

## **Expert Review Panel: Meeting 2**

### **Minutes of meeting**

**Date:** Friday 30 September 2022

#### **Present:**

**Chair:** Professor Suzanne Fitzpatrick (Heriot-Watt University).

**Members:** Matt Downie (Crisis), Liz Davies KC (Garden Court Chambers), Professor Peter Mackie (Cardiff University), Jennie Bibbings (Shelter Cymru), Katie Dalton (Cymorth Cymru), Jim McKirdle (Welsh Local Government Association), Angela Bowen (Carmarthenshire Council), Sam Parry (Conwy Council), Clarissa Corbisiero (Community Housing Cymru), Nazia Azad (Tai Pawb), Hannah Fisher (Welsh Government), Huw Charles (Welsh Government).

**In attendance:** Jordan Brewer (Crisis), Abi Renshaw (Crisis).

#### **1. Welcome, introductions and minutes**

The Chair welcomed the members of the panel to the second meeting of the Expert Review Panel, invited all panel members to introduce themselves.

#### **2. Signing off of ToR & workplan (post comments)**

*ToR:* it was agreed that there were no further comments around the Terms of Reference.

*Workplan:* Gaps were noted including:

- Temporary accommodation, including the suitability of temporary and permanent accommodation. Meeting placement suggestions included placing with discussions on access to housing.
- Suitability. Meeting placement suggestion was within the meeting on access to housing.
- Evictions. Meeting placement for this is to be confirmed. (Post meeting note, Evictions is now on the agenda for meeting 3).
- Enforcement/ regulation to ensure that duties are appropriately fulfilled. It was suggested that this should be considered at the final panel meeting.

*Stakeholder Engagement:* During the discussion the following points were raised:

- How panel members and their networks can best support Crisis as the convening organisation to ensure best engagement with tight turn around.
- The possibility of having less frequent sessions held once there are proposals to 'react to', and the use of directive questioning to maximise input for example as seen for Scotland Prevention Review Group.
- Welsh Government will input ideas around stakeholder engagement, marginalised groups and the statutory sector.
- The plan of panel members becoming 'thematic leads' in certain areas to provide additional expertise and aid Crisis in liaising with key stakeholders.

| Panel member(s)                | Action                                                                                                    |
|--------------------------------|-----------------------------------------------------------------------------------------------------------|
| Jordan Brewer /<br>Abi Renshaw | Crisis to take action on amending the minutes from meeting 1 to reflect further comments.                 |
| Jordan Brewer                  | Crisis to take action on reflecting panel members' feedback into the Terms of Reference and the Workplan. |
| Jordan Brewer                  | To provide paper on stakeholder engagement.                                                               |

### 3. Welsh Government update

HF updated the panel on current Welsh Government work including:

- Development of the Green Paper. Engagement needs to be considered, in an impactful and detailed way.
- Plans to bring “street homelessness” under legal “priority need” categories, with proposed interim legislation being consulted on and then presented to Senedd in October. The panel are encouraged to be involved in the consultation.

| Panel member(s) | Action                                                                                                                                                                                                                                    | Timeframe              |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| Hannah Fisher   | Within Welsh Government's update at the next meeting, comment on: <ul style="list-style-type: none"> <li>• What engagement work is being designed for those with protect characteristics, including children and young people.</li> </ul> | Next meeting, 25.10.22 |

### 4. Discussion on current prevention and relief duties under Part 2 of the Housing (Wales) Act 2014 – lessons learned and recommendations for reform

This meeting's focus was primarily on local authority prevention and relief duties. Evictions would be held over until the third meeting or later, allowing for more detailed prior input.

Key points arising from the discussion are placed were as follows:

#### a) Resources and general points

- Difference in delivery across local authorities. Since Covid-19, the number of people presenting to local authorities has drastically increased and the workforce is dealing with increased applications.
- It was raised anecdotally that some people experiencing homelessness were encouraging case officers to move them through the duty and progress them to the final duty because they wanted to be housed rather than engaging with the prevention duty. The duty to relieve/prevent was described as a balancing act.
- An acknowledgement of pressure on resources with some case officers holding 80+ cases.
- An acknowledgement that in some areas, local authorities are managing to produce positive outcomes under the current legislation. Inadequate resources and housing supply could be the issue, rather than weak legislation.

- Wider duties could be applied to other public bodies and better levels of cooperation are needed. The political and logistical challenges associated with these wider duties was acknowledged.
- A suggestion was made to explore legislation in other fields that provide for maximum caseloads to be published to ensure transparent & safe working environment.
- The need to phased in changes in a manner that will not overload the system. Important not to bring forward proposals that are 'tone deaf' to the current pressures facing local authorities and other services.
- The current prevention and relief duties do not always work for particular groups, such as refugees (who often face the greatest risk of homelessness when they receive a positive asylum decision) and people with no recourse to public funding (who lack eligibility).

**b) Reasonable steps**

- Inconsistency on delivering reasonable steps, which can potentially vary between both local authorities and individual caseworkers.
- Lack of enforcement around reasonable steps. A potential to create some enforcement or scrutiny over types of intervention.
- Do we need the Act to be more specific around a minimum floor for reasonable steps? This could guarantee that certain interventions 'must' be available.
- The wording was discussed, with requests to consider potential benefits to a change in language (e.g. 'steps likely to end/ prevent homelessness,' as opposed to 'reasonable steps'). There was also discussion on exploring the benefits of bringing provisions within guidance onto the face of the legislation, and to change relevant wording from 'ought' to 'must'.
- Discussion around whether the relief duty would still apply/may have different implications if priority need is recommended for removal.
- A question was raised around whether immigration assistance could be a reasonable step to relieve homelessness. Eligibility is a bigger theme to be discussed by the panel at a future meeting as it relates to a complex mix of UK legislation and limited Welsh Government powers.

| Panel member(s) | Action                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Timeframe                |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Liz Davies      | <p>Areas to provide expert legal advice include:</p> <ul style="list-style-type: none"> <li>• Any tangible benefits to using alternative key words/phrases in the legislative description of 'reasonable steps', in the Housing (Wales) Act 2014.</li> <li>• Whether any value can be added to reasonable steps by bringing detail from the guidance onto the face of legislation (expanding what is already in Section 64).</li> <li>• Any legislative precedents on transparent and safe workloads, within the housing area and beyond.</li> </ul> | Next meeting, 25.10.2022 |

|  |                                                                                                                                                                                                                                                   |  |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|  | <ul style="list-style-type: none"> <li>• The future of the relief duty if priority need abolished.</li> <li>• Means of enforcing reasonable steps, including potentially having review processes triggered earlier within the 56 days.</li> </ul> |  |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

**c) Extension of 56 days to 6 months**

The panel discussed extending the 56 day 'window' for prevention duties. There was overall broad support for this from the majority of panel members, as well as, an awareness of a need to mitigate any unintended consequences if this recommendation was made:

Support for removal/ extension included:

- Extension from 56 days to 6 months could reduce the pressure on local authorities when crisis point arrives.
- 56 days was introduced as a practical tool. Guidance is clear that that is the limit to act, and not the time to start acting, but it is often treated as the latter.
- Having 56 days on the face of the legislation is not helpful as local authorities can interpret this as having to wait until the 56 day mark to start acting, which can be counter-productive to active prevention. This is despite having clear guidance on that point.
- There may also be risks to introducing 6 months limit too. A panel member suggested advice could be to just act with no limit to when someone is at risk of homelessness.
- The time frame of 56 days is rigid as relief duty will end at the end of 56 days. Legislation should be open ended and have a minimum period which from an legal perspective would be easy to change.

Potential unintended consequences that will need to be considered if making a formal recommendation:

- A suggestion was made that guidance could be changed so that it is clear there is no [56 day] limit to when someone is at risk of homelessness.
- More analysis of the risks to increasing the length of time (up to six months) is required, and reflecting on debates in Scotland could help with this.
- It is important to consider how local authorities can and should commission services that prevent homelessness upstream, far before 56 days, as well as how specific interventions in legislation and guidance promote this.
- In Scotland, there is a proposal to extend the window for duties from 56 days to 6 months already, within the [Prevention Review Report](#).
- An extension could reduce the pressure on local authorities when crisis point arrives, but the resources need to be in place for councils to be able to deliver earlier prevention measures.
- Could relevant duties be imposed on the Home Office under a revised duty to cooperate/refer?

| Panel member(s) | Action                                                                                                                                    | Timeframe                |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Liz Davies      | Areas to provide expert legal advice include: <ul style="list-style-type: none"> <li>• Options for extending duty to 6 months.</li> </ul> | Next meeting, 25.10.2022 |

|  |                                                                                                                                                                                                                                              |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|  | <ul style="list-style-type: none"> <li>Options for imposing a duty to refer/cooperate on the Home Office for refugees at risk of homelessness.</li> <li>Scope for a support duty to be written into prevention (and relief) duty?</li> </ul> |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

**d) Unreasonable failure to cooperate**

There was a strong sentiment from the majority of the panel that this part of legislation is unfit, fails to recognise trauma, and could be removed. The following points were raised within the Panel's discussion:

- Failure to cooperate has led to decisions/approaches that are not intended in the spirit of the Housing (Wales) Act 2014.
- Could the higher threshold concept of "deliberate and unreasonable refusal to cooperate" be used as in the English [Homelessness Reduction Act?](#)
- In order to encourage engagement with support, there should be multiple offers reflecting differing needs.
- Local authorities require individuals to cooperate and respond in a way that has been set for them, such as through letters or online. These channels may not suit all individuals.
- The discussion linked back to widening homelessness prevention duties to other public services (to be discussed in detail at a later meeting), with more cooperation needed from wider agencies to help people maintain support, and prevent their homelessness, for example from GPs.

| Panel member(s) | Action                                                                                                                                                                                                                                                    | Timeframe                |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Liz Davies      | Areas to provide expert legal advice include: <ul style="list-style-type: none"> <li>Removing/ having higher threshold on unreasonable failure to co-operate.</li> <li>Implications on refusals of offers if failure to co-operate is removed.</li> </ul> | Next meeting, 25.10.2022 |

**e) Streamlining legislation**

- There was recognition that the current Welsh homelessness legislation was complex to understand and navigate, and opportunities to streamline should be sought.
- The panel will look to the lessons they can learn from the position and proposals in Scotland – in a context where priority need has been abolished - to inform discussions at the next meeting, including on potential simplifications of the system.
- At the same time, there was recognition of the need for detailed record keeping due to the legal obligations that LAs have to demonstrate compliance with, which can be seen as rigid and in tension with the flexible/person-centred approach sought by the legislation.
- The complexity of the bureaucratic process proves difficult for some individuals to understand. Some are unaware that they could access support, who from and at what stage. This lack of awareness on entitlement ultimately adds to the pressure local authorities are under, as it is usually crisis point when individuals are drawn to their attention.

## **5. Experts by Experience overview**

KD provided an update on the work of Experts by Experience. Themes included:

- The importance of the right home in the right place. Even if local authorities feel they've provided a valid offer, it may still not be the right offer. E.g. it might not be age-appropriate, could be congregate accommodation, or may not be suitable if an individual is vulnerable or in recovery. Under current legislation, an individual has to accept an offer in order to be deemed as cooperating, even if this offer is not always right for them. A key definition on ending homelessness is that it is unrepeatable. If unsuitable accommodation is offered, this puts the individual at risk and not solving their homelessness.
- Intervention can, and should, be much earlier - not when crisis arrives.
- Judgement and stigma was a key theme, with individuals not feeling deserving or believed by their local council in their direct response.
- If legislation changes, it has to reflect what it will feel like on the receiving end. It must be easy to understand and navigate.
- From the survey, only 19% said they received a poor response when approaching their local authority. The view was expressed that, though a relatively small sample, this does give a more encouraging impression than might have been expected.
- The point was made, however, that people with lived experience, who participated in the survey and at the events, expressed empathy for their council workers. With an awareness that they did the best they could with what they had and a feeling they did a good job overall. With an individual understanding that, with more resources available in the system, the outcome could have been different.

**The next meeting will be held on Zoom on Tuesday 25 October 2022.**