

Impact of COVID-19 on Homelessness and the Private Rented Sector

Written Evidence from Dr Nell Munro, Carla Reeson, Professor Aoife Nolan, Human Rights Law Centre, University of Nottingham

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Dr Nell Munro, Assistant Professor in Law
nell.munro@nottingham.ac.uk

We are socio-legal researchers at the University of Nottingham with a particular interest in the application of the Homelessness Reduction Act 2017. Dr Munro also chairs the board of a small supported housing provider in Derby. Aoife Nolan is Professor of International Human Rights Law and Co-Director of the Human Rights Law Centre.

The COVID-19 pandemic and the lockdown have affected homeless individuals and households in the private rented sector very differently. We have treated them as two different populations for the purposes of this call for evidence. This response applies to England only, as housing law is different in Wales and Scotland.

We would be happy to provide oral evidence if that would be useful to the Committee.

Key Recommendations:

1. With regard to single homeless adults, the government should amend the Homelessness Code of Guidance to clarify when and why those accommodated in an emergency are in priority need of accommodation and how local authorities should meet the relevant statutory obligations.
2. MHCLG and Public Health England should jointly commission a review of research into the spread of COVID-19 within specialist accommodation for homeless people in order to effectively target guidance and infection control responses in future.
3. Due to the impossibility of building a clear national picture of where homeless people were accommodated most effectively in response to the pandemic, the MHCLG should undertake qualitative work with local authorities to identify and share best practice.
4. MHCLG should make new emergency grant funding available to enable local authorities to procure additional services to support people with experience of rough sleeping to move on to stable accommodation.
5. MHCLG should make grant funding available to enable local authorities to procure self-contained temporary accommodation for families.
6. MHCLG should undertake a Child Right's Impact Assessment of the housing policy actions it undertakes with regard to securing stable accommodation so as to ensure that such policy takes account of children's rights-related interests.

How effective has the support provided by MHCLG and other government departments been in addressing the impact of COVID-19 on rough sleepers and the homeless?

1. It is too early to draw a clear picture about the impact of COVID-19 on people who were homeless or experiencing rough sleeping. As we build that picture, we will need to distinguish between the effects of the virus itself and the effects of the measures taken to stop the spread of infection.
2. In the early stages of the pandemic, the Department of Health underestimated the challenge of protecting homeless people from COVID-19. They issued guidance on infection control and isolating cases of known or suspected COVID-19 to residential care settings on 25/02.¹ Guidance was not issued to providers of services to people experiencing rough sleeping until 16/03,² after the government's response to the pandemic had already moved to the delay phase. This early guidance mirrored the guidance to care homes and recommended isolating known or suspected cases of COVID-19. Isolating cases in this way is often impossible in hostel and night-shelter settings with shared bathroom and kitchen facilities.
3. It was only after the lockdown was officially announced that Luke Hall, the Minister for Homelessness wrote to local authorities in England on 27/03 advising them to close night shelters and secure emergency accommodation which met social distancing requirements for people experiencing rough sleeping.³
4. Annual efforts to estimate the number of people who experience rough sleeping are disputed. There is also a much larger population of people who are homeless but who do not experience rough sleeping because they are informally accommodated with friends. The size of this population is also hard to assess but is much larger than the population of rough sleepers. People sleeping in very informal accommodation are likely to be younger and have fewer physical health needs than those who experience rough sleeping.⁴ This population may be more vulnerable to losing their accommodation as a result of the pandemic, when pressure on households accommodating young people who are sofa-surfing is likely to be greater than ever. The measures adopted by the MHCLG were not addressed to this population who are also in housing need currently. In Wales, guidance issued by their Ministry for Housing explicitly directed Local Authorities to direct attention towards single people who did not have stable accommodation even if not rough sleeping.⁵

RECOMMENDATION 1: As we progress through the lockdown MHCLG should follow the example of the Welsh government and update Chapters 6, 12 and 13 of the Homelessness Code of Guidance to clarify to whom local authorities should pay specific attention in securing urgent shelter.

5. Measuring the effectiveness of MHCLG's initial actions in protecting homeless people from COVID-19 is impossible. It is possible that the decision to close night shelters and relocate people to hotels will have raised risk in some areas because it led to breakdowns in accommodation placements and caused unsupported people to return

¹ <https://www.gov.uk/government/publications/guidance-for-social-or-community-care-and-residential-settings-on-covid-19/guidance-for-social-or-community-care-and-residential-settings-on-covid-19>

² <https://www.gov.uk/government/publications/covid-19-guidance-on-services-for-people-experiencing-rough-sleeping>

³ <https://www.gov.uk/government/publications/letter-from-minister-hall-to-local-authorities>

⁴ https://www.crisis.org.uk/media/241555/it_was_like_a_nightmare_the_reality_of_sofa_surfing_in_britain_today_2019.pdf

⁵ https://gov.wales/sites/default/files/publications/2020-04/guidance-for-local-authorities-in-supporting-people-sleeping-rough-covid-19_0.pdf

to the streets. There is evidence emerging that this happened in some local authority areas.⁶

RECOMMENDATION 2: As we emerge from lockdown, MHCLG should work with PHE to monitor the infection status of people in emergency accommodation. This should enable the development of a baseline tool for evaluating the effectiveness of using both social distancing measures and support services when protecting homeless people from COVID-19 as they return to more typical accommodation.

Question 2. What problems remain an immediate and current concern for homeless people and people experiencing rough sleeping?

6. Local efforts to provide emergency accommodation to people experiencing rough sleeping are diverse. In some areas much of the first response to need is delivered by the voluntary sector and is relatively uncoordinated by the local authority. In others, robust rough sleeping initiatives mean the local authority have a very good knowledge of their local rough sleeping population. Research has consistently demonstrated that people who experience rough sleeping typically have complex and multiple needs. Supporting people to return to stable accommodation often requires provision of support to enable people to access a range of health and social care and support services before they can manage a tenancy independently.
7. The letter from Luke Hall advising local authorities to secure accommodation for people experiencing rough sleeping did not specify on what legal basis councils were offering accommodation. Many of them will be owed a duty for relief of homelessness under s.189B Housing Act 1996. This duty is owed to all those who are eligible regardless of priority need or whether they are intentionally homeless. Some will likely be in priority need so, once assessed, should be offered temporary accommodation under s.188 Housing Act 1996. Some will have been assessed before and be known not to be in priority need. For those known not to be in priority need, the local authority will have been exercising its discretion in providing them with accommodation in an emergency.
8. No guidance was given to local authorities as to whether they should formally assess the legal duties to those they housed over the weekend of 28th and 29th March 2020. In authorities where many people were offered emergency accommodation without an assessment of their housing needs, this will leave an incoherent picture as to whom legal duties continue to be owed. It will also mean national level statistics on statutory homelessness for this period will be full of missing values representing cases where the local authority provided accommodation to someone whom they did not have time to fully assess. These are not criticisms of the emergency intervention undertaken, but they limit our ability to learn from the future based on the quantitative data available.
9. Three possibilities arise:
 1. Some local authorities, mainly those which already had supportive relationships with people experiencing rough sleeping at the start of the lockdown, can accurately identify to whom they owe ongoing duties and the kinds of accommodation they need to provide.
 2. Some local authorities, which knew little about their rough sleeping population at the start of the lockdown but had a manageable population to accommodate, were able to carry out full assessments of their legal status and can use this data to identify which people in emergency accommodation they owe ongoing legal duties to.
 3. Some local authorities, which knew little about their rough sleeping population at the start of the lockdown and did not have the resources to assess housing need

⁶ <https://www.theguardian.com/society/2020/apr/27/quarter-of-manchester-homeless-people-housed-in-hotels-for-lockdown-have-left>

rapidly now have a large number of people in emergency accommodation whose status is uncertain. All of the people housed over the weekend of 28-29th March 2020 can be said to have made an effective application for housing. The MHCLGs Homelessness Code of Guidance states that *'As long as the application...includes details that gives the housing authority reason to believe that they are homeless, or threatened with homelessness this will constitute a valid application'* [para18.5]. This criteria is clearly met if the housing authority is providing an individual with emergency hotel accommodation.

These authorities, which will be mainly in major cities, may now have tens if not hundreds of cases that they now need to rapidly assess and potentially accommodate.

RECOMMENDATION 3: The new MHCLG rough-sleeping taskforce should survey authorities to identify those which demonstrated best practice in assessing housing need of their homeless and rough sleeping populations. Learning qualitatively from best practice is the quickest route for authorities that have large homeless populations to improve their responses.

Question 3: What might be the immediate post lockdown impact for people experiencing rough sleeping?

10. The biggest risk facing rough sleepers is that their housing needs will either not be assessed whilst they are in emergency accommodation or that they will be assessed and found to be owed a duty but accommodation suitable to relieve their homelessness will not be available. They will continue to face the risk of unstable accommodation in hostels or night shelters with uncertain access to food, healthcare or the opportunity to rebuild their lives.
11. Whilst many people who experience rough sleeping are owed a legal duty to provide immediate relief of homelessness the greatest challenge local authorities facing in providing long-term relief of homelessness is the lack of accommodation options beyond night shelters and hostels, particularly for people who need support. Excellent models for support delivery such as Housing First are complex to commission and to scale up to the population who will need them.⁷ Offering tenants accommodation in shared houses or hostels with support is a much more widely used model. The actual size of this sector is still small⁸ and, in England, it is largely unregulated. There is no requirement that housing associations or charities providing supported accommodation without personal care services should be registered with the Care Quality Commission. Nor is the Registered Social Landlord scheme applicable to all providers. Tenants themselves often feel disempowered when raising concerns about services because they have little experience as tenants in a consumer/provider relationship. Alternative oversight comes from LA Housing Benefit teams when agreeing rent schedules for these services. LAs may have minimal capacity to monitor the delivery of agreed services. The supported housing sector is still, however, the area with the greatest current capacity to meet the needs of people leaving emergency accommodation who require support to transition to stable accommodation.
12. Making large grants available to fund the procurement of supported accommodation for people moving on from hostels and night shelters will reduce the overall population of people experiencing rough sleeping and reduce the need to provide expensive emergency accommodation at short notice. Again, the new MHCLG

⁷https://hfe.homeless.org.uk/sites/default/files/attachments/Making%20Housing%20First%20Effective_0.pdf

⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/572454/rr927-supported-accommodation-review.pdf

Taskforce should use surveys to identify local authorities with effective models for delivering accommodation. This will help authorities which do not have provision in place to identify which, of a portfolio of options, they can most rapidly adopt and sustain within their area. These can include Housing First, facilitating leasehold accommodation in the social or private rented sector with support, commissioning blocks of move-on accommodation, especially for young adults, and adapting existing hostel and night-shelter accommodation to accommodate social distancing arrangements. They should prioritise funding services which have an effective track record of service delivery and those which have arrangements in place to support tenants to voice concerns about service delivery where they fall short.

13. Making MHCLG grant-funding available to fund the development of supported housing options across the country will be an expensive intervention. However, compared to all the available alternatives it is almost certainly the cheapest available option.

RECOMMENDATION 4: MHCLG should make emergency grant funding available to ensure LAs can commission supported accommodation in the social housing or private rented sector over the next winter. The £76million fund to help vulnerable families including victims of domestic violence and modern slavery announced by MHCLG on 02/05 is a welcome start but equivalent funding also needs to be allocated to single homeless people to reduce and prevent rough sleeping in the short term. Planning new services to relieve homelessness can take years and current plans to prevent rough sleeping using funding from the Shared Outcomes Fund to address the causes of rough sleeping are already in train. However, we now have only six months to secure new accommodation options for next winter, when social distancing requirements will continue to be in place making many current night-shelter and hostel options unsafe.

Households in the Private Rented Sector (PRS)

Question 1. How effective has the support provided by MHCLG and other government departments in addressing the impact of COVID-19 on households in the Private Rented Sector (PRS)?

1. The Government has unfrozen the cap on Local Housing Allowance (LHA) until April 2021. This was widely welcomed. However, the Government has not amended the benefit cap. Households in areas with the highest market rents claiming Universal Credit will find their housing benefit payment will constitute the largest part of their income. In addition, raising the local housing allowance will enable landlords to keep charging higher market rents to the lowest income households. The Child Poverty Action Group has already highlighted that raising LHA but not the benefit cap risks making households with children destitute.⁹

RECOMMENDATION 4: The Department for Work and Pensions should raise the level of the benefit cap. Neil Couling, Director General of the Change Group for the Department of Work and Pensions confirmed in evidence to the Work and Pensions Select Committee on 23/04 that this would not be operationally difficult.¹⁰

Question 2: What problems remain an immediate and current concern for households in the private rented sector?

2. In the 2018 Private Landlord Survey, 15% of landlords reported they were planning to reduce their number of holdings or eliminate them altogether, whilst only 11% of landlords wanted to increase their number of properties.¹¹ This meant that even before the pandemic local authorities were reporting a plateau in the supply of private rented sector accommodation. This was a problem because the private rented sector is the only option available to most housing authorities when housing households that are homeless or threatened homeless under s.195 and s.189B Housing Act 1996.
3. The Private Landlord Survey also found that 45% of private landlords in England owned only one property and the most frequently given reason for acquiring a buy-to-let property was as an investment or to improve a pension.¹² These properties are typically mortgaged and owned by working age adults. Rising unemployment may mean landlords decide to sell their investment properties or face repossession. If supply in the private rented sector declines further households in the private rented sector will be trying to find accommodation in a contracting market. Many of these households will also be affected by lost or reduced employment and applying for housing benefit.

Question 3: What might be the immediate post lockdown impact for households in the private rented sector?

4. As soon as the stay in possessions is lifted, there is likely to be a large rise in the number of proceedings initiated by landlords whose tenants are unemployed and struggling to cover their rent with housing benefit. This is likely to continue for many months after the lockdown is lifted and people start to return to work.
5. The other challenge that local authorities will face is that where a household is homeless or threatened homeless, as a result of family breakdown or eviction, finding

⁹ <https://cpag.org.uk/sites/default/files/files/policypost/CPAG-mind-the-gaps-briefing-23-April.pdf>

¹⁰ <https://www.parliamentlive.tv/Event/Index/86ed5d4f-9daf-40b0-9b97-384ddc6cc897> at 10:29

¹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775002/EPLS_main_report.pdf pp51-52

¹² Ibid p17

accommodation in the private rented sector is the primary way LAs can meet their legal obligation to secure accommodation for those households. 70% of households that are in temporary accommodation provided by local authorities under statutory duties to prevent or relieve homelessness have children. In Sept 2019 127, 674 children were estimated to be living in temporary accommodation.¹³

6. The fact that local authorities already rely on temporary accommodation reflects the fact that many households with children will be in priority need for housing when they apply for help. This does not mean that after assessment the local authority will have a duty to provide the household with permanent accommodation. When they do, however, they can only do so by making an appropriate offer of accommodation in the social sector or finding a private rented sector tenancy for the household. Both outcomes are likely to become increasingly difficult to secure over the next twelve months. This may leave more families spending long periods in inappropriate temporary accommodation.
7. Children are over-looked casualties of the COVID-19 pandemic. There is a growing likelihood that some of the most disadvantaged children in our society will be placed in inadequate accommodation whilst local authorities ensure that highly vulnerable adults are housed. Even before the lockdown children in temporary accommodation were living with uncertain access to healthcare, education, and their wider community. There is a serious risk that inadequate, non-child-centric decision-making and other actions at this point will result in very serious (and foreseeable) detrimental outcomes for children, their wellbeing and life outcomes, as well as their enjoyment of a range of rights under human rights law.¹⁴

RECOMMENDATION 5: MHCLG needs to allocate grant funding to enable local authorities to work with housing associations and private landlords to increase their capacity to deliver self-contained temporary accommodation for families from autumn 2020. Many local authorities, even outside London and the South East, were relying on B&B accommodation to provide emergency accommodation for homeless families prior to the COVID-19 crisis.¹⁵ B&Bs are not a safe housing option whilst social distancing measures remain in place.

RECOMMENDATION 6: MHCLG urgently needs to conduct a Child Right's Impact Assessment looking at the impact of its housing policies on the rights of children in homeless or threatened homeless households. The impressive array of financial interventions the Treasury has made to protect incomes in working households may still leave many children in very low income households extremely disadvantaged if urgent steps are not taken to measure and address the impact COVID-19 is having upon children, both currently and in the foreseeable future.

¹³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/873677/Statutory_homelessness_release_Jul-Sep_2019.pdf

¹⁴ See, e.g., Articles 24 and 27 of the United Nations Convention on the Rights of Child. The United Kingdom ratified (and therefore agreed to be bound by) this international treaty on 16th December 1991. Depending on the severity of the risks faced by children, these may also raise issues in terms of Articles 2, 3 and 8 of the European Convention of Human Rights (1950). These rights are directly enforceable in domestic law as a result of the Human Rights Act 1998.

¹⁵Ibid. p 26 based on a model of 2.05 children per household.