

Expert Review Panel: Meeting 4

Minutes of meeting

Date: Tuesday 22 November 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), 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), Debbie Thomas (Crisis), Ashleigh Stevens (Conwy Council), Adrian Berry (Garden Court Chambers).

Apologies: Sam Parry (Conwy Council).

1. Welcome & minutes

The Chair welcomed the members of the panel to the fourth meeting of the Expert Review Panel, and thanked all for the increased length of 3hrs for the meeting.

Minutes meeting 2: Slight amendment incorporated. Assumed approved, subject to a panel member's final approval, no outstanding issues.

Minutes meeting 3: To be amended to include clarity within subtitles of inputted views of Experts by Experience. No other amendments, accepted.

Panel member(s)	Action	Timeframe
Jordan Brewer	Circulate support advice from LD on allocations.	Immediate
Pete Mackie	Approve minutes amendment from meeting 2.	Immediate
Jordan Brewer	Crisis to amend the minutes from meeting 3 to reflect comment from KD.	Immediate

2. Update from Welsh Government

HF gave a brief update from the Welsh Government, including:

- No further update on suitability regulations, the work continues.
- Senedd Local Government and Housing Committee is doing work on homelessness, with the Minister for Climate Change to appear at that committee in two weeks.
- [Tai Pawb](#) are confirmed to work with Welsh Government on targeted engagement work on panel's work. This will include focus group type activity using expert partners to integrate the voices of underserved communities including people from Black, Asian and Minority Ethnic groups, asylum seekers, refugees, those affected by EEA status, people with disabilities and people from LGBTQ+ communities. HF will provide a verbal update for the panel to reflect on in the new year, ahead of the report due in February 2023.

- [Children in Wales](#) work is underway to assist the work of the panel. A written invite to input into the work will be circulated in the next few days.
- Stakeholder session planned for December to pull together the experiences of children and young people. The report will be made available in February 2023.
- Welsh Government to lead on engagement with new reference groups with local authorities and housing associations, which are to be set up in the new year.

Panel member(s)	Action	Timeframe
Hannah Fisher	Within Welsh Government's update at the next meeting, comment on: • Engagement work with Tai Pawb. • Children in Wales work, stakeholder engagement session in December and report due in February. • Leading on engaging with local authorities, including starting to test out recommendations in new year.	03.02.2023
Hannah Fisher	Send Children in Wales invite to panel for stakeholder engagement in December.	Immediate
All	Send recommendations to HF regarding leading on meaningful engagement with LAs.	Immediate

3. Engagement update

DT updated the panel on the work Crisis are undertaking to engage stakeholders, building on work from KD and HF. The key aspects of this are:

- Panel [webpage](#) is now live. Stakeholders will be able to register for upcoming engagement sessions via the website.
- Dates for engagement sessions will be circulated. Each engagement session will run ahead of the panel meeting, discussing the upcoming theme to provide the panel with evidence to reflect on. Panel members welcome to assist in running these sessions.
- The first engagement session took place on Friday 18 November, with a good level of attendance where stakeholders were both passionate and engaged. A summary of the discussions will be circulated to the panel to assist with the in-person reflection meeting in early February.

The key points discussed at the session included:

Temporary accommodation:

- General Lack of temporary accommodation across Wales.
- Lack of different temporary accommodation types to meet varying support needs.
- Lack of one-bed temporary accommodation.
- Lack of adequate facilities.
- Inability to use private rented sector for temporary accommodation because of cost and implication of Renting Homes (Wales) Act 2016.

Allocations:

- Policies are creating barriers to applicants being allocated housing, such as policies on history of rent arrears, criminal record, unacceptable behaviour and a no pets policy.

- When allocating accommodation to homeless households, housing associations are saying it is important they have confidence that the funding, resources and support will follow.
- Housing associations in meeting we attended were not keen on Scottish approach ([Section 5 in Housing \(Scotland\) Act 2014](#)). It does not fit with the culture of cooperation in place in Wales.
- **Duty to cooperate:** Many cited the need for duties around housing to be shared with other public services including health & social services.
- **Data:** Housing Associations are saying that data is not as accurate as it could be and does not give a fair reflection of all the work put into person-centred planning.
- **Resource:** A lack of resources was a theme that many raised as a barrier.

Panel members in attendance added it felt incredibly difficult to think long term and outside of the current situation, especially when resources are so constrained. It was noted that there felt to be an adversity to risk due to current resource concerns. In order to progress with legislative change, pressures would need to be taken into account. Long term infrastructure needs to be resilient to different resource contexts.

Panel member(s)	Action	Timeframe
All	Panel members to let Crisis know if they wish to put themselves forward as a panel lead for particular theme/stakeholder event.	Immediate
Abi Renshaw	Inform panel once engagement booking forms are live on Crisis ERP webpage, asking them to circulate to network.	ASAP
Jordan Brewer, Debbie Thomas	Circulate paper to panel based on findings from discussion during first stakeholder engagement session on 18 Nov.	Ahead of February meeting

4. Experts by Experience overview

KD provided an update on the Experts by Experience engagement work to support the paper circulated to the panel in advance of the meeting.

The latest theme was access to housing and temporary accommodation. 51 people with lived experience of homelessness from a range of backgrounds participated, including single homeless people (all ages), young women (particularly 16-18 year olds classed as vulnerable) and families placed in a hostel setting.

The majority of shared experiences came through an online survey, but also from informal meetings from tenants at three temporary accommodation sites.

The key themes raised from those with lived experience included:

- **Compassion:** Empathy towards staff and understanding of pressures faced through workloads and limited resources. Empathy for those who are street homeless, and that rapid rehousing is key to move them through temporary accommodation quickly.
- **Complexity of homelessness system:** Many people don't understand how the homelessness system works, especially with regards to priority need and 'priorities within priorities'. Application process needs to be simplified, with guidance and support needed to help people navigate. Communication from local authorities about application status is insufficient.
- **Length of time spent in temporary accommodation:** People are spending months and years in temporary accommodation. Not knowing how long you are going to spend in temporary

accommodation has devastating consequences for mental health. Once people are in temporary accommodation, there seems to be less urgency to provide further support. Should there be a time limit on how long people can spend in temporary accommodation?

- **Suitability:** Variety of accommodation types is needed. People do not feel their needs are being considered as they are being offered accommodation that is not suitable for them and there is not a viable way for them to challenge the local authority on this.
Turning down accommodation can lead to being deprioritised or removed from the list.
When allocating accommodation, it is important to consider proximity to: schools, support networks, work, family, public transport.
- **Race:** People from ethnic minorities noted equality issues and the different ways people experience the homelessness system depending on their race.
- **Temporary accommodation standards:** Lack of access to a kitchen, bathroom and laundry facilities. Parents commented they can't be a good parent in these circumstances.
- **Access to social housing** Local housing association rates and unaffordable properties. Rent arrears meant no access to social housing if have been in debt, which is not trauma informed.
- **Mental health support:** Need for increased support in temporary accommodation.

Cymorth is also organising dates for Experts by Experience to share their voices in person, with events planned in January for the north and south of Wales.

Panel members commented:

- If removing Priority Need, the Panel needs to consider how to phase it out, particularly considering the context of a lack of appropriate stock. It was suggested that, without any legislation that governs who is prioritised, individual members of staff would be making decisions about prioritisation.
- Important to examine what can be done in legislation to address equality issues and ensure most marginalised groups are supported. Noted the concept of 'adultification' of young people from minoritised ethnic groups. Also noted the need to eliminate conscious and unconscious bias from application process.
- The weakness of data identified as a barrier for the panel. Data is weaker than in other UK nations. Identified lack of equality data to understand the characteristics of people using temporary accommodation, and particularly unsuitable temporary accommodation. This data is needed to guide prevention work.
- Application process is not fit for purpose - the 'front door' to access the system is a barrier to accessing support.
- It may be useful for panel members to spend some time going through the application process to understand the barriers and difficulties that applicants face.

Panel member(s)	Action	Timeframe
Katie Dalton	Share January dates with the panel for those with lived experience engagement in-person sessions.	Immediate

5. Eligibility

a) Introduction to advice note on eligibility

Although the legal advice note on eligibility was circulated ahead of the meeting, an updated version will be circulated afterwards for the panel to reflect on after today's discussion.

AB presented the key points of the advice note on the options for Welsh Government legislating on eligibility for the assistance of a homeless person in Wales.

Concurrent jurisdiction

Concurrent jurisdiction means that eligibility regimes are different in different nations in the UK. In Wales, Welsh Ministers are able to make eligibility regulations for people subject to immigration control in Wales. The UK Secretary of State makes similar regulations for England. However, the definition of “people subject to immigration control” is contained in UK legislation and so is the responsibility of the UK Secretary of State.

Welsh Ministers do have the power to decide who can receive homelessness assistance in Wales.

The Housing (Wales) Act 2014 identify as eligible:

- i. Certain people subject to immigration control, i.e. refugees with permission to come to the UK. Welsh Ministers have the power to decide whether to *include* them and make them eligible for homelessness support.
- ii. Other persons from abroad who are not subject to immigration control, i.e. returning British/Irish citizens. Welsh Ministers have the power to decide whether to *exclude* them and make them ineligible for homelessness support.

No recourse to public funds

Many people subject to immigration control have no recourse to public funds (NRPF) as a result of their immigration status. Currently, homelessness assistance, insofar as it is defined under Welsh legislation, is not defined as public funds by the UK Home Office. This is likely an oversight, since homelessness assistance in England does fall within the UK Home Office’s definition of public fund. The Welsh Government could specify that people subject to immigration control, who are subject to a condition of NRPF, are eligible for homelessness assistance. However, if it is right that the lack of reference to homelessness assistance in Wales is an oversight, then homelessness assistance is defined as public funds. Whilst the Welsh Government could specify those people as eligible for homelessness assistance those with NRPF would breach their immigration conditions if they then accepted homelessness assistance. If found out, their leave would be cancelled and they would be required to leave the UK. So it would not assist any individuals.

Duty to refer

In England, the Homelessness Reduction Act places a duty on specified public authorities to refer service users who they think may be homeless or threatened with homelessness to local authority homelessness/housing options teams. There is a question as to whether Welsh Ministers could impose a duty on the UK Secretary of State for the Home Department to refer people to Welsh local authority homelessness teams. This question would be best posed to someone who is well versed in devolution law. If this imposition would be permitted within devolution law, it would be possible for Welsh Ministers to define that the duty applies to refugees with leave to remain who have been served a 28-day notice to quit. This would not cost the UK Secretary of State for the Home Department any money.

LD clarified that it could apply before they are served a 28-day notice to quit, at the earliest it could apply from the date on which an asylum seeker receives notice that they have refugee status.

It would be helpful if there were data available to demonstrate how many people might be referred to Welsh local authorities instead of English local authorities through this route.

b) Discussion on eligibility advice note

Differing definitions of NRPF

SF noted the need to be mindful of differences between the formal legal definition and the colloquial use of the term NRPF, which is often extended to those who do not have leave to remain nor access to public funds.

AB explained that his legal advice was based on people who *do* have leave to remain & are subject to NRPF. People who do not have leave to remain are liable for detention and removal, so it is likely that lack of access to homelessness assistance is not their main worry. They have no conditions of leave, but if they are known to the Home Office, they might have a status of 'immigration bail' under Schedule 10 of the Immigration Act 2016. It is possible that a breach of the conditions of immigration bail would be seen as a criminal offence.

Any recommendation around NRPF must be careful to use the legal definition. If the Home Office felt a law for homelessness eligibility would allow those with no legal status in the country to be eligible for homelessness assistance, they may amend Section 115 of the Immigration Asylum Act 1999 which currently excludes people from cash benefits, to specifically exclude them from access to homelessness assistance.

SF asked AB: If the UK Home Office extend the public funds definition to include Welsh homelessness assistance as defined by the Housing (Wales) Act 2014, would this only include provision of accommodation, or other forms of support such as prevention work?

AB advised that the Home Office likely mean actual provision of accommodation, but only the Home Office could give a definitive answer to this question. However, the wider policy context tells us that the Home Office do not want people with NRPF to have any assistance so if asked, they would likely say that the definition extends beyond just provision of accommodation and includes any kind of 'benefit in kind', including advice.

Making an overt change or hoping not to be noticed

There are no known examples where a devolved administration has made it clear that it wants to give assistance in any form, not just in the context of homelessness, and the Home Office has then noticed and retrospectively done something about it.

MD suggested that there is therefore a strong case for the panel to recommend that the Welsh Government is clear with its intention to provide homelessness assistance for people subject to immigration control whose conditions are NRPF. MD drew comparison with work on the Vagrancy Act, noting that while the Welsh Government cannot abolish a criminal offence, but because the devolved settlement allows for review on homelessness, it can decide not to apply the Vagrancy Act. The Home Office could do something about this, but it hasn't.

AB advised that given the Home Office policy of hostile environment, this proposal would likely go to ministerial level for sign-off and not be accepted – making public funds accessible to those who do not have a leave to remain would be inconsistent with the current policy direction. However, if the Home Office believed that the result of the provision would be statistically insignificant, it is possible that the Home Secretary may accept it.

Other groups with leave to remain but NRPF

Panel members discussed examples of other groups that they feel should be eligible for homelessness assistance, despite having NRPF.

- **Women on spousal visas fleeing domestic abuse** - If they leave their abusive relationship, they have no right to remain. There is currently some confusion around legal rights of people in this situation in Wales.
- **People with NRPF who have children with special needs.**
- **Victims of modern slavery.**

Welsh Ministers may wish to make a case that the people in these situations are presenting to Welsh local authorities and the local authorities have to act quickly, rather than wait for the Home Office to assess whether their immigration status means they have access to public funds or not.

There are examples of public funds that people with NRPF do have recourse to. For example, access to social services for children, access to emergency healthcare.

Additional assistance if eligibility is extended

The panel discussed that if legislation extends the eligibility for homelessness assistance to those with NRPF, local authorities would need additional services to properly support and move such people into settled accommodation because they do not have access to housing benefit.

Housing issue vs. social care issue

Can these groups be assisted through the Social Services and Wellbeing Act? LD advised that it would be possible to influence this through guidance. It could be a fallback option if politically Welsh Ministers feel this couldn't be proposed under homelessness legislation.

Scale of problem

It was suggested that around 3% of people who make an application for homelessness assistance are not eligible. However, this likely does not show the whole picture as many people know they are not eligible so do not apply.

Risk

If eligibility is extended, HF noted a risk that Wales becomes a magnet for people with NRPF that wish to access homelessness assistance.

c) Recommendations

LD suggested that the panel recommend the following:

1. The Welsh Government should assert in clear terms that it wants to include people who have NRPF on the list of people who are eligible for homelessness assistance.
2. The Welsh Government should make strong representation to the Home Office that the definition of public funds in the immigration rules is amended to include a power to the Welsh Ministers to specify what constitutes public funds for those who are residing in Wales. (This is not an immigration issue; it is a devolution issue.)

Panel member(s)	Action	Timeframe
Liz Davies KC, Adrian Berry	Areas to provide expert legal advice include: • Capture points raised in update in revised version of advice. • NRPF formal legal definition, including examples of where LAs do have recourse to. • Draft definition on public funds, stating what is not public funds. • Social services involved to assist individuals under Social Services and Wellbeing Act.	1 week before next meeting 26.01.2023
All	Regarding eligibility, provide Crisis team with any further examples of missed categories of who is lawfully here but not prescribed as eligible.	1 week before next meeting 26.01.2023
All	Feedback on thoughts and recommendations to Crisis team on how to move individuals on from a	1 week before next meeting 26.01.2023

	temporary situation into permanent one, regarding what else can LAs do.	
All	Gather data/thoughts on those who make an application but who are not deemed eligible (3%), sharing thinking of support through Social Services and Wellbeing Act.	1 week before next meeting 26.01.2023

6. Evictions

a) Evictions from social housing – LD advice note

LD introduced her advice note on preventing evictions into homelessness from social housing. This included:

Amend legislation

- Introduce discretionary grounds for possession used by social landlords which state that it is not reasonable to make a repossession order in any claim against a secure tenant unless the court has evidence that either;
 - i. the tenant has suitable alternative accommodation available, or
 - ii. a duty to the tenant under homelessness has been accepted by local housing authority and that accommodation is or will be secured.

Amend the pre-action protocol

- Pre-action protocol is a Ministry of Justice requirement in England and Wales. Social landlords in England and Wales need to tick various boxes to show that they have done various things ahead of a possession claim.
- If a social landlord fails to comply with the pre-action protocol, the court can intervene by making an order of costs, adjourning or dismissing the possession claim. However, this rarely happens in practice.

Recommendation to amend pre-action protocol to state:

- i. Social landlords must make a referral to local authority under homelessness before they make a possession claim. If a referral is not made and tenant does not have suitable alternative accommodation at date of possession hearing, then possession claim is dismissed.

Welsh Ministers would need to negotiate this with the UK Ministry of Justice.

b) Evictions from social housing – panel discussion

Points made by members of the panel in favour of amending legislation:

- Legislative change makes a long-term contribution, future proofs and ensures consistency. It removes reliance on goodwill which is not guaranteed to last.
- A referral to local authority might not prevent homelessness – that depends on a variety of other factors. A lot of RSLs are already taking pro-active measures to prevent homelessness, for example, managed moves, transfers, etc. This could be added to legislation to continue with progress once leadership positions change.
- If it is practice anyway, there is no harm in it being law.

Points raised by panel members against amending legislation:

- CC raised a concern that there may be a potential risk of reclassification of Housing Associations: Housing Associations across the UK were classified onto the public balance sheet because of the level of local authority and national government control – a cumulative impact of lots of things building up over time. It then took a huge amount of work to get

housing associations off the public balance sheet so that they could become independent bodies. CC suggested if this risk becomes a reality, it would impinge on the operational control of housing associations and risk their independence, which currently allows them to borrow and invest money in new and existing homes and support.

- A member said the need for legislation could be queried on the basis that the culture on the ground is improving anyway - RSLs and LAs have already agreed to 'no evictions into homelessness', early engagement is increasing and getting stronger, the issue that is already being dealt with by goodwill and voluntary commitment. Action on ground is strong to prevent evictions, i.e. alleviate antisocial behaviour issues by moving people around stock.

Further considerations:

- **Temporary accommodation.** As demonstrated by the Experts by Experience evidence, people living in temporary accommodation are homeless. An eviction into temporary accommodation is therefore an eviction into homelessness. However, local authorities have a duty to provide temporary accommodation. This is a difficult policy area to navigate. SF noted that this issue was a problem in Scotland too.
- **Scale of the problem.** Data is incredibly poor, especially with regards to statistics on evictions from social housing so it is difficult to know the scale of the problem. Smaller proportion of Shelter Cymru casework than it used to be; however, the majority of the legal team's casework is anti-social behaviour possession defence cases in social housing.

c) Evictions from the private rented sector – panel discussion

Ending no-fault evictions

- No-fault evictions make the PRS insecure and cause homelessness.
- We risk becoming the only GB nation to have no-fault evictions.
- This is not a priority for the Minister who says ending no-fault evictions without introducing new grounds for eviction will not work. Could the panel consider a new set of grounds that could replace no-fault evictions? This may be beyond panel's scope.
- Renting Homes (Wales) Act does not include the mandatory grounds for eviction in place in Scotland and proposed for England i.e. landlord intends to sell or move into the property. National Residential Landlords Association (NRLA) in England is supportive of abolishing no-fault evictions provided these mandatory grounds are in place.
- In Scotland the grounds of a family member moving into the property are discretionary, but likely to be mandatory in England.
- Panel could consider whether such grounds would be mandatory or discretionary in Wales. It is likely that landlords would lobby Ministers for the grounds to be mandatory, and tenants would lobby for them to be discretionary. This political battle is about to happen in England.
- LD suggested making the grounds discretionary.

Illegal evictions

High numbers of illegal evictions in Wales with no consequences for landlords. It is a low-risk action for landlords to take. Local Authorities are not placed to prosecute landlords as the amount of evidence needed to do so is excessive. Rent Smart Wales not equipped to do this either. Could Rent Smart Wales be given the power to impose civil penalties?

The Chair noted this is beyond the scope of the panel but general policy context will be included in report.

d) Unmet support needs

It was noted that evictions, both from social housing and PRS, are often a result of unmet support needs. Individuals in both temporary and settled accommodation are not receiving adequate

support to maintain their tenancies. Funding is needed to provide this support, which is crucial to solving the problem of evictions.

February's in-person reflection meeting to continue the discussion on support and ending no fault evictions with input from Welsh Government.

Panel member(s)	Action	Timeframe
Liz Davies	Areas to provide expert legal advice on evictions include: • Amending legislation. • Ending no fault evictions in Wales and guidance on what to replace with. • Recommendations for safeguards to build into Renting Homes Wales Act (National Residential Landlords Association) on no fault evictions.	1 week before next meeting 26.01.2023
Ashleigh Stevens, Angela Bowen	Share known data and information with Crisis team on scale of evictions, including evidence of possession proceedings.	03.02.2023
Jennie Bibbings	Update panel at next meeting on data/case studies to understand the facts on evictions.	03.02.2023
Hannah Fisher	Consider whether abolition of no-fault evictions and potential replacement grounds are in scope of the panel.	03.02.2023
Suzanne Fitzpatrick, Jennie Bibbings	To continue conversation about illegal evictions.	03.02.2023

7. Allocations

a) Current Welsh position on social housing allocations, compared to England and Scotland – LD summary

Allocations system exclusion of people on bases other than immigration status

There are different rules for Local Authorities compared to Housing Associations.

- Wales: Local authorities can only exclude people of going onto the allocations scheme waiting list on basis of individual decisions/behaviour, which entitles local authorities to get a possession order against that person, i.e. serious rent arrears, antisocial behaviour.
- England: Local authorities can specify classes of people to exclude i.e. serious rent arrears, antisocial behaviour and residence/local connection rules as long as it is rational and not discriminatory under the Equality Act (2010). However, lots of litigation has found these classes to be discriminatory against e.g. gypsies/travellers, refugees, women fleeing domestic abuse.
- Scotland: Case-by-case basis, with a prescribed list of things that can/cannot be taken into account. Section 5 Housing (Scotland) Act 2001 requires housing associations to accommodate homeless people referred by local authorities.
- England and Wales: Housing Associations are not governed by legislation, they are governed by regulatory framework, which contains little detail about the rules Housing Associations can use for their own allocations, or for their nominations from Local Authorities.
- The differing rules between Local Authorities and Housing Associations causes conflict. Two recommendations identified to improve:

- i. Change regulatory framework.
- ii. Lawyers for Local Authorities and Housing Associations to make sure any issues around this are ironed out before agreeing on the nomination agreement.

b) Points raised by panel members

Social housing allocations to homeless households are lower in Wales than Scotland and there is very little litigation on allocations in Wales compared to England. This is an area where the Minister is looking to the Panel to bring forward legislative proposals.

Enforceability

Allocations do not come under legal aid so it is difficult for people to challenge. There is a need to ensure that review of allocation is accessible for people who do not have recourse to legal aid.

Consistency

Approach to allocations needs to be consistent across Local Authorities and Housing Associations. Scotland allocations legislation covers both Local Authorities and Housing Associations. The point was raised whether all Local Authorities in Wales should move to common housing register and/or have a common allocations policy. A person entering the system at crisis point to access housing, regardless of where they are in Wales, should have equity in expectations and process to allocations. However, even with a common housing register/allocations policy, there will be inconsistencies around choice-based lettings schemes vs. banding/points-based systems.

There also needs to be consistency in order to be fair to all social landlords, some of whom are making extra efforts to reduce homelessness and bearing the burden of those who are not.

Prioritisation of homelessness households

Some Local Authorities have increased their percentage of allocations to homeless households to up to 50% of their nominations. This could be a solution, but the panel should consider whether this might have an impact on wider prevention – households that are not homeless may then become homeless because they have a longer waiting time. It is unlikely that the Panel would look to set percentages through legislation as local decisions are needed.

Bases for exclusion from allocations

Identified examples were rent arrears, history of offending, antisocial behaviour and pets. There should be a trauma informed, case-by-case approach to assessing these examples and giving second chances.

Complexity and lack of transparency

The social allocation systems used by different Local Authorities are unclear and confusing for (potential) applicants. Reasons for prioritisation and waiting times should be clearly communicated with applicants. This needs to be addressed, but is perhaps beyond the scope of the Panel.

Views of social landlords

CC encouraged the Panel to engage with social landlords, both Local Authorities and Housing Associations, on this topic, as she is concerned the data available on social housing allocations is inadequate for making decisions. Input from social landlords in Scotland would be useful.

Section 5 Housing (Scotland) Act 2001

CC advised that in her engagement with social landlords, they have advised that some of the Section 5 provisions would feel like a step backwards. 19 of 22 Local Authorities say they are using the same allocations framework as Housing Associations in their area.

SF advised that in Scotland, it varies hugely whether Section 5 is used or not, but it shapes the infrastructure nonetheless. Many Local Authorities do not rely on Sec. 5, but rather partnership agreements. Section 5 changes the relationship between Local Authorities and Housing Associations because the latter know that LAs have this Section 5 'leverage' if they don't cooperate. So it is important even if no need for case law.

Reclassification of Housing Associations

Catastrophic for sector if Housing Associations are reclassified onto public balance sheet. They still need to access private finance to invest locally. The ability to operate independently in sector is vital. Housing Associations have not been reclassified in Scotland, despite being subject to Section 5.

Political will

There may now be more of a political will to change allocations policies to house people experiencing homelessness due to a better understanding of what homelessness is, how many people it affects and that it doesn't just include street homelessness.

Ghettoisation risk

Social landlords worry that if they develop housing and place people with homelessness backgrounds in the same development, this leads to ghettoisation. People with lived experience of homelessness also worry about this.

February's in-person reflection meeting to continue the discussion on Sec. 5.

Panel member(s)	Action	Timeframe
Clarissa Corbisiero	Take lead on engaging with social landlords, asking what needs to be improved to make a difference.	03.02.2023
Liz Davies KC	Areas to provide expert legal advice on allocations include: • Implications of the three Welsh LAs not using Common Housing Register or a policy. • Accountability options for illegal evictions. • Reclassification of RSLs. • Amend earlier advice on legislation to prevent eviction into homelessness and so that it is no longer about people having made a homeless application, but instead that an order can only be made where the Court is satisfied that suitable accommodation will be available at the date of the order. • With Adrian update the eligibility advice to deal with political & legal routes to trying to make NRPF people eligible.	1 week before next meeting 26.01.2023

8. Agreeing on actions arising from the meeting and considering questions for stakeholder groups

Discussion on emerging positions and recommendations for reform around temporary accommodation and suitability to be held over to a supplementary meeting in January.

Panel's position as stated in Terms of Reference is that areas where the panel cannot reach consensus will be discussed during the in-person February reflection meeting. If consensus cannot be agreed, it will be noted in the report.

Panel member(s)	Action	Timeframe
Abi Renshaw	Secure dates with panel members for future meeting dates in 2023, including supplementary meeting.	Immediate
Jordan Brewer	Draft parts of the report for the panel to react to at the in-person Meeting 5 in February.	Ahead of February meeting

The next meeting will be held on Zoom on Thursday 26 January 2023, this is a supplementary Meeting 4 to discuss the agenda points on temporary accommodation and suitability not covered today.