

Agenda – Equality and Social Justice Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	Rachael Davies
Meeting date: 6 June 2022	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddEquality@senedd.wales

Private pre-meeting and registration (13.00 – 13.30)

1 Introductions, apologies, substitutions and declarations of interest

(13:30)

2 Inquiry into violence against women, domestic abuse, and sexual violence – migrant women: evidence session 1

(13.30–14.30)

(Pages 1 – 37)

Wanjiku Mbugua–Ngotho, BAWSO

Sara Kirkpatrick, Welsh Women's Aid

Million Abesha, Welsh Refugee Council

Attached Documents:

Briefing

Consultation response from BAWSO and Welsh Women's Aid

Break (14.30–14.45)

3 Inquiry into violence against women, domestic abuse, and sexual violence – migrant women: evidence session 2

(14.45–15.45)

(Pages 38 – 43)

Joanne Hopkins, Public Health Wales

Naomi Alleyne, Welsh Local Government Association



Attached Documents:

Consultation response from Public Health Wales

Break (15.45–16.00)

4 Inquiry into violence against women, domestic abuse, and sexual violence – migrant women: evidence session 3

(16.00 – 16.45)

(Pages 44 – 49)

Kirsty Thomson, Just Rights Scotland

Attached Documents:

Just Rights Scotland – Senedd Briefing

5 Papers to note

(16.45)

5.1 Correspondence from the Counsel General and Minister for the Constitution to Legislation, Justice and Constitution Committee (including Committee Chairs)

(Pages 50 – 51)

Attached Documents:

Correspondence from Counsel General and Minister for the Constitution to Legislation, Justice and Constitution Committee (including Committee Chairs) – 13 May 2022

5.2 Correspondence with the Minister for Social Justice regarding debt, alcohol addiction and substance misuse

(Pages 52 – 55)

Attached Documents:

Correspondence from the Minister for Social Justice – 27 May 2022

Correspondence to the Minister for Social Justice – 5 May 2022

5.3 Correspondence from the Minister for Social Justice: Welsh Government response to Committee report on annual scrutiny of the Future Generations Commissioner

(Pages 56 – 60)

Attached Documents:

Correspondence from the Minister for Social Justice – 27 May 2022

6 Motion under SO17.42 (iv) to exclude the public from the remainder of today's meeting and the meeting on 9 June 2022

(16:45)

7 Inquiry into violence against women, domestic abuse, and sexual violence – migrant women: consideration of evidence

(16.45–17.00)

8 Forward work programme

(17.00–17.15)

(Pages 61 – 70)

Attached Documents:

Forward Work Programme

Correspondence from Presiding Officer to Equality Social Justice Committee regarding the Social Partnership and Public Procurement (Wales) Bill

Social Partnership and Public Procurement (Wales) Bill timetable

Document is Restricted

Equality and Social Justice Committee Inquiry

VAWDASV: Migrant Survivors

Written Evidence Submission by Welsh Women's Aid submitted jointly with BAWSO

This evidence submission focuses on the following aspects of the Inquiry's Terms of Reference:

- The scope and coverage of specialist services and interventions which are adequately resourced and trained to support survivors from migrant communities, including meeting cultural and linguistic needs.
- Consideration of the barriers preventing migrant women and girls in Wales from accessing services and additional barriers faced by women with insecure immigration status, or whose immigration status is dependent on a spouse or employer or those who have No Recourse to Public Funds (NRPF).
- Whether the Welsh Government could take any steps to mitigate the disproportionate impact UK immigration policy has on survivors in Wales and deliver its aspiration of Wales as a 'Nation of Sanctuary'

Context

In July 2021, a Steering Group for victims of VAWDASV with No Recourse to Public Funds (henceforth ‘the Steering Group’) was convened by the Welsh Government in recognition of the following facts:

- Survivors of VAWDASV continue to be locked out of essential, potentially life-saving support services and accommodation, on the basis of their immigration status and having no recourse to public funds (NRPF).¹ This has a disproportionate impact on Black and racially minoritized survivors, which means that in addition to the direct impact on the safety and wellbeing of individuals and families, it also amounts to discrimination against a group of people with a protected characteristic, contrary to the anti-discrimination provisions made under the Equality Act 2010 and Public Sector Equality Duty in Wales. This also presents a challenge to realising the aims and aspirations of the Welsh Government’s *Nation of Sanctuary* and *Race Equality Action Plan*.
- Fundamentally, this issue is caused by the UK Government’s Immigration Rules and system. In particular, due to:
 - the very limited eligibility for a ‘change of conditions’ application (to lift NRPF visa condition);
 - the very limited eligibility for SET(DV) and DDVC applications;
 - the sheer length of time it can take for applications for the above to be processed and decided.

The power to change the above systemic issues rests solely with the UK Government. It looks highly unlikely that the current UK Government will extend the eligibility criteria for the SET(DV) and DDVC to include all survivors of domestic abuse² and, although 2020 saw a sharp increase in the proportion of applications to the Home Office to lift NRPF condition which were granted,³ this is likely to be an anomaly due to the COVID-19 public health crisis (and, in any case, the eligibility criteria remain very limited). The only action that the UK Government is taking⁴ in relation to this issue - the ‘Supporting Migrant Victims’ pilot - has severe limitations, not only in relation to the amount of funding provided for the pilot, but also because

¹ <https://domesticabusecommissioner.uk/wp-content/uploads/2021/10/Safety-Before-Status-Report-2021.pdf>

² This is something that organisations like Southall Black Sisters, LAWRS, Angelou Centre, Rights of Women have been campaigning on for years - most recently with proposed amendments to the Domestic Abuse Bill. The Home Office shows no sign of implementing such a change.

³ <https://www.gov.uk/government/publications/no-recourse-to-public-funds-applications-to-change-conditions-of-leave-july-2020>

⁴ It is acknowledged that some survivors - including some seeking asylum, as well as some survivors of modern-day slavery or trafficking - may be eligible for other forms of support through s.95/98 Asylum Support or through the NRM. However, many survivors are not eligible for either form of support. This briefing is focused on these survivors who are ineligible for NRM / Asylum support.

of implicit assumptions made about the extent to which social services are implementing their duties and meeting the needs of survivors.⁵

- However, there are actions which could be taken in Wales which, collectively, would ensure that all survivors with NRPf have access to safe accommodation and specialist support, *despite the immigration rules*. In other words, a Welsh solution can be designed to tackle the discrimination and additional danger and harm experienced by survivors because of their immigration status. These actions are identified below for the Steering Group and the Welsh Government's legal team's consideration, but first, this briefing sets out the problems which we *can* address in Wales.

The Problems (which we could address in Wales)

The Immigration Rules are not the only factor affecting the likelihood of a survivor with NRPf accessing or being denied refuge / specialist support services. Other systemic issues include:

1. **The way in which refuges are funded, and the restrictions on some of the funding for specialist support services.** The fact that refuge rents are generally funded through Housing Benefit effectively excludes all survivors with NRPf from accessing refuge unless they can afford to pay refuge rent from their own income⁶, or the refuge provider has designated funding to cover the cost of rent for survivors who are ineligible for housing benefit. Moreover, some of the funding used to pay for the *support* elements of refuge, such as the Housing Support Grant, has been interpreted as the Welsh Government as being subject to immigration restrictions and therefore presents yet another barrier for services to support survivors with NRPf.
2. **The lack of understanding and implementation of social services' duties under the Welsh legislation - and a lack of accountability for these failures to implement duties.** Social services support is not a public fund for immigration purposes, and there are very few categories of immigration statuses which are exempt from this support.⁷ In Wales, under the *Social Services and Well-being (Wales) Act 2014* (SSWBWA), social services have a **duty** to meet the care and support needs of children *and adults* if it is deemed necessary to

⁵ For example, the strict eligibility criteria for accessing funding under the SMV Pilot excludes all families with NRPf where there are dependent children, assuming that families will be supported by social services departments under their social care duties. However, anecdotal evidence and case studies from frontline services tells us that this assumption does not reflect the reality.

⁶ This is highly unlikely for anyone as refuge rent rates are exceptionally high and many survivors are destitute and/or have no access to money.

⁷ Those which are exempt are specified under Schedule 3 of the *Nationality, Immigration and Asylum Act 2002*. Even for those individuals or families who are exempt, an exception to this exemption exists which enables (and requires) support to be provided by social services when necessary to prevent a breach of human rights, where this breach of human rights cannot be addressed by a return to country of origin (e.g. if there are legal or practical barriers preventing their return). This can only be determined through undertaking a Human Rights Assessment.

prevent a risk of abuse or neglect. This duty in relation to meeting the needs of adults goes further than the corresponding duty in England's *Care Act 2014*, where the adult's needs must arise from additional vulnerabilities - such as mental ill-health, disability, lack of capacity - as set out in the Eligibility Criteria Regulations. In Wales, the duty to meet an adult's care and support needs is triggered **either** when they meet the eligibility criteria regulations, **or** if it is necessary to prevent a risk of abuse or neglect. In other words, *there is significant scope to ensure survivors with NRPF who are at risk of abuse are placed in safe accommodation and provided with subsistence and support by ensuring that duties under SSWBWA are implemented*. However, the following examples of decisions continuing to be made by social services departments illustrate the lack of understanding / implementation of duties under the SSWBWA⁸:

- Refusing to undertake a care and support needs assessment, instead making decisions about whether needs for care and support exist based on informal investigation or 'professional opinion'. This is unlawful since the duty to undertake a needs assessment arises where *it appears there may be* needs for care and support (a very low threshold), and regardless of immigration status. Finding out whether there *are* needs for care and support can only be established through undertaking the assessment. The same is true of human rights assessments for those otherwise exempt from social services support.
- Alternatively, in some cases, a 'proportional assessment' is made, informed by an informal investigation based on the person's and/or support organisations' *understanding* of the immigration status and access to services, without verifying whether these are correct. Many practitioners have a lack of knowledge about immigration policy / status, and thus a person's eligibility for services. Combined with the complexities inherent in the interface of migration and welfare legislation, this can result in poor practice and in some cases, a breach of a person's Human Rights.
- Refusing to meet care and support needs (e.g. funding a refuge placement and/or subsistence costs) of adult survivors with NRPF, citing that they are the responsibility of the domestic abuse service⁹, and/or that they have no duties to adults with NRPF unless there are children involved. Or, in the case of survivors with children, social services stating that they only have a duty towards the children and not to the adult survivor. Again - an incorrect application of the law: care and support needs of adults *and*

⁸ These examples are primarily drawn from the experiences of domestic abuse services - BAWSO and Welsh Women's Aid's membership.

⁹ Perhaps this shows a lack of understanding among Social Services Departments of how DA services are funded - DA services are not funded in a way that enables them to do this. Local authorities / Welsh Government are not providing the funds to the sector to be able to apply this responsibility. This illustrates that DA services are not being fully resourced to meet the needs of populations.

children must be met by social services, either under eligibility regulations *or* in order to protect adult / child from abuse or neglect. Linked to this are continuing examples of social services threatening to take the children away from the survivor because she doesn't have the means to support the children.¹⁰ The net result is that many survivors will not present for support, further entrenching the vulnerability of women and children to destitution and exploitation.

It must also be mentioned that a 'postcode lottery' operates in Wales in relation to the likelihood of survivors with NRPF being able to access refuge. This is partially due to different local arrangements and varying level of understanding of NRPF by professionals, especially within statutory services but also in the third sector. It is also exacerbated by the limited service provision in Wales for meeting specific needs that survivors with NRPF are more likely to have, such as larger families, and cultural and religious needs.

Proposed Solution: a two-pronged approach

a) **Social Services:** Ultimately, consistent implementation by social services of their duties under the SSWBWA would ensure that the vast majority of survivors with NRPF are able to access refuge or other safe accommodation and support. The legislation is clear that, where it is necessary to prevent a risk of abuse or neglect, social services must meet the care and support needs of the survivor - this applies to both children and adults, in their own right. They could then be supported to regularise their immigration status, apply to lift the NRPF condition, or apply for DDVC and SET(DV). NRPF Network's data shows that the vast majority of families and single adults will exit social services support due to a grant of leave to remain or change in immigration status granting recourse to public funds.¹¹

Creating this change will require high quality, regular training to be embedded into social work degree courses, and within the provision of training (including regular refresher training) for qualified social workers. It will also require strong leadership by the directors of Social Services Departments to foster culture that looks to use all possible means to offer support. This should be underpinned by clear legal and good practice guidance on the interface between immigration policy and social services' duties (and other local government services) by the Welsh Government. Moreover, there must be a mechanism for accountability (starting with robust data collection requirements¹² set by the Welsh

¹⁰ This was consolidated by the research evidence in the Uncharted Territory Review (2021) - https://phwwhocc.co.uk/wp-content/uploads/2021/08/Uncharted-Territory-Rapid-Review-19_08.pdf

¹¹ [NRPF Connect data report 2020 to 2021 | NRPF \(nrfpnetwork.org.uk\)](https://nrfpnetwork.org.uk)

¹² This should include, at minimum: all referrals made to support VAWDASV survivors, as well as referrals made for other reasons where it subsequently emerged there was also VAWDASV; the decisions made, and the reasons for those decisions. Data should be of sufficient quality /detail to enable disaggregation of according to immigration status and NRPF condition).

Government). This should be further bolstered by a team / network of NRPF specialists who work alongside Local Authorities to determine eligibility for support.

While this will create a long-term and *sustainable* change (as the duties are enshrined/protected in primary legislation), it is also likely to take years to embed and change practice. There is a need for the Welsh Government to step in in the interim to ensure survivors do not continue to be denied safety and support while awaiting this systemic change.

b) **‘Last resort’ funding:** We propose that, as an interim measure, the Welsh Government makes funding available to VAWDASV support services to ensure that they can resource their services when the usual means of funding (Housing Benefit) as well as other statutory support (Home Office Asylum Support, Social Services Support) are unavailable to them. This would ensure that whenever a survivor with NRPF was referred to a service, the service could accept the referral knowing that they will be able to cover the costs of providing the support without damaging the service (e.g. through having to use organisational reserves, or even redirect funding from other parts of the service).

Under section 4 of the *Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015* (VAWDASV Act), the Welsh Government is obliged to take “all reasonable steps” to achieve the objectives specified in the national strategy. One of the objectives in the current national strategy is to “Provide victims with **equal access** to appropriately resourced, high quality, needs led, strength based, gender responsive services across Wales”. Designating “last resort” funding for the purpose of enabling specialist VAWDASV services to support survivors with NRPF is within the Welsh Government’s competency and will constitute a “reasonable step” to achieving Objective 6 - equality of access to services. Arguably, failure to do so might put the Welsh Government in breach of the aforementioned duty.

We propose that funding is made available to VAWDASV support services through the existing Welsh Government VAWDASV Fund - by means of an uplift and ring-fencing. The purpose of the fund would be to enable VAWDASV support services to cover the accommodation and support costs of supporting survivors with NRPF. This part of the fund would be administered centrally (either by the Welsh Government or commissioned to a specialist service such as BAWSO) and would be accessible only to service providers (not to individual service users). Service providers would not be granted a set amount of funding; they would have to apply to the central fund as and when the need arises (similar to the Supporting Migrant Victims model). This would safeguard against any potential risk of misuse of public funds since the administrator of the fund would be responsible for ensuring that it has not been restricted by the UK Government for immigration purposes. Moreover, to be eligible to access the fund, services

would have to demonstrate that all other statutory funding options have been exhausted / failed.

Challenges raised by the Welsh Government

The Welsh Government have been advised by their legal team that there is a risk to providing a designated fund. While we have not seen the advice, our understanding of what has been communicated is as follows:

- The UK Government could add the fund to the list of public funds which are restricted for immigration purposes. If individuals accessed the fund unaware that it had been added to the list of restricted public funds, they could face sanctions, including jeopardy of their immigration status, or current/future immigration applications. More concerning is the advice given to the Welsh Government that individuals could face *retrospective* sanctions - i.e. could be penalised for accessing the fund even if, at the time of accessing, it was not on the list of restricted public funds.

Response to the challenges

There are two points to address here.

First, in relation to the risk to individuals, it would be helpful if the Welsh Government shared its legal advice - especially in relation to 'retrospective' sanctioning of beneficiaries. As the proposed fund would not be received by the individual but the organisation providing the support, it seems unlikely that individuals could be penalised for accessing a service - especially one which, at the time of accessing, they had every right to access. If there is no risk of sanctioning (retrospective or otherwise) to an individual, then consideration must be given to whether there is a risk to the service provider or administering body. However, it must also be considered whether any possible risk of providing the funding is likely to be outweighed by its lifesaving benefits.

The second point is in relation to the *ability* of the UK Government to challenge the provision of the fund, versus the *prospect* of them doing so, should the Welsh Government make funds available. It is clear that the UK Government *could* add any fund to the list of restricted funds for immigration purposes, even if it contravenes the Sewel Convention. We have seen in recent times (Covid, Brexit) that the Sewel Convention is simply that: a convention. The UK Government can essentially interfere in any aspect of policy and governance in Wales. Therefore, the fact that the UK Government *could* interfere is neither here nor there: it should not be the influencing factor on the decision of whether to provide the funding.

The question we should be asking is not whether the UK Government *can* add the funding to the list of restricted public funds, but whether it is *likely* to take such action.

This is likely to depend on how the funding is made available. If, for example, the funding was paid directly into individuals' accounts, then the UK Government will almost certainly add this promptly to the list of public funds (as they did with the Scottish Welfare Fund in 2016). This is because it would effectively create a new 'benefit'.

However, this is not what we are proposing. As set out above, our proposal is for funding to be made available to resource VAWDASV services, on a case-by-case basis, as and when the need arises.

Government funding for addressing needs arising from NRPF is not unprecedented: there are numerous examples of Police and Crime Commissioners and Local Authorities being granted / granting funds specifically for the purpose of addressing the accommodation and support needs of people with NRPF (see Appendix 1). The funding has come from the Home Office, Ministry of Justice, and the (formerly named) Ministry of Housing, Local Government and Communities. The Home Office's current SMV pilot also provides a further example of how public funds can be used to address this issue.¹³

Moreover, including conditions on the fund - such as evidencing that *all other statutory funding avenues have been exhausted* - would not only help to build a picture of where the specific shortfalls and barriers for securing funding for survivors with NRPF; it would also help to strengthen the sector's understanding of the different options that are available, and encourage a culture which sees statutory duties being properly implemented.

Conclusion and questions for the Welsh Government / Equality and Social Justice Committee

This evidence submission has made the case for the Welsh Government to make available and designate last resort funding for VAWDASV services in Wales, for the purpose of ensuring equality of access to support for survivors with NRPF. We have proposed a mechanism which would ensure that the provision of funding comes at no risk to any individual benefiting from it.

The urgency of implementing a Welsh solution cannot be overstated. BAWSO's data shows that in the financial year 2019-20, out of 164 enquiries about support for survivors with NRPF, 76 service users were supported (46%) across all BAWSO services in Wales. In the financial year 2020-2021, 219 referrals were received, of which 98 service users were supported (45%).

¹³ It is also noteworthy that the Domestic Abuse Commissioner has recently made very similar calls for funding to be made available to local authorities and to specialist 'by and for' services: <https://domesticabusecommissioner.uk/wp-content/uploads/2021/10/Safety-Before-Status-Report-2021.pdf>

Welsh Women's Aid's membership data shows that, in 2020-21, there was a 29% increase in the number of survivors who were refused a refuge space due to lack of resourcing, compared to the previous financial year (18, compared to 14, respectively).

Moreover, the support provided by the Home Office via the Supporting Migrant Victims pilot has been shown by its administrators to be inadequate, with survivors still falling through the net. While the Home Office has indicated that the pilot will be extended, still no detail has been provided on how/what form this will take, and whether it will allow for the flexibility that is needed to support all migrant survivors, regardless of immigration status. Moreover, there is no guarantee of a sustainable policy solution. This might take years.¹⁴

This is happening in a context where the NRPf condition is affecting increasing numbers of people. People with pre-settled status under the EU Settlement Scheme who do not meet the qualifying criteria to access welfare benefits have, de facto, NRPf. While this is an anomaly which has not yet been addressed in the legislation, the expectation is that people who fall under this category are not treated any differently to those with NRPf stamped on their immigration / ID documents. Moreover, if the current provisions in the UK Government's *New Plan for Immigration* regarding imposing NRPf on refugees granted a Temporary Protection Leave are implemented, this will further increase the number of people vulnerable to destitution, exploitation, and abuse.

In Wales, we have an opportunity to mitigate the impact NRPf policy is having on migrant survivors by earmarking funds for 'last resort funding' for VAWDASV services.

Questions:

1. What, if any, are the risks to *an individual/family with NRPf* if they were to access a VAWDASV service which was funded in the way set out in the proposal above?
 - a. In relation to the caution raised by the Welsh Government - that the UK Government could add the fund to the list of public funds prohibited for immigration purposes - does the Welsh Government agree that this would *not* occur, if agreed in advance with the Home Office, or agreed in terms of not treating it as a public fund for immigration purposes?
 - b. In relation to the caution raised by the Welsh Government - that if the individual accessed the fund unaware of its inclusion on the list, they could be penalised - does the Welsh Government agree that this would not arise, if agreed in advance by the Welsh Government and Home Office to prevent such penalties?

¹⁴ The evaluation of the pilot will not be concluded before July 2022; after this, the UK Government will need to consider the findings, make policy proposals, and (assuming a policy solution is agreed), implement the policy change.

2. What, if any, are the risks to a *VAWDASV service provider* if they were to fund their service to survivors with NRPF through the mechanism set out in the proposal above?
3. What, if any, are the risks to the *Welsh Government / Ministers* if they were to provide a ring-fenced uplift to the existing VAWDASV fund and administer it in the way set out in the proposal above?
4. Given that the UK Government is itself trying to understand the extent of the problem (of survivors with NRPF being locked out of essential support and safety) via its Supporting Migrant Victims pilot, it would be accurate to say that our aim in this proposal does not contradict the aim of the UK Government.
As such, what, if any, are the *political obstacles* that might face the Welsh Government if it were to decide that it wants to implement this funding proposal?
5. Given that the aim of our proposal is to better resource VAWDASV victim support services so that they are accessible to all survivors, and given that the UK Government has no policy / rule that explicitly seeks to prevent people with NRPF from accessing support services,¹⁵ how, if at all, does our proposal interfere with immigration policy?
6. In relation to the concern raised by the Welsh Government - that the UK Government could accuse the Welsh Government of interfering in an area of policy that is reserved to the UK Government (immigration) - could the Welsh Government confirm source of this view and also why that cannot be pre-empted by agreement in advance between the Welsh Government and Home Office to ensure that this is not the case?
7. What is the alternative to survivors with NRPF if services are not provided with this last resort funding to ensure their equal access to support? How does the Welsh Government suggest they access support?
8. Has an Equality Impact Assessment been carried out by the Welsh Government to assess the impact that the ongoing refusal to provide funding is having on survivors with NRPF? If so, please can the Welsh Government provide a copy to the members of the NRPF/VAWDASV Steering Group?
9. In relation to Social Services: Would it be helpful for WLGA / Welsh Government Social Services Team to meet with LA Social Services Departments to better understand the issues they face in properly implementing the SSWBWA duties as they relate to migrant victims with NRPF?

¹⁵ To the contrary, their guidance on DA support for asylum seekers, as well as the existence of the Destitution Domestic Violence Concession (albeit severely limited), are clear examples of attempts by the UK Government to *improve* access to support services for survivors with NRPF.

Appendix 1: Examples of UK Government funding for NRPF-related issues

1. **Lancashire PCC 2021:** Received £62,000 from the Ministry for Housing, Communities and Local Government (MHCLG) – No Recourse to Public Funds (NRPf) - which the Office administer and allocate. The fund is to support Domestic Abuse victims entering refuge who have no access to public funds.

2. **Suffolk PCC 2021:** made a grant of £40,000 to **Phoebe**, a specialist 'by and for' Black and migrant survivors of DA. The fund was granted to support their general work which includes "helping victims of DA to find safe temporary accommodation, completing visa applications, facilitate support groups, providing counselling and casework, and legal advice".

The PCC also made a grant of £51,000 to **Leeway Domestic Abuse and Violence Service** to support their "Project Safety Net" which would "enable 2 bilingual DA workers in Suffolk to continue to provide practical and emotional support to victims of DA with NRPF and where English isn't their first language."

Both grants were funded from the MOJ Victim Services grant 'Domestic Abuse Uplift' for 2021/22 and from the PCC commissioning budget.

3. **Bedford Local Authority:** Funded one house (4-bed spaces) for NRPF clients (not DA specific - Kings Arms Project) which was fully funded by the Ministry for Housing Communities & Local Government's 'Controlling Migration Fund' (awarded via the LA). In October 2018 this funding increased to include additional 8 rooms, providing total bedspaces for 14 NRPF with the right to work i.e. EEA nationals.
4. **West Mercia PCC (2015):** Funded £50,000 to West Mercia Women's Aid for the specific provision of services to support survivors with NRPF.

Agenda Item 3

Cyflwynwyd yr ymateb i ymgynghoriad y [Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol](#) ar [Drais yn erbyn menywod, cam-drin domestig a thrais rhywiol: menywod mudol](#)

This response was submitted to the [Equality and Social Justice Committee](#) consultation on [Violence Against Women, Domestic Abuse and Sexual Violence: migrant women](#)

MW04

Ymateb gan: Iechyd Cyhoeddus Cymru | Response from: Public Health Wales



Public Health Wales Response to Equality and Social Justice Committee

Violence Against Women, Domestic Abuse and Sexual Violence: migrant women

1. Name:

Joanne Hopkins, Programme Director, Adverse Childhood Experiences, Violence Prevention, and Criminal Justice, Public Health Wales

2. Email address:

3. In what capacity you are responding to this consultation?

Individual responding on behalf of an organisation – Public Health Wales

Please find our response to the consultation under each of the headings set out in the Terms of Reference.

4. Migrant women’s experiences of violence and the extent to which cultural norms and practices contributes to VAWDASV (e.g. FGM, forced marriage, honour-based’ abuse).

4.1 There has been some significant research in Wales over the last ten years that has provided evidence of the experience of Violence Against Women and Girls in Wales. In 2013, the Wales Strategic Migration Partnership published ‘Uncharted Territory’ which was the first study in Wales to two at the experience of violence against migrant, refugee and asylum seeking women and girls. It can be found on the WLGA website at:

<https://www.wlga.wales/SharedFiles/Download.aspx> This report makes extensive reference to how culture and practices contribute to VAWDASV, but also how a lack of understanding of how violence such as sexual violence is a taboo in some cultures and societies can lead to traumatising experiences for those who have experienced them and are asked to recount these experiences.

4.2 In 2020 the Adverse Childhood Experiences Support Hub, hosted by Public Health Wales and funded by the Welsh government produced a report entitled the ‘Review of Uncharted Territory’. This report can be found on the public Health Wales WHO Collaborating centre website at <https://phwwhocc.co.uk/resources/uncharted-territory-review/>

4.3 This report examined the experience of refugee, asylum seeking and migrant women and girls, during the COVID pandemic and looks at what progress had been made against the reconditions of the initial report. In respect to cultural norms and practices the review found that

‘Women from minority ethnic backgrounds may suffer from further pressures due to cultural and community concerns; many women sometimes decide to stay in their abusive relationships due to fear of social exclusion if they leave their abusive partners and the fact that language barriers may prevent them from accessing support. A discussion paper on Inter-Personal Violence (IPV) in Sweden on migrant women with insecure immigration status found that women may experience social

isolation, a lack of awareness about services, and racism from services, resulting in a higher prevalence of violence'.¹

4.4 In relation to progress made on the recommendations of the 2013 Uncharted Territory report, cultural norms and practices are referenced in one of the responses of partner agencies:

'Home Office asylum interview: 'We also focus on addressing gender specific issues such as the impact of cultural norms and other underlying factors on the interviewee's ability to provide their account. Additionally, trainees are taught more specifically about how they can deal with Female Genital Mutilation and other forms of Gender Based Violence sensitively in the asylum interview'.²

The responses include reference to the specific forms of violence considered harmful traditional or cultural practices, but not further comment on the cultural norms that underpin them. For example, training provided as part of the Welsh Government National Training Framework, training offered by Welsh Women's Aid and resources produced by the ACE Support Hub, Welsh Women's Aid and BAWSO with Welsh government for schools.

4.5 Public Health Wales has also looked at the experience of ACEs and Child Refugees in the 2020 report 'Adverse Childhood Experiences in child refugee and asylum seeking populations' that can be found on the WHO Collaborating Centre website:

<https://phwwhocc.co.uk/resources/adverse-childhood-experiences-in-child-refugee-and-asylum-seeking-populations/> The issue of the relationship between cultural norms and violence is identified as being an important factor as to why some families are forced to flee their home country.

'Risk of exposure to abuse and neglect (and whether parents recognise certain behaviours as being abusive or neglectful) varies by cultural context, relating to home country norms; expectations and laws around parenting and the use of corporal punishment; cultural norms around gender roles and parent-child relationships; and the social and economic conditions in home countries... In some instances, experience of or threat of child abuse is a reason for flight e.g. escaping abuse because of their sexual orientation/gender identity... or fleeing the threat of genital mutilation ...'³

4.6 The report on ACEs and child refugees also identifies the specific link to domestic abuse 'As with child abuse, prevalence of domestic violence can be culturally specific, relating to gender roles and cultural norms around the use and acceptability of violence within relationships..... In Wales for instance, research among refugees, asylum seekers and migrants identified that women had often suffered physical or emotional violence from their husbands (as well as in-laws and other family members), often as a result of unequal

¹ https://phwwhocc.co.uk/wp-content/uploads/2021/08/Uncharted-Territory-Rapid-Review-19_08.pdf p17

² Ibid p23

³ <https://phwwhocc.co.uk/wp-content/uploads/2020/07/ACEs-in-Child-Refugee-and-Asylum-Seekers-Report-English-final.pdf> p8.

power relations.⁴ This is also a finding in relation to cultural norms however that are also a resilience factor. By ensuring that there is a sense of cultural identity, shared lived experience and culture connection we are building important protective factors, so it is also important to distinguish between cultural norms and practices which are harmful (and illegal in the UK) and those that provide a protective factor against broader adversity and harm. It is important to note that the Public Health Wales response to the Welsh Government VAWDASV Strategy consultation in 2022 identified that this distinction was not clear in the consultation document.

4.7 The importance of cultural connection in supporting unaccompanied children in particular to integrate was highlighted in the 2020 Aberystwyth University Report 'Adverse Childhood Experiences (ACEs) and Refugee Children in the 1930s in the UK: A History Shaping the Future.' This report can be found on the ACE Support Hub website at: https://issuu.com/acesupporthub/docs/aberystwyth_aces_and_child_refugees_report_eng_fi

'The combination of a secure cultural base and shared experience when in contact with other refugees from a similar background, and the daily contact with British work, characters, and values, enabled these refugees to be connected to both their Continental background and simultaneously establish a new independent adult life in Britain'.⁵

The link to that cultural identity is seen as an important way for young people to have supported independence so this aspect should also not be lost in the discussion around harmful culture norms and practices.

5. The scope and coverage of specialist services and interventions which are adequately resourced and trained to support survivors from migrant communities, including meeting cultural and linguistic needs.

5.1 The Uncharted Territory Review finds that there is a need for more specialist services to support survivors from migrant communities, and where survivors have been signposted to there is an additional set of barriers for those who have No Recourse to Public Funds (NRPF). There is also an 'Invisibility of migrant women and girls including those from the Gypsy Roma Traveller community, migrant and seasonal workers, students and others on temporary visas. This found little evidence of work that has addressed the particular experience of these groups directly in relation to VAWDASV'.⁶ In response to the recommendation from the 2013 Uncharted Territory report on availability and resourcing of specialist services, Welsh Women's Aid's response was 'We have been calling for this in our State of the Sectors reports for years. It is a commitment within the national VAWDASV commissioning guidance and national VAWDASV strategy. The Wales Audit Office report

⁴ Ibid p11

⁵ https://issuu.com/acesupporthub/docs/aberystwyth_aces_and_child_refugees_report_eng_fi p13

⁶ https://phwwhocc.co.uk/wp-content/uploads/2021/08/Uncharted-Territory-Rapid-Review-19_08.pdf p37

recommendations and numerous Equalities and Local Government Committee Senedd Committee Reports have highlighted it. But it is still not delivered.’⁷

5.2 The 2020 report on ACEs and child refugees also identified access to support services as essential for a range of needs not just VAWDASV. ‘Ensuring that children and families have the necessary support available to them, whether that is access to health and mental health services or systems within school to help with academic learning, is essential. Considering and overcoming barriers to accessing services (e.g. within health services in Wales: challenges of communication, transport costs and poor provision of mental health services... is therefore important’.⁸

5.3 In 2021, the Wales Violence Prevention Unit, of which Public Health Wales is a founding member published a systematic review on ‘What works to prevent VAWDASV? The report makes the recommendation that further research is required with diverse communities to consider effective programmes for the prevention of VAWDASV⁹. The report was commissioned by Welsh Government and can be found on the violence prevention unit website https://www.violencepreventionwales.co.uk/cms-assets/research/What-Works-to-Prevent-Violence-against-Women-Domestic-Abuse-and-Sexual-Violence-Systematic-Evidence-Assessment_2021-09-20-124755_aypz.pdf

5.4 The forthcoming SEREDA Wales report supported by the ACE Support Hub and led by Professor Jenny Phillimore from Birmingham University IRIS, will also include some important suggestions from improvement from survivors of Sexual and Gender based Violence in Wales. These are in the areas of funding, training and access to services but also supports the need for better join up with areas of Welsh government priority such as LGBT+ communities and older people, race equality and opportunities for education and employment. This research will be published in late May.

6. Consideration of the barriers preventing migrant women and girls in Wales from accessing services and additional barriers faced by women with insecure immigration status, or whose immigration status is dependent on a spouse or employer or those who have No Recourse to Public Funds (NRPF).

6.1 The Uncharted Territory Review found that here is particular cause for concern around the barriers that women who have No Recourse to Public Funds face. There are two case studies within the report that show the difficulty women face in finding a refuge space, but also the lack of join up between governments on this issue.

‘NRPF. The original recommendations of the 2013 report identified recommendations for both the UK Government and Welsh Government on NRPF, and yet this still seems to be falling through the gap of devolved/non devolved

⁷ Ibid p36

⁸ <https://phwwhocc.co.uk/wp-content/uploads/2020/07/ACEs-in-Child-Refugee-and-Asylum-Seekers-Report-English-final.pdf> p32

⁹ https://www.violencepreventionwales.co.uk/cms-assets/research/What-Works-to-Prevent-Violence-against-Women-Domestic-Abuse-and-Sexual-Violence-Systematic-Evidence-Assessment_2021-09-20-124755_aypz.pdf p55

responsibility. Welsh Government state clearly that this is the responsibility of the Home Office. Although this is the case for immigration, in terms of support services, Welsh Government could make funding available for those with NRPF if it chose to. Work undertaken by the Wales Strategic Migration Partnership as recommended still shows that we are unclear on the data if how many people have NRPF and evidence from Welsh Women's Aid shows that accessing any accommodation or support is extremely difficult for women in this position. The question of funding for refuge provision for women and girls was as big an issue in 2013 as it is in 2021, with the case studies showing the challenges faced by helpline staff in securing spaces.'¹⁰

6.2 The review also identified opportunities for the experience of women and girl in Wales who have NRPF through a better understanding of the existing Welsh legislation that may enable services in Wales to provide support a way that English services, for example, may not.

'Lack of awareness of Social Services duties under Welsh legislation. As exemplified by the Case Study where social worker says it's "more of a DV issue" (and therefore not within their remit). WG have commissioned the NRPF Network to deliver training on this, which recently concluded. But this review finds that there is more work to be done to ensure that there is better understanding of the duties under the Act, which are not mentioned in the updated from Welsh Government in relation to social services and local authorities.'¹¹

6.3 The review further finds the need for better join up between governments on this through improved governance and wider related issues around VAWDASV and migrant, refugee and asylum seeking women as well a need for improved join up between the VAWDASV policy area and the Nation of Sanctuary Plan, as well as wider policy areas that are relevant in the experience of displaced people who have suffered VAWDASV including the wider equalities work.

¹⁰ https://phwwhocc.co.uk/wp-content/uploads/2021/08/Uncharted-Territory-Rapid-Review-19_08.pdf p37

¹¹ Ibid

Agenda Item 4



JRS Briefing for the Equality and Social Justice Committee, Senedd

Violence against Women, Domestic Abuse and Sexual Violence: Migrant Women

6 June 2022

About JustRight Scotland

JustRight Scotland is a registered charity established by an experienced group of human rights lawyers. We use the law to defend and extend people's rights, working collaboratively with non-lawyers across Scotland towards the shared aims of increasing access to justice and reducing inequality.

We work across a number of policy areas, including: women's legal justice, trafficking and labour exploitation, EU citizen rights, migration and citizenship, disability and trans legal justice. Whilst our work is specific to Scotland, we appreciate that our areas of focus cover both devolved and reserved legislation and as such we endeavour to work across both the Scottish and UK Parliament where appropriate.

We work with clients directly providing legal advice and representation. We also run outreach legal surgeries and helplines, deliver rights information, training, and legal education, and contribute to research, policy and influencing work.

Scottish Context/Background

The Scottish Government has made a commitment to the protection and advancement of human rights in Scotland and has set out an ambition to be a world leader in using its devolved powers to protect human rights and to implement core international human rights treaties by 2026 including the Committee on the Elimination of Discrimination against Women (CEDAW).¹

¹ <https://www.gov.scot/news/next-step-towards-scottish-human-rights-bill/>

The Scottish Government underpins its commitment to the promotion and advancement of human rights through cornerstone national strategies such as the **Equally Safe** strategy, originally published in 2014, to tackle and prevent all forms of violence against women and girls which was produced in partnership with government, local authorities, police, health, and key violence against women sector organisations². A further key national strategy is **New Scots Refugee Integration** strategy which has also been in place since 2014 and commits to welcoming, supporting and integrating refugees and asylum seekers within our communities from day one³. The Scottish Government also has an action plan in relation to **Ending Homelessness**⁴.

There are furthermore frameworks and strategies in place around **Mental Health**⁵, the best interests of the child through **Getting it Right for Every Child (GIRFEC)**⁶ and a **Trauma Informed Practice Toolkit**⁷ to support the implementation of good practice when working with migrant survivors of gender based violence.

Constitutional Framework

The ability to fully implement the afore-mentioned commitments, however, in relation to individuals subject to immigration control can be constrained by the operation of our constitutional framework which is a “reserved powers” model of devolution rather than a federal model.

JustRight Scotland and the Scottish Refugee Council recently obtained a legal opinion in relation to the operation of the Nationality and Borders Act in Scotland. As part of this opinion, a cover note was prepared explaining the system of devolution⁸.

In summary, immigration policy is reserved to the UK Government and thus the immigration framework and policies apply in Scotland as they do in the rest of the UK.

All other areas in relation to the protection and integration needs of a forced migrant who has survived gender based violence in Scotland are devolved. This includes policing and justice, victim support and protection, local authority support, health, housing, education, and access to legal assistance.

The operation of immigration law and devolved areas of policy has become increasingly blurred and complex with the advent of the UK Government policy around a hostile immigration climate. This is because, measures in pursuance of this

² <https://www.gov.scot/policies/violence-against-women-and-girls/equally-safe-strategy/>

³ <https://www.gov.scot/policies/refugees-and-asylum-seekers/new-scots/>

⁴ <https://www.gov.scot/publications/ending-homelessness-together-updated-action-plan-october-2020/pages/1/>

⁵ <https://www.gov.scot/publications/mental-health-strategy-2017-2027/pages/5/>

⁶ <https://www.gov.scot/policies/girfec/>

⁷ <https://www.gov.scot/publications/trauma-informed-practice-toolkit-scotland/pages/1/>

⁸ <https://www.justrightscotland.org.uk/wp-content/uploads/2021/11/Legal-Opinion-Cover-Note-FINAL.pdf>

aim reach into devolved areas around policing and access to support and limit the implementation of the Scottish Government's commitments in this area.

This is resulting in increasing tensions and uncertainty around the parameters in which the Scottish Government, public authorities and civil society can operate in order to mitigate the impacts and meet objectives under our national strategies.

No Recourse to Public Funds

A key example of where this tension manifests itself is in the area of No Recourse to Public Funds (NRPF).

NRPF is a condition which restricts access to most mainstream benefits, local authority housing or homelessness services and is affecting greater numbers of migrants due to leaving the EU and other changes to immigration law. This condition is applicable in Scotland and has limited the Scottish Government and local governments from responding in the way they would like to situations of destitution and homelessness amongst migrants and preventing the clear risks of gender-based violence which exist in such situations.

An opinion was secured from a senior advocate, Janys Scott QC by the British Red Cross in November 2016 in the area of NRPF and pregnant migrant women⁹. This highlighted the lack of awareness regarding the implementation of the rules in a national and local context and particularly where accommodation and/or support must be provided regardless of any NRPF condition due to existing duties under national legislation around the protection of children and vulnerable adults and the need to undertake human rights assessments.

Following this opinion and other research and policy reports raising concerns in this area, the Equalities and Human Rights Committee of the Scottish Parliament took evidence in this area and published a report in 2017 called "*Hidden Lives – New Beginnings: Destitution, asylum and insecure immigration status in Scotland*"¹⁰.

Following this report, we worked with COSLA Strategic Migration Partnership and the NRPF network on local authority and national guidance and awareness raising on the rights and entitlements of migrants in Scotland. This work is hosted on the Migration Scotland website¹¹ and we will work on updating this guidance later this year.

We also worked with COSLA and the Scottish Government to develop guidance around a COVID-19 response to migrants with NRPF¹². A COVID-19 recovery

⁹ https://archive2021.parliament.scot/S5_Equal_Opps/General%20Documents/red_cross_.pdf

¹⁰ <https://digitalpublications.parliament.scot/Committees/Report/EHRiC/2017/5/22/Hidden-Lives---New-Beginnings--Destitution--asylum-and-insecure-immigration-status-in-Scotland>

¹¹ <https://www.migrationscotland.org.uk/our-priorities/current-work/rights-and-entitlements>

¹² https://www.migrationscotland.org.uk/uploads/Guidance%20Covid%2019%20Supporting%20People%20with%20NRPF%20200420%20%28002%29_0.pdf

framework is being published this week by COSLA and we can forward this to the committee when we have this.

Furthermore, the Scottish Government and the Convention of Scottish Local Authorities (COSLA) came together in 2021 to make a clear commitment to mitigating these risks to the extent they are able to do so. In March 2021, they published a new strategy **Ending Destitution Together**¹³. This is the first strategy of its kind and sets out an ambitious work plan over three years to assist people with NRPF centring around three action areas; i) access to essential needs (food, shelter, healthcare), ii) specialist information, advice and advocacy (to navigate systems to access rights); and iii) inclusion to enable people to find pathways out of destitution, wherever they are in Scotland.

In addition to the COSLA role of providing guidance and training in this area, they have been working with Women's Aid in Scotland on developing proposals with a focus on housing outcomes for women and children experiencing domestic abuse in this area.

Sharing of Information/Firewalls

We also know that a further barrier in seeking assistance is the fear of information being shared with immigration officials. Immigration legislation and practice can impose requirements in this area. However, these requirements may conflict with protections contained within our human rights and GDPR legislation. Individualised assessments are required and in some cases, it is never the right move to share data. There is benefit in raising awareness around the requirements in this area and for organisations and public authorities to make clear statements in this regard. A good example from the Scottish context comes from NHS Scotland which makes it clear that NHS Scotland does not pass patient details to the Home Office for the purpose of immigration enforcement.¹⁴

Nationality and Borders Act 2022

The Nationality and Borders Act 2022¹⁵ is another example of where the tension between immigration law and devolved areas of competence in Scotland can be evidenced. The provisions of this legislation have been widely condemned at an international and national level as being against international and national legal standards in human rights and humanitarian law. The UNHCR has called the provisions a "*recipe for mental and physical ill health, social and economic marginalisation and exploitation*". Furthermore, as forced migrants are pushed further to the margins of our society, the risks of gender based violence increase and the legislation creates further categories of migrants that will have no recourse to public funds. As the UNHRC has said, the "*economic and social costs of their immiseration will ultimately be borne by local authorities, communities, and the*

¹³ <https://www.gov.scot/publications/ending-destitution-together/>

¹⁴ <https://www.nhsinform.scot/care-support-and-rights/health-rights/access/healthcare-for-refugees-and-asylum-seekers>

¹⁵ <https://www.legislation.gov.uk/ukpga/2022/36/contents/enacted>

National Health Service”¹⁶ and thus on areas of devolved competency within Scotland.

In response, Scottish and local government actors alongside civil society mobilised to increase awareness of this impact and to ensure a co-ordinated response. As stated above, a legal opinion was obtained by JustRight Scotland and Scottish Refugee Council around the impacts of this legislation in Scotland and steps that can be taken to mitigate its harms¹⁷ together with a joint briefing calling on various actors within Scotland to take concrete action in response¹⁸. Civil society put out a statement noting that the provisions of the bill are not being implemented “*in our name*” and calling on Scotland to act to the maximum extent of our devolved powers to counteract the impact of its provisions¹⁹.

On 22 February 2022, the Scottish Parliament opposed the Nationality and Borders bill as a whole and refused to give legislative consent²⁰. The Welsh Government similarly refused legislative consent²¹. The UK Government, has, however stated that legislative consent was not required underscoring the limitations of the devolved system and strains on the constitutional settlement.

Mitigating the Impacts in Scotland

As can be seen by these examples, the Scottish response is increasingly about raising awareness and understanding of the parameters government and civil society can operate within in order to mitigate the worst impacts of the UK immigration system.

A particular example is the Women, Asylum, Immigrants & Refugee (WAIR) Working Group of the Glasgow Violence Against Women Partnership (GVAWP). This working group has a strategic focus and brings together representatives from local authorities and civil society to ensure that the needs of women, who were subject to immigration barriers and experienced any form of male violence (against women and girls), were included in recovery and strategic planning in Glasgow City Council.

As part of its work in 2022, it has worked with local authorities to input to frameworks for the provision of support to women who may have no recourse to public funds. It has developed a **Women, Destitution & No Recourse to Public Funds Project**. The project is a joint initiative between the GVAWP, Glasgow Women’s Aid and British Red Cross.

¹⁶ UNHCR Updated Observations on the Nationality and Borders Bill, as amended and updated at January 2022 <https://www.refworld.org/pdfid/61e529af4.pdf>

¹⁷ <https://www.justrightscotland.org.uk/wp-content/uploads/2021/11/Legal-Opinion-FINAL.pdf>

¹⁸ <https://www.justrightscotland.org.uk/wp-content/uploads/2021/11/Joint-advocacy-briefing-to-Legal-opinion-and-Cover-note-on-the-devolved-impacts-of-the-Nationality-and-Borders-Bill-Final-18-1.pdf>

¹⁹ <https://www.rapecrisisScotland.org.uk/news/news/not-in-our-name---joint-statement/>

²⁰ https://publications.parliament.uk/pa/bills/cbill/58-02/0187/Nationality_and_Borders_Legislative_Consent_Motion_220222.pdf

²¹ <https://bills.parliament.uk/publications/45262/documents/1422>

The Project was developed based on the shared concerns about the increasing numbers of women subject to 'No Recourse to Public Funds' (NRPF) condition because of their immigration status.

Organisations or services, including lawyers, can apply on behalf of women for funding:

- To provide a basic safety net and prevent crisis
- To inform and develop inclusive and trauma informed responses to women with NRPF who are experiencing/fleeing/affected by any form of male violence (against women & girls)
- To access safe housing for up to 14 days
- To facilitate access to healthcare
- To access cash-based living allowance for food and other essential needs
- Access essential specialist immigration advice and benefits information to allow women to safely enter mainstream services

It is hoped this project will:

- Raise awareness of the challenges experienced by women subject to immigration controls
- Identify pathways which prevent destitution, highlight and inform the development of good practice
- Inform Glasgow Violence against Women Partnership, COSLA and Scottish Government of the needs of this vulnerable group of women

There is also in operation an organisation called Ubuntu. This organisation is based in Glasgow and provides unconditional practical support for destitute women and people of other marginalised genders who have no recourse to public funds and insecure immigration status in Scotland.

We are also seeking a legal opinion on the issue of No Recourse to Public Funds similar to the one we commissioned on the Nationality and Borders Act. This will again be used as an aid to understand clearly the parameters we can operate within a devolved context within this area.

We look forward to providing further evidence on this issue on 6 June 2022.

Agenda Item 5.1

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

13 May 2022

Dear Huw,

Thank you for your letter of 12 May. As you are aware, on 10 May 2022 His Royal Highness the Prince of Wales formally opened the new session of the UK Parliament on behalf of Her Majesty the Queen, and in doing so outlining the UK Government's proposed legislation for the new session.

I have today published a written statement regarding the anticipated implications of the proposed legislative programme for the Senedd, as well as to provide updates on our engagement with the UK Government.

I am keen to ensure we continue to work collaboratively with the Senedd on legislative consent matters, and I hope you will welcome this early letter and the associated Written Statement in that spirit. I can confirm I will attend the Legislation, Justice and Constitution Committee on 20 June. I hope to have more information on the bills referred to in the Written Statement by then and I look forward to discussing further at that meeting.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

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Correspondence.Mick.Antoniw@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

I am copying this letter to the Llywydd and other Committee Chairs.

A handwritten signature in blue ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Agenda Item 5.2

Jane Hutt MS
Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Jenny Rathbone MS
Chair
Equality and Social Justice Committee

27 May 2022

Dear Jenny,

Thank you for your letter of 5th May asking me to set out the actions that can be taken to look at further research on the relationship between debt and alcohol addiction and/or substance misuse.

Knowledge and Analytical Service (KAS) officials from the Social Justice and Public Health portfolios are working jointly to explore options for taking this forward. Options under consideration are as follows:

- Formally commission a supplier to expand upon the previous literature review that was conducted in house
- Explore whether this could form part of the COVID-19 Evidence Centre Work Plan

As suggested, officials have been in discussions with the Equality and Data Evidence Unit and although this research does not directly relate to their area of work they will be kept informed of any progress and maintain involvement throughout.

It should be noted that as well as appraising what the evidence can tell us about the connection between addiction and debt another key consideration will be the availability of data for this area.

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Correspondence.Jane.Hutt@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

In order to ensure that any further research that is undertaken is fit for purpose, I would be grateful if you could provide me with some further insight on what the committee hopes to achieve by carrying out this research and ask that you provide me a more direct steer from the committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jane'. The signature is written in a cursive style with a long horizontal stroke above the first letter.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Jane Hutt MS
Minister for Social Justice

5 May 2022

Dear Jane

Debt and the Pandemic

Thank you for your letter of 31 March including an update relating to recommendation 2 of our report on Debt and the Pandemic, which we noted on 25 April.

We welcomed the information you provided resulting from the research exercise and we would be grateful if you could continue to keep us informed as this work progresses.

However, we were surprised to note the lack of available data on the relationship between debt and alcohol addiction and/or substance misuse. We consider this to be an area of key concern, particularly in light of the current cost-of-living crisis impacting households and the potential for further difficulties as a result. We would therefore ask if you could set out what action can be taken to look at further research on this issue, including using the Equality and Data Evidence Unit to gather data.

Yours sincerely



Jenny Rathbone MS
Chair, Equality and Social Justice Committee

Agenda Item 5.3

Jane Hutt AS/MS
Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Jenny Rathbone MS
Chair of the Equality and Social Justice Committee
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27 May 2022

Dear Jenny,

Response to the Equality and Social Justice Committee's report *Annual scrutiny of the Future Generations Commissioner: An update*

I would like to thank members of the Equality and Social Justice Committee for their report on the annual scrutiny of the Future Generations Commissioner for Wales. The recommendations contained within this scrutiny report on the Commissioner are for the consideration of the Welsh Government, the Senedd, and the Public Accounts and Public Administration Committee. I therefore look forward to a further update on the Committee's views and recommendations to the Commissioner. I have set out the response to the report's recommendations addressed to Welsh Government below. Please note that Recommendation 3 of the report, which concerns the training and professional development of the Welsh Government civil service, is a matter for the Permanent Secretary, who will provide a separate response on this to the Committee.

I am copying this letter to the Chair of the Public Accounts and Public Administration Committee and the Future Generations Commissioner for Wales.

Yours sincerely,

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Cc: First Minister, Minister for Finance and Local Government, Chair of the Public Accounts and Public Administration Committee, Future Generations Commissioner for Wales.

Annual scrutiny of the Future Generations Commissioner: An update

Welsh Government response (May 2022)

Recommendation 2

The Welsh Government should carry out an evaluation looking at the scope of the Commissioner's work and responsibilities with a view to setting out a plan to support any future expansion. This evaluation should be undertaken in time for the appointment of a new Future Generations Commissioner in 2023.

Response: Accept

We are carrying out a review of the public bodies subject to the Well-being of Future Generations (Wales) Act 2015. Extending the list of bodies subject to the Act will expand the bodies which the Commissioner's general duty and functions cover. We are in discussions with the Commissioner's office on the financial implications on her office in monitoring and supporting additional bodies. We will shortly be publishing a consultation on the review where we will be inviting views on the proposed list of additional bodies.

The public bodies subject to the Act were identified according to a set of four criteria detailed in the Explanatory Memorandum for the Well-being of Future Generations (Wales) Bill, which we are applying again in this review. I provided further detail on this in a [letter](#) to the Equality and Social Justice Committee in March. The Commissioner's estimate of additional public bodies outlined during her Committee appearance on 7 February was based on a long list of bodies that consisted of those highlighted by the Auditor General for Wales in his 2020 report, as well as those suggested by some stakeholders in the consultation on the draft Social Partnership and Public Procurement (Wales) Bill in 2021. Based on our initial assessment, many of the public bodies identified in this list will not satisfy the established criteria, and we estimate that there will be fewer than ten additional public bodies subject to the Act following the review.

Beyond this, any evaluation of the Future Generations Commissioner's general duty and functions should form part of a wider post-legislative evaluation of the effectiveness of the Well-being of Future Generations (Wales) Act 2015. I have asked officials to explore the scope and need for an evaluation of the Act, which could include an assessment of the role and functions of the Commissioner. I will provide more information to the Committee on this evaluation in due course, and would welcome the engagement of the Committee in this work as it develops.

The preparations for the recruitment for the next Commissioner are underway and I will be writing to you on this separately.

Financial Implications

The financial implications of extending the Act's well-being duty to additional bodies will be assessed as part of a Regulatory Impact Assessment. There will be costs in consulting and engaging with public bodies, costs on bodies, and implications for the Commissioner and the Auditor General. The financial implications of evaluating the Act will be considered as part of the scoping stage of the evaluation. There will be costs arising in recruiting the new Commissioner, which will be met from existing departmental budgets.

Recommendation 4

The Welsh Government should set out its plans for embedding the Act to ensure that all aspects of public life are shaped by the legislation and that the measures in place to monitor and evaluate progress in implementing the Act are fit for purpose.

Response: Accept

Shaping public life

The Act was introduced to strengthen the existing governance arrangements in named public sector organisations to improve the well-being of Wales. While the Act is focused on continually improving how public bodies work, and how they work together to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs, it has had a wider impact beyond those public bodies. The Future Generations Report, published by the Commissioner, and the inquiry by the Public Accounts Committee in the last Senedd term illustrated that businesses, other public bodies, the third sector, and community groups see the value in the framework provided by the Act in the work that they do. This is a great strength of the Act, and it is something we will continue to support through the levers we have so that it remains embedded in what we do and how we shape Wales' future. We will look at ways in which we can better communicate the actions we are taking to embed the Act further in how we work, and will continue to use the Well-being of Future Generations National Stakeholder Forum, which has identified actions on promoting the Act beyond public bodies as an area of focus in 2022, to inform our work. The Commissioner continues to play an important role through her general duty to promote the sustainable development principle and provide advice or assistance to people who are taking or wishes to take steps that contribute to the achievement of the well-being goals.

Welsh Government

Our Programme for Government, with the ten well-being objectives at its heart, demonstrates the central role of the well-being of future generations approach in our thinking and policymaking. The Programme is an ambitious and radical plan, which delivers on the manifesto promises we made to the people of Wales during the 2021 Senedd election. Placing the well-being objectives within the Programme ensures people in Wales can see their democratic voice reflected in our plans for this government term. Across all of our work, we emphasise inclusivity, social justice, and partnership, and I am proud that our manifesto built on a national conversation, involving voices from all across Wales.

Measures in place to monitor and examine implementation by bodies

The Act puts into place changes to the governance of the specified public organisations and creates a framework for the improvement of long-term well-being in Wales, and transparency is assured by a system of statutory annual reporting of the contribution bodies are making. For organisations sponsored by the Welsh Government, implementation of the Act is subject to the broader regime of oversight and performance management by the Welsh Government. This includes the sponsored bodies' annual remit letters, which are issued by the Welsh Government to inform their corporate plans, and the framework documents agreed between each organisation and the Welsh Government. The template for Term of Government remit letters includes a requirement to meet in full the Act's well-being duty. New Term of Government remit letters are required to be in place following the 2021 Senedd Cymru election in May 2021. It will be the responsibility of Arms-length body (ALB) Partnership Teams to assess to what extent ALBs are fulfilling those requirements, based on monitoring information provided to them by the Bodies.

What sets Wales apart from other countries in advancing sustainable development is the work of the independent Future Generations Commissioner for Wales, and the Auditor General for Wales, both of whom publish a statutory report every five years. These reports, which were first published in May 2020, give a periodic stock-take of the implementation of the Act. The Auditor General has consulted on how they might deliver their examinations under the Act over the 2020-2025 reporting period and has written to public bodies to outline the proposed approach. In their annual report and update to the Equality and Social Justice Committee, the Commissioner has outlined their plans for discharging their duty to monitor and assess the extent to which well-being objectives are being met.

National mechanisms to measure progress

We have in place 50 national well-being indicators, and nine national milestones, which help us monitor progress towards the seven well-being goals. In addition, our Future Trends Report brings together into one place the key social, economic, environmental, and cultural trends that could affect Wales' well-being in the future, as well as some of the factors that could influence the direction of those trends. Our national milestones drive collaborative action and act as a key measure of the pace and scale of change needed in a number of key areas and are geared towards driving progress in tackling poverty and inequality. Our national indicators represent the desired outcomes for Wales and its people and provide a more holistic national picture of what is changing. The indicators are updated throughout the year, as new data becomes available. The annual ['Wellbeing of Wales' report](#), published by the Chief Statistician for Wales provides an update on progress made in Wales towards the achievement of the well-being goals, making reference to the indicators alongside other relevant data. These mechanisms reflect best practice in how countries respond to the Sustainable Development Goals agenda and our recent updates to the national indicators and setting of national milestones ensure the Well-being of Future Generations framework remains relevant to Wales in 2022.

Financial Implications

None.

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