



Submission to the Commission on Justice in Wales

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The Wallich is the trading name of Wallich Clifford Community

The Wallich is a Welsh homelessness charity that operates under three core objectives: **getting people off the streets; keeping people off the streets; and creating opportunities for people.**

During the financial year 2017/18, The Wallich worked with more than 8,000 people across Wales, via more than 70 diverse projects, across 19 local authorities.

There are several areas of concern relating to criminal justice and homelessness and how these issues affect the client group supported by The Wallich. These are:

- The criminalization of homelessness
- Public Space Protection Orders
- Legislative barriers to strategic solutions
- Absence of priority need status for prison leavers
- Barriers to the management of active addiction
- Psychologically informed policing and probation services

1 The Criminalization of Homelessness

In general terms we have seen a marked increase in rough sleeping across Wales. The number of people sleeping rough is rising in all the areas covered by our Rough Sleeping Intervention Teams (RSITs); the lowest increase is 24%, and the highest 77%. Rough sleepers tend to be male, with an average age of around 41. Over the past year, the number of brand new clients, who had not been seen by any RSIT up to this point, varies from 7% to 55% of the number of clients seen in total. This can lead us to some tentative conclusions about entrenched rough sleeping being more of an issue in some areas than others. On an annual basis a rough sleeper count is undertaken during a two week period - the relevant Welsh Government statistics can be accessed here:

<https://gov.wales/statistics-and-research/national-rough-sleeping-count/?lang=en> .

- 1.1 Rough sleeping is often associated with antisocial behaviour and other activities deemed a nuisance. Homelessness and rough sleeping are complex issues, often exacerbated by poor mental health, social exclusion and substance misuse. Although every case is unique and the importance of avoiding stereotypes cannot be overemphasised; the management of these comorbidities often leads to behaviours such as begging and street drinking.
- 1.2 Begging is an offence under section 3 of the *Vagrancy Act 1824* (as amended). It is a recordable offence. The maximum sentence is a fine at level 3 on the standard scale (currently £1000). Other provisions also criminalise begging behaviour: wilfully blocking free passage along a highway is an offence contrary to section 137 of the *Highways Act 1980* (as amended), punishable by a level 3 fine. Using threatening or abusive words or behaviour is an offence under section 5 of the *Public Order Act 1986*, which also carries a level 3 fine. Source: <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7836>
- 1.3 Some of the people we support engage in begging because they are completely disenfranchised from the mainstream labour market and because they are in extreme poverty. Issuing a fine they are unable to pay worsens this position.

2 Public Space Protection Orders

2.1 Another issue that affects Rough Sleeper Intervention Teams is the increasing use of Public Space Protection Orders being used to prevent begging – and in some cases, rough sleeping itself – in city centres. This sometimes has the effect of preventing people who have been excluded from an area from attending appointments at Job Centres, Housing Options teams, or other organisations. Individuals attending the appointments then risk fines or jail terms. Couple this with some Local Authority Officers being too quick to label someone as ‘non-cooperative’, and it is easy to see why rough sleeping numbers worsen. The chaotic lifestyles some rough sleepers have mean that asking them to attend appointments is potentially setting them up to fail. More creativity in the assessment process is needed.

2.2 Following its introduction in the *Crime and Disorder Act 1998*, the Anti-Social Behaviour Order (ASBO) was used extensively by local authorities attempting to address problems associated with begging.

The *Anti-Social Behaviour, Crime and Policing Act 2014* replaced the ASBO, and other disparate powers developed to tackle a range of anti-social behaviour, with six much broader powers designed to be faster and more efficient to use. They include the following powers which may be used to deter anti-social behaviour:

- Civil injunctions
- Criminal Behaviour Orders
- Community Protection Notice
- Dispersal powers
- Public Spaces Protection Order

Source : <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7836>

2.3 At The Wallich we have seen evidence of displacement due to the use or threat of PSPOs where people are simply moved around from area to area. This makes it more difficult to provide support and proactively intervene. Every evening The Salvation Army deliver food and support via a bus outside the Museum in Cardiff – this is the last chance for people to access an emergency bed space for the night if there are any left. How are they supposed to do this if they’ve already been moved on from the city centre? While we fully sympathise with local businesses and accept that an enforcement approach is needed to address **aggressive** begging, there is a concern that offences against the person may increase if there is a blanket ban put in place on begging in the future. A more strategic approach is needed.

3 Legislative Barriers to strategic solutions – a case study

The Wallich was the first organisation in Wales to pilot the Housing First approach and the Welsh Government has since expressed their commitment to implement this model nationwide. The guidance and principles can be found here <https://gov.wales/docs/desh/publications/180206-housing-first-en.pdf>. In this document, the Welsh Government clearly endorses these principles:

- Housing is a human right
- Service users should have choice and control
- Housing not conditional on support or treatment
- The approach is recovery oriented
- The approach is one of harm reduction

- There is active engagement without coercion
- Planning is person-centred
- Flexible support is available as long as required
 - a. This means that housing and homelessness organisations such as The Wallich must work responsibly with people who use and misuse illicit substances, with housing as a potential platform from which to build their recovery. We must engage with people wherever they are, on their own terms and without discrimination, because housing is a human right. If somebody is using substances, their housing becomes a base from which to reduce harm and reduce chaos. If somebody is ready to engage with treatment services, their housing becomes a stable base from which to achieve their recovery goals.
 - b. Many Registered Social Landlords in Wales regard substance use on their premises as grounds for eviction, which essentially sets the people we support up to fail. When people are addicted, changes in brain chemistry result, and whether we agree morally with subsequent decision making or not, this is biological fact. Since organisations such as The Wallich are heavily dependent on the use of RSL properties to deliver our services, there simply isn't enough social housing stock to make Housing First work if these rules continue to feature in tenancy agreements.
 - c. Some Registered Social Landlords have raised concerns that by “allowing” substance misuse to take place on their premises we are causing them to breach Section 8 of the Misuse of Drugs Act. There is risk aversion among RSL boards due to this case from the 1990's: <https://www.theguardian.com/uk/2000/dec/22/news.claretyer>
 - d. We are not suggesting that no action is taken in instances of substance use – merely that we can work with it pragmatically and responsibly without fear of arrest under Section 8 and give assurances to our valued RSL partners. This is currently blocking Housing First implementation, keeping people on the streets, keeping drug use on the streets, reducing access to properties and increasing risk for everyone.
 - e. Last week, Crisis launched their plan to eradicate homelessness within 10 years. We know what we need to do and PWC have calculated how much it will cost. But we can't do it unless we can overcome this barrier. We must ask ourselves – do we want to end homelessness or not?
https://www.crisis.org.uk/media/238960/everybody_in_how_to_end_homelessness_in_great_britain_2018_es.pdf

4 Absence of Priority Need Status for Prison Leavers

- 4.1 Extract from <http://www.assembly.wales/laid%20documents/cr-ld11517/cr-ld11517-e.pdf>. The 2014 Act removed automatic priority need status for prison leavers. Instead, it provides that prison leavers are only in priority need if they have a “local connection” to the area and are “vulnerable” as a result of their detention. As part of the work leading up to the 2014 Act, and in light of concerns about the potential impact of removing automatic priority need status for prison leavers, the Welsh Government established the Prisoner, Accommodation and Resettlement Working Group. As a result of the Group's work, the Welsh Government published the National Pathway for

Homelessness Services for Children, Young People and Adults in the Secure Estate (the National Pathway) in December 2015.

Many respondents, including service providers, Shelter Cymru and Cymorth Cymru, raised concern about the impact of removing automatic priority need status for prison leavers on rough sleeping. Cymorth Cymru stated:

“...the change to the priority need category regarding offenders has affected access to housing for this group. Although research about the impact of this is still being developed, we have anecdotal evidence from people who have been homeless that this change to priority need has reduced their ability to secure accommodation, which has in turn had a negative impact on their wellbeing and has increased the likelihood of re-offending.”

Shelter Cymru raised similar points and highlighted a reluctance among some prison leavers to approach local authorities for assistance knowing that they no longer had automatic priority need status.

The Wales Community Rehabilitation Company provided anecdotal evidence of prison leavers whom it considered were in priority need, that were subsequently not assessed as such by the local authority – like one female prison leaver not considered priority need despite being at risk of domestic violence.

More generally, Shelter Cymru reported that “some local authorities have deprioritised prison leavers” and that they are therefore “left at the bottom of the pile”. There was general consensus among those who commented on the Welsh Government’s National Pathway that it had been a positive development. However, several respondents, including the WLGA29 and local authority representatives, Shelter Cymru and Cymorth Cymru raised concern that the National Pathway was not being fully implemented. As a result, Cymorth Cymru had “serious concerns about whether [the National Pathway] has managed to counteract the negative impact of changes to priority need [for prison leavers]”.

Local authority representatives pointed out that under the National Pathway authorities should be given 12 weeks’ notice that a prisoner will be homeless on release. However, in practice, authorities often receive little or no notice, which provides them with limited time to help put accommodation in place. In response to the above concerns, the National Probation Service and the Wales Community Rehabilitation Company explained that some prisoners will be serving short sentences and that prisoners’ circumstances can often change unexpectedly ahead of, or following, release. Cymorth Cymru cited “changes to probation services” and under-resourcing of the Probation Service by the UK Government as barriers to the effective implementation of the Pathway. Similar points were made by Shelter Cymru and the WLGA. A few respondents, including Cymorth Cymru and the Wales Community Rehabilitation Company, suggested that the Welsh Government should consider a National Pathway for Homelessness Services for Children, Young People and Adults in the Secure Estate. Part of this would be reinstating automatic priority need for prison leavers. Dr Mackie believed that it should be reinstated as soon as possible.

- 4.2 The Wallich has observed that In Bridgend, the Housing (Wales) Act’s removal of priority need status from prison leavers has had particularly noticeable repercussions, with rough sleepers deliberately committing offences to go back to prison where, as they see it, they have a roof over their heads. This change might also be contributing to the increase in rough sleepers, which is dealt with in a subsequent section of this document. In Newport, waiting lists for accommodation are very large, and clients wait for long

periods, which of course means there is a longer time in which issues can arise. The Wallich's Prisoner Release Empowerment Project (PREP) is one example of a service that tries to mitigate the removal of priority status for prison leavers. However, with a lack of suitable accommodation for many in this client group, more and more return to their Local Authority as No Fixed Abode. As we have seen in other areas, clients often deliberately reoffend to get off the streets during an extended period of rough sleeping.

4.3 Transitional support is needed for people leaving prison as well as a reinstatement of priority need status. This includes consistency in staff working on both sides of the gate, which enables rapport, trust and promotes engagement after release. The Wallich's BOSS project is a prime example of this. Since 2016 we have worked with over 800 people, most of whom are prison leavers. We are regularly told by our service users that they have engaged post release because they met us in prison and they need consistency and have built trust in our team.

4.4 The BOSS Project also recommends that more staff should be available in prisons to enable prisoners to spend as much time out of their cells as possible, engaging in positive activities.

More opportunities for prisoners to go out on ROTL and work/start their reintegration with society. Generally, improved cohesion between CJ agencies would significantly benefit prison leavers; the split in probation has resulted in a lack of collaboration between the CRC and NPS, resulting in supervision and support being disjointed and inconsistent. There are huge gaps and miscommunications between Offender Managers in custody sharing information with, and handing cases over to, OMs in the community. NPS and higher risk cases have resources, time and public money spent on them as a measure to reduce reoffending.

Lower risk repeat offenders supported by CRC can often become victims of the immensely high caseloads that CRC staff have. This can result in limited support or supervision, a factor no doubt linked to some ex-offenders going on to commit crimes of higher risk/nature. The subsequent transfer to the NPS could therefore be avoided if CRC cases had more time and support with their officers.

Finally, a change towards more positive language surrounded this process is needed. Think about the terms "offender" and "offender manager" and the connotations they bring. Why call someone something you're trying to help them not to be? This simply reinforces labelling theories and almost blocks change. More positive language would reflect and embed the "Rehabilitative Culture" that HMPPS are working towards.

5 Barriers to the Management of Active Addiction

5.1 Until the attraction into services and accommodation is more powerful than the pull towards a street-based lifestyle, entrenched rough sleepers will not gravitate towards the former. We therefore need to think differently about how the complexities of the issues rough sleepers face are managed.

5.2 Drug related deaths are currently higher than they have been since records began.

Source:

<http://cardiffandvaleapb.org/download/Welsh%20Government%20Documents/Drug-related-deaths-2016-ONS-Analysis.pdf>

- 5.3 The Wallich would welcome further discussions about the Criminal Justice implications of Enhanced Harm Reduction Facilities, where people can use substances within a safe and controlled environment without the stigma and shame of the streets. There has been debate over the use of Drug Consumption Rooms as used across Europe, but we are suggesting more than just a facility providing a safe place and clean needles. An Enhanced Harm Reduction Facility embraces the excellent harm reduction measures we already take in Wales, such as safer injecting advice, overdose prevention, bloodborne virus testing etc as well as a safe space to use. This is currently not available in Europe and missing from Drug Consumption Rooms.
- 5.4 The use of Synthetic Cannabinoid Receptor Antagonists such as those colloquially called 'Spice' and 'Mamba' are on the increase, particularly among the street homeless community. While in a semi catatonic state, users are vulnerable and often unpredictable. A place of safety is needed.
- 5.5 If Enhanced Harm Reduction facilities were to be piloted in Wales, there would need to be strict governance, research and analysis but this would be a small step towards challenging street based lifestyles, reducing harm and decriminalising people who are already vulnerable.

6 Psychologically Informed Policing and Probation Services

- 6.1 A major strategic priority for The Wallich is ensuring all our projects are Psychologically Informed Environments and that all of our staff work with service users in a trauma-focussed way. This means making our facilities feel like home, ensuring the people we support have choices, that people are treated like people and that we maintain an environment of respect and understanding at all times. The psychologically informed environment or PIE, doesn't just have to be restricted to a project or a service – it can be a town or a city.
- 6.2 It is therefore recommended that Probation offices/environments should be more welcoming, inclusive and less intimidating. To enable and support change, probation officers need smaller caseloads and more time with their cases and focus and support with root causes of offending, be able to sign post and refer to specialist services (and follow these up). People on probation should have consistency and keep the same probation officer where possible. Probation appointments should be face to face and move away from phone supervision to enable rapport and trust to develop.
- 6.3 More collaboration between police and charities who support vulnerable and excluded people. Police integrate themselves with community groups, schools and youth services but there is a lack of interaction and partnership between police and specialist charities. This might have a positive impact on the way police are viewed and encourage those most vulnerable and excluded to build positive relationships or trust in the police.
- 6.4 The Wallich recently trained forty Police Officers and PCSOs at Central Station in Cardiff. What became apparent was that they had never had training previously on how to engage with people experiencing homelessness. We talked through the biological, psychological and sociological factors of homelessness to give an in-depth

understanding. At the end we asked officers what the implications of this training could be on policing and this was their feedback...

1. See them as victims rather than criminals
2. To understand the services available and refer into them
3. To work with them not against them
4. To realise that everyone is unique and has an individual story
5. They are in recovery, so let's help and work together
6. Speak to them like people, treat them with respect and listen to them intently
7. Be on the same level as them when talking and try to remove the 'them and us' situation
8. We will be more patient with them
9. We need to think of the solutions for homelessness
10. Try to understand why homelessness happens and that we can all be vulnerable to homelessness
11. Educate each other and multiagency work
12. We need to understand the mind traps and understand addictions
13. As police, we are here to help and often we can make things worse for those who are homeless. We need to be more educated
14. Understand the biopsychosocial context of the clients
15. To ensure our response to homeless people is fair and helpful
16. To increase joint working
17. To try and see the person and not the problem
18. To have regular training on homelessness by The Wallich and try to work more closely
19. Maybe avoid instant punishment and be positive towards homeless people as they are not always a nuisance
20. Try to find the underlying issues
21. Spend a little more time with homeless people to try and understand them and find the best route to help
22. We need to show patience and be patient
23. Homelessness is not always a choice, so let's help
24. Listen intently and give appropriate advice and if we can't ask for help and find the correct advice to give
25. Avoid criticizing and believing that we as the police are always right
26. We need to see potential in homeless people and help them. Just be kind
27. Let's approach homeless people kindly
28. Be mindful of people's background and circumstances
29. Have more training
30. Be aware of the services available and what is on offer
31. To be more understanding
32. To access agencies along with the victims, be supportive
33. Dedicate specialist homeless officers
34. To provide info cards to homeless people so they are aware of services
35. Look at long term solutions together
36. We as police, would have less calls if we found the solution and then we stop the 'revolving door effect.' Let's get and keep people off the streets
37. Be positive and encouraging
38. Be mindful on where they may be on their recovery process
39. Engage with services and share information
40. Provide homeless people with options and avoid dictating
41. Stop section 35 notices

42. All officers to download and use street link app

43. Maybe they don't want to change due to mind traps and if they are struggling, can we refer to counsellors

6.5 Although it was our pleasure to provide this training, it was at the expense of The Wallich charity to do so.

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