

A review into St Mungo's approach to working with Home Office enforcement teams 2010 to December 2017

Executive Summary

Background

St Mungo's mission is to end homelessness and rebuild lives. The safety and wellbeing of clients is the charity's absolute priority. Between 2016 and 2018 St Mungo's was subject to criticism by migrant organisations and in the media concerning the way its outreach teams worked with the Home Office in relation to EU citizens* sleeping rough. This culminated, in May 2018, in a complaint to the Charity Commission and the Information Commissioner's Office (ICO). While both regulators were satisfied with St Mungo's response to these complaints, the charity's Board chose to undertake a review of retrospective working practices in this area to learn from them, to demonstrate transparency and to draw attention to the fact that the issues facing EU citizens remain.

This report is a summary of the key issues and findings of that review. The full report is available at www.mungos.org/outreach-report

Operational context

Given the vulnerability of many people sleeping rough, good practice in street outreach has long recommended a close working relationship between outreach teams and other partners including local councils, safeguarding and mental health teams, and the police. In some situations joint work has included an enforcement element, for example, working with the police to address large encampments where there are vulnerable people. In carefully considered situations, and with the health and wellbeing of the individual at the forefront, joint supportive work, along with enforcement has been effective in helping many vulnerable people to leave the streets.

By 2007 the number of people sleeping rough across England had fallen significantly. However the Government, charities and councils, particularly in central London, were becoming increasingly concerned about the rapidly growing numbers of people from the newly expanded EU that were sleeping rough. Restrictions on entitlement to benefits, including housing benefit, meant that normal routes off the streets were closed to many migrants. As a consequence, outreach workers were finding growing numbers of people from Eastern Europe becoming stuck on the street, often facing deteriorating health problems. The Labour Government's new rough sleeping strategy in 2008 recognised this issue and said that the Home Office would work with councils to help find solutions.

Starting in Westminster in early 2010, Home Office Immigration Compliance and Enforcement (HO-ICE) teams undertook operations with local councils often working alongside outreach workers, including teams from St Mungo's. The HO-ICE teams issued "minded to remove" warning letters explaining to the individual that if they continued to sleep rough, not exercise their EU treaty rights nor engage with realistic options off the streets, they could be detained and removed back to their home country in the EU.

For the homelessness charities involved, including St Mungo's, CGL, Broadway and Thames Reach, this approach was an extension of the "assertive outreach" model that had become established good practice over the previous decade. This was considered to be a proactive tool as there was time to engage and support a change in behaviour before the threat of any enforcement action became a reality.

Main findings

St Mungo's policy, established prior to 2014, was that outreach teams could share basic information about EU citizens with the Home Office without consent, when other efforts to engage the individual to find routes off the streets had failed and/or there was a risk of significant harm. This was in accord with data protection legislation at the time, established good practice and the GLA's Pan London Protocol (2015).

From 2014 to July 2016 some outreach teams were routinely sharing basic information about EU citizens sleeping rough with the Home Office. A sample of these cases were accompanied by evidence of efforts to engage the individuals to help them off the streets and clear risk factors. However, the review could not find written evidence of such efforts or factors in every case. This does not mean that in these cases such efforts were not made but that no records could be found.

In May 2016 the Government introduced a change in policy to treat rough sleeping in itself as a breach of EU treaty rights (a policy which was ruled unlawful by the judicial review in December 2017). This policy change meant the window of opportunity to positively engage with clients became shorter and the rapid use of detention and removal became more likely.

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As a consequence, from July 2016, outreach managers at St Mungo's agreed a change in approach so that working with the Home Office should be a "last resort" and where there was a need to share information (for example, due to safeguarding concerns) this should be done by the local authority. The intention was to follow this up with new guidance and the completion of a new migrant strategy.

The review found that this new approach and guidance was not formally signed off by the Board until March 2017. This delay resulted in one team out of 18 continuing to share information between July 2016 and February 2017 and inadequately recording why this information was shared.

St Mungo's Executive Team recognises that the delay in its efforts to develop and communicate a clear, unified approach contributed to this situation. Despite this, the sharing of information by St Mungo's with the Home Office has at all times been lawful under the terms of the Data Protection Act, given that the outreach teams were commissioned by local authorities and were acting in a public interest function, or were operating with consent. This was confirmed by the ICO after the complaint in 2018.

Throughout this period St Mungo's outreach workers were operating in physically challenging and politically fast moving circumstances, doing their best to find practical solutions to help people from the EU who were destitute and sleeping rough to come off the streets.

There was no evidence that at any time St Mungo's independence or charitable status was compromised.

However, St Mungo's recognises that it should have updated internal policy more quickly in response to the Government amending its policy and guidance, classifying rough sleeping as an abuse of treaty rights, potentially resulting in those sleeping rough being detained and removed more quickly.

The charity should have done more to ensure the instruction not to share information with the Home Office unless teams were working with consent was better internally communicated and consistently applied.

St Mungo's should have made greater efforts to explain its practice and the reasons for that practice prior to the government policy change in May 2016. After July 2016, communication statements reflected the understanding and expectations of senior managers and did not take into account the ongoing practice in the one team that had not adjusted its practice to comply with the new approach agreed by outreach managers.

Next steps

Based on these findings St Mungo's will:

- Communicate the findings of the review to St Mungo's staff and external audiences.
- Undertake a review of existing policies to identify any which require a reputational risk assessment.
- Build in further steps to clarify practice when responding to critical media interest.
- Complete the review of its outreach policies and procedures and roll out training.
- Put in place a timeline for the development of new or amended policies and procedures, particularly when the change is in response to legislative change. This should be linked to clear "interim arrangements" which cover what is happening while a procedure is being amended or updated.

Current position on sharing information with the Home Office

St Mungo's does not share any information about clients with the Home Office without the client's full and informed consent unless it is legally obliged to do so. If the request for information from the Home Office is related to safeguarding concerns, the senior safeguarding lead will assess whether releasing any information is necessary and proportionate. If they find data sharing is justified, the information will be shared with the local authority safeguarding team only, not directly with the Home Office.

St Mungo's continues to run a range of services for migrants. This may involve contact with the Home Office with client consent. The charity is actively seeking urgent Government action to stop more people dying on the streets.

*EU citizens is used here to include EU, other EEA and Swiss nationals

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