

Expert Review Panel: Introduction Briefing

Overview of Panel and a Welsh Context

The Welsh Government has announced its intention to consider appropriate legal reform around housing and homelessness.¹

Housing is devolved to Wales and the Welsh Government has the powers to make legislative change in this area.² Following the advent of primary law-making powers for the Welsh Parliament in 2011, the Welsh Government identified tackling homelessness through legislation as a priority. Legislation was identified as being essential in improving outcomes for people facing homelessness and in preventing people from being pushed into homelessness in the first place.

The landmark Housing (Wales) Act 2014 (the Act) was a progressive piece of legislation which has helped reduce homelessness for people in Wales and secure positive outcomes for an increased number of people coming through the homelessness system. However, this system still does not work for everyone, and the policy and practice landscape we are now operating in has seen vast changes.³ It is clear there are further legal reform necessary, building on lessons from the 2014 Act and reflecting the ambitions in the Wales Homelessness Action Group (HAG) to create a culture where every person in Wales experiencing or at risk of experiencing homelessness has access to the support and options which end their homelessness.

The updated Welsh Programme for Government 2021-26 pledges to “Reform housing law and implement the Homelessness Action Group’s recommendation to fundamentally reform homelessness services to focus on prevention and rapid rehousing.”⁴ This builds on the Welsh Government’s Homelessness Action Plan, which said that Wales can end homelessness by making it rarer through universal, targeted and crisis prevention measures. The Welsh Government plan also sets out how any experience of homelessness can be brief and non-recurring through rapid rehousing approaches and through investment in overarching measures like new social housing supply.⁵

The Welsh Government has announced its intention to draft a Green Paper for consultation and has also charged Crisis with convening an Expert Review Panel, chaired by Prof. Suzanne Fitzpatrick, to look at legislative issues and recommend detailed solutions to reform the law. Crisis has experience of convening a panel for the Scottish Government on homelessness prevention legislation,⁶ and the expert panel in England to develop the Homelessness Reduction Act.⁷ Crisis has also developed an

¹ Written Statement: Establishing an Expert Review Panel for homelessness legislation in Wales (2022) <https://gov.wales/written-statement-establishing-expert-review-panel-homelessness-legislation-wales>

² <https://law.gov.wales/public-services/housing>

³ Report from the Homelessness Action Group for the Welsh Government (2020) *The framework of policies, approaches and plans needed to end homelessness in Wales (What ending homelessness in Wales looks like)*, p.36

⁴ Welsh Government (2021a) *Programme for Government* (updated), p.7

⁵ Welsh Government (2021b) *Ending Homelessness Action Plan 2021-2026*

⁶ Prevention Review Group (2021) *Preventing Homelessness in Scotland*.

<https://www.crisis.org.uk/media/244558/preventing-homelessness-in-scotland.pdf>

⁷ *The homelessness legislation: an independent review of the legal duties owed to homeless people* (2015) https://www.crisis.org.uk/media/20606/crisis_the_homelessness_legislation_2015.pdf

‘ideal’ legal framework for ending homelessness as part of its 2018 blueprint for ending homelessness.⁸

The panel’s full remit is outlined in the draft Terms of Reference which will be agreed on at the panel’s first meeting 31/08/09. Central to the panel’s work will be to design/approve multiple opportunities for consulting outside the core panel itself, ensuring the expertise of professionals in different parts of the sector are reflected and crucially that the expertise of people with lived experience of homelessness is a driving force behind the panel’s decisions.

Part of this process will also include the consideration of a full rehousing duty. This would be with the aim of making sure that people are not left out of support because of priority need, local connection, and intentionality, to the end that nobody facing homelessness is left without the help they need simply because of the way Wales’s homelessness system is designed.

There is broad agreement across Wales that duties are a last line of defence, and that a robust homelessness system should have an ‘*an overwhelming emphasis on prevention/early intervention*’.⁹ However, there is also agreement that the existing duties need to be revisited, considering whether or not they serve the current and desired future culture in Wales set out in the HAG report.

At the request of the Minister for Climate Change, Julie James MS, the panel will also consider a broader public services role in prevention, and will be considering learning from the proposed ‘duty to ask/act’ in Scotland and other relevant duties (e.g. ‘duty to refer’ in England).

Changing the law is not a panacea for ending homelessness, but it does play a critical role ensuring that councils provide a highly effective safety-net for those that need it.

COVID-19

COVID-19 has had a significant impact on people faced with homelessness and has prompted a different response from local authorities and others to protect those with no safe place to stay. Along with an initial £10 million in emergency funding support, the Welsh Government issued guidance as the pandemic progressed that people at risk of sleeping rough during the pandemic should generally be treated as vulnerable for the purposes of assessing priority need for re-accommodation. The mechanism of a centralised coordination cell within each council brought together partners such as health, registered social landlords, police & probation, third sector organisations etc to collectively plan and deliver services. The then Housing and Local Government Minister, Julie James MS has since stated that nobody would be forced to return to the streets, and that the government remain committed to ending homelessness in Wales.

Welsh Government statistics on *Homelessness accommodation provision and rough sleeping: May 2022* showed that:¹⁰

- Throughout Wales, 1,563 people presenting as homeless were placed into temporary accommodation during the month, 263 more than in April 2022. Of these, 462 were dependent children aged under 16, an increase of 106 from April 2022.

⁸ Downie, M., Gousy, H., Basran, J., Jacob, R., Rowe, S., Hancock, C., Albanese, F., Pritchard, R., Nightingale, K. and Davies, T. (2018) *Everybody In: How to end homelessness in Great Britain*. London: Crisis, p. 373

⁹ Crisis (20__) *Everybody In* p.397

¹⁰ <https://gov.wales/homelessness-accommodation-provision-and-rough-sleeping-may-2022>

- At 31 May 2022, 8,134 individuals were in temporary accommodation, an increase of 135 from 30 April 2022. 2,336 of these were dependent children aged under 16, an increase of 154 from 30 April 2022.
- Between the beginning of the COVID-19 pandemic and the end of May 2022, over 23,200 people who were previously homeless have been supported into emergency temporary accommodation.
- 635 homeless individuals were moved into suitable long-term accommodation, 130 more than in April 2022. Of the individuals moved into suitable long-term accommodation, 240 were dependent children aged under 16, an increase of 57 from April 2022.

The Crisis No one Left Out report describes a change in culture surrounding ending homelessness, that has been considerably accelerated by the necessary change in practice due to the COVID-19 pandemic:¹¹

The eligibility tests have been described as ‘odd’, ‘freakishly antiquated’, ‘arbitrary and quite subjective’, and ‘a barrier to accessing... services’. They are incompatible with the prevention and harm reduction approach of the 2014 Act and hamper efforts to end homelessness by leaving many to continue facing homelessness without support.

Our current system is also incompatible with the desired shift towards more person-centred, and trauma-informed approaches. Participants emphasised the importance of trauma and psychologically informed approaches for staff and workforces and how vulnerability assessments themselves can be traumatic for some applicants.

Whilst the legal framework has successfully reduced the number of people facing the worst forms of homelessness, it does not stop people being pushed into homelessness in the first place. While the current legislation clearly helps make homelessness rarer through prevention, it can work against the aim of making homelessness brief and non-recurrent.

For Context: The work in Wales to enshrine Right to Adequate Housing into Law

Although this work is beyond the scope of this expert review panel, it is important to be aware of parallel work currently taking place in Wales to enshrine the right to adequate housing into Welsh law. There is a currently running campaign, ‘Back the Bill’, in place to drive this work.¹²

In June 2019 Tai Pawb, CIH Cymru and Shelter Cymru launched a jointly-commissioned report looking at the positive impacts that incorporating the UN-enshrined right to adequate housing would have in Wales in helping to tackle the housing crisis.¹³ Following this, a second jointly-commissioned report in December 2021 outlined the existing evidence base.¹⁴

¹¹ Gwilym-Taylor & Sanders (2021) *No One Left Out The reality of eligibility barriers for people facing homelessness in Wales*, p.21

¹² <https://www.taipawb.org/policy-influencing/backthebill/>

¹³ Hoffman (2019) *The right to adequate housing in Wales: Feasibility Report*

¹⁴ Alma Economics (2021) *The right to adequate housing in Wales: the evidence base*

There has been support for the right to adequate housing in Wales shown by the Homelessness Action Group in Wales in their March 2020 report¹⁵ and the Welsh Government have outlined the consideration of a Rights Based Approach in its Action Plan to End Homelessness.¹⁶

Looking forward

The Expert Review Panel along with significant influence from the Experts by Experience network will shape the core themes which will be considered alongside legal reform. An initial workplan will be established and agreed upon at the groups first meeting, with a chance for review in the 2023 new year following the first four meetings and plans for an Experts by Experience broadening themes event (potential early December).

¹⁵ Report from the Homelessness Action Group for the Welsh Government (2020) *The framework of policies, approaches and plans needed to end homelessness in Wales (What ending homelessness in Wales looks like)*, p.21

¹⁶ Welsh Government (2021b) *Ending Homelessness Action Plan 2021-2026* p.18