

Expert Review Panel: Meeting 7 Minutes of meeting

Date: Wednesday 29 March 2023

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), Emily James (Pembrokeshire 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), Jasmine Harris (Crisis), Ashleigh Stevens (Conwy Council), Zoe Sutton (Welsh Government).

Apologies: Sam Parry (Conwy Council), Debbie Thomas (Crisis).

1. Welcome, introductions, minutes & additional papers

The chair welcomed new colleagues and members of the panel to the seventh meeting of the Expert Review Panel. The panel were thanked for preparing and reading the papers ahead of the meeting.

Minutes meeting 4.1: The minutes were accepted.

Minutes meeting 6: The minutes were accepted.

JB thanked the panel for submitting points for legal consideration. LD now has a concise list of items requested by the panel to include in an advice note on. Further requests to be sent to JB.

Panel member(s)	Action	Timeframe
Abi Renshaw	To seek the panel's availability and secure a date for supplementary meeting 5.1 on temporary accommodation and suitability.	Immediate
All	Send any areas for LD consideration of legal solutions over to Crisis/JB to compile a list.	Immediate

2. Update from Welsh Government

HF gave a brief update from the Welsh Government:

- The local authority reference group met for the third time and discussed children, young people and violence against women. HF has circulated a highlight note. A more detailed note is to follow.
- The local authority reference group also met in February to discuss the topics of suitability, temporary accommodation and evictions. The detailed note will be circulated ahead of meetings with those corresponding themes.
- Work on allocations continues with Community Housing Cymru and Welsh Local Government Association:
 - A consultant has now been appointed to lead on this piece of work with local authorities and registered social landlords (RSLs).

- The workplan is to engage with one region and four local authority areas as detailed case studies which seek to include a range of areas with different characteristics. CC is leading on engaging with RSLs.
- An anonymous survey is being developed to run alongside the case study work, which will seek to discuss difficult subjects in a safe private way. This is due to be launched early April.
- Due to the tight timeframe on this work, the panel's meeting on allocations has been moved to allow maximum time for the allocations work to be delivered.
- Regional roadshows have been taking place with local authorities, RSLs and others to make them aware of this body of work and where it sits in the rapid rehousing policy agenda. So far, Welsh Government have engaged with 50 stakeholders with 180 left to reach out to. A rescheduled engagement session is taking place in North Wales in May - it was cancelled due to bad weather at the start of the year.
- Engagement work is underway to meet with all local authorities to discuss their recommendations for reform in relation to the rapid rehousing agenda. Key emerging themes include:
 - Overwhelm with supply and demand.
 - A challenge to focus on policy areas.
 - Rapid rehousing agenda feels like 'pie in the sky'.
 - There are a range of affordability issues, including: rent, accessing land, acquisitions.
 - Funding pressures linked to the housing support grant.
 - More support is needed from local authorities for the potential of legal reforms, especially around strengthening the public service response.
 - There are opportunities around corporate responsibility and making homelessness the centre of the decision making.
 - Regarding allocations, a need to improve the flow of housing through the system.

3. Discussion on the highlights paper from the Local Authority Reference Group meeting on Children, Young People and Violence Against Women

The panel discussed the paper and identified the following areas for further discussion:

- Whether 16-17 year olds should hold tenancies.
- Availability of advocacy for young people, including a lead co-ordinator role. This role could be taken up by a housing support worker (with their status recognised by other professionals within the guidance).
- Consideration of how well the allocations process supports VAWDASV survivors, rehousing of perpetrators and the specific issues around refuges highlighted in the paper.
- Where responsibility lies for young people within the Social Services & Wellbeing Act and Housing Act. Currently social services can 'opt out' but housing can't.
- Children's services require low numbers of looked after children for KPIs, but there is concern that this leads to some children not being classed as a looked after child and, as a result, not having access to the same support.
- A local authority tracked the journeys of reoccurring homelessness cases (this included those who had presented to homelessness services more than three times) to consider when early intervention could have had more impact. The study found that lots of the people had been 'on the edge of care' as a child, with their local authority using their resources to prevent them going into care. However, this meant that they could not access the additional room rate as they were not officially looked after. It was also found that 16-17 year olds were presenting younger than their age (nearer early teens) due to their high levels of trauma.

- In Scotland, there is a high-profile initiative backed by the former First Minister around young people in care called ‘The Promise’. The legal basis is different, however some policy and practice learning from it could be used to influence the situation in Wales.

Panel member(s)	Action	Timeframe
Hannah Fisher	To circulate to the panel: <ul style="list-style-type: none"> • Detailed note from third local authority reference group discussion on children, young people and violence against women. • Detailed note from second local authority reference group suitability, temporary accommodation and evictions. Within Welsh Government’s update at the eighth meeting, include updates on: <ul style="list-style-type: none"> • Outline which local authorities and RSLs will be involved in the engagement work. • Update on the launch of the anonymous survey launched early April. 	24.04.2023 10.05.2023 (for Meeting 5.1) 24.04.2023
Abi Renshaw	To seek the panel’s availability and secure a date for supplementary meeting 5.2 on allocations and evictions for after 16 June.	Immediate
Jordan Brewer, Suzanne Fitzpatrick	Identify space in a future meeting for further discussion on key themes identified above on children, young people and VAWDASV.	TBC

Health, Social Care and Homelessness

The chair noted the focus of the meeting would be on two broad areas:

- The wider role of health and social services in the prevention and ending of homelessness.
- Homelessness through the lens of substance use, mental health and disability.

4. Update from Experts by Experience

KD provided an overview of the Experts by Experience paper circulated to the panel in advance of the meeting. The key themes raised by people with lived experience in relation to health, social services and homelessness, included:

- The need for increased awareness of the early signs and triggers among professionals across other sectors.
- The need for services to be trauma-informed and aware of the impact housing issues can have on mental health and substance issues.
- Earlier intervention from public services could have prevented some people’s homelessness.
- Sharing of information could strengthen co-operation between a wider range of services to address homelessness. People at risk of homelessness reported interacting with different public services with “everyone was taking notes but no-one was doing anything.”
- Mental health issues and priority need are based on a diagnosis or judgement of severity of the mental health condition, which can affect the threshold to qualify. Not everyone has a diagnosis or needs that meet the threshold. Stronger guidance is needed on the scale of mental health (prioritisation) and how this is dealt with. If phasing out priority need, this becomes less of an issue.
- The current intentionality test does not take account of the impact mental health and substance use can have on a person’s ability to maintain a tenancy. People struggling with these issues are often construed as “intentionally homeless.”

- The current local connection test can pose difficulties for those who are struggling with substance use. Being forced to remain in their local area can have a negative impact on recovery. There are also issues with people being vulnerable to exploitation around substances and criminality and the local connection test poses a difficulty in this regard too.
- The local connection test also presents difficulties for young people, especially those that are care leavers or who have no support network.
- There is a need for appropriate accommodation for people with substance use issues. With a diversity of provision needed, including wet, dry or Housing First to aid in their recovery.
- Experiences of transition from young person to adult services can vary, with housing support being different for 16/17 year olds and 18 year olds.
- Transition support for mental health is particularly difficult because the offer for adults is very different to the offer for children. Tenancy support services might need to fill a gap left by the transition.
- There needs to be continuity of substance use support from temporary or supported accommodation into settled housing with a key lead moving across the services with them.
- Access to mental health care and substance use support is particularly difficult and as such, the inclusion of mental health and substance use support officers as part of housing teams is helpful.
- Questions were raised as to whether health professionals could play a greater role in ensuring housing need forms part of a person’s assessment of needs to help reduce discharge from hospital into homelessness.
- Concern was raised that guidance around discharge into homelessness is often not being followed – for example by hospitals, care systems and the criminal justice system.
- People with mental health and substance use issues are bounced between specific services with the person being told to address one first before accessing support for the other.
- Questions were raised around the safeguarding role for social services where homeless people are at risk of both abuse and exploitation. Those that are vulnerable include young people, women exploited within sex-work, addiction sufferers and care leavers. Is there scope for Gateway Officers (Housing Support Grant team) to help with safeguarding duties?

Panel member(s)	Action	Timeframe
Katie Dalton	Circulate to the panel the latest Experts by Experience paper on all public services ahead of the next meeting date.	24.04.2023

5. Discussion on the wider role of health and social services in the prevention and ending of homelessness, with a focus on substance use, mental health and disability

The panel discussed emerging positions and recommendations for reform concerning:

- Core homelessness legislation
- Duties on wider public bodies

With the aim to try to gain consensus on recommendations.

Core homelessness legislation

Social Services Act and Housing Act assessments

It was queried whether both Acts be aligned to share one assessment rather than each doing their own? The emphasis should be that due regard is paid to the individual’s protected characteristics and their circumstances through a trauma-informed approach.

Health and safety of temporary accommodation

The Experts by Experience paper explores the impact of poor quality temporary accommodation specifically on disabled people. There is a lack of data regarding what stock is available and the condition of that stock in terms of keeping people safe. Housing should not be affecting people's health and making their conditions worse, e.g. mould. The law is very clear that public authorities must consider disability in relation to suitability of accommodation, generally and under the Equality Act 2010 s.149.

Renting Homes Act application to temporary accommodation

B&Bs are the only temporary accommodation exempt from the Renting Homes Act, which means that local authorities are trying to move away from using their own stock and RSLs' housing stock as temporary accommodation. If all temporary accommodation was exempt, this could allow for more flexibility, scrapping illegal waiting lists and being able to place people who require adapted properties.

Anti-social and unacceptable behaviour

These 'labels' can determine someone's access to housing and this can prove restrictive especially around social housing. An equality impact assessment could be carried out to assess whether certain groups are being disproportionately affected by bias.

Local connection

The panel has already agreed to loosen the constraints of local connection, including making younger people exempt. Those who identify as disabled or have other chronic health conditions could also be a group who are exempt because different local authorities offer varying access to medical facilities. This would support independent living and allow people to live near/easily travel to appointments. It was raised that the panel should be mindful not to cause any unintended consequences for local authorities with a main city and a full offering of health services.

Homelessness Strategy Action Plan

One local authority panel member suggested tying in some of the recommendations of the panel into the Homelessness Strategy Action Plan, so local authorities are all on the same page and understand their remit. This would also avoid the duplication of work and allow for work to be tackled in a meaningful way.

Suitability Order

It was suggested that due to resource and stock availability, the suitability order is not working. If accommodation cannot meet suitability requirements, is there a mandatory step to include how disability has been considered as part of the assessment? In Wales, do we have a due regard to consider the Convention of the Rights of Disabled People? It is clearly stated within the law that disability must be taken into account, but it may not be happening in practice.

Duties on wider public bodies

Multi-agency working & duties to refer/collaborate

It was noted that there have been duties to cooperate between housing and social services in both the English and the Welsh legislation for decades. There is very clear guidance, but the panel agree that it is not working. Homelessness services are picking up people's needs that have not been met by health and social care but cannot be met through homelessness system, i.e. nursing care interventions.

Multi-agency working at the local level is what is needed for prevention – it should be a holistic approach that is person-centred, with the right service for the right person. It was said that this

shouldn't be dictated by budgets and funding and we cannot allow a system where an individual is making themselves more unwell to access the services they need.

A key finding of Shelter Cymru research on ending evictions into homelessness was that social landlords do not currently have the power to include health services and have confirmed that secondary mental health services will only respond when an eviction notice has been issued. At this point, agencies are reluctant to commit to being the responsible agency as there's no multi-agency response. Housing support workers and social landlords need appropriate legal leverage over other agencies.

Multi-agency work needs a lead agency but homeless services should not always be the lead response. No matter how robust and trauma informed the homelessness system is, it can still be traumatising to have to enter that system. There were some concerns expressed as to whether having a lead agency will work as it already exists for 16- and 17-year-olds but they get bounced around between the services.

Multi-agency working shouldn't come across as a burden, but rather a benefit for other services. There is data on how early intervention can prevent engagement with health services/criminal justice systems further down the line. The panel need to make sure this is clear in the narrative around this recommendation. It is important to be aware of context of under resource of public services but need to be ambitious and aspirational as a panel.

The panel might wish to make the following recommendations:

- All relevant public services have a duty to cooperate, with a designated lead and agreement for other services to cooperate and share information. Other agencies outside of housing will need to be 'bought in,' possibly by making it a duty to attend.
- Local authorities have a duty to support, with the power to convene multi-agency representatives across the public sector. Alongside wider public sector duty to cooperate including the ability to refer but also a duty to engage with local authority multi-agency public protection arrangements (MAPPAs). In Scotland, there was pushback on a duty to cooperate with a designated lead but no alternative solutions were offered.

The local authority reference group felt quite strongly that on a duty to help sustain a tenancy, they needed that duty to apply beyond them to include other agencies for it to work properly. This supports the idea around being able to convene a team or multi-agency response. This then allows for consistency rather than the goodwill as an outcome of professional relationships.

For a duty to refer to be effective, there also needs to be a duty to respond to a referral. In England, there have been more referrals to housing due to the duty to refer; however, there is some concern that these referrals are being done without the proper information or collaboration.

There has been no litigation on duty to refer in England. However, the system does not allow for someone to identify that a referral had not been made when it should have.

Scotland are implementing a duty to ask and act this Autumn through the Housing Act. This may be more appropriate so that services are acting within their own remits and understanding the issues.

If the panel is to recommend a duty to refer, it should include a duty to cooperate and an expansive list of the agencies that should be involved, including: education, health and social care (hospitals, mental health, substance misuse, GPs), criminal justice (police, courts) and local authorities.

It was questioned whether the panel could recommend a duty to refer to non-devolved agencies? It may be easier to recommend if they're already covered on the list in England. A panel member stated that Welsh police can disapply the Vagrancy Act, showing that devolution is flexible. Therefore, the panel should have confidence to put forward their recommendations.

Regional planning boards

All health and social care regional bodies are service partners of the regional planning boards (RPBs). There is a role for RPBs in homelessness and housing support. There are positions for housing on the boards but they are not usually filled by homelessness services.

Discharge into homelessness

Advanced planning is needed to make sure no one is discharged into homelessness. Pathway (part of Crisis in England) and some agencies in Wales work within healthcare settings on preventing discharge into homelessness but there is not consistency throughout all health settings across Wales.

It was questioned whether legislation could help make it more consistent? Housing professionals are needed in the health setting and health professionals are needed in the housing setting. This falls under inclusion health, and there is plenty of research to support this area.

There is separate legislation on discharge from mental health hospitals, with accommodation provided by the relevant local authority.

Safeguarding

Panel members discussed uncertainty about how adult safeguarding reviews are triggered and where homelessness sits within safeguarding considerations.

LD will look into thresholds for these reviews and which duties these lead to.

Right to review

The panel considered the appropriate mechanism for challenge if an unmet duty by a public body outside of housing/homelessness results in someone becoming homeless. It was identified that this could be an administrative ask on services and that a homelessness regulator may be useful.

Currently, the only right to review is a request to review local authority decisions in discharge of its homelessness functions. Social services are unlikely to be subject to a request for an internal review and subsequent county court appeal.

If the panel were to recommend that several public bodies have a duty to collaborate, these bodies would likely not appreciate the idea that their actions would be subject to review. It would be possible to legislate for this, but it may be difficult to implement.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) may need to be amended to include reviews about bodies that have a duty to cooperate to ensure that legal aid is accessible.

If the legislation does not specify a route for challenge, there will always be right to a judicial review.

NICE recommendations

New NICE (National Institute for Health and Care Excellence) recommendations were introduced in March 2022 on 'Integrated health and social care for people experiencing homelessness'. It is too

early to tell how well they are working in practice and there is a potential lack of awareness within local authorities about the recommendations.

The panel considered that more on disability could be added to the guidelines.

‘Local housing authority’

It was questioned whether prevention duties could reference the whole local authority rather than the local housing authority? This could potentially bring together some of the other public service functions but remain under the same body.

Paucity of data

The panel acknowledged that there is no data in Wales on the proportion of people with lived experience of homelessness who identify as being disabled or having a chronic health condition. Can there be a legal requirement to ensure the data is being collected? It should be published by Welsh Government, with help from all the local authorities. It is likely that this key data will be captured as part of the Welsh Government’s new Strategic Outcomes Framework to understand the differences in terms of access and outcomes for those groups and try to address them.

Disability

Accessible housing register

It was noted that 50% of local authorities do not have an accessible housing register. Panel members considered whether a recommendation could be that all local authorities in Wales have an accessible housing register, working with the common allocations policy. However, it was noted that the specifics of what information it includes and whether it helps to increase supply would need to be determined.

Local housing market assessment

Panel members considered whether wider cohorts could be considered within the local housing market assessment (LHMA). Engagement with communities could help identify the needs now and futureproof Welsh stock.

Accessible housing standards

Members stated that adapted housing needs to cater not just for physical disability, but also the unseen and mental disability. An interim accessible housing standard would be welcomed by members of the panel, but how it would work with both the Development Quality Requirements (DQR) and Welsh Housing Quality Standards (WHQS) would need to be determined.

Re-framing disability

A panel member raised that it could be helpful to reclassify disability to include mental health and substance misuse as they do in America.

Adaptation refusal

It was noted that currently, private landlords can refuse adaptations, even if they incur no cost to the landlord. Would it be possible within Article 1 of Protocol 1 Protection of property (A1P1) to make it a requirement that private landlords consent to having adaptations in the property?

Autism Spectrum Disorder (ASD)

There are huge waiting lists for adults and children for ASD assessments, so there are a lot of people currently undiagnosed. Once the assessment has been carried out, sometimes the individual may need to be relocated to one bed properties, e.g. due to noise, flats become unsuitable. These properties are very low in stock. One local authority panel member reported of a number of

homelessness cases still waiting for their assessment whilst the local authority is trying to determine if they have a homelessness duty to them.

Substance use

Substance use

The panel are aware that people who have substance use issues are more likely to have a poor experience of the housing support system. Panel members felt there needs to be a trauma-informed approach with an understanding of why people may use substances as a form of self-medication where more formal supported (particularly mental health) is so limited. Being refused access to services because of substance use leads to the person being bounced between services and falling between the cracks. Individuals are being told to address their substance use before getting any help for their mental health or housing, but all should be addressed in parallel.

Access to the right home in the right place can be either temporary or permanent accommodation. Those recovering from substance use need to be placed with their recovery journey in mind, e.g. wet or dry provision and the person given a preference. Some people with lived experience have felt their only option is to be street homeless instead of accepting unsuitable temporary accommodation to keep themselves safe and their recovery journey on track.

It was suggested that RSLs can be risk averse when it comes to housing people with substance use issues because of the Misuse of Substances Act. However, this Act has a clear policy on harm reduction. There needs to be cooperative work between housing and criminal justice to get this right.

A big issue for local authorities is that people are presenting to them asking for a referral and to get a quick diagnosis from mental health or substance misuse services. The problem being when the person doesn't meet that statutory threshold for intervention due to no diagnosis, that knock-back could leave the person in an extremely vulnerable state placed in temporary accommodation due to their high need and the presence of on-site security. How do local authorities get the appropriate assessment?

Threats to safety

The panel are yet to find a solution for the small group of people with complex needs who are a threat to the safety of support workers and other tenants. This group is at risk of criminalisation. There is research being conducted at Wrexham University housing solutions for people with substance use issues that may help with finding a solution. In the meantime, getting services to work better together and more funding might help.

Panel member(s)	Action	Timeframe
Liz Davies KC	Areas to provide expert legal advice: <ul style="list-style-type: none"> a) Adult safeguarding reviews in adult services. What are the triggers for the review and which duties do they lead to? b) Multi-agency approach to homelessness support. Potential for recommendation on statutory duty of multi-agency approach and information sharing between public services, including what can be done to enhance this partnership at local level. c) Duty to refer and devolution. Are the panel able to recommend a duty to refer to non- 	TBC

	<p>devolved agencies? Is it easier to recommend if they're already covered on the duty to refer list in England.</p> <p>d) Judicial review. What would be the role of a judicial review in relation to a review right of duties on public bodies to end homelessness.</p> <p>e) Renting Homes Act – exemption of temporary accommodation.</p> <p>f) Local authority duty to support. How feasible is a local authority duty to support, with a power to convene multi-agency reps across public sector? Alongside wider public sector duty to cooperate, including ability to refer but also a duty to engage with LA MAPs.</p> <p>g) Housing need assessment. What is legally required within the assessment of disability in the housing need assessment?</p>	
Suzanne Fitzpatrick and Pete Mackie	Share with Crisis and LD the prevention framework to provide narrative to the report, assessing where different stages of prevention could help, including which public bodies should be included.	Immediate
Nazia Azad	Send to AR a good practise for housing document on supporting people with neurodivergence.	Immediate
Abi Renshaw	Send to the panel the good practise document from NA.	Immediate
Hannah Fisher	<p>Send to the panel:</p> <ul style="list-style-type: none"> • An update on Welsh Government work on widening data collection concerning disability and homelessness, including the paused data collection from the pandemic. • Details of upcoming consultation on Renting Homes Act and temporary accommodation. • Seek input from Welsh Government on sourcing experts on guidance around which public bodies could be included on the duty to refer list. • Regarding the Renting Homes Act seeking to exempt B&Bs, update the panel on the details from the consultation. 	As updates become available
Emily James	Share with the panel how and what kind of data Pembrokeshire County Council are providing to Welsh Government.	24.04.2023
Emily James, Angela Bowen, Ashleigh Stevens, Jim McKirdle	Guide the panel on a recommendation relating to every local authority having an accessible housing register, including what information it would hold and what it needs to do, avoiding any unintended consequences.	1 week before TA & suitability meeting 10.05.2023

Suzanne Fitzpatrick	During Meeting 8 on criminal justice, return to the point that RSLs can be risk averse when it comes to housing people with substance use issues for fear of criminal sanctions via the Misuse of Substances Act.	Meeting 8, 24.04.23
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6. Any Other Business

The future programme of meetings has been restructured. The allocations meeting will be moved from early May to late June, with the early May meeting being dedicated to temporary accommodation and suitability, supported by an advice note from LD. A meeting on regulation and enforcement is being proposed for mid-May as a standalone meeting outside of the in-person summary meeting on 16 June.

AR will circulate the revised list of future meetings and two Doodle poll links to identify the availability of the panel for two proposed meetings in May and June.

This new programme extends the panel's work by two weeks.

The Chair thanked everyone for coming to the meeting so well prepared with concrete ideas to move things forward.

Panel member(s)	Action	Timeframe
Abi Renshaw	Send to panel by email directly after the meeting the list of the proposed future programme of meetings, including meeting number, dates, times and topics for discussion.	Immediate
All	An opportunity to comment on the future programme of meetings will be circulated by AR shortly after the meeting by email.	Immediate
Abi Renshaw	Analyse the doodle polls and find two future meeting dates in May and June for Meeting 10: Regulation & enforcement and Meeting 5.2: Allocations & evictions.	12.04.2023

The next meeting will be held on Zoom on Monday 24 April 2023.