

## Prison Reform Trust response to the draft homelessness code of guidance – December 2017

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families.

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### Introduction

We welcome the opportunity to comment on the Draft Homelessness Code of Guidance for Local Authorities. Stable accommodation has long been recognised as a significant factor in the reduction of reoffending. 15% of people in prison reported being homeless before entering prison – including temporary accommodation or sleeping rough, with those serving sentences of less than 12 months twice as likely to have been homeless prior to custody as those serving longer sentences (17% to 8%)<sup>1</sup>. 11% of people released from custody in 2014–15 had no settled accommodation<sup>2</sup> - though inspectors have said that these figures are “misleading” as “they do not take into account the suitability or sustainability of the accommodation<sup>3</sup>. 33% of people rough sleeping in London in 2016/17 had experience of being in Prison at some point in their life<sup>4</sup>.

Support for this group remains inconsistent. 37% of prisoners said they needed help with their accommodation on release—only 22% reported getting it<sup>5</sup>. Without stable and suitable accommodation, it is harder for people to engage in employment and training, access support services, re-establish contact with families, and integrate successfully into the community.

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<sup>1</sup> Ministry of Justice (2012) Accommodation, homelessness and reoffending of prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) survey, London: Ministry of Justice

<sup>2</sup> Table 10, Ministry of Justice (2015) NOMS Annual Report 2014/15: Management Information Addendum, London: Ministry of Justice

<sup>3</sup> Criminal Justice Joint Inspection (2014) Resettlement provision for adult offenders: Accommodation and education, training and employment, London: HMIP

<sup>4</sup> Mayor of London (2017) CHAIN Annual Bulletin, Greater London 2016/2017, London: GLA.

<sup>5</sup> Brunton-Smith, I. and Hopkins, K. (2014) Prisoners' experience of prison and outcomes on release: Waves 2 and 3 of SPCR, London: Ministry of Justice

This is particularly the case for women. ‘Home Truths’, a report published by the Prison Reform Trust and Women in Prison, found that six in ten women do not have homes to go to on release from prison<sup>6</sup>. The report reveals a lack of clarity and consistency about responsibility for the housing of women offenders. This was reiterated in Prison Reform Trust’s report ‘Leading change’, which underlined the importance of local authorities working together with local support services to identify accommodation options that were relevant for each individual<sup>7</sup>.

There is promise in the legislative changes introduced by Homelessness Reduction Act 2017. We particularly welcome the duty placed on prisons and other public authorities to make a referral to the local authority for all those who may be homeless or threatened with homelessness. Combined with the extension of the definition of ‘threatened with homelessness’ from 28 days to 56 days, there is the potential to address current inconsistencies in the working relationships between prisons and local authorities and increase the chance that the custodial period can be better used to prepare for release.

However, we have real concerns that the potential of the legislation could be undermined by the inadequate detail and lack of clear obligations within the draft guidance—particularly in relation local authority responses to public authority referrals. We recommend this is addressed to ensure that the apparent intention of the legislation is not diluted in the process.

We are encouraged to see the draft guidance puts more emphasis on the importance of accommodation for successful resettlement and rehabilitation, and reminds housing authorities of the barriers faced by this group. On the whole there is a significant improvement in tone and content in regard to prison leavers and other people with an offending history, particularly with the inclusion of the specific chapter devoted to people with an offending history.

### **Public authority referrals and Part 7 duty**

We are concerned that the obligations placed on local authorities in response to referrals from public authorities, such as prisons, are vague and inadequate, and will ultimately reduce the worth of this provision without some clearer guidance.

Firstly, according to paragraph 4.11 of the draft guidance, an application made under section 213B will not constitute an application for assistance under Part 7 of the 1996 Act, even if there is reason to believe that the applicant may be homeless or threatened with homelessness. We see no reason why the duty under section 184 of the 1996 Act should not be triggered if a referral provides information that would trigger this duty under other circumstances.

Furthermore, although the guidance says that ‘housing authorities should always respond to any referral received’, there is no mandated or suggested time-frame for doing this. With no specified time frame, the draft guidance effectively allows for any possible Part 7 duty to be postponed until the authority has made ‘subsequent contact’ with the individual. This means this could be left until too late to offer effective assistance.

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<sup>6</sup> Prison Reform Trust (2016) Home Truths: housing for women in the criminal justice system. London: Prison Reform Trust

<sup>7</sup> Prison Reform Trust (2016) Leading Change: the role of local authorities in supporting women with multiple needs. London: Prison Reform Trust

Indeed, there is nothing in the guidance to say that subsequent contact is even necessary as part of this response – 4.11 states only that the housing authority ‘may wish to contact the individual’. If housing authorities are not expected to take the referral as an application under Part 7 unless subsequent contact supports this, but there is no obligation to have this contact then it seems likely that many referrals will not get the investigation they require and will result in little assistance.

The lack of specific obligations in this section of the guidance seems to readily allow for the kind of gate-keeping which has been so problematic for people leaving prison, and could really undermine the potential benefits this provision offers. We strongly recommend that this is amended to include clear duties and time frames for responses.

### **Information included in referrals from prisons**

Paragraph 4.6 states that ‘arrangements with prisons should ensure that the referral is made well in advance of the release date and that, with the individual’s consent, appropriate information is supplied with the referral’. Whilst it is clearly helpful that referrals include as much relevant information as possible, it is also worth recognising that the timeliness and detail of a referral are often in direct opposition. Collating accurate information about accommodation history, and support needs can be a time-consuming process and could result in referrals being delayed until last minute. Local authorities should be mindful of these challenges and ensure that referrals are not unnecessarily delayed or blocked by unrealistic requests for information. This is supported by the guidance at paragraph 4.2 which states that public authorities are not expected to conduct housing needs assessments.

### **The completion of assessments whilst in custody**

We welcome the emphasis on completing assessments with applicants even if they are in prison, and the suggestion that this could be completed by telephone or video link, as per paragraph 11.14. In some circumstances assessments can also be completed whilst the individual is Released on Temporary Licence (ROTL). The current refusal by many housing authorities to conduct proper assessments until the person attends their office on release is a waste of precious time in which resettlement plans could be put in place, and creates an unnecessary uncertainty at a time when prison leavers are under considerable time and emotional pressure—often having to make contact with probation, Job Centre Plus, healthcare services and any other support all within the first 24 hours.

An emphasis on early assessment should also allow the local authorities to better plan any necessary temporary accommodation allocation in advance. In turn, this could lead to better support planning for a person’s release from prison—if, for example, an applicant knows that they are likely to be allocated temporary accommodation in a particular area they can plan to have support such as GP and benefits set up in that area in advance. At present, well-coordinated support plans can easily be undone if a person finds out on the day of release that they are to be temporarily accommodated outside of the local authority area.

### **Prevention of homelessness whilst in custody**

Preventing arrears caused by unnecessary suspension of housing benefit is an important and resource effective way of preventing homelessness for short sentenced prisoners. Where housing benefit is still paid by local authorities and a person remains eligible by virtue of their sentence length or remand status, the

authority should work in partnership with advice services in prisons to ensure that an appropriate mechanism is in place to expedite change of circumstance notifications made by recently received prisoners. With the move to Universal Credit, this will require additional coordination with Job Centre Plus.

### **Priority need considerations**

In addition to the other considerations mentioned in Chapter 23, we welcome the inclusion in the guidance to 'take into account the assessments of housing and support needs completed by offender management services, or voluntary organisations acting on behalf of these agencies'. Too often the assessments of people that have been working closely with an individual have not been taken into account at this stage.

### **Intentional homelessness for prison leavers**

We are reassured that the point has been retained, at 23.21, that authorities should not adopt blanket policies regarding intentional homelessness for people who lost their accommodation whilst in custody, and that other factors should be taken into account such as age and maturity of the applicant. This continues to be a major barrier for prison leavers, despite the fact that the legislation has recognised for some time that certain vulnerable ex-offenders could be in priority need.

### **Local connection for prison leavers**

Although there have been no fundamental changes to the fact that residence in an area while serving a prison sentence does not establish a local connection, the guidance should be clear regarding applications from prison leavers for whom a long prison sentence and lack of existing family effectively leaves them without a connection to any authority. Although paragraph 23.22 reminds that that 'if the applicant is eligible for assistance and threatened with homelessness the housing authority taking the application will have a section 195 prevention duty, whether or not the applicant has a local connection', it would be worthwhile providing common examples to support this and prevent individuals being incorrectly discouraged from making an application.

### **Allocation scheme**

In paragraph 2.46 "Housing authorities are encouraged to keep under review the impact of their allocations policies upon people at risk of homelessness, including single people who...may have a history of offending."

Since the introduction of the Localism Act local authorities have had greater discretion as to the allocation of social housing, including the ability to exclude groups of people such as people with criminal convictions. This has resulted in some local authorities implementing a blanket exclusion on this group. This practice is clearly contradictory to the understanding and tone of Chapter 23 of the draft guidance which highlights the additional barriers people with an offending history have accessing housing. Restricting groups who are already at greater risk of homelessness undermines efforts to prevent and reduce homelessness in the community, and increases the risk of reoffending.

The draft guidance is insufficient in addressing this problem. This is an important opportunity to break down the additional barriers these policies have created by recommending that local authorities do not implement blanket policies which exclude

groups who already face additional challenges, such as people with criminal convictions.

### **Data gathering**

One of the major barriers to understanding the relationship is the lack of recent data. As mentioned above, there are doubts as to the validity of data collected by prisons and since the introduction of Community Rehabilitation Companies in 2015, there is no clear responsibility for the gathering of information about people who are homeless on release from custody. The duties introduced by the Homelessness Reduction Act and the onus on joint working between these bodies provides an opportunity to collect better data on this issue and develop an understanding of the problem on both a local and national level.