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# Housing rights, homelessness prevention and a paradox of bureaucracy?

## Abstract

In most nations homelessness remains a major injustice. A key response in Wales has been the introduction of a pioneering justiciable right to homelessness prevention and relief assistance. This paper explores the complexities of the new welfare bureaucracy this has created. We explore whether these housing rights invoke a paradox, whereby the positive impacts for citizens are accompanied by distancing and exclusion. The study reveals both a faceless bureaucracy characterised by processes of silencing and subordination propped up by tools of exclusion, particularly impenetrable paperwork, but also a system that can work to grant housing rights to those in need of support. There is no evidence for an utterly 'faceless tyrant' of a bureaucratic system, due to the often-inclusive ways that frontline staff operate, frequently at the margins of the law (Arendt 1970). Thus, this paper draws attention to the complexities inherent in a rights-based homelessness system and the paradoxical nature of attempting to grant housing rights.

**Key words:** Homelessness law, homelessness policy, bureaucracy, housing rights, Wales

## Introduction

To be deprived of a home is to be deprived of a fundamental human right and yet, in spite of continued research and policy focus, homelessness is still a major global issue (Fitzpatrick *et al.*, 2014; Mackie, 2014). In response to the challenge of ending homelessness, the UK has implemented a housing rights-based system (Culhane *et al.*, 2011; Mackie, 2015; Woodhall-Melnik and Dunn, 2016), whereby local authorities are required to provide settled accommodation to homeless households deemed to be in priority need of assistance<sup>1</sup>, and failure to assist can be challenged through the courts (Anderson, 2004). That a failure to fulfil these rights can be challenged through a court of law is what makes the UK rights-based system distinct from those in other nation states<sup>2</sup>. Whilst, there is not a consensus that a justiciable rights-based homelessness system is the most effective way to solve homelessness

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<sup>1</sup> Since 2012 the 'Priority Need test' has been ended in Scotland which means all homeless households are owed settled accommodation.

<sup>2</sup> There DALO Act in France is also intended to be a legally enforceable right to housing. However, there is significant criticism over the extent to which it can be seen as a legally enforceable right (Lévy-Vroelant, 2015). For a detailed comparison of the UK and French system see Quilgars and Loison-Leruste (2009).

there is considerable call to strengthen housing rights across the globe (UN Special Rapporteur, 2019).

Governments in Wales (2014) and England (2017) took action to extend the justiciable rights-based approach to include prevention assistance, placing new duties on local authorities to take steps to prevent and relieve homelessness<sup>3</sup> (Mackie *et al.*, 2017). Mackie *et al.* (2017) documented the early positive impacts of the new duties in Wales and it has already sparked international interest in the idea of legally enforceable duties to assist (Gaetz *et al.*, 2018). What is more, regardless of their efficacy in terms of justice, rights are dominant in our understandings of social justice (Merry 2003). As such, it is important to explore the practical aspects of claiming them. At the heart of homelessness legislation across the UK is a bureaucracy. Definitions and applications of the term 'bureaucracy' are multifarious (Gajduschek, 2003) but generally draw upon Weberian depictions of structured hierarchies and the importance of rules, laws and regulations. In this paper we follow the 21<sup>st</sup> century trend of synonymising bureaucracy with paperwork and the many other practices associated with implementing organisational rules (Graeber, 2015). In the analysis we bring together this organisational definition with *the systems and practices associated with implementing law and policy* – in this instance, homelessness law. You cannot have one method of bureaucracy without the other, as the systems of rules and paperwork serve to allow state bureaucracy to function. Both the paperwork and the bureaucratic process are a part of the system in which people's rights reside. The creation of a justiciable rights-based homelessness service necessitates the creation of bureaucratic systems because our system of rights is based on black letter law. Questions have recently been raised about whether the bureaucracy surrounding innovative homelessness laws in Wales may be creating new challenges that hinder access to meaningful assistance (Mackie *et al.*, 2017).

Therefore, the aim of this paper is to explore the role of bureaucracy in the prevention-focused homelessness system in Wales. We find that there is a paradox of bureaucracy within homelessness legislation. It appears that the potential for greater housing support is accompanied by disempowerment and the possibility of distancing from homelessness services; we draw parallels between this and the inherent (ill) logic of bureaucracies. The inherent (ill) logic of bureaucracies can be traced back to Weber (1930) in his discussion of the inexorable rationality that traps workers within a bureaucracy. This paradox, whereby organisation advantages are accompanied by the possibility of organisation disfunction has yet to be explored in the realm of homelessness.

Given the growing international interest in legally enforceable duties to prevent and rapidly rehouse, the findings will have important implications beyond the UK. The paper first

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<sup>3</sup> Prior UK homelessness legislation included a right to assistance, but this duty was able to be discharged with the bare minimum of passing information (Mackie 2014).

situates the study in key literatures on housing rights and bureaucratic systems, before introducing the Welsh case study and the research methodology. The findings of the research are then discussed in relation to two key themes: the tools of the bureaucracy, particularly paperwork; and the (en)actors of the bureaucracy, namely frontline homelessness staff. The final section concludes the paper and returns to the paradox of bureaucracy question.

## **Setting the study in context: legally enforceable housing rights and the facets of a necessary bureaucracy**

This paper draws upon two main bodies of literature which, despite their proximity, have hardly been discussed together (see Hunter et al, 2006 for an exception). First, housing rights literatures are discussed, with a particular focus on developments in the UK context. It is through bureaucracies that housing rights and policy are translated into practice, hence bureaucracies are the focus of the second body of work, with particular attention paid to the challenges of working within a bureaucracy.

### *Housing rights and homelessness prevention*

Fitzpatrick and Watts (2010) provide a useful starting point for a discussion of housing rights. They draw a distinction between programmatic and legal rights to housing for homeless people, where programmatic rights are an expression of support for social policies and are 'barely worthy of the term rights', whereas legal rights are enforceable at the level of the individual via domestic courts (Fitzpatrick and Watts, 2010). Although European Union nation-states have ratified the right to housing through the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR) and in the Revised European Social Charter of 1996, the utility of the rights found in international treaties is debated within socio-legal studies due to the lack of enforcement mechanisms for any so called 'human rights' (Kenna 2005). The rights contained in these treaties are examples of programmatic rights and as such quite different from the legally enforceable rights found in the UK, which themselves are not without significant issues, as will be explored in this paper. This paper focuses on legal enforceable or justiciable housing rights rather than the more abstract statements found in international treaties.

Individual rights are significant as they suggest that individuals are important, that is, our individual worth cannot be overridden for the common good (King 2000). Legally enforceable rights for those experiencing homelessness have significant strengths when compared with other systems. It is argued that rights are able to disrupt hierarchies of power, as service users hold 'a 'right of action' against service providers' (Kenna 2005). This is key,

as claims on public services that are not constructed as rights or entitlements can lead to the support becoming discretionary. When support for those in housing crisis is discretionary it can be damaging for the self-respect of those in need of support (Watts, 2014). Enforceable housing rights can remove stigma from homelessness as it helps to construct housing claims as legitimate and universal, rather than discretionary and extended only to those seen as 'needy' or 'vulnerable' (Watts 2014).

However, as rights are linked to citizenship this means that a lack of citizenship impacts the opportunity to claim them, an issue that can be used to limit the universality of housing rights (King 2003). Moreover, as argued by Arendt (1973), the state should both enforce and provide your rights but if the state is unable or unwilling to do so, rights become worthless. Moreover, there are other drawbacks associated with housing rights with some arguing against the encroachment of law into areas of social policy (Dean 2002, O'Sullivan 2008). In addition, the cost and difficulty in claiming one's legal rights has long been recognised as an issue, as will be explored later in this section. Whilst, in contrast with a rights-based system, universalist housing allocation mechanisms are seen to be effective in tackling homelessness (Pleace 2017).

The UK system was initially established in 1977 and states that local authorities must provide accommodation for specific groups of homeless people, known as those in 'priority need' (Anderson, 2004). The priority need category includes households perceived as 'vulnerable', including families with children (Anderson, 2004). Following the onset of devolution in 1999 approaches across the UK have diverged. Scotland achieved the abolition of the priority need test by 2012, essentially guaranteeing all homeless households settled accommodation, irrespective of any priority status. More recently, Wales was the first part of the union where justiciable rights have been extended to homelessness prevention, although England has recently followed suit with the Homelessness Reduction Act 2017. The Housing (Wales) Act 2014 is designed to focus services on prevention (Mackie, 2015; Mackie *et al.*, 2017), whereby local authorities must now take steps to prevent and relieve homelessness for all households who are eligible to access public funds (Mackie, 2014; Mackie, 2015). As this is a justiciable right people are now able to challenge local authorities for not taking reasonable steps to help them to prevent or relieve their homelessness (Mackie, 2014; Mackie, 2015). Mackie *et al.* (2017) documented the early positive impacts of the new duties in Wales and it has already sparked international interest in the idea of legally enforceable duties to assist (Gaetz *et al.* 2018).

The justiciable rights-based approach in Wales is necessarily underpinned by a significant bureaucracy. However, concerns are emerging that this bureaucracy may be creating new challenges that deter or prevent people from accessing meaningful assistance (Fitzpatrick *et al.*, 2017; Mackie *et al.*, 2017). Given the potentially problematic role of the

bureaucratic system in Wales, we consider the core learning from social science literatures on the challenges of a bureaucracy.

*Bureaucratic systems: paperwork, a faceless tyrant and street level bureaucrats*

Bureaucracies have long been a topic of scholarship in the social sciences due to their place as the site where rights and policy are translated into practice. This section explores the key challenges bureaucracies have been found to create, therefore informing our framework for exploring the new system set up to protect Welsh rights to homelessness prevention assistance. The challenges this section explores are; how legal systems can be exclusionary, particularly due to jargon and paperwork; how bureaucratic systems can be disempowering; and the role of street level bureaucrats in creating and mitigating the challenges of bureaucratic systems.

Rights literature grapples with the ways in which people understand themselves as rights holders (Chouinard, 1994). Legal knowledge and skill is argued to be an expert knowledge (Lens, 2007), hence vulnerabilising those without specialist legal understanding (White, 2002). Vulnerable populations are far less likely to succeed in claiming their legal rights (White, 2002; Lens, 2007). One of the key barriers to realisation of legal rights is the language used in legal paperwork; 'documentation, or the reduction of every transaction into a written form that stands for the actual event, is the sine qua non of bureaucracies' (Miller and Holstein, 1996 in Lens, 2007: 324). It is not only service users who face difficulties understanding legal paperwork - it is equally important that front-line staff (the street level bureaucrats) have a good grasp. For example, in their research on the vulnerability test within English homelessness law, Hunter *et al.* (2016) found that there was greater compliance with the law where systems were simple as this required street level bureaucrats to have less legal competency. Bureaucratic texts have the potential to engender passivity where they enforce waiting and where they are designed without the reader's skill level in mind (Taylor, 1996; Jones, 2014; Whittle *et al.*, 2017). Despite the common disempowering effects of paperwork, documents can be produced in a person-centred way, involving service users in their design and development (Scott and Doughty, 2012). Moreover, paperwork can be made more penetrable if staff coach service users in how to engage with it (Quilliam *et al.*, 2015).

Three key theorists provide the basis for understanding the disempowering effects of bureaucratic systems. Firstly, Bauman (1989) argues that due to the process of modern industrial rationalization, organizational rules take the place of morals. In part this is attributed to the routinization of tasks in a bureaucracy, as when the same task is repeated we stop thinking morally (Bauman, 1989). Arendt (1970) similarly warns of ways that bureaucracies can allow for the removal of morals. She finds that the routinization of tasks in a bureaucracy separates us from the jobs we are doing, terming this distancing (Arendt, 1970). This then

creates a system where all of the individuals are disempowered. Through his conceptualisation of bureaucracy, Weber (1930) also warns of the dangers of rationalisation and depersonalisation. He theorized about the 'iron cage' of bureaucracy – an inflexible set of rules which constrains human freedom. He finds that in the 'iron cage' workers are reduced to cogs in a machine (Weber, 1930).

These three conceptualisations of bureaucracy converge on the conclusion that distancing and routinization make it very difficult to resist the system as there is no clear method to do so (Bauman, 1989). Through the routinization of tasks, there is no one to resist against as the workers are cogs in the larger machine (Weber, 1930). Arendt (1970) describes the ultimate bureaucracy as a faceless tyrant, where through disempowerment there is no one to resist against or argue with, as even the workers in the system have no power to change it. Research on contemporary bureaucratic systems demonstrates that the physical separation of decision makers from clients is a key way in which service users are not able to plead their cases, as it is unknown who holds the ultimate power (Alpes and Spire, 2014). This leaves little space for resistance.

While social theorists have written widely on the disempowering impacts of the faceless bureaucracy, there is a complementary body of work that focuses in greater detail on the role played by those who implement policy on the frontline; the street level bureaucrats. There is a large literature that explores the role played by street level bureaucrats in delivering homelessness services (Halliday *et al.*, 2009; Alden, 2014; Alden, 2015b; Hunter *et al.*, 2016; van den Berk-Clark, 2016; Hand, 2017). This work takes as a starting point the work of Lipsky (1980), who theorises about those who deliver policy and law, arguing that they are able to exercise the ultimate discretion through manipulating the bureaucratic systems they work within. He highlights the dilemmas faced by public officials, where the pressures of their role and from the system they work within often pull in different directions (Lipsky, 1980). As a result, it is argued that there is often a large gap between the law in books and the law in action (Pound, 1910; Lipsky, 1980).

Compliance with legal frameworks among frontline workers is of international longstanding concern (Hunter *et al.*, 2016), with studies concluding that street level bureaucrats in homelessness departments are practicing unlawful discretion (Alden, 2015a; van den Berk-Clark, 2016). In part the undesirable behaviours seen in studies of street level bureaucrats are attributed to the wide level of discretion they are afforded in implementing policy (Hunter *et al.*, 2016). A key part of the debate is whether discretion is driven by the personal preferences or beliefs of frontline workers or the bureaucratic environment people are working in, particularly where resources are severely limited. Alden (2015c) has found evidence of stereotyping and gatekeeping of service users, leading to preferential treatment for those seen as more deserving.

Much of the literature utilizing Lipsky's (1980) framework indicates that it is street level bureaucrats who are instrumental in implementing policy. However, research also finds that street level bureaucrats are practicing ethics of care. Baviskar and Winter (2017) find that the frontline workers in their study are concerned about the welfare of their clients and try to act supportively. Similarly, Francis (2000) found that street level bureaucrats reacted to the problematic rules in the housing system by finding loopholes to accommodate their multiply excluded clients.

In seeking to examine whether there is a paradox of bureaucracy, whereby the very system granting homelessness rights must inevitably be accompanied by the dis-empowering systems which distance service users from their rights, this literature points towards two key research questions, based on what are essentially contradictory positions on bureaucracy. These two key questions will frame the analysis in this paper:

- 1] What is the role of the tools of bureaucracy, particularly paperwork, in granting homelessness rights?
- 2] What is the role of the (en)actors of the bureaucracy? Namely street level bureaucrats. Is there evidence for the homelessness system acting as a faceless tyrant?

Before the methods of this study are presented and the findings examined, the following section of the paper introduces the Housing (Wales) Act 2014 and briefly summarises the key known impacts of the legislation, highlighting the importance of legally enforceable rights to housing assistance.

## **Introducing the Housing (Wales) Act 2014**

This section introduces the Welsh homelessness legislation and briefly reflects on emerging evidence of its impacts. The Housing (Wales) Act 2014, which commenced in April 2015, placed new duties on local authorities to take steps to prevent and relieve homelessness. The legislation intended a 'cultural shift away from investigating and processing decisions towards problem solving and dialogue with the household' (Mackie, 2014: 26-27), affording local authorities, and front-line staff in particular, more discretion than before. Even more so than the previous legislative framework, the Welsh homelessness legislation is complex. For the purpose of this paper it is not necessary to delve into the details of the legislation, instead a simplified version is presented, drawing heavily on the summary devised by Mackie et al. (2017). The system can be understood as three stages; prevention, relief and final duty<sup>4</sup>.

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<sup>4</sup> The stages of the homelessness system in Wales are technically referred to as Section 66, Section 73 and Section 75. However, for clarity and simplicity this paper will use Prevention, Relief and Final Duty to refer to each of the stages.



People can enter the system at either 'Prevention' or 'Relief' stages depending on whether they are threatened with homelessness or already homeless. At the Prevention stage, when a person is threatened with homelessness the local authority must take reasonable steps to prevent the household from becoming homeless. At the Relief stage, local authorities must take reasonable steps to help households secure accommodation. When taking reasonable steps at both prevention and relief stages, the minimum broad set of interventions that local authorities ought to consider are specified in statutory guidance. Whilst local authorities are expected to consider the most appropriate intervention(s) for each person, in a typical case a household would make an application for housing assistance and the local authority would help the household to identify suitable affordable accommodation in the private or social rented sectors (36% and 39% of successful relief outcomes in 2018/19 respectively), and crucially they would offer financial assistance, including monies to cover rent arrears, deposits, or rent in advance payments. This is not an absolute requirement to provide accommodation but local authorities must take steps to assist all households to resolve their homelessness or prevent it. Each duty should be met within 56 days.

If Relief efforts are unsuccessful then households move to the Final Stage, however if they are not in priority need (generally defined as households with dependent children or a vulnerable adult) then there is no further duty on the local authority to assist. The Final stage mostly recreates the previous system, where households in priority need and unintentionally homeless are owed settled accommodation. Crucially, at each stage in the legislative process, households are able to ask for a review of the local authority actions and decisions which, in principle, makes these rights enforceable and worthy of the term 'rights' (Fitzpatrick and Watts, 2010).

The selective review of housing rights literature above pointed towards two main strengths of legally enforceable rights and each of these seem to emerge in the Welsh context. Firstly, such rights *disrupt hierarchies of power* (Fitzpatrick *et al.*, 2014). In Wales single person households would previously have received limited or no assistance (Mackie, 2015) but the new legislation has significantly altered the responsibilities of local authorities towards single people - they now constitute nearly 60% of all households assisted by Welsh local authorities (Welsh Government, 2020). Secondly, enforceable rights are perceived to be particularly effective at ensuring a remedy to the housing crises of those who are unable to find alternative accommodation (Fitzpatrick and Pleace, 2012). Whilst the Housing (Wales) Act 2014 does not place an absolute duty on local authorities to accommodate households, the requirement to take reasonable steps has improved outcomes for households – in 2018/19 homelessness was prevented for 66% of single person households and 69% of families (Welsh Government, 2020). A more detailed examination of the impacts and implementation challenges associated with the Welsh legislation are documented elsewhere (Mackie *et al.*, 2017) but this provides

important context for this paper's examination of the necessary bureaucracy that accompanies the legislation.

## **Methods**

This paper draws upon a further analysis of data collected during a larger study to explore the implementation of the Housing (Wales) Act 2014. Two groups of actors were interviewed: the intended recipients of the Act (service users) and those implementing the Act (key informants). Through soliciting reflections and interpretations, this paper offers insight into how different actors construct this encounter, including within a wider socio-legal context. Ethical approval for the study was obtained from the School of Geography and Planning, Cardiff University. All interviews were recorded (with participant permission) and professionally transcribed.

### *Service user interviews*

This group comprised 50 individuals who had experience of making at least one application under the Housing (Wales) Act 2014. As explained above, the Housing (Wales) Act 2014 recognises a duty not only to those facing active rooflessness, but those in inadequate, dangerous or insecure accommodation, and those threatened with homelessness within the next 56 days. Participants were recruited directly from local authority housing offices (either face to face or by telephone after attending the service) and from short term, temporary accommodation (hostels). Interviews were between 20-60 minutes long and followed a semi-structured format. The interviews with homeless service users explored participant's pathways through the homeless service, starting from their journey into homelessness, then focusing particularly on their engagement with local authorities, and up to their present housing circumstances. The interviews focused on experiences of service provision and how individuals felt they had been supported through the process. Depending on the experience of the service user, prompts on various aspects of the legislation, personalised housing plans, prevention activities, experiences with discharge of duty into the private rented sector and 'failure to cooperate' were included.

### *Key informant interviews*

Subsequently, 13 interviews were undertaken with staff in strategic roles. This included senior homelessness service managers and policy-makers in local government and third sector advocate organisations as well as some frontline workers. These interviews focused upon the implementation challenges of the new legislation, and participant experience of the shift to the new system, in particular barriers and enablers to delivering homelessness services. The interviews explored their experiences of working with the legislation, particularly in relation to

prevention and relief activities and how these adapted to different groups of services users, such as families, single individuals, those with additional support needs and prison leavers. Like the interviews with service users, prompts were included on the novel aspects of the Housing (Wales) Act 2014 - personalised housing plans, prevention activities, experiences with discharge of duty into the private rented sector and 'failure to cooperate'. These interviews varied in length from 20 minutes to 60 minutes.

### *Analysis*

Transcripts were analysed using Critical Discourse Analysis (CDA). CDA attends closely to the use of language within the interview context, understanding discourse as situated within a broader context of social power. CDA is of particular utility in exploring how different ideas operate within an organisational context to create and uphold structures which justify exclusion, as well as tracing how these change over time and in different settings (Wodak and Meyer 2015). Discourse is understood not only as reflective of, but as a strategy for resisting and reformulating, an individual's social reality. In performing CDA the researchers particularly attended to the tensions between the discourse produced by organisations, and the experiences of those working and receiving service from them, regarding these as indicative of emergent, potentially new, discourses and modes of operation (Fairclough 2005). Datasets from the two groups of participants were analysed sequentially, with themes emerging from interviews with service users providing a basis for analysis of key informant interviews. Three key themes emerged from participant interviews. First, there was considerable evidence of opaque, complex and poorly understood bureaucratic systems, which created a sense of confusion and disempowerment among participants. Second, participants often focused upon frontline staff, rather than systems as a whole, as the enactors of the system: here the complexity of support and discretion became apparent. Third, echoing prior scholarship in the area of street level bureaucracy, it became evident that structural constraints significantly influenced service provision. In the subsequent sections, these themes are discussed in detail, augmented by illustrative quotations.

### **Disempowerment by the mundane power of paperwork**

Within the literatures on bureaucracy, one of the main challenges to claiming rights was the exclusionary power of language and associated paperwork (Quilliam *et al.*, 2015; Whittle *et al.*, 2017). This challenge was prominent in the interview responses of service users in Wales, who described the difficulties they faced due to both the amount of paperwork and the legal jargon used within it. Interviewees described the paperwork as confusing and they often

seemed unable to penetrate the language being used. The consequence was a disengagement with the official paperwork and homelessness services;

They said they had to send various official letters as part of their duties, but I was more focused on the phone calls because I find official letters from the council very difficult to work out because they don't make themselves very clear, the way they're written. (Homelessness service user, female)

The letters and things they send me are a waste of time. I think they're sent automatically, written out by a computer, there's no human contact there. I can't make sense of them and I'm not a thick person. (Homelessness service user, male)

Homelessness service providers shared service user concerns about the role of paperwork within the Welsh homelessness system. They felt it had limited impact on assisting people through the process of support and simply acted to confuse and make the system opaque. It seems the legal paperwork was not designed with the reader's skill level in mind (Taylor, 1996; Jones, 2014; Whittle *et al.*, 2017). Moreover, service providers suggested that even when they had attempted to create more accessible paperwork, often in consultation with service users, it remained of limited use to people seeking help – largely due to the volume of technical language perceived to be necessary to be compliant with the law. Given the consensus around the opacity of the paperwork surrounding the Welsh homelessness system, why does it persist? Key informants explained that the paperwork is foremost a legal document, rather than being designed to inform and guide service users;

Unfortunately, you can't escape that there is going to be some legal jargon in there and that is difficult for some people to understand. Even me. (Key informant, National Government Official)

In order to get to the legal outcome for the council I would have to get into jargon and the client must be thinking, well in fact, Shelter Cymru and the barrister are probably thinking, what does that mean? So, can you imagine what that looks like for the client? It's rubbish isn't it, absolute rubbish. (Key informant, Local Authority Homelessness Service)

The opacity of decision letters and the barrier they create between services and service users led some local authorities to reportedly adopt more informal practices, yet this solution undermines the potential for legal challenge and highlights the paradoxical nature of the legal paperwork;

Some of our case workers are getting very frustrated with some of the councils who they feel are relying on an informal approach, rather than actually sending notification letters just because it's happening so much that people aren't getting notified what stage they're at and of course that has issues for review because you need the notifications to trigger the rights to review. (Key informant, Third sector policy lead)

A further aspect of the Housing (Wales) Act 2014 which creates a paperwork requirement is the Personal Housing Plan (PHP). These were envisaged as a co-produced document which details the agreed and individualised approach to homelessness assistance (Mackie et al. 2017). However, the frustrations with the PHPs, whilst not necessarily named as such by service users, emerged as a key theme across the interviews with service users and key informants. The narratives suggested that the plans were a formulaic element of the process and service users did not feel that they were useful in enabling them to input into the support they might access. Moreover, in an unforeseen outcome in the design of the policy, key informants felt that the plans had evolved into a component in the administrative justice process. The PHPs had become a document used to evidence the actions of the local authority and in many instances were not co-produced or valued by service users;

I think letters and plans are being used as tools for challenging the local authority, in a sense, because they're the only thing that evidences the [reasonable steps] work that's been done... What you don't want to be doing is somebody spending all their time making the personal housing plan look brilliant and not doing any work with the individual. So, it's getting the balance right with that. (Key informant, Local Authority Homelessness Service)

It seems problematic paperwork lies at the heart of the paradox of bureaucracy, simultaneously acting to confer rights of homeless citizens whilst also acting as a barrier to their engagement with support. Whilst the narratives around the role of paperwork clearly demonstrate how it is a tool of the bureaucracy it is not the sole actor in the process. Service user engagements with bureaucracy are mediated by the workers within the process. Therefore, the paper next turns to consider the role of frontline staff in homelessness services. Through their work as mediators of and intrinsic 'cogs' in the machine, how does this impact the service users who are forced to rely on services provided? We explore the bureaucracy as envisaged by Arendt (1970), exploring how the work of individuals can contribute to the larger workings of the organisation – the result of many individuals constructing a faceless tyrant.

## **Far from a faceless tyrant: on the importance of street level bureaucrats**

Arendt's (1970) conception of the faceless tyrant can be thought of as the ultimate disempowering system, where there is no one to argue with, as the system has disempowered everyone. Nevertheless, Arendt (1970) stresses the extent to which faceless bureaucracies are made up of the actions of the individuals within the system. Similarly, Weber (1930) and Bauman (1989) also suggest that bureaucratic systems deprive people of their personal freedom and their ability to act whilst demonstrating how these systems are based on the work of individuals acting in increasingly grey areas as part of the larger whole. In Weber's (1930)

conception of the 'iron cage of bureaucracy' frontline workers are cogs in the larger machine - they do not resist the system. This is due to the in-escapable rationality of the ways in which the organisations are set up.

The considerable literature on street level bureaucrats in welfare services, where frontline workers are perceived to play a pivotal role and are termed 'the ultimate policy makers' (Lipsky, 1980) could be read as a contradictory position, whereas this paper uses these dual lenses to explore the ways in which the acts of those on the frontline, mediating and providing the face of the bureaucracy, can simultaneously provide acts of care whilst enacting the work of the organisation. Which, as explored by Arendt (1970) goes beyond the unthinking organisation and can move into the world of ethics - as the faceless tyrant can have 'immoral' outcomes. In this section of the paper these ideas are explored through the narratives that emerge from service user interviews, revealing elements of a faceless bureaucracy characterised by processes of *silencing and subordination*, yet the Welsh homelessness system emerges as far from faceless, with street level bureaucrats operating as fundamental actors in the bureaucracy, sometimes in a manner that *excludes* but predominantly using their discretion to act in an *inclusive* and supportive way, despite *structural constraints*.

#### *A faceless tyrant: silencing and subordination*

Writing about wider welfare systems, Lens (2007: 316) describes 'the powerlessness, silencing, and subordination that characterise their (*service users*) everyday interactions with the bureaucracy'. For some of the service users in this study, the narratives in their interviews resonate with Lens's observations – there appears to be a degree of silencing, which we define as the process of limiting service user voice and minimising service user contact. Common across the narratives was a lack of communication regarding the progress of cases and the steps being taken by the local authority. The interviewees who were still in the homelessness system at the time of their interview felt forgotten about. An enforced wait that engenders passivity is common in bureaucracies (Taylor, 1996; Jones, 2014; Whittle *et al.*, 2017) but this runs contrary to the aims of the Housing (Wales) Act 2014 which intended to ensure sustained engagement, with service users central in trying to resolve their own housing crisis. Absent from the stories of service users, who were still in the homelessness system at the time of their interview, was any knowledge about the status of their case or how it was being resolved and this contributed to feelings of '*helplessness*'. Those, service users who mentioned that they had felt able to try to find out the status of their case and contact the local authority had had difficulty doing so. Even for those who were attempting to be involved in their own homelessness case, they had little luck in accessing the bureaucracy. This creates distance between service users and the homelessness system;

My biggest gripe is how long I have been here. I just wish they were more communicative and open about things. I think they forgot about me and didn't want to admit it. I really haven't had a lot to deal with them. (Homelessness service user, female)

I feel like it is just a waiting game. That is how I feel. I thought I would go to the council and they would be actively helping me and I would actively...I don't expect the Council to do all of the jobs for me but I thought we would work as a team kind of thing. (Homelessness service user, female)

This process of silencing appears to disempower service users as they wait for the bureaucracy to act but feel they have no power to act themselves. The sense of the system that emerges is one where service users are very much on the outside, without a clear idea of the processes which are occurring. Not knowing the status of their case or having a named contact to speak with creates the faceless bureaucracy.

The second problematic process is subordination (Lens, 2007). The Housing (Wales) Act 2014 intended to create a system whereby service users and local authorities co-created solutions, overcoming the frequent critique of bureaucracies that they deprive people of their personal freedom and their ability to act. However, it seems the system is still based upon an inherently unequal power relationship between the service provider and the homelessness service applicant. As suggested by Cowan *et al.* (2006) this is inescapable because it is the service provider who has the power to provide housing to the service user. One key informant described this unequal power relationship;

There's an inherently unequal relationship I think between the provider, and someone using homeless services is in a pretty desperate situation and how can they kind of co-produce anything when they're just trying to get the help that they need to keep a roof over their head I suppose. (Key informant, local authority homelessness service)

### *Street level bureaucrats and their discretionary practices of support*

Like other studies of street level bureaucrats in the UK homelessness system (Pawson, 2007; Alden, 2015c; Hunter *et al.*, 2016), this research concurs with Lipsky (1980) that frontline staff play a pivotal role in determining how services are delivered. Where the stories of service users mentioned specific interactions with frontline workers within the Welsh homelessness system, these were in relation to supportive staff, often operating with discretion to circumvent potentially exclusionary or restrictive policies. When these ideas were explored with frontline staff, they explained how they worked to the limits of the law and local authority policies and innovated in order to achieve better outcomes for those under their care;

Those who work with people who are homeless work at the margins of care. We are constantly pushing at the margins, sometimes even stepping over them momentarily to make our clients

fit into the resource or the guidance. We frequently innovate to achieve care that is effective.  
(Key informant, local authority homelessness service)

It is possible to read some of the supportive, problem-solving role adopted by frontline staff into the new legislative framework which emerged as a result of the Housing (Wales) Act 2014. The new legislation asks frontline workers to take an active role in preventing and alleviating homelessness for all households, whereas previously the role was largely premised around gatekeeping entry into the system. This idea was explored by one interviewee who observed that in their experience, new entrants to services are more likely to identify as a problem solver, whereas staff who had administered the previous system might be more inclined to continue gatekeeping services;

I guess it's the extent to which someone on the front line sees themselves as a support worker or an enabler as opposed to a gatekeeper, or someone who is in place to kind of ration access, and it always used to be about rationing, and I suppose if you looked at what is the purpose of having this homelessness legislation it is rationing in the broader sense but certainly some of the younger people who I have spoken to in housing options, perhaps some of the newer ones coming through see themselves all in the role of support and advocacy and helping people to get back on their feet rather than gate keeping the scarce housing resource. (Key informant, Third sector policy lead)

One of the concrete ways in which staff had used discretion to help a female service user was through challenging the level of housing priority she was given. The level she had been allocated meant it would have been unlikely that she would have received accommodation, but the local authority staff were able to challenge this decision to ensure she accessed housing. Further demonstrating the mediating influence played by service providers that can go on in the margins of the bureaucracy, a theme of the role of the supportive housing support worker was visible in some narratives.

She (the frontline worker) made sure I understood what was going on, she made it her business to make sure I knew what was going on because she could see I was extremely panicked.  
(Homelessness service user, female)

The difference that supportive frontline staff made to service user experiences of the homelessness system was vast. A prominent theme in the interviews was the stressful nature of being threatened with homelessness and the supportive approach of some front line workers who were able to change the whole tone of the narrative expressed in the interviews. Yet, when the idea of discretion was explored with frontline staff, the ability to act with discretion seemed less prominent— one local authority interviewee explained;



'I would like to but I cannot overlook the [organisational] policies in place... we are unable to do as we want as managers don't allow us' (Key informant, local authority).

Correspondingly, where service users explored negative experiences through their contact with the homelessness service, the lack of differentiation between the workers in the bureaucracy and the bureaucracy itself was clear. In some of the stories we were told, there were frontline workers practicing selectivity and differentiating levels of support, largely to the detriment of single homeless people, particularly prison leavers. These themes were evident in the interviews with service users, where single homeless people claimed, more frequently than households with children, that they had not received adequate support;

I think they did the bare minimum. They didn't really care a s\*\*\* about me. Just wanted me out and off their books. (Homelessness service user, male)

It was suggested during interviews with service users and key informants that this selectivity, and to some extent the silencing evident within the implementation of the legislation, was largely the result of structural constraints, although the exclusion of particular groups such as prison leavers would imply that judgements are being made about deservedness amongst the homeless population (Alden, 2015c).

#### *Structural constraints and the street level bureaucrat*

Previous research on the actions of street level bureaucrats indicates that structural pressures impact heavily on the implementation of policy (Alden, 2015b; Alden, 2015c). As front-line workers deliver policy in action, Lipsky (1980) argues that their ability to fulfil their role will be affected by the structural conditions that they are working within and forces that they have no power over. In this conception of a bureaucracy, Lipsky's argument aligns with that of Weber (1930) as frontline workers are at the mercy of larger bureaucratic processes. The interview findings suggest that the actions of frontline workers are, in some cases, being affected by two main structural constraints on the homelessness service; resources and paperwork.

It is established that the UK social welfare safety net is facing severe cuts to resources, coupled with growing need (Forrest and Hirayama 2015; Fitzpatrick and Pawson 2013). These factors, alongside a challenging UK housing market, including a lack of affordable housing, provide a backdrop to the findings in this article, however they received little attention in research interviews and so they are not explored fully in this paper (Arundel 2017). This is a notable exclusion and we could speculate this is due to the more pressing, seemingly everyday concerns faced by all of the interviewees in this research – acknowledging the fact that many of the challenges explored in this work cannot be thought of as distinct from these larger global challenges.

A lack of resources was perceived to be a key constraining factor on the ability of frontline staff to effectively support people. A theme that arose from key informants was that some of the poor practice, including selectivity and silencing (discussed earlier), was the result of the lack of resources (people, time and money) available to deliver the new rights created in Wales. Notably, these constraints were also highlighted by service users;

They've been completely overwhelmed this year by the number of people who are applying and some of that is to do with people having more rights and coming forward but I think a lot of it is to do with welfare reform agenda and austerity and levels of poverty and the rising cost of living and the rising cost of housing in Wales. So, they've got huge, huge challenges. (Key informant, third sector policy expert)

I would say they have done an excellent job. I think it is incredible. They must be under a lot of financial pressures and everything because they are closing down different places, but no I think it was fantastic really. (Homelessness service user, male)

It has already been shown that the paperwork associated with the legislation in Wales appears to be excluding service users and interviews with key informants identified that paperwork is also constraining the actions of frontline staff. These findings echo Weberian literature on bureaucracy, whereby those who work within bureaucratic systems are constrained by them. Mirroring the narratives of service users and the burden of the paperwork in their day to day lives, a similar theme arose in the interviews of the key informants who expressed frustration at the additional time frontline staff needed to spend on administration as a result of the new legislation. This tension exposes part of the paradox of bureaucracy as much of the additional paperwork is required to demonstrate that the local authority have done their best in terms of 'reasonable steps' to prevent or alleviate a household's homelessness.

I don't think they're (Personal Housing Plans) as effective as they could be because of the amount of time individuals are spending around case work and not prevention work. It's probably seventy-five per cent bureaucracy and case work and twenty-five per cent prevention work. (Key informant, local authority homelessness service)

## **Conclusions**

This paper sought to explore the role of bureaucracy in the implementation of the right to homelessness prevention and relief assistance implemented in Wales through the Housing (Wales) Act 2014. This paper has focused on how the mechanisms of a rights based homelessness system functions at the level of the bureaucracy, exploring how the intrinsic aspects of a bureaucracy act for those in severe housing need. The practical aspects of the bureaucracy emerged as vital to the experiences of service users in their brushes with the 'faceless tyrant' of the Welsh homelessness system. The paper has explored the paradox of

bureaucracy, whereby despite legislation specifically designed to provide housing rights for citizens, these rights must inevitably be accompanied by the pitfalls of a faceless and disempowering bureaucracy. More specifically the paper responds to two key questions. First, what is the role of the tools of bureaucracy, particularly paperwork, in granting homelessness rights? Second, what is the role of the (en)actors of the bureaucracy? Together these questions have helped us to explore an intrinsic duality in the workings of the welfare bureaucracy, where the people and practical elements of the systems can both work to grant rights whilst simultaneously excluding rights holders in need.

Paperwork is the primary tool of the Welsh homelessness legislative system and the study concurs with scholars of bureaucracy, finding that paperwork has become impenetrable and exclusionary (Quilliam *et al.*, 2015; Whittle *et al.*, 2017). Even documents initially envisaged as co-produced and person centred, such as the 'Personal' Housing Plan, have been co-opted by local authorities to enable them to demonstrate adherence to the law, rather than to enable citizens to understand themselves as rights holders (Chouinard, 1994). Yet, efforts to adopt more informal and person centred practices around paperwork have been criticised as they undermine potential for individuals to bring about legal challenge. This finding demonstrates the grey area in which legal paperwork associated with welfare sits: it must exist in order to grant housing rights but often cannot be accessed by those it is designed to help, excluding them for their rights. We conclude that problematic paperwork lies at the heart of the paradox of bureaucracy, simultaneously acting to confer rights of homeless citizens whilst also acting as a barrier to their engagement.

The study unearths elements of Arendt's (1970) faceless bureaucracy characterised by processes of silencing and subordination (Lens, 2007), whereby service users know relatively little about the steps being taken to help and they remain relatively powerless in relation to frontline staff. However, the findings suggest that the Welsh homelessness system is at times, far from faceless, with front line staff (street level bureaucrats) operating as fundamental actors in the bureaucracy, sometimes in a manner that *excludes* but predominantly using their discretion to act in an *inclusive* and supportive way, often working at the margins of the law to deliver the best possible care. Both Lipsky (1980) and Arendt (1970) argue that bureaucrats are affected by the structural conditions that they work within and this certainly emerged as a limiting factor for potentially supportive frontline workers in Welsh homelessness services, where resource constraints and the burden of paperwork are proving to limit their ability to be effective.

This paper has attempted to make visible some of the mechanisms of the bureaucracy of a rights based homelessness system. We have explored the paradox of bureaucracy intrinsic to a paper based legalistic system, whereby the positive impacts for homeless citizens of a justiciable right are accompanied by exclusionary paperwork. Yet, the bureaucracy is far

from Arendt's (1970) faceless tyrant due to the often inclusive and supportive ways in which frontline staff operate, frequently at the margins of the law. Thus, there may be a paradox of bureaucracy but this paper demonstrates the complexity of these systems – where properly resourced frontline staff and a concerted focus on the legibility and purpose of paperwork can contribute to the humanisation of the system. This paper adds to the emerging evidence base on the novel Welsh approach and the findings are likely to have particular resonance in England, where similar legislation now exists. More widely, the paper broadens our understanding of the impacts of and responses to bureaucratic challenges associated with implementing justiciable rights.

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