

PREVENTION REVIEW GROUP – 23 July 2020

Minute of meeting

Present:

Members: Professor Suzanne Fitzpatrick (Heriot Watt University, Chair), Cllr Elena Whitham (East Ayrshire Council / COSLA), John Mills (Fife Council / ALACHO), Ruth Whatling (Scottish Government), Matt Downie (Crisis), Professor Tom Mullen (University of Glasgow), Adam Milne (Shelter Scotland), Callum Chomczuk (CIH), Maggie Brunjes (Homeless Network Scotland).

In attendance: Beth Reid (Crisis), Judith Chisholm (Crisis).

Apologies: Susanne Millar (Glasgow City HSCP), Lorna Wilson (SFHA)

1. Welcome and apologies

Professor Suzanne Fitzpatrick welcomed everyone to the meeting and noted the apologies received.

2. Legal commissioning

The Chair referred to the first part of the legal commissioning brief that had been circulated to the Group and invited any comments or reflections. Adam Milne and Beth Reid are planning to hold a separate meeting to discuss it next week. It was noted that the main agenda item on 24 August is the outcome of the legal commission.

The second part of the brief in relation to duties on wider public bodies is in draft based on emerging recommendations from the Group. It is hoped that the meeting on 24 August could cover this but noted that the discussions of the Group are still ongoing for some topics and that the advocate (Adrian Stalker) will require a reasonable time period within which to undertake the work

3. Supporting people with complex needs to prevent homelessness

Support for people with complex needs has been a repeated theme in stakeholder consultations. Beth Reid referred to the briefing paper on case management approaches for supporting people with complex needs identifying a number of different models, and presented on key points from these, which were:

- A key points of contact/lead worker role to bring agencies together
- Multi-agency planning meetings for individual case, with statutory underpinning in some cases to ensure the inclusion of certain partners
- Working across professional boundaries and supporting systems change
- Underpinning principles for the approach to support wellbeing and reduce risk
- Links into wider strategic co-ordination mechanisms such as adult protection committees

Questions for the Group to consider:

- How effective are current statutory approaches, especially adult support and protection?
- Are new legal duties needed in this area?
- What is already there that we can build on?
- What should any new legal duties seek to achieve? Who should be responsible?

The Group felt strongly that practice around co-ordination of support for people with complex needs often falls short currently, and we need to look beyond the current approach. Often these people do not reach the thresholds for statutory support through adult support and protection, but practice and strategic planning in this area varies considerably around the country. Caseloads for social workers are a significant issue. Support does need to have “teeth” so that people get the support they need and lead professionals/case managers with ‘clout’ can co-ordinate and bring people together. The case manager needs sufficient seniority/leverage, although this role does not necessarily have to sit within a public body.

There is no systematic picture of housing support needs across local areas. This was previously done regularly when there was ringfenced Supporting People funding and gave greater insight into where input was needed from other agencies including health and social care.

Following discussion of the issues there was consensus that there should be a lead professional role in place to co-ordinate case management for people with complex needs, with power to convene services and action. This should be in line with the principles of ‘stickability’ and taking a person centred holistic approach. It was noted that this could be based on core elements of Criminal Justice Social Work practice (which are ‘transferable’ beyond this heavily mandated context), as evidence and practical experience has proven is particularly effective, and there may be lessons to learn from this.

ACTION: Ruth Whatling to provide SG contacts re GIRFEC, adult support and protection and criminal justice social work to Beth Reid for follow up

4.Strategic planning

Beth Reid referred to the briefing paper and presented on the key questions from that paper, which are:

- How to ensure public services work together towards an outcome of preventing homelessness in the population
- How to make a corporate duty work across all relevant parts of a local authority
- How to plan for specific groups requiring input from multiple public bodies to prevent homelessness

Areas for discussion identified were:

- Are legal duties for strategic planning to prevent homelessness needed?
- On what public bodies should any duties lie?
- What is already there that we can build on?

The Group then discussed the issues. John Mills and Elena Whitham identified Local Outcomes Improvement Plans (LOIPs) that have to be prepared by each local authority, Integrated Joint Board and other local partners as the key mechanism to shape local strategic planning. The Local Housing Strategy and other strategies are all required to contribute to those. LOIPs are an existing mechanism that should be used to ensure prevention of homelessness is built into strategic planning effectively and in a way that the Chief Executive of each Local Authority would have to make prevention of homelessness a priority. There may be a role for doing more across local authority boundaries as is happening in some areas around Strategic Housing Investment Plans, and this could be extended to Rapid Rehousing Transition Plans and Local Housing Strategies, especially if local connection is changed in the future. The third sector have an important contribution to make to

local planning, including more strategic levels of planning. It will be important to capture the complex needs group in planning and make sure these renew a focus on prevention and proactive interventions.

Following discussion there was consensus on the following:

- Requirement for strategic housing support needs assessments across local authority area to feed into relevant strategies
- Homelessness prevention incorporated into Local Outcomes Improvement Plans (possibly through Community Empowerment Act or in secondary legislation)
- Ensure clear mechanism for relevant strategies to feed into each other (Housing Need and Demand Assessment, Local Housing Statement, Rapid Rehousing Transition Plan, Strategic Housing Investment Plan, Health & Social Care Strategy, Housing Contribution Statement, Community Justice Strategy)
- Requirement for Health and Social Care to contribute to local authority housing strategies

ACTION: Beth Reid to follow up on how to strengthen local planning to prevent homelessness, through LOIPs and other relevant strategies in conjunction with Scottish Government, COSLA and ALACHO.

5. Monitoring, regulation, enforcement

It was noted that this is a key area for the Group to consider as any legal duties to prevent homelessness need to have an effective mechanism for monitoring, regulation or enforcement otherwise there is a risk that those legal duties would not be effective in practice.

Beth Reid outlined discussion questions for the Group:

- What should be the consequences if a local authority or other public body...
 - fails in its legal duties relating to preventing homelessness on a regular basis?
 - is felt to have failed in its legal duties towards an individual or household to prevent homelessness?
- What is the role of data in monitoring and accountability?
- What should be the role of the Housing Regulator and how does this relate to its current role?

The Group discussed how best to enforce a homelessness prevention duty. It was noted that the Housing Regulator has move away from inspections towards a risk-based approach. The problem-solving approach to regulation can be helpful in defining and addressing issues. It is not the Housing Regulator's primary role to act on individual cases, though these can be fed in, but to hold LAs/RSLA to account for systemic failings. Other regulators also have a role in relation to wider responsibilities of the local authority and health and social care.

At individual level, it was agreed that there needed to be some other mechanism apart from judicial review to challenge decisions, to provide a quicker remedy mechanism for those seeking homelessness assistance, and also for local authorities, RSLs and tenants in the social sector. It may be useful to have a requirement on local authority homelessness services to publish an annual report on the experiences of customers, similar to the one required of social landlords.

It was noted that it should not be left entirely up to individuals to challenge systemic failures in practice. At the same time, if PRG recommendations lead to a revised legal framework being implemented, there will be an initial period of embedding new practices/culture. In Wales initially there was a period of forbearance on litigation to enable practice to develop.

In relation to enforcement of individual rights the view was shared that the best recommendation would be to have a merits appeal to a specialist statutory tribunal. This would mean that the decisions can be challenged in relation to the facts of the case, not just on a point of law. Tribunals are also designed to be faster and more accessible for individuals than the courts system. However, to ensure this works in practice there would need to be access to representation and advice and this would need to be resourced (potentially through lay advocates).

An Ombudsmen cannot change a decision only make findings of maladministration or service failure in relation to individual and groups of cases. In terms of wider enforcement, there may be a role for an Ombudsmen in identifying systemic issues but this is primarily the role of the Regulator.

The Group agreed that there should be:

- Appeal on merits of case to tribunal
- Requirement on local authority homelessness services to publish annual report on applicant experiences (building on social tenant experience report)
- **ACTION:** Beth Reid to explore role of Housing Regulator and Audit Scotland in overseeing quality of strategic plans and report back to the Group. To set up a meeting with the Housing Regulator and other relevant regulation bodies

6. AOB

The Chair thanked Tom Mullen for his paper on the legal issues relating to 'no evictions into homelessness' and the duty to accommodate 16/17 year olds following the previous meeting, and will follow up on some specific points with him. The paper will be circulated to the Group.

7. Next steps, time and date of next meeting: Thursday 13 August, 2-4pm – focusing on children, families and young people.