



**Proposal:
Own Initiative
Investigation on the
Homelessness Review
Process**

Overview



The Public Services Ombudsman for Wales (“PSOW”) has powers to undertake ‘own initiative’ investigations where evidence suggests that there may be systemic service failure or maladministration.

Following consultation on the principle of undertaking an investigation into the administration of the homelessness review process by local authorities in Wales, the Ombudsman has now considered the responses received. There was a range of responses. Some responses suggested that there was no need for a review, whilst others expressed concern that this was not a good time to conduct an investigation in view of the pressures on local authorities of COVID-related work. Other responses welcomed the idea of undertaking an investigation in this area, noting the good work already done in this area and recognising the value of suitable and safe accommodation as one of the measures that can help reduce vulnerability during COVID-19.

After careful consideration of all comments received, the Ombudsman has prepared a specific proposal for the investigation. The proposal is for a focussed and proportionate investigation, involving a small sample of local authorities. Comments and responses on this specific proposal are invited.

Further Information & Related Documents

How to Respond

Please respond to the proposal:

By post to:

The Improvement Team
Public Services Ombudsman for Wales
1 Old Field Road
Pencoed
CF35 5LJ

Or by e-mail to:

OwnInitiative@ombudsman.wales

Closing Date & Time: 23.59 on 11 December 2020

For any enquiries please contact us by email or post to the address above.

A large print version is available on request.

Foreword

Homelessness affects every member of society, from the person who has lost their home to those who have businesses, or work or live in areas where homelessness is evident. There is also a wider impact on perceptions of public safety, and homelessness is said to impact on tourism, making our Welsh towns and cities less attractive to visitors.

However, the greatest impact is on the people facing homelessness themselves. Many homeless people are vulnerable because of their age, race, sexuality or physical or mental health difficulties. These vulnerabilities may be aggravated further by homelessness, as this may restrict their ability to access the support and assistance they require.

Despite the introduction of new legislation, the [Housing \(Wales\) Act 2014](#) (“HWA”), [Welsh Government statistics](#) show that, for the period 2018/19, the total number of households assisted by Local Authorities with homelessness issues in Wales increased from the previous year by 8%, to over 31,000. Of these, over 2,600 households were classed as homeless and in priority need; that is an increase of 18% from the previous year. The challenges of increasing homelessness have been widely recognised by bodies in Wales including the Welsh Government, who formulated the Ministerial Action Group, and third sector organisations, many of which have produced reports on the matter.

Local authorities have a critical role in preventing homelessness as well as supporting people who have found themselves homeless. It is therefore important to ensure that, having determined whether someone is either not homeless or not entitled to support, that person is also aware of the right to request a review of the assessment decision. It is also important to ensure that, when decisions are overturned at review stage, lessons are being learned and shared across the authority.

Whilst the immediate priority of someone who is homeless will, of course, be to find somewhere to sleep or stay, rather than navigate the complaints process, it is perhaps surprising, and concerning, that the PSOW receives very few complaints about homelessness.

The [Public Services Ombudsman \(Wales\) Act 2019](#) (“the 2019 Act”) empowers the Ombudsman to undertake ‘own initiative’ investigations,¹ which do not need to be prompted by an individual complainant. The PSOW now proposes to look into the administration of the HWA. Specifically, this would consider whether local authorities are administering the homelessness review process,² properly, fairly and openly, and whether they are making people aware of their right to a review of the decision. The investigation would also look at how any lessons that are learned from the reviews are shared and, where appropriate, embedded in the assessment process.

¹ Section 4 the 2019 Act

² Section 85 HWA

The proposed investigation

It is proposed that the Ombudsman will consider the following:

- Whether Local Authorities in Wales are meeting their statutory duties under the Housing (Wales) Act 2014 and the Guidance to ensure that homelessness assessments are carried out appropriately
- Whether those who may be entitled to seek to challenge the outcome of an assessment, or the decision that a Local Authority's duty has ended, are aware and understand their right to request a review under section 85 HWA
- Whether reviews undertaken in accordance with section 85 HWA are properly administered
- The reasons given for overturning assessment decisions and, if appropriate, whether lessons are learned and shared within those Local Authorities or more widely,
- In cases where decisions have not been overturned, whether those affected are aware of the remaining remedies available to them
- The range of administrative actions and approaches taken during the pandemic to assess, address and review the needs of homeless people or those presenting as homeless by Local Authorities to identify opportunities for longer term or wider improvements

The reason for the investigation

COVID-19 has changed the world. Public services have had to make significant and impactful changes to meet the demands placed on them by this pandemic. This has led to new and innovative ways of working, changes in priority both locally and nationally, and an impressive response to global issues, such as homelessness, to ensure that everyone has the safety of a front door and access to private sanitation.

However, it is important to recognise that many of the changes made in response to the pandemic are likely to be temporary. The full extent of the legislative framework and its associated obligations remain in place, and will need to be reintroduced when the state of emergency comes to an end; this may be some time before or after the pandemic is deemed to be under control.

To do this we have to first consider whether, prior to and during the pandemic, local authorities had done enough to ensure that homeless applicants are aware of their rights to request a review of the assessment decision and that those reviews were being assessed appropriately.

The evidence gathered during the preliminary enquiry stage suggested that prior to the pandemic there were some discrepancies and variance in application within these processes across the nation. The differences depended upon several factors including age, gender and geographical location. An investigation would be an opportunity to consider some of those differences and identify the benefits of these differences and/or any barriers to service for both the service user and the administrator, any changes to that element of the process during the pandemic, and whether the original or amended process remains relevant and sustainable in a post COVID-19 world.

The public sector is by its nature dynamic with politics, finance, location and changing demographics having a significant impact on the decisions that are made and how resources are allocated. Public services are expected to keep changing and developing to ensure they are efficient and effective. In view of this, every opportunity to learn and adapt should be taken. In the homelessness landscape, one of those areas where lessons may be learned is the assessment and review process. It is therefore of some concern to see such a small number of review requests (compared to the number of assessments undertaken) and, of those requests, such a high percentage being overturned year on year. An investigation would allow us to explore this area further, including how lessons are shared locally.

An investigation would provide a holistic approach to the assessment and review process. It would allow those benefiting from and those administering the schemes to share their experiences and suggestions, supporting improvements in efficiency or effectiveness and future-proofing the process.

Does the proposal meet the Ombudsman's published criteria?

The Ombudsman has published [criteria](#) for Own Initiative Investigations:

- **Public interest**

Public interest is generally accepted to be “something which is of serious concern and benefit to the public”. We consider it to be something that impacts upon the public, rather than a matter the public finds of interest, or a matter that impacts upon an individual (even though it can affect an individual more directly than the wider public). ‘Public’ in this context can refer to a distinct section of the public or the entire population of Wales.

The issue of homelessness is capable of affecting a wide group of individuals across Wales and has the potential to impact upon wider public services and communities. The pandemic has confirmed that

homelessness extends beyond those visibly rough sleeping on the streets, to include those who are also in inadequate temporary accommodation. During the pandemic, more than 800 people have been helped by Local Authorities and their various partner agencies.

Given the rising number of homeless people in Wales and the continued/delayed impact of years of austerity faced by many who are close to losing their homes, it would be reasonable to state that this subject is far reaching and affects many people.

- **Reasonable suspicion of systemic maladministration**

The evidence considered shows a high proportion of assessment decisions being overturned on review by some local authorities year on year. This suggests that there may be systemic maladministration in the handling of assessments and review requests and/or a failing, on the part of local authorities to learn from these reviews.

Additionally, there is some concern surrounding the data capture of such information by some authorities, suggesting that opportunities for service improvement may be being lost.

Further, the low level of reviews in some local authorities may indicate that awareness or promotion of the right to a review is low, which is suggestive of poor communication amounting to systemic maladministration.

- **The matter impacts upon a wide group of citizens, to such an extent that they appear likely to sustain injustice or hardship in consequence of the matter being considered for investigation**

In 2017/2018 over 11,000 households in Wales were assessed as homeless. Many more received assistance with homelessness issues. The absence of complaints to the PSOW about this matter suggests that vulnerable individuals affected may be unaware, do not understand or are unable to exercise their right to escalate their complaint to the PSOW. An own initiative investigation by the PSOW could lead to wider lessons being learned across Wales and the PSOW is well placed to conduct this investigation.

- **The weight of evidence**

There is considerable evidence relating to the proposal and the specific issues identified. Evidence from numerous sources has been considered. These include:

- Welsh Government policy, statutory guidance and legislation
- Homelessness strategies, action plans and policies of all Local Authorities in Wales
- Other relevant research and guidance documentation from Audit Wales and third sector organisations, such as Shelter Cymru and Llamau
- Information published by [StatsWales](#) and the Office of National Statistics
- Media Reports
- **The persuasiveness of the evidence**

The evidence detailed above is, in our view, credible, reliable and suggestive of potential systemic maladministration in the administration of the homelessness assessment and review process by local authorities in Wales. The recent efforts by Welsh Government and local authorities in response to the pandemic has been widely reported, making it relevant for us to consider how the actions and learning from good administrative practice during the pandemic can be taken forward to drive change or wider learning.

In the light of this analysis, we consider that all these criteria are met.

Which bodies will be included in the investigation?

All 22 local authorities in Wales have a homelessness duty. However, it would not be reasonable to undertake a review of all 22 organisations. In view of this, a sample of local authorities has been identified following consideration of both qualitative and quantitative evidence.

The criteria for choosing the sample local authorities are:

- The volume and prevalence of homelessness assessments completed by the local authorities
- The number and prevalence of review requests received and overturned by the local authorities
- The need to include a broadly representative sample, reflecting different areas and demographics in Wales, including both urban and more rural areas.

[Welsh Government statistics](#) for 2018/19 show that a total of 31,170 households were assessed for homelessness assistance, compared to 28,881 in 2017/18.

The table below shows the 6 Local Authorities with the highest numbers and whether these figures were higher or lower than in 2017/18:

Local Authority	No. of Households Assessed 2018/19	No. of Households Assessed 2017/18
Cardiff	5631 ↑	4674
Swansea	2595 ↓	2643
NPT	2181 ↑	1704
Caerphilly	2085 ↑	1971
Carmarthenshire	2070 ↑	1746
Newport	2010 ↓	2142

Source: StatsWales

To allow meaningful analysis that takes account of population differences, it is helpful to consider assessments per 1000 residents. From the [Welsh Government statistics for 2017/18](#), average homelessness assistance in Wales can be calculated at 9.25 households per 1000 residents. Freedom of Information data received by Shelter Cymru and included in their report [‘Implementing the Housing \(Wales\) Act 2014: the role of homelessness reviews and litigation’](#) showing the number of homelessness assessments completed (by those local authorities who responded³) in 2017/18 (28,897) is largely consistent with Welsh Government Statistics of (28,881). Using this and population data, the table below shows the number of assessments per 1000 residents for the 6 local authorities with the highest number of assessments:

Local Authority	No. of assessments	Per 1000 residents
Cardiff	4679	12.90
Swansea	2643	10.77
Newport	2147	14.17
Caerphilly	1971	10.90
RCT	1869	7.82
Carmarthenshire	1746	9.36

Source: Shelter Cymru

The data received by Shelter Cymru also shows that, in 2017/18, a total of 406 review requests, from those who disagreed with the assessment, were made in Wales. This gives a Welsh average of 1.4% of assessments generating a request for a review. The table below shows the actual number of review requests received by the 6 local authorities with the highest number:

Local Authority	No. of review requests	% of assessments leading to a review
Cardiff	185	4
Wrexham	50	4.2
Flintshire	49	3.9
Bridgend	26	2.1
Newport	16	0.7
Gwynedd	13	2.3

³ Carmarthenshire County Council, Rhondda Cynon Taf Council, and Isle of Anglesey Council did not provide details.

The data received by Shelter Cymru shows that 155 assessment decisions (out of the 406 review requests) were overturned on review by the local authorities who responded.³ This means that, in Wales, an average of 38% of assessment decisions that are subject to review are overturned. This high overturn rate raises concerns about the effectiveness and appropriateness of assessment decisions. The table below shows the 6 local authorities with the highest numbers of review received and the prevalence of overturned decisions for each:

Local Authority	Reviews (No.)	% overturned
Cardiff	93	50
Flintshire	18	36.73
Bridgend	9	34.62
Wrexham	7	14
NPT	6	75
Gwynedd	6	46.15

To gain a representative view and an understanding of practices being followed by local authorities in Wales, the sample local authorities should represent the north, south and west Wales regions. It should also consider the practices followed in local authorities with contrasting demographics - a city, a town and a rural community. One of the objectives of the investigation is to identify good practice. It was therefore considered that the investigation should include a local authority with fewer assessment decisions overturned on review, with the intention of establishing whether this is the result of good practice and if so how that might be shared.

Consideration was also given to the prevalence of 'rough sleeping' in Wales and the local authorities with the highest number of these being Cardiff, Wrexham, Newport and Swansea.⁴

Additionally, factors such as the prevalence of the Welsh language and socio-economic issues in each local authority were taken into account. Qualitative information in the form of media reports and personal/reported experiences and, including those referring to the impact of COVID-19 on the homelessness landscape, were also considered.

Consequently, the three local authorities I propose to include in this investigation are:

- **Cardiff Council**

Cardiff is Wales' largest city, and the Council has been identified as dealing the highest number of assessments consistently from 2017-2019. In 2017/18 it also received the highest number of review requests, significantly in excess of the Welsh average.

⁴ Ministerial Action Group Report; Preventing Rough Sleeping in Wales and reducing it in the short term (October 2019)

Whilst it is expected that an authority with the highest number of assessments may also have the highest number of review requests, it is concerning that in 2017/18 50% of reviews resulted in the assessment decision being overturned. This is significantly higher than the Welsh average. The information provided in response to the Freedom of Information request suggests that a similar percentage of review requests have resulted in overturned decisions every year since the introduction of the HWA.

It is appreciated that high numbers of review requests do not in themselves demonstrate maladministration or service failure. They could be indicative of good communication around review rights or a greater availability of advocacy services, to enable people to challenge decisions, in Cardiff. However, it could equally be an indication of dissatisfaction with the assessment decision or the process followed. Further, the fact that the proportion of reviews overturning assessment decisions has been consistent in recent years is also significant, giving rise to concerns that the learning from these cases may not be used to drive service improvement. Further examination will help understand the reasons and to establish whether learning from overturned decisions is being effectively communicated within the authority.

Cardiff also has the highest number of 'rough sleepers'. Cardiff is an urban area in the south of Wales where just under a quarter of the population speak Welsh (23%). The rapid response by Cardiff during the COVID-19 pandemic in arranging temporary accommodation and support to minimise the number of people sleeping on the streets has been widely reported on. Consideration of this positive action is required to ascertain opportunities for further and wider systemic learning.

In the light of this information and the published criteria, it is proposed that Cardiff is one of the local authorities included in the investigation.

- **Wrexham County Council**

Welsh Government statistics do not identify Wrexham as being one of the local authorities with the highest number of homelessness assessments and its numbers appear to have decreased from 2017/18 – 2018/19. It also fell slightly below the Welsh average for homelessness assessments at 8.81 per 1000 residents in 2017/18. However, the number and prevalence of review requests received during that year places Wrexham as being the highest local authority in this regard in Wales at 3 times the Welsh average. The overturn rate, at 14%, is significantly below the Welsh average and this warrants further consideration of the structure, process, practices and approaches adopted within this authority to understand the reasons for this.

Whilst, it is possible that there may be some adverse reasons for the low number of overturned decisions, it is equally possible that examination in this manner will provide an opportunity to identify examples of good practice associated with the assessment and review process and with the application of the legislation/guidance more generally which could benefit other local authorities in Wales.

Wrexham has however been identified as one of the local authorities in Wales with the highest number of 'rough sleepers' - the highest in the north. It is large town where just over a quarter of the population speak Welsh (28%).

For these reasons, and taking account of the published criteria, it is proposed that Wrexham is one of the local authorities included in the investigation.

- **Carmarthenshire County Council**

Although Carmarthenshire County Council did not provide information on reviews, it is noted that Welsh Government statistics indicate that the Council is dealing with a large number of assessments and that these increased significantly from 2017/18 – 2018/19 (up almost 19%). The absence of available information on the number and outcomes of reviews is, in itself, concerning and raises questions about effective data recording. It may also suggest issues around communication, access to this statutory process and the administration of the process.

Carmarthenshire is largely a rural authority situated in west Wales. More than half of its population are Welsh speakers (59%). The nature and extent of support provided by Carmarthenshire Council in response to the COVID-19 pandemic has been reported in the media, showing that it has supported more than 280 homeless people. Again, consideration of such positive action will help ascertain opportunities for further and wider systemic learning.

In the light of the information above and the published criteria, it is proposed that Carmarthenshire is one of the local authorities included in the investigation.

The investigation process

An outline of the general process to be undertaken during this investigation:

- a) Commencement of investigation fact finding – seek information and understanding of issues and experiences by:
 - Collation of information from the selected local authorities, other bodies, stakeholders and service users to obtain relevant policy, documentary, statistical and witness evidence/information
 - Legislation / Welsh Government policies
 - Media
 - Calls for evidence
 - Interviews with 3rd parties and service users
- b) Analysis and review of the information gathered.
- c) Draft report and seek comments and agreement to any recommendations from relevant parties
- d) Issue report

NOTE: Evidence-gathering and fact-finding is likely to be affected by COVID-19, but we will be flexible in how we work. We will gather written, audio, video evidence and use video conferencing.

It is proposed that the investigation is commenced in January 2021 and should be completed within **36 weeks** of the investigation start date.

The proposed timescale for investigation
