

# Report for Homelessness review sub group

## Homelessness and Equality Information Obligations

May 2011

### 1. Purpose of this report

1.1 This report provides information for the Homelessness review sub group of the Housing Information Group, Welsh Assembly Government. The Statistical Directorate runs a quarterly data collection exercise to provide the Welsh Assembly Government with the means to:

- Identify the number of homeless cases dealt with by local authorities in Wales, to gain a picture of the overall extent of homelessness in Wales and the U.K.
- Answer queries from a range of interests including Assembly members, organisations, WAG officers, the media and members of the public.
- Publish a quarterly analysis of data in WAG's 'First Release' statistical publications.
- Inform and influence policy making decisions to ultimately influence service delivery and outcomes for service users.

1.2 The sub group has been tasked with identifying the data to be collected on the quarterly statutory homelessness return form to ensure that the data being collected is:

- Fit for purpose.
- Relevant to the needs of end users.
- Does not over burden data providers.

It has been recognised that within this review, there needs to be an assessment of equality information obligations following the Equality Act 2010.

**1.3** It is within this context that the purpose of this report is to:

- Outline the general and specific duties of the Equality Act 2010, including equality information obligations.
- Consider the linkages that already exist between the strategic intentions of the Ten Year Homelessness Plan for Wales and the Equality Act 2010.
- Identify information that is currently published in relation to homelessness across Wales, containing data about 'protected characteristics'.
- Locate gaps in data that is required to fulfill the needs of the Ten Year Homelessness Plan and the Equality Act 2010.
- Offer suggestions in relation to the completion of these gaps.

**1.4** Readers are asked to refer to the following three documents during the course of this report:

- Afon Homelessness Data Collection form – appended as Document 1.
- First Release publication, 23 March 2011 – appended as Document 2.
- Additional tables (Homelessness) – appended as Document 3.

## **2. General and specific duties of the Equality Act 2010, including equality information obligations**

**2.1** The Government of Wales Acts of 1998 and 2006 require Welsh Ministers to have 'due regard' to the principle that there should be equality of opportunity for all people. This is a different duty to the Public Sector Duty of the Equality Act.

**2.2** The Welsh Ministers and local authorities are listed in the Equality Act 2010 as public authorities. This means that they must have due regard to the general duty and comply with the specific duties made as a result of the powers contained in the Equality Act 2010.

The Equality and Human Rights Commission (EHRC) has produced "Vol. 5, Equality information and the equality duty: A guide for public authorities

(Equality Act 2010 guidance for English public bodies [and non-devolved bodies in Scotland and Wales]). This guidance is primarily for English Public Bodies as the EHRC in Wales is in the process of writing guidance at the moment. This guidance is due to be completed by mid June 2011.

**2.3** The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 contains Regulation 7, “Arrangements for collection etc. of information about compliance with the general duty”.

**2.4** The general equality duty is contained in section 149 of the Equality Act 2010. This requires all service providers and employers, including public authorities to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation.
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
- Foster good relations between people who share a relevant protected characteristic and those who do not.

The Public Sector Equality duties under the Equality Act 2010 exist to protect people from discrimination on the basis of ‘protected characteristics’ (there is a slight variation between those protected at work, compared to those who are using a service). The Equality Act 2010 defines people’s protected characteristics for those using a service as:

- Disability
- Sex (gender)
- Gender reassignment (gender identity or transgender)
- Pregnancy and maternity
- Race
- Religion or belief
- Sexual orientation
- Age

**2.5** In practical terms, the Equality Act 2010 can mean developing strategies, plans and services that give appropriate weight and priority to the need to:

- Remove or minimise disadvantages.
- Take steps to meet the needs of people with protected characteristics.
- Encourage people with protected characteristics to participate in public life.

- 2.6** Specific duties are set out separately in regulations and in Wales, the specific duties are set out in 'The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

The specific duties for Wales came into effect on 6 April 2011 and their purpose is to improve performance on the general equality duty. The Welsh Ministers and local authorities are listed bodies; therefore they must have due regard to the Equality Act and the specific duties for Wales.

- 2.7** Regulation 7 of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 states:

"7. (1) An authority must make such arrangements as it considers appropriate to ensure that, from time to time, it –

- (a) Identifies relevant information it holds;
- (b) Identifies and collects relevant information that it does not hold; and
- (c) publishes relevant information that it holds and which it considers appropriate to publish.

7. (4) The identification of relevant information includes identifying such information by means of carrying out an assessment of whether there are –

- (a) things done by the authority that contribute to the authority complying (or otherwise) with the general duty; and
- (b) things that it could do that would be likely to contribute to compliance by the authority with that duty."

### **3. Ten Year Homelessness Plan and the Equality Act 2010 – linkages between their strategic objectives**

- 3.1** Table 1 identifies the linkages between the national housing strategy, Ten Year Homelessness Plan and the general duty of the Equality Act 2010.

- 3.2** The following intended objectives are common to all:

- Ensuring social inclusion and equality of access to services.
- Filling in gaps in knowledge about the needs of people including those from minority groups.

- Giving focus to sections of society who are most likely to be disadvantaged (i.e. those with protected characteristics identified in the Equality Act 2010).

## **4. Information published in relation to homelessness across Wales containing data about ‘protected characteristics’**

**4.1** Table 2 presents a review of the Afon Quarterly Statutory Homelessness return form (appended as Document 1) and the following is notable:

- A number of households have their protected characteristics taken into account when the local authority is determining whether a household should be accepted as priority need under Part VII Housing Act 1996. For example:
  - Pregnancy and maternity is a protected characteristic and this is one of the priority need categories.
  - Disability is a protected characteristic and households who are vulnerable in some way, e.g. physical disability/mental illness are one of the priority need categories under Part VII of the Housing Act 1996.
- The general equality duty requires public authorities to have due regard to eliminate discrimination, harassment and victimisation. An experience of violence and harassment is one of the priority need categories under Part VII of the Housing Act 1996.
- If the legislation governing homelessness in Wales changes, this may change the profile of the households with protected characteristics who are defined as priority need under homelessness legislation.

## **5. Gaps in data**

**5.1** Table 2 of this report enables us to establish that owing to the current homelessness legislation in Wales, the Afon quarterly statutory return form is currently collecting information in relation to a number of protected characteristics.

**5.2** At present, no information is collected on the following protected characteristics either as part of the overall statistics (i.e. Table 2 and 3 on First Release form, appended as Document 2) or as part a household accepted as homeless by

priority need (Table 4 on First Release form, appended as Document 2):

- Religion or belief.
- Gender reassignment.
- Sexual orientation.

The collection of this data would be valuable given that these protected characteristics may have had some influence in a household becoming homeless. For example, a person may have experienced violence or harassment because of their religion or belief or the fact that they are going through gender reassignment.

Similarly, a person may have become homeless in an emergency, experienced domestic violence or the threat of domestic violence because they have advised other members of their household (e.g. parents), that they are gay, lesbian or bisexual.

**5.3** If we re-visit the original purpose of this review, arguably, we could conclude the following:

**Is the current data collection fit for purpose in terms of:**

- Ensuring social inclusion and equality of access to services:
  - Yes, to some extent, as some households with protected characteristics are accepted as priority need under Part VII Housing Act 1996.
- Filling in gaps in knowledge about the needs of people including those from minority groups:
  - We could find out more. For example, the Afon data form has a box which records racially motivated violence or harassment. We do not know the other potential causes of violence/harassment, e.g. disability, religion or belief, gender reassignment or sexual orientation.
- Giving focus to sections of society who are most likely to be disadvantaged (i.e. those with protected characteristics identified in the Equality Act 2010).
  - Acceptances are recorded by age, gender and ethnicity. Data in relation to the other protected groups is not currently collected. This is important when one considers that other protected characteristics can contribute towards a person becoming homeless, for example:

- Disability – disability related harassment, unsuitable accommodation, family/friends unable to accommodate because a person is experiencing mental distress/displaying challenging behaviour.
- Gender reassignment – hate crime based on transphobia, family/friends unwilling to accept gender reassignment.
- Pregnancy and maternity – risks to the mortality rate of the unborn child as well as the mother.
- Religion or belief – hate crime based on religious belief, or loss of tied accommodation.
- Sexual orientation – hate crime based on homophobic harassment, unsuitable accommodation, family/friends unwilling to accommodate a person because of his or her sexual orientation.

**5.4** It is worth noting that the characteristics of some homelessness people are never recorded on the national census because of their transient lifestyle, therefore the collection of data in relation to household characteristics and homelessness is especially important for informing policies around the prevention of homelessness.

**5.5** The EHRC publication, “How Fair is Wales” (2011) reports that, “....some groups, such as young people, disabled people, refugees and asylum seekers, transgender people, people with mental health conditions and older people report very much higher levels of discrimination and harassment – up to a third of all disabled 16-39 year olds said they had been the victim of discrimination or harassment”.

P18, “How Fair is Wales”, March 2011

### **Relevant to the needs of end users**

- The Welsh Assembly Government’s Ten Year Homelessness Plan places great emphasis on the prevention of homelessness. The Welsh Assembly Government and local authorities need to understand the causes of homelessness, to identify ways in which to prevent it.
- At present, a lack of data collection in relation to some of the protected groups would not enable a thorough understanding of the causes of homelessness across households with a range of protected

characteristics.

## **5.6 Does not over burden data providers**

Regulation 7 of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 identifies the arrangements that authorities should make in relation to the collection of information that it considers to be appropriate to its function. A position statement in relation to the publication of homelessness statistics could be identified as follows:

“7. (1) An authority must make such arrangements as it considers appropriate to ensure that, from time to time, it –

### **(a) Identifies relevant information it holds;**

The data collected in Tables 2, 3 and 4 of the First Release publication can be used to identify the effect that homelessness legislation has on people with protected characteristics in terms of Disability, Sex (gender), Pregnancy and maternity, Race and Age.

### **(b) Identifies and collects relevant information that it does not hold;**

The information does not identify the effect of homelessness legislation on people with the protected characteristics of:

- Gender reassignment (gender identity or transgender)
- Religion or belief
- Sexual orientation

### **(c) Publishes relevant information that it holds and which it considers appropriate to publish.**

The First Release publication publishes statistics on homelessness across Wales. Information on homelessness is also contained in the Additional tables (Homelessness) document.

7. (4) The identification of relevant information includes identifying such information by means of carrying out an assessment of whether there are –

### **(a) things done by the authority that contribute to the authority complying (or otherwise) with the general duty; and**

Homelessness legislation can show that its work acts to safeguard the wellbeing of people experiencing discrimination, victimisation and harassment. The statistics also show where the local authority

temporarily accommodates people, as well as households leaving accommodation under S.193.

**(b) things that it could do that would be likely to contribute to compliance by the authority with that duty.**

Engagement with people affected by homelessness could be developed further and it is anticipated that the Welsh Assembly Government will consult with a wide range of equality groups during its review of current homelessness legislation.

- 5.7** We are also now clear that where there are gaps in data, these can be filled within a 'reasonable timeframe', in accordance with the requirement not to overburden data providers.
- 5.8** In view of this, a suggested starting point could be to monitor the causes of violence/harassment in conjunction with protected characteristics to include religion and belief, gender reassignment and sexual orientation.
- 5.9** We could also agree a time scale to introduce the other protected characteristics for monitoring purposes over a specified period of time. This will be an issue to be discussed by the sub group and ultimately, the Housing Information Group of the Welsh Assembly Government.

## **6. Proposed Next Steps**

- 6.1** It is proposed that the contents of this report are considered and discussed by the Homelessness review sub group at the meeting due to be held on 19 May 2011.
- 6.2** The outcome of that discussion can then be discussed at the next Housing Information Group meeting.

**Table 1: Homelessness and equality – Linkages between strategic objectives**

National Housing Strategy	Ten Year Homelessness Plan	Equality Act 2010
<p>1. Includes an approach to:</p> <p>iii) Improve housing-related services and support, particularly for vulnerable people and people from minority groups”, <b>p.2</b></p>	<p>Strategic aims:</p> <ul style="list-style-type: none"> <li>➤ Preventing homelessness wherever possible.</li> <li>➤ Working across organisational and policy boundaries.</li> <li>➤ Placing the service user at the centre of service delivery.</li> <li>➤ Ensuring social inclusion and equality of access to services.</li> <li>➤ Making the best use of resources, <b>p.1</b></li> </ul>	<p>The general equality duty requires public authorities to have due regard to the need to:</p> <ul style="list-style-type: none"> <li>• Eliminate discrimination, harassment and victimisation.</li> <li>• Advance equality of opportunity between people who share a characteristic and those who do not.</li> <li>• Foster good relations between people who share a characteristic and those who do not.</li> </ul>
<p>2.Actions include:</p> <p>(vii) Ensure services reflect the needs of those who use them not the needs of organisations that deliver them, <b>p.2</b></p> <p>5.4 Gaps in knowledge and understanding of the needs of people from minority groups need to be addressed, <b>p.15</b></p>	<p>“A central theme of the Plan is to promote equality of access to services for everyone, in accordance with their needs, and for services to be designed around and able to cater for all groups. However, in taking forward the actions necessary to implement the Plan; we will give particular focus to sections of society who are likely to be disadvantaged on the grounds of age, disability, gender, gender reassignment, race, religion or belief and sexual orientation. It is a statutory requirement for public authorities to proactively work to eliminate discrimination and promote equality”, <b>p.5</b></p>	<p>In practical terms, this can mean developing strategies, plans and services that give appropriate weight and priority to the need to:</p> <ul style="list-style-type: none"> <li>• Remove or minimise disadvantages.</li> <li>• Take steps to meet the needs of people with protected characteristics.</li> <li>• Encourage people with protected characteristics to participate in public life.</li> </ul>

**Table 2: Quarterly Statutory Homelessness Return – Information gathering by WAG**

Protected Characteristic (Equality Act 2010)	Is this protected characteristic taken into account when determining whether a household is accepted as being in priority need by local authorities?  (Part VII Housing Act 1996)	Where is this information presented on the First Release publication?	Understanding the causes of Homelessness:  ▪ What might this information be used for?  ▪ Where might the gaps in data be?
Age (over 18's only)	<p>Yes:</p> <ul style="list-style-type: none"> <li>• People who are vulnerable in some way, e.g. old age, young person at risk, 18-21 or 16-17.</li> <li>• Under the Public Sector Duty, people aged 16-17 are a protected group under the Equality Act 2010.</li> <li>• Households with dependent children.</li> <li>• Institution/care.</li> </ul>	<ul style="list-style-type: none"> <li>- Table 2 and 3 as a report on overall acceptances by age.</li> <li>- Table 4 as households accepted as priority need.</li> </ul>	<p>1. Linked policy areas (Appendix A, Ten Year Homelessness Plan for Wales). This applies to all of the protected characteristics listed in the table. E.g.:</p> <ul style="list-style-type: none"> <li>• Health</li> <li>• Social Care</li> <li>• Community Safety</li> <li>• Regeneration</li> <li>• Children and Young people</li> <li>• Housing</li> <li>• Skills and Employment</li> <li>• Social justice</li> </ul> <p>2. No gaps in data identified.</p>
Pregnancy and maternity	<p>Yes:</p> <ul style="list-style-type: none"> <li>• Household member pregnant and no other children.</li> </ul>	Table 4	Not identified in the 'overall acceptances' data, i.e. Table 2 and 3 of First Release form.
Disability	<p>Yes:</p> <ul style="list-style-type: none"> <li>• People who are vulnerable in some way, e.g. physical disability, mental illness/learning disability.</li> </ul>	Table 4	Unclear how many people became accepted as in priority need because of disability related harassment. Links are made between mental illness/learning disability and ethnic origin in the additional tables document (Doc. 3). Consider WAO report on mental health (Nov. 10).

Protected Characteristic (Equality Act 2010)	Is this protected characteristic taken into account when determining whether a household is accepted as being in priority need by local authorities? (Part VII Housing Act 1996)	Where is this information presented on the First Release publication?	Where might the gaps in data be?
Sex (Gender)	<p>Yes:</p> <ul style="list-style-type: none"> <li>Domestic violence or threat of domestic violence. Women experiencing domestic violence may be accommodated in women only refuges.</li> <li>Local authorities have a duty to accommodate other people experiencing domestic violence, e.g. older people, men.</li> </ul>	<ul style="list-style-type: none"> <li>Table 2 and 3.</li> <li>Table 4.</li> </ul>	No gaps in data identified.
Race	<p>Yes:</p> <ul style="list-style-type: none"> <li>Violence/harassment – this can include hate crime, honour based violence (which can affect both genders).</li> <li>Asylum seekers and refugees.</li> </ul>	<ul style="list-style-type: none"> <li>Table 2 and 3.</li> <li>Table 4.</li> </ul>	<p>Table 5 on the Afon form contains a section on ‘racially motivated violence or harassment’ but this breakdown is not provided in the ‘First Release’ document.</p> <p>However, it is provided in Additional Tables document and this is appended as Document 3.</p>
Religion or belief	<p>Yes:</p> <ul style="list-style-type: none"> <li>Violence/harassment – this can include hate crime.</li> <li>Homelessness as a result of loss of tied accommodation, e.g. clergy and families.</li> </ul>	Not present.	No data on religion or belief.

Protected Characteristic (Equality Act 2010)	Is this protected characteristic taken into account when determining whether a household is accepted as being in priority need by local authorities? (Part VII Housing Act 1996)	Where is this information presented on the First Release publication?	Where might the gaps in data be?
Gender reassignment (gender identity)	<p>Yes:</p> <ul style="list-style-type: none"> <li>• Violence/harassment – this can include hate crime.</li> <li>• Parents no longer able/willing to accommodate.</li> <li>• Other relatives/friends no longer able/willing to accommodate.</li> </ul>	Not present.	No data on gender reassignment.
Sexual orientation	<p>Yes:</p> <ul style="list-style-type: none"> <li>• Violence/harassment – this can include hate crime.</li> <li>• Parents no longer able/willing to accommodate.</li> <li>• Other relatives/friends no longer able/willing to accommodate.</li> </ul>	Not present.	No data on sexual orientation.

## References

Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

Equality and Human Rights Commission, "How Fair is Wales", March 2011.

Equality and Human Rights Commission, Vol. 3, Engagement and the equality duty: A guide for public authorities", (Equality Act 2010 guidance for English public bodies [and non-devolved bodies in Scotland and Wales])

Equality and Human Rights Commission, Vol. 5, Equality information and the equality duty: A guide for public authorities (Equality Act 2010 guidance for English public bodies [and non-devolved bodies in Scotland and Wales])

Welsh Assembly Government (April 2010) Improving Lives and Communities

Wales Audit Office (November 2010) Housing services for adults with mental health needs

Welsh Assembly Government (2009) Ten Year Homelessness Plan for Wales 2009-2019

Welsh Assembly Government's Single Equality Scheme Executive Summary 2009-2012