

August 2019

1. Introduction

- 1.1 Law Centre NI welcomes this opportunity to respond to the Northern Ireland Housing Executive's Chronic Homelessness Action Plan.
- 1.2 Law Centre NI promotes social justice, providing specialist legal services across the region to advice organisations and disadvantaged individuals in social security, community care, immigration and employment law. Law Centre NI also provides legal advice, representation, training, information and policy services.

2. Chronic Homelessness and Migrant Communities: General Comments

- 2.1 Migrant destitution is increasing across the UK: an outcome of the 'hostile environment.'¹ An increase in chronic homelessness and migrant destitution has attracted the concern of regional and international human rights monitoring bodies.²
- 2.2 Law Centre NI considers that chronic homelessness is linked to a series of benefit restrictions that have had the effect of excluding some categories of migrants from benefits or limiting their entitlement.³ Law Centre NI welcomes that the Homelessness Strategy recognises the difficulty that persons from abroad with no recourse to public funds have in accessing benefits and services and that this may apply to individuals who are experiencing chronic homelessness.

3. Chronic Homelessness and Non-EEA Migrant Communities

- 3.1 The No Recourse to Public Funds ('NRPF') restriction on many non-EEA nationals has long caused hardship. Migrants subject to a NRPF restriction cannot access mainstream housing and welfare benefits. The NRPF restriction applies to people who have arrived in the UK in a range of immigration categories, including as students and workers, and their spouses, who may have the right to work, but not access to benefits. While these category of people are able to support themselves the NRPF restriction is not necessarily a problem, but if circumstances changes, for example if an illness or accident means someone is no longer able to work,

¹ See <https://www.homeless.org.uk/connect/blogs/2018/jan/10/migrant-homelessness-stark-reality-of-destitution-in-england>

² European Committee on Social Rights UK 2016 report, ICESCR report accessible [here](#).

³ For example, see: Law Centre NI, 'Information briefing: Habitual Residence and Right to reside requirements' (2015) accessible [here](#)

or a relationship breaks down due to domestic violence, people may be left without any means of support.

- 3.2 In addition, those who have been refused asylum and have had their appeal rights exhausted, or are deemed to be in the UK without lawful status, are not entitled to work, but are also not entitled to either asylum support or mainstream benefits. This means they are effectively destitute by operation of the law and vulnerable to becoming homeless.⁴
- 3.3 Law Centre NI is particularly concerned about the situation of undocumented or irregular migrants. This may include people who are entitled to have recourse to public funds as a British citizen or person with indefinite leave to remain, but do not have the documents to prove it. There are also people who believe for many years that they are UK citizens, only to discover on losing employment and/or accommodation that their immigration status was never regularised. These people can find themselves with no recourse to public funds until their immigration status is resolved.⁵
- 3.4 This category of migrants has been the target of the Government's 'hostile environment.' The culmination of multiple policies, including making it illegal for landlords to rent properties to undocumented migrants, banning them from opening bank accounts as well as working without the right documentation, and new restrictions on accessing housing and welfare benefits, has meant people having no means of supporting themselves. This can be a cause of homelessness and destitution for migrants, but it also makes it much more difficult for all homeless people to access the services they need to move out of homelessness.⁶
- 3.5 Law Centre NI emphasises that access to free and independent legal advice, including specialist immigration law advice, to determine and regularise immigration status is a vital part of enabling people access to housing and welfare benefits, thus preventing homelessness. This is in line with the Objective 2 of the Chronic Homelessness Action Plan (Promote early intervention and prevention of chronic homelessness).

4. Chronic Homelessness and EEA Migrant Communities

- 4.1 Restrictions on benefit entitlement for EEA migrants and their families introduced in NI mirror those in GB and reflect a policy objective of 'regaining control of EU migration by reforming welfare rules'.⁷ If a migrant is excluded from benefits, for example, because they have no work history in the UK or are the non-married partner of an EEA national and the

⁴ See <https://www.holyrood.com/articles/inside-politics/no-recourse-public-funds-how-uks-hostile-environment-policy-driving-people>

⁵ See Chasing Status (Legal Action Group, October 2014): <http://www.legalactiongroupnews.org.uk/surprised-brits-hit-by-laws-aimed-at-illegal-migrants/>

⁶ See <https://www.crisis.org.uk/ending-homelessness/the-plan-to-end-homelessness-full-version/solutions/chapter-12-ending-migrant-homelessness/>

⁷ Conservative Party Manifesto 2015 accessible [here](#).

relationship breaks down, s/he is deemed to be a 'Person from Abroad.' In turn, this limits access to housing assistance and to community care services.

- 4.2 In addition, EEA migrant jobseekers may only receive Jobseekers Allowance for 91 days before being subject to the Genuine Prospect of Work test (92% of jobseekers fail this test).⁸ The problem is compounded with the introduction of Universal Credit given that EEA jobseekers are not eligible to submit a claim. Therefore, with the roll out of Universal Credit, an increase in homeless EEA nationals is anticipated.
- 4.3 As a means to respond to the rising levels of EEA rough sleepers, the Home Office started removing rough sleepers back to their own country. An English High Court found this approach to be unlawful and rough sleepers are no longer removed.⁹
- 4.4 Law Centre NI highlights that the EU Settlement Scheme provides an opportunity to assist EEA nationals regularise their status. Law Centre NI anticipates that some EEA nationals who are not Permanent Residents may qualify for Settled Status. This means that some long-term homeless EEA nationals may have an opportunity to avail of social security, which would in turn give them access to a range of services and interventions and to the labour market. This is in line with the Objective 2 of the Chronic Homelessness Action Plan (Promote early intervention and prevention of chronic homelessness).
- 4.5 Law Centre NI is providing legal advice and assistance to vulnerable EEA nationals under the Home Office EU Settlement Scheme. Law Centre NI would be interested to explore signposting of appropriate EEA nationals to this free service.

5. Conclusion

- 5.1 Law Centre NI welcomes the fact that Article 6(D)1 of the Housing (Amendment) Act (NI) 2010 provides for free advice in relation to homelessness and the prevention of homelessness to be made available to all persons, including those subject to immigration controls.
- 5.2 Law Centre NI emphasises that it is vital that migrants, both EEA and non-EEA nationals, who need to regularise their immigration status in the UK can access homelessness prevention support and immigration advice.
- 5.3 Law Centre NI welcomes any opportunities to discuss this issue further.

⁸ See DWP 'Analysis of EEA Migrants' Access to Income-Related Benefits Measure' (August 2016) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/548225/analysis-of-eea-migrants-access-to-income-related-benefits-measures.pdf

⁹ The Home Office launched Operations Adoze and Gopik in 2016 to remove rough sleepers from the jurisdiction, amending its administrative removal policy to designate rough sleeping as an abuse of EU free movement rights to facilitate this. In December 2017, an English High Court found this approach to be unlawful and so EEA rough sleepers are no longer removed from the UK.