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What you need to know about Welsh Government's white paper on ending homelessness in Wales

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Background

The Welsh Government's high level action plan on how they will end homelessness in Wales contained a commitment to review current legislation. They set up a cross sector expert review panel to undertake this work and produce a white paper outlining the legislative reforms needed to achieve the systemic transformation needed to ensure homelessness in Wales is rare, brief, and non-repeated.

The proposals for legislative reform are grouped into one of the following themes:

- Reform of existing homelessness legislation
- The role of the Welsh public service in preventing homelessness
- Targeted proposals to prevent homelessness for those disproportionately affected
- Access to housing
- Implementation.

Mirroring the white paper structure, we will in this briefing set out some of the evidence heard by the expert review panel and how the legislation and/or policy is currently working for each of these themes. We also include the proposed changes, that Welsh Government want to put in place both legislation and policy to ensure that homelessness in Wales is rare, brief, and non-repeated.

Reform of existing core homelessness legislation

Prevention and relief

The meaning of homelessness or threatened with homelessness

Currently a person is deemed to be threatened with homelessness if they are likely to become homeless within 56 days. A person is homeless if they and their household have no accommodation where there is a legal right to occupy, or they cannot secure entry into accommodation they have a right to occupy.

The accommodation must be reasonable to occupy and if a moveable structure they need to have somewhere to pitch or moor it. Any accommodation must also be affordable.

The 56-day period currently in legislation aligned with the notice period contained in the s.21 notices. These notices no longer apply in Wales following the introduction of the renting homes act which provides a six-month notice period for periodic standard contracts.

Proposed changes

A person is threatened with homelessness if it is likely the person will become homeless within six months, or they have been issued with a notice seeking possession.

Welsh Government hopes that this change will support local housing authorities to act to prevent homelessness before the point of crisis. It also provides clarity and simplification to tenants.

An additional change is directed at those who reside in accommodation that is a moveable structure.

Where a person is permitted to reside in an area but does not have access to clean water, waste facilities and toilet facilities they should fall within the definition of homelessness.

Securing or helping to secure the availability of accommodation

The Housing (Wales) Act 2014 does not require the use of a personal housing plan though their use is encouraged within guidance and some local housing authorities have adopted their use. Personal housing plans can improve the experience of using homelessness services where housing professionals have the capacity and skills to complete them effectively ensuring they align to an individualised assessment of a person's needs.

Proposed changes

A statutory duty to draw up a personal housing plan containing the steps the local housing authority will take to secure accommodation for the applicant.

The personal housing plan should be based on a thorough needs assessment and record the outcomes an applicant wishes to receive together with the steps both the applicant and local housing authority will take to achieve those outcomes.

A statutory duty to review the needs assessment and personal housing plan with the applicant within eight weeks.

Personal housing plans should be reviewed regularly to reflect the changing needs and circumstances of the applicant. Personal housing plans must be made available to the applicant as necessary and form part of the case management. Personal housing plans must not be used as a checklist but be used in a person-centred trauma informed way.

A statutory duty to include an applicant's views on their accommodation needs in a personal housing plan.

Personal circumstances need to be considered with assessing suitability of accommodation together with the experience of protected characteristics and cultural appropriateness.



Individual right to request a review of decisions

Proposed change

A right to review in relation to the reasonable steps taken to prevent homelessness or secure accommodation, outlined in an applicant's assessment of housing need and their personal housing plan.

A right to request a review of the suitability of accommodation at anytime during an applicant's occupation of the accommodation (should be available beyond 21 days).

Welsh Government is proposing the creation of an additional right to review the decision of a local housing authority in its assessment of the suitability of interim accommodation and accommodation provided under the main housing duty. The right to review being available at any time during the period of occupation and this right communicated clearly.

Welsh Government has set out the expectation that timeframes for completing the review should be made as short as possible, to minimise how long someone is living in unsuitable accommodation. Ideally completed within three weeks with any delay agreed in writing.

The three tests: priority need, intentionality, and local connection

These tests vary in their rates of application and in its place within the homelessness assessment process.

Priority need

The no one left out approach in response to Covid-19 changed the application of the priority need test and its significance. Criticism has been levelled at the test for its role in turning away certain people experiencing homelessness, with the high threshold for vulnerability cited as a key weakness of the priority need test.

The complete removal of the priority need test was a key recommendation of the homelessness action group. A survey of local authorities also found support for the removal of the priority need test conditional on extra resources.

Proposed changes

The abolition of priority need so this test is no longer necessary for homeless eligible applicants to benefit from the interim accommodation duty or the main housing duty or any equivalent duties in reformed legislation.

Welsh Government see the abolition of priority need having a clearly defined lead in time. During the lead in period, existing steps will remain in place including street homelessness being included as a priority need category. The longer-term commitment to abolish the priority need test is a marker of the system Welsh Government wants in the future. Yet Welsh Government are clear it will only be effective when the vast majority of homelessness is prevented and rapid rehousing the norm for homelessness practice across Wales.

The intentionality test

Evidence suggests the intentionality test is very rarely used in practice in Wales. Yet some local authorities are clear that with or without an intentionality test they need a way of protecting the system from misuse and that dishonest or fraudulent behaviour has consequences.

Yet the view of Welsh Government is that the intentionality test does not facilitate a way of working which takes full account of the impact of trauma exposure on an individual's behaviour and the presence of the test can encourage a culture which allows professional determination of who is or is not deserving of support.

Proposed changes

That the intentionality test is removed from legislation and is no longer applied in determining whether an applicant is entitled to the prevention and main housing duties or any future duties in new legislation.

Local connection

The overarching aim of the local connection test is designed to ensure no local authority bears disproportionate costs for rehousing people in their area and local resources are targeted towards meeting the needs of the local population.

Yet it is unclear how effective the local connection test is in managing homelessness in a local area coupled with concerns around certain groups being disadvantaged by the test.

Whilst local authorities are cognisant of these challenges, they have raised concerns that removal of the test could increase demand in their area at a time of significant pressure on resources. The local connection test is regarded as a crucial case management tool and until supply and other housing pressures experienced by local authorities are addressed the role of local connection remains important.

Welsh Government has stated there is a tension between the local connection test and its use to manage resources and the overall policy intention of the legislative reform to create a person centred, trauma informed system. However, following feedback from local authorities, the test will remain in place in the short to medium term albeit with changes to ensure it can better account for the needs of people in certain circumstances.

Proposed changes

The addition of additional groups of people to the list of exemptions to allow for non-familial connections within communities and to take better account of the reasons why someone is unable to return to their home authority.

Welsh Government propose the following groups of applicants be exempt from the local connection provisions:

- People who are care experienced and not accommodated under social services duties
- Veterans and those who have cohabited with veterans during their time in service
- People at risk of or subject to domestic abuse or other abuse and exploitation

- Prison leavers who require a move to a new area as part of their rehabilitation or to assist in meeting restrictions.

Welsh Government are also encouraging local authorities to adopt a more flexible approach for certain groups who are at greater risk of harm from the local connection test. These groups may include:

- Young people under the age of 25
- Members of the LGBTQ+ community
- Disabled applicants who require access to particular support
- Gypsy, Roma, and Traveller communities
- People seeking recovery from substance misuse.

Welsh Government propose that application of the local connection test remains discretionary and is to be determined before the s.73 duty is accepted. Once the s.73 duty is accepted it will not be possible for the local authority to refuse to accept the main housing duty. Welsh Government will be issuing statutory guidance on the implementation of a changed local connection test and will monitor its use.

A statutory duty to provide support in order to help an applicant retain accommodation

A new duty on local housing authorities to help support a person to retain accommodation where the applicant has been helped to secure accommodation or where accommodation has been offered and accepted by the applicant.

This is not a universal duty. It would only apply to an applicant where the local authority has assessed them as needing support to retain accommodation. The policy intent is that the entire local authority has a responsibility, not just the local housing authority, with the time frame for support being 12 months. Though support can be ended sooner if the contract holder is settled and there is no risk of the contract failing.

The unreasonable failure to co-operate test

Welsh Government is concerned that this test is at odds with policy aims to ensure that the homeless system is person centred and trauma informed.

Proposed changes

A narrower test which sets out a small number of clearly defined and limited grounds for the unreasonable failure to co-operate test.

Welsh Government proposes the following grounds:

- Threatening behaviour towards local housing authority staff
- Consistent non-contact with housing options services

In these circumstances Welsh Government expect the applicant is informed of the decision or intention to consider the test to enable the applicant to explain their behaviour or loss of contact.

Communication between the local housing authority and the applicant

The process of applying for assistance is complex and unclear. Due to the significant demand on housing services and the capacity of the workforce providing frequent and regular communication can also be challenging.

Local authorities have pointed out that the current system and the requirement to notify applicants at each stage of the process is overly bureaucratic and a drain on resources. They would welcome simplification of the process for the benefit of clients and their staff teams.

Welsh Government has heard from practitioners that due to the possibility of legal challenge if letters they send out are seen to be inaccurate, they have adopted a cautious approach. This has meant that correspondence is issued in formal language which can be hard to understand and follow.

Proposed changes

Welsh Government will make it clear that local housing authorities must ensure that they communicate with applicants in a way that is accessible and tailored to any individual's needs.

Welsh Government want to explore good practice in relation to alternative ways of communicating key decisions that are accessible. These alternatives might include plain English letters issued alongside a formal letter.

Welsh Government propose setting out in legislation that local housing authorities be required to communicate at regular intervals with applicants on:

- i. Progress of their application for longer-term accommodation and expected time scales
- ii. Their rights to request review of the suitability of accommodation and of any other relevant decisions
- iii. Support that might be available to the applicant

Welsh government propose further detail relating to communications be outlined in guidance.

The role of the Welsh public service in preventing homelessness

Wider duties on the Welsh public service to prevent homelessness

Evidence suggests people who are homeless or at risk of becoming so will routinely encounter a range of public services as they seek to understand and manage their housing situation. Yet risk factors associated with insecure housing and homelessness are not always well understood by professionals working across the Welsh public service. As a result, opportunities to intervene and prevent homelessness early can be missed. When risk factors are missed or homelessness itself emerges too late, local authority teams must respond to a crisis rather than focussing on the causative factors leading to the crisis.

There is also evidence of a lack of cooperation between health and social care services and homelessness services to prevent homelessness. This is despite the point of entry and exit from health and social services often being a critical point to intervene in preventing homelessness.



Proposed changes

The main change will be a new duty to identify and refer:

A new duty to identify those at risk of homelessness and refer on to the specified parts of the public service so that a local authority is notified as soon as possible a person is facing a threat of homelessness or is already experiencing homelessness.

That the duty to refer is accompanied by a duty on the specified parts of the public service to take action within their own functions to sustain both standard and secure occupation contracts and mitigate the risk of homelessness.

An expanded duty to co-operate to ensure a wider number of public services are engaged and responsible for making homelessness rare, brief, and unrepeatable.

Strengthening strategic leadership of homelessness at a regional level.

A statutory case co-ordination approach for those who are homeless or at risk of homelessness and experiencing multiple complex support needs.

So that those working in relevant parts of the Welsh public service are able to identify the risk factors for homelessness, Welsh Government is proposing a national learning and development campaign. The proposed specified bodies in Wales are:

- Social services departments
- Local health boards including primary care
- Registered social landlords

These are devolved to Wales and conversations are ongoing with the UK Government on how to implement a duty of identify and refer on non-devolved public services. This will include the Department for Work and Pensions.

In addition, Welsh Government is aiming to explore a memorandum of understanding or other methods for how asylum services can help a local authority effectively identify and taken action to address the needs of people at risk of homelessness.

Arrangements for those leaving the secure estate in Wales are outlined in the next section.

Targeted proposals to prevent homelessness for those disproportionately affected

The following groups are considered in this section of the white paper:

- Children, young people and care experienced young people
- People with complex health needs, including mental illness or mental health problems, substance misuse and those leaving hospital
- Disabled people
- Ex-armed forces personnel
- People leaving prison
- People with no recourse to public funds.

Children, young people and care experienced young people.

Legislation is explicit that responsibility for 16- and 17-year-olds who are homeless and those leaving in care lies with the local authority as the corporate parent. Yet feedback from young people is that as they approach 18, they are often bounced between different departments.

There are also a range of entitlements set out in legislation that young people are properly housed on discharge from the care system. Yet it is commonplace for a young person to be discharged from care into the homelessness system. This undermines the corporate parenting commitments and the principles of a trauma informed approach.

Proposed changes

Welsh Government intends to strengthen existing corporate parenting responsibilities to ensure individuals who are 16 or 17 and are homeless or at risk of homelessness do not fall between services. Social service and homelessness to work in true partnership to secure suitable accommodation and any broader support they need.

Any 16- or 17-year-old who is homeless or at risk of homelessness should meet the threshold for an assessment from children's services

Local housing authorities be required to make inquiries into whether an applicant is care experienced as they complete the assessment of housing need and personal housing plan.

Welsh Government will be exploring further whether the Renting Homes (Wales) Act 2016 should be amended to allow 16- and 17-year-olds to be occupation contract holders to broaden their accommodation options.

Anyone who is care experienced should also be priority need with no upper age limit. Though this will only be in place if the priority need test is still in force.

For young people leaving the secure estate, Welsh Government proposes legislation and guidance should be clear. 16- and 17-year-olds, who are expected to be released from the youth justice system within six months are the responsibility of the local authority as part of their corporate parenting responsibility. Similarly young people in youth detention who are or were care leavers aged 18 to 21 should also benefit from joint work between social services and the local authority to support and accommodate.

People with complex health needs, including mental ill health, substance misuse and those leaving hospital

Mental illness is both a cause and consequence of homelessness and the experience of mental illness is disproportionately present amongst the homeless population. Levels of drug and alcohol use are also relatively high amongst people who are experiencing homelessness, and these can often co-occur with mental illness.

Practice based feedback suggested people with multiple and complex support needs often do not meet the threshold of priority need. Moreover, unmet mental health needs and substance use can be misinterpreted as unacceptable or anti-social behaviour leading to withdrawal of services including housing.

Proposed changes

Welsh Government has set out that most of the improvement work required to strengthen multi-disciplinary practice between homelessness, mental health and substance misuse services can be achieved without legislative reform. It would be better outlined within the development of the together for mental health strategy alongside use of the complex needs funding programme.

As these plans are reviewed Welsh Government will also consider improvement to partnership work between local housing authorities and health boards. This will include possible co-funding of multi-disciplinary homelessness and housing support teams with dedicated mental health expertise.

Welsh Government proposes to ensure key assessment and plans such as care treatment plans routinely consider housing needs and the stability of a person's accommodation. They will work with services to strengthen how a person's accommodation is considered as part of care and treatments planning whenever accommodation is a contributing factor to a person's mental ill health or wherever a person's accommodation could potentially become at risk.

Discharge from hospital provides a particular intersection of both vulnerability and opportunity for those who are homeless or at risk of homelessness, or those for who a hospital admission increases the likelihood of them becoming homeless.



The discharge to recover and then assess refocuses patient pathways so teams have a clearer idea of the potential needs and support an individuals might need on discharge. It recommends discharge teams begin preparation for these from admission. This shift in focus to planning for discharge at the earliest stage means support in any form should be in place and ready for that individual when they are ready for discharge.

Welsh Government proposes to build on their existing strategic commitment to ensure no one is discharged from hospital into a homelessness situation and build on the work to establish the discharge to recover and then assess system to ensure the prevention of homelessness is considered in hospital discharge planning by setting out the following in legislation:

- i. A requirement for discharge assessments to include consideration of a patient's housing need
- ii. A joint duty for health and the local housing authority to work together to prevent homelessness at the point of hospital discharge.

Survivors of violence against women, domestic abuse, and sexual violence

There is extensive evidence to suggest the experience of violence is a common cause of homelessness amongst women and a high proportion of women who are homeless have experienced gender-based violence. Yet practice based feedback suggests some survivors find it difficult to access appropriate and timely support for their circumstances. In addition, survivors of abuse are subject to a no recourse to public funds condition and those organisations that support them have expressed concern that the duties available to them in the Social Services and Well-being (Wales) Act 2014 are not well understood by all professionals.

Proposed changes

Widening of the definition of domestic abuse to include controlling or coercive behaviour, economic or psychological abuse. The definition to apply where abuse is perpetrated by a person in an intimate personal relationship with the victim. This will mirror what is included in the violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV) Act.

An amendment to ensure the main housing duty includes a duty to help the applicant retain their existing accommodation if they wish to and it is safe to do so.

This additional discharge of duty option would be led by the views of the applicant. Welsh Government also propose that specialist VAWDASV services are involved in decision-making when the survivor approaches homelessness services. This will ensure safe and informed decision making.

Disabled people

The supply of housing to meet the varied needs of disabled people is an issue exacerbated by the overall supply pressures in the housing system. These supply issues mean disabled people are waiting long periods of time for homes to be adapted to meet their needs. In many cases this might mean prolonged stays in accommodation that is not accessible or in temporary accommodation which can have detrimental impacts for a person's health and wellbeing.

Proposed changes

To improve the efficiency of allocation of accessible accommodation a legal requirement for all local authorities in Wales to hold an accessible housing register and together with stock holding partners undertake a review of the accessible accommodation in their area.

In addition to this new legal requirement, Welsh Government have a policy intention that personal housing plans will improve the service provided to disabled applicants ensuring that any disabilities are considered as part of the plans.

Ex-armed forces personnel

Homelessness amongst ex-armed services personnel is often delineated into two categories:

- People leaving forces directly into homelessness
- Or people becoming homeless some time after leaving the forces

The local connection test came up as a particular challenge and those in service may move every two years based in their placement. This makes it difficult to evidence a local connection anywhere.

Proposed changes

Welsh Government will review the national housing pathway for ex-service personnel and seek ways to ensure it is consistently applied across local authorities. This is in addition to proposals to make ex-service personnel exempt from the local connection test.

People leaving prison

There are still barriers to delivering the national pathway for homelessness services to children, young people and adults in the secure estate, which was set up to improve communication, and develop homelessness prevention taskforces with HM Prison and Probation Service (HMPPS).

The pathway assumes that both resettlement and homelessness teams will have the capacity to deliver its aims. Yet its implementation has been inconsistent and there are still newly released prisoners presenting to homelessness teams who have no prior knowledge of their release.

Proposed changes

Prevention activity at reception stage

When an individual is first sentenced to imprisonment an assessment should be made at reception stage of whether they are likely to lose any accommodation while serving their sentence of imprisonment and if so whether they are also likely to lose their possessions and whether they are likely to be released and homeless within six months.

Welsh Government will engage with HMPPS to explore how this proposal is most effectively implemented.

People in prison are not homeless during the period of their custodial sentences

Welsh Government proposes to set out clearly in legislation that someone held in custody is not homeless.

Those in custody do not meet the criteria for homelessness unless they were already subject to a duty prior to being imprisoned or there is less than six months to their release date.

An applicant in prison can only be subject to the prevention duty whilst in prison.

At point of release, they will then be subject to the main duty. A local authority will be permitted to refer the prevention duty under a local connection referral so that the prevention duty and main housing duty are carried out by the same local housing authority.

Early release

Welsh Government is proposing legislation that sets out that where a prisoner needs accommodation from a local housing authority in order to achieve early release, parole or bail the prisoner should be deemed to be homeless at the early release date.

The policy intention of this is to ensure those eligible for early release are provided with an address ahead of release.

Material change of circumstances

Currently the Housing (Wales) Act states that a new assessment is not needed where the applicant's circumstances are the same as a previous assessment.

Welsh Government proposes to make it clear any time in custody must be considered a change of circumstance regardless of the length of the detention or whether it is related to a recall to prison.

Reciprocal arrangements

For a variety of reasons reciprocal processes can be difficult to manage; they can result in disputes over the threshold for triggering the arrangements, lack of trust and local political challenge. HMPPS have worked recently to develop a process for managing reciprocal arrangements and are committed to facilitating such arrangements where needed. To strengthen this further Welsh Government are proposing a new power for Welsh Ministers to make regulations in relation to reciprocal arrangements.

Duty to provide information, advice, and assistance in accessing help

The Housing (Wales) Act provides a duty for local authorities to secure the provision of an information and advice service available to anyone in their area.

Welsh Government proposes to make it clear that this duty places an expectation on local authorities, where there is a secure establishment within its boundaries, to secure the provision of a sufficient advice service to those in adult or youth custody.

Retention of accommodation

Where possible, consideration is given to whether accommodation could be offered to a person in prison with a view to it being available on release either under an occupation contract or with family and friends.

The main housing duty should apply on release even if the applicant has refused accommodation offered under the prevention duty.

Wherever possible priority should be given to retaining a person's existing accommodation. Work at reception stage is key to this though closer collaboration and providing advice services within prisons. This may include the involvement of a lead co-ordinator to ensure effective planning of an individual's housing support.

Young people

Legislation and guidance will be made clear to ensure any 16- or 17-year-old that is due to be released from the youth justice system should receive a joint response from across the local authority.

Review of the national pathway

All these proposals will be supported by broader policy work including a review and update of the national pathway.



Access to accommodation

Suitability

Whenever a local authority secures accommodation for an applicant that accommodation must be suitable for their needs and anyone who is residing with them. There is a breadth of legislation around the suitability of accommodation. However, feedback from those with lived experience of homelessness suggest this legislation is not being implemented as intended. There are issues with health and safety, disabled people feel their disability is not always appropriately considered and some households with protected characteristics are disproportionately affected by overcrowding. In addition, there is a considerable shortfall in one bed accommodation.

What Welsh Government wants to change

Proposals for immediate improvement in standards

Existing legislation to be strengthened to prohibit accommodation which has a category one hazard being deemed suitable. This also included accommodation that has been deemed unfit for human habitation.

Shared sleeping space is rarely used but it's proposed that legislation makes it clear that shared sleeping space is never permitted, regardless of the temporary or emergency nature of the accommodation.

Building choice into the system

Welsh Government recognises that over the short and medium term it will be difficult for local housing authorities to provide the level of choice they would like to. However, through these reforms Welsh Government aims to achieve a more person-centred system better able to take account of individual's needs.

Welsh Government proposes:

- Introducing a requirement that personal circumstances must be given consideration in assessing suitability of accommodation
- Strengthen legislation that makes it clear when determining suitability at the point the main duty is owed, overcrowded accommodation is never permitted
- The prohibition on overcrowding does not apply to the prevention duty should this be in line with the applicants wishes

Prohibiting the use of unsupported temporary accommodation for young people

For people under 25, the use of unsuitable temporary accommodation, including bed and breakfast and shared accommodation should not be permitted for any period. Accommodation provided to this age group must be supported accommodation and available until the person is ready to move on to independent living.

Location

Welsh Government proposes that accommodation cannot be deemed suitable unless it is located within reasonable travelling distance of existing or new educational facilities, employment, caring responsibilities and medical facilities unless it is the applicant's wish to move beyond a reasonable traveling distance.

Homeless at home

Welsh Government is proposing to formalise a homeless at home scheme on a national basis. A definition of homeless at home will be provided and will set out any individual who is homeless at home should be seen the same as any other applicant in temporary accommodation.

Longer term improvement to temporary accommodation

Welsh Government proposes to review suitability standards every three years in order to assess whether development to increase supply enable a higher level of minimum standards to be brought forward. These could include:

- Overcrowded temporary accommodation is never suitable
- Whether to prescribe for living space to be separate from bedrooms
- Whether to prescribe more generous space standards for bedrooms
- Whether to prescribe minimum standards pertaining to private access to facilities such as cooking and bathrooms.

Allocation of social housing

There are significant elements of the 1996 Housing Act that are no longer relevant to the current housing environment or where the legislation is not sufficient to address today's housing need. There is also concern that the current unacceptable behaviour condition does not allow for appropriate consideration of changes in behaviour or mitigating actions which will reduce the risk of the behaviour occurring again.

Local authorities have discretion regarding who is provided with additional preference on their waiting lists. Concerns have been raised over the fact that a higher priority does not appear to always be placed on accommodating those without a home. Yet often homeless households are often excluded from the highest priority banding to ensure homelessness is not perceived as a direct route into social housing driving a perverse incentive into the social housing system.

Proposed changes

Registered social landlords (RSL) are a vital partner in preventing homelessness and there are many examples of the strong working relationships between RSLs and local authorities and the wider role RSLs play in alleviating homelessness. Evidence heard by the expert review panel, however, suggests more can be done. So, in line with recommendations made by the expert review panel, Welsh

Government are proposing legislative reform to allow local authorities to require RSLs to rehouse statutory homeless referrals, within a set period, except in specified circumstances. As this proposal is consulted on and developed Welsh Government will consider the potential impact on RSLs. Welsh Government have stated they do not intend to impose legislative requirements on RSLs in Wales which result in their reclassification as public bodies.

Unacceptable behaviour test

That the current test for unacceptable behaviour should only apply where:

- i. An applicant has been guilty of unacceptable behaviour enough to breach s.55 of the Renting Homes Act so as to result in an outright possession order
- ii. At the time of consideration of the application the applicant remains unsuitable to be a tenant by reason of that behaviour.

Further guidance will be developed around the application of the acceptable behaviour test.

Power to remove people not in housing need from the waiting list

A proposal to provide local housing authorities the power to remove people with no housing need from the waiting list.

This power will be permissive only local authorities will retain discretion to admit all applicants onto their waiting list. A definition of housing need will be provided in guidance, and this will also set out exceptions.

Providing additional preference

A proposal to assign additional preference to those who are homeless and owed a statutory homelessness duty over other priority groups who are deemed to have an urgent housing need.

This will not amend the five groups currently afforded reasonable preference within allocation schemes, but it will prescribe for the

prioritisation of homeless households within these five groups. This is not a long-term policy proposal as the transition to rapid rehousing continue local authorities are unlikely to need to allocate additional preference. Welsh Government will therefore explore a time limit to this proposal.

People leaving care or those with an experience of care are at a greater risk of homelessness. As such Welsh Government also proposes that care leavers who are homeless are also given additional preference within existing allocation schemes.

A statutory requirement for a common housing register/common allocation policies

Most local authorities already operate a common housing register and common allocation policies. It is important to ensure this service is on offer in every part of Wales. The policy intention is to establish a consistent approach and improve efficiency of allocations. The adoption of a common housing register also supports other proposals around social housing allocations.

Introduction of a deliberate manipulation test

This test will only apply at the allocations stage of the homelessness process and is intended to limit or remove any additional priority given to a homeless applicant found to have engaged in deliberate manipulation of the homelessness system. It will not affect the rights of those applying for housing assistance.

Additional housing options for discharge of the main housing duty

Welsh Government are proposing an increased range of housing options through which the main homelessness duty can come to an end. These may include supported lodgings, supported accommodation or returning to previous accommodation. Any housing provided under the extended housing options would need to be suitable for the applicant and available for at least 12 months occupation.

Implementation

Welsh Government hopes to use the consultation period to test methods, timeframe, resources and requirements for implementation and plan for this with stakeholders. A new regulator is not being established as Welsh Government is of the opinion that the same outcomes could be achieved through utilising broader regulatory functions, improvements to data collection and analysis. There will also be mechanisms for achieving consistency through corporate or peer to peer support for local authority staff. It is felt that these options will make use of existing resources more effectively and is a more affordable option.

Proposed changes and amendments

Welsh Government are considering whether it will be appropriate to make changes to the regulatory standards that apply to registered social landlords to encourage and even greater commitment to ending homelessness and to monitor performance and delivery.

The functions of existing inspectorates in Wales will be looked at to see what role these organisations can play in achieving broader responsibility for homelessness prevention across the Welsh public service.

Welsh Government will review and consider whether additional powers for Welsh Ministers are necessary to ensure the proposed legislation meets its aims, including possible direction making powers to compel a local authority to meet the requirements within the proposed new legislation. Should it become clear a local authority is failing to deliver the requirements of the proposed bill or not delivering a service to the standard expected Welsh Government can then intervene to support and if necessary to challenge and direct improvement.

Ways in which the views of people with lived experience can be included in informing future work and understanding of how homeless systems working practice. This will be done in partnership with our expert partners.

Welsh Government will undertake work to improve continuous data collection across the housing and homelessness sector.

Our initial view

What is clear from this consultation document is that it proposes wide-ranging changes to the homelessness and allocations system in Wales building on the recommendations of the expert review panel. The white paper proposes significant changes which will hopefully improve the process of applying for homelessness and securing a home to live in. We fully agree that wide-reaching change is needed in Wales to ensure that homelessness is rare, brief, and unrepeatable. Yet there are some impacts or unintended consequences that need to be considered if the new homelessness and allocations system in Wales is equitable for those needing homelessness assistance, existing social housing tenants and those housing professionals implementing the new legislation.

Nobody would disagree with the removal of the tests of priority need and intentionality and the relief duty. This will make the homelessness system more open and easier to navigate for applicants. Yet there does not seem to be anything written into legislation or policy proposals to solve the issue of some homeless applicants presenting too late for prevention work to be looked at. Whilst there is a proposal to look at deliberate manipulation in relation to allocations, is there now a perverse incentive to not seek help until the last minute with a guarantee a main housing duty is accepted? We are sure this is not the intention of Welsh Government and there is probably just a tweak needed to improve awareness of the help on offer and extend the scope of the deliberate manipulation test. So, it can be applied when it can be evidenced an applicant knowingly waited out their notice period before applying for homelessness assistance despite offers of assistance from services.

We also have concerns around the levels of bureaucracy remaining in the homelessness system despite Welsh Government acknowledging the fact that this is an issue for local authorities. Research undertaken into bureaucracy has shown that it can disempower individuals implementing legislation and may result in more discretion being used to overcome the additional administrative burden it can produce. We fully agree that communication with applicants needs to be

more transparent. Yet when local authorities have sought to do this in the past applicants have sought legal intervention as their rights are not communicated in a sufficiently technical manner. We would like to see all stakeholders working together to come up with a solution that ensures communication with applicants is personalised and easy to understand but can also satisfy legal requirements reducing the likelihood of a legal review. Though ultimately the solution may be more resources for statutory homelessness services to ensure there are enough members in the team to provide the person-centred trauma informed communication that is proposed in the white paper.

Allocations policies for local authorities are not just for applicants seeking their first social housing tenancy. They are also used to ensure that existing tenants can move to more suitable accommodation as their needs and the needs of their household change. The proposal to ensure homeless households are given the highest level of priority on waiting lists is an understandable policy position against the backdrop of rising numbers in temporary accommodation. However, we also need to ensure that social landlords can provide suitable accommodation for their existing tenants too. Unless this provision is put in place it could result in a tenant making a homeless application as their medical needs or family size makes their current home unsuitable. This would then make it unreasonable to occupy their home resulting in a threat of homelessness according to current definitions of homelessness. Do we need to also ensure that a percentage of social housing stock is always reserved for existing tenants to ensure movement in the system which is likely to release properties of the right type and size to provide a home for a homeless household?

Rising numbers in temporary accommodation and rising homelessness levels in Wales are the visible consequence of a housing system in crisis. Welsh Government have issued the white paper to outline proposals to ensure that homelessness in Wales is rare, brief, and unrepeatable. Whilst we support the measures outlined in this white paper and recognise that addressing homelessness isn't simply about the bricks and mortar, it is undeniable that at the root of the systemic problem we face with regards to homelessness is the chronic

under-supply of social and affordable housing, in the right places, over recent decades. We note that the Welsh Government remains committed to addressing this specific issue through its commitment to supplying 20,000 new low-carbon homes at social rent over the lifetime of this Senedd term, but CIH Cymru has a different view on how to solve the current housing crisis and ensure that homelessness in Wales is rare, brief, and unrepeatable. We need to ensure that there is a right to adequate housing enshrined in law. Legislating for a right must be the starting point on a journey that sees a commitment to the level of investment needed that reflects the gravity of the housing crisis we currently face, ensuring that all public services in Wales work together to ensure individuals

and their families can access a safe, secure, and affordable home. The approach that the Welsh Government outlines in this white paper should be but one, albeit a very important, step on the road to progressively realising a right to be adequately housed for everyone in Wales.

Next steps

The full white paper and consultation questions can be found [here](#) and our final response will be submitted by 16 January. We would welcome any information from members to help inform and shape our contribution.

Please contact our policy and public affairs manager [Cerys Clark](#) with any thoughts relevant to this work.

