question of rights, rather an a question of individual pathology. To do so requires new strategies and alliances, and acknowledging local differences in different countries, municipalities and organisations. It is not only a question of a new way of thinking about homelessness, it is also the challenge of providing services for homeless people that meet their needs, not the needs of service providers.

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Accommodating Homeless Families in the Private Rented Housing Sector: Experiences from a Supported Housing Project in Vienna

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› **Abstract_** *This article presents the findings and analysis of the evaluation of Haus Felberstraße; a project in Vienna that offers supported transitional housing for homeless families with the goal of accessing accommodation in the private rented housing sector. The project was initiated with the goal of testing a new approach within homelessness services policy and the results are presented in the context of a discussion of the policy of the Wiener Wohnungslosenhilfe (the homeless services in Vienna), its development and refer to the context of housing policy in Vienna. The results show individual factors that determine access to accommodation in the private rented housing market provide scope of action for homeless services. Immediate effective social support with a strong goal-orientation can influence and improve the capacity of vulnerable families in terms of stable housing. Empowerment and learning strengthens individuals. However, structural factors like rising costs for housing, lack of housing and low income levels and risk of poverty remain and require further policy development and political action that supports affordable housing.*

› **Keywords_** *Homeless families, private rented housing market, housing policy, social housing*

Introduction

This article describes the supported transitional housing project *Haus Felberstraße* in Vienna, established in 2009, with the aim of accommodating households in private rented housing. After an introduction to housing policy in Vienna and the *Wiener Wohnungslosenhilfe* (the homeless services in Vienna), the article presents the findings and analysis of a three-year evaluation of *Haus Felberstraße*. The article draws on Nordfeldt's (2012) intersectional approach to understanding homelessness, which incorporates several levels of analysis, interpreting homelessness as the consequence of a combination of structural and institutional factors with individual trigger factors and different relations and interactions between these levels. Therefore, the evaluation results of the project *Haus Felberstraße*, which show outcomes on an individual/household level (homeless families), are contrasted with current developments on the institutional level as well as the structural level, including homeless policy and housing policy in Vienna, and are connected to a policy review of the *Wiener Wohnungslosenhilfe*. Potential for enhancing the access to affordable housing in the private rented market for vulnerable families and for change on a structural level, the institutional and individual level in terms of empowerment and learning are identified.

Vienna's Housing Market

Vienna traditionally has one of the strongest municipal housing sectors in Europe. A total population of currently approximately 1 731 000 inhabitants (Statistik Austria, 2012) is accompanied by a supply of more than 220 000 city owned social housing units – approximately one fifth of Vienna's housing stock – and about 180 000 housing units built with municipality subsidies (Magistratsabteilung 24, 2012). Vienna's particular history of social housing goes back to the first decades of the 20th century (after World War I) when Vienna's social democratic local government (The Red Vienna) aimed to create a welfare system that provided improved housing and living conditions for the working class (Reinprecht 2007). According to Reinprecht (2007, p.36) '[a]mong the various programs developed in this 'Red Vienna' Period, the construction of municipal housing was the most ambitious and most prestigious. The Viennese municipality played a key role as both developer and owner. Social housing was built throughout the city, and thus had a long-term anti-segregation effect.'

In recent years, there has been a shift towards a greater marketisation of Vienna's social housing. The most recent municipal housing block was opened in 2004 (*Wiener Wohnen*, n.d.), since then no more city-owned social housing units have been built. Instead, Vienna's city administration – in addition to rent subsidies –

places emphasis on public private partnership and subsidises building new housing in exchange for a certain percentage of the newly built housing stock being placed at the city administration's disposal for allocation under various social criteria. This type of housing is often operated through cooperative housing associations. In 2010 the city administration spent approximately €600m in three areas of housing policy, which are: subsidies for new construction, refurbishment and subject subsidies (Wohnservice Wien, n.d.). Currently, the portion of municipal housing units in Vienna is as high as 26% (Magistratsabteilung 24, 2012).

While between 1981 and 2001 Vienna's population only grew slightly and more than 80 000 housing units were built, the growth of population exceeded construction activity from 2001 to 2006 (Magistratsabteilung 24, 2012). Vienna's population is now growing rapidly. During the period 2012 to 2030, population is estimated to grow by more than 13% (Statistik Austria, 2012a). In addition, housing costs are rising. While the proportion of average housing expenditures in Viennese private household budgets was 21.3% in 2004, it climbed to 22.7% in 2009 (Statistik Austria 2007; 2011). One of the reasons for this may be an increase in terms of housing quality which lead to higher prices, but makes it more difficult for low income households to find affordable housing (Magistratsabteilung 24, 2012). In 2010 18% of Austrians lived in households with unacceptable housing expenses, which means more than 25% of the household budget is used for rent according to Statistik Austria (2011a, p.127). In 2011 approximately 23 000 persons were on the waiting list for a municipal flat (Mörk and Mager, 2011). These data reflect a trend which O'Sullivan and De Decker (2007, p.96) have stated to be evident all across the European Union whereby: 'social housing programmes are either in decline or not of sufficient quantity to meet demand, it is likely that the private rented sector will assume a more prominent and expanded role than was envisaged twenty years ago.'

Homelessness and Homeless Services in Vienna¹

In 2011 there were 22 294 actions for eviction in Vienna, 2 789 were actually executed and led to an eviction. However, evictions in Vienna are decreasing, a key reason being the city administration's efforts in the area of eviction prevention. More than 80% of the users of the *Wiener Wohnungssicherung* (prevention of eviction services in Vienna) in 2011 experienced homelessness due to an eviction because of rent arrears. The majority of the users of prevention of eviction services are at risk of poverty (Magistratsabteilung 24, 2012). The *Wiener Wohnungslosenhilfe* provides a comprehensive and varied range of supported housing, regardless of reasons for homeless-

¹ When no other sources stated, data is taken from the internal reporting system of *Fonds Soziales Wien*. The authors want to thank Monika Nowotny for providing tables and figures.

ness.² The *Fonds Soziales Wien* is designated by the city of Vienna for strategic planning and funding of the services for homeless persons, which are operated together with more than twenty different non-profit organisations. Through constant efforts and due to a rising demand the standards have improved and capacities have been expanded. At the beginning of 2005 approximately 2450 places were available, whereas today a total of 5000 places are available for homeless persons.

Johnson and Teixeira (2010) classify homeless support systems into three different types: linear housing models, the 'Housing First' model and permanent supportive housing models. Linear housing models, although subject to strong criticism (Sahlin, 2005; Tsemberis and Asmussen, 1999), are the most common type in European countries and also in the US and Australia. The model provides that homeless people progress through several steps within the system, including emergency shelters, transitional housing and training flats before being given admission to their own 'normal' housing (Johnson and Teixeira, 2010, p.4). Sahlin (2005) uses the term 'staircase of transition' to describe this model: 'The higher an individual climbs, the more privacy and freedom he/she is awarded and the more 'normal' that individual's housing becomes, a regular rental flat typifying the ultimate goal' (Sahlin, 2005, p.115). The second type, 'Housing First' model, neglects the requirement of 'housing readiness' by placing homeless people directly into permanent independent housing while offering comprehensive support. This model was developed in the US and currently there is intensive testing in several European Countries. The third type, permanent supportive housing models, provides permanent affordable housing for former homeless persons including on-site support.

Following the typology outlined by Johnson and Teixeira (2010), the Viennese system is akin to the linear housing model, but one that provides flexibility when it comes to skipping one or several steps of the 'staircase'. In addition to that, Vienna also provides approximately 1100 permanent places in socially supported housing, which belongs to the third type. Since 2010, Vienna's city administration has also been putting efforts to adopt a 'Housing First' approach. Most clients still go through the 'staircase' system, maybe a couple of steps, or only one step, ideally resulting in being recommended for a municipal housing apartment through the *Soziale Schiene* (shortened process of being referred to a municipal housing apartment under the existence of social distress). But this resource is currently reaching its limits with approximately 2000 referrals each year (Mörk and Mager, 2011; Riesenfelder *et al*, 2012).

² Information about the structure of homeless services in Vienna ('Wiener Wohnungslosenhilfe') can be found here: <http://wohnen.fsw.at/wohnungslos/#englisch>. The definition of homelessness in the Wiener Wohnungslosenhilfe is based on ETHOS (<http://www.feantsa.org/spip.php?article120&lang=en>).

Among 8280 distinct users of the services of the *Wiener Wohnungslosenhilfe* in 2011, there were 700 families (households consisting of at least one adult and one minor). This was 150 more families than in 2009. In 2011, 61.4% of the families that left a temporary supported housing place (excluding emergency accommodation for families) were accommodated in the regular housing market or a permanent supported housing placement³. As table 1 shows, of these families 77.9% moved into municipal housing; 10.7% left for a privately rented apartment with limited contract; 7.1% left for a privately rented apartment in with an unlimited contract and 17.1% moved into another form of supported housing within homeless services system.

Table 1: Families leaving an accommodation of the Wiener Wohnungslosenhilfe in 2011 (emergency accommodation excluded)

Outcomes for families leaving supported housing		
Status	Total number	Percent of each category
Successful Access to Accommodation	140	61.4%
Owner-occupied dwelling or dwelling of co-operative association	1	0.7%
Municipal housing	109	77.9%
Private rented Housing for an unlimited period	10	7.1%
Private rented Housing for a limited period	15	10.7%
Sub tenancy	2	1.4%
Socially supported housing (permanent housing for former homeless persons)	3	2.1%
Removal within the system of homeless services	39	17.1%
Supervised housing in apartments	22	56.4%
Mother-child-facility	2	5.1%
Transitional accommodation	7	17.9%
Transitional accommodation for specific target groups	8	20.5%
Other	49	21.5%
Friends' apartment	3	6.1%
Partner's apartment	9	18.4%
Family's apartment	15	30.6%
Women's refuge	1	2.0%
Shared supervised flat (youth welfare service)	1	2.0%
Prison	2	4.1%
Other	5	10.2%
Unknown	13	26.5%
Total	228	100.0%
Deceased	1	
No data available	5	
Missing	16	
Total	250	

³ Accommodation into permanent supported housing placement in this case means that adult family members were placed in Socially Supported Housing, a type of permanent accommodation for former homeless persons within the *Wiener Wohnungslosenhilfe*.

As the pathway to secure accommodation for homeless people in Vienna normally leads to municipal housing, the private rented housing market was virtually unused by projects offering homeless services. Furthermore, the experience of working with homeless families shows that the type of housing and tenancy is seen as a status symbol. The most desirable, but in most cases unrealistic (due to high financial barriers such as the deposit paid at the beginning of the lease contract) option for this group may be subsidised cooperative dwellings, however, municipal housing seems to be in vogue especially among migrant families in Vienna. In addition to obvious advantages such as low rent and secure tenancy, these families consider being provided with a municipal flat as a symbol of their status of integration and therefore being part of Viennese society. The motivation to move into private rented housing seems to be relatively low, families even put up with staying in temporary homeless accommodation considerably longer than necessary if this raises the chance of receiving municipal housing.

Due to the developments described above, which include stagnating resources in municipal housing, a pressurised private rental sector and a growing demand, in recent years the need to develop access to more sectors of the housing market for homeless families has grown. Furthermore, there are homeless persons and families that do not meet the criteria for access to municipal housing, e.g. in terms of length of stay in Vienna (main place of residence) or still having debts at the municipal housing department. As a policy development, the *Wiener Wohnungslosenhilfe* has tried to work into the direction of giving access to the subsidised housing market operated through cooperative housing associations. Housing through these cooperatives increasingly became a suitable option for the middle class but through certain projects of the *Wiener Wohnungslosenhilfe* vulnerable groups, mainly Convention refugees, have been granted access. The private rented sector was neglected until the project *Haus Felberstraße* was started in 2009.

The project *Haus Felberstraße* was created with the aim of accommodating homeless families into apartments in the private rented sector. As unstable living situations tend to be maintained into later life (Gould and Williams, 2010, p.173), it is seen as especially important to reduce the length of stay in temporary accommodation to a minimum for homeless families with children where eviction can not be avoided. For *Haus Felberstraße* provision is made for an average stay of eight months. Within this period, the support offered to the families covers securing income, household budget planning and assistance and coaching in house hunting in the private rented housing sector.

Project ‘Haus Felberstraße’: Supported Housing for Families

Haus Felberstraße offers assisted housing in temporary accommodation for homeless families. The project is operated by “wieder wohnen” GmbH, an off-shoot company of the city-owned *Fonds Soziales Wien*, providing almost 40% of the total services of the *Wiener Wohnungslosenhilfe*. Through the scheme, 17 families in household sizes from two to ten persons live in separate, fully furnished apartments within one building, with on site support through a multi-professional team. The opening hours of the office are from Monday to Friday, in total 45 hours a week. There is no standby during the night, weekends and holidays. In case of emergency the families use public emergency services.

The team consists of 1.5 social workers, 1.5 social advisers (staff that support users concerning daily routine issues), one real estate manager, 0.5 maintenance staff and one team manager. Each family works mainly with one subgroup consisting of one social worker and one social adviser. The goal is that families learn to manage their household budgets and gain knowledge and skills concerning housing and move into an apartment in the private rented market within a maximum period of eight months. The support is based on three main phases: securing income, household budgeting and apartment search.

Phase I: Securing Income

After a family has moved into an apartment of *Haus Felberstraße*, a social worker, a social adviser and the family create a plan of support. The first step is to secure the family’s income. Whether it is settlement of debts, application for social security benefits or unemployment benefits, support is given concerning contact with the appropriate authorities and organising necessary documents. With more than two thirds of the users this type of support is given.

Phase II: Household Budgeting

Only with a secure income (at least minimum standard according to social security law in Austria⁴) can household budget planning be started, which is the second phase. Here, the families are introduced to the sub-goal of paying the user fee for the apartment at *Haus Felberstraße* at the start of each month in advance.⁵ If successful, a savings target is agreed with the family. The savings amount is based on the difference between the expected costs of housing on the rental market minus the current user fee. The payment of user fees and the amount of the savings,

⁴ Welfare minimum standards information as of 1st of January 2012 for Vienna: 1 Person €868.94; 1 couple €1 159.90; 1 couple with 1 child €1 172.92.

⁵ User fees are between € 197 and € 317 including running costs, electricity, heating, facilities, depending on size of apartment.

along with managing other household payments, is reviewed monthly. The ability to plan the family budget triggers for many users a positive 'teachable moment' and is essential for the users' confidence in the team and the services offered. On the one hand affordability of housing is checked and on the other hand, the families acquire savings, which can be used to finance deposit, commission and furniture for the new apartment. As experience shows, saving has a positive and motivating effect on the majority of the families. Families who have felt the steady pressure of financial lack discover that they can independently establish savings and thus gain some financial freedom. Users express emotions of 'pride in oneself', which creates self-confidence. If the family can verify compliance with the household budget, the third phase starts: the search for an apartment.

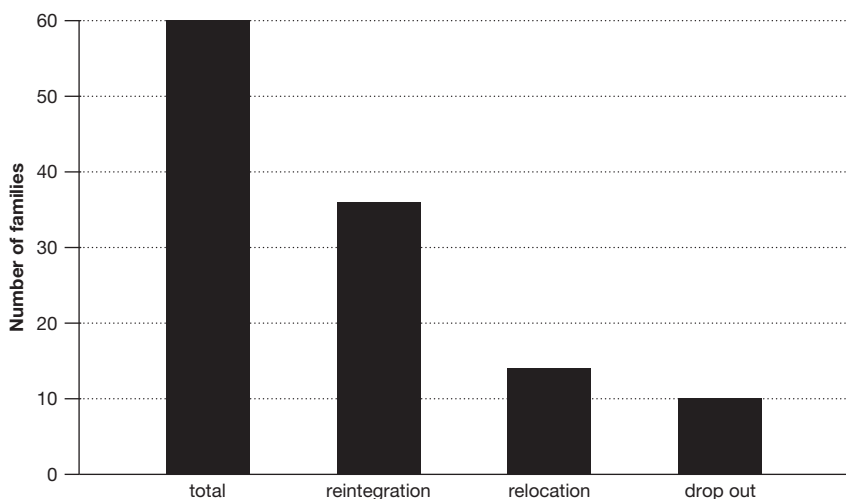
Phase III: Apartment Search

After five months and a saving amount of at least €1 200 each family gets an initial training on house hunting, conducted by the real estate manager who is part of the team. The specifications of the desired apartment are formulated. Families receive all-important information concerning househunting and concluding a contract. In the background the real estate manager of *Haus Felberstraße* looks for flats and also establishes cooperations on the real estate market. As a positive side effect, the real estate manager functions like an 'ambassador' of *Haus Felberstraße*, aiming to improve the public image of homeless families by conveying that these families are reliable contract partners. A family can meet the real estate manager on several occasions to review their search profile and prepare for the meetings with real estate agents and landlords. Depending on the ability of the users, they search independently after the initial phase. If a lease possibility opens up, the real estate manager reviews it. Initially, the wishes of the users in terms of size, facilities and location of the apartment in most cases exceed by far their financial capacity. The introduction to the reality of the housing market and accepting these conditions is a crucial part of the social work done by the team. Available financial assistance for deposit, commission and rent can be applied for at the social benefit centre. Empowerment of the users in terms of house hunting, apartment maintenance capability and financial management, which include a stable income and the ability to manage the household budget, are at the core of the service. To ensure sustainability of the service, further support is given in terms of social integration, such as support concerning employment, education and training and support concerning children and family matters.

Evaluation Findings

Since the launch of the project in July 2009 it has been evaluated every year.⁶ The following section aims to present a summary of the findings of all three evaluation reports. The findings are based on an analysis of the client documentation, standardised feedback from the users at the end of the support period and regular, systematic reflexion of user case histories through the support team. From July 2009 to July 2012, 69 families have stayed in *Haus Felberstraße*. 60 Families have left *Haus Felberstraße* – of them 60% were housed in a private rented apartment⁷), 23.3% were relocated within the *Wiener Wohnungslosenhilfe* system and 16.7% dropped out.

Figure 1: Support finished in ‚Haus Felberstraße‘, July 2009 – June 2012.



58.3% of the families were single parent families. More than two thirds of the adults were female. From July 2009 to July 2012, 71 adults with 105 children were supported in *Haus Felberstraße*; 25 adults lived in partnership relations; 30 were female single parents and five were male single parents.⁸ Family sizes range from two persons to ten persons. The mean number of children per family decreased from 2.4 in evaluation period I to 1.8 in evaluation period III. The clients belonged

⁶ Evaluation Period I: 01.08.2009 – 30.06.2010; Evaluation Period II: 01.07.2010 – 30.06.2011; Evaluation Period III: 01.07.2011 – 30.06.2012.

⁷ This figure includes also 3 families, which could move into municipal housing.

⁸ For data processing reasons, these numbers include families with support ongoing until at least July 2012.

to 14 different nationalities. 61.4% of the users are Austrian, followed by 10.2% users from Somalia (mainly Convention refugees), 7.4% of Serbian and 5.1% of Russian nationality.

The mean duration of stay in *Haus Felberstraße* was 7.95 months, ranging from a minimum of three month to a maximum of 15 month. The support team identified various factors that influence the length of stay. Reasons for not meeting the time target of eight months stay in *Haus Felberstraße* included:

- Families needed a longer time for securing income
- The process of rehousing was interrupted by serious health issues
- Families preferred to stay within the system of *Wiener Wohnungslosenhilfe*
- House hunting took more than three month due to expectations of users or difficulties in finding landlords who accepted users as tenants.

Experiences from the project revealed challenges for homeless families in relation to the structural, as well as the individual, level. The main challenges in rehousing in the private rented housing market for the users of the project were:

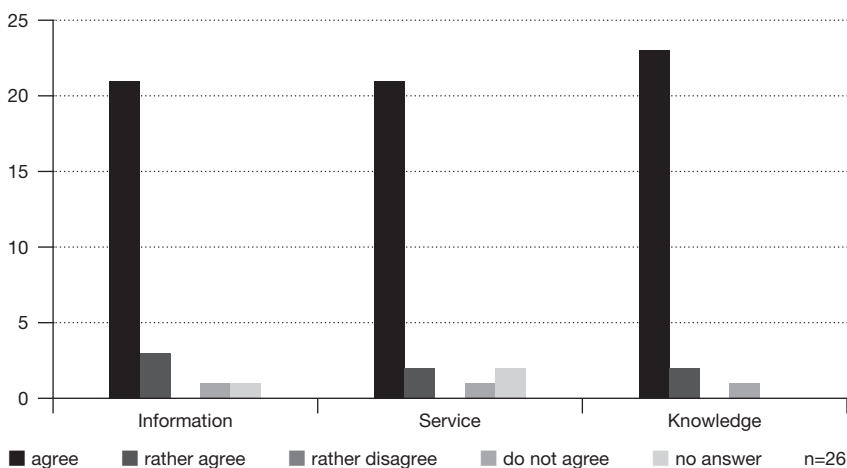
- Homeless families experienced discrimination as house hunters. They often didn't have a working income available and some cases had many children. Landlords were reluctant to give them rental contracts out of fear that rent arrears and conflicts in the neighbourhood would occur.
- Landlords did not want to rent small apartments to families and usually set one room per person as a standard.
- Rising rents made it harder for users to find affordable apartments.
- Homeless families had no experience with the real estate market. The leases were considered to be insecure and overpriced by the families. Social housing was seen as a safer option.

Generally, the users accepted the services very well after some initial scepticism. The basis for successful collaboration of users and staff was determined by social work methods, an appreciative and respectful attitude and work relationship. The team was initially faced with very passive attitudes from the users. The expectation of receiving help without having to make a contribution was very common and thus motivation was core to success of the service. However, not every homeless family who was referred to the project did accept the offer of being housed in *Haus Felberstraße* and 16 homeless families rejected the offer of receiving accommodation and social support in *Haus Felberstraße* for different reasons, including: the small flats in *Haus Felberstraße* did not meet the expectations of the families; the

objective of renting an apartment in the private rented market was refused (a municipal housing apartment, though not possible, was seen as the ultimate goal); and financial disclosure (settlement of debts) or saving money was rejected.

To incorporate the users' experience in the development of the service offered, user satisfaction is collected on a regular basis. The results show high approval of the services of *Haus Felberstraße*. Each rehoused family gets a standardised questionnaire at the end of the support. The questionnaire asks for levels of satisfaction with the supply of housing, social work, the house hunting and total service and 80.6% of rehoused families delivered the feedback questionnaire. Of those, 69% estimate the total service to be excellent, 17.2% good and 13.9% sufficient. In addition 26 families answered questions about house hunting. The statement '*The information offered concerning house hunting was helpful*' was agreed with by 80.8% of users (results showed in figure 2). The statement '*I found it useful to be offered the possibility of meetings with the real estate manager as an expert.*' was agreed with by 80.8% of the users and 88.5% of the users stated that they now know how to find an apartment and how to conclude a rental contract.

Figure 2: Feedback of users concerning househunting.



Conclusions

This section presents the conclusions from the experiences of the *Haus Felberstraße* team and lists different criteria for success and challenges in accommodating formerly homeless families in the private rented housing. These include scope of action on individual/household and organisational level as well as the identification of critical developments on the structural level.

Continuity and immediacy enhance empowerment

Financial security is a key factor for housing stability. Through the support supplied by the team and the measures taken, it was found that financial stability could be facilitated for users. The team's strategy can be summarised as: *request – promote – confront – show alternatives – present benefits*. The obligation to pay the user fee is constantly communicated as a top priority to the users. Detailed and repeated information concerning the consequences of non-compliance, which is that eventually housing and support will be lost, is given. Users are asked to actively present the payment receipt at the staff office to emphasise its priority. If the payment is not made, staff act immediately with a discussion of possible consequences in the event that payments cannot be met. A new deadline for payment and, if necessary, payment in instalments is agreed. The evidence is that the vast majority adhere to the new payment deadline. In most cases a change in behaviour among users is introduced, which includes at least the active reporting of inability to pay. The fact that users can access their savings to pay the user fee on time, instead of delaying the payment, reinforces the prioritisation of housing costs, provides the added value of flexibility through the savings and empowers the users in control of their financial resources. Highly motivated users have shown that their potential for making savings, even on a very tight budget, is much higher than assumed in advance. The understanding of savings and access to savings must be actively communicated to users. There is a potential for savings both through the user's consumer behaviour and also by using the various support for people with low income in Vienna, such as food banks and supermarkets with cheaper offers only accessible for this group. The close support setting allows spontaneous and direct guidance and increases the ability to initiate immediate and effective interventions. Through such controlled intervention users gain the experience that problems can be solved quickly and this reinforces positive behavioural strategies.

Motivation as a cornerstone

The will to change is the cornerstone of successful support on an individual level. Regardless of the problem areas the evidence shows that when there is a will to change, use of the social work services and personal responsibility can be achieved. Whether the motivation is already present or can be introduced is very dependent

on the self-perception of the users and their expectations of the *Wiener Wohnungslosenhilfe* system. Self-perception and expectations need to be identified and analysed by the support team. A further aspect that influences motivation is differing expectations or perspectives of the users towards the *Wiener Wohnungslosenhilfe* system. Some users accept the system as help in crisis and pursue the goal of leaving the system into independent housing fast. Other users see responsibility for housing provision, and also future housing solutions, as lying within the system. The option of *Haus Felberstraße* is especially suitable to users whose homelessness arose as a consequence of a life crisis such as divorce or death of a partner. Users who are motivated to change their behaviour have the capacity to understand the realities of their situation and take responsibility for their own life seem to derive the most benefit from the opportunity.

Accommodation in the private rented housing sector is possible

Even if the users of *Haus Felberstraße* are not perceived as optimal tenants, they do manage to rent apartments on the private rental market. This success is possible as a result of a variety of measures. The expectations of the users regarding the standard of the apartment have to be brought in line with the users' financial resources and the real estate market situation. Through discussion with the support team, and experiences while searching for an apartment, users are continuously confronted with this issue and normally experience a cycle of going from euphoria to frustration, resulting in acceptance of reality and adapting to the conditions.

Nordfeldt (2012) states that homeless families in Stockholm lack knowledge concerning the rental market. This, together with increasing demands by landlords in the private rented sector (guaranteed income, references from prior landlords, maximum number of children in relation to number of rooms, etc.) makes it very hard for vulnerable families to get established in the private housing market. The same is observed in Vienna. The *Haus Felberstraße* team assists users in the search for a home, demanding actions by the users and also proof of these actions. The necessary knowledge and assistance in how to approach real estate personnel and landlords is mediated. Experience has shown that the number of housing offers needs to be limited by the real estate manager for the reason that many acceptable housing offers were declined by users in the past. Limiting the number of housing offers promotes users decisions and illustrates the choice available. The limited time of eight months possible stay (extensions have to be justified) at *Haus Felberstraße* enhances the decision process of the users concerning finding an apartment.

It is evident that learning to act in the private rented market enhances the self-dependence of homeless families in terms of housing. Knowledge and competence gained through training may contribute to prevent further homelessness, even if changing living situations necessitate another move. In the case of *Haus*

Felberstraße the effect of learning cannot be reduced simply to the individual/household level. As described above, due to Vienna's strong tradition in municipal housing, homeless services in Vienna had largely ignored the possibilities provided by the private market for many years. Now, as the situation on the housing market comes under pressure, certain institutions within the homeless services system aim to widen their options by gaining knowledge of other sectors of the housing market. *Haus Felberstraße* did this by including a trained real estate agent with several years of working experience in the for-profit sector.

Even if the evaluation results of *Haus Felberstraße* look promising, there is a strong need to examine the sustainability of such services. Currently the retention rate of the families accommodated in the private rented housing market is not known. However, Hohenbalken (2010) has shown a tenancy retention rate of over 80% for a supervised housing project that offers a training flat for approximately two years with the goal of accessing municipal housing and Crane *et al* (2012) argued that people who have received training concerning household budgeting and financial management show high rates of housing stability.

Structural barriers remain and need to be tackled on the political level

As the results of the evaluation of *Haus Felberstraße* show, individual factors that determine access to the private rented housing market provide opportunity for homeless services. Immediate effective social support with a strong goal orientation can influence and improve the capability of vulnerable families in terms of stable housing. Empowerment and learning strengthens individuals. Yet structural factors such as rising costs of housing, lack of housing, low-income levels and risk of poverty remain.

For homeless families in Vienna it will be crucial that the *Wiener Wohnungslosenhilfe* policy orientates towards the private rented market in projects like *Haus Felberstraße*. This will be a vital policy contribution in the future because capacities in the municipal housing stock are largely exhausted. One area that already has been explored is collaboration with cooperative housing associations, where several projects with a goal of accommodating migrants have been realised. The challenge of developing solid pathways for homeless people into the private rented market remains, not only for families going through the 'staircase' of *Wiener Wohnungslosenhilfe*, as shown in the example of *Haus Felberstraße*, but also for the planned implementation of the Viennese model of 'Housing First'.⁹ The model was developed in 2011/2012 by the city together with relevant stakeholders in the homeless services field and represents a strategy concerning 'Housing First', which

⁹ A description of the Viennese Model of Housing First (in German) can be downloaded here: http://wohnen.fsw.at/downloads/dokumente/201210_HousingFirst_DasWienerModell_Endbericht.pdf

directly places homeless persons into their own permanent housing, shortening the time in transitional accommodation. Therefore cooperation with stakeholders in the private rented market will be needed (Halbartschlager *et al*, 2012). In 2012 several pilot projects have started to test the model. It is possible that these pilot projects can benefit from the experiences of and lessons learned by *Haus Felberstraße* although whether the methods used are applicable to the pilot projects within 'Housing First' needs to be established. In the future more evaluation of projects – with a focus on methods and results – and dissemination of these results among service operators within the *Wiener Wohnungslosenhilfe* system – is desirable. As shown above, currently the *Wiener Wohnungslosenhilfe* is a highly dynamic field. During the years ahead, loose ends and current developments will have to be pulled together, with the aim of creating a more consistent, sustainable and outcome orientated policy.

Despite all the efforts of the *Wiener Wohnungslosenhilfe*, which is part of the social security department within the city administration, it has limited power and limited responsibilities concerning housing policy and tenancy legislation. For the private real estate market to become a better option for the accommodation of homeless people, changes in housing policy are necessary. The financial feasibility of housing has to be protected and supported. It must also be ensured that landlords accept persons with low income as tenants. Even though political parties in Austria are currently bringing housing issues back to the top of their agenda, society will have to accept that the economic crisis may bring a change in the affordable housing standard in general.

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The Human Right to Housing in the 27 Member States of the European Union

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› **Abstract_** *This article examines access to housing for homeless people based on an analysis of 86 State Party reports under the International Covenant on Economic, Social and Cultural Rights (ICESCR). By exploring the states' consideration of homelessness, the article discusses housing, particularly homelessness, in the face of human rights and then conceptually differentiates between two basic forms of inadequate housing: homelessness and SPaces of Inadequate Housing (short: SPIH). The analysis is part of the author's PhD research with the working title "Land policy and the human right to housing". Thus, the present discussion is part of a wider global discourse analysis about the human right to adequate housing with the aim of drawing attention to land policy as social policy.*

› **Key words_** *Housing rights, homelessness, International Covenant on Economic, Social and Cultural Rights*

Introduction

The Universal Declaration of Human Rights (Article 25, para.1, UDHR) and the International Covenant on Economic, Social and Cultural Rights (Article 11, para.1, ICESCR) regard housing as one cornerstone of the right to an adequate standard of living. This paper explores access to housing as a human right in Europe. All 27 European Union (EU) member states have ratified the ICESCR. The ICESCR is a key document for understanding governments' responsibilities in housing rights (Tippie and Speak, 2009, p.22) because its monitoring mechanism works in the form of a reporting procedure. The member states of the ICESCR have to submit reports to the Committee on Economic, Social and Cultural Rights. This article focuses on the State Party reports under the ICESCR and analyses the perception of housing in the 27 EU member states.

Land policy explores the "framework of property relations" (Davy, 2012), which is essential for the right to adequate housing. Private property rights are often either the cause of or the solution for people living in inadequate housing. The uses of public spaces and other urban commons are essential for the poor (Davy, 2009), particularly for homeless people. The paper explores homelessness in the context of other forms of inadequate housing and argues that in both scholarly literature and the ICESCR State Party reports homeless people are often regarded as victims without economic potential. In contrast to that, solutions for other forms of inadequate housing are often discussed from a more economic perspective. This paper addresses the questions: how do the EU countries respond to their obligation to guarantee adequate housing in the ICESCR State Party reports? What role does homelessness play in the self-descriptions of the State Party reports? How do the State Parties describe their policies in response to other forms of inadequate housing? Housing is a complex economic issue (Angel, 2000) of interest to developers, credit banks and many other market actors. This raises the question of how far homelessness gets onto the agenda of different stakeholders like market actors, NGOs, or the governments. However, it is important to state what this paper is not about. The paper does not attempt to evaluate the accuracy of the State Party reports. Nor does it examine EU policies rather than policies of 27 single states, which are, at present, members of the EU. The focus is on each country's self-description and its perception of the right to housing, not the realisation. Obviously, these self-descriptions of the states invite comparisons, for example with other investigations (Avramov, 1995; United Nations Economic Commission for Europe, 2009; Frazer and Marlier, 2009; Busch-Geertsema *et al*, 2010).

Housing and Human Rights

Housing is one of the “most prominent” rights of economic, social and cultural rights (Craven, 1995, p.329). From the perspective of law, every homeless person living in one of the 27 EU countries has many rights on different levels: The UDHR, the ICESCR, many other international covenants and conventions (Leckie, 2001; UN Habitat, 2009; Nevins, 2010), and the national law. In some countries, a housing clause has been included in the national constitution, for example in Portugal, Spain, the Netherlands and Belgium (Avramaov, 1995). Rights often only protect people “more in theory than in practice” (Frazer and Marlier, 2009, p.4). Human rights seem far away when we consider a homeless woman begging in front of a railway station. The existence of housing rights does not automatically mean that states have the obligation to eliminate homelessness immediately (Craven, 1995, p.330). The ICESCR is an excellent example that demonstrates the gap between human rights and everyday life. The main contents of the covenant are in Articles 6 to 15, ICESCR: labour rights (Articles 6 to 8), the right to social security (Article 9), family rights (Article 10), the right to health (Article 12), the right to free education (Articles 13 and 14), the right to participation in cultural rights (Article 15), and the right to an adequate standard of living including the right to housing:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent (Article 11, para.1, ICESCR).

In opposition to the International Covenant on Civil and Political Rights (ICCPR), the rights of the ICESCR are often not considered as individual rights rather than as the state’s obligations (Henkin, 1979). Therefore, economic, social and cultural rights have had the status of “second generation rights” (Craven, 1995; Dean, 2007). On 5th May 2013, the Optional Protocol to the International Covenant on Economic Social and Cultural Rights (A/RES/63/17) came into force. Based on this Optional Protocol, individuals or groups of individuals can now claim a violation of their rights to the Committee on Economic, Social and Cultural Rights (Article 2, OP-ICESCR). However, the current mechanism works in the form of a reporting procedure. The ICESCR State Parties undertake to submit reports on the measures they have adopted and the progress made in achieving the observance of the rights recognised in this covenant (Article 16, para.1, ICESCR). Since 1986, the countries account for their policies by answering to reporting guidelines (CESCR, 1986). These guidelines have been modified twice (CESCR, 1991 and 2009). Their purpose is to advise State Parties on the form and content of their

reports, and to ensure that the reports are comprehensive and presented in a uniform manner (CESCR, 2009). The official United Nations monitoring body for the covenant is the Committee on Economic, Social, and Cultural Rights (hereafter: The Committee). The Committee collects the reports and responds to each State Party report with concluding observations. Different NGOs write parallel reports in which they claim the rights violation of special groups or discuss the violation of a special right. The Committee publishes general comments concerning single rights with the aim of reaching a better understanding of the contents of the treaty obligations: "In fact, the Committee [...] has, in the absence of an official complaint procedure, developed its functions under the reporting procedure to something which is more and more resembling a quasi-judicial complaint procedure" (Rosas and Scheinin, 2001, p.427).

Since 1976, the number of the member states has been growing continually to 160. At time of writing the states have submitted almost 500 ICESCR State Party reports. The research project FLOOR (short for financial assistance, land policy, and global social rights; www.floorgroup.de), partly funded by Deutsche Forschungsgemeinschaft, is highly interested in social security as a human right. Ulrike Davy and her research team from FLOOR A (Social Law, University of Bielefeld) discovered the potential of the ICESCR reports for exploring global social policies and collected and prepared them for analysis. FLOOR A focuses on social rights, in particular the rights to social security and social assistance (Article 9, ICESCR) and the right to an adequate standard of living (Article 11, ICESCR) (Buschmann, 2011). FLOOR B (Social Policy, University of Bielefeld) explores the global diffusion of social cash transfers (financial assistance) as an instrument for social security (Leisering, 2009). The research for this article is a portion of FLOOR C, socio-ecological land policy. Analysing the State Party reports helps understand the different aspects of inadequate housing as well as the attempts to respond to them from a socio-ecological land policy perspective. From the perspective of FLOOR C, the question arises: is there a global social floor to housing and, if so, what role does land policy play to establish, maintain, and improve such a social floor to housing?

Figure 1: EU Member States: Submitting reports**Ratification of ICESCR**

Before 1975

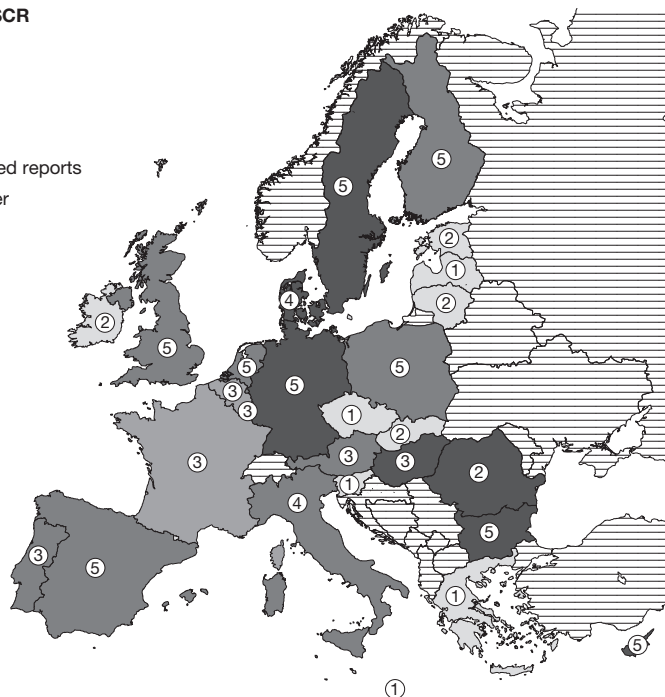
1975-1979

1980-1984

After 1985

⑤ NO. of submitted reports

Not EU Member



Data: ESRI ArcGIS, FLOOR A

Author: M. Kolocek

Principal Investigators: B. Davy, U. Davy & L. Leisering

FLOOR

Figure 1¹ illustrates the periods in which EU countries have ratified the ICESCR and the number of submitted full² reports. State Party reports which fall in a period the country has not been EU member (for example an ICESCR report of Poland from 1996) are treated in the same way as reports of the period, as if the country was EU

¹ Benjamin Davy invented the diffusion maps (figure 1 and figure 2), an idea I am drawing upon in this article.

² Until 1986 the States submitted their reports in three sections. In the first section, the states reported on rights covered by articles 6-9, in the second section on rights covered by articles 10-12 and in the third section on rights covered by articles 13-15. In this research these reports are summarised to one report, even if the country only finished one or two of the sections before switching to the system of submitting full reports. The Netherlands combined its fourth and fifth reports. This is counted as two reports.

member at this time³. Countries, which have submitted four or five reports, are also treated in the same way as countries, which have only submitted one report. The map illustrates the year of ratification and the number of submitted reports. Many European countries ratified the ICESCR very quickly after their independence. Slovakia, Czech Republic, Slovenia and the former socialist countries Estonia, Latvia and Lithuania are quite recent members, and have submitted one or two reports.

Homelessness in the Context of Inadequate Housing

Being homeless means living in a situation of inadequate housing, although homelessness is only one form of inadequate housing. Other recognised forms are slums, informal settlements, illegal settlements, shanty settlements, irregular settlements, pirate settlements, unauthorized communities, emergency shelters, refugee camps, night shelters, and many more. Some countries have their own terms, like *barrio* (Spanish), *bidonville* (French), *favela* (Portuguese), *gecekondu* (Turkish), *Elendsviertel* (German), *trushchobi* (Russian) or *hood* and *ghetto* (American English) (UN Habitat, 2003, pp.9–10). For simplification, the author's term to summarize these inadequate housing forms is SPIH: SPaces of Inadequate Housing (Kolocek, 2012). The Committee identifies seven basic aspects of adequate housing: Legal security of tenure; affordability; location; habitability; cultural adequacy; accessibility and availability of resources (CESCR, 1991, para.9). The term SPIH is used as an umbrella term for the mentioned forms and for circumstances in which one or more of the identified aspects are significantly violated, for example in situations of overcrowding, or by the lack of tenure security.

Most of the forms falling under the term SPIH are often only linked with countries of the Global South. In comparative statistics about the proportion of urban dwellers living in slums, the UN-Habitat (2008, p.90) differentiated between the eight regions Northern Africa, Sub-Saharan Africa, Latin America and the Caribbean, Eastern Asia, Southern Asia, South-Eastern Asia, Western Asia and Oceania but did not give any statistical information about Europe (or Northern America). This does not mean, however, that there are no slums in Europe. In other statistical data, the slum population of urban dwellers in European cities was estimated at 33 000 (6.2 percent) for 2001 (UN Habitat, 2003, p.14). In its first publication about informal settlements for the Europe Region (ECE, 2009), the United Nations Economic

³ Until 1990/1991, the countries Latvia, Lithuania and Estonia were in the Union of Soviet Socialist Republic. Slovenia was part of the Socialist Federal Republic of Yugoslavia until 1991. The reports of the Union of Soviet Socialist Republic and the Socialist Federal Republic of Yugoslavia have not been taken into account. This also applies for the reports of Czechoslovakia, the German Democratic Republic and the reports of the British Crown Dependencies and Dependent Territories of the United Kingdom, the Netherlands, and Portugal.

Commission for Europe (ECE) suggested that in over twenty countries of the UNECE region more than 50 million people live in informal settlements (ECE, 2009, p.xv). The statistics differ because of the differences in the underlying time, the European countries included and definitions of slums and informal settlements. The conclusion is that there are a considerable number of people living in SPIH in Europe or in other words that absolute homelessness is not the only form of inadequate housing in European countries.

Homelessness and Land Policy

Land policy examines the allocation of land rights and the distribution of the benefits and losses of land uses (Davy, 2005) and is, therefore, essential for planning decisions (Ploeger and Groetelaers, 2007). While the allocation aspect deals with questions of efficiency, the distribution aspect is closely connected to questions of justice. Socio-ecological land policy (FLOOR C) highlights the question of social justice and focuses on the relationship between the poor and the land (Davy, 2009). The combination of land policy and social policy has a long tradition. Since the 18th century, land reforms have been well known instruments of land policy to obtain social justice (Davy, 2000; 2012). In 1902, Damaschke (1918) investigated the housing situation of working-class families living in Berlin. Fast growing land and rent prices led to overcrowded and unhygienic housing situations. Damaschke demanded a land reform to distribute the benefits of industrialisation to all people, not only the landowners. "The housing question is particularly a land question" (Damaschke, 1918, p.87, *author's translation*).

Currently, the spatial consequences of property (Davy, 2012) can be either the cause or the solution for people living in situations of inadequate housing. For solutions relevant to land policy, the differences between SPIH and homelessness are of essential significance. Nowadays, the land titling approach by de Soto (2000) is the most well known concept to respond to the informality of slums and many other (certainly not all) SPIH, particularly in the Global South. The key message that emerges from de Soto's work is formalisation. This means giving the people a land title – a property right – to the place where they live in hope of improving the housing situation. De Soto calls this process waking up the dead capital through capitalisation process (de Soto 2000, pp.160-161). De Soto's approach was hotly debated and criticised by many researchers (for example Payne, 2001; Gilbert, 2002; Roy, 2005; Davis, 2006; Payne *et al*, 2009; Neuwirth, 2011). Nevertheless, from the perspectives of spatial planning and land policy, de Soto's position is remarkable because it connects social (housing) policy with land policy and highlights spatial

solutions as a response to inadequate housing. Even though many homeless people live in situations of informality and simultaneously occupy spaces of high economic value, de Soto does not mention homelessness at all.

Homelessness and Responsibilities

Homelessness and other forms of inadequate housing raise questions of responsibility: should the state, the market, the family, or other institutions and actors deal with inadequate housing? Or, are all of the mentioned groups responsible? If so, then to what extent? By analysing the welfare policies of 18 OECD countries, Esping-Andersen (2011) identified three models of welfare states: the liberal, the social-democratic and the corporatist. His key indicators to differentiate between the welfare states are the rate of de-commodification (of labour) (2011, p.35–54), the effect upon stratification (2011, p.55–78), and the qualitatively different arrangements between the state, the market and the family (2011, p.26). While commodification can be understood as the action of turning something into a commodity, which can be negotiated on the market, de-commodification means the emancipation of individuals from the (labour) market (Esping-Andersen, 2011). De-commodification is a process with different roots and “refers to the degree to which individuals, or families, can uphold a socially acceptable standard of living independently of market participation” (Esping-Andersen, 2011, p.37).

With reference to housing, a typical form of commodification is the privatisation of the housing stock. Privatisation, liberalisation and deregulation are often regarded as a double-edged sword, sometimes the solution and sometimes the cause for situations of inadequate housing. However, the transition of former public housing to the market (Edgar *et al*, 2007) had essential impacts on the housing situation of many people in Europe. The land titling approach is also a form of commodification because the land beneath the peoples’ feet is turned into an asset on the formal land market.

This article examines housing as a human right. Hence, the question of responsibility seems to be clear. The states have ratified the ICESCR and many other housing related covenants; the states have written the right to housing into their constitution or other national law. Accordingly, the states are responsible for guaranteeing adequate housing. When investigating homelessness and other forms of inadequate housing, it is clear that many different sectors, on global, national, regional and local levels, appear involved. The “multi-causality” and the broad scale of solutions underline the existence and the necessity of many stakeholders. As Angel argues, “housing policy in its broadest sense can no longer be restricted to issues of government housing assistance, be it to the masses, the poor, or the homeless. It must be

broadened to managing the housing sector as a whole, including the formal and informal sector; the rich and the poor; the private, the voluntary, and the public sectors; the inner city and the suburb” (Angel, 2000, p.27-28).

Table 1 illustrates different stakeholders and sectors that have been identified in ICESCR State Party reports. They are sorted into five groups. The differentiation is based on their obligations and interests in relation to adequate housing.

Table 1: Stakeholders in the ICESCR State Party reports

Actor Group	Differentiation	Examples
Governmental organisations	Obligation to help people in situations of inadequate housing	The EU, Governments, ministries, regional planning, local authorities, municipalities, burgomasters
NGO+	Interest to help people in situations of inadequate housing	Voluntary sector, non profit organisations, the church, religious institutions, welfare organisations, charitable associations
Market sector	Interest to maximise profit (no obligation to help people in situations of inadequate housing)	Private building sector, private owners, banks, business associations, housing cooperatives
Complex bodies	Obligation and interest to help people in situations of inadequate housing	The Cities Alliance, World Bank, working groups, round tables, networks
Other stakeholders	No obligation and varying or no interest in helping people in situations of inadequate housing	Experts, media, society, friends, relatives

Governmental organisations have a legal obligation to guarantee adequate housing. Their organisational structure is hierarchical. The distribution of responsibilities between national, regional and local levels depends on each country. The author’s term to summarize those groups that are neither governmental nor market actors is *NGO+* (spoken: NGO plus). *NGO+* are, for instance, different global and non-global NGOs, non-profit organisations, charitable associations and religious institutions. Their basic motivation to deal with inadequate housing does not fulfil a legal obligation, but is a voluntary act of solidarity. The housing *market sector* has an interest in maximising profits. It has no direct obligation or interest in guaranteeing adequate housing, as long as involvement is profitable. *Complex bodies* are heterogeneous groups in which those from two or more of the other four groups are involved. The Cities Alliance (Cities without Slums), for example, is a coalition of local authorities of mega cities, governments of welfare states and developing countries, the European Union, UN Habitat, and the World Bank. The World Bank by itself is a complex actor. On a smaller scale, cooperation groups between local authorities, local *NGO+* and market actors are examples of complex groups. Stakeholders who have many different interests and obligations that are only seldom directly connected to inadequate housing, form the last group: *other stakeholders*.

Table 1 indicates strict boundaries between the five groups which everyday life does not always reflect. Obviously, governmental organisations are complex, and they often act in the market sector, for example in the field of social housing. Housing cooperatives are nowadays often market actors but having their roots in solidarity and voluntarism. In the next section, the analysis of the ICESCR State Party reports will demonstrate the diversity of many stakeholders. Table 1 should be understood as an initial research result but also as an analysing instrument to answer the research question: which organisations and sectors are, from the perspective of the states, responsible for helping homeless people get access to housing? The State Party reports' answers to this question will be evaluated in the following section.

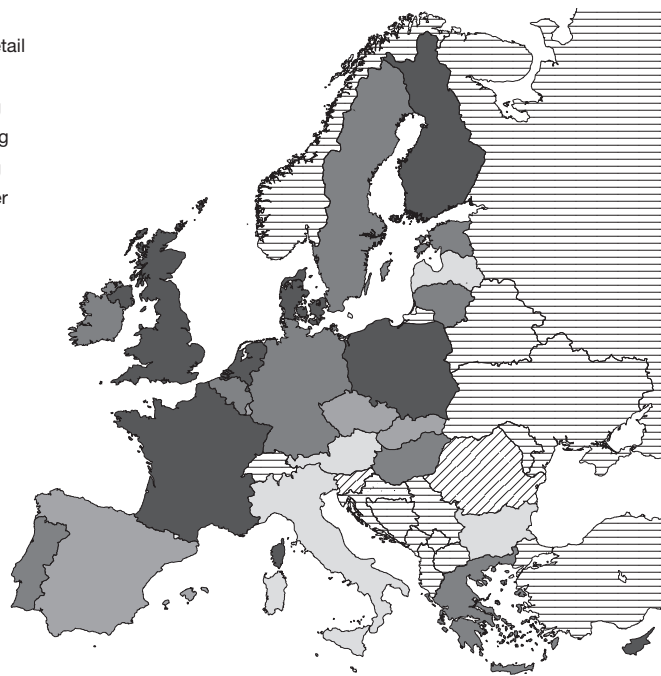
Analysing the ICESCR State Party Reports: Homelessness and SPIH

The following discussion will address the question of if and how the State Parties respond to their obligation to guarantee adequate housing, with a special focus on homelessness, underlying policies and the differences to SPIH. The differences between homelessness and SPIH will be evaluated in detail, particularly by comparing the stakeholder groups. The states differ in the attention they pay to homelessness.

Figure 2 illustrates the EU member countries categorised by their level of attention. Slovenia and Romania do not mention homelessness at all. The other 25 states talk about homelessness with different connotations like statistics, causes, or different measures. Four countries only mention homelessness in a few words or sentences. These countries often discuss homelessness in connection with simple statistical information (Austria, Bulgaria, and Italy). Latvia, a country which has submitted only one report yet, mentions homeless people one time and as part of a larger group while talking about the right to health (Latvia, 2005, para.452).

Figure 2: EU Member States: Reporting Homelessness**Level of attention**

- Reporting in detail
- Reporting
- Partly reporting
- Only mentioning
- ▨ Not mentioning
- ▨ Not EU Member



Data: ESRI ArcGIS, FLOOR A

Author: M. Kolocek

Principal Investigators: B. Davy, U. Davy & L. Leisering

FLOOR

Other states (five including Malta and Luxembourg which are too small to be illustrated on the map) partly report about homelessness; they mention the topic only a few times. Nine European countries report about homelessness in slightly more detail, with more than five paragraphs describing various measures. Seven countries speak about homelessness in detail.

France stands out as the country with the most intensive level of reporting. France does not only discuss homelessness in detail, but also highlights many other forms of inadequate housing. In its second periodic report, France illustrates different spatial measures such as emergency accommodation and temporary housing programmes (France 2000, para.536); emergency reception arrangements; reception centres; hostels; residential homes; hotels (para.537); 24-hour reception and advice centres (para.538). The report describes its emergency plan in detail (para.540-545), explains how it tries to prevent homelessness with financial measures (para.547-549) and emphasises the significance of housing policies as part of social policy, arguing



that housing is the first step towards reintegration. “Housing provides access to neighbours, an address, public services and the opportunity for employment. This is why, in the face of mounting exclusion, housing policy is one of the key facets of France’s policy on preventing exclusion” (France, 2000, para.548).

Ten states try to define homelessness. The countries reflect the academic homelessness discourse, which is characterised by a huge amount of different, sometimes contradictory, understandings (see, for example Springer, 2000; Amore *et al*, 2011; Fitzpatrick, 2012). By reporting on the causes of homelessness the states give attention to individual causes such as financial or health problems and to structural causes such as unemployment or shortages on the housing market, or family and relationship breakdowns. Estonia, Denmark, the Netherlands, Portugal and Spain make references to street children. Lithuania reports only that “there are no problems with children living in the street” (Lithuania, 2010, para.775).

Statistics and measures are the most frequent topic; 21 states present statistics concerning homelessness in their reports and 21 countries (not the same ones) discuss different measures. The measures mentioned are listed in Table 2. Only those measures that the states directly connect with inadequate housing are listed. Lots of other instruments homeless people could profit from (for example unemployment benefits or social housing in general) are only taken into account when the states connected them directly to homelessness.

Table 2: Measures in the ICESCR State Party reports

Measure group	Examples
Spatial measures	Small homes programmes, night shelters, temporary shelters, renovation, repair and improvement, reconstruction
Social support measures	Integration into society, health care programmes, nutrition programmes, drug rehabilitation
Financial measures	Assistance with living costs, credits, donations, housing subsidies, low cost housing
Other measures	Field studies, research, street magazines, self help

Access to housing for homeless people can be reached through financial measures or some spatial measures, for example small homes programmes. In the most frequently mentioned measure group, spatial measures, countries discuss different existing or new shelters. In all, 17 countries report on different forms of social support to respond to homelessness and eleven countries report on financial measures.

The second basic form of inadequate housing has been summarised under the term SPIH (see above). Since SPIH stands for a lot of different (spatial) forms of inadequate housing, the results of the analysis can only be summarised here,

focusing on the most essential results. Seven states of the EU do not mention any form of SPIH. The other countries talk about different forms. Spain, the United Kingdom and Portugal point out that slums exist in their country; Hungary reports on isolated slum-like neighbourhoods. Denmark, Greece, Lithuania and Sweden talk about illegal settlements; the Czech Republic, Malta and the Netherlands discuss squatters. No country mentions informal settlements. In most cases, when the EU member countries broach SPIH, they do not give the spaces a special term like *slum* or *informal settlement* but describe a housing situation, which they regard as inadequate.

“In 1995, 6.3 percent of all households were overcrowded (which means more than one person per room). Based on data from 1996, 12.6 percent of all households were living in substandard dwellings, that is, there was not ready access to one of the following amenities: piped water supply, sewer, hot water, flush toilet, or washing facilities (shower/bathroom or sauna)” (Finland, 1999, para.288). Only Cyprus, France and the Netherlands talk about the causes for the existence of SPIH. The Netherlands points out housing shortage as a reason for places, which are illegally occupied (The Netherlands, 2005, para.347), and in Cyprus (2007, para.306), temporary accommodation became necessary for the displaced families as a result of “the Turkish invasion”. France explains that insecure and inadequate housing situations emerge as a result of increasing rental costs (France, 2007, para.121). Overall, 14 countries mention different measures to respond to SPIH, mostly spatial ones like housing construction, housing improvement and urban renewal. Similar to homelessness, spatial measures are often combined with measures from other groups, for example financial measures or social support.

The land titling approach does not play an important role; only Greece highlights its potential for adequate housing; “special exemptions have been provided in planning law in order to facilitate the expansion, improvement or further development of housing in illegal properties and expedite the process of ‘legalisation’”. Needless to say, this often has a negative impact from the point of good planning and quality of the built environment, but it is considered necessary due to the particular social composition of former illegal housing areas. Overall, the regime for the ‘integration’ and ‘legalisation’ of illegal housing can be reasonably considered rather beneficial for past illegal settlers both from the point of housing and from the point of property gains” (Greece, 2002, para.323).

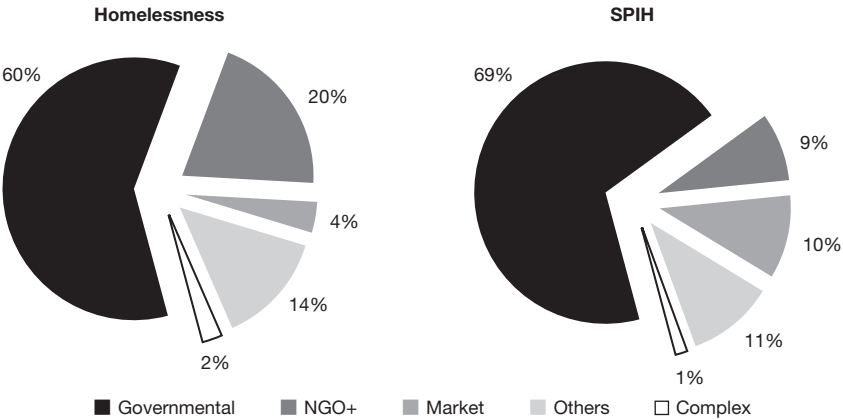
Comparing homelessness and SPIH, in summary, the EU member states give more attention to homelessness than to SPIH in their reports. Nevertheless, a number of similarities come up; descriptive statistics play a more important role than analysing causes, many different measures are mentioned, and some countries report inten-

sively, others not. Where there is little (if any) attention given to homelessness, there is often little (if any) attention to SPIH. On the other hand, countries, which report intensively on homelessness, also report on SPIH, albeit with less detail.

Actors Responding to Inadequate Housing

For the following discussion, the report sections addressing the policy response to SPIH and homelessness have been analysed in detail. The focus was on the stakeholders, that from the perspective of the State Parties, respond to homelessness and SPIH.

Figure 3 and 4: Stakeholders responding to inadequate housing



Source: 147 ICESCR State Party reports of the EU member states (FLOOR A)

As Figure 3 illustrates, 60 percent of the stakeholders mentioned are from the governmental group and 20 percent from the NGO+ group, while the market sector represents only four per cent of mentions when homelessness measures are discussed. Regarding SPIH, governmental stakeholders (69 percent) and the market sector (10 percent) play a more important role, with the effect that the NGO+ group is only mentioned by 9 percent. Concerning the fourth group, other stakeholders, the differences between homelessness and SPIH are small. Thus, the picture that emerges, underlines the fact that tackling inadequate housing is regarded as an obligation of the state. The proportion of governmental organisations mentioned is high, but not surprising. Thus, it is the states themselves who describe how they respond to inadequate housing. The analysis shows that it is

frequently more than one sector that responds to homelessness. The states often describe how they introduce laws and legislation, or they finance projects, which are then implemented by local authorities or NGO+ groups. For example:

The Scottish Rough Sleepers Initiative was set up in 1997. Local authorities, in partnership with voluntary organizations and other bodies, were invited to assess the incidence of rough sleeping in their area, to establish a strategic approach to tackling the problem, and to submit bids to fund projects as part of this approach. The administration of the rough sleeper's initiative is supported by the Rough Sleepers Initiative Advisory Group, which includes representatives of the voluntary sector as well as statutory agencies. This group makes recommendations on which projects should be funded and more generally on the development of the initiative. The first round of Rough Sleepers Initiative was subject to evaluation in 1998/99. It was found that the initiative had played a crucial role in galvanising the efforts of participating local authorities and voluntary sector agencies to devise and implement strategies to tackle rough sleeping in their localities. A wide range of services is being provided to give rough sleepers routes into permanent accommodation, including specialist medical support and outreach work. (United Kingdom, 2001, para11.146)

The quote above is presented in full because it is both representative and unrepresentative to statements concerning inadequate housing in the State Party reports. The paragraph is unrepresentative because not many countries talk about permanent housing for homeless people. However, the quote displays a storyline that is shared with many other reports: firstly, many measures are combined with others. Secondly, from the perspective of the states, many sectors are responsible for dealing with homelessness and, thirdly, the cooperation of these sectors appears to be necessary. To sum up, homelessness requires different solutions and is a challenge for many organisations and sectors. Nevertheless, the market sector plays only a marginal role.

Conclusions

Most of the EU countries regard housing as a human right and respond to the challenge of the many aspects of inadequate housing. The countries report on homelessness to differing degrees. The solutions discussed to deal with homelessness are frequently spatial ones, often combined with social support. However, measures which support access to (permanent, not temporary) housing play a marginal role. As Busch-Geerstsema and Sahlin (2007, p.74) note, hostels are a key response to homelessness in many European countries and the ICESCR State Party reports from the 27 EU countries support their observation. Nevertheless, as

a resource for detailed investigation, the reports' value is limited given that it is not possible to value whether a hostel, temporary accommodation or night shelter mentioned in the report fulfils the required standards for temporary accommodation (Busch-Geertsema and Sahlin, 2007, p.85). If these standards are not met, speaking within the terms of this article, the shelters fall under the category SPIH.

In the 27 European states examined, homelessness is seldom discussed in connection with self-help. The market sector seems to have little interest in homeless people. Homelessness is often regarded as a problem of poverty rather than as a "property problem" (Baron, 2004). In opposition to that, SPIH dwellers in other regions, for instance in Latin American countries (Kolocek, 2012), are often discussed from a more economic perspective. Formalisation of informal housing and working structures shall release the dead capital of millions of people living in inadequate housing (de Soto, 2000). The land beneath those people's feet holds economic potential. Its commodification seems to be a solution to combat inadequate housing. In contrast, homeless people in the 27 EU member states are not regarded as people with economic potential. Commodification (in the form of privatisation of the housing market) seems more likely to be a cause of, rather than a solution to, homelessness. Furthermore, when discussing SPIH, EU countries are more likely to term the settlements *illegal* rather than *informal*. For a long time, particularly Western European countries have paid attention to informal housing structures in developing countries and seem to have failed to recognise the informality (including its potentials) in their own countries. Informality in the EU is often close to illegality and thus not perceived as connected to human rights, but regarded as a violation of law by those living in informal housing structures. Nevertheless, there are many informal housing and working structures in Europe, for example street newspapers. These magazines and newspapers are the homeless peoples' voices (Torck, 2001) and often, street newspaper agencies offer social support and help homeless people to find accommodation. Obviously, selling street newspapers is not the only solution for homeless people but it is a widely accepted form of self-help.

This article has dealt with the State Parties' consideration of inadequate housing and analysed the self-descriptions, not the concrete reality. Hence, practical suggestions for governments and other policy makers would not have a suitable empirical background. The ICESCR reporting procedure is an example that demonstrates the gap between human rights and everyday life. The ICESCR reporting system does not attract attention other than from some interested researchers and human rights experts. Adequate housing is a human right. The ICESCR State Party reports are a valuable resource to evaluate in how this human right is regarded. Perhaps, with more attention from the wider society, the ICESCR State Party reports could contribute more than this.

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⁴ The maps illustrate results of the analysis of 86 State Party reports from the EU member states. These reports have been collected and prepared by Ulrike Davy and her team from FLOOR A. The list shows the reports, which are quoted in this paper. Most of them are also available (as html, word, or pdf- files) on <http://tb.ohchr.org/default.aspx> and www.bayefsky.com.



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