

THE IMPORTANCE OF HOUSING FOR WOMEN PRISONERS

Briefing for Housing Advice and Support Providers in Prisons



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THE IMPORTANCE OF HOUSING FOR WOMEN PRISONERS

Why should staff working with women prisoners pay particular attention to their housing needs?

How can the women best be supported to keep their housing or to get somewhere to live on discharge from custody?

This booklet outlines why those working with women prisoners should pay particular attention to their housing needs and offers support in seeking to maintain and gain housing on discharge from custody.

Some facts and figures

In the last decade the number of women in prison has more than doubled with over 4,500 women being in custody at the end of 2007. The majority of women receiving custodial sentences are subject to short sentences, two thirds for periods of six months or less - long enough to lose accommodation but often too short to gain another home. Home Office research in 2005 found 38% of women leaving prison did not have accommodation arranged for them on discharge.

- Around one-third of women prisoners lose their homes whilst in prison.
- Women prisoners are less likely than men to have accommodation arranged for them on discharge from prison
- Approximately two-thirds of women in prison have dependent children
- At least a third of mothers are lone parents before imprisonment.
- Over half of women in prison have experienced domestic violence or other abuse
- Two thirds of women received help for a mental/emotional problem in the year prior to custody and a significant proportion of women in prison self-harm.
- Two-thirds of women in prison have drug problems

Nationally, there are 15 women's prisons and women are often in custody a long way from home – an average of 58 miles, reducing the likelihood of advisers having local housing knowledge or contacts.

Organisational expectations

At times of limited resources and increasing pressures many managers need to understand what organisational drivers underpin particular areas of work. Improving housing outcomes for women prisoners contributes to –

- Reducing re-offending - Offenders with settled housing are a fifth less likely to reoffend than those homeless.
- The recommendations of the Corston Review as accepted by Government
- The 2009/10 NOMS targets for the prison service to ensure settled accommodation for offenders on discharge.
- The Socially Excluded Adults Public Service Agreement (PSA) and national indicator 143 (offenders living in settled and suitable accommodation)
- The Government's strategy for preventing homelessness, *Sustainable Communities: settled homes, changing lives* and national indicator 156 (the number of households living in temporary accommodation)
- The forthcoming Prison Service Order 2003

PRESERVING HOUSING

“Around one-third of women prisoners lose their homes and often their possessions whilst in prison.” Social Exclusion Unit Report

Much of the effort of housing advisers and other staff is spent on finding new housing on discharge. In an environment where housing is becoming harder and harder to access it makes sense to try to preserve the housing that many women have when they are received into prison. This briefing focuses on those in rented accommodation. For prisoners who are having issues regarding mortgaged property expert advice should be sought.¹

Assessing Housing Need

All local prisons are required to undertake assessments of housing need within four days of reception. This is an opportunity to not only identify need but -

- To negotiate with housing providers to maintain a property. This is particularly important for the majority of women on short sentences.
- If it is not possible or advisable to maintain a property ensure that the tenancy is closed down properly to improve future prospects of gaining housing.
- Ensure that Housing Benefit offices are contacted to change the circumstances of the claimant.

Maintaining a tenancy

As long as rent is being paid and other tenancy conditions are being met a housing provider should not terminate a tenancy when someone goes into prison. However, it is important that the landlord is informed of any changes – quickly. This will prevent any assumptions that the property has been abandoned.

Housing Benefit

Housing Benefit can be claimed to help to pay towards rent whilst someone is in prison but there are tight restrictions. Benefit will only be paid for a maximum of 13 weeks for a sentenced prisoner or 52 weeks for a prisoner on remand. The two cannot be combined.

The regulations also demand that:

- The prisoner must intend to return to live in the property and
- The property must not be sublet

The test is – whether the period of absence is likely to be no more than 13 weeks (for a sentenced prisoner) so, for example, if a woman was sentenced to six months they are likely to be released in 13 weeks hence eligible for benefit.

If a partner, family member or friend continues to occupy the property they may be able to take responsibility for paying the rent and claim Housing Benefit in their own name – if they are entitled to do so.

It is not a good idea to leave a property unoccupied for long periods. An empty house or flat still needs to have fuel and water standing charges paid. Also an empty property may get damaged. In this situation the prisoner may want to consider other arrangements

¹ General information can be found in ‘Facing Prison? What to do with your home’ at www.harpprotocol.com

GIVING UP A TENANCY

*“Over half of women in prison have experienced domestic violence or other abuse.”
Social Exclusion Unit Report*

Having considered the possibility of maintaining their tenancy a woman may decide that it would be better to give up her tenancy and start afresh on discharge. This may be due to factors such as –

- Not wanting to return to the neighbourhood due to fear of violence or returning to drugs.
- The length of sentence is too great to allow the rent to be paid through benefit.
- There is a likelihood that the property will be damaged.

Giving up a tenancy properly is vital if rent arrears are not to mount up and a good tenancy record is spoiled. It may also be possible to agree with the housing provider to look favourably on any future housing application in return for giving up a tenancy on entry to prison – this has to be in accord with their allocations policy.

Housing Benefit

By applying for a change in circumstance to the Housing Benefit office rent owed for a notice period of up to 4 weeks is payable.

Informing the landlord

The landlord should be informed of the intention to terminate the tenancy at the same time as informing the housing benefit office. If possible advice and support staff should seek to negotiate the provision of housing on discharge in recognition of responsible termination.

APPLYING FOR HOUSING

“Women prisoners are less likely than men to have accommodation arranged for them on discharge from prison.” Report in Hansard

Often applying for housing is left to a late stage in a sentence. This is short sighted as most housing providers are able to provide a better service with the longest notice possible. Also if a woman has been refused by a housing provider early in her sentence there will be time available to work on the issue and reapply e.g. if an application was refused on grounds of outstanding rent the period in prison may provide the opportunity to pay off some of the arrears and thus ‘show willing’.

Generally, applications need to be made on the providers application form unless there is an agreed common referral form for prisons such as that in the South West region. Applications should be completed by the offender and supported by professional staff who can give an assessment of risk and an indication of need and change in behaviour.

Applications should be full and frank and invite providers to seek additional information that they need. Most housing providers share the same aim as NOMS in managing risk adequately.

Additional information on Information Sharing in housing applications can be found in ‘Reducing Re-offending Housing and Housing Support Resource Pack’ at

http://noms.justice.gov.uk/news-publications-events/publications/guidance/HHS_Resource_Pack_2008

APPLYING AS HOMELESS

“The experiences that women related to Women In Prison about their interviews with Homeless Prevention Units were all negative, saying that staff just wanted to be rid of them and accused them of lying.” Corston Report

A very small proportion of offenders find housing through the statutory homelessness route although a disproportionate amount of time is spent on this route. The messages which need to be taken on board are –

- Applying for accommodation through the statutory homelessness route is a last resort and earlier application is preferable.
- If an application is to be made through this route then it should be done from an informed perspective

The Homelessness Act 2002

The Homelessness Act did not completely change housing law, but it did make some important changes to parts of the Housing Act 1996². These changes can make a significant difference to how homeless offenders and, particularly prisoners are treated by local authorities. The act was further clarified through a revised Statutory Code of Guidance in 2006³ which strengthened a number of issues in relation to offenders especially emphasising that there should be no ‘blanket bans’ on groups of people e.g. offenders and that the circumstances of each applicant should be considered individually.

Local authorities are only by statute to house homeless people who meet certain criteria and are assessed as being in priority groups. These include:

- A pregnant woman
- A person with dependant children⁴
- A person who is vulnerable as a result of old age, mental illness or handicap or physical disability
- People who are vulnerable as a result of fleeing violence

Annex A provides a Guide to making a homelessness application, it explains the responsibilities that local authorities have towards homeless people focusing on women offenders and returning prisoners. The section has been written in question and answer form and can be used with individual women offenders or as a learning aid.

If the local authority decide that the woman is not a priority, the authority still have a duty to offer advice and assistance in finding accommodation. This has to be real help, not simply a list of addresses.

If the applicant is not assessed as owed a duty under the act the decision should be asked to be confirmed in writing and then a review of the decision to be made. If the offender has been discharged by this appoint they should ask to be accommodated during the review.

It is always seeking a review and if this is still negative there is an ability to challenge this in the County Court although this would require professional help.

² Homeless legislation is largely contained in Part 7 of the Housing Act 1996

³ Homelessness Code of Guidance for Local Authorities, DCLG, 2006

⁴ Normally up to 16 years of age or up to 18 if the child is in full time education.

CHILDREN

“Approximately two-thirds of women in prison have dependent children under the age of 18 years.” Home Office Research study.

Background

The majority of prime carers for children are women. When they are sentenced to custody their children are cared for by,

- | | | | |
|---------------|-----|--------------------------|-----|
| ▪ Father | 25% | ▪ Other family & friends | 29% |
| ▪ Grandparent | 25% | ▪ Care or Adopted | 12% |

This can reduce the urgency for agencies to find women prisoners housing. Work on preventing housing loss prior to and during custody, and inter agency support in finding housing prior to discharge, are crucial elements in reuniting and sustaining families.

Yet 38% of women prisoners released have been shown to have no suitable accommodation to go to on release.

‘Catch 22’

Housing advisers in women’s prisons have consistently reported that many women face a ‘catch 22’ situation where –

- They are not considered a priority by some housing providers as they do not have care of their children and
- They are not able to have their children live with them because they do not have suitable housing.

Practice is variable and many housing and children’s services do look on these cases sympathetically and swiftly.

It is also acknowledged that reuniting children and parents is not necessarily a straightforward process even with accommodation and appropriate assessment, support and supervision is required.

Statutory levers

1. Section 17(1) Children Act 1989 places a statutory duty on local authorities to promote the upbringing of children by their parents wherever it is in the child’s interests.
2. Section 189(1) of the Housing Act 1996 defines those people who have a priority need for accommodation. This includes – “A person with whom dependent children reside or might reasonably be expected to reside”.

Advisers should be clear when supporting housing applications from women who are able to care for their children on release to make clear to housing providers that the woman is able and wishing to care for dependent children and that the above legislative levers support this.

Annex A

A GUIDE TO ELIGIBILITY UNDER THE HOMELESSNESS ACT

The guide identifies the position of the applicant. After considering each question the answer can be recorded on 'Sheet 1' at the end of the section. The information is provided as basic guidance only.

Part 1 – “Where do I stand?”

Q.1. “Am I homeless or threatened with homelessness⁵ under the law?”

You are considered Homeless if,

- i. You have no accommodation available for you to occupy
- ii. You have accommodation, but cannot secure entry to it
- iii. You have accommodation, but it is not reasonable for you to carry on living there e.g. the property may be dangerous or you may be at risk of violence.
- iv. You are likely to become homeless within 28 days.

Accommodation is only seen as suitable if,

- i. It is available also for any person who normally lives with you as part of your family e.g. children
- ii. If you or a person living with you as family is free from violence or threats of violence – not just domestic violence.

Court rulings have said that prison cannot be counted as settled accommodation. So if you are being released in 28 days time and have nowhere to live - you are homeless.

➤ ***Are you Homeless? Turn to Sheet 1***

Q.2. “Where can I look to find a home?”

Normally you would apply to the local authority where you have a local connection. A local connection would usually mean you,

- i. Have normally been a resident, now or in the past.
- ii. Are employed there.
- iii. Have family connections.
- iv. Have special reasons.

Being in prison in a particular town does not count as a local connection.

If you cannot return to your normal area of residence because you have been subject to actual or threatened violence you can apply to live in a safer area.

If there are other reasons such as you are excluded from your home area by a court order or it would be harmful for your children to return to their home area, these could be seen as special reasons.

➤ ***Have you a Local Connection? Turn to Sheet 1***

⁵ Being threatened with homelessness has the same effect as actually being homeless.

Q.3. “Am I eligible to apply for Housing?”

- i. If you are a person from abroad, there are a number of eligibility rules, which would need to be discussed with a special adviser.
- ii. Most authorities would consider you to be ineligible to be housed if you are ‘guilty’ of unacceptable behaviour. The grounds for this have been changed and need careful reading. There is a three stage test for the local authority to apply.
 - Has the applicant been guilty of behaviour, which – if they were a secure tenant – a court would grant a possession order under Section 84 of the Housing Act 1985? (This could include persistent noise, domestic violence, racial harassment, intimidation or drug dealing.)
 - Having decided that an order could be obtained, the authority needs to satisfy themselves that the behaviour is serious enough to make the person unsuitable as a tenant.
 - The authority will then have to satisfy themselves that the person’s behaviour is still unsuitable **at the time when the application was made.**

The important point to make here is – even if you could have been evicted (or actually have been) does that situation apply now. For example, if you were involved in drug dealing or prostitution was that under coercion from a partner who is no longer on the scene.

➤ ***Are you eligible to apply for housing? Turn to Sheet :1***

Q.4. “Would I be considered as a Priority for Housing?”

There are groups of people who are considered as in Priority Need. These people must be accommodated if they are Homeless and Eligible.

These groups include,

- A pregnant woman
- A person with dependant children
- A person who is vulnerable as a result of old age, mental illness or handicap or physical disability
- A person who is homeless as a result of a disaster such as a flood or fire.

The above groups also include people who would normally live with someone in priority need.

- 16 and 17 year olds other than those for whom social services hold a responsibility
- Care leavers aged 18-20 years who were looked after by social services when they were 16 or 17
- People aged over 21 who are vulnerable as a result of being in care
- People who are vulnerable as a result of spending time in prison.
- People who are vulnerable as a result of fleeing violence

In cases involving violence, the safety of the applicant and ensuring confidentiality must be of paramount concern.

Priority need is automatic for some groups but others have to show vulnerability due to the experience / condition. Vulnerability is not clearly defined, the guidance for local authorities outlining –

It is a matter of judgement whether the applicant's circumstances make him or her vulnerable. When determining whether an applicant in any of the (priority) categories... is vulnerable, the local authority should consider whether, when homeless, the applicant would be less able to fend for him/herself than an ordinary homeless person so that he or she would suffer injury or detriment, in circumstances where a less vulnerable person would be able to cope without harmful effects.

➤ ***Am I in a Priority Need group? Turn to Sheet:1***

Q.5. "Did I make myself Intentionally Homeless?"

A local authority does not have to re-house a person who has become homeless intentionally.

By doing something, or not doing something, which results in you losing your home, you could be seen as Intentionally Homeless.

However if you are in Priority Need the local authority must,

- i. Make sure that the accommodation is available to you for long enough for you to enable you to find alternative accommodation.
- ii. Give advice and help to find alternative accommodation.

If you are not in priority need you should still be provided with advice and assistance.

Case law has established that offenders, who do things such as dealing drugs, should have known that their actions would have caused them to lose their homes. As such, they were held to be Intentionally Homeless.

➤ ***Am I Intentionally Homeless? Turn to Sheet:1***

Where are you?

By this point it will have been established where the potential applicant fits within housing law.

If the offender is Homeless, has a Local Connection, is Eligible, in Priority Need and not Intentionally Homeless – and the local authority agrees – she is pretty certain to be housed under homelessness law.

On the other hand if the offender is Homeless, Not Eligible, Not in Priority Need and Intentionally homeless – energies would probably be better spent looking for property in the private sector.

If the woman is in the middle, it is always worth pursuing a homelessness application, but making sure that as much support as possible is given by housing advice staff.

Sheet One – The Homelessness Act 2002

1. **Am I homeless** Yes / No
Why am I homeless?

2. **Have a local connection** Yes / No
If Yes, what is the connection

If No
 - Am I under threat of violence if I return to my home area?
What is the threat? Yes / No

 - Are there special reasons why I cannot Return to my home area?
What are those reasons? Yes / No

3. **Am I eligible**
 - Am I a person from another country
- seek specialist advice Yes / No

 - Do I feel I could pass the 3 stage test?
If Yes How – What support could I get
To show this? Yes / No

4. **Am I in Priority Need** Yes / No
 - How do I qualify?

 - Why do I feel I am vulnerable?

5. **Am I Intentionally Homeless** Yes / No
If Yes am I in Priority Need

6. Who can provide any letters of support to improve my application?

For example -
 - Prison
 - Probation
 - Social Worker
 - Doctor