



Welsh Refugee Council

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Welsh Refugee Council response to the National Assembly for Wales' Equality, Local Government & Communities Committee inquiry into Rough Sleeping (January 2018).

1. Welsh Refugee Council.

1.1 For over 25 years, Welsh Refugee Council has worked people who are fleeing persecution, conflict & oppression. We deliver direct specialist support services to people seeking asylum and people with refugee status in Cardiff, Wrexham, Newport & Swansea & work to empower asylum seekers & refugees to build new futures in Wales. Our services include the Welsh Government funded Asylum Rights Programme and Move-On services, as well as a Comic Relief funded specialist paralegal service for vulnerable women. We work extensively with a range of community, voluntary & statutory sector partners & strive to contribute to the creation of a society where respect & equality for all are paramount & where human rights are enjoyed. We are an active member of both the Welsh Refugee Coalition¹ & Nation of Sanctuary² movement in Wales. We welcome the opportunity to submit our views as part of this inquiry & outline our responses to each of the inquiry's 5 points below.

1.2 Working in partnership with agencies like the British Red Cross, Welsh Refugee Council see on average of 20 to 25 people who are destitute & homeless each week. People tend to be refused asylum seekers, newly granted refugees or women with insecure immigration status experiencing domestic violence. With the exception of refugees, people have no right to public housing, no money, no right to benefits & no legal right to work. At Welsh Refugee Council, people are provided with small payments of between £5-£10 per week, items of clothing & occasionally food, as well as being advised where they can access community & faith-based support (e.g. Oasis & Nightshelter). These funds are entirely dependent on donations, with access to the fund often limited to a certain number of weeks. Although the funds are limited, they do provide a link with people who might otherwise lose contact with services.

2. The scale of rough sleeping in Wales and the adequacy of data.

2.1 With regards scale, it is difficult to estimate the number of people rough sleeping amongst the asylum seeking and refugee population in Wales at any given time. Reasons for this include:

2.1.1 A high proportion of people experiencing homelessness do not identify themselves as 'homeless', especially where they are able to access shelter, however temporary or precarious this shelter might be (e.g. via friends or acquaintances from cultural or faith-based networks or via

1 A coalition of organisations working in Wales with asylum seekers & refugees at all stages of their journey, & with the communities in which they live. We work together in the interests of asylum seekers & refugees, to ensure that our limited resources can be used to best effect & to speak with one voice on policies & practices affecting people seeking safety in Wales.

2 <https://cityofsanctuary.org/>

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UK Registered Charity No: 1102449

Company Number: 4818136



charitable hosting schemes such as ShareDydd³, ShareTawe⁴) and might not seek assistance to address their situation until a change in support, often a crisis, occurs.

2.1.2 Many people without the means to support themselves rely on other people seeking asylum to provide a sofa or a floor on which they can sleep. This practice has implications for hosts (i.e. should the Home Office discover this, the host risks jeopardising their own asylum support) and may well influence whether a guest discloses their living arrangements or needs.

2.1.3 Where people rely on others for shelter and basic necessities, pride or pressure from hosts might inhibit the seeking of assistance.

2.1.4 Due to cultural and gender requirements, some people who could access charitable or open access homelessness provision don't use it.

2.1.5 When people do seek support from services, these are predominantly under-resourced, community-based and third sector services which prioritise addressing immediate needs and offering interventions to find solutions to homelessness and vulnerability. Recording, monitoring and evaluation are inconsistent, if undertaken at all.

2.2 There is an appetite and a will to collect more data.

2.2.1 Welsh Refugee Council and the British Red Cross currently co-chair the Wales Destitution / No Recourse to Public Funds forum (this will be co-chaired also by Wales Strategic Migration Partnership from April 2018). This forum is concerned with the public and third sector response to destitute people from abroad with no recourse to public funds and seeks to ensure consistency of information, as well as support across all areas of Wales. Members of this forum also support local destitution forums in Swansea and Cardiff, both of which are seeking to improve data collection.

2.2.2 By way of response to the Equality, Local Government & Communities Committee asylum seeker inquiry report *I Used to Be Someone*, Welsh Refugee Council, with the British Red Cross and Asylum Matters have presented Welsh Government with an options appraisal paper, outlining three possible models of support for the third sector to address the destitution crisis, all of which would improve data recording, monitoring and analysis.

2.3 Research by the British Red Cross indicates that destitution amongst asylum seeking and refugee populations is on the rise⁵ in a report that highlights Cardiff as one of 3 UK cities where their destitution services are in highest demand.

2.4 Forthcoming changes to UK policy and recent welfare changes mean that the number of people experiencing destitution from asylum seeking and refugee populations in Wales is likely to rise further.

2.4.1 The Immigration Act 2016 makes changes to immigration, housing, social welfare and employment law to create a 'compliant environment' for those without a legal right to reside in the UK. Key changes that will impact upon rough sleeping restrict access to accommodation and financial support.

2.4.2 The Immigration Act 2016 provides for 'Right to Rent Checks', making it compulsory for landlords to check the immigration status of all new adult tenants. This places additional pressure on landlords, especially small-scale landlords who are private individuals and will exacerbate concerns of renting to anybody without clear immigration status or documentation and thus potentially increasing

3 <https://cardiffdestitutionnetwork.wordpress.com/sharedydd/>

4 <https://swansea.cityofsanctuary.org/share-tawe>

5 <http://www.redcross.org.uk/en/About-us/Media-centre/Press-releases/2017/February/Asylum-destitution-on-the-rise>



unintended discrimination. These checks could increase homelessness and thus rough sleeping amongst single refugees not deemed to be in priority need.

2.4.3 For those people granted status as a result of an asylum claim, the introduction of Universal Credit is anticipated to lengthen existing delays to welfare payments to five weeks, under an assumption that clients have means to support themselves. This is likely to increase gaps in support for refugees, whose support ends within 28 days of being granted status, especially if issue of their National Insurance number is delayed. From 15 January 2018, National Insurance Numbers should be embedded in BRP cards, which is a positive move and may address some of the delays associated with 'moving on'. However, we anticipate that people will still struggle, especially if they don't have a bank account as Universal Credit cannot be processed without one. Banks will not open accounts for people without an address and possibly no National Insurance Number. We have anecdotal evidence that people are relying on friends and acquaintances for use of their bank accounts – an issue we are monitoring as it could easily lead to exploitation.

3. The causes of rough sleeping and the apparent recent increases in rough sleeping.

3.1 The causes of rough sleeping amongst asylum seeking and refugee populations differ according to an individual's circumstances, though key contributors are:

3.1.1 **Insufficient access to legal advice to support timely, well-constructed asylum claims & to make any required appeals.** Asylum support – accommodation and £36.95 per person in the family per week - is dependent upon an active asylum claim. Access to legal advice to support timely, well-constructed asylum claims and to make any required appeals is critical in making a case to the Home Office for international protection and *also* to be eligible for asylum support whilst this claim is processed. Unfortunately, access to legal advice in Wales is insufficient, with many people unable to access legal advice or relying on oversubscribed charitable provision. Where individuals have been refused asylum and are destitute, they may be eligible for Section 4 support. This support is dependent on meeting a limited range of criteria including medical grounds, or lodging a fresh claim for asylum. The success of the latter is largely dependent on the person having access to legal advice. If successful, those on Section 4 are entitled to accommodation – which may be in a different part of the UK to where they have been living previously on a no-choice basis, and £35.39 per person, per week provided on a payment card which does not allow them to withdraw cash. Applications for this support do not currently have a target processing time with the Home Office and can take weeks to be granted, and around a further 2 weeks for support to be put in place. Through the Asylum Rights Programme, some funding has been provided to increase free legal advice provision delivered through Asylum Justice where people are not entitled to legal aid, but the demand currently far outstrips what is available.

3.1.2 **Complex, onerous evidence requirements to access & prove eligibility for asylum support.** Once an asylum claim is made, accessing and proving eligibility for asylum support becomes the next step in protecting against homelessness. However, application processes are complex, with onerous evidence requirements. Specialist advocacy is advisable and available and can be accessed through the Asylum Rights Programme to help those in Wales access their entitlements however provision is limited and is often not enough to navigate people through the system or to prevent destitution. The system does not currently provide support while people are appealing negative asylum support decisions whatever stage of their asylum claim. We have seen a number of these decisions overturned at appeal, meaning that there are people with live asylum claims who are entitled to support made homeless as a result of poor decision making by the Home Office. Often these people are newly arrived in Wales and do not have support networks to step in to assist, resulting in destitution and rough sleeping.

3.1.3 Although people are housed in initial accommodation in Lynx House in Cardiff whilst making a claim for Asylum Support (Section 95), people need to *prove their destitution* or risk their claim for support being rejected and being evicted. Eviction from initial accommodation also occurs where



people are accused of being involved in incidents by staff or other residents and without necessarily having the opportunity to defend their position. Eviction from initial accommodation is non-appealable.

3.1.4 Where eligibility *is* proven, particularly for Section 4, **delays in the processing & provision of asylum support**, mean that people who *are eligible* can wait for weeks and months for entitlements to start, leaving people destitute in the meantime.

3.1.5 **Insufficient move-on period: 28 days to move from asylum support to find accommodation & an income.** As asylum support is dependent on an active asylum claim, receiving a decision on that asylum claim impacts on support. Counterintuitively, a positive decision can leave people vulnerable to destitution. People granted refugee status have 28 days, in which to 'move-on' from asylum support - to find accommodation & secure an income. Section 66 of Housing (Wales) Act 2014 sets out the Duty to Help to Prevent Homelessness for persons eligible for assistance and under threat of homelessness within the next 56 days. Vulnerability to destitution for persons granted positive Home Office decisions is juxtaposed with the statutory provision of section 66. With Welsh Refugee Council's specialist move-on support to navigate UK housing, benefit and employment systems, this is just about possible, though can still leave people - particularly single people who are not in priority need - destitute. Priority need or not, refugees struggle to access private rented housing, due to the requirement to pay agency fees, one or two month's rent in advance, the need for a guarantor and lengthy delays in integration loans being processed. Landlords charging rates that far exceed Housing Benefit entitlement is also a barrier. Widening access to the private rented sector for all people is dependent on landlords agreeing to offer rental agreements i) which are equivalent to Housing Benefit rates ii) all properties have been checked and registered according to the legal requirements of Rent Smart Wales.

3.1.6 Some people's positive status will be accompanied with a **No Recourse to Public Funds (NRPF) condition**: an immigration condition restricting access to welfare benefits & social housing. People may be eligible for support from Social Services until this condition is removed, though limited knowledge about the condition amongst public services means that people are bounced from service to service, whilst homeless.

3.1.7 A negative decision on an asylum claim will also trigger a cessation of asylum support. People may appeal the asylum decision. Appeals are a fundamental check for any decision-making system and immigration decisions are no exception - we know for example, that in 2016, 42% of appeals resulted in a grant of status⁶. For people who can access the evidence and legal advice they need, appealing can mean a re-application for asylum support, though they can expect to encounter the complex application processes, onerous evidence requirements and delays - of weeks and months - already highlighted. For those people not in a position to appeal an immigration decision, their choice can be one between returning to a country they fled or being destitute and homeless in the UK. There are many reasons that people 'choose' the later. For these individuals, unless they meet the narrow range of criteria to be eligible for Section 4 support, there is currently no duty on the part of either Local Authorities or UKVI to provide even the most basic level of support. Where families are made destitute, the duty falls to the Local Authority under Section 37 of the Social Services and Wellbeing (Act) Wales 2014, passing the costs and responsibility for housing and support from the UK Government to Welsh Local Authorities as a result of UK Government Policy. Welsh Refugee Council's Asylum Rights Programme can help people to apply for any statutory support they might be entitled to, and can signpost to night shelters, where provision exists, or to third sector and community organisations who can help provide food, some hardship money and, in limited circumstances, shelter.

⁶ <http://www.migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/#kp3>



3.1.8 This recent Western Mail article highlights the experience of being a rough sleeper as an asylum seeker in Wales: <https://www.walesonline.co.uk/news/wales-news/doctor-who-fled-warzone-ready-14199192>

4. The effectiveness of Part 2 of the Housing (Wales) Act in preventing rough sleeping.

4.1 Part 2 of the Housing (Wales) Act 2014 provides an expectation for each client to directly engage with their personal housing plan and to evidence their search for private rented accommodation. This can be problematic where people are not confident at navigating housing markets in English, are unfamiliar with UK systems and where the issues outlined above (3.1.5) present barriers: the requirement to pay agency fees, one or two month's rent in advance, the need for a guarantor and lengthy delays in integration loans being processed.

5. The effectiveness and availability of services including emergency accommodation.

5.1 As mentioned in 1.1, Welsh Government fund Welsh Refugee Council to deliver advice & advocacy services to people seeking asylum through its Asylum Rights Programme and to newly recognised refugees (as well as to people with humanitarian protection & discretionary leave) through its move-on service. Through Comic Relief, Welsh Refugee Council also provide a specialist women's paralegal service to vulnerable women and their families. These services are all over-subscribed, though play a critical role in both preventing & mitigating the impacts of rough sleeping.

5.2 The steps to prevent and tackle rough sleeping suggested in the following section are born from the experiences and evidence base provided by these services.

5.3 With regards emergency accommodation in particular, people - including families - in priority need can spend up to 6 months in unfurnished accommodation and can be housed in a Bed and Breakfast without cooking facilities. Where dedicated housing officers have existed (e.g. in Swansea in the past), with experience & understanding of refugee needs, evidence suggest that housing outcomes are much improved for refugees.

6. The steps to prevent and tackle rough sleeping in Wales.

6.1 Critical to preventing rough sleeping amongst asylum seeking and refugee populations is to **advocate for change to legal aid provision and to the UK asylum system**. Specifically:

6.1.1 Regarding legal advice: make legal aid available for Asylum Support Appeals, for fresh claims and family reunion.

6.1.2 Regarding asylum support, the Home Office must:

- apply it's own existing policy and guidance consistently to asylum support provision
- introduce a timeframe for decisions & provision on Section 4 support
- provide support until decisions on initial asylum applications or appeals are made
- introduce a transparent approach to decision making on asylum support

6.1.3 Regarding move-on:

- Extend the move-on period from 28 to 56 days
- Where an application has been made for welfare benefits within the 28 day move-on period, continue asylum support until the first payment has been made
 - Decrease the target time for processing an application for an Integration Loan to less than the length of the move-on period
 - When a newly recognised refugee has applied for an Integration Loan & has not yet received it, allow them to remain in their asylum accommodation
 - Ensure that forthcoming Home Office AIRE contracts have adequate person-centred support for move-on and that learning from Wales' move-on provision is incorporated
 - Ensure that the AIRE contracts include specialist knowledge of Welsh legislation including the the Social Services and Wellbeing (2014) Act, the Well-being of Future Generations (Wales) Act 2015, the Housing (Wales) Act 2014 and the Violence against Women, Domestic Abuse and Sexual



Violence (Wales) Act 2015, as well as knowledge of the policies of local authorities in Wales to ensure those in Wales are provided with the right advice at the right time.

6.1.4 Regarding the use of the NRPF condition:

- Ensure that Local Authorities in Wales are fairly and fully financially resourced to support people with NRPF
- Home Office must consider destitution when making decisions on applying conditions to leave, rather than assigning a NRPF condition and then removing it later

6.1.5 Permit asylum seekers the right to work, unconstrained by the shortage occupation list

6.1.6 Regarding people who have received a refusal of their asylum claim and are not in a position to challenge this refusal, reinstate independent advice on the Voluntary Returns programme

6.2 **As well as advocating for change to UK legislation and practice, Welsh Government should:**

6.2.1 Assess the impacts that the Immigration Act 2016, as well as forthcoming Immigration legislation, will have on homelessness and rough sleeping in Wales, present the findings to the Home Office and seek funding to cover any costs arising in Wales as a result of the legislation.

6.2.2 Work with private landlords to raise awareness of different types of migration status to mitigate any impacts of Right to Rent Checks in Wales.

6.2.3 Liaise with the Legal Aid board to ensure sufficient legal aid funded immigration provision is available in Wales (North Wales is currently particularly poorly served).

6.2.4 Fund the refugee move-on service on a long-term & sustainable basis.

6.2.5 Ensure Welsh Government funded homelessness services are culturally and gender appropriate and safe.

6.2.6 Support Local Authorities to address the local service impacts of asylum seeker and refugee homelessness by:

- Providing a fund corresponding to that provided by the Home Office in England (the Controlling Migration Fund).
- Improving Local Authorities awareness, as well as up-to-date technical and practical knowledge of destitution amongst asylum seeking, refugee and NRPF populations, in order to ensure support entitlements amongst these populations are fully understood and acted upon in a timely manner in line with Housing (Wales) Act 2014 and the Social Services and Well-being Act 2014 requirements.
 - Developing a common recording system across Local Authority departments to capture consistent data across time and locations (e.g. on numbers of people supported, needs of those supported, legislation used to support, cost and length of support and case resolutions).
 - Developing a system for capturing the costs of supporting NRPF cases.
 - Ensuring that asylum seeking, refugee and NRPF populations are acknowledged and their needs addressed at local / regional homelessness Local Authority fora
 - Ensuring homelessness provision within the Local Authority is culturally and gender appropriate and safe.

6.2.7 Implement the recommendations of the Equality, Local Government and Communities Committee report on refugees & asylum seekers, in particular:

- Specific actions to avoid destitution, including exploration of a small grants scheme (recommendation 12)
- Effective housing via local authorities once people are awarded status, especially for the more vulnerable (recommendation 13)
- Ensuring adequate support for mental health (recommendation 11)



- 6.2.8 Ensure the revised Refugee Delivery Plan and Health Guidance acknowledges and fully addresses the needs of homeless asylum seeking, refugee and NRPF populations.
- 6.2.9 Support the collection of better data and use evidence to drive improvement in services and to inform planning and provision.

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