

## **Digital Rights and Democracy Wales Cross Party Group Session 2: Data Sharing and Migrant Women Reporting Domestic Abuse**

**9 December 2022, 12.00pm-1.15pm**

### **Speakers**

Sarah Murphy MS (Chair)

Wanjiku Ngotho-Mbugua (BAWSO)

Joanne Hopkins (Public Health England)

Jane Hutt MS (Minister of Social Justice)

- Sarah Murphy MS, member of the Senate for Bridgend and Porthcawl, introduced the session, which came about through an inquiry she performed with the equality and social justice committee.
- Elizabeth, Jimenez from the Latin American Women's Rights Service gave her apologies due to sickness and contributed a lot to the aforementioned inquiry.
- Wanjiku Ngotho-Mbugua from BAWSO and Joanne Hopkins from Public Health Wales gave presentations and Jane Hutt, Welsh Minister of Social Justice also attended the meeting and provided a representation.

### **Inquiry and BAWSO visit**

- Murphy gave some background on the inquiry on the equality and social justice committee into gender based violence and specifically the needs of migrant women.
- They visited BAWSO in Swansea, the in-person person visit was useful as it allows you to discover things you wouldn't have done outside of that setting, said Murphy.
- During the visit they found that when migrant women experience domestic abuse and violence, they are advised by counsel to report it to the police as others are but when Murphy asked the question as to whether that information is then potentially given to the Home Office. The answer was potentially yes., even though it is hard to prove, but also potentially, no. the fact that it might happen can still be used by an abuser to threaten a woman with the potential of deportation should they go to the police. It's part of the abuse to keep them silent.
- Jimenez who was unable to attend is from the Step Up migrant coalition and had informed the group of a recent case of a woman who experienced a high risk case of domestic abuse and stalking. She was undocumented, so, was terrified to use their service and after evaluating her case, the caseworker recommended reporting it to the police because of the high risk of the situation. When she reported it, she received an immigration enforcement letter. The police also came to her house as part of the report but when they realised she was undocumented, called immigration enforcement in front of her.
- Deputy Chief Constable Amanda Blakeman told the group there is no legal duty to share information. If immigration services were to be a barrier to engagement with the victim, then the police aren't likely to share instances where data is shared. Guidance on sharing information they said has safeguarding and the victim as the absolute focus with information sharing serving the purpose of enhanced protection, such as to enable the victims access to safe accommodation, court protection orders, to confirm domestic abuse for legal proceedings or access to another specialist service etc.

- During the course of the inquiry there were calls for a firewall, which would mean a separation between immigration enforcement activities and public service provision.
- As a reminder on devolution, the Home Office is under the UK government but there is health and social services and education. So there can be a firewall between the services and the devolved sectors.
- Elizabeth has also suggested that firewall will not only have the positive result of allowing victims to report safely, but it would also take the burden from statutory services including the police to have to be involved in immigration-related actions.
- Immigrants with insecure immigration status can come to police stations and report crime the certainty that their immigration status won't take precedence and won't be shared with immigration enforcement officers.
- Murphy said they asked the Minister of Health and Social Services about the circumstances in which statutory services would share the immigration status with the Home Office. The reply was: "We don't share data with the Home Office." And so it's a very extreme reason to do that. There is no routine sharing.
- There were recurring concerns about the sharing of data and the impact that can have on trust and health., including services that are meant to help them.
- Murphy said they looked at the Deputy Minister's commitment to look into the data sharing and recommend that the Welsh Government takes the lead in working in partnership produce guidance clarifying the legal position.
- When it comes to data harms, it is not always easy to prove, which is why it is important to hear the testimonies, said Murphy, introducing Ngotho-Mbugua.

### **BAWSO's experience with migrant survivors of domestic abuse**

- Ngotho-Mbugua explained how BAWSO supports migrant victims of domestic violence.
- A lot of the time the women's data may be shared between the Home Office and law enforcement and there is a general lack of trust because of this.
- They come across cases where women make a report but then receive a letter of petition from the Home Office. They claim the letter should have been sent awhile ago but it hadn't because they didn't have their address until then.
- Much of the time they are victims of abuse and exploitation and they live in fear and undocumented unable to resolve their situation, which has led them to avoid services including sending their children to school.
- She provided an example where an old African woman had been abused for 10 years plus and when she was asked why she lived like that for so long she said she was afraid she'd be deported if she said anything and was only found by chance by builders who found there was no heating or anything in the house and she'd rather live in a situation of exploitation in a house where long term drug abuse was taking place than risk being reported to the Home Office..

- BAWSO found she would be recorded as a victim of human trafficking but the law only really protects people under the trafficking National Referral Mechanism (official mechanism for referring modern day slavery cases).
- If not an NRM case, victims and survivors are not protected and this gap is a deterrent so undermines the fight against crime.
- In 2022, University of Birmingham did a study with BAWSO and they found very few people wanted to be part of that interview just because they thought the information would end up with the Home Office. So it's also a deterrent from research and learning from this situation as well as a barrier to justice and accountability.
- Perpetrators often control their victims by reminding them they'll be deported at the point at which they report their cases to the police. This was true with the 70-year-old woman. Who was told continuously that she did not belong to this country and the people that abuse said if they both got caught we both get caught and when you're in a situation of vulnerability you believe what you're told.
- Pleased that the Welsh government has accepted the recommendation for a complete firewall between the police and the home office. It will reassure any victims or people that have been exploited, who have insecure immigration status.

### **Building trust to share information**

- Hopkins spoke about the findings of two reports conducted this year and the tensions that exist in the recommendations.
- Both reports made clear the need for better information sharing better data but better data can only be gained if we are able to engage with people but when they are frightened to engage it ends in a circle of difficulty.
- Hopkins read out the poem 'The Angry survivor' to illustrate the impact of always asking questions on survivors.
- The tension is gaining information about people's harms in a trauma-informed way – why should survivors share their stories and relive their trauma when afterwards nothing changes for them.
- It takes communities working with organisations to build up trust and being transparent about the way we share information.
- Another recommendation was that better information sharing was needed between departments but the question is how do we manage what we need to know versus what can be used against people and Hopkins said she doesn't think they're quite there yet in terms of understanding what that might look like in terms of an ethical way of doing this.
- Welsh women's Aid has been doing some work around this and there is a framework for ethical research, in particular, for survivors of victims of domestic abuse.
- On t ing they did during COVID ,as they were concerned about people coming forward for health treatment or hate crimes and other crimes, was to send out a leaflet to all the houses in Wales with relevant contact numbers for support and made it clear they would not be passing their information on.

## **The Government Response**

- Jane Hutt MS thanked the speakers, Murphy and the equality and social justice team and mentioned they would be debating the issues next week.
- The government response was published several days prior.
- Important that the CPG and digital rights and democracy acknowledges these issues in the sector and need the group to help guide those in government.
- It is key to Hutt's work as Minister for Social Justice.
- It should be made absolutely clear that refugee, migrant and asylum-seeking victims, fleeing violence against women, domestic and sexual violence experience additional challenges and hardship as outlined.
- In the UK, many migrant women have no recourse to public funds so are denied access to welfare benefits, which Hutt brought the prior week with the domestic abuse Commissioner for England and Wales and Nicole Jacobs pressing for an outcome of the pilot that BAWSO has been engaged with to take forward a policy response on no recourse to public funds.
- Her department has a new national strategy published in May this year, looking at how we continue to work with partners to tackle the gender inequality, misogyny and male violence that are both the cause and consequence of violence and abuse against women.
- The strategy outlined continued commitment to work with all levels of government, UK, local and other partners – devolved and not devolved. It's how we intervene.
- The revised strategy following consultation does plan the ways to find appropriate solutions to meet the needs of survivors with no recourse to public funds.
- It accords with commitments to make Wales a nation of sanctuary and the national of sanctuary plan contains clear across government commitments to reduce the inequalities faced by sanctuary seekers, including VAWG survivors and they must be confident they will be believed and action will be taken.
- There will be instances where their data will need to be shared for better support and protection.
- The response to the recommendations considered how additional measures can be put in place to ensure better outcomes from migrant with victims of gender based violence.
- When data is shared, better outcomes are needed and also women must understand what happens with their data.
- Policing and immigration are not devolved services in Wales, which places limitations on the Welsh Government.
- Several months ago there was a vote in in the Senate calling for services to be devolved and there is some work being done to devolve policing.

## **Q&A**

- Sin Ye Cheung said that before the Unchartered Territory Report in 2021, there was a 2013 report and the question was what has changed in between.
- The new report was useful because it got useful evidence and solid recommendations, said Hutt.
- Hopkins said about what has changed, "I think for the first time we are having the conversation that includes migrant women across a much wider set of areas - including NRPF - so there is positive flip side in terms of inclusion but taking the point that this often means more data requests!"
- Murphy iterated that the government's response is around recommendations 10-13 and recommendation 13 was more of a 'yeah but no' with reservations about the technology side of it so it would be helpful for anyone from the data sciences to feed in.
- Through the inquiry Murphy said the point she was making was it would not just be for victims but good for services too as it aids data sharing to improve services.
- Starting from a place of clarity on what could potentially be used and how would be helpful.
- A question from Gwendolyn Sterk from Cardiff Women's Aid, working in frontline services, mentioned that there is power to push back when there are demands for data from say statutory funders. There should also be an empowering part of data sharing and it should be empowering the survivor of domestic violence to feel free from the threat of violence.
- The local authority have asked them again information on people who use their refuges but it is not clearly set out why they need that data and how it will benefit the woman, in connection to the housing act.
- It may be that all legislation is looked at and the implications in obligations attached to funding, particularly with regards to data sharing and housing.
- The Information Commission representative David Teague made the point that they often hear that data sharing is a barrier, which is not their view but it was useful to hear specific examples. There is alternative sentiment say when it comes to children's data. They are keen to engage with groups who feel that there is some minoritisation of their data.
- The Wales Accord of Sharing Personal Information – WASPI – is unique to Wales and provides a framework which makes the what, where, why and how clear on the sharing of data. The Wales police forces are signed up to that framework.
- Murphy mentioned that she had been doing some work on independent auditing of data controllers and data processors and met with Digital Health and Care Wales who do internal auditing, like marking your own homework and she asked the Welsh Government who their data controller is and if they can give me a list of their data processors, which they haven't been able to provide her with but she asked for the rep's overall perspective on that.
- They said there is a popular myth in data processing that it is just about consent but there are six lawful bases for personal data processing under the GDPR.
- Internal auditing helps when there is an investigation that has to happen; they found, for example, that Department for Education in England, in the UK government allowed access to the learners database, which shouldn't have been allowed and it wouldn't have been if they had done their work.

- It was discovered because of a complaint and the ICO also has auditing powers.
- Murphy made the point that it does rely on someone complaining and what's behind the scenes isn't apparent to many of us.
- One complaint can sometimes be enough to audit an entire organisation to reveal any kind of systemic failure.
- Murphy asked if the ICO has the power to audit the Home Office but they weren't sure but she argued that based on some of the arguments heard, it would indicate a systemic failure.
- Someone else made the point that organisations/agencies can be reported via the the public audit committee.
- Murphy: the point about auditing is important as it enables to get that transparency and clarity.
- The main point it is horrendous for the women at the sharp end and then if they're deported – the children who often stay behind.
- People need to think about when they share data and what will be done with it and that there are people at the end of that data who may experience harm.

Links for further reading and resources:

- Forced migration and sexual and gender-based violence: findings from the SEREDA project in Wales <https://www.birmingham.ac.uk/documents/college-social-sciences/social-policy/iris/2022/sereda-wales-report.pdf>
  - Gender based violence
  - The needs of migrant women <https://senedd.wales/media/zh5helfw/cr-ld15422-e.pdf>
  - Uncharted Territory Review <https://phwwhocc.co.uk/resources/uncharted-territory-review/> - recommendations 10-13 are key ones.
  - Welsh Government Response to inquiry report <https://senedd.wales/media/daxczuvl/gen-ld15514-e.pdf>
  - Debate on the Equality and Social Justice Committee report - Gender based violence: The needs of Migrant women <https://www.senedd.tv/Meeting/Archive/eb28164c-accb-4e0e-be78-6bac2e4adcf6?autostart=True>
  - For video re Safeguarding Children and Information sharing <http://www.waspi.org/home>
  - DHCW - Audit and Assurance Committee <https://dhw.nhs.wales/about-us/board-committee-and-advisory-boards/audit-and-assurance-committee/meeting-18-october-2022/audit-and-assurance-committee-agenda-and-papers-18-october-2022/>
  - PICUM re: implementation of firewall and related European guidance <https://picum.org/firewall-tool-safeguarding-fundamental-rights-undocumented-migrants/#>