



ENDING HOMELESSNESS IN WALES: A LEGISLATIVE REVIEW

Expert Review Panel

2023

Acronyms

The following acronyms are used within this report:

- DHP** — Discretionary Housing Payments
- EHRC** — Equality and Human Rights Commission
- GTTA** — Gypsy and Traveller Accommodation Assessment
- LHMA** — Local Housing Market Assessment
- NICE** — National Institute for Health and Care Excellence
- NRPF** — No Recourse to Public Funds
- PHPs** — Personal Housing Plans
- RPBs** — Regional Partnership Boards
- RRTP** — Rapid Rehousing Transition Plan
- RSLs** — Registered Social Landlords (also known as housing associations).
- VAWDASV** — Violence against Women, Domestic Abuse and Sexual Violence
- WLGA** — Welsh Local Government Association

An aerial photograph of a residential area, likely in Wales, showing rows of terraced houses built on a hillside. The houses are mostly two or three stories high, with dark roofs and light-colored walls. There are many trees and green spaces interspersed among the buildings. The overall scene is a dense, built-up neighborhood.

Foreword

Foreword by the Chair of the Expert Review Panel

Over the past year, local authorities recorded 12,537¹ households as homeless and accessing support. These people are often facing impossibly difficult situations – sofa surfing, staying for extended periods in places that were only ever intended to be temporary, and some who are sleeping on the street.

The impact of this is devastating. Being homeless presents daily challenges at every turn and often takes a toll on a person’s mental and physical health.

When the pandemic struck in 2020, public services across Wales were applauded for their efforts to pull together and seek a “no one left out” approach to homelessness. Since then, the Minister has been clear that there should be no turning back on this approach, with the Welsh Government committing to an action plan to end homelessness.²

As is recognised in this plan, ending homelessness in Wales will require focused action across a range of areas. Central to this is the need to take decisive action on legislative reform to ensure we have the systems and structures needed to make homelessness rare, brief, and unrepeatable.

It was, therefore, an enormous privilege to be invited to chair the Expert Review Panel and advise the Welsh Government on these reforms. Over the past year, the panel has heard powerful calls for change from people with lived experience, as well as from those working on the frontline and beyond. These voices have been at the heart of all our discussions, steering and shaping the recommendations presented within this report.

Panel members came to the table from across relevant sectors, bringing with them differing perspectives but sharing a willingness to work collaboratively to the common goal of preventing homelessness and ensuring that, where people do become homeless, they are able to swiftly move into a settled home.

This dedication to collaborative working is reflected within the cohesive package presented in this report. The package represents give and take on all sides to find workable solutions to complex issues. I am very grateful to all panel members for their appreciation of the need to find middle ground where views differed, and where necessary to make concessions in order to find our way through to a coherent set of proposals for Ministers to consider.

Some of these proposed solutions – including the call for wider public service engagement on homelessness – represent significant shifts in ways of working. These shifts are well worth making because the results would be significant for all involved. By working together to identify and address support needs upstream, we can help to prevent complex needs from developing. This, of course, benefits our ever in-demand public services as well as, crucially, preventing people from living out the trauma of homelessness.

While the panel believes changes to legal arrangements have a vital role to play in ending homelessness in Wales, we also recognise that legislation needs to connect effectively to policy, practice and resource contexts in order to fulfil its intended purpose. To this end, the panel has also sought to share our thoughts on key enablers that would help to facilitate the environment needed for legislative change to achieve the goals we all share on ending homelessness.

There is no doubt that in recent years, pressure has been building on homelessness in Wales. The cost-of-living crisis, the conflict in Ukraine, challenges in housing supply, among other factors have seen more people entering temporary accommodation than moving on to settled homes month by month.³

I am pleased that, in spite of these challenges, the Welsh Government is seeking a path to improved services and to prevent homelessness wherever possible. As pressure builds, now is the time to take radical and bold action.

We recently heard from the First Minister that Wales is facing its toughest financial situation since devolution.⁴ However, while we have to be very clear that there are cost implications to legal reform, taking no action, even in these difficult times, is not an option if we want to turn the dial on the rising numbers of homeless presentations. Resourcing these initial steps and bringing forward the proposals set out within this report will lead to considerable strides forward, reducing spend as well as demand on homelessness services in the longer-term.

Above all, we believe that the package outlined in this report would set this path in the right direction and make a real difference to people across Wales who are threatened with homelessness or who find themselves without a place to call home.



Professor Suzanne Fitzpatrick,
Chair of the Expert Review Panel

1 Welsh Government Statistics, (2023) Homelessness: April 2022 – March 2023. Accessed 5 September 2023. <https://statswales.gov.wales/Catalogue/Housing/Homelessness/householdsforwhichassistancehasbeenprovided-by-outcome-householdtype>

2 Welsh Government, (2021) *Ending homelessness in Wales: a high level action plan 2021 to 2026*.

3 Welsh Government Statistics, (2023) *Homelessness accommodation provision and rough sleeping: April 2023*. Accessed 24 August 2023, <https://www.gov.wales/homelessness-accommodation-provision-and-rough-sleeping-may-2023>

4 Welsh Government Written Statement (2023) *Update about Budget 2023-24*. Accessed 24 August 2023, <https://www.gov.wales/written-statement-update-about-budget-2023-24>

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With special thanks to:

Those with personal lived experience of homelessness in Wales who generously took the time to share their thoughts, views and experiences with the panel. These insights shaped panel discussions and are at the heart of the recommendations within this report.

To the more than 300 people who spoke so openly about their experiences of homelessness - this report would not exist without your support, thank you.

“

Being told that you're
'not going to be homeless
forever'... but I don't want
to be homeless now.

”

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Introduction

1. Why was the Expert Review Panel established?

In 2021, the Welsh Government set out its plan to end homelessness in Wales.⁵ Published in the wake of the pandemic, the Ending Homelessness High Level Action Plan applauded the concerted efforts of services to seek to ensure that no one was left without accommodation as COVID-19 swept the nation. The plan sealed the Welsh Government's commitment to continuing forward with a "no one left out" approach and outlined a number of actions, all with the common goal of making homelessness in Wales rare, brief and unrepeatable.

Among these actions was a commitment to "evaluate existing homelessness prevention legal provision and review areas to improve the law, to maintain the 'no-one left out' approach taken through the pandemic and to ensure that all public services are working in partnership to prevent homelessness."⁶

To assist in reviewing homelessness legislation, the Minister for Climate Change, Julie James established the Expert Review Panel to consider the "statutory architecture" needed to shape the way homelessness services are organised and delivered, providing the foundation for ending homelessness in Wales.⁷

2. About the Panel

In establishing the Expert Review Panel, the Minister invited homeless charity, Crisis, to convene the panel and appointed Professor Suzanne Fitzpatrick as Chair. Professor Suzanne Fitzpatrick of Heriot-Watt University has previously worked extensively on homelessness research across all three Great Britain nations and chaired similar panels in Scotland and England. She is also director of I-SPHERE, the Institute of Social Policy, Housing and Equalities Research.

The Minister stated that the panel should be representative of key sectors in order to fully consider the legislative reforms required. As such, she emphasised that the panel should include partners from local government, housing associations⁸, third sector homelessness and equality organisations and experts from academic and legal fields.⁹ The appointed panel members included:

- Professor Suzanne Fitzpatrick (Chair) – Heriot-Watt University
- Professor Peter Mackie – Cardiff University
- Angela Bowen – Carmarthenshire Council
- Sam Parry/ Ashleigh Stevens/Anna Mann – Conwy Council
- Matt Downie MBE – Crisis
- Clarissa Corbisiero – Community Housing Cymru
- Katie Dalton – Cymorth Cymru
- Emily James – Pembrokeshire Council
- Jennie Bibbings – Shelter Cymru
- Nazia Azad – Tai Pawb
- Jim McKirdle – Welsh Local Government Association
- The panel is also grateful to Liz Davies KC of Garden Court Chambers for attending as a legal advisor and to the various civil servants who attended from Welsh Government to advise on current policy.

The panel began meeting in August 2022 and was asked to report back to the Welsh Government with recommendations for legislative change in September 2023.

⁵ Welsh Government, (2021) *Ending Homelessness in Wales: A High Level Action Plan 2021-2026*.

⁶ Welsh Government, (2021) *Ending Homelessness in Wales: A High Level Action Plan 2021-2026*, pp. 17.

⁷ Julie James MS, Minister for Climate Change, Written Statement (2022) *Establishing an Expert Review Panel for homelessness legislation in Wales*. Accessed 24 August 2023 <https://www.gov.wales/written-statement-establishing-expert-review-panel-homelessness-legislation-wales>

⁸ Please note that throughout this report, the term 'housing association' is used for Registered Social Landlords or RSLs. However, where making recommendations, the legal terminology of Registered Social Landlords or RSLs has been used.

⁹ Julie James MS, Minister for Climate Change, Written Statement (2022) *Establishing an Expert Review Panel for homelessness legislation in Wales*. Accessed 24 August 2023 <https://www.gov.wales/written-statement-establishing-expert-review-panel-homelessness-legislation-wales>

Wider engagement

Given the broad remit of the panel's work, it was important to ensure the panel's discussions were not only informed by the expertise of panel members, but also by a wide-ranging consultation programme. This included those with lived experience of homelessness as well as stakeholders from across the housing sector and other relevant sectors where people are known to be at increased risk of homelessness.

People with Lived Experience

It was of great importance to both the panel and the Minister that the voices of those with lived experience of homelessness should underpin the work of the panel.

More than 300 people with lived experience of homelessness shared their views and experiences through consultation work led by Cymorth Cymru. Tai Pawb also reached out to experts by experience with protected characteristics to help the panel better understand particular barriers experienced by these groups.¹⁰

The feedback from experts by experience provided an invaluable insight and perspective on the barriers that exist within current systems. These insights shaped every panel discussion and are at the heart of the recommendations made.

Stakeholder engagement

Throughout the past year, the panel has embarked on a wide-ranging programme of stakeholder engagement – both within the housing sector and beyond. By consulting far and wide, the panel was able to hold in-depth debates that considered legislative change from multiple perspectives, leading to robust recommendations.

The panel considered engagement with those who work across the sector to be crucial – the views and opinions of professionals on the frontline provide an important first-hand perspective on how current legislation is working, the potential for change and what changes might be practicable.

To this end, the panel's work has been informed throughout by consultation with those who work in homelessness support services, housing associations and housing options departments at local authorities. In particular, the panel consulted with Cymorth Cymru's Frontline Network Wales and Community Housing Cymru's working group on homelessness, as well as a specialist Local Authority Reference Group, which included representation from each of local authority Housing Options team.

In addition, Crisis ran a series of stakeholder engagement sessions and direct meetings with stakeholder groups focused on particular topics being considered by the panel. These sessions and meetings sought views from across the housing sector and beyond – reaching out to other groups who are known to be at increased risk of homelessness.

The panel's work was also supplemented with research¹¹ (commissioned by the Welsh Government, Community Housing Cymru and the Welsh Local Government Association) on social housing allocations to homeless households. Through conducting an anonymous survey, a stakeholder session and a series of direct interviews, this research provided a crucial overview of how allocations operate in Wales and formed the foundation of the panel's deliberations in this area.

3. Background

Everyone needs a safe space to call home. The panel shares the ambition set out within the Welsh Government's Ending Homelessness Action Plan to make homelessness rare, brief and unrepeated and welcomes this opportunity to recommend how legislative change can help to achieve this.

Unfortunately, statistics demonstrate that drastic action is needed to reach this goal. The numbers of people seeking housing support is ever increasing – over the latest financial year (2022/23), 9,246 households were threatened with homelessness, and 12,894 households

were owed a prevention or relief duty.¹² The high numbers of people presenting as homeless have, in turn, placed further pressure on temporary accommodation and left thousands of people facing long or indefinite waits for a settled home. At the last count 10,872¹³ individuals were relying on temporary accommodation – many with little or no access to cooking and laundry facilities.¹⁴

There have, of course, been a number of unprecedented pressures on the system in recent years, in particular the cost-of-living crisis, the conflict in Ukraine and the COVID-19, pandemic. But beyond the strain these external pressures have placed on our systems, it is clear there is also much need to improve our current legal infrastructure in order to maximise homelessness prevention.

The panel heard from people with different and varied lived experiences of homelessness. While the details of these experiences differed, there were also common themes. It was clear that homelessness is traumatic in and of itself, but that our stretched services and systems can sometimes further compound this trauma. Many people told us that various systems presented blockers to getting the support they needed or were ill-equipped to respond to their individual circumstances. Others told us that systems were hard to navigate and left them feeling as though they were in a "never-ending prison sentence", unsure as to when they could settle into a home and move on in their lives.

Panel members were keen to find ways in which homelessness systems can be more person-centred and trauma-informed as well as for applicants to feel supported, not instructed, by local authority services. To this end, this report includes a range of recommendations that focus on communication with applicants and how Personal Housing Plans might operate differently in practice.

The panel also heard from dedicated frontline workers who are feeling the emotional strain of not having the tools, resources or flexibility to meet the needs of the rising numbers of

applicants seeking housing support. They sent a clear message that reform is needed to help shift the focus from firefighting the rising numbers of homelessness presentations to working more effectively to prevent homelessness upstream – sparing households the trauma of becoming homeless and helping to reduce the strain on overcrowded housing waiting lists.

This is not a shift that can be achieved by housing services alone. The reasons behind homelessness can be complex and multiple. As such, prevention cannot lie solely at the door of housing options services; it requires the support, expertise and collaboration of other public services such as health, social services and criminal justice services. This will, of course take time and investment, but the pay-off would be significant. Working collaboratively and preventively in this way helps to ensure that people avoid the most traumatic of experiences and, ultimately, reduces the onset of complex and longer-term support needs.

The panel believes that legislation has a crucial role to play in helping to overcome these issues. Our recommendations are rooted within the principles of **early prevention, no one left out, and rapid rehousing**. We want to ensure that, wherever possible, homelessness is avoided. Where homelessness does occur, no one should be left without support, and every effort should be made to help applicants move on as swiftly as possible to a settled home.

It is with these principles and ambitions in mind, that the panel has sought to propose an integrated package of bold recommendations for legislative change, as well as some non-legislative recommendations, which we believe would assist and support legal reform. These recommendations are divided into three parts.

Part 1 focuses on how current homelessness and housing legislation could be improved to overcome common barriers and ensure support is person-centred and trauma-informed.

10 Tai Pawb, (2023) *The experiences of homelessness of people with protected characteristics in Wales*. Commissioned by Welsh Government.

11 Woolley, B., (2023) *Allocations, Understanding more in the context of Homelessness in Wales*. Commissioned by Welsh Government, WLGA and Community Housing Cymru.

12 Welsh Government (2023) *Homelessness: April 2022 to March 2023*. Accessed 5 September 2023 <https://stats.wales.gov.wales/Catalogue/Housing/Homelessness/householdsforwhichassistancehasbeenprovided-by-outcome-householdtype>

13 Welsh Government, (2023) *Homelessness accommodation provision and rough sleeping: May 2023*. Accessed 24 August 2023 <https://www.gov.wales/homelessness-accommodation-provision-and-rough-sleeping-may-2023>

14 Senedd Local Government and Housing Committee, (2023) *Homelessness*.

Part 2 of this report considers how services across a range of relevant sectors can work more effectively and collaboratively to prevent homelessness, as well as recommending support for those at greater risk of becoming homeless.

Finally, **part 3** of this report considers which mechanisms can help to provide quality assurance in the system; at a national, local and individual level. This section also stresses the importance of better understanding the changing picture of homelessness in Wales – building on the information and data available to ensure that we are truly meeting people’s housing needs.

As is often the case with legislation, seeking change in one area has impact for another. To this end, careful consideration has been given to ensure that the recommendations within this report interconnect and support one another to create a robust package of proposed reforms.

While the panel’s main remit was to consider legislative proposals to help end homelessness, there were times within the panel’s discussion where it was clear that change was needed but routes other than legislation seemed more appropriate. To this end, the panel has also made non-legislative recommendations which seek to complement and support our proposed package of legal reform. Throughout this report, the panel’s **legislative recommendations are identified in red**, the **recommendations on statutory guidance are in blue** and **other recommendations are in purple**. If these recommendations are taken forward, together, they would set a clear and positive path forward for homelessness prevention.

While the panel believes these recommendations to be a robust package of reforms, it is imperative that appropriate resourcing accompanies the reforms and that the underlying deficits in housing supply are addressed. Throughout the past year, the panel has heard concerns from all corners that our homelessness support services are under unprecedented pressure and that the social housing supply across Wales falls far short of matching demand. Although changes to the law certainly set clear baseline standards, these standards will not be consistently met without sufficient investment in the required resources, including revenue funding for support services, staffing capacity, and housing supply.

Similarly, calls for more granular, comprehensive and robust data across the housing sector have been a consistent theme across the panel’s work. The panel believes it is imperative that the Welsh Government invest in improving data sets across the sector to support legislative change and to help monitor the effectiveness of reforms taken forward.

The panel hopes that the Welsh Government will give thorough consideration to the package of reforms presented within this report, acting swiftly to ensure services have the legislative framework, resources and housing supply to truly deliver on making homelessness rare, brief and unrepeatable.

PART 1 Improving homelessness and housing legislation

Photo: Patrice, who was supported by Crisis to find a safe and secure home.

When the Housing (Wales) Act 2014 was introduced, it came with the clear intention to push forward with a focus on preventing homelessness and to expand material help to as many people as possible who were homeless or at risk.

While this Act certainly brought forward positive changes, an evaluation of its implementation has also exposed gaps and “significant variation” in how local authorities interpret key parts of the act.¹⁵ These gaps have been echoed in the evidence the panel received from stakeholders and experts by experience.

There have also been notable and fundamental shifts in the ambition to end homelessness since the introduction of the Act 2014. The 2020 pandemic was a key turning point in this, driving forward a “no one left out” approach to homelessness support. The Welsh Government has since cemented its commitment to moving forward with this approach. But with research demonstrating that the current system presents barriers for particular groups of people seeking to access support,¹⁶ there is now a mismatch between this ambition and the current homelessness legislation.

Similarly, the nation is committed to moving towards a model of rapid rehousing, ensuring that people move into settled homes swiftly and access the support they need. And yet current statistics demonstrate increasing numbers of people living in temporary accommodation for extended periods of time.¹⁷

For all of these reasons, as the panel embarked upon its wide-ranging legislative review, the first step was to take a close and critical look inwardly at how homelessness legislation and key housing systems operate in practice. The panel was keen to ensure that the baseline framework for these systems align with the new and improved ambition for making homelessness in Wales rare, brief and unrepeatable.

1. Legal tests

Current legislation provides for local authorities to consider five legal tests before determining whether and what level of support an applicant can access from their homelessness services.

These tests are; whether the person is threatened with homelessness or is **homeless**; whether the person is **eligible** for assistance; whether the person is within a **priority need** category; whether or not the person is **intentionally** homeless; and whether or not the person has a **local connection** to the area.

The panel is broadly content that the current statutory definition of homelessness (found in Section 55 of the Housing (Wales) Act 2014) is appropriately inclusive of the diversity of homelessness, covering those who have no accommodation, people who cannot access their accommodation, as well as those who do not have accommodation which is available and reasonable for them to occupy together with their full household.

However, the panel heard much evidence of barriers to assistance and inconsistent application with respect to the other four legal tests and as such, is making recommendations in each of those areas.

1.1. Eligibility

What is the problem?

While there are a few exceptions, under Section 61 and Schedule 2 of the Housing (Wales) Act 2014, an applicant who is from abroad, subject to immigration control, or excluded from housing benefit by section 115 of the Immigration and Asylum Act 1999, is generally ineligible for housing assistance.¹⁸

This presents obvious barriers for people who do not have or are awaiting a decision on leave to remain in the UK, as well as for others who have leave that is subject to a “no recourse to public funds” (NRPF) condition. Given that most homelessness assistance

available through local authorities and social housing is classified as public funds, those with NRPF status are able to access very little support if they find themselves without a place to stay.

The heightened risk of homelessness among migrants is widely acknowledged.¹⁹ A survey conducted by Citizens Advice of people with NRPF across the UK in 2021 reinforced the heightened risks for this group. It demonstrated that almost half (48%) of people with NRPF status report living in overcrowded accommodation and 1 in 5 (18%) have experienced homelessness or housing insecurity.²⁰

Charities also document asylum seekers living in difficult circumstances and struggling with the Home Office systems. An asylum seeker with an unresolved claim living in Cardiff said:

“I like Cardiff, but the system – what the Government wants to do with us – it’s hard. They give us £39 per week. You go to Lidl one/two time and it’s almost gone. If I had a job, I can pay rent, support myself and have dignity. That’s why some people go crazy in the street, because they don’t have anything. I’ve been here for 8 years. I’ve had no accommodation for 6 of those years. I slept in my friend’s house. You know, when you put in a Fresh Claim you have to list everywhere you stay and tell the Home Office. What am I supposed to say? For 6 years I am sleeping here, sleeping there.”²¹

Where asylum seekers are granted refugee status or other leave to remain in the country, they are generally required to leave specialist accommodation for asylum seekers within 28 days.²² The Welsh Refugee Council, which provides support to refugees describes this time as a “very stressful period, where refugees have to quickly understand the UK housing market.”²³

Besides access to services, it is also acknowledged that this group can face other particular barriers, including “language barriers which can be prohibitive in finding and sustaining employment, loss and theft of documentation which mean an inability to prove immigration status potentially leading to loss of employment or housing, and a lack of knowledge of the welfare and statutory support system leading to an inability to seek out support and advice if needed.”²⁴

Through stakeholder engagement sessions, the panel also heard of the particular difficulties faced by those who are subject to an NRPF condition and are fleeing from violence. Indeed, refugees are often unable to accommodate women in these groups due to the nature of their funding. The panel also heard of a distressing instance whereby a mother with an NRPF condition fled an abusive relationship and sought housing support, only to be separated from her children. In this instance, the children were placed into care and the mother was left with no where to stay. There is significant concern that news of instances like this spreads among communities and deters other victims of abuse from seeking support.

In addition, stakeholders raised a general need for improved understanding of the language and cultural barriers that may be preventing people from this group from accessing support. For example, a reliance on family members to translate can mean, particularly where a person may be experiencing abuse, applicants may be unaware of their rights or how to access support.

Is legal change needed?

People with an NRPF condition who are at heightened risk of homelessness currently have very few options available to them. Legal constraints mean that the Welsh Government, local authorities and other public bodies currently have limited opportunities to assist this group. For this reason, the panel considers that a legal

15 A. Ahmed, M. Rogers, M. Wilding, A. Gibbons, K. Jones, I. Madoc-Jones (2018) *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*. Welsh Government, GSR report number 46/2018.

16 Gwilym-Taylor, R., & Sanders, B., (2021) *No One Left Out: The reality of eligibility barriers for people facing homelessness in Wales*: Crisis.

17 Welsh Government (2023) *Homelessness accommodation provision and rough sleeping*.

18 Section 61 and Schedule 2, Housing (Wales) Act, 2014.

19 Boobis, S., Jacob, R., Sanders, B., (2021) *A Home for All: Understanding Migrant Homelessness in Great Britain*. Crisis.

20 Smith, C. et al., (2021) *How do I survive now? The Impact of Living with No Recourse to Public Funds*. Citizens Advice. Accessed 27 September 2023. https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/How%20do%20I%20survive%20now_%20November%202021.pdf

21 Stories from Home 4 U residents (2023) Accessed 25 August 2023, www.home4ucardiff.org

22 In the period between the panel finalising its recommendations and publishing this paper, there has been a change in practice resulting in the possibility of a shorter 7 day notice period. Please note that this had not been brought to light at the time of panel discussions.

23 Welsh Refugee Council (2023) *Housing and Homelessness*. Accessed 27 September 2023, <https://wrc.wales/our-housing-and-landlord-casework/#:~:text=Our%20Housing%20and%20Landlord%20Casework,understand%20the%20UK%20housing%20market>

24 Boobis, S., Jacob, R., Sanders, B., (2021) *A Home for All: Understanding Migrant Homelessness in Great Britain*. Crisis.

intervention is required. Given that powers in this area are reserved, this will require liaison with the UK Government.

Recommendations within sections on communication with applicants (p.53) and individual rights to advice, review and redress (p.85-86) later on in this report also seek to address the concerns raised above around language barriers and the accessibility of homelessness services.

The panel's recommendations

The panel recommends broadening the support that can be provided legally to the NRPF group and wishes to see an improved referral pathway to housing support for asylum seekers who are granted leave to remain.

In addition, the panel recommends raising awareness of the support that social services are able to offer those who are fleeing violence and have an NRPF condition.

Eligibility of those who No Recourse To Public Funding (NRPF) and those granted leave to remain

1. That the Welsh Government should seek to include people who have No Recourse to Public Funding (NRPF) within those eligible for homelessness assistance and for welfare benefits, liaising with the UK Government to find a way forward.
2. That the Welsh Government should consider whether asylum seekers who are notified that they have been granted leave to remain (and so have a 28 day period to leave specialist accommodation for asylum seekers)²⁵ could be deemed to be threatened with homelessness (either because it is accepted that they are likely to be homeless within 6 months or because legislation provides that they are deemed to be threatened with homelessness when they are granted leave). The Welsh Government should also explore a mechanism by which the Home Office is under a duty to refer the former asylum seeker for homelessness assistance when they are granted leave.

(Please see also recommendations 97 and 98 on duties to identify, refer, act and co-operate).

Support for those with NRPF who are fleeing violence

3. That where social services are supporting a survivor of domestic abuse or a parent with a child or children who has NRPF, guidance issued under the Social Services and Well-being (Wales) Act 2014 duties should provide that part of the support and assistance should be to help to apply for the lifting of the NRPF condition and/or application for the Destitution Domestic Violence Concession.
4. That until such a time as recommendation 1 is implemented, as an interim measure, the Welsh Government should make representations to the UK Home Office that survivors of domestic abuse who are subject to NRPF should, nevertheless, be eligible for homelessness assistance.
5. That the Welsh Government considers how it can enable abuse survivors with NRPF to access refuge accommodation, including the possibility of funding specialist refuge provision.

Enablers and barriers

With immigration, asylum and welfare benefits all being reserved matters to the UK Government, the panel recognises that the Welsh Government holds limited powers to address these matters.

However, there may be scope for Welsh Ministers to seek to cooperate with Westminster on this issue – particularly given its declared status as a “Nation of Sanctuary.” The Welsh Government’s 2019 *Nation of Sanctuary Plan*²⁶ pledges positive measures to support integration of people seeking sanctuary in Wales and to mitigate destitution. This includes seeking good quality and improved accommodation for asylum seekers as well as supporting refugees in transitioning from asylum accommodation to sustainable accommodation.

While Section 46 of the Social Services and Well-being (Wales) Act 2014 provides that a local authority may not meet the needs for care and

support of an adult who is subject to immigration control (which includes those with a NRPF condition) where those needs have arisen solely from being destitute, there is scope to support those who are fleeing domestic abuse. As such, there may be opportunities for guidance to encourage social services to help those who have NRPF and are fleeing abusive situations to apply for the lifting of the NRPF condition and/or application for the Destitution Domestic Violence Concession.

1.2. Priority need

What is the problem?

Under the Housing (Wales) Act 2014, local housing authorities only have a legal duty to support certain groups of applicants who have priority need status. This includes families with young children, pregnant women, young people aged 16 and 17, as well as those aged 18 to 20 who are at particular risk of sexual or financial exploitation or have been in care, domestic abuse survivors, veterans, those who are vulnerable as a result of leaving prison and people who are vulnerable for a “special reason.”

If a person does not fall within a priority need category, they can access advice and be supported with the local authority taking “reasonable steps” to help them to secure accommodation. However, the local authority is ultimately not required to secure accommodation for those who do not have a priority need. For many people this is an extra barrier they have to overcome with little or no accommodation options and they may become homeless where it could have been prevented.

During the pandemic, the priority need test was effectively ‘suspended’ as services across Wales sought to adopt a “no one left out approach” and to ensure no one was left on the streets because they were not considered to be a priority. The Welsh Government’s Ending Homelessness Action Plan outlines a commitment to move forward with this approach.²⁷

As part of this approach, in October 2022, the Welsh Government introduced an amendment to Housing (Wales) Act 2014 which added people who are street homeless as a new priority need category.²⁸ This ensured that those at the most acute end of homelessness were prioritised for support while longer term reforms to achieve a no-one left out approach were being considered.

As a result of the approach during the pandemic and the move towards identifying street homelessness as a priority need, the Welsh Government’s annual homelessness statistics show that the number of people who were recorded as ‘eligible, homeless but not in priority need’ dropped from 1,470 to 63 between 2019-20 and 2021-22.²⁹

Whilst initially established to protect people who would be at particular risk if they were to become homeless, the above statistics help to illustrate that the priority need test as it stands in current legislation has the potential to (again) form a considerable barrier to material assistance. The extraordinary drop in numbers affected by priority need noted in the paragraph above occurred during a time of exceptional circumstances and the panel is keen for the legislation to be amended on a long-term basis to ensure that there is no return to high numbers of people being unable to access accommodation on account of this test.

Although some experts by experience said they understood that some groups may need to be prioritised for support, many others felt that the priority need test is “too blunt” and does not recognise individualised circumstances.

Single men are the main group of applicants who repeatedly face the barrier of being excluded from the rehousing duty due to not being in priority need.³⁰ In 2021-22, over 90% of applicants assessed as ‘eligible, homeless but not in priority need’ were single households.³¹

25 In the period between the panel finalising its recommendations and publishing this paper, there has been a change in practice resulting in the possibility of a shorter 7 day notice period. Please note that this had not been brought to light at the time of panel discussions.

26 Welsh Government (2019) *Nation of Sanctuary – Refugee and Asylum Seeker Plan*.

27 Welsh Government (2021) *Ending homelessness in Wales: a High Level action plan 2021 to 2026*.

28 The Homelessness (Priority Need and Intentionality) (Wales) Regulations 2022, SI 2022/1069.

29 Welsh Government, (2022) *Households for which assistance has been provided by outcome and household type*. Accessed 24 August 2023, <https://statswales.gov.wales/Catalogue/Housing/Homelessness/householdsforwhichassistancehasbeenprovided-by-outcome-householdtype>

30 Mackie, P.; Gray, T.; Hughes, C.; Madoc-Jones, I.; Mousteri, V.; Pawson, H.; Spyropoulos, N.; Stirling, T.; Taylor, H.; Watts, B. (2019) *Review of Priority need in Wales*. Commissioned by Welsh Government.

31 Welsh Government, (2022) *Households for which assistance has been provided by outcome and household type*. Accessed 24 August 2023, <https://statswales.gov.wales/Catalogue/Housing/Homelessness/householdsforwhichassistancehasbeenprovided-by-outcome-householdtype>

Similarly, being required to demonstrate proof of priority need can present barriers for survivors of domestic abuse. While those fleeing domestic abuse have priority need, it can be traumatising to disclose and difficult to demonstrate that this is the case, especially if they have not engaged with police or support services.

Others have raised concerns that the current priority need categories do not encapsulate all people with care experience who are at increased risk of homelessness as a result of a lack of familial ties and support. Whilst the priority need categories currently include care-experienced people up to the age of 21, the Senedd Children, Young People and Education Committee specifically requested that the panel considered recommending that care-experienced people hold priority status up to the age of 25.³²

The post-implementation evaluation of the Housing (Wales) Act 2014 highlighted that the concept of vulnerability in relation to the priority need category 'vulnerable as a result of some special reason' is subjective, and that it is therefore applied inconsistently.³³ This was supported by the panel's stakeholder engagement which indicated that disabled people have mixed experiences of the priority need test, with sector stakeholders suggesting that this could be due to different approaches to the test based on variation in perceptions of different disabilities. Guidance advises that "mental and physical illness and mental and physical disability including Autistic Spectrum Disorder (ASD)" should be considered when determining whether an applicant is vulnerable.³⁴ However, recent research by the Centre for Homelessness Impact states that "disability can, but does not always, qualify a household for housing duty under priority need." Sector stakeholders highlighted that local authorities often use medicalised assessments of disability, but research points out that not all disabled people have a medical diagnosis, and it is particularly difficult to pursue diagnosis whilst experiencing homelessness. Therefore, this can be

a barrier to effective support and relief.³⁵

In a similar vein, stakeholders raised concerns that neurodivergent people and people in distress may present in a way that, despite being vulnerable, does not meet the criteria of a vulnerability assessment, and they are therefore not classed as priority need. Similarly, undiagnosed mental health difficulties and subjectivity around the level of severity of mental health difficulties that constitute a "special reason" leaves the priority need test open to interpretation.

For all of the reasons outlined above, there is generally widespread support across the sector for the abolition of priority need as part of the no-one left out approach. The 2021 Wales Homelessness Monitor reported that 15 out of 22 Welsh local authorities favour abolishing the priority need test.³⁶

Is legal change needed?

The panel believes that a change to legislation is necessary to remove priority need as a key barrier to accessing accommodation.

The panel's recommendations

The panel recommends that the priority need test be abolished at a set date in the future.

Given the concern and representations to the panel regarding the heightened risk to homelessness of care-experienced people, the panel is also recommending that, ahead of abolishing Priority Need, the exemption for this group is applied across a wider age range than at present. For clarity, the panel also emphasises that the recent addition of street homeless people should also remain on this the list of exempt categories from the test up and until the day it is abolished.

6. That the test of Priority Need (as set out at Section 70 Housing (Wales) Act 2014) is abolished and that the interim accommodation duty (Section 68 Housing

32 Senedd Children, Young People and Education Committee, (2023) *If not now, then when? Radical reform for care experienced children and young people*.

33 A. Ahmed, M. Rogers, M. Wilding, A. Gibbons, K. Jones, I. Madoc-Jones (2018) *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*.

34 Welsh Government (2016) *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness*.

35 Stone, B. and Wertans, E., (2023) *Homelessness and disability in the UK*. Centre for Homelessness Impact.

36 Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*, pp.87.

(Wales) Act 2014) and the main housing duty (Section 75 Housing (Wales) Act 2014) apply to all applicants who are, or may be, homeless, without any consideration of whether they have a priority need. The Welsh Government should announce a fixed date for the implementation of this abolition in order to enable local housing authorities to prepare.

7. That, while the abolition of priority need is considered and/or implemented, care-experienced people (of any age) should be considered a priority need (utilising Ministerial powers under Section 72(1) Housing (Wales) Act 2014). During this time, the recently introduced interim measure that provides for those who are street homeless to be considered priority need should also remain in place.

Enablers and barriers

While supportive of the no-one left out principle, many local authority stakeholders were concerned that local housing authorities do not currently have access to sufficient settled accommodation units to meet the likely increase in the number of cases where there will be a duty to accommodate if priority need is abolished. This is why the panel is recommending that there should be an appropriate lead-in period for local authorities to prepare and that additional investment is required in housing supply.

In abolishing priority need, it is noted that the profile of applicants coming through the system will also change and this needs to be reflected in the type of accommodation available. For example, we expect to see more single people being accepted as owed a main housing duty, which will mean there is a need to increase single bedroom accommodation and/or find means to mitigate the impact of the removal of the spare room subsidy.³⁷

The panel advises that investment in the workforce, housing support services and more suitable temporary accommodation, as well as an increased supply of settled housing will be needed

to deliver this ambition. Furthermore, investment in granular datasets to maintain an accurate and up-to-date picture of need and progress will also be essential.

1.3. Intentionality

What is the problem?

Under Section 78 of the Housing (Wales) Act 2014, local housing authorities can elect to apply an 'intentionality test' to a person in priority need, before they decide whether they owe the applicant the main housing duty (under Section 75).

An applicant is deemed to be intentionally homeless (under Section 77) "if the person deliberately does or fails to do anything in consequence of which the person ceases to occupy accommodation which is available for the person's occupation and which it would have been reasonable for the person to continue to occupy."

Local authorities can decide to apply the test to all priority need groups, or just some of them. However, they must not apply the test to families with children, pregnant women, people under the age of 21 when they made their application, or care-experienced people under the age of 25 when they made their application (unless any of those people had already applied and been given an offer of accommodation within the last 5 years).

If an applicant is deemed to be intentionally homeless, the local authority is required to provide temporary accommodation for a 'reasonable period', or a minimum of 56 days from the point that a homeless relief duty to the household has been accepted.

In 2022-23, Welsh Government statistics show that 93 (1.79%) out of 5,187 applicants who were recorded as being eligible, homeless and in priority need were deemed to have made themselves intentionally homeless.³⁸

The intentionality test was originally intended to deal with 'perverse incentives' to apply for homelessness assistance in order to 'jump

37 The removal of the spare room subsidy entailed a reduction in Housing Benefit for working age social tenants whose properties have more rooms than the DWP's size criteria state that they need.

38 Stats Wales (2023) *Households for which assistance has been provided by outcome and household type*. Accessed 5 September 2023, <https://statswales.gov.wales/Catalogue/Housing/Homelessness/householdsforwhichassistancehasbeenprovided-by-outcome-householdtype>

the queue' for social housing. Whilst some stakeholders were in support of the existence of the intentionality test for this reason, the panel heard much evidence of the clause being misapplied and misinterpreted.

Stakeholders and experts by experience expressed that the intentionality test is not trauma-informed and that it encourages judgement around who is or is not deserving of support. Many people drew upon experiences which align with the extensive body of research that shows people found to be 'intentionally homeless' usually have clear unmet support needs and are often the most excluded from services and support.³⁹

A frontline worker responding to the Cymorth Cymru Frontline Network Wales survey explained:

"Intentionality can often completely disregard a person's mental health need, certain responses to trauma, a learning difficulty, or their lack of ability to do the right thing. The law can fail to realise that it exists to protect and support vulnerable people in vulnerable situations."

These concerns were echoed by experts by experience who felt that people could find themselves being described as 'intentionally' homeless for a myriad of reasons including mental health issues, addiction, domestic abuse and learning difficulties.

The consequences of being labelled intentionally homeless are significant – applicants who are deemed to be intentionally homeless can be left feeling they have little hope of leaving their homelessness behind. When unmet support needs relating to mental health or addiction have been an underlying factor in a person being perceived as "intentionally homeless", this stress can further exacerbate these difficulties. As such, it is likely that these individuals will re-apply for support at a later

date, potentially with more acute needs and closer to crisis point.

As the statistics above indicate, formal findings of intentionality are relatively rare, but stakeholders indicated that it is often utilised informally in discussion with applicants to deter them from taking certain actions. For example, an applicant might be encouraged to stay in an unsuitable property to avoid being considered "intentionally homeless", but accrue rent arrears in so doing.

Furthermore, the evaluation of the Housing (Wales) Act 2014 found evidence of significant variation in the interpretation of intentionality across local authorities.⁴⁰ The Public Services Ombudsman for Wales also raised concerns regarding misuse of the intentionality test, citing examples such as an elderly woman who was classed as "intentionally homeless" after leaving her marital home because her husband was accused of child abuse.⁴¹

Is legal change needed?

The panel believes that, in the light of the evidence presented above, the intentionality test should be removed. This requires primary legislation.

The panel's recommendation

8. **That the test at Section 77 Housing (Wales) Act 2014 of 'intentional homelessness' is abolished and the main housing duty at Section 75 Housing (Wales) Act 2014 is amended so that all eligible applicants who are homeless (and are not referred under local connection) are owed that duty.**

Barriers and enablers

The panel is mindful that, without an intentionality test, stakeholders identified concerns that some individuals may 'actively worsen' their situation or mislead the authority in order to gain priority access to social housing. The panel has sought to safeguard against this via recommendations

within the section on social housing allocations at pages 45-46. By introducing a measure for those who 'deliberately manipulate' the homelessness system to be stripped of reasonable preference for housing allocation, the panel seeks to address any 'perverse incentive' within the homelessness system in a more targeted and less punitive way than the intentionality test.

1.4. Local connection

What is the problem?

Section 80 of the Housing (Wales) Act 2014 empowers local housing authorities to refer homeless applicants who do not have a 'local connection' with their area, to an authority with which they do have such a connection, for their long-term rehousing. A local connection can include having been a resident in the area, being employed or having family associations within the area, as well as other 'special circumstances.'

The panel heard an array of evidence from research, stakeholders and experts by experience which shows that the local connection test is being interpreted and applied inconsistently across Wales, sometimes unlawfully, and often in a way that is not trauma-informed, person-centred or in alignment with the wider principles of prevention.

The panel heard that the local connection test is presenting significant and disproportionate barriers to particular groups. For example, it is widely understood that LGBTQ+ people can be at increased risk of homelessness as a result of fleeing homophobic abuse. This group is more likely to seek to move to new areas to escape abuse and to access LGBTQ+ specific services and communities, so may struggle to demonstrate a 'traditional' local connection to a particular area.⁴²

Despite the fact that guidance advises greater flexibility for care-experienced people when applying the local connection test, local connection continues to pose particular problems for care-experienced young people. End Youth Homelessness Cymru research outlines that some

care-experienced young people describe how the misinterpretation of the local connection test is the cause of their homelessness as it has been used to deny them the ability to stay in local authorities where they have been fostered and feel at home. Some participants in the research explained that they had been relocated to the local authorities where they were born, but had no support networks in these areas.⁴³ This issue was also identified at the online stakeholder session run by Children in Wales to help inform the work of the panel.

There is further concern around current use of the local connection test for survivors of domestic abuse. Although there is a provision to prevent an applicant from being referred to another local authority in which they may be at risk of domestic abuse, some survivors have expressed that they needed to prove they were at risk in order to prevent this from happening. This is a traumatic process and, moreover, it is not always possible to prove this risk.

Disabled people also encounter difficulties with the local connection test. Access to healthcare and medical facilities is inconsistent across Wales, so a disabled person may need to live within a certain health board area to be able to access particular medical facility, support service or a community. However, interpretation of local connection test for health reasons can vary. Further, due to a lack of housing stock suitable for the wide-ranging needs of disabled people, some disabled people have been forced to move away from somewhere they have a local connection in order to live in accessible housing.

The local connection test can also cause problems for those who are attempting to recover from substance use. Being forced to remain in a particular area, in close proximity to connections related to their substance use and risk of criminal exploitation, can have a negative impact on an individual's recovery. For example, an expert by experience told the panel:

39 For example, see Campbell, A. J., (2011) *The Impact of Intentional Homelessness Decisions on Welsh Households' Lives*. Swansea: Shelter Cymru; Rosengard, A., Laing, I., Ridley, J., Hunter, S. (2007) *Closing the Opportunity Gap: Findings of a Literature Review on Multiple and Complex Needs*. Project Report. Edinburgh: Scottish Executive; and Albanese, F. (2019). *Intentionality in the homelessness system across Great Britain*.

40 Ahmed, A., Wilding, M., Gibbons, K., Jones, M., Rogers, I. Madoc-Jones M. Wilding, A. Gibbons, K. Jones, M. Rogers, I. Madoc-Jones (2018) *Post-implementation evaluation of part 2 of the Housing Act (Wales)*.

41 The Public Services Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*, pp. 59.

42 Helen Carr, Adi Cooper, Edith England, Peter Matthews, Gill Taylor & Carin Tunåker (2022) *Queer utopias of housing and homelessness*. Housing Studies.

43 Bridgeman, J. and Russell, H. (2020). 'Don't let me fall through the cracks': Homelessness amongst care-experienced young people in Wales. End Youth Homelessness Cymru.

“Many people want to move out of area as they have connections to drug use or violence in their local area. The current law does not take this into consideration and people are trapped in a cycle of homelessness due to being unable to move away from their past if they don’t have local connection outside their area. It’s a ridiculous rule that prevents people from getting the help they need.”

Stakeholders also identified local connection as a barrier to rehabilitation for prison leavers. For some prison leavers, returning to an area where they have a history of offending can increase the likelihood of re-offending, but often this is the only area to which they have a local connection. Prison leavers known as ‘Prolific and other Priority Offenders’ (PPO) can also face particular barriers where they have restrictions on where they can live due to the nature of their offence.

Another group for whom the local connection test is a barrier to homelessness support is veterans and their families. A veteran and/or their spouse may not have a solid local connection to any particular area as they are required to move location every two years based on their placement. This problem can be exacerbated in instances of separation when veterans want to live in the same area as their ex-spouse to be near their children, but are refused housing assistance on the grounds of a lack of local connection to that area. One stakeholder said that one of their clients had resorted to sleeping on the street so that they could be near their child.

While there was widespread acknowledgement that the local connection test is creating barriers to accessing rehousing support, there were mixed and strong feelings on whether or not the test should be abolished.

Many local authority stakeholders raised concern that abolishing the local connection test could leave certain authorities – in particular those with large cities – supporting a disproportionate number of homelessness applicants. Meanwhile, others pointed to research that suggests homeless people moving to ‘service-rich areas’ is not a significant issue⁴⁴ and that homeless applicants are

likely to remain in their chosen new area even where they are denied support.⁴⁵

The panel considered a range of mechanisms which could facilitate the abolition of local connection, looking at how the cost of supporting applicants from other areas could be more fairly distributed. However, local housing authorities and, in particular the local authority reference group advising the panel, sent a clear signal that more work would be needed on how such systems would operate to instil confidence in them.

Given the reluctance to abolish local connection completely, the panel considered many of the ways in which the test could be amended so as to lessen its power as a barrier to support and soften its application, particularly for the groups mentioned above.

Is legal change needed?

The panel considers that the harsher impact of the local connection test needs to be mitigated, including via some additional exemptions for some groups that are particularly disadvantaged by the test. This will require a change to primary legislation.

In addition, given the widespread nature of the difficulties caused by the test, including unlawful application, the panel is also recommending that statutory guidance be utilised to encourage application of the test in a trauma-informed way that better takes account of personal circumstances.

The panel’s recommendations

9. **That Section 80 of the Housing (Wales) Act 2014 is amended so that the following groups of applicants are exempt from the local connection provisions:**

- a. **People who are care-experienced and who are not accommodated under social services duties.**

(See recommendation 126, which provides that lead responsibility for supporting homeless care leavers should rest with social services.)

- b. **Veterans and those who have cohabitated with veterans during their time in service.**
- c. **People who are currently at risk of domestic abuse or other abuse or exploitation if referred to another local housing authority, whether or not there was previous abuse. Guidance would need to provide clarity on this to avoid misapplication.**
- d. **People who have previously been subject to domestic abuse, other abuse or exploitation, and will experience trauma as a result of that domestic abuse, other abuse or exploitation, if referred to another local housing authority. Guidance would provide definitions of trauma in this context.**

10. **That exemptions from local connection should include prison leavers who require moving to a new area as part of their rehabilitation or to assist in meeting the restrictions placed on where they are able to live as a result of their offence. Prison leavers should not be referred to an area that would be inconsistent with their rehabilitation or to an area in which they are unable to live because of their offence.**

Please note, as outlined under the Social Housing Allocations section of this report at page 45, these exemptions would also apply when considering a local connection within allocations.

11. **That statutory guidance on application of the local connection test is revised with a view to improving consistency of its application and a more trauma-informed approach. In particular, statutory guidance should:**

- a. **Clarify that the local connection test must be applied with a person-centred, trauma-informed approach, taking account of the individual’s circumstances. This might include flexibility with regards to the evidence required to determine that a person falls within a group that is exempt from the test. For example, Paragraph 8.22 of the Code of Guidance should be amended to provide that “inquiries into cases where abuse, violence**

or exploitation are alleged should be undertaken sensitively and local housing authorities should be advised that corroborative evidence will not always be available.”

- b. **Contain advice in relation to “special circumstances” at Section 81(2)(d) Housing (Wales) Act 2014 so that long-established attendance at a local school or a requirement to attend a school for specialist support should be considered a special circumstance so as to establish a local connection.**
- c. **Contain advice that in some cases non-familial connections may be particularly important for an individual. Support networks, where the support is provided by friends or community support, could constitute “special circumstances” for the purposes of local connection (Section 81(2)(d) Housing (Wales) Act 2014), particularly where the person is estranged from their family.**
- d. **Outline how the “special circumstances” criteria may be applicable to certain groups that are at greater risk of harm from the local connection test, encouraging local housing authorities to adopt a more flexible approach where they identify this risk of harm. The Welsh Government should look to consult with key stakeholders on the development of this guidance. Such groups might include:**
 - i. **Young people aged 25 and under**
 - ii. **Members of the LGBTQ+ community**
 - iii. **Disabled applicants who require access to particular support**
 - iv. **Gypsy, Roma and Traveller communities**
 - v. **People seeking recovery from substance misuse**
 - vi. **Refugees and other former asylum seekers who have been granted leave to remain in the country.**

44 Mackie, P., Thomas, I. (2016) *Transitional Single Homelessness in Wales*. Cardiff: WISERD.

45 Homeless Link (2015) *Repeat Homelessness in Brighton*.

12. That the Welsh Government and local housing authorities seek to make available services that support people:

- a. who may fall into an exempt group or be regarded as in special circumstances to navigate the local connection decision making process
- b. to access alternative housing solutions if they are referred under local connection but do not want to move
- c. to relocate to their local authority of origin where this is within their best interests and the applicant has consented.

13. That the Welsh Government considers how application of the local connection test could be monitored so as to prevent misapplication of the test, taking swift action where there is misapplication.

Enablers and barriers

If the Welsh Government is to abolish priority need and intentionality, there is potential for significant emphasis to be placed on the local connection test as a gatekeeping tool. This is particularly concerning given the existing tendency for local connection to be misapplied. As such, stringent and clear statutory guidance on its use is imperative, as is the collation of data and monitoring of use of the test to ensure its appropriate application. Recommendations made within part 3 of this report (see page 91) will assist in this regard.

2. Prevention Duty

As outlined in the introduction of this report, the panel's approach to legislative reform has been rooted within the principle of early homelessness prevention, which aligns with the strategic direction of the Welsh Government's Ending Homelessness National Plan.

What is the problem?

The homeless prevention duty at Section 66 of Housing (Wales) Act 2014 is owed to all eligible applicants who are 'threatened with

homelessness'. Section 55(4) of the Housing (Wales) Act 2014 states that "a person is threatened with homelessness if it is likely that the person will become homeless within 56 days". However, panel members and wider stakeholders agreed that this timeframe of 56 days does not afford local authorities enough time to effectively prevent an individual's homelessness.

The panel discussed how some local authorities miss an earlier opportunity to prevent an applicant's homelessness because the housing options team waits until the 56-day mark before they begin preventative procedures. While it is acknowledged that stretched resources can lead to a lack of capacity for upstream prevention, in the longer-term this is counter-productive and does not align with the wider aim of preventing homelessness as early as possible.

The 56-day window also represents a lack of alignment between the Housing (Wales) Act 2014 and Renting Homes (Wales) Act 2016. Under the newly implemented Renting Homes (Wales) Act 2016, landlords are required to give six months' notice for 'no-fault' evictions. This means that people in receipt of such a notice may be threatened with homelessness at six months, yet unable to secure support from local authority housing services for another four months. Without support during this time, their housing needs may become more acute and urgent, ultimately placing greater pressure on homelessness support services.

Once an applicant is assessed as 'threatened with homelessness' or 'homeless,' the local authority must take 'reasonable steps' to help prevent the applicant from becoming homeless (see Sections 65 and 66 of the Housing (Wales) Act 2014) and/or to help the applicant secure accommodation (see Sections 65 and 73 of the Housing (Wales) Act 2014). However, the panel heard evidence that the interpretation of 'reasonable steps' differs across local authorities, and between individual caseworkers within the same authority. The post-implementation evaluation of the Housing (Wales) Act 2014 supported these concerns, stating that 'reasonable steps' are subject to variable interpretation which can negatively impact on service user outcomes.⁴⁶

Is legal change needed?

The panel's assessment is that legal change is needed in this area because it is vital that local authorities have a legal duty to act earlier so that efforts and resources can be focused as upstream as possible. Moreover, it is imperative that there is clarity and consistency across local authorities on the reasonable steps required to assist applicants threatened with homelessness.

The panel's recommendations

14. That Section 55 (4) Housing (Wales) Act 2014 is amended so that a person is threatened with homelessness (and therefore the prevention duty will apply) if it is likely that the person will become homeless within six months.

15. That the Code of Guidance is amended to provide that in order to end the prevention duty, the local housing authority should be satisfied that accommodation is likely to be secure for at least 12 months (as opposed to the current six months).

Please note: This timeframe is in-keeping with recommendation 14 on extending the prevention duty to those who are threatened with homelessness within six months. This recommendation is also in-keeping with the approach taken in recommendation 52 in considering the stability of additional option housing.

16. That the Welsh Government strengthens the duty on the local housing authority to take "reasonable steps" to help the applicant by amending the wording of Section 65(a) Housing (Wales) Act 2014 to say; "to take such steps that are likely to prevent the applicant from becoming homeless or are likely to secure accommodation for the applicant's occupation having regard (among other things) to the need to make the best use of the authority's resource."

17. That the statutory guidance published by the Welsh Government is amended so as to give more details to local housing authorities of

the application of the public sector equality duty at Section 149 Equality Act 2010 when considering what steps they should take to help the applicant to secure accommodation.

Enablers and barriers

It will be crucial to equip local authorities with the resources and development opportunities they need to deliver earlier preventative measures within the extended timeframe for prevention. Indeed, in his 2018 report, the Auditor General emphasised that many local housing authorities remained focused on the symptoms as opposed to the causes of homelessness and that a widening staff skillset was needed to enhance preventative working.⁴⁷

As identified elsewhere within the report, resourcing through the Homelessness Support Grant could also be a key consideration in supporting this recommendation.

It is also important to consider how local authorities can and should commission services that prevent homelessness upstream, as well as how specific interventions in legislation and guidance promote this. Learning from existing good practice around early prevention – both from within Wales and elsewhere – should be actively promoted and encouraged.

The panel's recommendations around wider public bodies and other specific organisations working together (see Part 2) will also be a crucial enabler to upstreaming prevention even further.

3. Relief duty

What is the problem?

Over the past year, stakeholders and experts by experience alike have fed back that homelessness support systems are complex and difficult to navigate. The Welsh Government's evaluation of the Housing (Wales) Act 2014 supports this, reporting that workers found existing systems to be an administrative burden.⁴⁸ The panel has, therefore, been keen to consider ways in which the system might be streamlined.

⁴⁷ Auditor General (2018), *How Local Government Manages Demand – Homelessness*. Pages 10 and 11.

⁴⁸ A. Ahmed, M. Wilding, A. Gibbons, K. Jones, M. Rogers, I. Madoc-Jones (2018). *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*.

⁴⁶ A. Ahmed, M. Wilding, A. Gibbons, K. Jones, M. Rogers, I. Madoc-Jones (2018). *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*. p.74.

The current relief duty, introduced by Section 73 of the Housing (Wales) Act 2014, exists to ensure that anyone who is eligible and homeless can access some support to help them to secure accommodation. Even where people are not entitled to an offer of housing because they are found to be outside of a “priority need” category, or deemed to be “intentionally” homeless, the relief duty ensures that those who are eligible and homeless can access help to secure accommodation.

Since the panel is recommending that the priority need and intentionality tests be abolished, this duty would become redundant. Under the panel’s proposals, those who are eligible and threatened with homelessness will be owed the prevention duty (to secure that accommodation does not cease to be available) and all those who are eligible and homeless a main housing duty (which requires an offer of suitable housing to be made). Applicants who are homeless will be accommodated under the interim accommodation duty, (Section 68 of the Housing (Wales) Act 2014) and then either under the main housing duty (Section 75 of the Housing (Wales) Act 2014) or under the accommodation duty if the applicant is to be referred under local connection (Section 82 of the Housing (Wales) Act 2014).

Is legal change needed?

In light of the recommendations on intentionality and priority need, the panel believes the relief duty should be abolished to help streamline the system. This requires amendment of primary legislation.

In abolishing the relief duty, the Panel consider that local connection should continue to only be applied at the main housing duty stage. However, a further legislative change should allow for an exception to this rule so that local connection is applied at the prevention duty for prisoners. This will ensure that the same local authority who will be under a duty to house a homeless prison leaver can be involved in early planning for their release.

The panel’s recommendations

18. That, in light of other recommendations on abolishing priority need and intentionality, the relief duty should be abolished.

(The relief duty will be redundant because a person threatened with homelessness will be owed the prevention duty under Section 66 Housing (Wales) Act 2014 and a person who is homeless will be owed the main housing duty under Section 75 Housing (Wales) Act 2014.)

Please note: Recommendation 52 seeks to provide increased flexibility for accommodation options at the main housing duty in light of the loss of the relief duty.)

19. That, following the panel’s recommendation to abolish the relief duty, the current position, whereby local connection referrals can only be made in respect of applicants who would otherwise be owed the main housing duty at Section 75 Housing (Wales) Act 2014, should be retained. However, legislation should provide for an exception to this rule for prisoners. It is considered that prisoners would benefit from a referral under local connection being made at the prevention rather than just the main housing duty stage, so that the prevention duty and main housing duty are carried out by the same local housing authority, rather than one local housing authority carrying out the prevention duty and subsequently referring the main housing duty to another local housing authority.

Enablers and barriers

Given that abolition of the relief duty sits in tandem with the abolition of priority need, it will be important to retain this duty up and until the date set for the abolition of priority need. Furthermore, it is also important that the relief duty is only abolished if the recommendation to abolish intentionality is also taken forward. Otherwise, those found to be intentionally homeless would lose access to material support in securing settled accommodation.

While the removal of the relief duty has the advantage of streamlining the system, it could operate to limit the range of housing solutions that local authorities can use to assist those who are homeless when they present. The panel is making recommendations in the below section on maximal housing options (see pages 39-40) to ensure that, in these cases, people are still able to access a range of housing options.

4. Evictions

What is the problem?

Eviction notices can be a significant factor in becoming homeless or at serious risk of homelessness. While there is a clear need for improved data on evictions in Wales, the most recently available statistics suggested that there were 3,441 people threatened with homelessness in Wales as a direct result of eviction in 2018/19.⁴⁹

Eviction was also the cause of homelessness for many of the experts by experience who shared their experiences with the panel. The reasons behind these eviction notices varied from ‘no-fault’ evictions such as a landlord selling their property to evictions that were classed as ‘at-fault’ including rent arrears, anti-social behaviour or substance misuse issues.

“At fault” evictions can often occur when a tenant requires support, and these support needs are not met. The panel considers that, by increasing support and addressing unmet support needs, as explored in the previous section, we can significantly reduce “at-fault” evictions.

However, the panel is also aware that no-fault evictions often occur and can cause real issues for tenants, especially in the current environment of rising rents and few affordable homes on the private rental market.⁵⁰ Experts by experience reported feeling at a loss when they were served with an eviction notice but were unable to find a new rented property they could afford.

It is clear that targeted action to protect against eviction notices can have a significant impact. Protections against eviction during the COVID-19

pandemic are considered to have played a pivotal role in reducing homelessness during that period.⁵¹ Research shows that, following the pandemic, eviction rates in the private sector have begun to increase again and were 94% higher in the second quarter of 2022 than in the first quarter of 2019.⁵²

Meanwhile, evictions from social housing continue to be lower than before the COVID-19 pandemic, down 66% in the second quarter of 2022 compared to the first quarter of 2019.⁵³ This continued trend may be credited to an ongoing drive for a “no evictions into homelessness” policy among community landlords⁵⁴ in Wales. In October 2019, the Homelessness Action Group recommended that a ‘pact’ should be agreed to ensure no evictions from social housing (or housing supported by the public purse) into homelessness.⁵⁵ The panel heard that this policy has been approached by many community landlords with enthusiasm, with one housing association reporting an 85% drop in their evictions following their commitment to the policy.⁵⁶ Recently, the Minister also made a statement in November 2022, setting out the details of a commitment by community landlords specifying steps to support people in social housing.⁵⁷

The newly introduced Renting Homes (Wales) Act 2016 aims to bring increased security of tenure within the private rented sector. The Act increases the notice period required for no-fault evictions to six months and also seeks to protect tenants from being evicted as a result of complaining about the poor conditions of a property. Although the Act received Royal Assent in 2016, a phased implementation did not begin until December 2022.

49 StatsWales, (2019) *Households found to be threatened with homelessness during the year. Main reason for being threatened with homelessness by type of household (Section 66)*. Accessed 24 August 2023, <https://statswales.gov.wales/Catalogue/Housing/Homelessness/Statutory-Homelessness-Prevention-and-Relief/main-reason-for-being-threatened-with-homelessness-by-type-of-household-section-66->

50 Bevan Foundation, (2023) *Wales’ Housing Crisis: Local Housing Allowance and the private rental market in Wales*.

51 Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*.

52 Ministry of Justice, *Mortgage and landlord possession statistics*. Accessed 24 August 2023, <https://www.gov.uk/government/collections/mortgage-and-landlord-possession-statistics>

53 Ministry of Justice, *Mortgage and landlord possession statistics*. Accessed 24 August 2023, <https://www.gov.uk/government/collections/mortgage-and-landlord-possession-statistics>

54 Please note that throughout this report, the term ‘community landlords’ is used to refer to all social landlords, including local authorities and housing associations (also known as Registered Social Landlords or RSLs).

55 Report to Welsh Ministers from the Homelessness Action Group (2019), *Preventing rough sleeping in Wales and reducing it in the short-term*.

56 Shelter Cymru (2021) *Working together to end homelessness from social housing*.

57 Welsh Government (November 2022), *Written Statement: Social Landlords’ Agreement for 2023-24*.

Within the sector, the Act has had a mixed reception. While many have welcomed the increased protection for tenants, others express concern that the Act could result in more landlords leaving the market⁵⁸ or an increased reluctance to rent properties to tenants that are considered to be “risky.”⁵⁹

The panel recognises that the Scottish Government has legislated to protect against no-fault evictions based on two months’ notice, and that the Westminster Government is in the process of bringing forward similar protections for England,⁶⁰ whilst the Welsh law allows for no fault evictions after a six months’ notice period.⁶¹ In reflecting on whether abolishing no fault eviction would be appropriate within the Welsh context, the panel was mindful of the scale of legislative change it is proposing as well as the need to allow time for the Renting Homes (Wales) Act 2016 to embed new practices. Furthermore, the panel is aware of the current lack of detailed data on evictions in Wales. For these reasons, the panel concluded that the Welsh Government should maintain a watching brief and learn from the approaches to no-fault evictions in Scotland and England.

Is legal change needed?

The panel has made only limited suggestions for legal change in this area, in recognition of the good practice already in train in the social rented sector, and the recent coming into force of relevant provisions of the Renting Homes (Wales) Act 2016. It is important to consider the impact of these changes before assessing whether further legislative change is needed. The panel is also keen to see these areas of good practice being encouraged and further developed.

However, scope for improved legal protection to prevent homelessness was identified for those facing eviction from the private rented sector. The panel is keen to ensure that those issued with eviction notices have clear and easy access to housing services support to help prevent homelessness.

The panel’s recommendations

Evictions from social housing

20. That the Welsh Government clearly communicates its position that there should be no evictions into homelessness from social housing. This communication should highlight that the Welsh Government position differs from the position outlined within the UK Government’s Anti-Social Behaviour Action Plan.
21. That the Welsh Government seeks to celebrate the good practice of community landlords who are moving towards a position of ‘no evictions into homelessness’, encouraging the continuation and development of this good practice across Wales.
22. That data on evictions into homelessness from social housing by landlord is routinely collected, published and kept under review, with the Welsh Government ensuring this trend towards no evictions into homelessness continues.
23. That the Welsh Government should issue guidance to assist community landlords in achieving no evictions into homelessness from social housing, including advice on how to avoid evictions as a result of rent arrears or anti-social behaviour.

Evictions from the private rented sector

24. That the Welsh Government keeps a watching brief on no-fault evictions from the private rented sector, considering the following points as it keeps under review whether further legislative measures are required in this area:
 - a. trends in the numbers of no-fault evictions as the implementation of the Renting Homes (Wales) Act 2016 is established; and

- b. how implementation of new legislation around no-fault evictions in Scotland and England develops.

25. That the Welsh Government places a duty on private landlords to give notice to the local housing authority when they intend to bring forward a possession claim under any section of the Renting Homes (Wales) Act 2016. The Renting Homes (Wales) Act 2016 should be amended to provide that where there is a failure to comply with this duty, possession claims will be dismissed, as is the case with other conditions that need to be met to bring forward a possession.
26. That statutory guidance advises local housing authorities that are in receipt of such a notice constitutes an application for homelessness assistance within Section 62(1) of the Housing (Wales) Act 2014 and that the local housing authority will be under a duty to make an assessment of the person’s case, including considering which duty is owed to the applicant and drawing up an assessment of housing need and Personal Housing Plan, where appropriate.
27. That guidance advises that local housing authorities should treat contract-holders whose landlord has given notice to the local housing authority of an intention to bring possession proceedings as threatened with homelessness unless the individual considers themselves not at risk with alternative arrangements in place.

Enablers and barriers

The panel’s recommendation earlier in this report to extend the prevention duty to assist people threatened with homelessness to six months is significant within the context of reducing the impact of evictions. This six-month timeframe is in keeping with the notice period landlords are now required to give for a no-fault eviction under the newly introduced Renting Homes (Wales) Act 2016. Alignment of these timeframes would enable homelessness prevention to start from the moment an eviction notice is served. The panel hopes that our recommendations above requiring landlords to notify local housing authorities when

serving eviction notices will further strengthen this alignment and help people to access support at the earliest point after receiving an eviction notice.

The panel is keen to ensure that the good practice and enthusiasm around no evictions into homelessness from social housing continues. It will be imperative that the Welsh Government proactively seeks to promote, develop and continue this work, in collaboration with community landlords. The panel’s recommendations on offering support to retain accommodation (recommendation 78, see pages 48-49) and on wider organisations holding duties to identify, act, refer and co-operate to support the prevention of homelessness (recommendation 97, see page 62) will be helpful in continuing forward with this work.

Similarly, the Welsh Government will also need to consider how it works effectively with other organisations such as Rent Smart Wales to raise awareness among private landlords of the importance of informing the local housing authority of eviction notices.

We are also recommending that the Welsh Government collates more granular data on evictions (See later recommendation 170 on Data at page 91) to enable the Welsh Government to fully consider what action may be required (including the possibility of further legislation) on no-fault evictions in the future when the timing is more appropriate.

The panel notes the recent publication of the UK Government’s Anti-Social Behaviour Action Plan. This document outlines an approach to anti-social behaviour and eviction from social housing that is divergent to the approach suggested by the panel and, indeed, the general direction of policy travel in Wales. While, as outlined above, community landlords in Wales are encouraged to adopt a no evictions into homelessness policy, the UK Government outlines a hard-line “three strikes and you’re out” “eviction expectation.”⁶² While this guidance does not apply in Wales to agencies which are governed under devolved power (including housing associations), it is applicable to non-devolved agencies, including the police, youth offending teams and probation services. As such, it will be important that the Welsh

58 BBC News (2021) *Renting law brings in six-month eviction notice in Wales* - BBC News, Accessed 24 August 2024, <https://www.bbc.co.uk/news/uk-wales-56182025?>

59 Renting Homes (Wales) Bill, Explanatory Memorandum 2015, “47% of landlords surveyed said the six-month moratorium means they are less likely to rent to those they considered “higher risk” tenants.”

60 *Renters (Reform) Bill* (2023) UK Parliament: House of Commons Bill 308 2022-23.

61 Department for Levelling Up, Housing and Communities, (2022) *A fairer private rented sector*. White paper.

62 UK Government (2023), *Anti-Social Behaviour Action Plan*, page 21.

Government carefully considers how the differing position in Wales on social housing eviction from the UK Government position can be clearly communicated.

5. Suitability of settled and temporary accommodation

What is the problem?

The Homelessness (Suitability of Accommodation) (Wales) Order 2015, SI 2015/1268 (“the Suitability Order”) sets out standards for both settled and temporary accommodation. However, with local authorities experiencing difficulties with supply of both temporary and settled accommodation (explored in the Supply section of this report at pages 50-52), it is perhaps unsurprising that the panel heard these standards are not being consistently upheld in either temporary or settled accommodation.

The Code of Guidance outlines that assessments of suitability should consider a range of factors, including but not limited to; the specific health needs of the person; disability; the proximity and accessibility of family support, medical facilities and other support services; the distance of the accommodation from the area of the authority; as well as the proximity of alleged perpetrators and victims of domestic abuse.

An applicant has the right to turn down an accommodation offer if it is not suitable for their needs and continue to be owed the housing duty. A suitability review must be requested within 21 days of receiving the offer.

The panel heard concerns from people with lived experience that they were offered accommodation which did not meet their needs. The Public Services Ombudsman report into homelessness services, published in 2021,⁶³ echoed this evidence, reporting that many local authorities are failing to adequately consider suitability when offering accommodation. It stated:

“Most of the review requests that I have seen relate to the suitability of interim and permanent accommodation... unsuitable accommodation is also the cause for many tenancies breaking down and the local authorities ending their duties.”

The report referenced a host of examples of unsuitable accommodation, including being located near a perpetrator of abuse, being located away from support networks, being placed in accommodation that didn’t meet a disabled person’s accessibility requirements, and being placed in the presence of harmful influences when seeking to rehabilitate from substance misuse or criminal behaviour.

Stakeholder engagement also identified that there is particular difficulty accessing suitable accommodation for disabled people and people with complex health needs. This is also outlined by Equality and Human Rights Commission research titled *Housing and disabled people: Wales’ hidden crisis*.⁶⁴

Furthermore, in consulting with representatives from the travelling community, it was recognised that the current legislation could more appropriately reflect the cultural needs of these groups. It was emphasised, that for many applicants (although not all) from these communities, bricks and mortar accommodation would not constitute a suitable offer of accommodation.

There was also consideration of the new UK-wide Section 83 of Police, Crime, Sentencing and Courts Act 2022, which allows for police to move on parked vehicles. If used by police forces, this has significant impact for travellers who live in a vehicle and would be homeless without a site to park upon. While it is understood that these new powers are not generally being utilised in Wales at present, there is a need for further consideration around this potential issue, especially given the complexities in offering suitable sites.

The lack of suitable settled housing means that many people are staying in temporary accommodation for several months, and in some

cases, years. There are currently over 10,800 people in temporary accommodation in Wales.⁶⁵

The bottleneck in temporary accommodation has also led to more frequent use of B&Bs for longer periods than anticipated. This has prompted the Welsh Government to issue a consultation which seeks to exclude B&B accommodation from being required to issue an occupation contract, out of concern that such an obligation could dissuade B&B owners from accommodating homeless people.⁶⁶

Living in temporary accommodation can strip a person of their dignity and leave them with little autonomy and control over their own lifestyle and future. This is particularly tough when the temporary accommodation is unsuitable and the stays are prolonged. One expert by experience reflected:

“Temporary accommodation is like a prison but you don’t know when you’re going to be released.”

Experts by experience shared descriptions of temporary accommodation they have lived in. Conditions included damp and cold rooms with broken heating systems and windows, broken doors and locks, as well as a lack of cooking and laundry facilities. On top of this, people with lived experience often report that they are placed in temporary accommodation away from their support networks and key services that they need to access. Many people with lived experience also emphasised that temporary accommodation can be a chaotic environment, which leads to re-traumatisation.

As a result of these conditions, some people told the panel that they felt safer sleeping on the streets than staying in temporary accommodation. One expert by experience described their accommodation as follows:

“Out of borough – no cooking & washing clothes facilities no respect no privacy nowhere to store my belongings after losing my last tenancy no support no empathy didn’t know where I was going until the day before no time for making arrangements to move.”

The affordability of temporary accommodation is also presenting problems for people experiencing homelessness. Shelter Cymru evidence to the Senedd Local Government and Housing Committee inquiry into homelessness reported that people in temporary accommodation have had to give up work in order to be eligible for benefits, as their usual wages are “insufficient to cover the rental costs.”⁶⁷ The ability for residents in temporary accommodation to work can also be affected by restrictive curfew times – if shifts do not enable a person to make curfew, they are forced to make a choice between keeping their job or their accommodation.

In addition, panel members were concerned to hear of instances where homeless applicants felt compelled to stay in unsuitable temporary accommodation rather than making informal arrangements to stay with family and friends for a short period until settled accommodation could be arranged. These applicants were worried that in passing up an offer of temporary accommodation, their application might be unlawfully dismissed or that they may be deprioritised for social housing.

As outlined at the start of this report, the panel endorses the Welsh Government’s longer-term commitment to move to a rapid rehousing led approach to homelessness. This approach will ultimately see homeless people moving swiftly into settled homes and should help to alleviate the pressures on temporary accommodation. As such, while the panel believes standards of temporary accommodation must be improved, the focus must also be maintained on developing settled accommodation so that in the medium to long term, temporary accommodation can be used less frequently and for shorter periods.

63 The Public Service Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*, pp. 76.

64 Equality and Human Rights Commission (2018). *Housing and disabled people: Wales’ hidden crisis*.

65 Welsh Government (2023) *Homelessness accommodation provision and rough sleeping: May 2023*. Accessed 23 August 2023, <https://www.gov.wales/homelessness-accommodation-provision-and-rough-sleeping-may-2023>

66 Welsh Government Consultation, (2023) *Renting homes: bed and breakfast accommodation used for homelessness purposes*. Accessed 24 August 2023 <https://www.gov.wales/renting-homes-bed-and-breakfast-accommodation-used-homelessness-purposes-html>

67 Senedd Local Government and Housing Committee (2023) *Homelessness*.

Is legal change needed?

The panel believes changes to legislation are required to strengthen minimum standards of suitability. However, the panel is also cognisant of the ongoing and significant shortfall of suitable temporary accommodation and does not wish to create a perverse situation whereby local authorities are forced to choose between breaking the law by placing households in unsuitable accommodation, or leaving households to be street homeless because they cannot provide suitable accommodation. For this reason, the panel suggests introducing some baseline standards with immediate effect and then allowing for further standards to be introduced over time, as supply of both settled and temporary accommodation is increased to match demand and the strain on temporary accommodation is reduced.

In the meantime, the panel is making a number of legislative recommendations that seek to make suitability assessments and decisions more person-centred and flexible in line with individual needs. These recommendations seek to alleviate the range of barriers that were reported to the panel by people with lived experience and workers who have supported them.

Further legislative change is also required to ensure that rights to review decisions on suitability are communicated at key stages with applicants and that these reviews take place in a timely fashion. Indeed, members of the panel heard that the current 56-day review period can currently leave applicants staying in unsuitable situations for unacceptably long periods of time.

Additionally, the panel is making a series of non-legislative recommendations, recognising that guidance has a key role to play in encouraging improved practice. This includes guidance around those who opt to stay temporarily with family or friends rather than taking up an offer of temporary accommodation (sometimes referred to as “homeless at home”). Given the longstanding issues with availability of temporary accommodation, panel members were keen to strike a balance on this matter. The panel was keen to ensure people feel able to pursue being “homeless at home” without affecting their homelessness application or social housing allocation, but also to safeguard against applicants being pressurised to pursue these options where this is not suitable or feasible.

In order to improve experiences for people who stay in temporary accommodation, the panel also recommends guidance to address the practices and policies within temporary accommodation reported by people with lived experience as having a detrimental effect on their well-being.

The panel’s recommendations

Suitability standards to be brought in over time

28. That the Welsh Government is placed under a duty to review suitability standards every three years in order to assess whether developments in the supply of accommodation enable the Government to bring forward a higher level of minimum standards. These reviews should include consideration of:
 - a. Whether to prescribe that overcrowded temporary accommodation is never suitable;
 - b. Whether to prescribe that living space should always be separate to bedrooms;
 - c. Whether to prescribe more generous space standards for sleeping rooms;
 - d. Whether to prescribe minimum standards pertaining to access to private (as opposed to shared) access to facilities such as cooking and toilets;
 - e. Whether to prescribe stricter regulation of the affordability of rents and service charges in temporary accommodation.

Minimum standards of suitability for immediate implementation

29. That the Homelessness (Suitability of Accommodation) (Wales) Order 2015, SI 2015/1268, (“the Suitability Order 2015”) be amended to provide that:
 - a. In no circumstances will shared sleeping accommodation between non-family members be considered suitable (family refers to the definition at Section 56 Housing (Wales) Act 2014 and encompasses both those who normally reside with the applicant as a member of their family and any other person who

- might reasonably be expected to reside with the applicant).
 - b. Where facilities such as cooking or laundry are not provided within the accommodation, there should be a mechanism whereby the additional costs to the household are refunded by the local housing authority.
 - c. Accommodation assessed as containing Category One hazards is never suitable.
 - d. Accommodation that is unfit for human habitation is never suitable.
 - e. There is access to fully functional toilet, personal washing and cooking facilities (whether private or shared facilities).
 - f. The accommodation contains facilities for wi-fi services, which are either free for the applicant and their household to use, or the local housing authority is satisfied are affordable for the applicant.
 - g. Accommodation should allow residents access at all times of the day and night.
30. That when a local housing authority is considering whether accommodation is affordable for the applicant and their household (under Section 59(2) Housing (Wales) Act 2014), the cost of public or private transport in order for the applicant to be able to access education, employment, medical facilities and other services set out at Reg 3 of the Suitability Order 2015 should be taken into account. One means by which the local housing authority could be satisfied that the cost is affordable would be that the local housing authority reimburses those costs to the applicant. We anticipate that this scenario would apply more usually to offers of interim than main housing duty accommodation. Guidance should be provided to outline the parameters of what would be covered by this clause.
 31. That the exception at Article 7(2) of the Suitability Order 2015 and at 19.81 of the Code of Guidance (which provides that accommodation that does not meet the higher standard will nevertheless be suitable for up to 6 weeks if the accommodation is owned or managed by a local housing authority or registered social landlord) is abolished. The same standards should apply across privately owned and local housing authority/registered social landlord-owned or managed non-self-contained accommodation.
 32. That accommodation which is statutorily overcrowded is only suitable for interim accommodation and even then for defined maximum periods of time (which we consider should be as short as possible and in any event no more than 6 weeks). Statutory guidance should outline the timeframes and exceptional circumstances where this would apply.
 33. That the Welsh Government considers whether an individual’s connection to the Welsh language should be linked to suitability of accommodation, taking advice as needed from the Commission for Welsh-speaking Communities.
 34. That guidance outlines best practice standards around access to laundry facilities.

Person-centred approaches

35. That statutory guidance accompanying the Suitability Order 2015 provides for flexibility in order to facilitate applicant choice. Where the applicant opts to make compromises to facilitate their choice, the applicant must be made aware of the shortfall in standards and their wishes and express consent must be sought.

Please note: The panel anticipates that as Temporary Accommodation standards are improved over time and issues with supply of social housing are alleviated, the above clause should be utilised less frequently.

Recommendations at pages 56-57 under Personal Housing Plans require that an applicant’s wishes and views as to what constitutes suitable accommodation are recorded in this (proposed to be statutory) plan and taken into account when offering accommodation and within any relevant review.

Location of accommodation

36. That Reg 3(b) Suitability Order 2015 is amended to allow for the proximity and accessibility not only of “family support,” but “support” more generally, including non-family networks.
37. That the word “essential” is replaced with “necessary” at Reg 3(d) of the Suitability Order 2015 to allow for a more general and wider consideration of an applicant’s wellbeing: “proximity and accessibility of medical facilities and other support services which are currently used by or provided to the applicant or a member of household and which are essential to that person’s well-being.”
38. That the reference to domestic abuse in Reg 3 (g) Suitability Order 2015 is amended to read “domestic or other abuse.” This is to take into account the proximity of alleged perpetrators and victims of domestic abuse as well as other forms of abuse, including but not limited to racist, homophobic, transphobic abuse.
39. That Reg 3 of the Suitability Order 2015 (and accompanying guidance) is amended to provide that accommodation will not be suitable unless it is located within reasonable travelling distance of existing educational facilities, employment, caring responsibilities, medical facilities and other support services including informal support networks, the exception being if the applicant wishes to move beyond a reasonable travelling distance from those facilities. That these amendments should provide for an exception where interim accommodation is to be secured under Section 68 Housing (Wales) Act 2014 and no suitable accommodation is available. That exemption should be time limited for a maximum period.
40. That, in relation to the above, where the applicant is being offered longer term or settled accommodation to bring the prevention or main housing duty to an end, it may be reasonable to expect the applicant to change schools and/or medical facilities, depending on the individual circumstances. It would never be reasonable to expect the applicant or a member of their household to leave existing employment. In those circumstances, the reasonable travelling

distance referred to would apply to new educational facilities or medical facilities. In line with the panel’s recommendations under local connection, statutory guidance should emphasise that an applicant should not be expected to change schools where there is long established attendance, where it would be detrimental to the child’s wellbeing to move schools, or where there is a need for a child to attend a particular school in order to access specific support.

Homeless at home

41. That statutory guidance emphasises that a person may have somewhere to stay in the short to medium term but still be considered homeless or threatened with homelessness (sometimes referred to as “homeless at home”). The threshold at Section 62(1) Housing (Wales) Act 2014 is low: “it appears to the authority that the person may be homeless or threatened with homelessness.” [emphasis added] If a person indicates that they may be homeless, or threatened with homelessness, and can continue to occupy the accommodation in the short or medium term, an application for homelessness assistance should be accepted. The local housing authority should assess the applicant’s housing needs and draw up a Personal Housing Plan with the applicant. It is particularly important that these obligations remain in place in the circumstances where a local housing authority might regard a person as being “homeless at home.” The statutory duties continue to apply.
42. That statutory guidance emphasises that the test for whether accommodation is “reasonable to continue to occupy” refers to the long-term. A person may be homeless because it is not reasonable to occupy their accommodation in the long term and still be able to occupy that accommodation in the short term. In those circumstances, the main housing duty at Section 75 Housing (Wales) Act 2014 will apply and the local housing authority will end that duty by making the applicant an offer of suitable Part 6, private rented or other accommodation. Whilst the applicant is awaiting that offer, if they prefer to remain in the accommodation, they will be homeless at home.

43. The written notification of the outcome of the assessment of housing need will inform the applicant of their right to request a review (Section 63(4) Housing (Wales) Act 2014). If the local housing authority decides that the applicant can continue to occupy the accommodation (which, in the long term, is not reasonable to continue to occupy) for the purposes of the interim accommodation or the main housing duty (Sections 68 or 75 Housing (Wales) Act 2014), the local housing authority will notify the applicant of its decision that accommodation is suitable and inform them of the reasons for that decision, of the possible consequences of acceptance or refusal of that accommodation and of their right to request of the decision on suitability (including at any time during the occupation of the accommodation). This will permit the applicant to raise any issue as to why the accommodation would not be suitable for their occupation even in the short or medium term.
44. That restrictions are introduced around the practice of giving applicants who are “homeless at home” a lower priority than other applicants on a local housing authority’s allocation scheme, either by amending Part 6 Housing Act 1996 or through guidance. This is to ensure that applicants are not disincentivised from becoming “homeless at home,” a practice that alleviates pressure on temporary accommodation. Statutory guidance on the allocation of accommodation by local housing authorities should advise that local housing authorities should not give applicants who are “homeless at home” a lower preference or priority within their allocation schemes than other applicants who are owed duties under Housing (Wales) Act 2014.

Policies for temporary and/or supported accommodation

45. That the Welsh Government issues guidance to local housing authorities on ‘house rules’ and other arrangements in temporary and supported accommodation, particularly in congregate forms of such accommodation. Such guidance should address issues which are known to present access barriers or to be potentially detrimental to the well-being of

residents. It should acknowledge that people in temporary accommodation should be enabled to work, and that house rules should not penalise tenants, for example, for being unable to present during their working hours. This guidance should also cover and address a variety of other areas which known to present difficult barriers, including: no pet policies; curfews; use of CCTV, service charges; rent arrears policies; exclusion policies; policies around previous convictions, etc. Such guidance should be conceived in the context of a broader strategic approach to the future of temporary and supported accommodation in Wales.

Review rights: suitability of accommodation

46. That, whenever a local housing authority secures accommodation for an applicant under the interim duty, the main housing duty or the duty to an applicant whose case is considered for local connection referral (Sections 68, 75 and 82 Housing (Wales) Act 2014), it should notify the applicant in writing:
 - a. Of its decision that the accommodation is suitable;
 - b. Of the reasons for that decision;
 - c. Of the possible consequences of acceptance and refusal;
 - d. Of the applicant’s right to request a review of the suitability of accommodation (whether or not they accept or refuse it); *and*
 - e. That a request for a review can be made at any time when the applicant is in occupation of the accommodation.
47. That, where accommodation is secured under any of the duties at Section 68, 75 or 82 Housing (Wales) Act 2014, the applicant should have the right to request a review of the suitability of accommodation at any time during their occupation of the accommodation (and should not be confined to requesting a review within 21 days of the offer of accommodation). Once the applicant has requested a review of the suitability of accommodation, and has been notified of the review decision, if the applicant later seeks another review of the suitability of

accommodation, they would have to show a change of circumstances since the previous review decision.

48. That any request for a review of the suitability of accommodation being occupied under the duties at Sections 68, 75 or 82 Housing (Wales) Act 2014 should be concluded and notified to the applicant within a maximum period of three weeks of the request or such longer period as the reviewer and the applicant agree in writing.
49. That local authorities are required to communicate at regular intervals with applicants on:
- Progress of their application for longer-term accommodation and expected time scales (see recommendations under Personal Housing Plans section).
 - Their rights to request reviews of the suitability of the accommodation and of any other relevant decisions;
 - Support that may be available to the applicant.

Suitability of accommodation for Gypsy, Roma, Traveller Communities

50. That the Welsh Government provides clarity on its preferred approach to utilising powers under the Police, Crime, Sentencing and Courts Act 2022 to require those from travelling communities (Gypsy, Roma or Travellers) to leave land. If these powers are being utilised, the Welsh Government should act to ensure those who are asked to leave land under this Act are promptly offered interim and culturally appropriate accommodation. This will include working to ensure that appropriate sites are available and Gypsy and Traveller Accommodation Assessments (GTTAs) are being effectively implemented.
51. That statutory guidance provides that the local housing authority is obliged to ask an applicant from the Gypsy, Roma and Travelling Community whether or not they are culturally averse to bricks and mortar and to ensure

suitability of accommodation is culturally appropriate for that applicant.

Enabling factors and barriers

An increase in the supply of genuinely affordable, suitable, settled housing for low-income households is absolutely critical to the success of these recommendations. To this end, the recommendations within this section are closely connected to the panel's recommendation under the supply section at page 51.

The panel is also aware of the Ending Homelessness National Advisory Board's recent annual report to the Minister, which emphasises the need for concerted work to address the gaps in our housing supply to meet the needs of people experiencing and at risk of homelessness.⁶⁸

In addition, the Welsh Government might consider how various grants can be utilised to assist local authorities in meeting costs whereby households are placed away from facilities.

As with many other sections of this report, clear guidance is needed to assist with consistent application and interpretation. For example, in outlining what may constitute a "non-familial connection."

To ensure local authorities are supported in processing reviews in a consistent and timely manner, the Welsh Government should consider developing templates.

6. Maximal housing options and ending the main housing duty

What is the problem?

At present local authorities have flexibility in how they meet the homelessness prevention and relief duties, but they can only fulfil the main housing duty in two ways: via the offer of a social tenancy or a private rented tenancy.

While one or other of these options is likely to be appropriate in the majority of cases, it means that other housing options which may be appropriate for some people facing homelessness cannot be used. This includes, for example, supported

lodgings, supported accommodation, and remaining or return to the person's previous accommodation, including a family home.

There are a range of specific examples where this lack of flexibility can be problematic. For example, survivors of domestic abuse may prefer assistance to remove the perpetrator from their home, and remain safely there, rather than the upheaval and disruption of moving to a new tenancy. Another example is illegal eviction, where helping an applicant to obtain an injunction to enable them to re-occupy their home following an illegal eviction may be more appropriate than allocating them a social tenancy.

Bearing in mind also that many people accepted as homeless will be young and single, particularly if the priority need criterion is abolished, having a greater range of potential rehousing options may assist in finding the most appropriate and person-centred solution.

The panel considers that, the "standard options" of social housing or a private rented tenancy are the most secure options and as such should be the default. But it is important to open up these options because there are circumstances where they will be appropriate. Whichever type of housing is pursued, it is imperative that it meets with the needs of the applicant and that applicants are not pressurised into accepting less traditional or standard accommodation arrangements where this does not meet with their wishes or needs.

The panel also considers that widening the housing options available, where it is appropriate to the needs of the applicant to do so, could assist in alleviating the well-documented pressures on social housing supply. In addition, the panel is making a recommendation that seeks to increase housing supply over the longer-term (see page 51).

Is legal change needed?

Changes are required in primary legislation to provide increased flexibility in the range of housing options that local authorities can offer to applicants in order to end their homelessness. Otherwise, local authorities will continue to be limited to offering the existing "standard" offers that discharge the main housing duty (i.e. a social tenancy or a private rented sector offer).

This inflexibility would become problematic in certain circumstances if the panel's recommendation to abolish the relief duty was accepted. Without also introducing maximal housing options, abolishing the relief duty would mean that those presenting as immediately homeless in an emergency situation (for example having fled an abusive relationship) could only be offered long-term accommodation. However, the applicant may prefer to put measures in place so that they can feel safe returning to their home, or to stay for a while in supported accommodation.

The panel's recommendations

The panel's recommendations below seek to provide local authorities with the means to end a homelessness application by securing housing other than an offer of social housing or a tenancy in the private rented sector. Given that these options can be less secure, the recommendations also seek to ensure that such additional housing options are only pursued where the applicant consents, the accommodation meets minimum standards and particular safeguards are in place to provide assurance on the stability of the accommodation.

52. That the main housing duty at Section 75 Housing (Wales) Act 2014 can come to an end through an increased range of housing options. Currently, it can only end where the applicant is offered and accepts or refuses suitable Part 6 accommodation (social housing) or suitable private rented sector accommodation (or refuses suitable Section 75 accommodation): Section 76(2) and (3) Housing (Wales) Act 2014. This recommendation would allow a local housing authority to bring the main housing duty to an end in other circumstances but **only** where the local housing authority is satisfied that the following conditions are met:
- the accommodation is suitable for the applicant and all members of their household to occupy; *and*
 - The accommodation is likely to be available for occupation by the applicant and all members of their household for at least 12 months.
53. That options that might fall under this additional means of ending the main housing duty include:

- a. Providing advice and assistance that helps an applicant who was homeless because they had accommodation that was not reasonable to continue to occupy return to occupy that accommodation. Examples of such advice and assistance include helping an applicant to obtain an injunction to enable them to reoccupy their home following an illegal eviction, helping an applicant to obtain an occupation order or other legal remedy to exclude a perpetrator of abuse or violence, installing physical safety features, helping the applicant to obtain advice to have the ownership or tenancy transferred to their sole name;
- b. assisting the applicant into supported lodgings or other supported accommodation.
- c. assisting the applicant to return to a home from which they were excluded by parents or family, for example providing mediation services.
54. That any offer of accommodation that falls within this “additional option” must contain the following safeguards:
- a. A written agreement such as an occupation contract (if appropriate) and/or statement of rights and responsibility.
- b. The applicant must have been notified in writing of the consequence of acceptance of the offer (that the duty will come to an end);
- c. An offer of such accommodation must be accepted in writing by the applicant if this option is to be utilised to end the housing duty. A refusal of such accommodation cannot lead to the main housing duty coming to an end, i.e. **the applicant has a veto.**
- d. Offer of independent housing advice for the applicant prior to accepting an “additional option” accommodation.
- e. Written information to the applicant on their right to request a review of the suitability of the accommodation;
- f. Informing the applicant that they may make a new application for homelessness assistance the local housing authority if the agreement breaks down (and how to do so).
- g. In addition to the accommodation meeting all of the usual standards for ‘suitability,’ the following must be confirmed:
- i. 24-hour access to that accommodation
 - ii. adequate toilet and washing facilities
 - iii. access to kitchen facilities
 - iv. a private bedroom
 - v. availability of living space where the applicant is living with children
 - vi. affordable.
- h. the local housing authority be under a duty to make contact with the applicant six months after acceptance of the offer in order to ascertain whether the accommodation continues to be suitable and/or whether the applicant is threatened with homelessness or homeless.
- Please note: If a duty to offer support to retain accommodation is owed, (see recommendation 78), this duty will continue to apply for people accepting “additional option” accommodation.*
55. That, if it appears to the local housing authority that the accommodation is no longer available to the applicant (or to all members of their household) or is no longer suitable, the local housing authority should assist the applicant to make a new application for homelessness assistance under Section 62(1) Housing (Wales) Act 2014). Statutory guidance should contain advice that local housing authorities should be aware of the possibility that an applicant might become homeless or threatened with homelessness from such “additional option” accommodation and should accept a new application for homelessness assistance and comply with statutory duties expeditiously.

56. That statutory guidance advises that local housing authorities must monitor their use of “additional options” accommodation, maintaining records on the numbers of offers made and accepted, the type of accommodation, the characteristics of the applicant and why it was appropriate to end the duty with this option. The Welsh Government should maintain oversight of these records.

Enablers and barriers

While ‘additional option’ accommodation will be appropriate for some people in certain situations, the ‘standard options’ of social housing or a tenancy in the private rented sector are more secure and should remain the default. The development of clear guidance and mechanisms to monitor the use of maximal housing options will be essential to ensure that this increased flexibility for local authorities is used appropriately.

Given the lesser security of ‘additional options,’ this legislative change must also be accompanied by a series of safeguards. That is why the panel’s recommendations above seek to ensure applicants have written agreements in place, are fully aware of their rights and are offered independent housing advice prior to taking ‘additional option’ accommodation. Ensuring this crucial advice is available will require careful consideration and resourcing. It will also be essential to ensure any ‘additional option’ accommodation pursues meets with the applicant’s suitability requirements as set out within their Personal Housing Plan (PHP).

The panel’s recommendation to ensure those taking ‘additional option’ accommodation have a fast-track pathway back into the system is also an important safeguard for introducing more flexibility into the system.

7. Social housing allocations

What is the problem?

Social housing can be the key to a home for many people who have experienced, are experiencing or are at risk of homelessness. While not all homeless applicants rely on social housing to end their homelessness, many struggle to afford properties on the private market, particularly with rising rents.⁶⁹ The Welsh Government’s Ending Homelessness Action Plan recognises the important role of social housing in ending homelessness.⁷⁰ Research suggests that housing associations in Wales hold the lowest proportion of allocations to homeless households across the jurisdictions of Great Britain.⁷¹ The latest *Homelessness Monitor* reports that in 2018/19, 39% of lettings to new social tenants in Scotland were used to resolve homelessness compared to 25% in England and 22% in Wales.⁷² However, it should be noted that many stakeholders consider current data on allocations to homeless households in Wales to be incomplete and flawed,⁷³ an issue that was frequently raised within the panel’s stakeholder engagement.

To address this, specific research was commissioned by the Welsh Government, Community Housing Cymru and the Welsh Local Government Association to analyse the allocation of social homes to homeless households and inform the work of the panel.⁷⁴ This research included an opportunity for all housing association Housing Directors and local authority Heads of Housing across Wales to submit responses to an anonymous survey, which sought feedback on the approaches to allocations across the country as well as ideas for change. In addition, the researcher held direct interviews with representatives from local authorities and housing association managers, an online stakeholder event and a spotlight focus on five different regions.

As the panel is acutely aware, this research emphasised that there is “significant discrepancy” between demand on and supply of social housing

69 BBC News (2023) *Rents rise at fastest rate for eight years*. Accessed 24 August 2023, <https://www.bbc.co.uk/news/business-66244990> outlines that rents in Wales rose higher in 2023 than any other of the jurisdictions in Great Britain.

70 Welsh Government (2021) *Ending homelessness in Wales: a high level action plan 2021 to 2026*. Page 14.

71 B. Watts, G. Bramley, S. Fitzpatrick, L. McMordie, H. Pawson, G. Young (2022) *The homelessness monitor: Great Britain 2022*.

72 Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*.

73 Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*.

74 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*.

in Wales.⁷⁵ Addressing the gaps within our housing supply is a fundamental part of picture on allocating more social homes to homeless households (see page 51 for details of the panel's recommendation on supply).

However, research also indicated that among housing associations and local authorities in Wales, there are an "array of differences in local process" around allocations. These differences occur for a range of reasons including "political discretion, partnership negotiation and local policy-making."⁷⁶ Differences include; details of nomination agreements between local authorities and housing associations; alignment of local authority and housing association allocations policies; use of choice-based lettings; and use of Common Housing Registers.

Of particular interest to the panel was the significant variation between community landlords across Wales in the rates of allocations to homeless households. Although the report indicated that more work is needed to present accurate and granular data, it did look at indicative figures among the areas where the research took a spotlight focus. These figures placed the lowest rate of allocation rates to homeless households at 23% and the highest at 60%.

Local authority stakeholders expressed concern that there is a lack of transparency and consistency in the approach to allocations, enabling housing associations to "cherry pick" applicants. Many local authority representatives, therefore, called for mechanisms that placed a greater obligation on housing associations to help to house homeless applicants.

Housing associations participating in the research stated that there are multiple reasons behind the differences in nomination rates and rates of allocations to homeless households. There are many factors beyond whether or not a person is homeless that housing associations need to consider when making allocation decisions. This includes other important needs such as relevant disability and health needs, as well as suitability

of a placement. Summing this up, the report shows that housing association representatives emphasised allocations as "part of the 'ecosystem' of social housing, calibrated to take into account multiple factors"⁷⁷ when allocating homes to households, including "needs, preferences and circumstances."⁷⁸

Housing association representatives participating in the research particularly stressed that homeless applicants often have additional unmet support needs, which can render placements unsuitable. They also stated that they would be able to allocate to higher numbers of homeless households if there was a willingness on the part of local authorities to provide appropriate support for additional support needs. Many housing association leaders expressed concern that any increase in allocations to homeless households needs to be carefully balanced against meeting the needs of other priority groups for social housing as well as ensuring that accommodation allocated is suitable to an individual's needs.

Other participants in the research emphasised that there is a need to address underlying issues with housing supply – in particular single-person accommodation – in order to improve allocation rates to homeless households.

Meanwhile, many housing professionals expressed significant reservations that changes to increase allocations to homeless households could create 'perverse incentives' for people to present as homeless. Of the 45 responses to the all-Wales survey of housing associations and local housing authority representatives, 24 respondents felt that changes to the system presented a risk that applicants and wider communities may "come to see homelessness as the only way to access social housing."⁷⁹ There were strong calls for the panel to take action to avoid creating such incentives in the system. In light of the panel's recommendation to abolish the intentionality clause (see page 22), local authority representatives felt that the need to safeguard against perverse incentives within allocations of social housing was ever-more important.

Beyond allocation rates to homeless households, stakeholders also raised the need for other aspects of allocations systems to be improved. Local authority representatives often cited Common Housing Registers (CHR) as a helpful tool for collaborative working.

CHRs provide a joint waiting list for housing provided by the local authority and any partner housing associations. While representatives were aware that CHRs do not come without challenges, many felt that they created a more transparent way of working and promoted better relationships with their housing association partners. In 2020, 19 of the 22 local authorities in Wales were using a CHR.⁸⁰

Similarly, professionals working within the disability sector echoed calls from the EHRC for a more universal application of accessible housing registers across Wales. Accessible housing registers provide a list of suitable homes for disabled people with particular access needs.⁸¹

A number of stakeholders raised concern that lengthy social housing waiting lists are exacerbated by applicants for social housing who do not have an immediate need. For example, one stakeholder said:

"There is a lot of waste in the system as people apply for housing and are accepted on the common register when they have no immediate housing need. It would be beneficial if there was an ability to decline applications from people with no need for housing as staff could focus more time in supporting people in need."

A further common theme across our stakeholder engagement on allocations was that allocations policies vary across both housing associations and local authorities and often present significant barriers for homeless households. In particular, stakeholders emphasised that no-pet policies, as well as the common practice of reserving housing placements for over-55s, are barriers for some applicants.

Furthermore, many third sector stakeholders felt that local allocation policies among both local authorities and housing associations often set "unrealistic expectations", especially in relation to an applicant's history.⁸² Policies around historic rent arrears, previous instances of unacceptable or anti-social behaviour, former offences and local connection thresholds often present disproportionate barriers for homeless applicants in accessing social homes. Stakeholders said there were examples of policies that ban people with such an offence history from a tenancy for up to 10 years.

Representatives shared concern that allocation policies often lacked the flexibility to consider an applicant's current circumstances, meaning that an applicant's history continued to haunt their access to housing, even where they had made every effort to move on positively in their lives. In addition, concerns were shared that, within local authorities, elected members could hold much influence over whether applicants with a history of offending or substance misuse were housed in a local area.

The panel also heard from stakeholders representing survivors of domestic abuse that the barriers to housing for perpetrators hold ramifications for survivors. Often, where perpetrators cannot find housing, they return to the survivor and place pressure on them to take them back.

Beyond the representations made around the levels of allocations to homeless households and the potential to address barriers within the system, the panel also heard much evidence about the difficulty applicants can face in understanding and navigating allocation systems. Experts by Experience expressed frustration at the allocations system for social housing, reporting that it "takes far too long to be housed" and that "nobody seems to know how the allocations [to social housing] work." They emphasised that there was a lack of transparency, uncertainty and communication in the process, stating that it felt like a "lucky dip."

75 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*. Page 3.

76 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*. Page 13.

77 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*. Page 3.

78 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*. Page 8.

79 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*. Page 38.

80 Stephens, M. Perry, J., Williams, P., & Young, G., (2020) *UK Housing Review 2020 Briefing Paper*. Chartered Institute of Housing.

81 Equality and Human Rights Commission, (2018) *Housing and disabled people: Wales's hidden crisis*.

82 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*.

Is legal change needed?

The panel reached a majority view that legal change is required on allocations to help alleviate the pressure on temporary accommodation, provide transparency in the system for applicants, and create a more consistent contribution from community landlords across the country to the ambition to end homelessness.

Despite evidence of some good practice, it is clear that allocations practice has long been inconsistent across Wales. Given that this variation does not appear to be justified by external factors such as varying market conditions, it seems unlikely that significant progress can be made in the absence of legal reform.

The panel is also making some additional non-legislative recommendations which seek to complement the suggested legal changes and provide direction for a more consistent approach.

The panel's recommendations

The panel's recommendations on allocations focus on increasing access to social housing for homeless households, balanced with measures to safeguard against the creation of perverse incentives to apply as homeless to gain a more preferable position on social housing waiting lists.

The recommendations also seek to be cognisant of the need to ensure that measures to alleviate the current increase in homelessness presentations do not serve to hold unintended consequences over the longer-term. For example, duties to ensure social housing remains available for other at risk and protected groups need to be upheld alongside the ambition to end homelessness.

Local authority nominations to housing associations

57. That the Welsh Government seeks to introduce legislation of a similar nature to Section 5 Housing (Scotland) Act 2001, which would enable a local housing authority to request a registered social landlord to provide accommodation to a person to whom the local housing authority owes a main housing duty under Section 75(1) Housing (Wales) Act 2014. The registered social landlord must comply within a reasonable time period unless it has a good reason for not doing so, in which case a written response setting out the reason

relied on should be provided to and received by the local housing authority. It will be crucial that careful consideration is given to the supplementary guidance which outlines the nature of "good reasons" and "reasonable time period" ensuring that this is applicable to the Welsh context.

In deciding whether to make such a request, the local authority must have regard to the availability of appropriate accommodation in its area.

Local housing authorities should also take account of the suitability of the accommodation for the individual as set out in the assessment of housing need and/or Personal Housing Plan.

58. That, in establishing such a legislative change, and bearing in mind any cumulative effect of other recommended changes, the Welsh Government proactively ensures that an ONS reclassification of housing associations is not triggered.
59. That the Welsh Government encourages local housing authorities to utilise contracts and allocation schemes to clarify whether RSLs, with which they have nomination arrangements, can refuse a nomination and, if so, on what basis. The panel recommends that it would be good practice for local housing authorities to revisit existing contracts and allocation policies to ensure that these cover nominations and clarify the grounds under which nominations would not be accepted. This point should be emphasised within Chapter 3 of the *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness*.

Allocation schemes

60. That the Welsh Government introduces new legislation to secure the use of Common Housing Registers across all local housing authority areas.
- (See also recommendation 64 on Common Allocation Policies.)
61. That Part 6 of the Housing Act 1996 is amended so as to provide local housing authorities with a power to specify that certain

groups of people, who are not in housing need, will not qualify for their allocation scheme. Statutory guidance should provide a definition for housing need. This power would be permissive only; local housing authorities will retain a discretion to admit all applicants onto their allocation scheme regardless of whether they have a housing need.

62. That the Code of Guidance provides clarification on the current test for unacceptable behaviour, which permits a local housing authority to exclude applicants from their allocation scheme, or to remove any reasonable preference from them, only applies where:
- an applicant (or a member of their household) has been guilty of unacceptable behaviour, serious enough to breach Section 55 Renting Homes (Wales) Act 2016 so as to result in an outright possession order; and
 - at the time of consideration of the application, the applicant remains unsuitable to be a tenant by reason of that behaviour (Sections 160A(7) and (8) and 167(2B) and (2C) Housing Act 1996.
63. That the Code of Guidance should emphasise the seriousness of behaviour required in order to lead to an outright possession order. It should also emphasise that local housing authorities need additionally to consider whether the applicant's current circumstances, at the time when the application is considered, mean that they are no longer unsuitable to be a tenant. As part of this, local housing authorities should take into account support that is being provided to the applicant which will mitigate risks. Specifically, the Code of Guidance should advise that a history of rent arrears and/or of anti-social behaviour does not lead to the conclusion that an applicant will always be unsuitable to be a tenant because of that history.
64. That the Welsh Government considers the introduction of Common Allocation Policies across Wales. The Welsh Government could set out guidance to both local housing authorities and Registered Social Landlords around social housing allocation policies, seeking to achieve a more consistent approach and to reduce the
- impact of policies known to create barriers such as historic rent arrears, guarantors (where circumstances are such that an applicant can demonstrate it would be difficult to obtain a guarantor), advance rent policies, age restrictions, no pet policies and restrictions on ex-offenders. Such guidance should be produced in collaboration with the sector and informed by existing best practice.
65. That guidance outlines that, where local connection is a criterion for determining priorities within the allocation scheme:
- "Local connection" should specifically refer to the whole of the local connection criteria at Section 81 Housing (Wales) Act 2014 (including any groups specified as exempt from the local connection referrals (recommendation 9 on local connection under the section on the legal tests); and
 - Where "residence" is used as a means of obtaining a local connection, the period of residence required in order to amount to a local connection should be specified in the allocation scheme.
66. That applicants are provided with a clear mechanism that is not dependent on Legal Aid funding to challenge an allocations decision by a local authority or RSL.

Addressing perverse incentives

67. That Section 167 Housing Act 1996 is amended so that where a local housing authority is satisfied that an applicant has deliberately manipulated the homelessness system for the purposes of gaining priority access to social housing, the local housing authority has a power to remove any reasonable preference as a result of the applicant being owed homelessness duties under Housing (Wales) Act 2014 (Section 167(2)(b) Housing Act 1996) for a specified time period. The applicant would remain on the allocation scheme, but receive a lower preference than other homeless applicants who are owed a reasonable preference under Section 167 (2(b)) Housing Act 1996. The applicant would continue to be owed duties under Housing (Wales) Act 2014, (homelessness duties), and would retain any

other reasonable preference to which they are entitled. The accompanying guidance outlining the details of the power to apply a “deliberate manipulation” test would need careful consideration. The applicant would be entitled to be notified in writing of a decision to remove their reasonable preference on the basis of this test, with reasons for the decision. They would have the right to request a review of the decision and the time period for which it is applied.

Enhancing reasonable preference

68. That the Welsh Government should use its power at Section 167(3) Housing Act 1996 to amend Section 167(2) Housing Act 1996 so as to specify that people who are owed any duty under Sections 66 and/or 75 Housing (Wales) Act 2014 are provided with additional preference over the other groups outlined at Section 167(2) during specific periods of time. Guidance should outline measures for introducing and closing such periods.
69. That statutory guidance provides that allocation schemes should not give lower priorities to prison leavers or accused perpetrators of abuse, unless they are satisfied that the unacceptable behaviour test at Section 160A (7) and (8) Housing Act 1996 is met.
- Please see also recommendations 62 and 63 on unacceptable behaviour.*
70. That individuals who are care-experienced form a sixth group entitled to reasonable preference within the allocation scheme under Section 167(2) Housing Act 1996.

Miscellaneous

71. That the Welsh Government continues to explore the fundamental questions raised by the recently commissioned allocations research, looking at the long-term role social housing can play in the wider national approach to ending homelessness in Wales. This research should shine a light on existing good practice and consider how allocations generally might work more effectively.
72. That the Welsh Government considers the scope for digitalisation within social housing

and how such developments might be supported, whilst also ensuring that applicants with no or limited access to the internet, as well as those who might not be computer literate, are not disadvantaged.

73. That the Welsh Government gives urgent consideration to the extent to which some applicants for social housing have an income too low for social housing rents, including with the assistance of welfare benefits. The Welsh Government should consider how to provide further support in this regard and make relevant representations to the UK Government.
74. That statutory guidance provides that, where there are valid reasons for not being able to place a prison leaver on an allocation list in a particular area (such as restrictions given the offence or proximity to a victim of domestic abuse), local authorities should refer the prisoner to an appropriate area. This should include robust conditions and a recognised arbitration process.
75. That guidance provides that local housing authorities may utilise the power at Section 167(2E) Housing Act 1996, whereby particular housing accommodation can be reserved to people of a particular description, to prioritise suitable accommodation for prison leavers who have restrictions around the accommodation they are allowed to occupy.
76. That all local housing authorities in Wales are legally required to hold an accessible housing register. The Welsh Government should provide guidance to support such a requirement.
77. That the Welsh Government makes clear its approach to anti-social behaviour and allocations, setting out that it differs from the approach within the UK Government Anti-Social Behaviour Action Plan.

Enablers and barriers

The panel heard concern from both housing associations and local authorities about the need to protect the status of housing associations as Private Non-Financial Corporations. These concerns were that changes to legislation relating to housing association ownership and control

of assets could potentially trigger an Office of National Statistics (ONS) reclassification of housing associations to Public Non-Financial Corporations (or public sector bodies). Housing associations are concerned that reclassification in this way would have significant implications for the way in which they operate and in securing funding for property development.

While members of the panel note that similar legislation to that proposed by the panel exists in Scotland where housing associations remain classified as private providers, the panel is aware that reclassification is a complex issue. As such, the panel wishes to emphasise that, in pursuing legislative change, the Welsh Government must ensure a reclassification of this nature will not be triggered. This is imperative.

In relation to Common Housing Registers, there will need to be considerations around the initial outlay of additional resource and time to establish these registers in the areas that do not currently work in this way. However, the panel considers that this initial outlay will prove to be economical in the longer-term.

The panel’s recommendations on securing wider public sector co-operation on homelessness and on a duty to support people to retain accommodation will help to alleviate concerns among housing associations around the heightened support needs of homeless applicants.

As outlined earlier (see page 31) the panel notes the recent publication of the UK Government’s Anti-Social Behaviour Action Plan, which takes an approach to anti-social behaviour that is divergent to the approach suggested by the panel and, indeed, the general direction of travel in Wales. The UK Government’s plan indicates that those who commit anti-social behaviour should be placed at the “back of the queue for social housing.”⁸³ Meanwhile, as outlined above, the panel is concerned that labels of anti-social behaviour can haunt people long after an incident occurs and present significant barriers to accessing properties in the future, even where the risk of them conducting anti-social behaviour may have dissipated. The panel also recognises that where perpetrators of domestic abuse are not housed,

there can be a heightened risk of their returning to the survivor.

While some of the agencies to which the new UK guidance applies fall under devolved power (e.g. housing associations), the guidance is also applicable to non-devolved agencies such as the police, youth offending teams and probation services. As such, it will be important that the Welsh Government provides clear and considered messaging about the different approach to anti-social behaviour and allocations in Wales.

Given the complexity of allocation systems and the findings of the research commissioned to assist the panel’s discussions on allocations, the panel is also urging the Welsh Government to pursue further research to aid continuous improvement to the role social housing allocation can play in assisting homeless households. Developing more granular and consistent mechanisms for data collation on social housing will as be a crucial element of this journey of continuous improvement (see pages 90-91 for more detail.)

8. Retention of accommodation

What is the problem?

As part of the panel’s focus on homelessness prevention and ensuring that homelessness is unrepeated, panel members were keen to discuss how people might be supported to retain their accommodation.

There is currently no national measure of repeat homelessness in Wales, but data analysis by ADR Wales provides a helpful indication of the potential scale of this problem. In its analysis of data from the Swansea local authority housing team, an estimated 24% of homelessness applications between 2013-2015 were from people who had previously made a homelessness application.⁸⁴

The need to seek ways to assist tenants in retaining accommodation was further emphasised as stakeholders shared with the panel cases where people were rehoused but became homeless again because their underlying support needs had not been met.

83 UK Government (2023), *Anti-Social Behaviour Action Plan*, page 21.

84 Thomas, I. and Mackie, P. (2020). *Measuring repeat homelessness*. ADR Wales.

Furthermore, research undertaken to inform the panel on social housing allocations in Wales demonstrated that some housing association partners were reluctant to increase allocations to homeless households without greater confidence that any support needs would be met, fearing that without such support, pressure could be “unmanageable.”⁸⁵

Many experts by experience also expressed the importance of ongoing support after moving into settled accommodation, to maintain their tenancy and avoid repeat homelessness. One participant summed up this need by saying:

“Permanent accommodation is the beginning not the end.”

There are a variety of reasons why people might struggle to retain accommodation and there is evidence that retaining accommodation can be particularly difficult for certain groups.

Whilst there is limited data on reasons behind evictions in Wales, Stats Wales records in 2018/19, there were 900 social housing tenants and 741 private sector tenants at risk of homelessness as a result of rent arrears.⁸⁶ Meanwhile, Welsh Government research on social evictions from 2019 revealed that 58% of landlords saw mental health problems as the main reason behind evictions taking place.⁸⁷

During our stakeholder engagement sessions, it was noted that an individual’s actions that stem from unsupported mental health needs or neurodivergence can be misinterpreted as unacceptable or anti-social behaviour, which can have a significant impact on a person’s ability to obtain or maintain a tenancy.

Research reports by End Youth Homelessness Cymru and Shelter Cymru also found that maintaining accommodation can also be particularly challenging for care-experienced young people; the sudden transition from care or supported accommodation to independent living can be difficult to navigate without adequate support.^{88,89}

Is legal change needed?

The panel believes that introducing a legal duty to offer support to help households assisted under homelessness duties to retain accommodation will help to prevent repeat homelessness.

It will also be important to make changes to accompanying statutory guidance to ensure the nature of this support is person-centred, trauma-informed and to provide clarity on what type of support this duty might include.

The panel was also clear that this support duty should apply to the wider functions of a local authority, and not just the housing services, in light of the potentially varied nature of support required.

The panel’s recommendations

78. That the Welsh Government inserts a new duty within Housing (Wales) Act 2014 for a local housing authority to support an applicant to retain accommodation where: the applicant is occupying accommodation secured under a function at Housing (Wales) Act 2014, the applicant has been helped to secure accommodation (which might be their existing accommodation), or where accommodation has been offered to and accepted by the applicant. This duty should be as follows: “Where an applicant has been assessed as needing support in order to retain accommodation, the local housing authority is under a duty, so far as is reasonably necessary,

having regard to the applicant’s needs and the local housing authority’s resources:

- a. To provide such support as falls within its functions to assist the applicant in retaining the accommodation; and
- b. To request that support is provided from other public authorities to assist the applicant in retaining the accommodation.”

Please note: As outlined under page 62, the panel is recommending (see recommendation 97) that other departments within the local authority and other public authorities should be subject to a duty to co-operate if the local housing authority requests co-operation in order to provide the support.

79. That the duty (outlined above in recommendation 78) on a local housing authority to provide support to an applicant (and/or members of their household) so that the applicant can retain accommodation will continue until such time as the local housing authority assesses that the applicant (or the member of their household) no longer requires that support. In reaching this assessment, the local housing authority should pay due regard to the view of the landlord (where this is not the local authority itself.) The duty therefore continues even after any other homelessness duties owed under Housing (Wales) Act 2014, have come to an end.

The local housing authority will be required to review, at regular intervals, whether the applicant (or the relevant member of the applicant’s household) continues to need support in order to retain accommodation. The Welsh Government should seek further consultation to determine these intervals.

However, as per recommendation 87, this duty could end if the person met with the conditions of “deliberately and unreasonably refusing to co-operate.”

80. That statutory guidance should include examples of what support might be provided under this duty. For example, support might include assisting in accessing mental health services, providing mediation, assistance in understanding finances, assistance in applying for and retaining welfare benefits, assistance in furnishing accommodation, making accommodation habitable, support to address underlying causes of behaviours deemed anti-social and upkeep of the accommodation. Guidance should also provide examples of when the duty might be considered as coming to an end within various circumstances.

Enablers and barriers

Given the range of support potentially needed to retain accommodation, it is important that the responsibility for support does not lie solely with housing options teams, but rather becomes a part of the broader joined-up public services approach towards ending homelessness. For this reason, it is imperative to recognise the link between the recommendations in this section, which relate specifically to housing-related support, and the recommendations on wider public duties and dealing with complex support needs below (see pages 60–66). Appropriate training must be delivered to all services, including housing providers, that will be involved in supporting the retention of accommodation.

The panel is also mindful of the financial barriers that third sector and local authority stakeholders have been reporting in meeting increased demands for support as the Housing Support Grant budget remains static and inflation rises service delivery costs.⁹⁰

The Welsh Government recently consulted on a new Outcomes Framework to measure key outcomes in homelessness services across the country. The intention is to include a measure on repeated episodes of homelessness.⁹¹ This could be helpful in also measuring the success of the duty to offer support to retain accommodation.

85 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*, pp. 3. Commissioned by Community Housing Cymru, WLGA and Welsh Government.

86 StatsWales, (2019) *Households found to be threatened with homelessness during the year. Main reason for being threatened with homelessness by type of household (Section 66)*. Accessed 24 August 2023, <https://statswales.gov.wales/Catalogue/Housing/Homelessness/Statutory-Homelessness-Prevention-and-Relief/main-reason-for-being-threatened-with-homelessness-by-type-of-household-section-66->

87 Welsh Government, (2019) *Understanding social evictions in Wales*.

88 Bridgeman, J. and Russell, H. (2020). *Don’t let me fall through the cracks: Homelessness amongst Care-Experienced Young People in Wales*: End Youth Homelessness Cymru.

89 Shelter Cymru (2019). *End Youth Evictions: Stopping The Cycle Of Youth Homelessness*.

90 Ending Homelessness National Advisory Board (2023) *Annual report to Welsh Ministers 2022 to 2023*, p.9.

91 Welsh Government, (2023) *Consultation: Ending Homelessness Outcomes Framework*, page 11.

9. Housing Supply

What is the problem?

Across the panel's stakeholder engagement, housing supply, or rather, undersupply, has been a running and ongoing theme. This under supply of housing presents delays and strains within the homelessness system generally, but also slows progress towards the Welsh Government's commitment to a rapid rehousing approach.

A rapid rehousing approach to ending homelessness aims to move people into their own homes as quickly as possible and provide them with the support they need to make it work. This type of approach seeks to prevent homelessness from happening in the first place. In situations where homelessness does occur, housing-led models foresee a minimal amount of time spent in temporary accommodation and very few transitions before someone moves into a settled home. Having the right type of housing, which is of decent quality, affordable and accessible to people at risk of and experiencing homelessness, is vital for a rapid rehousing system to work.

However, the panel heard from many stakeholders over the past year that there is a particular problem with the supply of certain types of housing required to meet the housing needs of people experiencing and at risk of homelessness. For example, there is a severe shortage of one-bed properties which makes it difficult to find properties for homeless single people, particularly when considering the removal of the spare room subsidy. A further issue is a lack of suitable properties for larger families.

The undersupply of quality homes that are genuinely affordable to people on low incomes is causing and prolonging homelessness. Many people are stuck in temporary accommodation for several months, and in some cases, years, largely due to lack of suitable options to move into permanent homes. This is a problem in both the social and private housing sectors.

Since monthly data collection began in March

2020, more people have been placed in temporary accommodation than have moved on to settled accommodation every month. In May 2023, 1,680 individuals were moved into temporary accommodation but only 660 people (less than half of this amount) were moved into suitable long-term accommodation during the month.⁹²

Across our stakeholder engagement work, many frontline workers in housing support teams have spoken openly about the daily difficulties they face as there is not enough housing to meet demand. Many local authority representatives made comments similar to the below, which was outlined by a local authority worker in the 2021 Homelessness Monitor for Wales:

"We welcome the idea and intention [of Rapid Rehousing]. We all know how traumatising and unsettling long stints in temporary accommodation can be and we all want to see people in settled homes quickly and removing as many barriers as we can to make that a reality. However, we do have concerns about the supply of accommodation to make this happen. The current temporary accommodation model does not exist because we think it is great and affordable, we know it is expensive and potentially traumatising, but it is a product of current local markets and the limited supply of social housing and affordable private rentals. This needs addressing/ investing in in order for us to meet this aim."⁹³

Housing associations participating in the recent commissioned research on social housing allocations also emphasised that demand for housing significantly outstrips supply.⁹⁴

Furthermore, the recent annual report from the Ending Homelessness National Advisory Board emphasises that more work is needed to ensure planning for housing synchronises effectively with Rapid Rehousing Transition Plans (RRTPs) as well as identified gaps in housing provision needed to

92 Welsh Government, (2023) *Homelessness accommodation provision and rough sleeping: May 2023*. Accessed 24 August 2023 <https://www.gov.wales/homelessness-accommodation-provision-and-rough-sleeping-may-2023>

93 Fitzpatrick, S., Bramley, G., Pawson, H., Young, G., Watts, B., & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*, pp. 40.

94 Wooley, B. (2023). *Allocations: understanding more, in the context of homelessness in Wales*. Commissioned by Community Housing Cymru, Welsh Government and the Welsh Local Government Association.

meet the needs of people experiencing and at risk of homelessness.⁹⁵

Likewise, the panel heard from stakeholders representing the travelling communities that there is a shortage of travelling sites and a need for Gypsy and Traveller Accommodation Assessments (GTTAs) to be more meaningfully connected to Local Development Plans in practice.

Is legal change the solution?

The panel recognises that existing legislation requires local authorities to produce various strategies, including the Homelessness Strategy and, at present, Rapid Rehousing Transition Plans. Guidance calls for these strategies to be utilised in "co-ordination between the planning cycles."⁹⁶ However, the panel understands that these strategies are not working effectively to increase housing supply in practice. As such, the panel is not seeking legislative change, but rather echoing calls from across the sector that the Welsh Government looks to address this issue in tandem with legislative reforms.

The panel's recommendations

The below recommendations seek to facilitate improved strategic planning and connections across key housing and accommodation strategies to contribute to work towards addressing the housing supply crisis.

81. **That Section 87 Local Government Act 2003 is amended to specifically require local housing authorities to take into account their homelessness review and strategy (Sections 51 and 52 Housing (Wales) Act 2014) and the levels, and likely future levels, of homelessness in their area, when drawing up their housing strategy and Local Housing Market Assessment (LHMA).**
82. **That the Welsh Government works to address the underlying and key issues within housing supply. The panel notes that statutory guidance already requires various strategies such as the LHMA's to consider homelessness and connect with other strategies such as**

Rapid Rehousing Transition Plans and Gypsy Traveller Accommodation Assessments, but given the depth of the issue with Wales' accommodation supply, work is needed to ensure that these connections are working effectively and that planning and development is appropriately informed by detailed data on housing supply gaps.

Enablers and barriers

The panel is aware that the barriers to addressing the housing supply crisis are wide-ranging and complex. For example; barriers to house building, such as phosphate level targets and shortage of building materials; and the freeze of Local Housing Allowance are just a few of the factors at play which lie outside the panel's remit. Work to address these areas must continue alongside legislative reform to enable us to move towards ending homelessness.

In addition, the panel is aware of the Ending Homelessness National Advisory Board's recent Annual Report, which demonstrates the board's willingness to focus on how the Welsh Government can ensure planning strategies and data on housing strategies are appropriately aligned to meet the housing needs of people experiencing and at risk of homelessness. It will be important that the Welsh Government seeks the Board's advice in this regard.

Furthermore, local authority representatives have reported to the panel that they are struggling to both meet their current high caseloads and to fulfil their obligations to produce a Rapid Rehousing Transition Plan and a Homelessness Strategy. The Ending Homelessness National Advisory Board's report also emphasises that local authorities are delayed in submitting their Rapid Rehousing Transition Plans and recommends that the Welsh Government seeks to resource and support local authorities to deliver on these plans, as well as ensure that ownership of transitioning to rapid rehousing is shared between relevant departments.⁹⁷

Given local authority representative concerns around service capacity, the Welsh Government

95 Ending Homelessness National Advisory Board (2023) *Annual report to Welsh Ministers 2022 to 2023*.

96 Welsh Government (2022), *Undertaking Local Housing Market Assessments (LHMAs): Guidance*.

97 Ending Homelessness National Advisory Board (2023) *Annual report to Welsh Ministers 2022 to 2023*, pp 6-8.

may also wish to consider how it can assist local authorities in ensuring that strategies complement each other and do not represent a duplication of content.

10. Application process

Over the past year, experts by experience and stakeholders have consistently fed back to the panel that homelessness application processes can be confusing, difficult to navigate, and, for some people, a traumatising experience. As such, the panel's discussions considered how systems could be improved for applicants and many of our recommendations throughout the report have been made with this in mind.

However, the panel was also keen to take a closer look at the application process itself, particularly in relation to **communication with applicants**; perceived disengagement and the **failure to co-operate** clause; and **Personal Housing Plans**.

10.1. Communication with applicants

What is the problem?

A number of people with lived experience of homelessness told the panel that systems can be difficult to navigate and lacking in communication and transparent:

“Being in temporary accommodation feels like you’re ignored for a long time. Then all of a sudden you’re told you have a house and must quickly find the funds to move at very short notice.”

“They just say we will get in touch when we have a property for you. Communication is really poor; I am worried my documents have gone to the wrong office as I haven’t heard anything from the council or the housing options.”⁹⁸

In addition to comments like the above, which identified a clear need to improve the timeliness

and frequency of communication between applicants and local authority support teams, the panel also heard feedback citing the need to improve the accessibility of the process. This highlighted both the need to use plain language, as well as to ensure applicant accessibility needs are met. Experts by experience told us:

“Language barrier is a huge problem; I can’t express myself the way I want. Sometimes I think it is an excuse for them not being able to speak to me.”⁹⁹

“The biggest problem in all of this is that deaf people can’t contact any of the services unless they physically go into the office and meet people face to face. There are no other ways of communication for deaf people.”

“When you get a letter about pathway to housing – it’s very long and complicated. Need to have a clear pathway that is clearer to people.”

Participants in the panel's stakeholder engagement sessions also raised concern that neurodivergent people may need extended time to process information or to be presented with information in a particular format. Representatives told the panel that if neurodivergent applicants are not afforded this support, they may misunderstand and unintentionally disengage with the application process.

Concerns around communication were also echoed by the key findings of the Public Services Ombudsman's recent investigation of homelessness services, which reported “unclear and insufficient communication that was not always understood by clients.”¹⁰⁰

In addition, the panel has heard much evidence from both stakeholders and experts by experience of the need for services to operate in a more trauma-informed way. Losing a home is a traumatic experience in and of itself, but many applicants have also been through traumatic events that have led them to this point such as

fleeing from abuse, overcoming difficulties with substance use, breakdown in family relationships. Where services are not equipped to operate in a trauma-informed way, this can have a significant impact on an applicant's wellbeing as well as their confidence and engagement with a service. For example, experts by experience told us:

“Systems don’t realise that they’re dealing with people who have been deeply traumatised.”

“Not making them have to explain and relive the trauma constantly. There should be a referral team for someone that has support workers who can liaise with housing and council to help while not making the person constantly relive it.”

“I was then for served a Section(?) notice, but didn’t understand what it was. You feel like you’re on the edge. When you’re in an abusive relationship you feel like you can be thrown out at any time – I needed stability. It wasn’t explained to me what this section was, which made me quite panicked. It definitely added to the pressure and panic. There’s a lack of trauma informed information and a way of dealing with people.”

It is essential that we seek to ensure services designed to support homeless applicants are able to operate in a trauma-informed way that takes account of the situations people are experiencing.

Is legal change needed?

The panel recognises that, under the Equality Act 2010, housing services should already be delivering accessible communication. However, in practice, this is often not the case.

That is why we are recommending a combination of new resources, training and statutory guidance to support housing services in being trauma-informed and in making their communication more accessible.

The panel's recommendations

The panel is keen to ensure that services are inclusive of the diverse communication needs among homeless applicants. It is also essential that applicants are not left in the dark wondering about

the status of their application for housing support. Indeed, experts by experience told the panel that being informed that there was no change to their circumstances would be more reassuring than hearing nothing at all. The recommendations below seek to secure improved and accessible channels of communication between applicants and services.

83. That statutory guidance outlines the importance of transparency around how often, and at what relevant points, the local housing authority should proactively contact the applicant and communicate the status of application. These intervals may vary between individuals and should be agreed with individuals early on in their application.

Please note that this recommendation is also reinforced by recommendations under “Personal Housing Plans” which propose that the frequency of communication between the housing support team and the applicant is discussed and agreed with the applicant and recorded in their plan.

84. That statutory guidance provides that the application process is accessible. Applicants should be offered information in plain language and in a variety of formats (for example, for people where English or Welsh is not their first language or neurodivergent people).
85. That the Welsh Government provides template, plain language letters to assist local housing authorities. These could be co-produced with experts by experience.
86. That local authorities are required to provide regular training to housing services staff on:

- Trauma-informed approaches
- Equality and accessibility

The Welsh Government should consider how it can support the co-production of such training with people who have lived experience.

Enablers and barriers

Delivering the above recommendations will rely on Welsh Government supporting and resourcing local authority partners to develop key training

98 Tai Pawb, (2023) *The experiences of homelessness of people with protected characteristics in Wales*. Commissioned by Welsh Government.

99 Tai Pawb, (2023) *The experiences of homelessness of people with protected characteristics in Wales*. Commissioned by Welsh Government.

100 The Public Services Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*.

and templates for easy-read notices. It will be important that these key tools are co-produced with experts by experience.

10.2. Failure to co-operate

What is the problem?

A key concern about the homelessness application process is the “failure to co-operate” clause under Section 79(5) of the Housing (Wales) Act 2014. This clause enables the local authority to end relevant duties to an applicant if it is considered that the applicant is ‘unreasonably failing to co-operate’. In addition, if a homelessness prevention or relief duty is ended as a result of a ‘failure to cooperate’, an applicant (with priority need) may not proceed to the main housing duty stage.

The Welsh Government’s annual homelessness statistics includes a “non co-operation” statistic to illustrate the number of people who are owed each homelessness duty but were assessed as having failed to co-operate and had a relevant duty discharged as a result. In 2022-23:

- The prevention duty (Section 66) was owed to 9,246 people, of which 117 people (1.3%) failed to co-operate.
- The duty to help to secure (Section 73) was owed to 12,537 people, of which 381 (3.04%) failed to co-operate
- The main housing duty (Section 75) was owed to 5,094 people, of which 138 (2.7%) failed to co-operate.¹⁰¹

The panel heard significant evidence that the failure to co-operate clause is a blunt tool, which can be open to interpretation. Inability to co-operate due to unmet support needs or a misunderstanding of the system can be misconstrued as an intentional act to be uncooperative. This is a particular risk given the inaccessibility of the application process (explored in the previous section).

Where the ‘failure to co-operate’ has ultimately been as a result of unmet support needs, an

applicant who already has vulnerabilities is left even more vulnerable. Indeed, research suggests that a local authority classing an applicant as ‘failing to cooperate’ can lead to “people fall[ing] outside the system”,¹⁰² without providing clear reasons for this failure.

Some panel members felt the existence of the clause inferred a “disciplining” of homeless people and that the presence of the clause could place pressure on applicants to co-operate in a certain way.

While for these reasons, there were calls to abolish the failure to co-operate clause, others felt strongly that the system needed to retain safeguards for rare incidents whereby applicants put staff in dangerous situations or to ensure that applicants who have moved on without informing a service are not continually held as open cases.

Is legal change needed?

Legal change is required to narrow the scope of the ‘failure to co-operate’ clause and raise the threshold for its application to specific circumstances, in order to mitigate the harsh consequences that can currently follow from its application.

Furthermore, the panel believes this new clause should be accompanied by strict and statutory requirements to inform applicants before removing their support, providing opportunity for the applicant to re-engage with the service if they so wish.

The panel’s recommendations

87. That the current provision by which any duty owed to an applicant can end where the local housing authority is satisfied that the applicant is unreasonably failing to co-operate with the local housing authority in the exercise of its functions (Section 79(5) Housing (Wales) Act 2014) is replaced with a narrower “deliberate and unreasonable refusal to co-operate” clause, so that any duty owed to an applicant can only be brought to an end on

a small number of clearly defined and limited grounds. By suggesting the replacement of the word “failure” with “refusal,” the panel wishes to emphasise that the clause should only be used where an applicant’s disengagement is intentional. The examples discussed by the panel included where the local housing authority is satisfied that the applicant has engaged in:

- Threatening behaviour towards local housing authority staff
- Consistent non-contact with housing options services, relevant local authority or landlord staff, or relevant commissioned housing support provision.

88. That legislation provides that, whenever a local authority is minded to invoke the “deliberate and unreasonable refusal to co-operate” clause, the applicant must be first be given a ‘minded to’ notification in writing. This notification should:

- Outline the reasons why the local housing authority considers that the applicant has deliberately and unreasonably refused to co-operate;
- set out the consequences for the applicant of any decision that the duty owed to them has come to an end;
- provide an opportunity within a specified time period for the applicant to respond.

89. That legislation provides that an applicant should not be notified of the decision that they have ‘deliberately and unreasonably refused to co-operate’ until the applicant has responded to a ‘minded to’ notification, or the specified time period for response has expired. Any notification of a decision that the applicant has deliberately and unreasonably refused to co-operate and that the local housing authority’s duty to them has ended should:

- Contain the reasons for the local housing authority’s decision;
- Explain the effect of the decision; and

- Inform the applicant that they have a right to request a review of the decision and of the time in which the applicant should request the review.

Enablers and barriers

As with many other sections of this report, improvements to data collation are needed to ensure that new legislation is being effectively implemented. This should include monitoring the use of the ‘deliberate and unreasonable refusal to co-operate’ clause to ensure it is only used in exceptional circumstances.

As with other recommendations throughout this report, accompanying guidance will need to play a key role in clearly defining the types of situations where it may be appropriate to apply this clause in order to avoid inconsistent application.

Furthermore, the panel is clear that this clause should be disadvantage those who may be more difficult to engage with as a result of the traumatic events they are experiencing. For this reason, the panel’s recommendation on trauma-informed training (see page 53) is an important enabler to help facilitate a more effective and sensitive implementation of this clause.

10.3. Personal Housing Plans

What is the problem?

Although it is not a requirement in Housing (Wales) Act 2014, the Code of Guidance recommends the use of Personal Housing Plans (PHPs) to set out the ‘reasonable steps’ (as outlined in the earlier section on the prevention duty) that will be taken by the local authority, the applicant and anyone else involved in the homelessness application. The intended role of PHPs is to ensure applicants are involved and central to the discussions around their housing needs.

The post-implementation evaluation of the Housing (Wales) Act 2014¹⁰³ identified both positive and negative responses to PHPs.

Those who are positive about PHPs said that they helped to clarify which steps would be taken and to ensure support was person-centred. However,

101 StatsWales, (2019) *Households found to be threatened with homelessness during the year. Main reason for being threatened with homelessness by type of household (Section 66)*. Accessed 5 September 2023, <https://statswales.gov.wales/Catalogue/Housing/Homelessness/householdsforwhichassistancehasbeenprovided-by-outcome-householdtype>

102 A. Ahmed, M. Rogers, M. Wilding, A. Gibbons, K. Jones, I. Madoc-Jones (2018) *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*. pp.7 – 11.

103 A. Ahmed, M. Rogers, M. Wilding, A. Gibbons, K. Jones, I. Madoc-Jones (2018) *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*.

criticisms included that where PHPs are not used correctly, they can be generic, non-personalised and often do not consider the needs and capabilities of the applicant. These critics suggest that PHPs increase the bureaucratic burden without being helpful to the applicant.

The Public Services Ombudsman's investigation into the homelessness system¹⁰⁴ reported that applicants can find PHPs intimidating, overwhelming and stressful. Concern was also expressed that PHPs are being inappropriately used to put duties onto applicants. Caseworkers giving evidence to the investigation supported this, saying that, in their experience, local authorities use an applicant's failure to undertake the obligations in the PHP to end its duty, yet there is no penalty on the local authority if it fails to meet its obligations.¹⁰⁵

Panel members were keen to ensure that practice around PHPs changes, so that these plans are genuinely used as person-centred documents which are useful to housing support teams and applicants. These plans should be drawn-up in partnership with the applicant, exploring and outlining their support needs and wishes in ending their homelessness. Such co-produced plans should be at the heart of decisions around whether or not accommodation offers are suitable. They should give applicants confidence and clarity in how their needs will be met and not used as a tool to end duties on the basis of 'failing to co-operate.' The panel was also especially keen that these plans be live documents that can be reviewed and changed with the applicant in line with any changes to circumstance.

Is legal change needed?

The panel considers that legal change is needed to place PHPs on a statutory footing and to clearly outline the key headings that must be included within these plans. Making PHPs a statutory requirement will help to ensure these plans are more robust and consistent in their application. It will also ensure that PHPs cover the information and topics needed to be a useful tool for both applicants and housing services staff.

In addition, giving statutory status to PHPs helps to position applicant views at the centre of local authority decisions on how to support an individual across its prevention and main housing duties. It also means that personalised assessments of needs can play a more central role in reviews and legal challenges.

The panel felt that PHPs should be used to support applicants across both the prevention and main housing duties, but that the plans should not be used as a mechanism to place responsibilities onto applicants.

The panel's recommendations

90. That the Welsh Government requires local housing authorities to draw up Personal Housing Plans based on the principles of person-centred planning for all applicants to whom the prevention or the main housing duties are owed under Housing (Wales) Act 2014, with the following legislative changes:

- a. The introduction of a new statutory duty to draw up and agree with the applicant a Personal Housing Plan containing the steps that the local housing authority will take to help prevent the applicant from becoming homeless and/or to secure accommodation for the applicant;
- b. The duty will apply when a local housing authority accepts either a prevention duty under s.66 or a main housing duty under s.75(1) Housing (Wales) Act 2014;
- c. A statutory duty requiring the local housing authority to ascertain and record the applicant's wishes on what would constitute an offer of suitable accommodation in both the assessment of need and the Personal Housing Plan and to seek to respect and meet those wishes, where possible. For example, this might include any types of accommodation where the applicant would not feel safe, an applicant's wishes to be accommodated with their pet or in an environment that is supportive of recovery from substance use;

- d. A statutory duty that the contents of the assessment of need and Personal Housing Plan must be taken into account when considering the suitability of accommodation (amendment to Section 59 Housing (Wales) Act 2014);
- e. A statutory duty to review the assessment and Personal Housing Plan with the applicant within a defined timescale (see recommendation 93 below).

Please Note: For the avoidance of doubt, the duty to draw up a PHP will apply once the local housing authority has notified the applicant that it owes them either the prevention duty or the main housing duty.

91. That statutory guidance outlines specified topics that should be covered within a Personal Housing Plan. For example, this should include support for the applicant in relation to finances as well as an understanding of how and at what points the local housing authority will communicate with an applicant on the status of their application.
92. That statutory guidance should emphasise that the assessment of need and the Personal Housing Plan must include, under the headings of housing needs and support needed to retain accommodation, consideration of any disabilities of the applicant or any member of their household.
93. That statutory guidance provides an outline for timescales associated with these regular intervals for communication, with specific timeframes being tailored to individual cases and agreed between the local housing authority and the applicant within the Personal Housing Plan.
94. That legislation provides that local housing authorities are required to review the assessment of housing need and Personal Housing Plans at all relevant times. This should include:
 - a. Whenever the applicant requests that there is a reconsideration because their circumstances have changed;
 - b. Whenever it appears to the local housing authority that the applicant's housing needs or circumstances have changed;
 - c. Whenever the duty owed to the applicant has changed; *and*
 - d. at regular intervals as agreed with the applicant but of no more than X weeks/ months (to be determined by consultation)
95. That the written notification of the assessment of housing need must include the written Personal Housing Plan and must inform the applicant of a right to request a review.
96. That the applicant should have the following rights to request a review (to be achieved by amending Section 85(1) Housing (Wales) Act 2014):
 - a. a right to request a review of the contents of the assessment of housing need;
 - b. a right to request a review of the contents of the Personal Housing Plan including the steps recorded in the Personal Housing Plan that the local housing authority is to take. (*The right to request a review of the contents of the PHP should not be limited to 21 days from notification of the PHP but remain available to the applicant at all times until the relevant duty has come to an end.*);
 - c. a right to request a review of the local housing authority's failure to take the steps recorded in the Personal Housing Plan (wholly, or in part);
 - d. a right to request a review of any decision by the local housing authority that its duty has come to an end, if the applicant considers that the local housing authority has failed to carry out the steps recorded in the Personal Housing Plan.

¹⁰⁴ The Public Services Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*.

¹⁰⁵ The Public Services Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*, pp.50.

Enablers and barriers

Given the points raised in various reports about the differing experiences of PHPs and their limitations in current practice, the panel considers that resourcing of and clear statutory guidance on the use of PHPs will be crucial. Similarly, introducing a programme of learning on person centred planning will help to ensure that PHPs fulfil their intended purpose, rather than becoming an extra layer of bureaucracy and paperwork.

The panel's later recommendation that services be peer-reviewed (see regulation section, page 86) also presents a key opportunity to ensure PHPs are being used as intended – as person centred and transparent planning.

A woman in a blue medical uniform is seated at a desk in a clinical setting. She has her hair in a ponytail and is looking off to the side with a thoughtful expression. Her hands are clasped together on the desk. A stethoscope is visible around her neck. The background shows a typical office or clinical environment with a desk, a telephone, and some papers.

PART 2 Ending homelessness together

Homelessness for some people can present a complex picture. The reasons behind a person becoming threatened with homelessness can be multiple and varied – from a lack of affordable housing, poor housing conditions, leaving state systems such as care and prison, financial difficulties, fleeing domestic abuse or the strain of mental health difficulties, there are a plethora of circumstances that can cause people to become homeless or put people at greater risk of experiencing it. As such, the solution to ending homelessness cannot lie solely at the door of housing services, particularly with respect to groups with more complex support needs. All sectors have a part to play – both in terms of identifying those at risk and in helping to address the unmet support needs that can push people into homelessness.

Across the panel's work, those working on the frontline of homelessness services frequently reported frustration that, without more support from other specialists, housing option services could not fully address the range of support needs that can underpin the cause of homelessness for different people.

The panel was also aware that certain groups can face a heightened risk of homelessness – in particular those who are care-experienced, those fleeing abuse, those with health difficulties and ex-offenders.

For these reasons, the panel was keen to look outwardly to ascertain how wider public services can work more collaboratively to prevent homelessness at the earliest opportunity and, where homelessness does occur, to ensure people access the support they need to move on in their lives. The benefits of achieving this aim would be multiple – both in supporting individuals and preventing their circumstances from worsening, and in terms of reducing the longer-term chronic demand on a range of public services as a result of people's support needs remaining unmet over extended periods of time.

In looking outwardly in this way, the panel was also keen to reach out to stakeholders from other sectors in contact with people who are known to be at increased risk of homelessness.

1. Duties on other services to identify, refer, act and co-operate

What is the problem?

Research indicates that services including education, health, and criminal justice are likely to come in contact with groups at heightened risk of 'multiple exclusion homelessness' well ahead of housing and homelessness services.¹⁰⁶ However, there is currently no legal duty on these public bodies to refer a person who they consider may be homeless or threatened with homelessness to a local housing authority for homelessness assistance.

Section 95 of the Housing (Wales) Act 2014 states that a local housing authority can request the co-operation of a number of bodies, including social services, housing associations, new town corporations, private registered providers of social housing and housing action trusts. However, this relies on initial action being taken by housing services and does not oblige other public services to pro-actively identify risk, initiate co-operation themselves or take any action within their remit to prevent or relieve homelessness. Further, this list of bodies does not include a number of public bodies which may be key to the prevention and/or resolution of a person's homelessness.

People with lived experience made it clear that the law as it stands is not resulting in the cross-sector multi-agency response to homelessness that is needed. Experts by experience told the panel:

"One of the biggest things that could happen is for all services to play their part."

"School and social services had chances to see the abuse I was telling them about at home but did nothing. This led to being kicked out of home."

"I was engaged with the GP and substance misuse services before I became homeless. They were fully aware of my circumstances but didn't do anything to prevent it. They waited for it to happen. I could have been referred on for help [to prevent my homelessness]."

¹⁰⁶ Fitzpatrick, S., Bramley, G., & Johnsen, S. (2013). *Pathways into multiple exclusion homelessness in seven UK cities*.

Despite the clear potential for multiagency support in identifying and preventing homelessness, research demonstrates that, across the UK, public bodies are not effectively engaged in this way.¹⁰⁷

In his 2018 report on homeless systems, the Auditor General for Wales observed that the Housing (Wales) Act 2014 had moved us closer to the prevention agenda, but recognised that there were limitations to this, stating that the "local authority housing service cannot resolve the complex inter-related issues of homelessness alone. Homelessness is more than a housing problem with much of what causes homelessness being outside the control and influence of local authorities' homelessness services."¹⁰⁸ The Auditor General also observed that the specific duty under Section 95 of the Housing (Wales) Act 2014 for local authority social services and housing associations to co-operate with homelessness services "is not working consistently across all of Wales."

The Auditor General also elaborated on this call in his 2020 report on rough sleeping, stating that the root cause of rough sleeping is complex and needs a long-term and joined up response from all public bodies. The report stressed that taking this approach is a key part of meeting responsibilities under the Well-being of Future Generations (Wales) Act 2015.¹⁰⁹

In England, The Homelessness Reduction Act 2017 amended Housing Act 1996 to introduce a duty on a range of public bodies to refer a person experiencing homelessness to the local authority. Research suggests that this duty is having an overall positive impact in connecting people with homelessness services, but that "more could be done to give other organisations a stronger role in preventing homelessness."¹¹⁰ In particular, to ensure that wider organisations co-operate with housing services.

The panel is clear that a significant step change is needed so that wider organisations take a firmer role in homelessness prevention. By working together, we can both prevent more people from living through the trauma of homelessness, and

from developing complex support needs. This in turn will ultimately reduce the demand on our public sector services more generally.

Is legal change the solution?

While there are existing areas of good practice, the panel heard that such practices are often developed as a result of passionate individuals rather than systemic drivers. In order to extend these pockets of good practice and facilitate a more consistent approach to improved multi-agency collaboration, legislative change is needed.

In particular, the panel recommends placing legal duties upon a range of public sector bodies, as well as housing associations (given the public functions they perform) to identify, refer, act and co-operate where a person is homeless or at risk of becoming homeless. The panel is keen to learn from the experiences of the Homelessness Reduction Act 2017 in England and ensure that collaborative ways of working step beyond referral into homelessness services and onto action to prevent homelessness on the part of other public services. Under our proposals, one appropriate action that other public bodies and housing associations may take is to make a referral to the local housing authority, and another is to cooperate with housing services to assist them in the discharge of their homelessness duties. However, we would also wish to see these other public bodies and housing associations take direct action to prevent homelessness, where relevant, within the scope of their own competencies and responsibilities.

Given the identified difficulties in collaboration between social services and housing services (see also section on care-experienced people, page 69), the panel also suggests that social services departments are included within the new duty and that further legislative change helps to provide clarity in this area.

The panel recognises that private landlords and third sector providers can also play a key role in identifying where a person is or may be at

¹⁰⁷ Fitzpatrick, S., Mackie, P., & Wood, J., (2021) *Advancing a Five-Level Typology of Homelessness Prevention*.

¹⁰⁸ Auditor General for Wales, (2018) *How Local Government manages demand – Homelessness, 2018*.

¹⁰⁹ Auditor General (2020), *Rough Sleeping Wales – Everyone's Problem; No One's Responsibility*. Page 7.

¹¹⁰ Sutton-Hamilton, C., Allard, M., Stroud, R., & Albanese, F. (2022) *Experiences of the Homelessness Reduction Act 2018-2021*.

risk of becoming homeless and in supporting the preventative agenda. However, enforcing statutory duties on private landlords and third sector is problematic. As such, the panel is also recommending non-legislative measures which could assist in improved collaboration with these groups too.

The panel acknowledges and welcomes that the current Regional Partnership Board includes places for housing representatives, but is mindful that the functions of these boards can be broad in scope. For these reasons, the panel is also recommending further legislative change to introduce additional new Joint Homelessness Boards. These boards should be used to monitor whether services are working effectively to resolve homelessness and establish effective mechanisms for joint working; to discuss and resolve issues with complex cases; share existing good practice; and investigate where there are incidents of a serious nature.

Additionally, the panel recognises that there is other non-legislative change that can support and encourage good practice in collaborative working, in particular around co-location and co-funding of key services.

The panel's recommendations

A new duty on specified public authorities and any other authority carrying out functions of a public nature to identify those who are at risk of homelessness, act, refer and co-operate as is appropriate

97. That there is a new set of statutory duties (potentially consolidating any existing statutory duties) on public authorities and any other authority carrying out functions of a public nature to:
- take appropriate action to **identify** that a person in relation to whom it exercises functions is or may be homeless or threatened with homelessness.
 - act** as is appropriate and where within its power to assist in preventing that person's homelessness.
 - refer** the person (with their consent) to such local housing authority as the person nominates. Such a referral should, in turn, trigger the local housing authority's duty

to make an assessment of housing need under Section 62 Housing (Wales) Act 2014.

- co-operate** with the local housing authority by responding to requests for assistance unless it has a good reason for not doing so.

98. That the Welsh Government specifies the authorities that would be subject to this duty (including obtaining the consent of the UK government for those authorities falling within reserved powers). Such organisations should include:

- Social services departments (both within the same local authority as the relevant homelessness department and from different authorities).
- All aspects of the NHS, including mental health services.
- Head teachers of schools, pupil referral units, and principals of further education colleges.
- Higher education organisations.
- Departments of the DWP.
- Youth offending teams.
- Probation.
- Prisons and other criminal justice detention centres.
- The police.
- The Home Office at the date that an asylum seeker accommodated under Immigration and Asylum Act 1999 has been granted refugee or other eligible status and so will be threatened with homelessness within six months (and possibly much sooner).
- The Secretary of State for defence in relation to armed forces accommodation.
- Registered Social Landlords.

99. That robust statutory guidance is introduced around the duty to identify people who are homeless or may be threatened with homelessness, which should outline its operation as a targeted enquiry basis. This would include raising awareness among public sector and Registered Social Landlord staff of identifying factors for risks of homelessness, such as falling into rent arrears or other financial difficulty; tenant behaviour or action which may give rise to risk of homelessness; as well as other circumstances, including domestic or other abuse, or court proceedings.

Mechanisms by which private landlords could be encouraged to participate in the duty to identify, act, refer, and co-operate

100. That the conditions for registration of private landlords with Rent Smart Wales include that they are under an obligation to give notice to the local housing authority when they intend to bring forward a possession claim. Renting Homes (Wales) Act 2016 should be amended to provide that where there is a failure to comply with this duty, possession claims will be dismissed.
- (See recommendations on Evictions on page 31).*
101. That the Welsh Government makes a request to the Ministry of Justice that, if a pre-action protocol for possession actions is to be introduced in relation to the private rented sector, the protocol will require landlords to give notice to the local housing authority, when a notice requiring possession is served.
102. That the Welsh Government issues guidance to local housing authorities that any contracts entered into between local authorities and private sector landlords, for the provision of accommodation, should include requirements for private sector landlords to be under a duty to co-operate and provide information to local housing authorities upon request.
103. That the Welsh Government provides guidance to local housing authorities that any funding given to voluntary sector organisations should include requirements for the funded organisation to be under a duty to co-operate and provide information to local housing authorities upon request.

104. That the Welsh Government provides guidance encouraging local housing authorities to include consent for sharing of information within its standard housing and social services forms, assisting with the duty to share information where a person is homeless or at risk of homelessness.

Strengthening and extending the duty to co-operate

105. That Section 95 Housing (Wales) Act 2014 is amended so that, where a local housing authority requests that a public authority or RSL co-operates in the discharge of its homelessness functions, the public authority or RSL shall co-operate unless it has a good reason for not doing so.
106. That statutory guidance provides that any refusal to a request in recommendation 105 (on the basis that it has a good reason not to co-operate) must be in writing and contain appropriate reasons.
107. That the Welsh Government utilises its power at Section 95(6) Housing (Wales) Act 2014 to extend the list of public sector organisations and other bodies who can be required to comply with a request from the local housing authority for co-operation or information. This should include all organisations under devolved powers listed in recommendation 98.
108. That the Welsh Government liaises with the UK Government and relevant UK Secretary of State with regard to extending the co-operation duty at Section 95 Housing (Wales) Act 2014 to public sector bodies under reserved powers, including the DWP, the secure estate, the Home Office and the Secretary of State for Defence.
109. That the Welsh Government considers how the duty to identify, act, refer and co-operate where a person is homeless or threatened with homelessness should be aligned across existing legislation, ensuring clear responsibility of remit of the various public sector authorities and Registered Social Landlords.

110. That the Welsh Government considers how the implementation of the new duties to identify, act, refer and co-operate could be reviewed and monitored.

(See further recommendation 163 within the regulation section of the report).

111. That guidance provides that local housing authorities should refer applicants they identify as having a need for support to other organisations that can offer relevant assistance, whilst continuing to perform their duties to the applicant under Housing (Wales) Act 2014.

112. That the Welsh Government explores other means by which health, social care and wider public sector bodies and Registered Social Landlords can be required to 'act' within their remit to assist in the prevention of homelessness.

Joint homelessness board

113. That the Welsh Government introduces a statutory duty on the local housing authority to establish and lead a multi-agency approach to homelessness functions through a Joint Homelessness Board. This Board could assist with any dispute resolution in relation to co-operation, case reviews and general sharing of good practice and collaborative working. All public authorities and other organisations listed in recommendation 98 should be invited to attend and should be subject to a duty that they will attend and co-operate with the board unless they have a good reason not to do so. All public and other bodies listed in recommendation 98 should also have the power to **request** to convene a meeting of a Joint Homelessness Board. The local housing authority should have the ability to convene the Joint Homelessness Board and to approve requests for the board to be convened.

General joint working

114. That the Welsh Government calls upon Regional Partnership Boards (RPBs) to specifically consider collaborative working to end homelessness in light of legislative reform and the recommendations within this report. In so doing, RPBs should work closely with existing local housing authority and RSL

representatives on the board and reach out to other key homelessness services within the area. They should work with newly established Joint Homelessness Boards, ensuring that agencies are working collaboratively at the highest level and providing overall direction, while the Joint Homelessness Board can establish the detail for such plans and work at an operational level.

115. That the Welsh Government seeks to encourage replication of good practice whereby homeless and housing services have direct access to key professionals such as occupational therapists, or key services are co-located. This might include consideration of how funding streams from a number of public services areas can be used to co-fund multi-disciplinary homelessness services.

Enablers and barriers

While the panel considers that a new legislative duty is needed to secure a more consistent approach to collaborative working, guidance will also play a crucial role in detailing how this duty should operate. It will be important that the Welsh Government consults widely to ascertain views on what this duty could entail.

In addition, guidance will be essential in establishing the finer details of how Joint Homelessness Boards should operate. It will be important that the Welsh Government consults widely across all relevant organisations in creating this guidance, encouraging other sectors to reflect on how they can act to prevent and resolve homelessness within their own remit.

Some of the organisations listed by the panel are within legislative areas reserved to the UK Government. As such, the Welsh Government will need to make representations to the UK Government to secure the inclusion of these organisations within the new duty.

The recommendations around Rent Smart Wales would represent a shift in the way this body operates and could form part of the considerations within the Welsh Government's announced review of Rent Smart Wales.

2. People with multiple and complex needs

What is the problem?

As highlighted in the above section, some homeless people have multiple and complex support needs. In some cases, this might include issues that have been a contributing factor to their homelessness in the first place, such as mental health issues, substance use problems, trauma, adverse childhood experiences and financial literacy. Where these needs are not appropriately supported, there are significant risks that the applicant will not be able to sustain a tenancy.

In a recent inquiry into homelessness in Wales by the Senedd's Local Government and Housing Committee, multiple organisations commented on the important role that supported accommodation can play in helping people with multiple needs, but also indicated that "demand [for supported accommodation] is completely outstripping" supply.¹¹¹ A local authority contributing to this research said that its biggest challenge was placing individuals with complex needs in suitable supported accommodation due to cost and availability. Contributors to the Wales Homelessness Monitor also echoed these concerns.¹¹²

The challenges in seeking appropriate temporary accommodation for people with complex needs can, unfortunately, continue when seeking settled and long-term accommodation. Through research commissioned specifically to inform the panel's deliberations on allocations of social housing in Wales, local authority representatives shared concern that housing associations were unwilling to let to households with complex needs, while housing associations emphasised that the cost of meeting high support needs needed to be met to sustain tenancies.¹¹³ The research reported that "there is a sense that people have increasingly complex support needs, and that support services don't have the capacity to cope in a timely way, to support sustainable tenancies and cohesive

communities."¹¹⁴ These representatives suggested that systems lack the infrastructure to support people with more complex needs, and as such feared these tenancies may not be sustainable.

Both professionals working in the sector¹¹⁵ and people with lived experience have emphasised the importance of multi-agency working. Experts by experience shared frustration at needing to go between lots of different places to access services can present barriers to getting the help they need. An expert by experience told us:

"[We] need to have more mental health and substance use services in supported accommodation. More multi-agency working all in one place. People with complex needs and trauma need things to be simple and easy to access."

There are many instances where multi-agency work has resulted in better housing outcomes. Fieldwork conducted as part of the Homelessness Monitor: Wales 2021 described a positive increase in multi-agency working with health colleagues throughout the COVID-19 Pandemic.¹¹⁶ This collaboration between health and homelessness services resulted in better outcomes for people experiencing homelessness trying to gain access to mental health services or recover from substance use.

A key emerging theme from the panel's consultation with experts by experience was that access to support for complex needs can be difficult to navigate, stating:

"Mental health, drug and alcohol, and job centre staff to work together."

Housing professionals told the panel that there are pockets of good practice whereby housing services have worked with health and substance use services to utilise local, regional and/or national funding streams to provide clearer access to specialist support. However, it was recognised

111 Senedd Local Government and Housing Committee (2023) *Homelessness*.

112 Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*. pp.33.

113 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*.

114 Woolley, B., (2023) *Allocations: Understanding more, in the context of homelessness in Wales*. pp. 3.

115 For example, see evidence received as part of the Senedd Inquiry, Local Government and Housing Committee (2023) *Homelessness*.

116 Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*. pp.35.

that these examples of good practice are heavily dependent upon the personalities and leadership of individual service managers and as such, are not consistent across Wales.

Is legal change needed?

The panel believes that legislative change is needed to secure a case-coordination approach with a clear professional lead where people have complex support needs.

However, panel members also consider that guidance can help to support this ambition, outlining how case co-ordination can work most effectively in practice and in encouraging the expansion of existing good practice.

The panel's recommendations

116. **That Housing (Wales) Act 2014 should be amended to require a case co-ordination approach where an individual has multiple and complex needs, requiring input from two or more public services. The approach should consist of:**
- Identification of a professional to lead on contact with the individual and co-ordinate service provision**
 - A means for overseeing case co-ordination to identify and address gaps in service provision for such individuals as well as to manage and prevent escalation of risk.**
117. **That guidance is provided to assist in determining which organisations may take the lead role and to emphasise the need for multi-agency responses to be proportionate to need.**
118. **That, where needs are more complex, to the extent that the individual cannot be supported in mainstream housing even with additional support, guidance should emphasise that primary responsibility for meeting those support needs should lie with health and/or social care. This would be the case when, for example, a person requires the care of a nursing home or a highly specialised residential home to meet their complex health and support needs.**

Enablers and barriers

The panel acknowledges that these recommendations represent a significant shift in ways of working. However, the rationale is that collaborative and preventative working on cases should reduce workload. It should also ensure that the service equipped with the expertise most suited to meeting the individual's needs takes the lead in meeting those specific needs.

It should also be noted that there are a range of other recommendations across various sections of the report that interconnect and support the panel's recommendations in this section. In particular, the recommendations on establishing Joint Homelessness Boards, new duties on a range of organisations to co-operate with housing services, and developing our housing supply (including supported accommodation) will also assist in supporting those with the most complex of needs.

The panel also acknowledges the important role of Housing First as an approach to meeting the needs of people with complex needs and this should form a key part of the Welsh Government's wider work in moving towards a rapid rehousing approach. Housing First recognises that it is important for people with complex issues, to have a stable place to call home. As such, the panel's recommendation around addressing gaps in housing supply and ensuring Rapid Rehousing Transition Plans are informing housing developments is also of relevance here (see pages 50-52).

3. People with health needs

What is the problem?

Poor health can be both a cause and a consequence of homelessness. Research demonstrates that poor health – in particular poor mental health, and in some cases difficulties with substance addiction – can be contributing factors.¹¹⁷

Furthermore, the stress and strain of homelessness itself can have a significant impact on health, with people who are homeless often suffering mental ill-health, physical illness, reduced life

expectancy, and excess preventable morbidities. As a result, there are disproportionately high health needs among people experiencing and at risk of homelessness, and yet research indicates people who are homeless often find it difficult to access healthcare.¹¹⁸

This was reflected by experts by experience who shared with the panel that they faced challenges registering with a GP without a permanent address. Others who did access health services expressed concern over the lack of awareness around the impact trauma and homelessness has on a person's life. In particular, many said they experienced long waiting lists for mental health services, leaving their mental health to further deteriorate in the meantime:

"I really struggle with my mental health. My GP thinks I have ADHD, bipolar and paranoid schizophrenia, but it has taken two years to see a psychiatrist. I've been on lots of meds, some have made it worse. Mum kicked me out because my mental health was so bad and I wasn't able to get the help I need. I stayed with my sister but if she wasn't there I would be on the streets."

Across the panel's stakeholder engagement, professionals also emphasised frustration at the general difficulties faced in accessing health support. These professionals called for an extension of examples of good practice, such as local GP surgeries running specialist outreach clinics as well as the use of joint funding streams to support co-location of services.

Amongst people experiencing the most extreme forms of homelessness, mental ill-health can often co-occur with substance use. A Public Health Wales study showed that 30% of people experiencing street homelessness during the COVID-19 pandemic cited substance misuse as a contributing factor to their homelessness¹¹⁹ and of the respondents to research conducted by Homeless Link, 45% reported that they were self-

medicating with drugs or alcohol to help them cope with their mental health.¹²⁰

Despite the heightened prevalence, people with co-occurring mental health and substance use needs often struggle to access treatment and support, with services showing reluctance to treat both issues at the same time.¹²¹ Indeed, 13% of respondents to the Cymorth Cymru *Health Matters* research stated that their drug or alcohol use was the reason they were unable to access healthcare or mental health services.¹²² A person with lived experience told the panel:

"More doctors saying we can't treat you if you take drugs. But you need mental health services even more if you take drugs to self-medicate!"

In addition to looking at the general need to improve access to health care to address the underlying factors that can cause or exacerbate an individual's homelessness, the panel was also keen to discuss the more direct role hospitals can play in homelessness prevention.

Hospital admissions are a key point of contact for people experiencing or at risk of homelessness. In addition, it is noted that a person's housing needs may change during their stay in hospital, particularly where a person develops accessibility needs.

However, research suggests that patients are being discharged from hospital without a place to stay. Cymorth Cymru report that only 65% of participants in their Health Matters research were asked by staff on discharge from hospital if they have anywhere suitable to go, and 11% of them were discharged onto the street.¹²³

For those at the sharpest end of homelessness, life on the streets can often lead to further health issues. While hospitals need to keep a focus on 'patient flow' and meeting medical needs as they arise, it should also be recognised that discharge

117 Preece, J., Bimpson, E., (2019) *Housing insecurity and mental health in Wales*. UK Collaborative Centre for Housing Evidence.

118 Song, J., Moreno-Stokoe, C., Grey, C., Davies, A., (2021) *Health of individuals with lived experience of homelessness in Wales, during the COVID-19 pandemic*. Public Health Wales.

119 Song, J., Moreno-Stokoe, C., Grey, C., Davies, A., (2021) *Health of individuals with lived experience of homelessness in Wales, during the COVID-19 pandemic*. Public Health Wales.

120 Homeless Link (2022) *Unhealthy State of Homelessness 2022: Findings from the Homeless Health Needs Audit*.

121 Homeless Link (2022) *Unhealthy State of Homelessness 2022: Findings from the Homeless Health Needs Audit*.

122 Cymorth Cymru (2016) *Health Matters: The health needs of homeless people in Wales*.

123 Cymorth Cymru (2016) *Health Matters: The health needs of homeless people in Wales*.

into unsafe environments, including homelessness, can lead to re-admission and further health needs.

To this end, the panel considers early discharge planning and connections with local authority housing services to be key. While there are existing examples of good practice in this regard, research on discharge planning highlights the lack of a consistent approach to addressing hospital discharge across hospitals, health boards and local authorities in Wales.¹²⁴

Is legal change needed?

The panel recognises that the connection between health services and homelessness can be broad and wide-ranging, spanning across multiple disciplines and services. We also acknowledge that there are existing tools to help support and guide improved connections between homelessness and health services – not least the recent NICE guidelines,¹²⁵ as well as various other existing references to homelessness within guidance.¹²⁶

For these reasons, the panel is recommending a multi-layered approach to improving access to healthcare. It is important to both utilise existing levers for improvement and to seek to encourage the extension of good practice, but legislative change also has a role to play where a more universal approach is needed.

The panel's recommendations

The recommendations in this section seek to secure a consistent approach to early planning for hospital discharge, so that patients who have no accommodation to return to are referred to local housing authorities and appropriately supported ahead of being discharged from hospital. The panel anticipates that earlier and more consistent planning in this way will both avoid discharge into homelessness and assist with patient flow.

In recognising the challenges people who are homeless face in accessing health care, the panel is also calling on the Welsh Government to find ways to create an easier referral pathway into

mental health support as well as to extend existing good practice, such as co-location and co-funding of services.

Furthermore, given the breadth and complexity of the connection between health and homelessness, the panel's recommendations also reflect the need to ensure that strategic planning within health better takes account of the needs of people experiencing and at risk of homelessness.

It is also worth noting that recommendations made under other sections of this report would play a crucial part in improving collaborative working between health and homeless services. In particular, the duty on wider organisations including health bodies, to help identify and co-operate where people are homeless or threatened with homelessness (See pages 62–64) links closely with the panel's proposals around discharge planning.

Additionally, our recommendations around supporting those with complex needs (see page 66) will be particularly helpful where people have difficulties with substance use.

The panel also calls more generally on the Welsh Government to consider what other avenues are available to improve multi-agency working. It will be important to work with health professionals to identify and map out further ways in which health services can complement and support the work of homelessness services.

Discharge planning

119. That the Welsh Government seeks to build on existing guidance to ensure that there are clear statutory duties for discharge assessments and planning to routinely consider a patient's housing needs, so as to avoid discharge into homelessness.
120. That a person who may be homeless if discharged from hospital cannot be discharged unless a referral has been made to the local housing authority and this authority

has accepted the duty to assess, an interim accommodation duty or the main housing duty.

Mental health

121. That the Welsh Government considers how its new mental health strategy and guidance around the Mental Health (Wales) Measure 2010 can recognise the connection between homelessness or insecure housing and mental health, emphasising the importance of collaborative working between mental health services and housing options/homelessness services.
122. That the Welsh Government encourages local authorities and health boards to consider how mental health support could be improved for people experiencing or at risk of homelessness. For example, co-funding of multi-disciplinary homelessness and housing support teams with dedicated mental health expertise, co-location of services, or pathways that enable swift access to NHS mental health services for people experiencing or at risk of homelessness.
123. That local housing authorities and support workers are added to the list of agencies able to make a direct referral for an assessment with Local Primary Mental Health Support Services, as is outlined within section 6 of the Mental Health (Wales) Measure 2010.
124. The Welsh Government amends Section 18 of The Mental Health (Wales) Measure 2010 (Functions of the care co-ordinator), and Regulation 5(2) and Schedule 2 of The Mental Health (Care Co-ordination and Care and Treatment Planning) (Wales) Regulations 2011, SI 2011/942, to require that a person's accommodation status and any accommodation-related outcomes must be assessed and recorded in every Care and Treatment Plan. Statutory guidance should also be updated to reflect this requirement.

General

125. That the Welsh Government requires a designated role to lead on homelessness within each health board. This role would assist in leading developments to support homeless patients and to encourage appropriate information sharing between agencies in order to best support homeless patients.

Enablers and barriers

There is a stark lack of data on health and homelessness in Wales, which is hindering meaningful policy development and delivery of solutions. This will need to be explored as part of the Welsh Government's wider consideration of improving data collection and analysis, as outlined in the data section of this report.

The panel is aware that there are some existing positive levers to encourage and develop good practice around health services and homelessness – not least the NICE guidelines. But more work is needed to explore how this leverage can be encouraged and developed to secure a more universal approach across Wales. This will require work from senior health leads.

There is also a need to be cognisant of the pressures and strains on the NHS system, ensuring that new ways of working do not become a bureaucratic tick box exercise, but rather genuinely facilitate forward planning. As identified by stakeholders, consideration will need to be given as to how awareness of housing referral pathways can be raised among frontline staff. Ultimately, this will help to ensure that homelessness is prevented and patient flow through hospitals continues.

4. Care-experienced people

What is the problem?

The most recent homelessness data shows that 6,018 people aged between 16–25 years sought homelessness assistance in Wales in 2022–23. Of these, 423 were aged between 16–17 years old.¹²⁷

124 C.A.R.P. Collaborations and Gana Consulting, (2021) *From hospital to home: planning the discharge journey*. Chartered Housing Institute Cymru and Tyfu Tai.

125 National Institute for Health and Care Excellence (2022) *Integrated health and social care for people experiencing homelessness*.

126 For example: National Leadership and Innovation Agency for Healthcare (2008) *Passing the baton: A Practical Guide to Effective Discharge Planning*.

127 StatsWales, (2023) *Households for which assistance has been provided by outcome, age and gender* Accessed 24 August 2023, <https://statswales.gov.wales/Catalogue/Housing/Homelessness/Statutory-Homelessness-Prevention-and-Relief/householdsforwhichassistancehasbeenprovided-by-outcome-age-gender>

Whilst homelessness is a traumatic and challenging experience for people of all ages, there can be additional challenges and vulnerabilities for young people who find themselves navigating the homelessness system.

Homeless Link outline the disadvantages faced by young people that cause and characterise youth homelessness. Young people face a disproportionate risk of poverty, receive reduced welfare benefit entitlements, have a lower minimum wage, and can face discrimination in the labour markets. The majority of young homeless people have left homes and relationships which they were, to some extent, economically and socially dependent on. Furthermore, policies often make it difficult for this group to access housing.¹²⁸

Young people leaving care are at a particularly heightened risk of homelessness. Research highlights that 25% of all homeless young people in the UK were once in the care system, and one in three (33%) care-experienced young people in the UK become homeless in the first two years of leaving care.¹²⁹

For care-experienced young people, their lack of familial connections means that they often lack the financial leverage and guarantors needed to access a rental home.

In addition, it is well established that there are disincentives within the foster care system to continue hosting young people beyond their 18th birthday. This has been referenced in a recent report¹³⁰ by the Senedd's Children, Young People and Education Committee, which calls for changes to the 'When I am Ready' programme to address this issue.

The current local connection test has also been shown to hold problematic effects and misapplication for care leavers. Stakeholders recounted incidences of young people who had been fostered in one local authority area and were being unlawfully required to return to their home

authority where they had no real network and social connections. Similarly, the recent report from the Senedd Children, Young People and Education Committee recognised the negative effects of the local connection test on those who have experience in care and has recommended that *"care experienced people facing homelessness cannot be referred to another local authority due to 'local connection' if they do not wish to be."*¹³¹

In this report, the Children, Young People and Education Committee also shone a light on other areas where further support or consideration is needed to help protect care-experienced young people from homelessness. This included the need to increase supply of suitable supported accommodation, calls to add this group to those in priority need to access housing, as well as to provide reasonable preference to this group within allocation policies.

As part of the panel's stakeholder engagement, sector stakeholders and experts by experience emphasised the importance of specialist and support-based accommodation tailored to the needs of young people experiencing homelessness. One expert by experience shared this positive feedback on their specialist accommodation:

"This hostel is the best. There's 24-hour care and they're trying to give us things to do – activities, volunteering, art."

Unfortunately, stakeholders reported that more supported accommodation for young people is needed to meet demand. As a result, there are cases where young people have been placed in inadequate temporary accommodation environments that can leave them exposed to harmful influences, sexual exploitation and substance misuse.¹³² This issue is further

128 Homeless Link, (2023) *Young people's experiences of homelessness are distinct from adults*. Accessed 24 August 2023, <https://homeless.org.uk/areas-of-expertise/meeting-diverse-needs/young-people>

129 Step by Step, (2022) *Who cares? The Link Between Leaving Care and Homelessness*.

130 Children, Young People and Education Committee (2023) *If not now, then when? Radical reform for care experienced children and young people*, pp. 14.

131 Children, Young People and Education Committee (2023) *If not now, then when? Radical reform for care experienced children and young people*, pp. 15.

132 End Youth Homelessness Cymru (2020) *Don't Let Me Fall Through the Cracks: Homelessness amongst Care-Experienced Young People in Wales*, pp. 65-67.

exacerbated by the fact that 16- and 17-year-olds cannot legally hold an occupation contract.

The Committee report also called for improved transition from child to adult services, a point strongly echoed by stakeholders who contributed to the panel's work. These stakeholders raised concerns around the lack of clarity on whether the responsibility for housing young homeless people and care leavers rests with housing services or social service departments.

A report from End Youth Homelessness Cymru¹³³ also highlights "failed transitions between institutions", including an apparent lack of clarity over whether social services or housing services have lead responsibility for young homeless people:

"You've got social services saying: 'they are not my (responsibility), I don't look after them anymore - they are 18, that's housing.' Then housing go 'well they are 17 they are not ours yet'. So you've got the battle (within) the council of who looks after (that young person)."¹³⁴

Since 2009, case-law has defined the responsibilities in this area. The case-law provides that if a homeless 16 or 17-year-old applies to a housing authority, then they should be referred to social services for an assessment of their needs under what is now Section 21 of the Social Services and Well-being (Wales) Act 2014. However, this does not appear to be reflected in practice.

In addition to this general lack of clarity for case management, concern was also expressed by local authority representatives from housing services that they do not have the expertise, support or appropriate accommodation to meet the needs of this specific group.

Following on from the challenges faced by young people and young care leavers, the panel is also acutely aware that traumatic experiences in childhood, including spending periods in care,

can increase a person's risk of homelessness into adulthood.¹³⁵ Due to a lack of support at a young age, people with experience of the care system can be prone to struggle with independent living skills and managing finances as well as an increased likelihood of poor educational attainment and difficulties with mental and physical health.¹³⁶ These factors, combined with the lack of ongoing parental support that others may enjoy into adulthood, heightens the risk of homelessness for care-experienced people beyond the initial years of leaving care.

Is legal change needed?

The panel is recommending that legislative change would helpfully clarify which service has the lead role in supporting young homeless people aged 16 and 17 years old and care leavers into appropriate accommodation.

Given the particular and heightened risk of homelessness among care leavers and care-experienced people, the panel has also proposed legislative changes within the local connection and social housing allocation sections of the report to provide certain protections to those who are care experienced (see pages 24 and 46).

There are further recommendations relating to young people under the sections of this report on local connection (see pages 24-25) and suitability of accommodation (see pages 34-38). These recommendations seek to ensure that the local connection test better considers the needs of this group and that accommodation meets minimum standards.

It should also be acknowledged that many of the other points raised above will benefit from other wider recommendations in the report, especially around consideration of affordability of accommodation (at page 46) and the wider duties for other organisations to help identify and co-operate on ending homelessness (see pages 62-64).

133 End Youth Homelessness Cymru (2020) *Don't Let Me Fall Through the Cracks: Homelessness amongst Care-Experienced Young People in Wales*.

134 Young person contributing in End Youth Homelessness Cymru, (2020), *Don't Let Me Fall Through the Cracks*.

135 Mackie, P. (2014) *Nations Apart? Experiences of single homeless people across Great Britain*. Crisis and Cardiff University.

136 Beynon, C., Morgan, L., Evans, L., Darlington, O., Brace, L., Roberts M., & Woodfine, L., (2022) *Preventing homelessness in care experienced individuals*, pp. 6-7.

In addition, the panel considers that there are some non-legislative changes that could help to assist in preventing homelessness among those who are care-experienced. These recommendations are also outlined below.

The panel's recommendations

The below recommendations are intended to secure clarity that the responsibility for supporting homeless young people remains with social services. Social services can seek co-operation from housing services, but cannot use the statutory homeless system to meet this obligation. Ultimately, these services have a duty to ensure that young people leaving care do not face the type of housing crisis that requires them to use statutory homeless services.

Our recommendations also seek to ensure that where an applicant is care-experienced, their support and Personal Housing Plan considers how this might impact upon their support needs.

Furthermore, we are asking the Welsh Government to consider how the fostering system could better facilitate foster carers to continue to host care leavers after their 18th birthday.

126. That legislation specifies that homeless 16- and 17-year-olds, as well as young people leaving care, will be accommodated by social services under existing duties under Social Services and Well-being (Wales) Act 2014. Children's services (and, if accommodation is secured under homelessness functions, local housing authorities) should ensure that no 16- or 17-year-old should be accommodated in unsupported temporary accommodation.
127. That local housing authorities are required to make inquiries into whether an applicant is care-experienced, seeking support as is appropriate from relevant agencies and reflecting this within the assessment of housing need and Personal Housing Plan.
128. That the Welsh Government considers how the "When I am Ready" programme might be adapted to overcome the current disincentives for foster carers in continuing to

accommodate young people as they turn 18 years of age.

Enablers and barriers

The Welsh Government will need to ensure that social services have the resources to appropriately meet the needs of this group.

As outlined in the earlier supply section of this report, it is widely acknowledged that there are gaps in housing supply and these need to be addressed. This will include ensuring that there is sufficient supported accommodation for young homeless people.

The panel recognises that the inability for 16- and 17-year-olds to hold residential contracts can further complicate homelessness issues within this age group. However, the panel did not consider that it was in a position to make a recommendation on this matter and suggests that this may be an area which the Welsh Government could look into further.

Further work is needed to consider what changes could be made to the "When I am Ready" programme so that care leavers may be enabled to stay on for longer with foster carers where this is appropriate.

5. Violence against women, domestic abuse and sexual violence

What is the problem?

Survivors of violence against women, domestic abuse, and sexual violence (VAWDASV) are at an increased risk of experiencing homelessness across Wales, Scotland and England.¹³⁷

Often survivors of abuse and violence need to leave their abusive situations quickly.¹³⁸ This can mean fleeing the area they are familiar with, as well as established support networks and even their place of employment. In addition, survivors that have experienced controlling behaviour may also have limited access to finances and, as

such, can lack the means to source alternative accommodation. Furthermore, some survivors also reported that, prior to fleeing an abusive relationship, they had never previously accessed welfare benefits or homelessness assistance and felt that a lack of awareness of how these services worked was an additional barrier.

Despite the heightened risk of homelessness for survivors of abuse, people with lived experience and support workers from the sector shared with the panel that this group can face a range of difficulties in accessing housing support. A common underlying theme was that housing support teams lack understanding of domestic abuse and, therefore, more work is needed to ensure survivors are able to access timely support rather than waiting until they flee their abuser and present to services as an emergency. One survivor told us:

"There needs to be more on the preventative side. Once someone recognises they're experiencing abuse, there needs to be a method to reach out and a safe space they can go to, before the abuse escalates."

A further commonly identified issue was that survivors who co-owned a property with their abuser had experiences of not being classed as homeless due to having a share in a property (even though that property was not safe to occupy). While the current law provides for survivors of domestic abuse who own a property to be classed as homeless where it is unsafe to occupy this home, and the Renting Homes (Wales) Act 2016 provides protection for those occupying under a joint occupation contract with their abuser, real life experiences demonstrate that these aspects of the law are not always implemented. Survivors told the panel:

"It was poor as because I had my own property, I wasn't classed as at risk or homeless, yet I had police markers against my house."

"There wasn't a clear pathway to get help. Because I had mortgage, I had no idea what to do."

A 2014 independent review of VAWDASV services in Wales¹³⁹ also reported difficulties in finding safe accommodation for women with paid employment due to a lack of entitlement to housing benefit, which also increases risk of homelessness or staying in an unsafe situation.

The refuge model is used across Wales as a form of crisis shelter, in addition many refuges aim to offer a planned programme of therapeutic and practical support and access to peer support from other survivors.¹⁴⁰ However, stakeholders noted that, due to a lack of suitable move on accommodation, survivors are staying in refuge accommodation long after they are ready to move into a settled home. This not only hinders the survivor and their children's ability to move on in their lives, but also creates a bottleneck in the system and reduces the refuge accommodation available for new survivors who may come forward.

A 2020 report¹⁴¹ found that while the traditional congregate refuge model offers a range of benefits such as safety and anonymity, access to peer support and intensive on-site support, it can also be accompanied with challenges. These challenges included potentially having to move away from support networks, access for women with male children aged 16 and transgender groups, restrictive house rules intended to ensure refuge safety, and increased stress generated by being required to live in close proximity with others, especially if relationships between peers in this accommodation are not positive. These findings were echoed by experts by experience who, while they appreciated the specialist support available in refuge, they also found difficulty with the shared nature of accommodation.

"The support is great in refuge, but it's extremely difficult to live with others, especially with children."

137 UN Women (2020) *The Shadow Pandemic: Violence against women during COVID-19*.

138 Safe Lives (2018) *Safe at Home: Homelessness and domestic abuse*.

139 Berry V, Stanley N, Radford L, McCarry M, Larkins C (2014) *Building Effective Responses: An Independent Review of Violence against Women, Domestic Abuse and Sexual Violence Services in Wales*.

140 Welsh Women's Aid (2020) *Time to Act on Sustainability*.

141 Adisa, O., Allen, K., Costello, F., Meehan, A. (2020). *A scoping review of refuge provision models*. University of Suffolk.

“It would have been better to have self-contained flat with support. Refuge is difficult, especially when sharing with lots of people. There are certain rules you have to follow in refuge.”

Survivors who are homeless and have multiple intersecting needs (such as mental health issues or problem drug use) face even greater barriers in accessing specialist support to assist their recovery from abuse and trauma.¹⁴² Refuges often refuse access to those with more complex needs on the basis that they cannot meet their needs, while issues such as drug misuse can cause disruption and anxiety for other survivors in the refuge who require a safe space. Thus, while congregate refuges play a crucial role, it is also important to ensure there are dispersed housing solutions and community-based support for this and other groups for whom traditional congregate refuges may not be a suitable option.

A report from Women’s Aid England¹⁴³ identifies barriers in refuges not having the capacity to support survivors with particular mental health needs and support needs around substance, as well as difficulties in supporting women with no recourse to public funds (NRPF). Women with insecure immigration status, or whose immigration status is dependent on a spouse or employer are often at a heightened risk of violence and exploitation, where the perpetrator uses this as an additional form of control.¹⁴⁴ And yet, as explored earlier in this report, this group face particular barriers in accessing housing support.

Appropriate housing and support for perpetrators of abuse was also raised by stakeholders as an important factor in the safety of survivors. Ensuring that perpetrators have appropriate intervention can stop the continuation of abuse and result in safety for the survivor. One survivor shared their direct experience, saying:

“I had my mum on the phone crying because he [the perpetrator] was living in a tent. I felt pressured to take him back into the home. I had nowhere else to go with 3 kids. The council definitely could have done more – might not have wanted to go to the places they were offering him. He might have come back anyway. But always felt pressured.”

While the current legislation provides that those fleeing domestic abuse cannot be referred under local connection rules to another area within which they run the risk of domestic abuse (see above), there have been examples of poor and inconsiderate practice. Meanwhile Public Service Ombudsman’s for Wales report on homelessness¹⁴⁵ pointed to specific case review examples which included clients being placed in properties near violent ex-partners,¹⁴⁶ despite the case officer having prior knowledge of the issue.

While there are obvious and important reasons for ensuring that homelessness legislation provides for those fleeing from domestic abuse to access support away from their home authority where appropriate, stakeholders identified that in some cases this can also be interpreted in a way which restricts survivor choice. These stakeholders said that in some cases, a survivor’s preference may have been to stay in their home area with certain safety measures in place. Furthermore, it was emphasised that survivors of abuse should be entitled to change their minds on which location they feel safe in.

A further underlying theme in our discussions with survivors and the professionals who support this group was the importance of ensuring the provision of trauma-informed and specialist Violence against Women, Domestic Abuse and Sexual Violence (VAWDASV) services. A survivor told the panel:

142 FEANTSA (2022) *Housing First and Women: Case studies from across Europe*.

143 Women’s Aid Federation England (2022) *Nowhere to Turn*, pp.11.

144 Domestic Abuse Commissioner (2021) *Improving pathways to support for migrant victims of domestic abuse*.

145 The Public Services Ombudsman for Wales (2021) *Homelessness Reviewed: an open door to positive change*.

146 Equality and Human Rights Commission (2023) *Article 8: Respect for your private and family life*.

“I had a generic support worker. They looked traumatised themselves from what I told them. Having someone who had the skills to be able to hold that information and put practical solutions on the table is really important.”

These survivors also shared that long stays in temporary accommodation waiting for a settled home could exacerbate and add to the trauma they had already experienced. In some cases, survivors spoke of the administrative difficulties in being transferred to another authority, highlighting the additional stress this can create.

Overall, it was clear that while there are some protections for those fleeing domestic abuse in current homelessness legislation, these protections are not always applied appropriately and fail to take account of the wide-ranging needs across this group.

Is legal change needed?

The panel considers that legislative change is needed to amend the definition of “abuse” in the Housing (Wales) Act 2014, in with the definition in England in the Domestic Abuse Act 2021, so that protections for survivors encapsulate those who have a range of different types of abuse.

Further recommendations regarding both primary legislation and guidance will ensure that survivors are supported to access the accommodation where they feel safe.

There is also a series of non-legislative recommendations which seek to raise awareness of abuse, improve issues with housing perpetrators, ensure that (where appropriate) survivors have the option to access support to stay in their current home, as well as to encourage trauma-informed and multi-agency ways of working.

Across this report, there are a number of other recommendations which seek to assist with the issues raised in the above. In particular, the panel is making specific recommendations under local connection to better support the needs of abuse survivors (pages 24–26), under maximal housing options to facilitate a wider range of accommodation options (see pages 39–41), under

the eligibility section of this report (page 18), and under allocations to help ensure that perpetrators are housed (page 46). The panel’s more broad recommendations around trauma-informed training for housing staff, duties on public sector bodies to help identify homelessness.

The panel’s recommendations

Bringing definitions of abuse in line with English Legislation (Housing Act 1996 and Domestic Abuse Act 2021)

129. That the definition of “abuse” at Section 58(1) Housing (Wales) Act 2014 is amended to include controlling or coercive behaviour, economic or psychological abuse.
130. That the definition of “domestic abuse” at Section 58(2)(h) Housing (Wales) Act 2014 is amended so that it can apply where abuse is perpetrated by a person in an intimate personal relationship with the victim, removing the requirement that it should have been of a significant duration.
131. That guidance emphasises that the risks that a survivor faces may evolve. Guidance should provide that local housing authorities are flexible and responsive to the needs of survivors, including where a survivor was assisted to retain accommodation and it subsequently becomes not reasonable for her to continue to occupy.

“Ask and Act”

132. That guidance is provided to RSLs to support them in complying with their additional cooperation duties and legal requirements as per section 1g of the Regulatory Framework for Housing Associations Registered in Wales. This should include the “Ask and Act” duty.
133. To request that consideration is given to private landlords receiving training on “Ask and Act” as part of the Rent Smart Wales registration.
134. That local authority housing officers receive training on “Ask and Act.”

Housing

135. That statutory guidance sets out what assistance an applicant who is homeless as a result of abuse or domestic abuse might need. This guidance should cover how an applicant should be supported to return to their existing accommodation where this is their wish to do so (see recommendations on maximal housing and the duty to offer support to retain accommodation), as well as the need to consider the applicant's views on where they feel safe (see recommendation in PHP section) as well as the impact of any historical abuse.

(See also other relevant recommendations under earlier sections on local connection and suitability, including the need to take account of an applicant's support network, which may be broader than family connections. See also recommendations on survivors of abuse who are NRPF under the section on eligibility)

Perpetrators

136. That the Welsh Government seeks to strengthen guidance and awareness of the right, by a joint contract-holder and by a landlord, to terminate an occupation contract where a joint contract-holder is guilty of anti-social behaviour or has ceased to occupy the accommodation (Chapter 14, Part 2, Renting Homes (Wales) Act 2016).

(See also recommendation 131 and also earlier recommendation 74 under allocations to perpetrators)

Enablers and barriers

The panel agreed with the report by the Wales Audit Office¹⁴⁷ which demonstrated that data sharing needs to improve in order to assist VAWDASV survivors. Addressing this issue should be assisted by the panel's recommendation elsewhere in this report for wider public organisations to identify and co-operate where a person is homeless or at risk of being homeless (see pages 62-64).

It was clear from our stakeholder engagement that many of the barriers faced by those escaping violence are down to misapplication of the law. The panel considers that our recommendations on providing guidance in this space should help to provide clarity. It will be important that the relevant stakeholders are included in the creation of such guidance.

In addition, the panel considers that specialist Violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV) housing support providers will continue to play a key role in supporting this group.

6. Prisoners and prison leavers

What is the problem?

A large proportion of people from Wales who leave custody find themselves experiencing homelessness upon release.¹⁴⁸ The panel heard evidence from stakeholders, including people with lived experience, which indicated that this heightened risk of homelessness experienced by people leaving the secure estate is often caused and/or exacerbated by shortfalls within current systems and structures.

Whilst the *National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate* provides guidance for agencies involved in the resettlement planning for those in custody from their reception to their release, it is clear that the guidance is not working as intended. HM Inspectorate of Prisons rated only 3% of prisons in England and Wales as 'good' for 'rehabilitation and release planning' in 2021-22.¹⁴⁹

Meanwhile, Ministry of Justice data shows that, in the year to March 2023, 13.7% of people leaving prison in England and Wales were not housed on the night following their release. Some of these prisoner leavers will have been placed in unstable or temporary accommodation, which is in part reflected by statistics showing that three months post-release, almost a quarter of prison leavers (24.4%) were not in settled accommodation.

The lack of housing upon release from prison was the most common issue raised by experts by experience who were in prison or had recently been in prison. Many had experienced being released from prison into homelessness and described how difficult this had been when trying to cope with the transition back into society:

"When I got out of prison the local authority gave me a tent and I lived in it for three weeks. It's stressful getting out of prison as it is. I felt vulnerable, it's embarrassing. I should have a roof over my head. I'm worried the same thing is going to happen when I get released this time. They are setting you up to fail. Should be able to register in advance with the council [for housing]."

"I was out in 2018 but probation told me I wasn't priority need and there was nothing they could do. They gave me a sleeping bag and I was left on the streets."

The panel's stakeholder engagement indicated that there is a need for consistent use of early planning processes and needs assessments to ensure accommodation is in place upon release. The panel heard that planning for a prisoner's release is often left until their release date is imminent. One expert by experience reflected:

"Resettlement should be caught at the beginning of the prison sentence, not at the end."

Another key contributor to prisoners being released into homelessness is that more than a third of prisoners are released on a Friday,¹⁵⁰ which means that people are often unable to secure necessary arrangements for accommodation until the following Monday, or later when released on a Friday before a bank holiday.¹⁵¹

The panel also heard that prisoners are not given sufficient information or advice about their housing rights whilst in prison. This can lead to confusion about whether or not a prisoner can retain their tenancy whilst serving their sentence.

"I've got a property with [housing association]. I'm in prison for two and a half months. I've been sent a letter [from the housing association] telling me I had to sign to hand over my tenancy, but I'm refusing to because I might be out soon. Hoping to get DHP to cover interim rent."

A lack of transparency and awareness of rights, combined with a lack of access to independent advice, also led to some prisoners being pressured to give up their tenancy and as well as falling into rent arrears. Others emphasised that they had lost their personal belongings, which made rehabilitating to society and adjusting to life after prison even harder.

"I've got the financial burden of having to pay previous housing costs. It took a long time to close the flat after being recalled to prison. The paper work was delayed. I was billed for the rent during that period, so I had more debt. My white goods are still in the flat even though I no longer occupy it. Prison rang the housing association to try and sort out the housing issues and belongings, but they said I wasn't a tenant. However, on release they said I was a tenant and they needed to collect the rent arrears and other costs."

"I was only in jail a year and would have liked to put my property in storage. I lost my cooker, fridge, everything. When I came out of jail, I had nothing."

Beyond the immediate risk of homelessness that people face upon leaving prison, there are also longer-term housing barriers for this group. The panel heard of cases where prison leavers found accessing a home so challenging that they fell back into previous patterns or even actively sought to reoffend to return to prison. This is supported by evidence from the Ministry of Justice which shows that offenders in stable accommodation are 50% less likely to commit further crimes.¹⁵²

147 Wales Audit Office (2019) *Progress in implementing the Violence Against Women, Domestic Abuse and Sexual Violence Act*.

148 Welsh Government (2022) *Delivering Justice for Wales*, pp.87.

149 Ministry of Justice and HMPPS (2023). *Improving resettlement support for prisoners to reduce reoffending*.

150 This includes scheduled Friday releases as well as those whose release dates fall on a Saturday, Sunday or Public Holiday.

151 Nacro (2021). *Friday Prison Releases Briefing update September 2021*.

152 Ministry of Justice, HM Prison and Probation Service, and The Rt Hon Damian Hinds MP (2023) *Basic housing to keep offenders off streets and cut crime*.

The Welsh Government's Delivering Justice for Wales Report outlines just some of the 'myriad of challenges'¹⁵³ people may face upon release from prison, all of which were echoed by the panel's stakeholder engagement.

When attempting to access the private rented sector, prison leavers often struggle due to landlord requirements for prospective tenants to provide references, bank statements, identification, excessive deposits, guarantors or rent in advance. Another problem is that some landlords are unwilling to let their properties to people with previous criminal convictions and that many landlords hold insurance policies that do not cover tenants who have been convicted of arson.

Stakeholders also identified that prison leavers can face particular barriers where they have restrictions on where they can live due to the nature of their offence (known as Prolific and other Priority Offenders or PPO). These barriers mainly centre around extended time frames for approving properties, a lack of supported advanced planning and poor communication between authorities. For example, an expert by experience told the panel:

"The prison dropped me off in [local authority] but then it turned out I wasn't allowed to be here. I had to spend £35 of my discharge grant on a taxi to [local authority] as I wasn't allowed to go on the train within the area that was included in my restrictions. Probation officers in the two local authorities didn't talk to each other."

Further barriers for people who have spent time in prison trying to access settled housing are the local connection test, which is addressed at pages 24-26 and social housing allocation policies, which are addressed at pages 44-46.

Is legal change needed?

The panel considers that legislative change is required to secure earlier planning for prisoner housing needs upon release.

First, it is crucial to clarify that prisoners in relevant circumstances are 'threatened with homelessness' and entitled to the statutory prevention duty.

Second, if and when the relief duty is abolished, it is important to apply the local connection test at the prevention duty stage for prisoners so that the same local authority can support them through both this preventative phase and with an offer of accommodation upon release, providing a smoother transitional approach.

Beyond these legislative changes, it will also be important to improve relevant guidance, and consider whether certain aspects of existing guidance should be placed on statutory footing.

Please note: There are further recommendations specifically relating to the needs of prisoners under the sections on local connection (pages 24-26), allocations (pages 44-46) and the duty to identify and co-operate (pages 62-64).

The panel's recommendations

The panel's recommendations focus on three areas: housing support and planning whilst in prison, statutory homelessness definitions relating to prisoners and improving access to housing for prison leavers.

The recommendations also seek to address the issue of prisoners losing their personal belongings and to provide clarity, as in other areas of this report, that for young homeless prison leavers aged 16 and 17, social services should be the support lead.

Statutory homelessness definitions relating to prisoners

137. That legislation provides that prisoners are not homeless during the period of their custodial sentences. Where they are likely to be released within six months, and have no accommodation available for their occupation which is reasonable for them to continue to occupy, they will be threatened with homelessness.

138. That legislation provides that, where a prisoner needs accommodation from a local housing authority in order to achieve an early release, parole or bail, the prisoner is deemed to be homeless at the early release date and the Section 75(1) Housing (Wales) Act 2014 main housing duty will apply, so that a

prisoner is not prevented from being released by lack of accommodation.

Housing support and planning whilst in prison

139. That the Welsh Government reviews and updates the National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate in conjunction with key partners, considering whether aspects of this guidance may be placed on a statutory footing. This should include ensuring that assessments at reception stage are sufficiently detailed and that there is accessible information, support and independent advice on housing for prisoners.

140. That the relevant probation officer is named as lead co-ordinator in planning for a prisoner's housing support in a case co-ordination approach including the local housing authority and other relevant services.

Please note: As identified in the section on supporting people with multiple and complex needs, a case co-ordination approach is needed where there are multiple services involved in supporting people into housing, which is often the case regarding prisoners. See recommendation 116 for further information on this approach.

141. That the Welsh Government and local housing authorities work with prison services to ensure that routine early assessments of new prisoners, conducted by the prison service, identify whether a prisoner's accommodation is at risk during their sentence and whether the prisoner is in need of advice on how to retain accommodation or belongings as a result of this. Prison services should work with the local housing authority and relevant partners to provide the prisoner with swift access to advice as per section 60(4) of the Housing (Wales) Act 2014. This could include supporting a prisoner's wish to retain their existing accommodation whilst in prison, where it is practical and proportionate to do so (such as arranging for the payment of benefit or allowing a sub tenant to occupy it).

142. That Part 11 of the Social Services and Well-being (Wales) Act 2014 is amended to provide

that all reasonable steps should be taken to assist a prisoner in making arrangements to retain their belongings while serving their sentence.

143. That local housing options services work with the courts and prison service to ensure housing options advice is easily accessible within a court and prison setting.

144. That legislation provides that the assessment of need is carried out and the Personal Housing Plan is drawn up during the prevention duty (six months prior to release), whilst the applicant is in prison.

Please refer to recommendation 19 for details of when the local connection test should be applied to prisoners.

145. That guidance should include suggestions for how a PHP might need to be adapted to meet needs specific to prisoners. This could include supporting a prisoner's wish to retain their existing accommodation whilst in prison, where it is practical and proportionate to do so (such as arranging for the payment of benefit or allowing a sub tenant to occupy it.)

146. That the assessment of need and Personal Housing Plan must be reassessed by the local housing authority when the release becomes imminent, or as is relevant where there is a change to an intended release date or changes in circumstances.

(Further detail and recommendations on PHPs are included in the PHP section at pages 55-58.)

Improving access to housing on release

147. That accommodation could be offered to the prisoner during the prevention duty, with a view to it being available on release, either under an occupation contract or on a more informal basis (accommodation with family or friends).

148. That the Welsh Government seeks to encourage the practice of avoiding Friday, weekend and public holiday releases from prison, as outlined in the Offenders (Day of Release from Detention) Act 2023.

149. That Rent Smart Wales provides training and awareness among private landlords to improve availability of rental homes to prison leavers.

Young people leaving the secure estate

150. That legislation and guidance is clear that 16- and 17-year-old prisoners, who are expecting to be released within six months, are the responsibility of social services.
151. That young prisoners who are or were care leavers and who are aged 18 to 21 (or 18 to 24 if in education or training) on release should be the responsibility of social services and have accommodation provided by social services.
152. That guidance accompanying Part 6 of the Social Services and Well-being (Wales) Act 2014 highlights the need for a Care and Support Plan to plan for suitable accommodation well in advance of the expected release date.

Enablers and barriers

Recommendations made elsewhere in this report – particularly around placing duties on wider public sector organisations to help identify people who may be homeless or threatened with homelessness and co-operate to support them – are also very important in ensuring the recommendations in this section work effectively.

The Offenders (Day of Release from Detention) Act 2023, which aims to end to Friday prison releases for the most vulnerable, received Royal Assent in June 2023 and is likely to come into effect by the end of 2023. The Ministry of Justice will be working with prisons to implement the changes and this should represent a significant enabling factor for avoiding releases into homelessness.¹⁵⁴

7. Veterans

As part of its programme of stakeholder engagement, the panel reached out to organisations in Wales that support veterans, in particular to two organisations that specialise in housing support for ex-service personnel.

What is the problem?

Stakeholders were generally positive about the content of the National Housing Pathway for Ex-Service Personnel.¹⁵⁵ This Pathway was first published in 2016 and seeks to ensure every former member of the Armed Forces has help, if needed, to find suitable accommodation, whether directly on discharge or later in life. However, while it was generally felt that the content of this pathway presented a good foundation for multi-agency working, there was also agreement that parts of it were outdated. As such, stakeholders said that more investment was needed to ensure local authorities have the resources, knowledge and infrastructure to deliver on this guidance.

Charities within the veteran sector suggested that support is often focused on those who have recently left the service, but when veterans experience housing-related issues because of delayed-onset PTSD or an exacerbation of PTSD later in their life, there is not sufficient support available.

Stakeholders also reported that many veterans have mental and physical health needs which affect their access to housing and that suitable accessible accommodation for ex-service people who have a disability is a particular challenge. One charity reported that a young amputee had been placed in a complex for over 55's where 'house rules' surrounding curfews and having guests prevented them from building an independent life and accepting some employment opportunities.

Stakeholders who worked with veterans also strongly emphasised that the local connection test can present particular barriers for ex-service personnel and their families (see above recommendations under the local connection section on pages 24-26.)

¹⁵⁴ Nacro (2023). *New law to reduce Friday releases passed*.

¹⁵⁵ Welsh Government (2016) *National Housing Pathway for Ex-Service Personnel*.

Is legal change the solution?

The panel is making a recommendation that legislation on local connection be specifically amended in order to support veterans, see pages 24-26. In addition, we are proposing that the Welsh Government works with Westminster to ensure the Secretary for State for Defence (in relation to armed forces accommodation) is included within the proposed duties to identify, act, refer and co-operate with local housing authorities to support armed forces personnel who are homeless or at risk of becoming homeless. Beyond this legislative change, the panel is also making a non-legislative recommendation to update guidance.

The panel's recommendation

153. That the Welsh Government updates the National Housing Pathway for Ex-Service Personnel and seeks ways to ensure that it is consistently applied across local authorities. For example, by considering if parts of the pathway could be placed on a statutory footing.

Please note: There is also recommendation 9 in relation to local connection and veterans.

Enablers and barriers

It will be important that the Welsh Government liaises with specialist stakeholders as well as veterans who have lived experience of homelessness when developing policy, guidance or legislation in this space.

It should also be acknowledged that many of the identified challenges identified above were also highlighted by many other groups that are at heightened risk of experiencing homelessness. As such the panel considers recommendations in other areas, the provision of trauma-informed training, the duty to offer support to retain accommodation and the recommendations around mental health, will be beneficial to veterans as well as other groups.

8. Criminalisation of homelessness

What is the problem?

The criminalisation of homelessness, and more specifically begging and rough sleeping, is a barrier to people successfully ending their homelessness. Under the Vagrancy Act 1824, people in England and Wales can face police action and a fine of up to £1,000 for sleeping rough.

In 2023, Freedom of Information responses from 29 police forces across England and Wales show officers have arrested 1,173 people since 2021 for offences under the Vagrancy Act.¹⁵⁶

Research by Crisis¹⁵⁷ found that often trust breaks down between the police and people who were homeless as a result of being moved on or fined using powers in the Vagrancy Act. As a result, punishment pushes people further away from support services, as they move to other areas, resort to more dangerous behaviours to make money, and/or become reluctant to ask for help when they are victims of crime.

Although the UK Parliament voted to repeal the Vagrancy Act 1824 in March 2022, the UK government has not brought the repeal until effect and does not intend to do so until replacement legislation has been introduced (see UK Government's Anti-social Behaviour Action Plan).¹⁵⁸

The Welsh Government has encouraged police forces in Wales to move away from the use of the Vagrancy Act 1824 and instead take a partnership and collaborative approach to tackling rough sleeping.¹⁵⁹ However, the idea of some form of 'replacement legislation' raises concerns that rough sleeping and begging may become considered a crime again.

Is legal change needed?

Although good practice in Wales means that homelessness is largely decriminalised, it is important to safeguard against risks of re-criminalisation through non-devolved law.

¹⁵⁶ Wall, T. (2023). *Thousands of homeless people arrested under archaic Vagrancy Act*: The Guardian.

¹⁵⁷ Morris, N. (2017) *Scrap the Act: The case for repealing the Vagrancy Act (1824)*. Crisis.

¹⁵⁸ Department for Levelling Up, Housing and Communities. (2023). *Anti-Social Behaviour Action Plan*.

¹⁵⁹ Hutt, J. Minister for Social Justice. (2022). *Legislative Consent Motion on the Police, Crime, Sentencing and Courts Bill—Motion 1, and Legislative Consent Motion on the Police, Crime, Sentencing and Courts Bill—Motion 2*. Senedd debate transcript, (2023). Accessed 25 August 2023 <https://record.senedd.wales/Plenary/12653#C411153>

The panel's recommendation

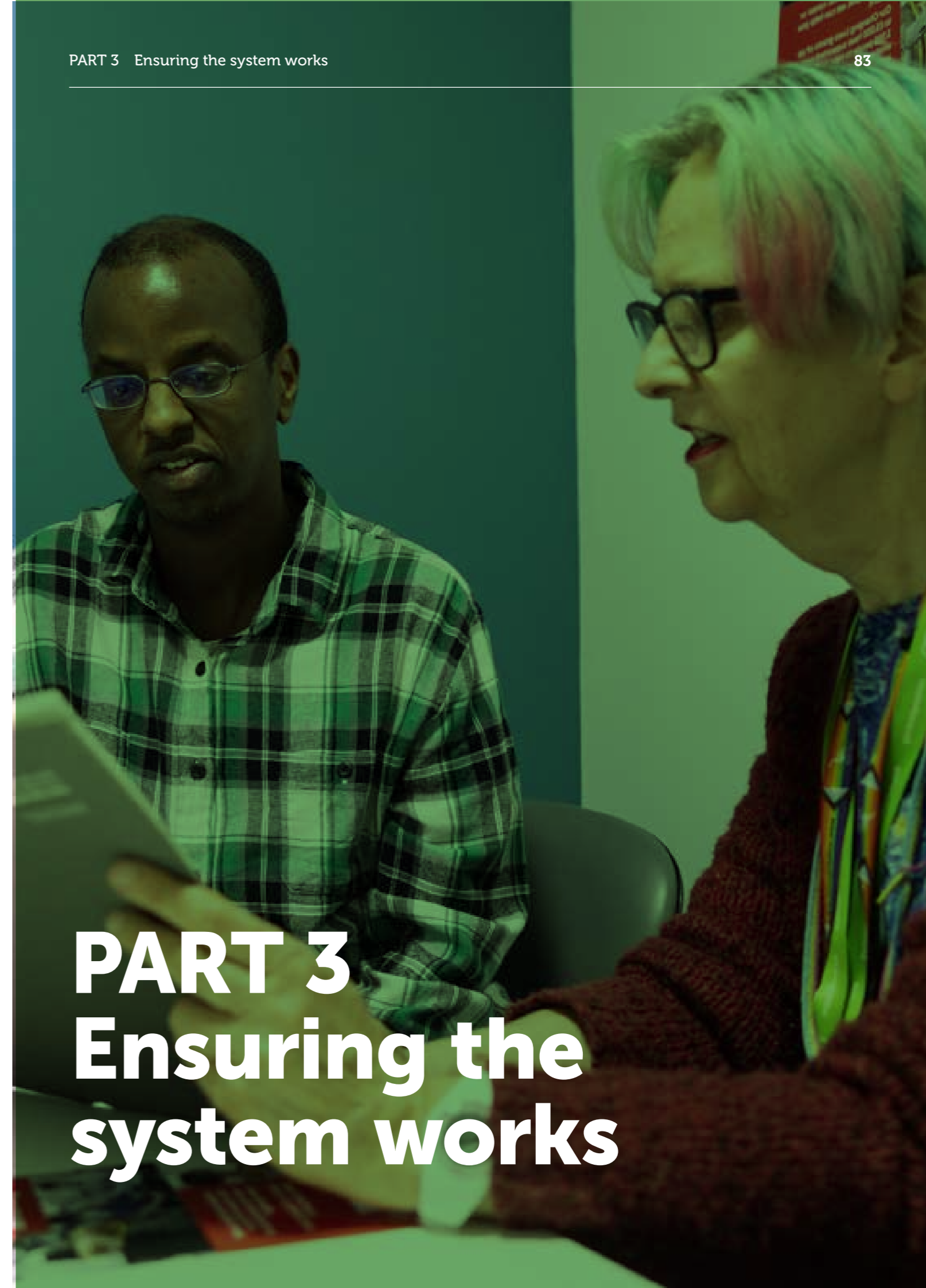
154. That the Welsh Government prevents practice which criminalises homelessness by:

- a. calling on the UK Government to move forward with commencing the repeal of the Vagrancy Act 1824 and to ensure that rough sleeping and non-aggressive begging are not criminalised by future legislation.
- b. continuing to encourage police forces in Wales to implement good practice which does not criminalise rough sleeping.

(See also recommendations in wider public services on page 62.)

Enablers and barriers

The legislation in question does not fall under the jurisdiction of the Welsh Government; however, the Welsh Government does have the power to encourage good practice from police forces in Wales.



PART 3 Ensuring the system works

Over the past year, the panel has consistently heard of incidences whereby the current law is misapplied, causing great distress for homeless individuals who are already facing extremely difficult circumstances. These experiences are also well evidenced across multiple reports and reviews.¹⁶⁰

As the Welsh Government seeks to bring forward new legislation, this implementation gap must be addressed to unlock the full potential of the legislative reforms the Welsh Government brings forward. The panel considers that there are three key aspects to consider in addressing this gap: applicant rights of redress and review; regulation and enforcement; and collation and monitoring of data.

Ensuring applicants are supported to know their rights to redress and review is a fundamental part of instilling confidence in the system and in empowering homeless applicants. Ensuring these rights are in place can both encourage positive practice and highlight incidences of misapplication.

Case law established through individual appeals and judicial reviews also form part of broader quality assurance. However, by its very nature, case law is reliant on individuals opting to take forward a case. In so doing, case law shines an important spotlight on specific incidences, but it does not provide wider quality assurance of a system. It should also be noted that, given that homeless applicants are often experiencing high levels of trauma, they may be less likely to exercise their rights to appeal and judicial review.

For these reasons, applicant rights must be accompanied by other quality assurance mechanisms that present an overview of how the system is working. As such, the panel was also keen to consider how regulation gives consideration to how services performance and enforcing standards. In addition, the panel wanted to look at how collating and monitoring data can help to drive accountability on how systems are operating and whether legislation is effectively

shifting homelessness trends in the right, preventative direction.

1. Individual rights to advice, review and redress

What is the problem?

As acknowledged in statutory guidance, access to free, quality assured and impartial housing advice and information plays a key role in helping people make informed decisions, enforce or defend their rights and prevent their homelessness. In order to be effective, housing advice should encompass a range of social welfare advice, including but not limited to: debt and welfare benefit advice, training and employment services, health and social care advice, private rented sector teams, and mediation services.¹⁶¹

Section 60 of the Housing (Wales) Act 2014 provides that local authorities must offer free homelessness advice to any person in its area, whether they are threatened with homelessness or not. Local authorities can choose whether to provide this service themselves, to commission another organisation to provide the service, or to collaborate with another organisation to jointly provide the service.

Despite the fact that applicants have the right to access independent advice, as explored throughout this report, homelessness applications do not always lead to the most appropriate decisions and outcomes for the individual needs of each applicant.

Under current legislation, homelessness applicants have the right, under Section 85 of the Housing (Wales) Act 2014 and the Homelessness (Review Procedure) (Wales) Regulations 2015, to a review of key decisions made in relation to their application for assistance.¹⁶² This review is normally conducted by the Local Authority which made the decision. If the reviewing officer is employed by that local authority, they must not have been involved in the initial decision.

However, the Ombudsman's investigation of homelessness services found that local authorities could improve the administration of reviews, particularly in terms of their independence and timeliness.¹⁶³ The report found that applicants were often not given sufficient information about the review process and that some applicants were reluctant to exercise their right to review because they were worried that exercising this right would detrimentally impact the service they received.¹⁶⁴ During the panel's engagement with experts by experience and stakeholders, it was frequently raised that applicants lacked an awareness of how systems operate as well as their rights to challenge decisions.

The outcome of an applicant's review can be appealed at the County Court, but only on a point of law. There are no reported cases that have been considered by the County Court, Administrative Court, Court of Appeal or Supreme Court concerning the homelessness provisions in the Housing (Wales) Act 2014.

An individual can also enforce their individual rights by judicial review. As well as local authorities subject to judicial review regarding homelessness application decisions, both local authorities and housing associations can be subject to judicial review regarding decisions on social housing allocations.

A significant barrier for individuals seeking County Court appeal and/or judicial review is that they are required to be eligible for legal aid and to find an available legal aid lawyer in order to pursue this redress. This is not always possible.

Shelter Cymru is a housing legal aid provider in all local authority areas and because of additional Welsh Government funding the charity can assist people regardless of their financial eligibility for legal aid and whether or not their case is within the scope of legal aid. However, where legal representation is required to undertake judicial review or county court proceedings, Shelter Cymru can only assist in cases where legal aid is available. Shelter Cymru is able to offer this service across Wales to eligible clients but its solicitor team is limited in size so access to litigation help is subject to availability of this capacity.

Another avenue for individual redress on a homelessness application is to make a complaint about a service to the Public Services Ombudsman. A social housing resident can approach the Ombudsman to review specific issues relating to their housing. Although the Ombudsman can make recommendations, it cannot compel the body being investigated to follow them nor issue fines. Further, a complainant is usually required to exhaust the public body's own complaints procedure before submitting a complaint to the Ombudsman, and this can take a considerable amount of time.

Is legal change the solution?

The panel considers that changes to legislation are needed to ensure applicants have appropriate access to reviews and avenues for individual redress.

Updates to guidance and more effective collaboration between local authorities is also a key part of the solution in this area.

Wherever possible, local resolution should be the first port of call in addressing applicant concerns. Nonetheless, establishing clear applicant rights of redress helps to encourage general good practice, provides justice in individual cases where the law is misapplied or maladministration occurs, and generally enhances confidence in the system. Ensuring that these rights are supported by access to appropriate independent legal advice and representation is also imperative.

While the panel is keen that enforcement or regulation in connection with homelessness duties does not hinge solely upon an individual's ability to challenge, securing applicant rights to challenge remains vital.

The panel's recommendations

Recommendations below, and across other sections of the report, also seek to ensure applicants have clarity on their rights to challenge key decisions (e.g. page 57). Furthermore, the panel's recommended Joint Homelessness Boards could have a role in reviewing serious cases (page 64).

155. *That local housing authorities work regionally where necessary to help ensure that there is*

160 For example: The Public Services Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*; A. Ahmed, M. Rogers, M. Wilding, A. Gibbons, K. Jones, I. Madoc-Jones (2018) *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*. Welsh Government, GSR report number 46/2018.

161 Welsh Government (2016) *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness*.

162 The Homelessness (Review Procedure) (Wales) Regulations 2015.

163 The Public Services Ombudsman for Wales, (2021). *Homelessness Reviewed: an open door to positive change*. P.72.

164 The Public Services Ombudsman for Wales, (2021). *Homelessness Reviewed: an open door to positive change*. P.71.

availability of officers who are independent of a case to undertake a review.

156. That the Welsh Government works with legal advocates and local housing authorities to produce guidance for best practice in resolution of disputes.
157. That the Welsh Government acknowledges the limitations in availability of legal representation to homelessness applicants in Wales and considers how this could be reinforced. The Welsh Government should continue to ensure there are sufficient resources to provide Wales-wide access to independent legal representation.
158. That access to debt and welfare advice is available to all homelessness applicants falling outside the scope of the Housing Loss Prevention Advice Service.
159. That local housing authorities should provide independent housing advice, where a person needs to challenge the legality of a homelessness decision. Local authorities should be appropriately resourced to fund and provide independent housing advice.
160. That the Welsh Government liaises with the UK Government to ensure that Legal Aid is available to applicants in Wales who are threatened with homelessness within the new timeframe of six months, rather than the current 56 days, under Legal Aid, Sentencing & Punishment of Offenders Act 2012 Schedule 1 Paragraph 34.

Enablers and barriers

Legislation relating to legal aid does not lie within the jurisdiction of the Welsh Government and action from the UK Government will therefore be required to make some of the relevant recommendations in this section effective.

Please note that further recommendations regarding reviews are included in sections on suitability, allocations and PHPs.

2. Regulation and enforcement

What is the problem?

As outlined throughout this report, stakeholders and people with lived experience have reported a range of cases where the law has been misapplied or interpreted differently across local authorities. This feedback is in line with findings in various other reports, including the Public Services Ombudsman for Wales' thematic report into homelessness services 2019.¹⁶⁵

Currently, there are a number of forms of regulation in Wales across the sector. Regulation of housing associations in Wales is based on a co-regulatory approach. Introduced in 2017, the Housing Association Regulatory Framework sets out standards which each housing association self-evaluates against. These self-evaluations are then assessed by the Welsh Government's Housing Regulation Team. The nature of this annual assessment varies with the Housing Regulation Team undertaking a detailed review of a housing association's self-evaluation periodically and a light touch assessment in other years. These assessments focus on consideration of strategic risks, business viability issues and issues of material concern. The Housing Regulation Team awards a judgement based on this assessment, which is published, and seeks to intervene only when a material issue is identified.

Previously, in 2008, the Housing Management Standard for Tackling Anti-Social Behaviour was established, with landlords opting to sign up to the standard and receiving accreditation from the Welsh Government. However, a review in 2014 of Anti-Social Behaviour policies revealed that the majority of community landlords did not find the standard helpful.¹⁶⁶ Since then, Shelter Cymru has called for the development of a new and broader housing management standard in Wales, that includes consideration of anti-social behaviour through a trauma-informed lens but also takes a broader overview of homelessness prevention.¹⁶⁷ This standard would be an opportunity to cement the good practice and learning from the

movement to end evictions into homelessness from social housing.

The responsibility for the regulation of local authority social housing lies with its democratically elected members and local authorities also have enforcement powers regarding poor housing conditions.

Whilst the Welsh Government has a regulatory and enforcement role regarding social housing, it does not have corresponding responsibilities for homelessness services. This means applicants are reliant on enforcing their rights on a case-by-case basis as opposed to systemic regulation and enforcement. Historically, audits of local authority homelessness teams were conducted by Welsh Government, but this is no longer the case.

While the Public Services Ombudsman for Wales does not routinely consider how community landlords (including both housing associations and local authorities) are meeting their broad responsibilities, its office does provide mechanisms for individual redress (to be explored below). The Ombudsman can also choose to publish ad-hoc thematic and own-initiative reports to highlight areas where there appears to be particular and persistent issues.

Audit Wales provides a further mechanism for oversight of public services in general across Wales, including local authority housing services. The Auditor General for Wales and the Wales Audit Office have a role both in providing assurance that public money is well spent and that services are meeting people's needs. In recent years, Audit Wales has undertaken focussed analysis of homelessness services. This included a report on how local authorities are managing demand for homelessness support and implementing preventative measures,¹⁶⁸ as well as a report investigating how wider public bodies respond to rough sleeping.¹⁶⁹ Each of these reports were accompanied by a series of recommendations with the intent to drive the development of better practice.

The Welsh Government does not have a formal role in relation to enforcement of regulations in the private rented sector. Rather, enforcement in the private rented sector is the responsibility of local authorities which have a number of enforcement powers relating to habitation standards and the deployment of mandatory and discretionary licensing.

Section 91 of The Renting Homes (Wales) Act sets out requirements for properties to be 'fit for human habitation,' but the reality is that local authorities do not have the resources to enforce these requirements. The number of inspections carried out by local authorities in Wales under the Housing Health and Safety Rating System (HHSRS) has decreased significantly in recent years. Whilst the low numbers of assessments between 2019-2021 can be attributed to the Covid-19 pandemic, it is clear that the trend is continuing beyond the pandemic. In 2021-22, only 4,363 assessments were carried out across Wales – this represents a 22% decrease of assessments carried out in 2018-19 (the most recent data year unaffected by the pandemic) when the number of assessments had already fallen by 10% in comparison to the year before that.¹⁷⁰

Rent Smart Wales is a regulatory body which processes landlord registrations, grants licences and delivers training for those involved in the rental market to help them fulfil their obligations under Housing Act 2004 (Part 1). Despite not possessing enforcement powers, Rent Smart Wales has an enforcement team that works with local authorities on 'seek and find' projects to identify landlords and agents who are non-compliant as well as following up on complaints.

Reform of Rent Smart Wales's enforcement role has been called for by both the tenants union ACORN Wales and the National Residential Landlords Association (NRLA) though there is not currently agreement on the details of such reform. ACORN has called for action against landlords who are not registered with Rent Smart Wales, while the NRLA has indicated a preference for Rent Smart

165 The Public Services Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*.

166 Government Social Research commissioned by the Welsh Government (2014), *Wales Anti-Social Behaviour: Policy Practice and Review*. Page 66.

167 Shelter Cymru (2023), *Reframing Anti-Social Behaviour: A Review of Homelessness Prevention good practice in Wales*. Page 31.

168 Auditor General for Wales (2018,) *How Local Government manages demand – Homelessness*.

169 Auditor General for Wales (2020), *Rough Sleeping in Wales – Everyone's Problem; No One's Responsibility*.

170 Welsh Government, (2023) *Housing hazards and licences: April 2021 to March 2022*. Accessed 24 August 2023, [https://www.gov.wales/housing-hazards-and-licences-april-2021-march-2022.html#:~:text=In%202021%2D22%2C%204%2C363%20HHSRS,the%20assessments%20made%20\(29.4%25\)](https://www.gov.wales/housing-hazards-and-licences-april-2021-march-2022.html#:~:text=In%202021%2D22%2C%204%2C363%20HHSRS,the%20assessments%20made%20(29.4%25))

Wales to focus on “active criminality” by landlords.¹⁷¹

The Welsh Government is commissioning an independent evaluation of Rent Smart Wales this year, the details and scope of which have yet to be defined.¹⁷²

There are mixed feelings across the sector about whether these existing regulatory arrangements are sufficient to hold landlords to account. With regard to community landlords, some suggest that there is a lack of independent oversight of local authorities and that the self-evaluation based regulation of housing associations lacks rigour. However, others welcome the co-regulatory approach of housing associations. Housing association representatives giving evidence to the Senedd Public Accounts Committee inquiry into the regulatory oversight of housing associations in 2017 reflected positively on co-regulation, stating that it fits well with modern governance and has resulted in higher levels of engagement between residents and landlords.¹⁷³

However, there have been strong calls, including from the Ombudsman office, for the more formal creation of “a Housing/Homelessness Regulator.”¹⁷⁴ This call was echoed by the Senedd Local Government and Housing Committee in 2022, following its inquiry into homelessness.¹⁷⁵ The Committee and Ombudsman both called for such a regulator having seen evidence of misapplication of the law, often with significant consequences for homeless individuals who are left in difficult situations as a result.

In response, the Welsh Government expressed concern that “establishing an additional homelessness regulatory function would risk increasing the complexity of governance as well as administration costs and would not necessarily improve housing supply, or the causal factors of homelessness which are at the heart of the current crisis.”¹⁷⁶

These mixed views on the establishment of a homelessness regulator or a more formal regulatory body for social housing were also reflected among panel members. Some panel members felt that a regulator would give a more detailed overview of services and that housing providers in Wales are too “comfortable” with the self-evaluation measures currently in place. It was also noted that other nations in the UK have more formal regulatory structures.

On the other hand, other panel members were reluctant to support calls for a regulator, stating that this would add further layers of additional, costly, regulation and bureaucracy to already overstretched housing services.

The panel also recognised more generally that it would be difficult to establish a new regulator in a timely manner alongside the significant and wide-ranging reforms that is recommended within this report.

Is legal change the solution?

Given the mixed positions on the panel, members were not able to reach a consensus in this area and the panel does not therefore recommend any legislative change to introduce a new housing/homelessness regulator.

However, the panel did agree that there is clear evidence of substantial and concerning implementation gaps with regards to the current legislative framework. Panel members were also cognisant of the recommendations within this report forming a collective package of reforms and, given decisions not to introduce legislation in some areas, were keen to instead seek accountability through regulatory structures. With this in mind, the panel sought to identify ways in which existing mechanisms could further support the implementation and enforcement of the law as it stands, but also the new legal arrangements proposed in this report.

The panel’s recommendations

The below recommendations seek to improve existing regulatory frameworks and structures for ensuring legal compliance and adherence to the principles of the law. In particular, they consider how these structures may be adapted to take account of the panel’s proposed changes in the system, such as the wider accountability of other public organisations in helping to prevent homelessness.

161. That the Welsh Government continues to support the proposed expansion of the WLGA Improvement Programme to include a specific focus on local authority housing and homelessness services.
162. That the Welsh Government considers how the enforcement role of Rent Smart Wales could be enhanced.
163. That the Welsh Government considers, in light of the panel’s proposals for wider public sector duties to assist the prevention of homelessness, which existing regulatory bodies might include homelessness within routine inspection and regulatory activity. For example, Care Inspectorate Wales might help identify issues around care leavers who are falling into homelessness.
164. That the Welsh Government works with stakeholders to consider how the Regulatory Framework for Housing Associations in Wales can reflect Housing Association performance and work with partners to prevent and respond to homelessness. This may include, for example, avoiding evictions into homelessness, reflecting the needs of homeless households within allocation schemes, providing supported accommodation and Housing First, and/or supporting tenants to maintain their tenancies.
165. That, aside from the Regulatory Framework, the Welsh Government works with stakeholders to develop a new Housing Management Standard that takes a trauma-informed approach to anti-social behaviour and sustaining tenancies, whilst also providing a broader overview on homelessness prevention.

166. That a regular auditing cycle of local housing authority functions is established, with audits being conducted either by Welsh Government, Audit Wales or by peer review.
167. That the Ending Homelessness Outcomes Framework is adapted to take account of new legislation resulting from the Welsh Government’s upcoming white paper.
168. That the Welsh Government reports annually on the Ending Homelessness Outcomes Framework.
169. That, as the new legislation is implemented, the Welsh Government reflects on how effective this implementation is and whether further measures (including consideration of a housing and homelessness regulator) may be required in the future to secure consistent application of the law.

Enablers and barriers

When making changes to the regulation of housing associations, it is important to remember that housing associations are legally required to exercise a certain level of autonomy in order to retain their classification as private corporations. Although panel members recognise that more formal regulation exists in both England and Scotland where housing associations remain classified as private providers, it is nonetheless important to keep this point in mind as the Welsh Government considers regulatory change. Similar to the earlier section on social housing allocations (see page 41), the panel wishes to emphasise that the Welsh Government must ensure a reclassification will not be triggered by any changes to regulation and enforcement.

The panel recognises that, at present, the Regulatory Framework for Housing Associations focuses on leadership, governance, finances and support for existing tenants. As such, using this tool as a means for accountability around prospective tenants and supporting those at risk of homelessness would represent a new dimension for the framework and will require careful consideration with a range of partners and stakeholders to ascertain how this can best be achieved.

171 NRLA, (2021) *Rent Smart Wales fails accountability and transparency tests*. Accessed 24 August 2023, <https://www.nrla.org.uk/news-Rent-Smart-Wales-fails-accountability-tests>

172 Comment in Plenary, (2023). Accessed 24 August 2023, <https://record.senedd.wales/Plenary/13186#C473022>

173 Senedd Public Accounts Committee. (2017). *Inquiry into the Regulatory oversight of Housing Associations*.

174 The Public Services Ombudsman for Wales, (2021) *Homelessness Reviewed: an open door to positive change*.

175 Senedd Local Government and Housing Committee, (2023) *Homelessness*.

176 Welsh Government Response (2023) *Written response by the Welsh Government to the report of the Local Government and Housing Committee – Homelessness*.

It is also acknowledged that judgements against the regulatory standard are utilised by lenders to determine the rate at which housing associations can borrow. This, in turn provides leverage for private finance to boost social housing supply. In considering how the framework could be used to provide accountability around support for homeless households, this matter should form part of the discussion so that a requirement to grow housing stock in order to meet the needs of homeless households does not hamper the very ability to obtain the finances to do so.

Any changes to regulation and enforcement will need to be accompanied by improvement in data so that progress can be monitored by the Welsh Government. This will be addressed in more detail in the next section of this report.

Consideration will be needed as to how best to conduct routine audits of local housing authorities, ensuring that these retain an element of independence.

At the time of writing, the Welsh Government is consulting on the introduction of a new Ending Homelessness Outcomes Framework to help measure progress on ending homelessness. While the panel feels it is important to go ahead and introduce this framework at the earliest opportunity, it will also be important to revise this framework in the future to align with legislative changes.

3. Data

What is the problem?

Across the panel's discussions, research and stakeholder engagement, a lack of detailed data has been a common theme. For example, when considering allocations, the available data lacked the granularity and consistency to fully assess how effectively systems across Wales are allocating to homeless households. Similarly, when considering whether further legislation is needed to address evictions into homelessness, a lack of data hampered the panel's discussions. In looking at the needs of prison leavers, data again lacked clarity. And across the board, we lack data needed to fully understand whether homelessness support is appropriately inclusive of those with protected characteristics.

Should the Welsh Government seek to move forward with the recommendations made by the panel in order to progress towards a Wales where homelessness is rare, brief and unrepeatable, improving the data landscape is an essential part of mapping and monitoring that journey.

Throughout this report, the panel has drawn attention to the importance of improving and extending data collection as a means of quality assurance in support of monitoring, regulation and enforcement. If the Welsh Government is to proceed with these reforms in the absence of a homelessness regulator, this will be ever more important.

Improved data will also be vital in considering how effectively the reforms are implemented and whether further measures may be required. In particular, this will be crucial where the panel has indicated that monitoring is necessary to ascertain whether further legislative change is required in the future. For example, it will be necessary to consider whether the recent introduction of Renting Homes (Wales) Act 2016 has the intended effect of reducing evictions from privately rented homes across the country. Data should also play a part in considering whether the changes proposed by the panel on, for example, local connection and on "deliberate and unreasonable refusal to co-operate" strike a sufficient balance in practice between ensuring that barriers to support are addressed while retaining a manageable and effective system. As identified at the start of the report, the current gaps in Wales' housing stock (particularly the nation's social housing stock) are undeniably an issue at the foundation of the rising levels of homelessness. Again, improved data is at the heart of addressing this issue and ensuring that our local authorities are investing in the types of properties required to match the needs of homeless households.

Other examples where the panel has identified areas that require more detailed and consistent data collation include social housing allocations, more granular data on the housing status of prison leavers, as well as data on hospital discharge and homelessness. The need for improved data is broad and wide-ranging across the sector.

As highlighted elsewhere in this report, the panel is also mindful of reports by the Ombudsman,¹⁷⁷ Auditor General¹⁷⁸ and the EHRC,¹⁷⁹ which indicate a lack of compliance with equalities legislation. To this end, the panel considers that it will also be important to ensure data encapsulates how support is meeting the needs of people with protected characteristics.

The underpinning need for improved and continuous data collation is widely acknowledged across the housing sector in Wales and was identified as a priority area by the Homelessness Action Group in 2020, and again within the most recent report of the Ending Homelessness National Advisory Board.¹⁸⁰

The panel recognises that in recent months, the Welsh Government has been looking to capture more detailed information in its homelessness statistical releases. However, as the Welsh Government looks to move forward on its journey to end homelessness and, in particular, to introduce reforms, it will be ever increasingly important that the Welsh Government works with partners to ensure sufficiently detailed data is regularly collated, published, monitored and informing further developments.

Throughout the past year, the insights of people with lived experience of homelessness in Wales have been invaluable in ascertaining how systems and structures are working in practice and what reforms could be beneficial. The panel recognises that the Welsh Government *Ending Homelessness in Wales: A High Level Action Plan* also emphasises the need to "empower people with lived experience to influence policy and practice."¹⁸¹ We hope that, should the Welsh Government bring forward legislative change, the voices of those with lived experience will continue to inform any review of how well reforms are working in practice.

Is legal change needed?

The panel recognises that improved data will be crucial to monitoring the success of legal reform and ensuring there is sufficient levels

of accommodation and support to meet local need across Wales. The recommendations below on data are not in themselves requiring new or revised legislation but are in support of the panel's proposals for legislative change.

The panel's recommendation

170. That, in line with recommendations by the Homelessness Advisory Group and the recent Ending Homelessness National Advisory Board Annual Report, the Welsh Government works to improve continuous data collation across the housing and homelessness sector. This data should be utilised to assist in monitoring compliance with statutory requirements as well as to identify gaps within the system. In addition to covering a range of topics across the sector (including, but not limited to, social housing allocations; housing supply; statutory homelessness data; evictions from both private and social housing; discharge from hospitals and prisons into homelessness), this data should also include specific consideration of protected characteristics.
171. That, should the Welsh Government progress with legal reform, it should also commit to review the implementation of such reforms in practice. The voices of people with lived experience of homelessness should be central to informing such a review and ensuring that legislative change is effectively implemented.

Enablers and barriers

It will be imperative that the Welsh Government works with key partners across the sector to identify where further data is required and how best to collate this information.

Further consideration may also be needed on how local authorities and relevant providers are supported to provide the required information and how it can most effectively be monitored and inform further developments at a Wales-wide level.

177 Public Services Ombudsman for Wales (2021) *Homelessness Reviewed: An Open Door to Change*, page 4.

178 Auditor General (2018) *How Local Authorities Manage Demand – Homelessness*, page 11 and 15.

179 Equalities and Human Rights Commission (2018), *Housing and Disabled People: Wales' Hidden Crisis*.

180 Ending Homelessness National Advisory Board (2023) *Annual report to Welsh Ministers 2022 to 2023*.

181 Welsh Government (2021), *Ending Homelessness in Wales: A High Level Action Plan*, page 27.

Conclusion

It is abundantly clear that there are multiple gaps between what our current legislation delivers to support people who are homeless or threatened with homelessness and the shared ambition to make homelessness rare, brief and unrecurred.

Over the course of the panel's work, calls for change to help meet this ambition have come loud and clear from people with lived experience of homelessness, professionals, and research across the field.

However, opinions on how best to achieve this change have sometimes varied. The panel has, therefore, sought a balanced position across the panel, but ultimately kept the interests of homeless people and those threatened with homelessness at its core. We have sought to be ambitious and long-term in our view, while being sensitive to current realities. The reforms seek to address the specific barriers faced by particular groups who are at heightened risk of homelessness and to ensure applications for homelessness support are more accessible, transparent and trauma-informed.

Given the complexity of the housing and homelessness landscape in Wales, the reforms outlined are detailed, wide-ranging and bold. They recognise that, in a time where homeless presentations are rising and the numbers in temporary accommodation are expanding, we must seek radical new directions, take homelessness prevention further upstream, and bring other sectors along for the journey.

The proposed recommendations across this report have been designed to complement, reinforce and work alongside each other. It is with this in mind, that the panel presents its recommendations to the Welsh Government as an integrated and finely calibrated package and urges that the reforms are pursued in its collective form to establish a robust and inclusive baseline for homelessness support across the country.

The panel acknowledges that bringing forward the recommended reforms will take time, investment in our housing supply and support services, as well as drive and commitment. Should the Welsh Government choose to commit to these reforms, the results will be pathbreaking, delivering long-lasting positive impacts and shifting the dial on homelessness in Wales. Wales will again lead the rest of the UK, and much of the wider world, in the use of progressive legislative and policy frameworks to end homelessness.

Annex: List of Recommendations

Core homelessness legislation

Eligibility

Eligibility of those with No Recourse To Public Funding (NRPF) and those granted leave to remain

1. That the Welsh Government should seek to include people who have No Recourse to Public Funding (NRPF) within those eligible for homelessness assistance and for welfare benefits, liaising with the UK Government to find a way forward.
2. That the Welsh Government should consider whether asylum seekers who are notified that they have been granted leave to remain (and so have a 28 day period to leave specialist accommodation for asylum seekers)¹⁸² could be deemed to be threatened with homelessness (either because it is accepted that they are likely to be homeless within 6 months or because legislation provides that they are deemed to be threatened with homelessness when they are granted leave). The Welsh Government should also explore a mechanism by which the Home Office is under a duty to refer the former asylum seeker for homelessness assistance when they are granted leave.

(Please see also recommendations 97 and 98 on duties to identify, refer, act and co-operate.)

Support for those with NRPF who are fleeing violence

3. That where social services are supporting a survivor of domestic abuse or a parent with a child or children who has NRPF, guidance issued under the Social Services and Well-being (Wales) Act 2014 duties should provide that part of the support and assistance should be to help to apply for the lifting of the NRPF condition and/or application for the Destitution Domestic Violence Concession.
4. That until such a time as recommendation 1 is implemented, as an interim measure, the Welsh Government should make representations to the UK Home Office that survivors of domestic abuse who are subject to NRPF should, nevertheless, be eligible for homelessness assistance.

5. That the Welsh Government considers how it can enable abuse survivors with NRPF to access refuge accommodation, including the possibility of funding specialist refuge provision.

Legal tests

Priority need

6. That the test of Priority Need (as set out at Section 70 Housing (Wales) Act 2014) is abolished and that the interim accommodation duty (Section 68 Housing (Wales) Act 2014) and the main housing duty (Section 75 Housing (Wales) Act 2014) apply to all applicants who are, or may be, homeless, without any consideration of whether they have a priority need. The Welsh Government should announce a fixed date for the implementation of this abolition in order to enable local housing authorities to prepare.
7. That, while the abolition of priority need is considered and/or implemented, care-experienced people (of any age) should be considered a priority need (utilising Ministerial powers under Section 72(1) Housing (Wales) Act 2014). During this time, the recently introduced interim measure that provides for those who are street homeless to be considered priority need should also remain in place.

Intentionality

8. That the test at Section 77 Housing (Wales) Act 2014 of 'intentional homelessness' is abolished and the main housing duty at Section 75 Housing (Wales) Act 2014 is amended so that all eligible applicants who are homeless (and are not referred under local connection) are owed that duty.

Local connection

9. That Section 80 of the Housing (Wales) Act 2014 is amended so that the following groups of applicants are exempt from the local connection provisions:
 - a. People who are care-experienced and who are not accommodated under social services duties.

¹⁸² In the period between the panel finalising its recommendations and publishing this paper, there has been a change in practice resulting in the possibility of a shorter 7 day notice period. Please note that this had not been brought to light at the time of panel discussions.

(See recommendation 126, which provides that lead responsibility for supporting homeless care leavers should rest with social services.)

- b. Veterans and those who have cohabitated with veterans during their time in service.
 - c. People who are currently at risk of domestic abuse or other abuse or exploitation if referred to another local housing authority, whether or not there was previous abuse. Guidance would need to provide clarity on this to avoid misapplication.
 - d. People who have previously been subject to domestic abuse, other abuse or exploitation, and will experience trauma as a result of that domestic abuse, other abuse or exploitation, if referred to another local housing authority. Guidance would provide definitions of trauma in this context.
10. That exemptions from local connection should include prison leavers who require moving to a new area as part of their rehabilitation or to assist in meeting the restrictions placed on where they are able to live as a result of their offence. Prison leavers should not be referred to an area that would be inconsistent with their rehabilitation or to an area in which they are unable to live because of their offence.
- Please note, as outlined under the Social Housing Allocations section of this report at pages 41-47, these exemptions would also apply when considering a local connection within allocations.*
11. That statutory guidance on application of the local connection test is revised with a view to improving consistency of its application and a more trauma-informed approach. In particular, statutory guidance should:
- a. Clarify that the local connection test must be applied with a person-centred, trauma-informed approach, taking account of the individual's circumstances. This might include flexibility with regards to the evidence required to determine that a person falls within a group that is exempt from the test. For example, Paragraph 8.22 of the Code of Guidance should be amended to provide that "inquiries into cases where abuse, violence or exploitation are alleged should be undertaken sensitively and local housing authorities should be advised that corroborative evidence will not always be available."
 - b. Contain advice in relation to "special circumstances" at Section 81(2)(d) Housing (Wales) Act 2014 so that long-established attendance at a local school or a requirement to attend a school for specialist support should be considered a special circumstance so as to establish a local connection.
 - c. Contain advice that in some cases non-familial connections may be particularly important for an individual. Support networks, where the support is provided by friends or community support, could constitute "special circumstances" for the purposes of local connection (Section 81(2)(d) Housing (Wales) Act 2014), particularly where the person is estranged from their family.
 - d. Outline how the "special circumstances" criteria may be applicable to certain groups that are at greater risk of harm from the local connection test, encouraging local housing authorities to adopt a more flexible approach where they identify this risk of harm. The Welsh Government should look to consult with key stakeholders on the development of this guidance. Such groups might include:
 - i. Young people aged 25 and under
 - ii. Members of the LGBTQ+ community
 - iii. Disabled applicants who require access to particular support
 - iv. Gypsy, Roma and Traveller communities
 - v. People seeking recovery from substance misuse

- vi. Refugees and other former asylum seekers who have been granted leave to remain in the country.
12. That the Welsh Government and local housing authorities seek to make available services that support people:
- a. who may fall into an exempt group or be regarded as in special circumstances to navigate the local connection decision making process
 - b. to access alternative housing solutions if they are referred under local connection but do not want to move
 - c. to relocate to their local authority of origin where this is within their best interests and the applicant has consented.
13. That the Welsh Government considers how application of the local connection test could be monitored so as to prevent misapplication of the test, taking swift action where there is misapplication.
- Prevention duty**
14. That Section 55 (4) Housing (Wales) Act 2014 is amended so that a person is threatened with homelessness (and therefore the prevention duty will apply) if it is likely that the person will become homeless within **six months**.
15. That the Code of Guidance is amended to provide that in order to end the prevention duty, the local housing authority should be satisfied that accommodation is likely to be secure for at least 12 months (as opposed to the current six months).
- Please note: This timeframe is in-keeping with recommendation 14 on extending the prevention duty to those who are threatened with homelessness within six months. This recommendation is also in-keeping with the approach taken in recommendation 52 in considering the stability of "additional option" housing.*
16. That the Welsh Government strengthens the duty on the local housing authority to take "reasonable steps" to help the applicant by amending the wording of Section 65(a) Housing (Wales) Act 2014 to say; "to take such steps that are likely to prevent the applicant from becoming homeless or are likely to secure accommodation for the applicant's occupation having regard (among other things) to the need to make the best use of the authority's resource."
17. That the statutory guidance published by the Welsh Government is amended so as to give more details to local housing authorities of the application of the public sector equality duty at Section 149 Equality Act 2010 when considering what steps they should take to help the applicant to secure accommodation.
- Relief duty**
18. That, in light of other recommendations on abolishing priority need and intentionality, the relief duty should be abolished.
- (The relief duty will be redundant because a person threatened with homelessness will be owed the prevention duty under Section 66 Housing (Wales) Act 2014 and a person who is homeless will be owed the main housing duty under Section 75 Housing (Wales) Act 2014.)*
- Please note: Recommendation 52 seeks to provide increased flexibility for accommodation options at the main housing duty in light of the loss of the relief duty.)*
19. That, following the panel's recommendation to abolish the relief duty, the current position, whereby local connection referrals can only be made in respect of applicants who would otherwise be owed the main housing duty at Section 75 Housing (Wales) Act 2014, should be retained. However, legislation should provide for an exception to this rule for prisoners. It is considered that prisoners would benefit from a referral under local connection being made at the prevention rather than just the main housing duty stage, so that the prevention duty and main housing duty are carried out by the same local housing authority, rather than one local housing authority carrying out the prevention duty and subsequently referring the main housing duty to another local housing authority.

Evictions

Evictions from social housing

20. That the Welsh Government clearly communicates its position that there should be no evictions into homelessness from social housing. This communication should highlight that the Welsh Government position differs from the position outlined within the UK Government's Anti-Social Behaviour Action Plan.
21. That the Welsh Government seeks to celebrate the good practice of community landlords who are moving towards a position of 'no evictions into homelessness', encouraging the continuation and development of this good practice across Wales.
22. That data on evictions into homelessness from social housing by landlord is routinely collected, published and kept under review, with the Welsh Government ensuring this trend towards no evictions into homelessness continues.
23. That the Welsh Government should issue guidance to assist community landlords in achieving no evictions into homelessness from social housing, including advice on how to avoid evictions as a result of rent arrears or anti-social behaviour.

Evictions from the private rented sector

24. That the Welsh Government keeps a watching brief on no-fault evictions from the private rented sector, considering the following points as it keeps under review whether further legislative measures are required in this area:
 - a. trends in the numbers of no-fault evictions as the implementation of the Renting Homes (Wales) Act 2016 is established; *and*
 - b. how implementation of new legislation around no-fault evictions in Scotland and England develops.
25. That the Welsh Government places a duty on private landlords to give notice to the local housing authority when they intend to bring forward a possession claim under any section of the Renting Homes (Wales) Act 2016. The

Renting Homes (Wales) Act 2016 should be amended to provide that where there is a failure to comply with this duty, possession claims will be dismissed, as is the case with other conditions that need to be met to bring forward a possession.

26. That statutory guidance advises local housing authorities that are in receipt of such a notice constitutes an application for homelessness assistance within Section 62(1) of the Housing (Wales) Act 2014 and that the local housing authority will be under a duty to make an assessment of the person's case, including considering which duty is owed to the applicant and drawing up an assessment of housing need and Personal Housing Plan, where appropriate.
27. That guidance advises that local housing authorities should treat contract-holders whose landlord has given notice to the local housing authority of an intention to bring possession proceedings as threatened with homelessness unless the individual considers themselves not at risk with alternative arrangements in place.

Suitability of settled and temporary accommodation

Suitability standards to be brought in over time

28. That the Welsh Government is placed under a duty to review suitability standards every three years in order to assess whether developments in the supply of accommodation enable the Government to bring forward a higher level of minimum standards. These reviews should include consideration of:
 - a. Whether to prescribe that overcrowded temporary accommodation is never suitable;
 - b. Whether to prescribe that living space should always be separate to bedrooms;
 - c. Whether to prescribe more generous space standards for sleeping rooms;
 - d. Whether to prescribe minimum standards pertaining to access to private (as opposed

to shared) access to facilities such as cooking and toilets;

- e. Whether to prescribe stricter regulation of the affordability of rents and service charges in temporary accommodation.

Minimum standards of suitability for immediate implementation

29. That the Homelessness (Suitability of Accommodation) (Wales) Order 2015, SI 2015/1268, ("the Suitability Order 2015") be amended to provide that:
 - a. In no circumstances will shared sleeping accommodation between non-family members be considered suitable (family refers to the definition at Section 56 Housing (Wales) Act 2014 and encompasses both those who normally reside with the applicant as a member of their family and any other person who might reasonably be expected to reside with the applicant).
 - b. Where facilities such as cooking or laundry are not provided within the accommodation, there should be a mechanism whereby the additional costs to the household are refunded by the local housing authority.
 - c. Accommodation assessed as containing Category One hazards is never suitable.
 - d. Accommodation that is unfit for human habitation is never suitable.
 - e. There is access to fully functional toilet, personal washing and cooking facilities (whether private or shared facilities).
 - f. The accommodation contains facilities for wi-fi services, which are either free for the applicant and their household to use, or the local housing authority is satisfied are affordable for the applicant.
 - g. Accommodation should allow residents access at all times of the day and night.
30. That when a local housing authority is considering whether accommodation is affordable for the applicant and their

household (under Section 59(2) Housing (Wales) Act 2014), the cost of public or private transport in order for the applicant to be able to access education, employment, medical facilities and other services set out at Reg 3 of the Suitability Order 2015 should be taken into account. One means by which the local housing authority could be satisfied that the cost is affordable would be that the local housing authority reimburses those costs to the applicant. We anticipate that this scenario would apply more usually to offers of interim than main housing duty accommodation. Guidance should be provided to outline the parameters of what would be covered by this clause.

31. That the exception at Article 7(2) of the Suitability Order 2015 and at 19.81 of the Code of Guidance (which provides that accommodation that does not meet the higher standard will nevertheless be suitable for up to 6 weeks if the accommodation is owned or managed by a local housing authority or registered social landlord) is abolished. The same standards should apply across privately owned and local housing authority/registered social landlord-owned or managed non-self-contained accommodation.
32. That accommodation which is statutorily overcrowded is only suitable for interim accommodation and even then for defined maximum periods of time (which we consider should be as short as possible and in any event no more than 6 weeks). Statutory guidance should outline the timeframes and exceptional circumstances where this would apply.
33. That the Welsh Government considers whether an individual's connection to the Welsh language should be linked to suitability of accommodation, taking advice as needed from the Commission for Welsh-speaking Communities.
34. That guidance outlines best practice standards around access to laundry facilities.

Person-centred approaches

35. That statutory guidance accompanying the Suitability Order 2015 provides for flexibility in order to facilitate applicant choice. Where the applicant opts to make compromises to facilitate their choice, the applicant must be made aware of the shortfall in standards and their wishes and express consent must be sought.

Please note: The panel anticipates that as Temporary Accommodation standards are improved over time and issues with supply of social housing are alleviated, the above clause should be utilised less frequently.

Recommendations at pages 56-57 under Personal Housing Plans require that an applicant's wishes and views as to what constitutes suitable accommodation are recorded in this (proposed to be statutory) plan and taken into account when offering accommodation and within any relevant review.

Location of accommodation

36. That Reg 3(b) Suitability Order 2015 is amended to allow for the proximity and accessibility not only of "family support," but "support" more generally, including non-family networks.
37. That the word "essential" is replaced with "necessary" at Reg 3(d) of the Suitability Order 2015 to allow for a more general and wider consideration of an applicant's wellbeing: "proximity and accessibility of medical facilities and other support services which are currently used by or provided to the applicant or a member of household and which are essential to that person's well-being."
38. That the reference to domestic abuse in Reg 3 (g) Suitability Order 2015 is amended to read "domestic or other abuse." This is to take into account the proximity of alleged perpetrators and victims of domestic abuse as well as other forms of abuse, including but not limited to racist, homophobic, transphobic abuse.
39. That Reg 3 of the Suitability Order 2015 (and accompanying guidance) is amended to provide that accommodation will not be

suitable unless it is located within reasonable travelling distance of existing educational facilities, employment, caring responsibilities, medical facilities and other support services including informal support networks, the exception being if the applicant wishes to move beyond a reasonable travelling distance from those facilities. That these amendments should provide for an exception where interim accommodation is to be secured under Section 68 Housing (Wales) Act 2014 and no suitable accommodation is available. That exemption should be time limited for a maximum period.

40. That, in relation to the above, where the applicant is being offered longer term or settled accommodation to bring the prevention or main housing duty to an end, it may be reasonable to expect the applicant to change schools and/or medical facilities, depending on the individual circumstances. It would never be reasonable to expect the applicant or a member of their household to leave existing employment. In those circumstances, the reasonable travelling distance referred to would apply to new educational facilities or medical facilities. In line with the panel's recommendations under local connection, statutory guidance should emphasise that an applicant should not be expected to change schools where there is long established attendance, where it would be detrimental to the child's wellbeing to move schools, or where there is a need for a child to attend a particular school in order to access specific support.

Homeless at home

41. That statutory guidance emphasises that a person may have somewhere to stay in the short to medium term but still be considered homeless or threatened with homelessness (sometimes referred to as "homeless at home"). The threshold at Section 62(1) Housing (Wales) Act 2014 is low: "it appears to the authority that the person may be homeless or threatened with homelessness." [emphasis added] If a person indicates that they may be homeless, or threatened with homelessness, and can continue to occupy the accommodation in the short or medium term, an application for

homelessness assistance should be accepted. The local housing authority should assess the applicant's housing needs and draw up a Personal Housing Plan with the applicant. It is particularly important that these obligations remain in place in the circumstances where a local housing authority might regard a person as being "homeless at home." The statutory duties continue to apply.

42. That statutory guidance emphasises that the test for whether accommodation is "reasonable to continue to occupy" refers to the long-term. A person may be homeless because it is not reasonable to occupy their accommodation in the long term and still be able to occupy that accommodation in the short term. In those circumstances, the main housing duty at Section 75 Housing (Wales) Act 2014 will apply and the local housing authority will end that duty by making the applicant an offer of suitable Part 6, private rented or other accommodation. Whilst the applicant is awaiting that offer, if they prefer to remain in the accommodation, they will be homeless at home.
43. The written notification of the outcome of the assessment of housing need will inform the applicant of their right to request a review (Section 63(4) Housing (Wales) Act 2014). If the local housing authority decides that the applicant can continue to occupy the accommodation (which, in the long term, is not reasonable to continue to occupy) for the purposes of the interim accommodation or the main housing duty (Sections 68 or 75 Housing (Wales) Act 2014), the local housing authority will notify the applicant of its decision that accommodation is suitable and inform them of the reasons for that decision, of the possible consequences of acceptance or refusal of that accommodation and of their right to request of the decision on suitability (including at any time during the occupation of the accommodation). This will permit the applicant to raise any issue as to why the accommodation would not be suitable for their occupation even in the short or medium term.
44. That restrictions are introduced around the practice of giving applicants who are "homeless at home" a lower priority than

other applicants on a local housing authority's allocation scheme, either by amending Part 6 Housing Act 1996 or through guidance. This is to ensure that applicants are not disincentivised from becoming "homeless at home," a practice that alleviates pressure on temporary accommodation. Statutory guidance on the allocation of accommodation by local housing authorities should advise that local housing authorities should not give applicants who are "homeless at home" a lower preference or priority within their allocation schemes than other applicants who are owed duties under Housing (Wales) Act 2014.

Policies for temporary and/or supported accommodation

45. That the Welsh Government issues guidance to local housing authorities on 'house rules' and other arrangements in temporary and supported accommodation, particularly in congregate forms of such accommodation. Such guidance should address issues which are known to present access barriers or to be potentially detrimental to the well-being of residents. It should acknowledge that people in temporary accommodation should be enabled to work, and that house rules should not penalise tenants, for example, for being unable to present during their working hours. This guidance should also cover and address a variety of other areas which known to present difficult barriers, including: no pet policies; curfews; use of CCTV, service charges; rent arrears policies; exclusion policies; policies around previous convictions, etc. Such guidance should be conceived in the context of a broader strategic approach to the future of temporary and supported accommodation in Wales.

Review rights: suitability of accommodation

46. That, whenever a local housing authority secures accommodation for an applicant under the interim duty, the main housing duty or the duty to an applicant whose case is considered for local connection referral (Sections 68, 75 and 82 Housing (Wales) Act 2014), it should notify the applicant in writing:

- a. Of its decision that the accommodation is suitable;
 - b. Of the reasons for that decision;
 - c. Of the possible consequences of acceptance and refusal;
 - d. Of the applicant's right to request a review of the suitability of accommodation (whether or not they accept or refuse it); *and*
 - e. That a request for a review can be made at any time when the applicant is in occupation of the accommodation.
47. That, where accommodation is secured under any of the duties at Section 68, 75 or 82 Housing (Wales) Act 2014, the applicant should have the right to request a review of the suitability of accommodation at any time during their occupation of the accommodation (and should not be confined to requesting a review within 21 days of the offer of accommodation). Once the applicant has requested a review of the suitability of accommodation, and has been notified of the review decision, if the applicant later seeks another review of the suitability of accommodation, they would have to show a change of circumstances since the previous review decision.
48. That any request for a review of the suitability of accommodation being occupied under the duties at Sections 68, 75 or 82 Housing (Wales) Act 2014 should be concluded and notified to the applicant within a maximum period of three weeks of the request or such longer period as the reviewer and the applicant agree in writing.
49. That local authorities are required to communicate at regular intervals with applicants on:
- a. Progress of their application for longer-term accommodation and expected time scales (see recommendations under Personal Housing Plans section).
 - b. Their rights to request reviews of the suitability of the accommodation and of any other relevant decisions;

- c. Support that may be available to the applicant.

Suitability of accommodation for Gypsy, Roma, Traveller Communities

50. That the Welsh Government provides clarity on its preferred approach to utilising powers under the Police, Crime, Sentencing and Courts Act 2022 to require those from travelling communities (Gypsy, Roma or Travellers) to leave land. If these powers are being utilised, the Welsh Government should act to ensure those who are asked to leave land under this Act are promptly offered interim and culturally appropriate accommodation. This will include working to ensure that appropriate sites are available and Gypsy and Traveller Accommodation Assessments (GTTAs) are being effectively implemented.

51. That statutory guidance provides that the local housing authority is obliged to ask an applicant from the Gypsy, Roma and Travelling Community whether or not they are culturally averse to bricks and mortar and to ensure suitability of accommodation is culturally appropriate for that applicant.

Maximal housing options and ending the final homelessness duty

52. That the main housing duty at Section 75 Housing (Wales) Act 2014 can come to an end through an increased range of housing options. Currently, it can only end where the applicant is offered and accepts or refuses suitable Part 6 accommodation (social housing) or suitable private rented sector accommodation (or refuses suitable Section 75 accommodation): Section 76(2) and (3) Housing (Wales) Act 2014. This recommendation would allow a local housing authority to bring the main housing duty to an end in other circumstances but **only** where the local housing authority is satisfied that the following conditions are met:

- a. the accommodation is suitable for the applicant and all members of their household to occupy; *and*

- b. The accommodation is likely to be available for occupation by the applicant and all members of their household for at least 12 months.
53. That options that might fall under this additional means of ending the main housing duty include:
- a. Providing advice and assistance that helps an applicant who was homeless because they had accommodation that was not reasonable to continue to occupy return to occupy that accommodation. Examples of such advice and assistance include helping an applicant to obtain an injunction to enable them to reoccupy their home following an illegal eviction, helping an applicant to obtain an occupation order or other legal remedy to exclude a perpetrator of abuse or violence, installing physical safety features, helping the applicant to obtain advice to have the ownership or tenancy transferred to their sole name;
 - b. assisting the applicant into supported lodgings or other supported accommodation;
 - c. assisting the applicant to return to a home from which they were excluded by parents or family, for example providing mediation services.
54. That any offer of accommodation that falls within this "additional option" must contain the following safeguards:
- a. A written agreement such as an occupation contract (if appropriate) and/or statement of rights and responsibility.
 - b. The applicant must have been notified in writing of the consequence of acceptance of the offer (that the duty will come to an end);
 - c. An offer of such accommodation must be accepted in writing by the applicant if this option is to be utilised to end the housing duty. A refusal of such accommodation cannot lead to the main housing duty coming to an end, i.e. **the applicant has a veto.**
- d. Offer of independent housing advice for the applicant prior to accepting an "additional option" accommodation.
 - e. Written information to the applicant on their right to request a review of the suitability of the accommodation;
 - f. Informing the applicant that they may make a new application for homelessness assistance the local housing authority if the agreement breaks down (and how to do so).
 - g. In addition to the accommodation meeting all of the usual standards for 'suitability,' the following must be confirmed:
 - i. 24-hour access to that accommodation
 - ii. adequate toilet and washing facilities
 - iii. access to kitchen facilities
 - iv. a private bedroom
 - v. availability of living space where the applicant is living with children
 - vi. affordable.
 - h. the local housing authority be under a duty to make contact with the applicant six months after acceptance of the offer in order to ascertain whether the accommodation continues to be suitable and/or whether the applicant is threatened with homelessness or homeless.
- Please note: If a duty to offer support to retain accommodation is owed, (see recommendation 78), this duty will continue to apply for people accepting "additional option" accommodation.*
55. That, if it appears to the local housing authority that the accommodation is no longer available to the applicant (or to all members of their household) or is no longer suitable, the local housing authority should assist the applicant to make a new application for homelessness assistance under Section 62(1) Housing (Wales) Act 2014). Statutory guidance should contain advice that local

housing authorities should be aware of the possibility that an applicant might become homeless or threatened with homelessness from such “additional option” accommodation and should accept a new application for homelessness assistance and comply with statutory duties expeditiously.

56. That statutory guidance advises that local housing authorities must monitor their use of “additional options” accommodation, maintaining records on the numbers of offers made and accepted, the type of accommodation, the characteristics of the applicant and why it was appropriate to end the duty with this option. The Welsh Government should maintain oversight of these records.

Social housing allocations

Local authority nominations to housing associations

57. That the Welsh Government seeks to introduce legislation of a similar nature to Section 5 Housing (Scotland) Act 2001, which would enable a local housing authority to request a registered social landlord to provide accommodation to a person to whom the local housing authority owes a main housing duty under Section 75(1) Housing (Wales) Act 2014. The registered social landlord must comply within a reasonable time period unless it has a good reason for not doing so, in which case a written response setting out the reason relied on should be provided to and received by the local housing authority. It will be crucial that careful consideration is given to the supplementary guidance which outlines the nature of “good reasons” and “reasonable time period” ensuring that this is applicable to the Welsh context.

In deciding whether to make such a request, the local authority must have regard to the availability of appropriate accommodation in its area.

Local housing authorities should also take account of the suitability of the accommodation for the individual as set out in the assessment of housing need and/or Personal Housing Plan.

58. That, in establishing such a legislative change, and bearing in mind any cumulative effect of other recommended changes, the Welsh Government proactively ensures that an ONS reclassification of housing associations is not triggered.
59. That the Welsh Government encourages local housing authorities to utilise contracts and allocation schemes to clarify whether RSLs, with which they have nomination arrangements, can refuse a nomination and, if so, on what basis. The panel recommends that it would be good practice for local housing authorities to revisit existing contracts and allocation policies to ensure that these cover nominations and clarify the grounds under which nominations would not be accepted. This point should be emphasised within Chapter 3 of the *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness*.

Allocation schemes

60. That the Welsh Government introduces new legislation to secure the use of Common Housing Registers across all local housing authority areas.

(See also recommendation 64 on Common Allocation Policies.)

61. That Part 6 of the Housing Act 1996 is amended so as to provide local housing authorities with a power to specify that certain groups of people, who are not in housing need, will not qualify for their allocation scheme. Statutory guidance should provide a definition for housing need. This power would be permissive only; local housing authorities will retain a discretion to admit all applicants onto their allocation scheme regardless of whether they have a housing need.
62. That the Code of Guidance provides clarification on the current test for unacceptable behaviour, which permits a local housing authority to exclude applicants from their allocation scheme, or to remove any reasonable preference from them, only applies where:
- an applicant (or a member of their household) has been guilty of

- unacceptable behaviour, serious enough to breach Section 55 Renting Homes (Wales) Act 2016 so as to result in an outright possession order; and
 - at the time of consideration of the application, the applicant remains unsuitable to be a tenant by reason of that behaviour (Sections 160A(7) and (8) and 167(2B) and (2C) Housing Act 1996.
63. That the Code of Guidance should emphasise the seriousness of behaviour required in order to lead to an outright possession order. It should also emphasise that local housing authorities need additionally to consider whether the applicant’s current circumstances, at the time when the application is considered, mean that they are no longer unsuitable to be a tenant. As part of this, local housing authorities should take into account support that is being provided to the applicant which will mitigate risks. Specifically, the Code of Guidance should advise that a history of rent arrears and/or of anti-social behaviour does not lead to the conclusion that an applicant will always be unsuitable to be a tenant because of that history.
64. That the Welsh Government considers the introduction of Common Allocation Policies across Wales. The Welsh Government could set out guidance to both local housing authorities and Registered Social Landlords around social housing allocation policies, seeking to achieve a more consistent approach and to reduce the impact of policies known to create barriers such as historic rent arrears, guarantors (where circumstances are such that an applicant can demonstrate it would be difficult to obtain a guarantor), advance rent policies, age restrictions, no pet policies and restrictions on ex-offenders. Such guidance should be produced in collaboration with the sector and informed by existing best practice.
65. That guidance outlines that, where local connection is a criterion for determining priorities within the allocation scheme:
- “Local connection” should specifically refer to the whole of the local connection criteria at Section 81 Housing (Wales) Act 2014 (including any groups specified as exempt from the local connection referrals (see recommendation 9 on local connection under the Section on the legal tests); and
 - Where “residence” is used as a means of obtaining a local connection, the period of residence required in order to amount to a local connection should be specified in the allocation scheme.
66. That applicants are provided with a clear mechanism that is not dependent on Legal Aid funding to challenge an allocations decision by a local authority or RSL.

Addressing perverse incentives

67. That Section 167 Housing Act 1996 is amended so that where a local housing authority is satisfied that an applicant has deliberately manipulated the homelessness system for the purposes of gaining priority access to social housing, the local housing authority has a power to remove any reasonable preference as a result of the applicant being owed homelessness duties under Housing (Wales) Act 2014 (Section 167(2)(b) Housing Act 1996) for a specified time period. The applicant would remain on the allocation scheme, but receive a lower preference than other homeless applicants who are owed a reasonable preference under Section 167 (2)(b) Housing Act 1996. The applicant would continue to be owed duties under Housing (Wales) Act 2014, (homelessness duties), and would retain any other reasonable preference to which they are entitled. The accompanying guidance outlining the details of the power to apply a “deliberate manipulation” test would need careful consideration. The applicant would be entitled to be notified in writing of a decision to remove their reasonable preference on the basis of this test, with reasons for the decision. They would have the right to request a review of the decision and the time period for which it is applied.

Enhancing reasonable preference

68. That the Welsh Government should use its power at Section 167(3) Housing Act 1996 to amend Section 167(2) Housing Act 1996 so as to specify that people who are owed any duty under Sections 66 and/or 75 Housing

(Wales) Act 2014 are provided with additional preference over the other groups outlined at Section 167(2) during specific periods of time. Guidance should outline measures for introducing and closing such periods.

69. That statutory guidance provides that allocation schemes should not give lower priorities to prison leavers or accused perpetrators of abuse, unless they are satisfied that the unacceptable behaviour test at Section 160A (7) and (8) Housing Act 1996 is met.

Please see also recommendations 62 and 63 on unacceptable behaviour.

70. That individuals who are care-experienced form a sixth group entitled to reasonable preference within the allocation scheme under Section 167(2) Housing Act 1996.

Miscellaneous

71. That the Welsh Government continues to explore the fundamental questions raised by the recently commissioned allocations research, looking at the long-term role social housing can play in the wider national approach to ending homelessness in Wales. This research should shine a light on existing good practice and consider how allocations generally might work more effectively.
72. That the Welsh Government considers the scope for digitalisation within social housing and how such developments might be supported, whilst also ensuring that applicants with no or limited access to the internet, as well as those who might not be computer literate, are not disadvantaged.
73. That the Welsh Government gives urgent consideration to the extent to which some applicants for social housing have an income too low for social housing rents, including with the assistance of welfare benefits. The Welsh Government should consider how to provide further support in this regard and make relevant representations to the UK Government.
74. That statutory guidance provides that, where there are valid reasons for not being able to place a prison leaver on an allocation list in a particular area (such as restrictions given the

offence or proximity to a victim of domestic abuse), local authorities should refer the prisoner to an appropriate area. This should include robust conditions and a recognised arbitration process.

75. That guidance provides that local housing authorities may utilise the power at Section 167(2E) Housing Act 1996, whereby particular housing accommodation can be reserved to people of a particular description, to prioritise suitable accommodation for prison leavers who have restrictions around the accommodation they are allowed to occupy.
76. That all local housing authorities in Wales are legally required to hold an accessible housing register. The Welsh Government should provide guidance to support such a requirement.
77. That the Welsh Government makes clear its approach to anti-social behaviour and allocations, setting out that it differs from the approach within the UK Government Anti-Social Behaviour Action Plan.

Retention of accommodation

78. That the Welsh Government inserts a new duty within Housing (Wales) Act 2014 for a local housing authority to support an applicant to retain accommodation where: the applicant is occupying accommodation secured under a function at Housing (Wales) Act 2014, the applicant has been helped to secure accommodation (which might be their existing accommodation), or where accommodation has been offered to and accepted by the applicant. This duty should be as follows: "Where an applicant has been assessed as needing support in order to retain accommodation, the local housing authority is under a duty, so far as is reasonably necessary, having regard to the applicant's needs and the local housing authority's resources:
- To provide such support as falls within its functions to assist the applicant in retaining the accommodation; *and*
 - To request that support is provided from other public authorities to assist the applicant in retaining the accommodation."

Please note: As outlined on pages 62-64, the panel is recommending (see recommendation 97) that other departments within the local authority and other public authorities should be subject to a duty to co-operate if the local housing authority requests co-operation in order to provide the support.

79. That the duty (outlined above in recommendation 78) on a local housing authority to provide support to an applicant (and/or members of their household) so that the applicant can retain accommodation will continue until such time as the local housing authority assesses that the applicant (or the member of their household) no longer requires that support. In reaching this assessment, the local housing authority should pay due regard to the view of the landlord (where this is not the local authority itself.) The duty therefore continues even after any other homelessness duties owed under Housing (Wales) Act 2014, have come to an end.

The local housing authority will be required to review, at regular intervals, whether the applicant (or the relevant member of the applicant's household) continues to need support in order to retain accommodation. The Welsh Government should seek further consultation to determine these intervals.

However, as per recommendation 87, this duty could end if the person met with the conditions of "deliberately and unreasonably refusing to co-operate."

80. That statutory guidance should include examples of what support might be provided under this duty. For example, support might include assisting in accessing mental health services, providing mediation, assistance in understanding finances, assistance in applying for and retaining welfare benefits, assistance in furnishing accommodation, making accommodation habitable, support to address underlying causes of behaviours deemed anti-social and upkeep of the accommodation. Guidance should also provide examples of when the duty might be considered as coming to an end within various circumstances.

Housing supply

81. That Section 87 Local Government Act 2003 is amended to specifically require local housing authorities to take into account their homelessness review and strategy (Sections 51 and 52 Housing (Wales) Act 2014) and the levels, and likely future levels, of homelessness in their area, when drawing up their housing strategy and Local Housing Market Assessment (LHMA).
82. That the Welsh Government works to address the underlying and key issues within housing supply. The panel notes that statutory guidance already requires various strategies such as the LHMA to consider homelessness and connect with other strategies such as Rapid Rehousing Transition Plans and Gypsy Traveller Accommodation Assessments, but given the depth of the issue with Wales' accommodation supply, work is needed to ensure that these connections are working effectively and that planning and development is appropriately informed by detailed data on housing supply gaps.

Application process

Communication with applicants

83. That statutory guidance outlines the importance of transparency around how often, and at what relevant points, the local housing authority should proactively contact the applicant and communicate the status of application. These intervals may vary between individuals and should be agreed with individuals early on in their application.

Please note that this recommendation is also reinforced by recommendations under "Personal Housing Plans" which propose that the frequency of communication between the housing support team and the applicant is discussed and agreed with the applicant and recorded in their plan.

84. That statutory guidance provides that the application process is accessible. Applicants should be offered information in plain language and in a variety of formats (for example, for people where English or Welsh is not their first language or neurodivergent people).

85. That the Welsh Government provides template, plain language letters to assist local housing authorities. These could be co-produced with experts by experience.
86. That local authorities are required to provide regular training to housing services staff on:
- Trauma-informed approaches
 - Equality and accessibility

The Welsh Government should consider how it can support the co-production of such training with people who have lived experience.

Failure to co-operate

87. That the current provision by which any duty owed to an applicant can end where the local housing authority is satisfied that the applicant is unreasonably failing to co-operate with the local housing authority in the exercise of its functions (Section 79(5) Housing (Wales) Act 2014) is replaced with a narrower “deliberate and unreasonable refusal to co-operate” clause, so that any duty owed to an applicant can only be brought to an end on a small number of clearly defined and limited grounds. By suggesting the replacement of the word “failure” with “refusal,” the panel wishes to emphasise that the clause should only be used where an applicant’s disengagement is intentional. The examples discussed by the panel included where the local housing authority is satisfied that the applicant has engaged in:
- Threatening behaviour towards local housing authority staff
 - Consistent non-contact with housing options services, relevant local authority or landlord staff, or relevant commissioned housing support provision.
88. That legislation provides that, whenever a local authority is minded to invoke the “deliberate and unreasonable refusal to co-operate” clause, the applicant must be first be given a ‘minded to’ notification in writing. This notification should:
- Outline the reasons why the local housing authority considers that the applicant has deliberately and unreasonably refused to co-operate;

- set out the consequences for the applicant of any decision that the duty owed to them has come to an end;
- provide an opportunity within a specified time period for the applicant to respond.

89. That legislation provides that an applicant should not be notified of the decision that they have ‘deliberately and unreasonably refused to co-operate’ until the applicant has responded to a ‘minded to’ notification, or the specified time period for response has expired. Any notification of a decision that the applicant has deliberately and unreasonably refused to co-operate and that the local housing authority’s duty to them has ended should:
- Contain the reasons for the local housing authority’s decision;
 - Explain the effect of the decision; and
 - Inform the applicant that they have a right to request a review of the decision and of the time in which the applicant should request the review.

Personal Housing Plans

90. That the Welsh Government requires local housing authorities to draw up Personal Housing Plans based on the principles of person-centred planning for all applicants to whom the prevention or the main housing duties are owed under Housing (Wales) Act 2014, with the following legislative changes:
- The introduction of a new statutory duty to draw up and agree with the applicant a Personal Housing Plan containing the steps that the local housing authority will take to help prevent the applicant from becoming homeless and/or to secure accommodation for the applicant;
 - The duty will apply when a local housing authority accepts either a prevention duty under s.66 or a main housing duty under s.75(1) Housing (Wales) Act 2014;
 - A statutory duty requiring the local housing authority to ascertain and record the applicant’s wishes on what would constitute an offer of suitable accommodation in both the assessment

- of need and the Personal Housing Plan and to seek to respect and meet those wishes, where possible. For example, this might *include* any types of accommodation where the applicant would not feel safe, an applicant’s wishes to be accommodated with their pet or in an environment that is supportive of recovery from substance use;
 - A statutory duty that the contents of the assessment of need and Personal Housing Plan must be taken into account when considering the suitability of accommodation (amendment to Section 59 Housing (Wales) Act 2014);
 - A statutory duty to review the assessment and Personal Housing Plan with the applicant within a defined timescale (see recommendation 93 below).
- Please Note: For the avoidance of doubt, the duty to draw up a PHP will apply once the local housing authority has notified the applicant that it owes them either the prevention duty or the main housing duty.*

91. That statutory guidance outlines specified topics that should be covered within a Personal Housing Plan. For example, this should include support for the applicant in relation to finances as well as an understanding of how and at what points the local housing authority will communicate with an applicant on the status of their application.
92. That statutory guidance should emphasise that the assessment of need and the Personal Housing Plan must include, under the headings of housing needs and support needed to retain accommodation, consideration of any disabilities of the applicant or any member of their household.
93. That statutory guidance provides an outline for timescales associated with these regular intervals for communication, with specific timeframes being tailored to individual cases and agreed between the local housing authority and the applicant within the Personal Housing Plan.

94. That legislation provides that local housing authorities are required to review the assessment of housing need and Personal Housing Plans at all relevant times. This should include:
- Whenever the applicant requests that there is a reconsideration because their circumstances have changed;
 - Whenever it appears to the local housing authority that the applicant’s housing needs or circumstances have changed;
 - Whenever the duty owed to the applicant has changed; *and*
 - at regular intervals as agreed with the applicant but of no more than X weeks/ months (to be determined by consultation)
95. That the written notification of the assessment of housing need must include the written Personal Housing Plan and must inform the applicant of a right to request a review.
96. That the applicant should have the following rights to request a review (to be achieved by amending Section 85(1) Housing (Wales) Act 2014):
- a right to request a review of the contents of the assessment of housing need;
 - a right to request a review of the contents of the Personal Housing Plan including the steps recorded in the Personal Housing Plan that the local housing authority is to take. (*The right to request a review of the contents of the PHP should not be limited to 21 days from notification of the PHP but remain available to the applicant at all times until the relevant duty has come to an end.*);
 - a right to request a review of the local housing authority’s failure to take the steps recorded in the Personal Housing Plan (wholly, or in part);
 - a right to request a review of any decision by the local housing authority that its duty has come to an end, if the applicant considers that the local housing authority has failed to carry out the steps recorded in the Personal Housing Plan.

Ending homelessness together

Duties on other services to identify, refer, act and co-operate

A new duty on specified public authorities and any other authority carrying out functions of a public nature to identify those who are at risk of homelessness, act, refer and co-operate as is appropriate

97. That there is a new set of statutory duties (potentially consolidating any existing statutory duties) on public authorities and any other authority carrying out functions of a public nature to:
- take appropriate action to **identify** that a person in relation to whom it exercises functions is or may be homeless or threatened with homelessness.
 - act** as is appropriate and where within its power to assist in preventing that person's homelessness.
 - refer** the person (with their consent) to such local housing authority as the person nominates. Such a referral should, in turn, trigger the local housing authority's duty to make an assessment of housing need under Section 62 Housing (Wales) Act 2014.
 - co-operate** with the local housing authority by responding to requests for assistance unless it has a good reason for not doing so.
98. That the Welsh Government specifies the authorities that would be subject to this duty (including obtaining the consent of the UK government for those authorities falling within reserved powers). Such organisations should include:
- Social services departments (both within the same local authority as the relevant homelessness department and from different authorities).
 - All aspects of the NHS, including mental health services.

- Head teachers of schools, pupil referral units, and principals of further education colleges.
- Higher education organisations.
- Departments of the DWP.
- Youth offending teams.
- Probation.
- Prisons and other criminal justice detention centres.
- The police.
- The Home Office at the date that an asylum seeker accommodated under Immigration and Asylum Act 1999 has been granted refugee or other eligible status and so will be threatened with homelessness within six months (and possibly much sooner).
- The Secretary of State for defence in relation to armed forces accommodation.
- Registered Social Landlords.

99. That robust statutory guidance is introduced around the duty to identify people who are homeless or may be threatened with homelessness, which should outline its operation as a targeted enquiry basis. This would include raising awareness among public sector and Registered Social Landlord staff of identifying factors for risks of homelessness, such as falling into rent arrears or other financial difficulty; tenant behaviour or action which may give rise to risk of homelessness; as well as other circumstances, including domestic or other abuse, or court proceedings.

Mechanisms by which private landlords could be encouraged to participate in the duty to identify, act, refer, and co-operate

100. That the conditions for registration of private landlords with Rent Smart Wales include that they are under an obligation to give notice to the local housing authority when they intend to bring forward a possession claim. Renting

Homes (Wales) Act 2016 should be amended to provide that where there is a failure to comply with this duty, possession claims will be dismissed.

(See recommendations on Evictions on page 31.)

101. That the Welsh Government makes a request to the Ministry of Justice that, if a pre-action protocol for possession actions is to be introduced in relation to the private rented sector, the protocol will require landlords to give notice to the local housing authority, when a notice requiring possession is served.
102. That the Welsh Government issues guidance to local housing authorities that any contracts entered into between local authorities and private sector landlords, for the provision of accommodation, should include requirements for private sector landlords to be under a duty to co-operate and provide information to local housing authorities upon request.
103. That the Welsh Government provides guidance to local housing authorities that any funding given to voluntary sector organisations should include requirements for the funded organisation to be under a duty to co-operate and provide information to local housing authorities upon request.
104. That the Welsh Government provides guidance encouraging local housing authorities to include consent for sharing of information within its standard housing and social services forms, assisting with the duty to share information where a person is homeless or at risk of homelessness.

Strengthening and extending the duty to co-operate

105. That Section 95 Housing (Wales) Act 2014 is amended so that, where a local housing authority requests that a public authority or RSL co-operates in the discharge of its homelessness functions, the public authority or RSL shall co-operate unless it has a good reason for not doing so.
106. That statutory guidance provides that any refusal to a request in recommendation 105 (on the basis that it has a good reason not to

co-operate) must be in writing and contain appropriate reasons.

107. That the Welsh Government utilises its power at Section 95(6) Housing (Wales) Act 2014 to extend the list of public sector organisations and other bodies who can be required to comply with a request from the local housing authority for co-operation or information. This should include all organisations under devolved powers listed in recommendation 98.
108. That the Welsh Government liaises with the UK Government and relevant UK Secretary of State with regard to extending the co-operation duty at Section 95 Housing (Wales) Act 2014 to public sector bodies under reserved powers, including the DWP, the secure estate, the Home Office and the Secretary of State for Defence.
109. That the Welsh Government considers how the duty to identify, act, refer and co-operate where a person is homeless or threatened with homelessness should be aligned across existing legislation, ensuring clear responsibility of remit of the various public sector authorities and Registered Social Landlords.
110. That the Welsh Government considers how the implementation of the new duties to identify, act, refer and co-operate could be reviewed and monitored.
- (See further recommendation 163 within the regulation section of the report.)*
111. That guidance provides that local housing authorities should refer applicants they identify as having a need for support to other organisations that can offer relevant assistance, whilst continuing to perform their duties to the applicant under Housing (Wales) Act 2014.
112. That the Welsh Government explores other means by which health, social care and wider public sector bodies and Registered Social Landlords can be required to 'act' within their remit to assist in the prevention of homelessness.

Joint homelessness board

113. That the Welsh Government introduces a statutory duty on the local housing authority to establish and lead a multi-agency approach to homelessness functions through a Joint Homelessness Board. This Board could assist with any dispute resolution in relation to co-operation, case reviews and general sharing of good practice and collaborative working. All public authorities and other organisations listed in recommendation 98 should be invited to attend and should be subject to a duty that they will attend and co-operate with the board unless they have a good reason not to do so. All public and other bodies listed in recommendation 98 should also have the power to **request** to convene a meeting of a Joint Homelessness Board. The local housing authority should have the ability to convene the Joint Homelessness Board and to approve requests for the board to be convened.

General joint working

114. That the Welsh Government calls upon Regional Partnership Boards (RPBs) to specifically consider collaborative working to end homelessness in light of legislative reform and the recommendations within this report. In so doing, RPBs should work closely with existing local housing authority and RSL representatives on the board and reach out to other key homelessness services within the area. They should work with newly established Joint Homelessness Boards, ensuring that agencies are working collaboratively at the highest level and providing overall direction, while the Joint Homelessness Board can establish the detail for such plans and work at an operational level.

115. That the Welsh Government seeks to encourage replication of good practice whereby homeless and housing services have direct access to key professionals such as occupational therapists, or key services are co-located. This might include consideration of how funding streams from a number of public services areas can be used to co-fund multi-disciplinary homelessness services.

Supporting people with multiple and complex needs

116. That Housing (Wales) Act 2014 should be amended to require a case co-ordination approach where an individual has multiple and complex needs, requiring input from two or more public services. The approach should consist of:

- a. Identification of a professional to lead on contact with the individual and co-ordinate service provision
- b. A means for overseeing case co-ordination to identify and address gaps in service provision for such individuals as well as to manage and prevent escalation of risk.

117. That guidance is provided to assist in determining which organisations may take the lead role and to emphasise the need for multi-agency responses to be proportionate to need.

118. That, where needs are more complex, to the extent that the individual cannot be supported in mainstream housing even with additional support, guidance should emphasise that primary responsibility for meeting those support needs should lie with health and/or social care. This would be the case when, for example, a person requires the care of a nursing home or a highly specialised residential home to meet their complex health and support needs.

People with health needs

Discharge planning

119. That the Welsh Government seeks to build on existing guidance to ensure that there are clear statutory duties for discharge assessments and planning to routinely consider a patient's housing needs, so as to avoid discharge into homelessness.

120. That a person who may be homeless if discharged from hospital cannot be discharged unless a referral has been made to the local housing authority and this authority has accepted the duty to assess, an interim accommodation duty or the main housing duty.

Mental health

121. That the Welsh Government considers how its new mental health strategy and guidance around the Mental Health (Wales) Measure 2010 can recognise the connection between homelessness or insecure housing and mental health, emphasising the importance of collaborative working between mental health services and housing options/homelessness services.

122. That the Welsh Government encourages local authorities and health boards to consider how mental health support could be improved for people experiencing or at risk of homelessness. For example, co-funding of multi-disciplinary homelessness and housing support teams with dedicated mental health expertise, co-location of services, or pathways that enable swift access to NHS mental health services for people experiencing or at risk of homelessness.

123. That local housing authorities and support workers are added to the list of agencies able to make a direct referral for an assessment with Local Primary Mental Health Support Services, as is outlined within section 6 of the Mental Health (Wales) Measure 2010.

124. The Welsh Government amends Section 18 of The Mental Health (Wales) Measure 2010 (Functions of the care co-ordinator), and Regulation 5(2) and Schedule 2 of The Mental Health (Care Co-ordination and Care and Treatment Planning) (Wales) Regulations 2011, SI 2011/942, to require that a person's accommodation status and any accommodation-related outcomes must be assessed and recorded in every Care and Treatment Plan. Statutory guidance should also be updated to reflect this requirement.

General

125. That the Welsh Government requires a designated role to lead on homelessness within each health board. This role would assist in leading developments to support homeless patients and to encourage appropriate information sharing between agencies in order to best support homeless patients.

Care-experienced people

126. That legislation specifies that homeless 16- and 17-year-olds, as well as young people leaving care, will be accommodated by social services under existing duties under Social Services and Well-being (Wales) Act 2014. Children's services (and, if accommodation is secured under homelessness functions, local housing authorities) should ensure that no 16- or 17-year-old should be accommodated in unsupported temporary accommodation.

127. That local housing authorities are required to make inquiries into whether an applicant is care-experienced, seeking support as is appropriate from relevant agencies and reflecting this within the assessment of housing need and Personal Housing Plan.

128. That the Welsh Government considers how the "When I am Ready" programme might be adapted to overcome the current disincentives for foster carers in continuing to accommodate young people as they turn 18 years of age.

Violence against women, domestic abuse and sexual violence

Bringing definitions of abuse in line with English Legislation (Housing Act 1996 and Domestic Abuse Act 2021)

129. That the definition of "abuse" at Section 58(1) Housing (Wales) Act 2014 is amended to include controlling or coercive behaviour, economic or psychological abuse.

130. That the definition of "domestic abuse" at Section 58(2)(h) Housing (Wales) Act 2014 is amended so that it can apply where abuse is perpetrated by a person in an intimate personal relationship with the victim, removing the requirement that it should have been of a significant duration.

131. That guidance emphasises that the risks that a survivor faces may evolve. Guidance should provide that local housing authorities are flexible and responsive to the needs of survivors, including where a survivor was assisted to retain accommodation and it subsequently becomes not reasonable for her to continue to occupy.

“Ask and Act”

132. That guidance is provided to RSLs to support them in complying with their additional cooperation duties and legal requirements as per section 1g of the Regulatory Framework for Housing Associations Registered in Wales. This should include the “Ask and Act” duty.
133. To request that consideration is given to private landlords receiving training on “Ask and Act” as part of the Rent Smart Wales registration.
134. That local authority housing officers receive training on “Ask and Act.”

Housing

135. That statutory guidance sets out what assistance an applicant who is homeless as a result of abuse or domestic abuse might need. This guidance should cover how an applicant should be supported to return to their existing accommodation where this is their wish to do so (see recommendations on maximal housing and the duty to offer support to retain accommodation), as well as the need to consider the applicant’s views on where they feel safe (see recommendation in PHP section) as well as the impact of any historical abuse.

(See also other relevant recommendations under earlier sections on local connection and suitability, including the need to take account of an applicant’s support network, which may be broader than family connections. See also recommendations on survivors of abuse who are NRPF under the section on eligibility)

Perpetrators

136. That the Welsh Government seeks to strengthen guidance and awareness of the right, by a joint contract-holder and by a landlord, to terminate an occupation contract where a joint contract-holder is guilty of anti-social behaviour or has ceased to occupy the accommodation (Chapter 14, Part 2, Renting Homes (Wales) Act 2016).

(See also: recommendation 131 and also earlier recommendation 74 under allocations to perpetrators)

Prisoners and prison leavers**Statutory homelessness definitions relating to prisoners**

137. That legislation provides that prisoners are not homeless during the period of their custodial sentences. Where they are likely to be released within six months, and have no accommodation available for their occupation which is reasonable for them to continue to occupy, they will be threatened with homelessness.
138. That legislation provides that, where a prisoner needs accommodation from a local housing authority in order to achieve an early release, parole or bail, the prisoner is deemed to be homeless at the early release date and the Section 75(1) Housing (Wales) Act 2014 main housing duty will apply, so that a prisoner is not prevented from being released by lack of accommodation.

Housing support and planning whilst in prison

139. That the Welsh Government reviews and updates the National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate in conjunction with key partners, considering whether aspects of this guidance may be placed on a statutory footing. This should include ensuring that assessments at reception stage are sufficiently detailed and that there is accessible information, support and independent advice on housing for prisoners.
140. That the relevant probation officer is named as lead co-ordinator in planning for a prisoner’s housing support in a case co-ordination approach including the local housing authority and other relevant services.

Please note: As identified in the section on supporting people with multiple and complex needs, a case co-ordination approach is needed where there are multiple services involved in supporting people into housing, which is often the case regarding prisoners. See recommendation 116 for further information on this approach.

141. That the Welsh Government and local housing authorities work with prison services to ensure that routine early assessments of new prisoners, conducted by the prison service, identify whether a prisoner’s accommodation is at risk during their sentence and whether the prisoner is in need of advice on how to retain accommodation or belongings as a result of this. Prison services should work with the local housing authority and relevant partners to provide the prisoner with swift access to advice as per section 60(4) of the Housing (Wales) Act 2014. This could include supporting a prisoner’s wish to retain their existing accommodation whilst in prison, where it is practical and proportionate to do so (such as arranging for the payment of benefit or allowing a sub tenant to occupy it).

(Further detail and recommendations on PHPs are included in the PHP Section at pages 55-57.)

Improving access to housing on release

142. That Part 11 of the Social Services and Well-being (Wales) Act 2014 is amended to provide that all reasonable steps should be taken to assist a prisoner in making arrangements to retain their belongings while serving their sentence.
143. That local housing options services work with the courts and prison service to ensure housing options advice is easily accessible within a court and prison setting.
144. That legislation provides that the assessment of need is carried out and the Personal Housing Plan is drawn up during the prevention duty (six months prior to release), whilst the applicant is in prison.

147. That accommodation could be offered to the prisoner during the prevention duty, with a view to it being available on release, either under an occupation contract or on a more informal basis (accommodation with family or friends).

148. That the Welsh Government seeks to encourage the practice of avoiding Friday, weekend and public holiday releases from prison, as outlined in the Offenders (Day of Release from Detention) Act 2023.

149. That Rent Smart Wales provides training and awareness among private landlords to improve availability of rental homes to prison leavers.

Young people leaving the secure estate

145. That guidance should include suggestions for how a PHP might need to be adapted to meet needs specific to prisoners. This could include supporting a prisoner’s wish to retain their existing accommodation whilst in prison, where it is practical and proportionate to do so (such as arranging for the payment of benefit or allowing a sub tenant to occupy it.)
146. That the assessment of need and Personal Housing Plan must be reassessed by the local housing authority when the release becomes imminent, or as is relevant where there is a change to an intended release date or changes in circumstances.

150. That legislation and guidance is clear that 16- and 17-year-old prisoners, who are expecting to be released within six months, are the responsibility of social services.

151. That young prisoners who are or were care leavers and who are aged 18 to 21 (or 18 to 24 if in education or training) on release should be the responsibility of social services and have accommodation provided by social services.

152. That guidance accompanying Part 6 of the Social Services and Well-being (Wales) Act 2014 highlights the need for a Care and Support Plan to plan for suitable accommodation well in advance of the expected release date.

Veterans

153. That the Welsh Government updates the National Housing Pathway for Ex-Service Personnel and seeks ways to ensure that it is consistently applied across local authorities. For example, by considering if parts of the pathway could be placed on a statutory footing.

Please note: There is also recommendation 9 in relation to local connection and veterans.

Criminalisation of homelessness

154. That the Welsh Government prevents practice which criminalises homelessness by:
- calling on the UK Government to move forward with commencing the repeal of the Vagrancy Act 1824 and to ensure that rough sleeping and non-aggressive begging are not criminalised by future legislation.
 - continuing to encourage police forces in Wales to implement good practice which does not criminalise rough sleeping.

(See also: wider duties on public services recommendations.)

Individual rights to advice, review and redress

155. That local housing authorities work regionally where necessary to help ensure that there is availability of officers who are independent of a case to undertake a review.
156. That the Welsh Government works with legal advocates and local housing authorities to produce guidance for best practice in resolution of disputes.
157. That the Welsh Government acknowledges the limitations in availability of legal representation to homelessness applicants in Wales and considers how this could be reinforced. The Welsh Government should continue to ensure there are sufficient resources to provide Wales-wide access to independent legal representation.
158. That access to debt and welfare advice is available to all homelessness applicants falling outside the scope of the Housing Loss Prevention Advice Service.
159. That local housing authorities should provide independent housing advice, where a person needs to challenge the legality of a homelessness decision. Local authorities should be appropriately resourced to fund and provide independent housing advice.
160. That the Welsh Government liaises with the UK Government to ensure that Legal Aid is available to applicants in Wales who are threatened with homelessness within the

new timeframe of six months, rather than the current 56 days, under Legal Aid, Sentencing & Punishment of Offenders Act 2012 Schedule 1 Paragraph 34.

Regulation and Enforcement

161. That the Welsh Government continues to support the proposed expansion of the WLGA Improvement Programme to include a specific focus on local authority housing and homelessness services.
162. That the Welsh Government considers how the enforcement role of Rent Smart Wales could be enhanced.
163. That the Welsh Government considers, in light of the panel's proposals for wider public sector duties to assist the prevention of homelessness, which existing regulatory bodies might include homelessness within routine inspection and regulatory activity. For example, Care Inspectorate Wales might help identify issues around care leavers who are falling into homelessness.
164. That the Welsh Government works with stakeholders to consider how the Regulatory Framework for Housing Associations in Wales can reflect Housing Association performance and work with partners to prevent and respond to homelessness. This may include, for example, avoiding evictions into homelessness, reflecting the needs of homeless households within allocation schemes, providing supported accommodation and Housing First, and/or supporting tenants to maintain their tenancies.
165. That, aside from the Regulatory Framework, the Welsh Government works with stakeholders to develop a new Housing Management Standard that takes a trauma-informed approach to anti-social behaviour and sustaining tenancies, whilst also providing a broader overview on homelessness prevention.
166. That a regular auditing cycle of local housing authority functions is established, with audits being conducted either by Welsh Government, Audit Wales or by peer review.

167. That the Ending Homelessness Outcomes Framework is adapted to take account of new legislation resulting from the Welsh Government's upcoming white paper.
168. That the Welsh Government reports annually on the Ending Homelessness Outcomes Framework.
169. That, as the new legislation is implemented, the Welsh Government reflects on how effective this implementation is and whether further measures (including consideration of a housing and homelessness regulator) may be required in the future to secure consistent application of the law.

Data

170. That, in line with recommendations by the Homelessness Advisory Group and the recent Ending Homelessness National Advisory Board Annual Report, the Welsh Government works to improve continuous data collation across the housing and homelessness sector. This data should be utilised to assist in monitoring compliance with statutory requirements as well as to identify gaps within the system. In addition to covering a range of topics across the sector (including, but not limited to, social housing allocations; housing supply; statutory homelessness data; evictions from both private and social housing; discharge from hospitals and prisons into homelessness), this data should also include specific consideration of protected characteristics.
171. That, should the Welsh Government progress with legal reform, it should also commit to review the implementation of such reforms in practice. The voices of people with lived experience of homelessness should be central to informing such a review and ensuring that legislative change is effectively implemented.

