

Meeting of:	Cabinet
Date of Meeting:	Thursday, 07 March 2024
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Consultation Response to Welsh Government White Paper - Ending Homelessness in Wales
Purpose of Report:	To approve the Council's response to the White Paper - 'Ending Homelessness in Wales'
Report Owner:	Cabinet Member for Public Sector Housing and Tenant Engagement
Responsible Officer:	Miles Punter - Director of Environment and Housing
Elected Member and Officer Consultation:	<p>This report will affect all Vale residents and therefore no individual ward Member consultation has been undertaken.</p> <p>The White Paper has been considered by the Homes and Safe Communities Scrutiny Committee.</p>
Policy Framework:	This report is within the Policy Framework and Budget.
<p>Executive Summary:</p> <ul style="list-style-type: none"> • Welsh Government has been consulting on proposals to end homelessness in Wales. The proposals within this White Paper form part of a long-term transformation process to the homelessness and housing system, as set out in the Programme for Government and Cooperation Agreement. • The proposals are set out under 5 key themes, which include: Reform of existing core homelessness legislation; the broader role of the Welsh public service in preventing homelessness; targeted proposals to prevent homelessness for those disproportionately affected; improving access to accommodation and lastly, how these changes could be implemented. • The Council has been requested to respond formally to the proposals, a copy of which can be accessed at Appendix 1. • Following consultation with internal staff and the Homes and Safe Communities Scrutiny Committee on 6th December, 2023, a draft response has been prepared which can be accessed at Appendix 2. 	

Recommendation

1. That Cabinet approves the draft consultation response in relation to proposed changes brought forward by the Welsh Government and delegates authority to the Head of Housing and Building Services to submit the finalised response.

Reason for Recommendation

1. To ensure the views of the Council are considered as part of the White Paper consultation and any positive and negative impacts are highlighted.

1. Background

- 1.1 This White Paper sets out a range of proposals for changes to policy and the law, to end homelessness in Wales.
- 1.2 The proposals within this White Paper form part of a long-term transformation process to the homelessness and housing system, as set out in the Programme for Government and Cooperation Agreement. The current legislation around homelessness in Wales is set out within part 2 of the Housing (Wales) Act 2014 (HWA 2014). This Act is referred to throughout the White Paper and many of the proposals relate to reform of this legislation.
- 1.3 The White Paper sets out the background and policy context for the proposed legislative reform before outlining the proposals under five main themes:
 - Reform of existing core 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
- 1.4 For each proposal the White Paper sets out what the current law is, how the law is working in practice and how Welsh Government propose to change the law to ensure homelessness in Wales is rare, brief and unrepeatable.
- 1.5 The White Paper is accompanied by an Integrated Impact Assessment which includes an Equality Impact Assessment and a Regulatory Impact Assessment which provide an early assessment of the costs and benefits of the proposals.

2. Key Issues for Consideration

- 2.1 Feedback from Homes and Safe Communities Scrutiny
- 2.2 The White Paper was discussed at length by Homes and Safe Communities Committee. Whilst Committee Members supported the aspirations to end homelessness in Wales there were serious concerns about deliverability during a housing crisis and when there are already record numbers of homeless households in temporary accommodation.
- 2.3 Following the presentation of the report, the following comments and questions were raised by Councillors on the Committee:
 - 2.3.1 While the aspirations of the proposals in the White Paper were admirable, there were clear concerns on how the Vale of Glamorgan Council would be able to resource and manage these.
 - 2.3.2 A Councillor on the Committee, referred to the potential challenges and difficulties in pursuing the proposal of always providing supported housing for under-25s under the Council's current resources and access to appropriate accommodation, which would also require significant investment.
 - 2.3.3 A Councillor also commented on the potential conflict in the White Paper concerning proposals around Personal Housing Plans (PHPs) and individuals' housing options and choices.
 - 2.3.4 There was a concern regarding the 'unacceptable behaviour' restrictions and criteria within the White Paper and report, including whether Council Housing staff were suitably trained, and trauma informed in order to deal with persons presenting as homeless and who may be suffering from various trauma concerning their circumstances, have behavioural challenges and complex needs and whether such staff adequately protected and supported. It was explained that Housing staff were appropriately trained, and trauma informed, as well as having the empathy and experience to support persons presenting as homeless in order to support them as much as possible. Unacceptable behaviour would entail actions which would likely result in an outright possession order if a person was a tenant. Staff involved in this process were engaged with, offered support and were monitored by line management and others to ensure that they could continue to carry out their vital role and support with homeless persons.
 - 2.3.5 Another Councillor commented on the statutory duty placed on Local Authorities to draw up a PHP setting out steps to be taken to secure accommodation along with a duty to review PHPs every 8 weeks or more when there were changes of circumstances. They felt that this could place undue pressure on Council staff in the Housing Solutions Team due to current homelessness numbers. It was suggested that the duty to review should start at a higher time span, i.e. 12 weeks and then work towards an 8-week review. The Operational Manager, Public Housing Services, in response, referred to the challenges around this

proposal and its implementation, with only a relatively small team of Council staff and limited budgetary and other resources available. The Council was also trying to empower people via their PHPs and help them to take charge of their circumstances.

- 2.3.6 There was concern that persons with certain disabilities and care needs would be adversely affected by the proposed abolition of the priority need and intentionality test, as this would unduly impact their specific needs and affect their ability to be near local support networks, as well as the proposals ignoring the extra barriers such persons faced. In response, it was stated that in effect prioritising everyone would mean that no one could be prioritised, with an unintended impact on those with care and disability needs who needed housing.
- 2.3.7 A Councillor on the Committee stated that it was important that the Welsh Government had a baseline understanding of the current situation and pressures faced by the Vale of Glamorgan Council, other Welsh Local Authorities and, indirectly, on various other public bodies i.e. the NHS, around housing and homelessness, as well as the need to define the related timescales to implement the White Paper proposals. It was explained that this consultation involved discussions with various public sector bodies and partners, including the Welsh Local Government Association (WLGA), plus ongoing discussions with WG to stress the challenges faced in implementing these proposals i.e. the decline in the availability of private sector accommodation, increased housing demand due to the cost-of-living crisis, etc.
- 2.3.8 It was felt there was a need to impress on WG that although these proposals were aspirational, should they become legislation, these would place additional statutory duties and pressures on the Council and its resources, although some measures were already being undertaken by the Council.
- 2.3.9 It was requested that the Council's response to the consultation on the White Paper be shared with the Committee, and that it receives any subsequent updates.
- 2.4 As well as the feedback from Homes and Safe Communities Committee, consultation with staff across the Housing team was undertaken and this informed the draft response which is set out in Appendix 2. Given the short deadline provided by the Welsh Government (16th January, 2024), the draft consultation response has been shared with Welsh Government but with the caveat the final response is yet to be approved by Cabinet and may change.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

Long term

- 3.1 The Welsh Government proposals are intended to end homelessness and ensure everyone has access to a suitable home.

Prevention

- 3.2 The White Paper has a strong emphasis on the prevention of homelessness through multi agency work across the public sector.

Integration

- 3.3 There is a specific section within the White Paper which requires joint working across the public sector in Wales to deliver seamless services to citizens.

Collaboration

- 3.4 The reasons for homelessness are varied and complex and it should not be considered solely as a Housing issue. The White Paper requires Council Departments and other Public Sector agencies to work together to prevent and minimise the adverse impacts of homelessness.

Involvement

- 3.5 The lived experience of homeless people has informed the development of the White Paper. There is a strong focus on working with people to deliver tailored responses which address threats of homelessness.

4. Climate Change and Nature Implications

- 4.1 The report has no direct climate change or nature implications.

5. Resources and Legal Considerations

Financial

- 5.1 There are significant financial implications to the Council arising from the proposed changes in the White Paper. These include the cost of providing appropriate Housing Solutions to a large number of households. These financial implications can be highlighted to Welsh Government as part of the consultation process.
- 5.2 The proposals are for consultation at this stage, however when this process is finalised, and new legislation is brought forward a full financial impact assessment can be undertaken.

Employment

- 5.3 The proposals in the White Paper may give rise to additional staffing requirements for the Council arising from the need to provide more tailored and regular support to applicants and the need to secure a greater number of accommodation solutions for a large number of households.

Legal (Including Equalities)

- 5.4 Welsh Government will be responsible for finalising and approving the Bill. Following the future implementation of new legislation there will be a need to deliver detailed training to Council staff.

6. Background Papers

None.



Llywodraeth Cymru
Welsh Government

Number: WG48223

Welsh Government

Consultation on the White Paper on Ending Homelessness in Wales

Date of issue: 10 October 2023

Action required: Responses by 16 January 2024

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

This White Paper sets out a range of proposals for changes to policy and the law, to end homelessness in Wales.

How to respond

To respond to the consultation please use the online form, complete our response form and email to: HomelessnessLegislationReform@gov.wales

For information on consultation events please email us:
HomelessnessLegislationReform@gov.wales

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

Homelessness Prevention Legislation team
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: HomelessnessLegislationReform@gov.wales

This document is also available in Welsh: [hyperlink](#)

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g., a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing. You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than 3 years.

Further information and related documents

Number: **WG48223**

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Data Protection Officer

Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: dataprotectionofficer@gov.wales

Rydym yn croesawu gohebiaeth yn Gymraeg / We welcome correspondence in Welsh.

Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow Cheshire
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: Information Commissioner's Office

Contents

Glossary.....	7
Ministerial foreword.....	10
Introduction	12
The case for change	17
A summary of the proposed reforms.....	23
Chapter 1: Reform of existing core homelessness legislation	26
Prevention and relief	26
The three tests: priority need, intentionality and local connection.....	36
A statutory duty to provide support in order to help an applicant retain accommodation.....	51
Simplifying the current homelessness system by removing the “relief duty (section 73 of the HWA 2014)	51
The unreasonable failure to co-operate test.....	52
Communication between the local housing authority and the applicant.....	54
Consultation questions.....	56
Chapter 2: The role of the Welsh public service in preventing homelessness	57
Wider duties on the Welsh public service to prevent homelessness.....	57
Consultation questions.....	73
Chapter 3: Targeted proposals to prevent homelessness for those disproportionately affected	74
Children, young people and care experienced young people	74
People with complex health needs, including mental ill health, substance misuse and those leaving hospital.....	82
Survivors of violence against women, domestic abuse and sexual violence.	89
Disabled people	95
Ex armed services personnel.....	102
People leaving prison.....	104
People with No Recourse to Public Funds	118
Consultation questions.....	120
Chapter 4: Access to accommodation	121
Suitability and Temporary Accommodation.....	121
Allocation of social housing.....	136
Additional housing options for discharge of the main homelessness duty	151
Evictions.....	154
Consultation questions.....	155

Chapter 5: Implementation	156
Implementation of the proposed reforms	156
Consultation questions.....	165
Annex 1: Consultation questions	166

Glossary

Allocations	The system by which social housing is provided to those who have applied for it.
Applicant	The person applying to a local housing authority for help due to being threatened with homelessness or homeless.
Ex-armed forces personnel/veterans	Anyone who has served for at least one day in His Majesty's Armed Forces (Regular or Reserve) or Merchant Mariners who have seen duty on legally defined military operations. ¹
Care experienced	A person who has been accommodated by a social services department for a period of 24 hours or more, before their 18th birthday.
Care leaver	A care leaver includes a young person who falls within one of the categories specified in section 104(2) of the Social Services and Well-being (Wales) Act 2014 who is entitled to support under sections 105 to 115 of that Act. ²
The Code of Guidance	Refers to The Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness ³ ; the supporting guidance document for the Housing Act 2014.
Disability	A physical or mental impairment that has a 'substantial' and 'long-term' negative effect on a person's ability to do normal daily activities. 'Substantial' is more than minor or trivial, e.g. it takes much longer than it usually would to complete a daily task like getting dressed. 'Long-term' means 12 months or more, e.g., a breathing condition that develops as a result of a lung infection.
Experts by experience	People who have lived experience of homelessness and who have shared those experiences in order to inform the work of the Expert Review Panel and the development of this White Paper.
HWA 2014	Housing (Wales) Act 2014

¹ [Veterans Factsheet 2020 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

² For further definitions see para 397 - Social Services and Well-being (Wales) Act 2014 - Part 6 Code of Practice (Looked After and Accommodated Children)

³ [allocation-of-accommodation-and-homelessness-guidance-for-local-authorities.pdf \(gov.wales\)](#)

Local Housing Authority	Refers to the council for a county or county borough in Wales and for the purposes of this document; the specific function of the local authority delivering the statutory homelessness service.
Main duty	Section 75 of the HWA 2014 – the duty to secure accommodation for an applicant in priority need when the duty in section 73 (duty to help secure accommodation for homeless applicants) ends.
MAPPA	Multi Agency Public Protection Arrangements are in place to ensure the successful management of violent and sexual offenders.
Mental health problems	Health conditions involving changes in emotion, thinking or behaviour (or a combination of these). Mental illnesses can be associated with distress and/or problems functioning in social, work or family activities.
No Recourse to Public Funds (NRPF)	A person will have No Recourse to Public Funds when they are ‘subject to immigration control’, as defined by section 115 of the Immigration and Asylum Act 1999. A person who is subject to immigration control cannot claim public funds unless an exception applies.
Nominations	A nomination is where a local authority puts forward a person from the waiting list to be considered for a social housing property.
Prevention duty	Section 66 of the HWA 2014 – the duty to help to prevent an applicant from becoming homeless.
Protected characteristics	Characteristics that are protected by the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
Rapid Rehousing	Rapid Rehousing aims to reduce the use of temporary accommodation to the absolute minimum and improve access to settled housing as rapidly as possible. This will help avoid the destabilising and marginalising effects of prolonged homelessness or prolonged stays in emergency or temporary settings while remaining homeless.
Registered Social Landlords and Housing Associations	Means a social landlord registered under Part 1 of the Housing Act 1996. Independent, not-for-profit organisations who strive to deliver affordable housing to meet demand while investing in communities.

Rent Smart Wales	Rent Smart Wales assists those who let or manage rental properties in Wales to comply with their HWA 2014 obligations and provides advice on renting out safe and healthy homes. They also process landlord registrations, grant licences and deliver training for those involved in the rental market across Wales.
The secure estate	The secure estate includes prisons, approved premises, bail accommodation and youth detention accommodation.
Sofa surfing	Staying temporarily in a series of other people's homes, typically by sleeping on their sofas.
SSWB Act	The Social Services and Wellbeing (Wales) Act 2014
Street homeless	A person who has no accommodation available for their occupation in the United Kingdom or elsewhere, which the person <ul style="list-style-type: none"> a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, b) has an express or implied licence to occupy, or c) occupies as a residence by virtue of an enactment or rule of law giving the person the right to remain in occupation or restricting the right of another person to recover possession.
Violence against women and girls (VAWG)	An umbrella term used internationally for a wide range of abuses, such as domestic homicide, domestic abuse, sexual assault, abuse experienced as a child, female genital mutilation (FGM), forced marriage and harassment in work and public life. While men and boys also suffer from many of these forms of abuse, they disproportionately affect women and girls and happen because they are women. VAWG is a term adopted from the United Nations 1993 declaration that includes "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

Ministerial foreword

The Welsh Government want to end homelessness in Wales. Where an individual's experience of homelessness cannot be prevented, we are committed to ensuring the experience of homelessness is rare, brief and unrepeatable.

We have begun a programme of work to deliver this aim; initiated by the work of the [Homelessness Action Group](#) and the publication of our strategy in 2019, through our response to external factors including a global pandemic, an ongoing cost of living crisis and the delivery of our Programme for Government commitment to fundamentally reform homelessness services, to focus on prevention and Rapid Rehousing.

Significant legislative reform is required to achieve this systemic transformation and I am pleased to present our proposals for changes to the law within this White Paper.

The proposals are based on recommendations and advice provided to the Welsh Government by an Independent Expert Review Panel, chaired by Professor Suzanne Fitzpatrick and informed by widescale stakeholder and service user engagement, led by Crisis and Cymorth Cymru. I am grateful to the Expert Review Panel who have worked collaboratively and constructively to develop a package of legislative and broader policy proposals, designed to end homelessness in Wales.

As the Panel reference in their report, their proposals represent a significant shift in the way homelessness is managed in Wales, not just by those working in local housing authorities and the wider housing sector but across the public service.

We have long recognised that homelessness cannot be prevented through housing alone and that all public services and the third sector have a role to play in ending it. As we stated in our 2019 strategy, the entire Welsh Government is committed to this approach and these ambitious and widescale proposals will create the homelessness system that makes this vision a reality.

Should they be taken forward, our proposals will transform the experience of those who are homeless and at risk of homelessness and will fundamentally change the homelessness system and the role of professionals working within and around it.

As the Expert Review Panel set out, this transformation is crucial as by widening responsibility for preventing homelessness, we create an opportunity to prevent the wider disadvantage, trauma and disruption that homelessness can cause. In so doing, we have an opportunity to improve individual well-being and life chances, lower health risks and increase life expectancy. As a consequence, over the longer term, we can lessen the burden on our public services.

Implementation of such wide scale reform will be challenging, and it would be remiss not to acknowledge that as we publish this White Paper, the Welsh Government faces its toughest financial situation since devolution; caused by record levels of inflation, the mismanagement of the economy and public finances by successive UK governments over the last 13 years and because of unfunded commitments made by the UK Government, particularly in relation to public sector pay.

I am committed to working closely with our partners to test our proposals and to collaborate as we plan future implementation. We will rely on the strong partnerships we have established, making better use of existing systems and, on the innovation and creativity within the housing sector to end homelessness in Wales. We cannot let the challenges we face today roll back the progress we are making or lessen our ambition for the future of Wales.

Lastly and most importantly, I want to thank each of the individuals who shared their personal experiences of homelessness with us. Our proposals are rooted in your insight and your expertise. I hope you see your contribution and I hope that our proposals lead to the meaningful change that you have asked of us. I look forward to continuing to work with you and the Welsh public service to end homelessness in Wales.



Julie James AS/MS
Gweinidog Newid Hinsawdd
Minister for Climate Change



Introduction

1. This White Paper sets out a range of proposals for changes to policy and the law, to end homelessness in Wales.

2. The proposals within this White Paper form part of a long-term transformation process to the homelessness and housing system, as set out in the Programme for Government and Cooperation Agreement.^{4 5} Prior to considering the proposals in this White Paper it may be useful for the reader to familiarise themselves with part 2 of the Housing (Wales) Act 2014 (HWA 2014).⁶ This Act provides the current legislative framework which governs homelessness services and is referred to throughout. Many of the proposals within this document relate to reform of this legislation.

3. The White Paper will first set out the background and policy context for the proposed legislative reform before outlining our proposals under five main themes:

- Reform of existing core 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.

4. For each proposal we set out what the current law is, how the law is working in practice and how we propose to change the law to ensure homelessness in Wales is rare, brief and unrepeatable.

5. This White Paper is accompanied by an Integrated Impact Assessment which includes our Equality Impact Assessment and a Regulatory Impact Assessment which provide our early assessment of the costs and benefits of our proposals.

Background

6. The proposals in this White Paper are based on recommendations and advice provided to the Welsh Government by an independent Expert Review Panel ([“the Panel”](#)), convened by the Minister for Climate Change to review existing legislation on ending homelessness in Wales, and to provide specific recommendations for legal reform.⁷

7. Between August 2022 and August 2023, the Panel, chaired by Professor Suzanne Fitzpatrick, has considered the existing legislation in place, both in Wales and across the United Kingdom, alongside evidence from services and people with lived experience of homelessness and experts in homelessness practice, policy and research. The Welsh Government has worked closely with the Panel to develop this

⁴ [Welsh Government Programme for government: update \[HTML\] | GOV.WALES](#)

⁵ [The Co-operation Agreement: 2021 | GOV.WALES](#)

⁶ [Housing \(Wales\) Act 2014 \(legislation.gov.uk\)](#)

⁷ [Wales Expert Review Panel \(crisis.org.uk\)](#)

White Paper alongside their work. This has involved iterative consideration of emerging recommendations, additional testing of these proposals across the Welsh Government and with local authorities and other partners across Wales, along with extensive assessment of impact.

8. We are grateful to the Panel for their thorough, comprehensive and considered work over the past year and for their report and recommendations which are available [here](#).

9. Although this White Paper is based heavily on the recommendations of the Panel, it does not replicate them in detail. For example, the Panel have set out several recommendations which relate to the development of statutory guidance to support legislation and those proposals around guidance are not explored in detail in this White Paper. The purpose of this White Paper is primarily to present a range of high-level legislative proposals to the Welsh general public, in order to inform the development of a future Bill. These proposals will focus on principles, ideas, and intention, rather than detail of the new legislative structure.

10. As we consider the responses we receive through this consultation, we will refine and amend our proposals to develop legislation for the consideration of the Senedd. As this work takes place, we will develop detailed guidance to support the proposed legislation and hope to draw on the detailed narrative within the Panel report, alongside the consultation responses as we do so.

11. As the proposals within this White Paper are refined, we intend to work closely with stakeholders; particularly those working in local housing authorities, the broader housing sector and the public service, to design an implementation plan that ensures the ambition and scale of these reforms is matched by a deliverable strategy which garners and shares best practice and peer support. We also recognise that implementation of the reforms will create a significant training need and will work with the sector to consider how this need is best addressed as a future Bill is refined.

White Paper Development

12. The work of the Panel and the development of this White Paper has been grounded in the lived experience of homelessness.

13. Cymorth Cymru have worked with over 300 people to provide evidence to the Panel about the reality of being homeless in Wales. As part of this work, Cymorth Cymru engaged with people living across Wales, including those living in temporary accommodation, young people, care leavers, survivors of abuse and people in prison, several reports summarising this engagement have been published on the Cymorth Cymru website.⁸

14. To ensure the voices and experiences of people with protected characteristics inform this work, we commissioned Tai Pawb to capture the experiences of homelessness of people with protected characteristics.⁹ As part of that work, we

⁸ [Experts by Experience \(cymorthexperts.wales\)](https://www.cymorthexperts.wales/)

⁹ [Experiences-of-homelessness-Final-Version-PDF.pdf \(taipawb.org\)](https://www.taipawb.org/experiences-of-homelessness-final-version-pdf.pdf)

have engaged with asylum seekers, refugees, disabled people, Black, Asian and Minority Ethnic people, Gypsies and Travellers, older people and LGBTQ+ people.

15. We have also worked with Children in Wales to understand the experience of homelessness for dependent children. This work has revealed a significant lack of research in relation to this group and the need for further work as part of the consultation process.

16. The experiences shared by those engaged by Cymorth Cymru and Tai Pawb provide the core evidence base for the proposals contained in this White Paper, whether they are targeted, specific recommendations for the benefit of a particular protected group or part of our wider scale policy ambitions. We will continue to engage people with lived experience throughout the consultation period in order to continue developing our proposals.

17. In addition to the engagement of people with lived experience, we have also, in partnership with Crisis Cymru, undertaken a range of stakeholder engagement including:

- four regional stakeholder events with the third sector, local authorities and Registered Social Landlord (RSLs);
- eight virtual stakeholder engagement events on a range of subjects including homelessness and violence against women, domestic abuse and sexual violence, the role of health and social care, mental health and substance use, disability and the Criminal Justice System;¹⁰
- 6 weekly meetings with RSLs, convened by Community Housing Cymru.
- A reference group, held monthly with 21 of the 22 local authorities in Wales¹¹;
- the commission of a piece of research on practice relating to the allocation of social housing in Wales and a national event to discuss the findings;
- attendance at a range of meetings, conferences and boards to update stakeholders on the work.

The policy context

18. The landscape in which housing and homelessness services are working has irreversibly changed since the Welsh Government first legislated in this area in 2014. Some of the most significant changes have occurred in recent years, as the impact of the Coronavirus pandemic, the war in Ukraine and the cost of living crisis has been felt across the Welsh housing system.

19. Significant legislative reform is required to achieve the systemic transformation that is necessary to respond to these changes and to address the needs and circumstances of those who are homeless or at risk of homelessness in Wales.

¹⁰ [Wales Expert Review Panel \(crisis.org.uk\)](https://crisis.org.uk)

¹¹ One local authority did not have staff available to engage.

20. The Welsh Government want to end homelessness in Wales. Where an individual's experience of homelessness cannot be prevented, we are committed to ensuring the experience of homelessness is rare, brief and unrepeated. In order to deliver this commitment, the homelessness and wider public service must be able to intervene earlier and focus on prevention.

21. Where this earlier intervention does not work, Rapid Rehousing is essential to reduce the corrosive impact of homelessness and ensure it is not repeated.

22. Rapid Rehousing, an internationally recognised approach, aims to reduce the use of temporary accommodation to the absolute minimum and improve access to settled housing as rapidly as possible. The benefits of secure, settled and self-contained housing for people who have experienced or been at risk of homelessness should not be underestimated. In the longer term, the majority of people experiencing homelessness should be provided with such homes as quickly as possible. This will help avoid the destabilising and marginalising effects of prolonged homelessness or prolonged stays in emergency or temporary settings while remaining homeless.

23. Rapid Rehousing is based upon a systematic approach to understanding what housing is needed, how that housing is going to be funded, developed and allocated to people who find themselves homeless. This approach, when properly applied, means the need for many forms of temporary accommodation will diminish over time and where temporary accommodation is required, a person should only need to stay for a short period of time. The Welsh Government has published guidance on Rapid Rehousing.¹²

24. At the current time, demand for all forms of accommodation outweighs supply. In addition, and irrespective of location, a person or family's ability to access finite housing resource depends on affordability, access to a range of housing options and allocations processes. For disabled people, those requiring support from multiple support services and for some protected ethnic groups, such as Gypsies and Travellers, accessibility can be diminished further.

25. Alongside the development of legislative reform, the Welsh Government is taking forward a range of policy initiatives and actions, working closely with local authorities and other partners to reduce individuals experience of prolonged and potentially damaging spells in temporary accommodation. We expect to see the development of a systematic and strategic process that links housing development, support and supply to housing need. This process will improve access and efficiency in supporting households experiencing homelessness into appropriate settled homes with the support they need.

26. Work to achieve this transformation began in June 2019 when the Homelessness Action Group commenced its work to provide policy recommendations to the Welsh Government to end homelessness in Wales.¹³ In the same year, the Welsh

¹² [Rapid Rehousing: guidance \[HTML\] | GOV.WALES](#)

¹³ [Homelessness Action Group | GOV.WALES](#)

Government published its strategy setting out our ambition to end homelessness in Wales by making it rare, brief and unrepeated.¹⁴

27. Building on this work, the Welsh Government Programme for Government 2021 – 2026 and the Cooperation Agreement committed to a fundamental reform of homelessness services, to focus on prevention and Rapid Rehousing, through the introduction of a package of legislative reforms to create significant change to our homelessness system.

¹⁴ [Homelessness strategy | GOV.WALES](#)

The case for change

The Housing (Wales) Act 2014 (“the HWA 2014”).

28. The majority of the proposed reforms contained in this White Paper relate to part 2 of the HWA 2014 (homelessness services) which sets out a range of statutory duties for local authorities focussed on the provision of accommodation and homelessness prevention services.

29. The HWA 2014 introduced a number of changes in the way that homelessness was addressed in Wales and provided a strong focus on early intervention; aiming to ensure that help was available for anyone at risk of or experiencing homelessness. The HWA 2014 aimed to lower emphasis on the concept of priority need as a test for access to homelessness support and included private rented accommodation as a possible solution to homelessness. The HWA 2014 also sought to establish ways in which local authorities and the applicant for homelessness services would work together to prevent an individual’s homelessness and to facilitate stronger partnership between organisations to prevent homelessness, provide suitable accommodation and provide support to people experiencing homelessness in their locality. This meant that more people were provided a right to assistance than before the legislation was brought into force and that an offer of social housing was no longer the main type of assistance available; instead, local authorities could more easily discharge their homelessness duties by making an offer of accommodation in the private sector.

30. The main changes made through the HWA 2014 included:

- The introduction of new duties for local authorities to help prevent homelessness for anyone who asks for help and to carry out ‘reasonable steps’ to prevent or relieve homelessness.
- A change in organisational culture to underpin a person-centred/partnership approach between local authorities and people who come forward for assistance.
- Increasing the length of time when people are considered to be threatened with homelessness from 28 days to 56 days and extending the prevention duty to all, not just those in priority need.
- Changes in the application of priority need, intentionality and local connection provisions.
- Creating a new framework to involve housing associations in alleviating homelessness.
- Creating a new framework to work with the private rented sector in alleviating homelessness.

The impact of the Housing (Wales) Act 2014

A cultural shift to prevention

31. In 2018, the Welsh Government published an evaluation to assess the implementation and impact of the HWA 2014, utilising both qualitative and quantitative data¹⁵. This evaluation reported unanimous support for the ethos and intent of the Act among local authorities and participating service providers, while further evidence was found of positive practical impacts to both prevention activity and service-user outcomes. At the time of publication, official statistics on homelessness also corroborated claims of positive impacts, with homelessness prevented in almost two-thirds of threatened households and relieved in two-fifths of homeless households following implementation of the Act.

32. The evaluation found that local authorities across Wales had strategically embraced the concept of taking “reasonable steps”, resulting in better outcomes for people presenting as homeless or threatened with homelessness. Alongside the effectiveness of prevention, however, this was shown to vary considerably both across Wales and within local authority areas. The evaluation made it clear that continued work was needed to properly embed the person-centred approach of the HWA 2014.

The need for further systemic change

33. Despite evidence of various positive outcomes, the evaluation also highlighted a number of persistent challenges to the successful implementation of the HWA 2014, including resistance to change among some staff, difficulties navigating new systems introduced by the Act, and inconsistencies in the quality of data collection. Perhaps most concerning, however, it was suggested that while local authorities were continuing to ‘*react to homelessness and the problems it causes*’, the structural causes of homelessness remained unaddressed by the legislation. This was compounded by an increasing demand for homelessness services which, coupled with a lack of available accommodation for people to move into, negatively impacted the ability of local authorities to prevent and relieve homelessness.¹⁶

34. The Homelessness Monitor: Wales 2021¹⁷ sets out that whilst the HWA 2014 undoubtedly increased local authority prevention responses to homelessness, there is scope for improvement; specifying a review of the length of time for prevention activity (56 days) and consideration of to whom prevention duties should apply to better address the increasing demand on the system.

35. Since 2014 the overall numbers of people approaching local authorities for prevention and relief of homelessness has risen and local authorities are helping more people under the relevant duties than ever before. However, the proportion of people successfully helped under these duties remains generally the same year on year. It has been suggested that this is due to limitations in the HWA 2014 and the

¹⁵ A. Ahmed, M. Rogers, M. Wilding, A. Gibbons, K. Jones, I. Madoc-Jones (2018) Post-implementation evaluation of Part 2 of the Housing (Wales) Act 2014: Final Report.

¹⁶ Ibid

¹⁷ Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) The Homelessness Monitor: Wales 2021. London: Crisis

tools available to local authorities to prevent homelessness from happening in the first place.¹⁸

36. It has also been reported that in delivering the “reasonable steps” required by the HWA 2014, local authorities are often limited to a standard offering of prevention focussed activities which do not allow delivery of the highly person-centred and tailored approach envisioned by the HWA 2014¹⁹. This is often linked to access to financial resource to implement the legislation.

37. Despite the HWA 2014 improving access to homelessness assistance overall, evidence shows that outcomes for certain groups remain poor. Street homelessness increased between the introduction of the HWA 2014 and the onset of the Coronavirus pandemic in 2020. Until this point those who were street homeless could not have their homelessness prevented and often did not meet or were judged by the local authority to not meet, the vulnerability threshold to be considered as being in priority need. Evidence from the evaluation published in 2018 suggests this group benefitted least from the changes introduced by the HWA 2014.²⁰

38. Outcomes for single people, particularly those under 35, remain unsatisfactory despite further changes to the law since the HWA 2014. This can partly be attributed to increased pressure in the system, a lack of affordable appropriate accommodation and the increasing complexity of people’s needs. It can also be linked to UK Government welfare policy; particularly the impact of the so-called Bedroom Tax and the freezing of Local Housing Allowance rate. The stagnant Local Housing Allowance rate is particularly problematic as it reduces the resources available to low-income households in Wales and impacts their ability to afford private sector rents. This is a significant concern, as the successful implementation of the HWA 2014 and any future reform is contingent on local authorities’ ability to discharge homelessness duties through the Private Rented Sector.

39. Despite the strong ethos of partnership, the HWA 2014 has not achieved the strength of partnership between organisations that is required to end homelessness. Welsh Government is clear, and it is supported by Experts by Experience, that homelessness is not just a housing issue. In many (not all) cases it is an issue arising from a range of complex matters including substance use, mental health problems or mental illness, family breakdown, abuse, financial matters or involvement in the Criminal Justice System, which require a multi-disciplinary response. In too many cases, homelessness services are working with people with highly complex and chaotic lives without the support of specialist partners. Legislative reform will need to consider whether more can be done to strengthen multi-agency responses to people with multiple needs in order to prevent homelessness, ensure a person can sustain their new home and ensure risk of repeated homelessness is minimised.

¹⁸ Ibid

¹⁹ [MacKie, Peter K.](#), [Thomas, Ian](#) and Bibbings, Jennie 2017. Homelessness prevention: Reflecting on a year of pioneering Welsh legislation in practice. *European Journal of Homelessness* 11 (1) , pp. 81-107.

²⁰ Post-implementation evaluation of Part 2 of the Housing (Wales) Act 2014: Final Report (gov.wales)

External Impacts

40. In the decade since the development of the HWA 2014, external factors including a global pandemic, exit from the European Union, the war in Ukraine and the cost of living crisis, have significantly altered the strategic context and exacerbated pressures in the housing system. As a result, we have seen increased demand and increasing complexity amongst those presenting at services, compounded by a lack of available accommodation for people and challenges in constructing suitable homes quickly enough to meet demand, due to challenges with supply chains and labour shortages. At the time of writing, Wales is continuing to experience the effects of the cost of living crisis which may further increase those at risk of homelessness, as rents and mortgages consume more of people's incomes and service provision budgets are stretched.

41. Arguably, the most significant external factor has been the Covid-19 pandemic. In early 2020, as the potential seriousness of the pandemic became known, Welsh Government provided additional guidance and funding to local authorities to ensure everyone who presented to homelessness services without accommodation, were provided with the accommodation and support they needed to stay safe. This became known as the 'no one left out' policy. If necessary, authorities were asked to procure Bed and Breakfast accommodation (along with other temporary accommodation sources, including hotels). Understandably, this resulted in an increase in people accommodated in such premises. This was necessary due to the lack of other available accommodation and to mitigate public health risks and support people who would previously have been street homeless or sofa surfing.

42. Between the beginning of the COVID-19 pandemic and the end of June 2023, over 38,600 people who were previously homeless have been supported with emergency temporary accommodation. The pandemic homelessness response has therefore lifted the lid on the true scale of homelessness in Wales.

43. As the pandemic created additional pressures on households and increased homelessness presentations, the expectation was that as the pandemic and public health risk eased, there would be a corresponding decline in homelessness presentations, and that the peak of presentations would be seen during the pandemic. This has not been the case, not least due to other pressures on households arising from the cost-of-living crisis and the wider pressures on housing supply. The latest available data shows homeless presentations and placements into temporary accommodation at higher rates than those seen during the pandemic.²¹

44. At the time of writing 10,869 individuals are currently accommodated in temporary accommodation across Wales, 3,346 of these are dependent children aged under 16 years (this does not include Ukrainian people in initial super sponsor accommodation). Due to wider pressures in the housing system, move on options from temporary accommodation are very limited and during the last month this data was collected 582 homeless individuals were moved into suitable long-term accommodation.

²¹ [Homelessness accommodation provision and rough sleeping: June 2023 | GOV.WALES](#)

45. We have unfortunately, seen an increase in people returning to or becoming street homeless. As of 31 June 2023, there were an estimated 173 individuals sleeping rough throughout Wales.

46. Despite the challenges, the Welsh Ministers have made clear that homelessness can no longer be tolerated.²² The “no one left out” approach has exposed the scale of the problem in Wales and the legal arrangements put in place since the pandemic, have allowed us to provide protection to groups of people who were previously at particular risk. In taking this action we have contributed significantly to a fairer and more equal Wales and we intend to safeguard those protections further through the reforms set out in this White Paper.

47. The impact of the cost of living crisis will affect everyone in Wales and is widely expected to impact both renters and those who are owner occupiers. It is also clear the cost of living crisis will have unique and difficult impacts for those already at risk of homelessness and households on low incomes. These impacts will include risk of evictions, higher costs of pre-paid utilities and (for those in temporary accommodation) less agency to manage the costs of food, travel, laundry and storage costs.²³ Wider research suggests that these risks will have disproportionate impacts for Black, Asian and Minority Ethnic groups. These groups are around twice as likely (16%) as people identifying as White (7%) to say they expect to face eviction (recorded in winter 2022)²⁴. People with past experience of homelessness are two and half times more likely (24%) than others to say this.²⁵

How will legislative reform meet this demand?

48. Legislative reform alone will not address the significant pressures within the homelessness system in Wales, but it will formalise the Rapid Rehousing policy approach to ending homelessness and lay the groundwork for evidence based practice, shown to be most effective in reducing core homelessness. This practice includes maximising prevention efforts, expanding the responsibility for homelessness to the wider public service, increasing social housing allocations to homeless households and providing tenancy support for those who are most vulnerable to repeat homelessness.

49. The introduction of the proposed legislation will aim to establish practice across the wider public service that will lead to earlier identification of the risk of homelessness, more efficient and effective referrals into support services and to secure multi-agency co-operation to prevent homelessness. The reform work will also provide an opportunity to address the findings of the evaluation to further improve homelessness services in Wales.

²² [Ending homelessness in Wales: a high level action plan 2021 to 2026 \(gov.wales\)](https://gov.wales/ending-homelessness-in-wales-a-high-level-action-plan-2021-to-2026)

²³ Allard, M. (2022) "I don't know what the winter's going to bring:" experiences of homelessness during a cost of living crisis. London: Crisis

²⁴ Bramley, G., Fitzpatrick, S., McIntyre, J., Johnsen, S. (2022) Homelessness Amongst Black and Minoritised Ethnic Communities in the UK: A Statistical Report on the State of the Nation. Edinburgh: Heriot-Watt University.

https://pure.hw.ac.uk/ws/portalfiles/portal/67022958/Homelessness_Amongst_Black_and_Minoritised_Ethnic_Communities_State_of_the_Nation_Report_2.pdf

²⁵ Allard, M. (2022) "I don't know what the winter's going to bring:" experiences of homelessness during a cost of living crisis. London: Crisis

50. The success of the proposed reforms will be dependent on a number of other key policy interventions. The sequential modelling analysis used in the Homelessness monitor 2021 indicates that alongside the practice outlined above, other changes are necessary to alleviate homelessness, some of which the Welsh Government can influence and some which are the responsibility of the UK Government²⁶:

- Increasing housing supply through a range of actions including building, increased allocations, bringing empty homes into use and developing needs led accommodation including more accommodation for single people and those with multiple support needs.
- The provision of financial/debt assistance.
- Raising the level of the Local Housing Allowance and indexing it effectively to private rent levels.
- Improving recruitment and retention into the housing sector workforce.
- Capacity building in the housing sector and wider public service.
- Improving services for people with No Recourse to Public Funds (NRPF).

²⁶ Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) The Homelessness Monitor: Wales 2021. London: Crisis

A summary of the proposed reforms

51. Each of the proposals support the delivery of one or more of our key working principles:

- The reforms will further the Welsh Government aim to make homelessness rare, brief and unrepeatable.
- The reforms will facilitate service delivery that is trauma informed (grounded in the understanding that trauma exposure can impact an individual's neurological, biological, psychological and social development and behaviour) and person-centred (the individual client's needs, strengths and preferences are the basis upon which their service is designed).
- The reforms will support the Welsh Government long term policy aim of Rapid Rehousing (those who are homeless are able to obtain long term housing quickly, increase their own self-sufficiency, and stay housed) and sustain the significant practice change achieved in response to the Coronavirus pandemic.
- The reforms will ensure that preventing homelessness is the responsibility of the entire Welsh public service.

52. Through the proposed legislative reform, supporting practice and guidance we are aiming to achieve the following:

- The risk of homelessness is prevented at the earliest possible stage and responsibility for identification and prevention is shared across the Welsh public service.
- The local housing authority offer a person centred, trauma informed service that is led by the needs of the client, wherever possible.
- The system will be easier to access and, for those who need it, will offer more co-ordinated, multi-agency support to meet a range of support needs.
- Standards of temporary accommodation on offer will be improved and further improvement will take place over time. Overall use of temporary accommodation will reduce over time.
- We will maximise use of social housing to end homelessness and utilise a range of other options.
- Targeted actions will be taken to improve the experience of those most likely to be affected by homelessness.

53. The table below sets out a summary of how the legislative reforms proposed in this White Paper address the principles as outlined above.

Person-centred, trauma informed		
<p>Homelessness is rare</p> <p>Homelessness is brief</p>	<p>The risk of homelessness is identified earlier and activity to prevent it happens sooner.</p> <p>Service users are active partners in their service provision, which is easy to understand, matches their needs and provides effective intervention.</p> <p>Targeted prevention is in place to protect those most vulnerable to homelessness. More homeless households are allocated social housing.</p> <p>The prevention of homelessness is the responsibility of the Welsh public service who work together to respond to the warning signs and to provide holistic support to those with complex needs.</p>	<p>We propose that the period of time in which local authorities are expected to undertake meaningful prevention work will be extended to six months or, where a Possession Notice has been issued, the period of that notice.</p> <p>Through reforms around “reasonable steps”, Personal Housing Plans and improved rights of review; we aim to create a person centred system and build stronger entitlements into the system which ensure the service user has a strong understanding of how their case will be managed, are active participants in their service and are able to access an effective baseline standard of service which stands a very good chance of preventing their homelessness.</p> <p>We propose to bring forward targeted preventative reforms for those most at risk – including survivors of Violence Against Women, Domestic Abuse and Sexual Violence, youth homelessness, care experienced young people and those in the Criminal Justice System.</p> <p>We propose to introduce new duties to identify, refer and co-operate to prevent homelessness, which will apply across the Welsh public service and beyond.</p> <p>We propose to legislate to increase allocations of social housing to homeless households.</p>

<p>Homelessness is not repeated</p>	<p>Those who need it receive ongoing assistance that helps them to retain their occupation contract.</p> <p>Both the interim and settled home provided to a person experiencing homelessness is in the right place, allocated at the right time and is suitable for their needs.</p>	<p>We propose to bring forward a new duty to help retain an occupation contract.</p> <p>We propose improved standards related to the suitability of accommodation.</p> <p>We propose to bring forward reforms which ensure local authorities are better able to provide for the needs of the whole of their local homeless population, including disabled people.</p>
<p>The homelessness system in Wales is easier to access.</p>	<p>The homelessness system in Wales is as simple as possible; both to navigate as an applicant, and to deliver as a local authority.</p>	<p>We have reviewed the current homelessness duties and proposed a revised set of duties that we hope is simpler for the applicant to understand and the local authority to apply.</p> <p>We propose the provision of more accessible communication.</p> <p>We propose to provide more opportunities for an applicant to request a review of key decisions in their case.</p>

Chapter 1: Reform of existing core homelessness legislation

54. This chapter outlines how the Welsh Government aims to ensure the law helps to prevent homelessness happening for as many people as possible. It sets out the relevant provisions of the HWA 2014. An initial description of the current legislation is provided, alongside a brief analysis of the merits and drawbacks of the current position. Thereafter we set out our proposals for reform and the wider implications for these reforms. This section considers the following:

- The period of time in which a person should be assessed by a local housing authority as threatened with homelessness and what can trigger this assessment.
- Strengthening and clarifying the reasonable steps to be taken to prevent a person's homelessness and the use of personalised housing plans.
- The rights of review available to an applicant.
- The three tests: priority need, intentionality and local connection.
- A statutory duty to provide support in order to help the applicant retain accommodation.
- Simplifying the current homelessness system by removing the "relief duty" (section 73 of the HWA 2014).
- Changes to the unreasonable failure to communicate test.
- Communication between the local housing authority and the applicant.

Prevention and relief

The meaning of "homeless" or "threatened with homelessness"

What the law currently says

55. Section 55 of the HWA 2014 sets out the meaning of "homeless" or "threatened with homelessness" for the purposes of the legislation. A person is deemed to be threatened with homelessness if it is likely the person will become homeless within 56 days (section 55(4)). A person is homeless if they, together with anyone who normally resides with them, have no accommodation in the United Kingdom or elsewhere, which they have a legal right to occupy.

56. A person is also homeless if they have accommodation but cannot secure entry to it, or the accommodation is a moveable structure, vehicle or vessel adapted for human habitation (such as a caravan or houseboat) and there is no place where it can be placed in order to provide accommodation.

57. The HWA 2014 sets out that a person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for that person to continue to occupy. The Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness ("the Code of Guidance")²⁷ sets out when it might not be reasonable to occupy accommodation, and there is also case law on this subject.

²⁷ [allocation-of-accommodation-and-homelessness-guidance-for-local-authorities_1.pdf \(llyw.cymru\)](#)

58. Section 57 of the HWA 2014 also specifically provides that it is not reasonable for a person to occupy accommodation if it is probable this will lead to the person, or a member of the person's household, being subjected to abuse. A member of the person's household includes someone who normally lives with them as a member of his or her family, or any other person who might reasonably be expected to live with them. "Abuse" means physical violence, threatening or intimidating behaviour and any other form of abuse which, directly or indirectly, may give rise to the risk of harm". "Domestic abuse" occurs where the victim is associated with the abuser (section 58). The term "abuse" was used to ensure the Act is not restricted to physical violence. Please see chapter 3: violence against women, domestic abuse and sexual violence for our proposals to amend this definition.

59. Section 57(3) of the HWA 2014 also provides that in determining whether it is reasonable for a person to continue to occupy accommodation, a local housing authority may have regard to the general housing circumstances prevailing in the area. A local housing authority must also have regard to whether or not accommodation is affordable for that person. The Code of Guidance explains this could include considering physical conditions, overcrowding, and the type of accommodation. Some types of accommodation are intended to provide temporary accommodation in a crisis, and it should not be regarded as reasonable for someone to continue to occupy in the longer term.

How the law currently works

60. Whilst it is made clear in the Code of Guidance that the 56-day period is the minimum amount of time a local housing authority should take before taking steps to prevent a person's homelessness, high caseloads, staff vacancies and the high volume of homeless presentations to a local housing authority mean that they tend to have to work reactively, rather than proactively and are not able to undertake the prevention work they would like to. This challenge is exacerbated by a perceived lack of awareness amongst the general population that local housing authority homelessness and housing options services are able to offer information and support to prevent homelessness. Consequently, applicants tend to present at the point of crisis, limiting the opportunity to undertake prevention activity.

61. Whilst multiple factors can lead to homelessness, within Wales the highest contributing cause of homelessness applications occurs at the end of a tenancy.²⁸ Landlord repossession is a feature, rather than the sole factor of this cause, but it is likely to remain significant despite the safeguards raised through the Renting Homes (Wales) Act (2016) ("the 2016 Act").

62. The 56-day period aligned with section 21 of the Housing Act 1988, which permitted the recovery of possession on a "no fault" ground for a periodic assured shorthold tenancy or a statutory periodic tenancy (that had arisen automatically upon the expiry of a fixed term assured shorthold tenancy). This section of the 1988 Act now has no application in Wales due to the introduction of the 2016 Act.

²⁸ [the-homelessness-monitor-great-britain-2022_full-report_final.pdf \(crisis.org.uk\)](#)

63. Section 174 (the no fault ground) of the 2016 Act, provides that the landlord under a periodic standard contract may end that contract by giving the contract-holder a minimum notice of six months (landlords notice). In respect of certain periodic standard contracts, the minimum notice period for a section 174 notice remains two months. These contracts are listed in Schedule 8A to the 2016 Act (and include supported accommodation, accommodation for homeless persons and service occupancy).

64. The effect of the 2016 Act means that in the majority of cases, the process followed by issuing a repossession notice takes longer: six months rather than eight weeks (56 days). For this reason, and to support more effective prevention work, we propose a change to the period of time in which a person should be deemed as threatened with homelessness.

Proposed Changes

A person is threatened with homelessness if it is likely that the person will become homeless within six months or they have been issued with a Notice Seeking Possession

65. We propose that a person be deemed to be threatened with homelessness if it is likely that the person will become homeless within six months. In addition, we also want to make it clear in law that a person should be deemed as threatened with homelessness when they have been issued with a landlord's notice.

66. This change will support a local housing authority to act to prevent homelessness more pro-actively and before the point of crisis. It will also align to the requirements of section 173 of the 2016 Act, providing clarity and simplification to tenants and homelessness and housing options services. Should these proposals be taken forward into draft legislation, we aim to provide additional training and guidance to local housing authorities and the wider public service to facilitate identification of the circumstances that might create a threat of homelessness. This training and guidance will also support the proposed duties to identify and refer, outlined later in this White Paper.

67. Whilst local authorities and Registered Social Landlords in Wales have committed to prevent evictions into homelessness, they are entitled by the 2016 Act to repossess a property provided to a person with a secure contract where the relevant grounds have been proven and a court considers it reasonable to grant an order. We consider that a notice issued to repossess a property of a Registered Social Landlord, under a secure contract, would also represent a threat of homelessness and should be captured by this proposed change.

68. We propose one additional change directed at those who reside in accommodation that is a moveable structure, vehicle or vessel adapted for human habitation (such as a caravan or houseboat).

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 homeless under section 55 of the HWA 2014

Securing or helping to secure the availability of accommodation

What the law currently says

69. Once a local housing authority identifies a person is homeless or threatened with homelessness, it must undertake an assessment of a person's case. This assessment considers the applicant's (and anyone living with them) circumstances and housing and support needs to avoid becoming homeless. If a local housing authority assesses the applicant is homeless or threatened with homelessness within 56 days, it can then proceed in determining the duties owed to the applicant, to prevent homelessness or offer the applicant accommodation.

70. Section 66 of the HWA 2014 sets out a duty to prevent an applicant from becoming homeless and represents the initial preventative stage of assistance. Where the section 66 duty applies (where the applicant is threatened with homelessness and eligible for help), the local housing authority must help the applicant to secure or retain suitable accommodation.

71. Section 64 of the HWA 2014 outlines the ways in which a local housing authority may secure or help to secure that suitable accommodation is available for occupation by an applicant. Section 64(2) provides a list of examples of what a local housing authority may provide or arrange. The examples include mediation, payments by way of grant or loan, guarantees payments will be made, advocacy and accommodation. The Code of Guidance also includes a list of interventions a local housing authority ought to have in place as a minimum set of available interventions. This non-exhaustive list includes domestic abuse services, employment and training options, independent housing advice, specialist welfare services for armed forces personnel/veterans, action to intervene with mortgage arrears and action to support disabled applicants. A local housing authority should not be restricted to this list, (nor are they required to offer all services). Other innovative interventions based on local demand should also be identified and considered.

72. 'Help to secure' is defined under section 65 of the HWA 2014. The local housing authority must take reasonable steps to help secure that suitable accommodation is available to a person, having regard (among other things) to the need to make the best use of the authority's resources. Guidance is provided in the Code on a range of "reasonable steps" but it is by no means an exhaustive list, nor is it a prescriptive set of minimum interventions to be offered to each applicant. Section 65(b) of the HWA 2014 and paragraph 12.7 of the Code of Guidance emphasises that where a duty under section 66 applies, a local housing authority has a duty to help an applicant, but there is no duty to secure accommodation.

73. Section 73 of the HWA 2014 requires a local housing authority to help to secure accommodation for homeless applicants who are eligible for help.

74. A local housing authority is expected to be pro-active in the use of interventions and must offer support for applicants on an individual basis. The Welsh Ministers are also under an obligation to give guidance to local housing authorities in relation to how they may secure, or help to secure, suitable accommodation for an applicant.

How the law currently works

75. In carrying out an assessment under section 62 of the HWA 2014 the local housing authority must seek to identify the outcome the applicant wishes to achieve as a result of the authority's help and assess whether any homelessness function could contribute to the achievement of that outcome. It does not require use of Personal Housing Plans (PHP) for this purpose, however Welsh Government guidance promotes their use and, whilst not universal practice, several local housing authorities in Wales have adopted the use of PHPs with their clients.

76. Evidence suggests PHPs can enhance and improve a service users experience where housing professionals have the capacity and capability to complete them properly and they align to individualised assessment of a person's needs.

77. We have heard strong evidence from the Expert Review Panel that the current requirement for a local housing authority to take reasonable steps to help to secure suitable accommodation is available to an applicant, is inadequate. This is because it is overly open to interpretation and can lead to inaction or inadequate action. The concept of reasonable steps is also often inconsistently applied, as a local housing authority is not able to offer uniformity of service across Wales and applicants may not benefit from a full range of services where they are making their homeless application. This issue cannot be addressed by legislation alone but there are opportunities, through legislation and accompanying guidance, to strengthen the reasonable steps expected of a local housing authority, ensure these steps are well understood by clients (through the use of PHPs) and create more uniformity of service provision across Wales.

Proposed Changes

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

78. We propose the completion of PHPs become a requirement for each homelessness applicant. The PHP should be based on a through needs assessment, record the outcomes an applicant wishes to achieve and the steps both the applicant and local housing authority will take to achieve those outcomes. We propose PHPs are completed with applicants subject to both the prevention (section 66) and main duties (section 75) and should set out the steps a local housing authority plans to take to prevent homelessness and to secure settled or longer-term accommodation.

79. In making this proposal we hope to facilitate person centred service provision which is tailored to an individual's needs, and which leads to activity which stands the best possible chance of preventing a person becoming homeless. Wherever possible and appropriate, applicants should be empowered to participate actively in the creation and delivery of their PHP, but we recognise this will not be possible for all applicants.

80. Should this proposal be taken forward in a future Bill, we intend to develop PHPs alongside other case management tools with local housing authorities and those with lived experience of homelessness. It is our intention to ensure they capture a range

of needs including the impact of experience of one or more protected characteristics on a person's experience or risk of homelessness.

We propose a statutory duty to review the needs assessment and PHP with the applicant within a defined timescale of 8 weeks

81. The PHPs should be reviewed regularly to reflect the changing needs and circumstances of the applicant. We suggest a regular review every 8 weeks and additional reviews where there are changes in a person's circumstances (identified by both the applicant or the local housing authority) and where the duty owed to an applicant changes. The PHP must be made available to the applicant as necessary and should be retained as part of individualised case management.

82. The development of PHPs should be completed in a way that reflects the needs of the applicant. Additional support may be needed for people whose circumstances are more complex and, at times, chaotic. Some applicants may not engage with the PHP in the way the local housing authority might expect and it should be anticipated the onus of responsibility will be balanced in different ways, depending on the circumstances and capacity of the applicant. The PHP should be used in a person centred, trauma informed way. It is not the aim of the PHP to be used as a checklist the client is marked against or is used in any way to support the withdrawal of support.

We propose a statutory duty to include an applicant's views on their accommodation needs in a PHP

83. We propose an additional statutory duty which requires both the assessment of need and the PHP to record the applicant's views on the type of accommodation they need. These views will include existing legislative requirements such as accessibility and location but should go further.

84. Individuals may have requirements that are integral to their mental health and sense of well-being, such as being accommodated with their pet, or being placed in accommodation that will support their recovery from substance or alcohol use. In such instances, these personal circumstances must be given consideration in assessing suitability of accommodation. Consideration of other factors, including the experience of one or more protected characteristics, cultural appropriateness and safety should also be made.

85. When considering the suitability of interim and move on accommodation for an applicant, the assessment of need and the PHP must be taken into account (see Chapter 4: Access to accommodation).

Strengthening the steps taken to prevent homelessness

86. As outlined above, currently local housing authorities must take reasonable steps to help to secure accommodation, having regard (amongst other things) to the need to make the best use of the authority's resources.

87. Through these reforms we propose to strengthen this requirement so that the steps taken by the local housing authority are more likely to prevent the applicant from becoming homeless and/or are likely to secure accommodation.

88. Whilst this proposed change may have only a limited effect upon the good practice of many local housing authorities, we consider the more active approach to be necessary, with the policy aim being that an applicant will be more likely to be in receipt of a range of services which are suitable for their needs, and which have a reasonable chance of successfully mitigating their risk of homelessness. The proposed change in law will need to be supported by additional guidance that helps create uniformity of service provision across Wales and funding for the range of services which will be required.

89. We also propose including reference to bespoke reasonable measures required for those with additional support needs, in order to prevent or relieve their homelessness. An example of such a client group would be those in prison. See Chapter 3 on targeted prevention for more information.

Individual right to request a review of decisions

What the law currently says

90. Section 85 of the HWA sets out that applicants have the right to request a review of certain decisions in their case within 21 days of being notified of that decision (or longer as the local housing authority may allow).²⁹ These decisions relate to the applicant's eligibility for help, whether they are owed a duty under sections 66, 68, 73, or 75 (duties to applicants who are homeless or threatened with homelessness) of the HWA 2014 and when those duties end (including where the authority has referred the applicant's case to another authority or decided the conditions for referral are met). The procedure to be followed in relation to reviews is set out in regulations made by the Welsh Ministers under section 86 of the HWA 2014. The current regulations are the Homelessness (Review Procedure) (Wales) Regulations 2015.³⁰

How the law currently works

91. Advice on the process for reviewing a local housing authority's decision is provided by Shelter Cymru.³¹ The Welsh Government does not routinely collect data on the frequency and type of review made by an applicant and this makes it difficult to assess the effectiveness of the existing right of review and whether an applicant is provided with a reasonable opportunity to challenge a local housing authority. Complaints and concerns against the method of review have not been identified in literature or in ongoing engagement with local housing authorities, however the Expert Review Panel have identified key points in the homelessness process where a right of review does not exist and have made recommendations that such rights should be created.

Proposed Changes

92. We propose to include an additional right to request a review in the following areas:

- **A right to request a 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 PHP.**
- **A right to request a review of the suitability of accommodation at any time during an applicant's occupation of the accommodation (which should be available beyond 21 days).**

93. In relation to reasonable steps, this right would assess the merits of the steps required of the local housing authority, as well as any required of the applicant, in respect of either duties to prevent or relieve homelessness. The right of review would also include consideration of any failure on the part of the local housing authority to take agreed upon action with the applicant, or in ending its duty where the applicant

²⁹ Section 85 of the HWA 2014.

³⁰ [The Homelessness \(Review Procedure\) \(Wales\) Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2015/1000/contents/part-2)

³¹ [Asking for a review - Shelter Cymru.](https://www.shelter.org.uk/ask-for-a-review)

considered steps set out in the PHP had not been carried out. The local housing authority would need to demonstrate it had communicated the steps to be taken and that a right of review can be permitted if those steps are not taken.

94. In relation to suitability, currently an applicant has the right to request a review of the suitability of accommodation offered whether or not they have accepted the accommodation (section 85(3) HWA 2014). This applies to temporary and long-term accommodation. However, there is no explicit obligation to notify the applicant of their right to request a review and the request for review must be made within 21 days of being offered the accommodation or a potentially longer period should the Local Housing Authority permit under section 85(5).

95. We propose the creation of an additional right to review of the decision of a local housing authority in its assessment of the suitability of interim accommodation and accommodation provided under the main housing duty (section 75 of the HWA 2014). The right of review should be available at any time during the period of someone's occupation of accommodation, with the right of review communicated clearly.

96. The time frames for completing the review should be made as short as possible, to minimise how long someone is living in unsuitable accommodation. They should ideally, be completed within three weeks, and the applicant informed immediately of the review decision. If this period needs to be delayed, this should be done through agreement, in writing, between the applicant and the reviewer. Such delay may be necessary, should there be the need for extensive evidence gathering, etc. Should this proposal be taken forward we will further consider alignment with section 88 of the Housing Act (Wales) which sets out of rights of appeal.

97. The process and the right to review should be communicated clearly to the individual, with steps taken to ensure the process is understood, including any review decision. The development of the PHP should support the evidence gathering of such reviews, and they should also be updated to record requests for reviews, decision outcomes and their reasoning. When the assessment of housing need and PHP are being reviewed by the local housing authority, that review should include a reconsideration of the suitability of the accommodation occupied by the applicant.

98. The intention of these proposals is to ensure emergency, temporary and longer-term assessment of suitability is more sensitive to the needs of an individual and adaptable, as their needs change.

99. We do not propose any variation to the time periods for review or any other practical elements of the existing review arrangements.

Information and advice services

What the law currently says

100. Section 60 of the HWA 2014 provides a general duty that a local housing authority must have a service providing information and advice about homelessness and its prevention, which must be made available free of charge to any person in its

area or with a local connection to the area. The service is to be made accessible and available, not just to people owed a main statutory duty under Part 2 of the HWA 2014, but to everyone in housing need approaching the local housing authority. This includes people who are not in priority need, those who are intentionally homeless and persons from abroad who do not otherwise qualify for housing assistance. The service must include the publication of information and advice on the following matters:

- (a) the system provided for and how the system operates;
- (b) whether any other help for people who are homeless or may become homeless is available in the authority's area;
- (c) how to access the help available.

101. The local housing authority must work alongside other public authorities, voluntary organisations and other persons, to ensure the service is designed to meet the needs of groups at particular risk of homelessness. The service required by section 60 of the HWA 2014 may be integrated with the service required by section 17 of the Social Services and Well-being (Wales) Act 2014, under which a local housing authority is required to provide information and advice relating to care and support (section 60(6) HWA 2014).³²

How the law currently works

102. The policy aim of the section 60 duty is to ensure a local housing authority provides a basic level of information and advice about homelessness to everyone in their locality. It applies regardless of eligibility and of local connection and it should act as a “catch all” so anyone, in any circumstance receives a basic service. This is particularly important for those who are not eligible for housing and homelessness assistance, including those who have No Recourse to Public Funds (NRPF).

103. This part of the HWA 2014 currently works well. The available evidence does not indicate the need for change and no feedback has been provided on this section during the work of the Panel or the design engagement. As such, no legislative reform is proposed.

³² [Social Services and Well-being \(Wales\) Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/15/section/17)

The three tests: priority need, intentionality and local connection

104. Where a person presents to the local housing authority as homeless or as being threatened with homelessness, the local housing authority will apply three tests to determine what duties are owed to that person. These tests relate to priority need, intentionality and local connection. Each test varies in its rate of application and in its place within the homelessness assessment process. Below, we set out each test in order and assess effectiveness against the policy intentions of the proposed reforms: to ensure that the homelessness system is for all who need it and that homelessness is rare, brief and unrepeatable.

Priority need

What the law currently says

105. One of the aims of the reforms contained in this White Paper is to strengthen prevention work and to facilitate earlier intervention to ensure homelessness is avoided for as many people as possible. The main current prevention duties (as set out in the HWA 2014 and in the earlier chapter) apply to those eligible for assistance, at risk of homelessness within 56 days and without consideration of a person having priority need, being intentionally homeless or with a local connection to an area.³³

106. Should work to prevent homelessness fail or not be possible due to the particular circumstances of an applicant, duties provided by sections 68 and 73 of the HWA 2014 require respectively that interim or suitable accommodation must be found. Where the local authority has reason to believe the applicant may be homeless, eligible for help and “have a priority need for accommodation”, the local authority will have an immediate duty under section 68 of the HWA 2014 to ensure suitable accommodation is available for the applicant (and their household) pending the completion of its investigation into whether the person is owed a duty under section 73 (duty to help to secure) of the HWA 2014.

107. For section 68 to apply, the local authority may not be entirely satisfied, but have reason to believe the applicant *may* be eligible, homeless and have a priority need. The local authority may also be required to act if it has reason to believe *or is satisfied* the applicant has a priority need and the duty to help secure suitable accommodation is owed to them. A higher threshold applies through section 73, (commonly termed the relief duty) where the local authority *must be satisfied* the applicant is homeless and eligible for help.

³³ A local authority is only permitted to provide information, advice and assistance in accessing help to a person who is ineligible to seek assistance.

108. The duty to help to secure accommodation for a person applying for homelessness assistance, under section 73 of the HWA 2014, can end in the circumstances contained within sections 74 or 79, which include where the local authority is satisfied the person is no longer homeless because they have suitable accommodation that is likely to last at least six months. However, due to the current pressure in the system, at the time of writing, in most cases it will end due to the following two reasons:

- the period of 56 days expires, or
- before the end of the 56 days, a local authority is satisfied reasonable steps have been taken to help to secure that suitable accommodation is available for the applicant, but accommodation that is likely to last for a period of at least six months is not available to the applicant.

109. If either situation happens, the local authority must review the applicant's assessment to determine if the applicant has a right to secure accommodation, as provided by section 75 of the HWA 2014 (section 62(9)).

110. Section 75 of the HWA 2014 places a duty on a local authority to secure that suitable accommodation for applicants where requirements to help to secure accommodation, provided by section 73 has ended for applicants that:

- are eligible,
- continue to be homeless,
- are in priority need, and
- are not intentionally homeless, if the local authority is having regard to intentionality,
- or where they are intentionally homeless, they fall under one of the categories of persons who may still be assisted.

111. This duty can only follow the section 73 duty, and in appropriate cases, the section 66 duty to help prevent will also have been owed first.

112. The section 75 duty is an absolute duty, which must be complied with, to ensure that suitable accommodation is available for occupation by the applicant for a minimum of six months. When securing accommodation for applicants, the priority for a local authority must be to minimise the risk of homelessness recurring in order to allow applicants to establish, or re-establish, a settled way of life.

113. If the 'relief' efforts under section 73 of the HWA 2014 do not succeed, only households with priority need are entitled to have housing secured by the local housing authority (either in the private rented sector or in social housing).

114. Eleven categories of people are listed by section 70 of the HWA 2014 as being subject to the final duty under section 75, or in "priority need".

115. Until 24 October 2022, there were ten categories of priority need. On this date the Homelessness (Priority Need and Intentionality) (Wales) Regulations 2022 came into force. These Regulations amended section 70 of the HWA 2014 to add an additional category of people who are street homeless to be considered as in priority

need.³⁴ This amendment ensured a person who is street homeless and who presents to a local authority as eligible for assistance will be in priority need, and accordingly the local authority will be under an interim duty to secure suitable accommodation (under section 68 of the HWA 2014) as well as being entitled to wider support from the local authority provided by section 75 of the HWA 2014. The Regulations provide a transitional legislative bridge between the ‘no one left out’ policy adopted in response to the COVID-19 pandemic and the wider package of legislative and policy reforms outlined in this White Paper.

How the law currently works

116. Given the policy aim of the HWA 2014 (to prevent homelessness in as many cases as possible), it was hoped the section 75 duty to secure accommodation would only be required for a limited number of applicants. It is the case the HWA 2014 considerably reduced the significance of the priority need test, however, data indicates between the implementation of the HWA 2014 and 2019 (prior to the onset of the Coronavirus pandemic), homelessness was unsuccessfully relieved for a significant minority of households and in these cases the priority need test continued to play a role in determining which households would be accommodated and which would not.

Change of approach in response to the Coronavirus pandemic (2020-2022)

117. In response to the Coronavirus pandemic, Welsh Government provided additional guidance and funding to local authorities to ensure everyone who presented to homelessness services without accommodation, were provided with the accommodation and support they needed to stay safe. If necessary, local authorities were asked to procure Bed and Breakfast accommodation (along with other temporary accommodation sources, including hotels) to provide this service. Understandably, this resulted in an increase in people accommodated in such premises. This was necessary due to the lack of other available accommodation and to mitigate public health risks and support people who would previously have been street homeless or at risk of becoming so.

118. This approach became known as the “no one left out” approach and its implementation significantly changed the application of the priority need test and its significance. This is borne out in the statutory data which shows in 2018-19, 1,659 households were determined to be homeless but not in priority need and therefore owed no accommodation duty. By 2022-23 this number had reduced to 165.³⁵

119. Prior to the onset of the pandemic, work was underway to re-consider the role of the priority need test and provide an evidence base upon which the potential future of the priority need test in Wales could be considered. The pandemic response expedited this policy development and sustaining the current practice is an important focus for these proposed reforms.

³⁴ Street homeless is defined in section 71 of the HWA 2014

³⁵ [Households for which assistance has been provided by outcome and household type \(gov.wales\).](https://gov.wales/government/department-for-local-governments-and-communities/publications/2022/04/households-for-which-assistance-has-been-provided-by-outcome-and-household-type)

120. In 2020, a Welsh Government review of priority need in Wales found that more than half of participating stakeholders were critical of the priority need test for turning away certain people experiencing homelessness.³⁶ Participants in the review argued the priority need test lacked any robust logic or defensible justification; that it was ‘quite arbitrary and quite subjective’ and a feature of the law which created barriers to people – particularly single people – receiving the help they needed.

121. Despite this, participants acknowledged the need for some form of rationing and prioritisation due to current resource limitations. While the priority need test was perceived as a ‘safety net’ for vulnerable groups by the majority of respondents,³⁷ most also wanted to see current weaknesses of the test addressed through change, for example, through the extension of priority need groups. Existing groups were, however, considered ‘well designed’ and thought to help avoid a system where decision making was entirely subjective.

122. Participants further identified the ‘high threshold for vulnerability’ as a key weakness of the test, which some suggested may prevent people experiencing street homelessness from accessing interim accommodation and encourage others to become more vulnerable in order to ‘earn’ priority status. The vulnerability test itself was also said to have traumatic impacts for both people experiencing homelessness and front-line staff, who may be required to end a housing duty without having found a solution.

123. Furthermore, participants were near unanimous in their conclusion that implementation of the priority need test (and in particular the vulnerability test) lacks consistency, with front-line workers seemingly pivotal in determining who gets assisted and how. Even so, certain local authorities were acknowledged for trying to work collaboratively in order to drive greater consistency, for example; through the North Wales Regional Forum.

124. Discussing the possibility of abolishing priority need in Wales, participants identified a number of potential issues, including a possible increase in the number of people temporarily housed in unsuitable and expensive accommodation. Participants explained accommodating more single people would be problematic due to the lack of suitable one bedroom and shared accommodation, therefore exits from temporary accommodation would be slow. This forecast has materialised; based on numbers now living in temporary accommodation in Wales following the “no one left out” approach.³⁸

125. Further negative effects identified by the review included disengagement of some households from the system due to long waits; increased demand on local housing markets and local authority resources; the encouragement of ‘gaming’ the system to receive assistance; the emergence of other forms of exclusion; dilution of support for vulnerable households currently in priority need; dissuasion of early or meaningful engagement from households seeking support; and detrimental impacts on the engagement of allied services such as health, criminal justice and social care because responsibility is devolved to housing.

³⁶ [Review of priority need in Wales: summary | GOV.WALES](#)

³⁷ ‘Majority’ defined as ‘roughly more than half of research participants’ by the authors.

³⁸ [Homelessness accommodation provision and rough sleeping: January 2023 | GOV.WALES.](#)

126. As set out above, the findings of the review were quickly superseded by actions taken in response to the Coronavirus pandemic. However, the concerns regarding priority need remain relevant to the purpose of the reforms contained in this White Paper and are set out below:

- The priority need test leads to some people who are homeless being turned away, particularly single people, and those who are sofa surfing, with no appropriate solution. A situation which was described as “an injustice and immoral” in the review.
- The priority need test is reportedly used informally to gatekeep non-priority need households from accessing assistance.
- The test includes a relatively high threshold for vulnerability, despite the limited evidence requirements set by the “reason to believe” test.³⁹ This reportedly results in vulnerable people such as rough sleepers being excluded from access to interim accommodation and support. Participants were also critical of the vulnerability test because it encouraged people to become more vulnerable in order to ‘earn’ priority status.
- The priority need test is implemented inconsistently, particularly when assessing the vulnerability of an applicant, whereby front-line workers appear to be pivotal in determining who gets assisted and how.
- Many participants pointed out the traumatic impacts of the priority need test on people experiencing homelessness and front-line staff. For those experiencing homelessness retelling their story could be traumatic and front-line staff find it very difficult to end a housing duty without having found a solution. At times, this approach would not be compatible with person-centred and trauma-informed practice.
- The priority need test places the focus on process and determining entitlements, rather than the needs of the individual. The process of determining entitlement and challenging decisions was perceived to be very resource intensive, particularly in relation to proving vulnerability. This process is also reportedly over medicalised, placing unreasonable expectations on the skills and abilities of front-line homelessness staff.

127. The complete removal of the priority need test was a key recommendation of the expert Homelessness Action Group, which deemed it a barrier for preventing homelessness in their 2019 report.⁴⁰ A survey of local authorities conducted to inform the Homelessness Monitor: Wales 2021 also found clear support for the removal of the priority need test (15 of 22 authorities), although this was conditional on accompanying extra resources.⁴¹

³⁹ The reason to believe test was adopted for assessing priority need as a lower test than ‘being satisfied’ that the applicant had a priority need. Doing so would lift the burden on applicants and those supporting them from evidencing vulnerability. Welsh Government guidance explains that if the local authority is in any doubt about whether or not the applicant meets any of these criteria, then it must accept an interim duty to accommodate pending completion of its enquiries into whether a person is homeless and eligible (R (on the application of IA) v City of Westminster Council [2013] EWHC 1273 (QB)).

⁴⁰ [Homelessness Action Group: report October 2019 \(gov.wales\)](https://gov.wales/homelessness-action-group-report-october-2019).

⁴¹ [the-homelessness-monitor-wales-2021.pdf \(crisis.org.uk\)](https://crisis.org.uk/the-homelessness-monitor-wales-2021.pdf)

128. The 2021 Homelessness Monitor noted the pandemic response has made clear the barrier the priority need test represents to households who do not meet the priority need threshold, particularly those who are street homeless. Evidence provided by Crisis identified single men and people who are street homeless as the main group of applicants who repeatedly face these barriers. Crisis also found it is these groups of people who benefitted most from legal reforms in Scotland to remove priority need.⁴²

129. As stated above, people who are street homeless are amongst those who have benefitted least under the HWA 2014 and this is illustrated through rough sleeping data which shows that over a two-week period in autumn 2015, an estimated 240 people were sleeping rough. The figure rose by 69% to 405 over the same period in 2019 (the last year for which we have complete comparable data).⁴³ As a result of the pandemic response in Wales we have seen a marked decline in the numbers of people rough sleeping, with figures dropping to a low of 51 in February 2021.⁴⁴ However, this figure has not been sustained and a slow growth has developed since, signifying the need for ongoing work to end street homelessness in Wales.

130. The Panel have expressed clear support for the abolition of priority need alongside a substantial investment in resources and housing supply, including more suitable temporary accommodation.

Proposed Changes

We propose the abolition of priority need so this test is no longer necessary for homeless, eligible applicants to benefit from the duties under sections 68, 73 and 75 of the HWA 2014 (or the equivalent duties in reformed legislation).

131. This abolition should have a clearly defined lead in time, following which it should take immediate effect. During the lead in period, it will be imperative existing steps remain in place, including street homelessness being included as a priority need category. We welcome views, as part of this consultation, on a suitable lead in period timeframe.

132. Many local authorities are already working in a “priority need neutral” way; having continued practice undertaken during the pandemic which has, to some extent, been formalised through adoption of the 11th category of priority need in Wales. We are aware this way of working has contributed to the current exceptional pressure on homelessness services and an unprecedented number of people staying in temporary accommodation. It is for this reason we do not propose the priority need test is abolished immediately. There will be a need, during the lead in time, for clear profiling of housing supply as part of the adoption of a Rapid Rehousing approach. This will ensure anyone experiencing homelessness can move into a settled home as quickly as possible, rather than staying in temporary accommodation for long periods of time and generate significant progression against

⁴² [no one left out report 2021 english-welsh.pdf \(crisis.org.uk\)](#)

⁴³ [Homelessness accommodation provision and rough sleeping | GOV.WALES](#)

⁴⁴ [Homelessness accommodation provision and rough sleeping | GOV.WALES](#)

the Welsh Government commitment for 20,000 additional social homes this Senedd term⁴⁵. This work is already underway in all local authorities in Wales.

133. The proposed lead in time should acknowledge the current pressure on homelessness and housing services which we expect to continue for the short to medium term. The longer-term commitment to abolish the priority need test is a marker of the system we want for the future, but it will only be effective when the vast majority of homelessness is prevented and Rapid Rehousing is the comfortable norm for homelessness practice across Wales.

134. It must also be noted abolishing the priority need test is not intended to mean local authorities have no way of managing their resource or ordering how people are prioritised for an allocation of social housing. Allocations policies will continue to have a key role to play in determining how limited housing supply is offered and this will be explored further in chapter 4 : Access to Accommodation .

⁴⁵ [Rapid Rehousing: guidance \[HTML\] | GOV.WALES](#)

The Intentionality test

What the law currently says

135. Whether or not a person is intentionally homeless will affect which duties are owed to that person under the HWA 2014. For intentional homelessness to be established there must have been actual occupation of accommodation which has ceased. The accommodation must have been available for the applicant, and anyone reasonably expected to reside with them. There are two ways in which a person can become homeless, or threatened with homelessness intentionally:

- (i) by deliberate act or omission (section 77(2) of the HWA 2014).

136. This means they must have done or failed to do something deliberately to cause their homelessness when they should have known the consequences, such as surrender a suitable tenancy or be evicted for anti-social behaviour.

- (ii) by entering into an agreement to cease occupying accommodation which it would have been reasonable for them to continue to occupy (section 77(4) of the HWA 2014).

137. The purpose of the intentionality test is to consider whether or not a person has intentionally made themselves homeless prior to accessing support.

138. The HWA 2014 gave local authorities the power to choose whether or not they apply the intentionality test in Wales. By virtue of section 78(2) of the HWA 2014, when assessing an applicant for help with homelessness, a local housing authority may not have regard to whether or not the applicant has become homeless intentionally for the purposes of sections 68 and 75 unless it has decided to have regard to one or more of the categories of applicants specified by the Welsh Ministers.

139. Section 78(1) of the HWA 2014 requires Welsh Ministers to make regulations which specify a category or categories of applicant which the authority can decide to have regard to whether or not applicants in that category have become intentionally homeless. The Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015 (“the 2015 Intentionality Regulations”) were made under this section and amended by the Homelessness (Priority Need and Intentionality) (Wales) Regulations 2022 to add an additional specified category of applicants (concerning street homeless persons). The local authority must in turn publish a notice of its decision to have regard to intentionality and which of the allowed specific categories it will consider.

140. The local authority must decide if the applicant in a specified category for the purposes of sections 68 and 75 HWA 2014) has become intentionally homeless. It can disregard intentionality unless the following happen:

- (a) the applicant falls within a specified category of persons, and
- (b) the local authority decided to have regard to intentionality in respect of all applicants in that category, and
- (c) the local authority published a notice of its decision to have regard to intentionality in respect of all applicants in that specified category and all relevant procedures have been followed.

141. For example, if an applicant is homeless as a result of being subject to domestic abuse, then they fall within a prescribed category. If the local authority had decided to have regard to intentionality for this category of persons, published a notice to that effect and followed all relevant procedures, then it must have regard to intentionality for this particular applicant. But if the local authority had not decided to have regard to intentionality for persons who were homeless as a result of being subject to domestic abuse, then it could choose to disregard intentionality for this applicant. Also, if a person did not fall into any specified category, the local authority could choose to not have regard to intentionality for that person.

142. Section 96(4) of the HWA 2014 applies when a local housing authority has reason to believe an applicant who lives with a child, may be homeless or threatened with homelessness but may not be offered assistance because they are ineligible or intentionally homeless. Under such circumstances, a local housing authority must ensure its housing department provides the social services department with such assistance as the social services department may reasonably request (see Part 3 of Social Services and Well-Being (Wales) Act 2014).

143. The Code of Guidance is also clear that for homelessness to be intentional the act or omission that led to homelessness must have been deliberate and acts or omissions as a result of a vulnerability (defined by section 71 of the HWA 2014) ought not to be deemed deliberate.⁴⁶ The appropriate wider support services should be consulted before a conclusion on the applicant's intentionality status is reached. Moreover, where a person has unmet support needs and has not been offered advice and support to help prevent them becoming homeless, then the local authority may be minded to decide they became homeless because they were unable to manage without support and the loss of the accommodation might not be seen as a result of a deliberate act.

How the law currently works

144. The cultural shift achieved by the HWA 2014 towards prevention and relief of homelessness has meant the 'intentionality' test has become of far less significance in the last decade. Evidence suggests the intentionality test is very rarely used in practice in Wales and the commencement of section 75(3) of the HWA 2014 in December 2019 very widely curtailed the applicable scope of intentionality for

⁴⁶ [allocation-of-accommodation-and-homelessness-guidance-for-local-authorities_1.pdf \(llyw.cymru\)](#)

families with children and young people under 21 who were homeless.⁴⁷ The following table outlines the latest statutory data on intentionality decisions in Wales and demonstrates a fall in its use over the past four years.⁴⁸

Table 1

	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
Total outcomes	28,881	31,170	31,320	28,833	28,683	31,194
Number of outcomes – eligible, homeless and in priority need but intentionally so.	159	201	129	93	72	93

145. There is evidence of significant variation in the interpretation and use of the intentionality test across Wales.⁴⁹ The evaluation of the HWA 2014 found the majority of service providers to regard intentionality as being ‘counter to the ethos of the Act’, with reports of intentionality being used as a means to ‘gatekeep’ access to services and a means of managing limited resources, with potential detrimental impacts on outcomes for service users.

146. Other evidence sets out the views of some local authorities who argue the intentionality test, whilst rarely used, is useful as an incentive for good behaviour or as a deterrent against poor behaviour.⁵⁰ Some local authorities have raised concerns some individuals will ‘actively worsen’ their situation in order to be accommodated or to mislead the authority to their true situation and this poses a challenge when ensuring services and accommodation are prioritised for those in highest need. Practice based feedback in the development of these reforms has set out that, whilst rare, the homelessness system in Wales can be wilfully and deliberately misused and when this happens it directs resources away from those most in need. Local authorities are clear that with or without an intentionality test, they need a way of protecting the system from this misuse and ensuring dishonest and fraudulent behaviour has consequences.

147. As outlined in The Case for Change, one of the aims of these reforms is to create a homelessness system in Wales which is trauma informed and allows a person-centred approach to service provision. It is our view 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 (no matter how rarely used) can encourage a culture which allows professional determination of who

⁴⁷ Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) The Homelessness Monitor: Wales 2021. London: Crisis; StatsWales: [Households for which assistance has been provided by outcome and household type \(gov.wales\)](https://gov.wales/households-for-which-assistance-has-been-provided-by-outcome-and-household-type) Accessed 19/05/23.

⁴⁸ [Households for which assistance has been provided by outcome and household type \(gov.wales\)](https://gov.wales/households-for-which-assistance-has-been-provided-by-outcome-and-household-type).

⁴⁹ HWA 2014 Evaluation

⁵⁰ Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) The Homelessness Monitor: Wales 2021. London: Crisis

is, or is not, deserving of support. A key aim of these proposed reforms is to trigger change which ends such a culture.

148. Local authority views on whether the intentionality test should remain or be removed is divided.⁵¹ However, evidence collated by the Expert Review Panel suggests application of the intentionality test can result in repeat homelessness as people will often 'come through the system again' following an intentionality decision. In some cases, this will be with increased and exacerbated complex needs which require more intensive support. Given the aim of these reforms to ensure homelessness is rare, brief and unrepeatable, we want to reconsider the relevance of this test.

Proposed Changes

We propose the intentionality test is removed from legislation and is no longer applied in determining whether an applicant is entitled to the prevention and main duties (section 68-interim duty to secure accommodation (in the context of ending the duty) and section 75 (duty to secure accommodation) of the HWA 2014) or any future duties in new legislation.

⁵¹ Ibid

Local connection

149. Sections 80 and 81 of the HWA 2014 relate to local connection. Whether or not a person has a local connection will affect the local authority's ability to refer the application to a different authority. Referrals are discretionary only: local authorities are not required to refer applicants to other local authorities. Nor are they, generally, required to make any inquiries as to whether an applicant has a local connection with an area.

150. The over-arching 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 (defined in the Code of Guidance as local persons and persons who may not be from the local area but where it is unreasonable for them to return to their home area).

151. Section 81 of the HWA 2014 provides that a person has a local connection with the area of a local housing authority in Wales or England if they are normally resident there, and residence is or was of the person's own choice; the person is employed there; because of family associations, or because of special circumstances.

152. To recognise where local connection may not apply, the HWA 2014 also provides Welsh Ministers with a power to specify circumstances in which a person is not to be treated as employed in an area, or where residence in an area is not to be treated as being their own choice. There is no set period an applicant has to live in an area to be regarded as having a local connection. Where local authorities decide to apply the local connection test, they need to consider all the circumstances and decide whether the applicant is clearly settled and if not, whether they have a clear connection elsewhere. Where an applicant is found not to have a local connection in the area in which they are making their homeless application, the local authority may decide to refer a case to another authority in England or Wales.

Conditions for a referral

153. The HWA 2014 only contains provisions for local connection referrals between local authorities in Wales and England. The Housing Act 1996 provides for referrals to and from Scotland.

154. The conditions for a referral are met where the applicant or anyone reasonably expected to reside with them:

- does not have a local connection to the area where they made the homelessness application,
- has a local connection to another authority in Wales or England, and
- does not run the risk of domestic or non-domestic abuse in the area where they are referred.

155. Following notification of the referral, the local authority ceases to be subject to the interim duty to accommodate under section 68 of the HWA 2014 but will owe a duty under section 82(1) to secure that accommodation is available for the applicant

until the question of whether the conditions for referral are met has been agreed. Where authorities are unable to reach agreement on whether the conditions for referral are met, *the decision should be made in accordance with such arrangements as may be directed by order of the Welsh Ministers S.80(5) for Wales and S.80(6) for England*. To date, this has never been required. The HWA 2014 and Code of Guidance sets out provision for a number of specific groups or circumstances where clarification on local connection may be required, including care leavers, former members of the armed forces, those leaving prison, former asylum seekers and victims of abuse and domestic abuse.⁵²

How the law currently works

156. There is divergence in opinion as to the ongoing value of the local connection test.

157. The Homelessness Action Group recommended removing the local connection test and the majority of participants in the Homelessness Monitor in Wales (2021) study were critical of current practice and some advocated removing the test from legislation. However, the vast majority of local authorities, evidenced through responses to the Homelessness Monitor Wales (2021) survey and feedback gathered throughout the development of this White Paper, support the retention of the local connection test.⁵³

158. Evidence on the impact of the local connection test is limited but work undertaken by Crisis outlines why people may seek support outside of their home authority and, therefore why the local connection test might disadvantage some individuals.⁵⁴ While some research suggests people move to more 'service-rich areas', the Crisis report states this is less prevalent than expected. Those seeking support outside their 'home' local authority typically report two or more motivating influences which can be categorised as push factors (loss of employment, fleeing danger or persecution, unhelpful 'home' authorities and parole or bail conditions) and pull factors (having friends in the area, previous visits to the area and being previously resident in an area).

159. The work undertaken by Tai Pawb to inform the White Paper suggests for some protected groups the impact of the local connection test can mean additional disadvantage.⁵⁵ The report highlights for some LGBTQ+ people, strong friendship groups can play the role of family, particularly following family breakdown or the

⁵² Abuse means physical violence, threatening or intimidating behaviour and any other form of abuse which, directly or indirectly, may give rise to the risk of harm. Abuse is domestic if the victim and the abuser are associated as they have agreed to marry one another (whether or not that agreement has been terminated);, current or former spouses/civil partners, living together in an enduring family relationship, now or in the past, living together as part of the same household, now or in the past, (including any person who is or has been in that relationship by virtue of a marriage or civil partnership or an enduring family relationship, parents of the same child or people who jointly have (or had) parental responsibility for a child

⁵³ Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) The Homelessness Monitor: Wales 2021. London: Crisis - 19 out of 22 council representatives judged that a move to end the local connection test would not be beneficial.

⁵⁴ [no one left out report 2021 english-welsh.pdf \(crisis.org.uk\)](#)

⁵⁵ [Experiences-of-homelessness-Final-Version-PDF.pdf \(taipawb.org\)](#)

experience of homophobia and transphobia, and these “found families” provide the network of support a person needs to thrive following an experience of homelessness. This is not an experience covered by current local connection rules.

160. It is also unclear how effective the local connection test is in managing homelessness in a local area. Research undertaken with those with experience of homelessness showed half of those participants would remain in their ‘new’ local authority area, even if they were refused assistance. Individuals prioritise areas where they have existing support networks, access to employment and other opportunities and, for urban areas, perceptions of greater safety and anonymity, rather than to access ‘service rich’ areas.

161. Whilst local authorities are cognisant of these challenges; they raise concerns removal of the test could increase demand in their area, at a time of significant pressure on resources. These concerns have been raised by the vast majority of authorities, no matter their demography. 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.

162. Evidence gathered through engagement with people with lived experience of homelessness raises concerns about local connection. Often these concerns are not so much about the law itself, but about unlawful application or wrongful interpretation of the local connection test, including applying it to those fleeing abuse and the test being used as a gatekeeper to prevent applications rather than at the appropriate time in the process.

163. The proposed reforms in this White Paper are designed to both respond to the current challenges in the homelessness system and to create the system of the future. The policy intention and purpose of the local connection test is to manage demand for homelessness services. There is tension between this purpose and the overall policy intention of these reforms; to create a person-centred, trauma-informed system. Whilst the local connection test does not align fully to the aims of the reform, it is clear, given the overwhelming feedback from local authorities, that for the short to medium term it should remain.

164. Given the challenges outlined above we are of the view the local connection test should change to ensure it is better able to account for the needs of people in particular circumstances, re-prioritise the needs of the applicant group and facilitate a system which is weighed more heavily towards a person-centred approach. It is also possible, in improving application of the local connection test through improved guidance and training, the direct experience of service users can be improved.

Proposed Changes

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

165. In line with the recommendation of the Panel we propose the following groups of applicants be exempt from the local connection provisions:

- a) People who are care-experienced and who are not accommodated under social services duties.
- b) Veterans and those who have cohabitated with veterans during their time in service.
- c) People at risk of domestic abuse or other abuse or exploitation if referred to another local housing authority, whether or not there was previous abuse.
- d) People who were subject to domestic abuse, other abuse or exploitation, and will experience trauma as a result of that domestic abuse, other abuse or exploitation, if referred to another local housing authority.
- e) Prison leavers who require a move to a new area as part of their rehabilitation, or to assist in meeting the restrictions placed on where they are able to live as a result of their offence.

166. We also propose to consider further how existing “special circumstances” criteria may be applicable for certain groups who are at greater risk of harm from the local connection test, encouraging local housing authorities to adopt a more flexible approach where they identify this harm will be realised. Such groups might include:

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

167. Changes to local connection would be strengthened through a properly supported end-to-end reconnection service which enables people to relocate to their country of origin if that is in their best interests and an option they wish to pursue. This broader policy action will be explored alongside the reforms proposed in this White Paper, alongside consideration of how applicants can be supported to access alternative housing solutions if they are not found to have a local connection but do not want to move to where they do have a local connection.

168. The Expert Review Panel have made several recommendations for supplementary guidance around any revised local connection test, which will be considered further should this proposal go forward to draft legislation.

169. Given our proposals above, the local connection test would be the only remaining test for access to the main duty in Wales. It is our proposal that application of the test remains discretionary and where it is applied, it must be determined before the section 73 duty is accepted (section 80(1)(b) HWA 2014). Once that duty is accepted it will not be possible for the local authority to refuse to accept the main duty (section 75 HWA 2014). Even so, it is possible an unintended consequence of this is the test becomes of enhanced importance to local authorities and is applied more rigorously than a person-centred, trauma-informed approach requires. As such, we also plan to issue clear statutory guidance on the implementation of a changed local connection test and to monitor its use.

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

We propose a new duty on local housing authorities to help support a person to retain accommodation where the applicant has been helped to secure accommodation (which might be their existing accommodation) or where accommodation has been offered to and accepted by the applicant.

170. The duty will be to provide such support, to the applicant and/or to any member of their household, as the local housing authority considers is reasonably necessary, having regard to the applicant's needs and its resources, in order to assist the applicant to retain the accommodation.

171. Informed by the work of the Expert Review Panel, we consider the duty should apply to an applicant who the local housing authority assesses as requiring support to retain their accommodation, rather than a universal duty. Where necessary, a local housing authority would also be permitted to request support to be provided from other public authorities, including other functions of a local authority. The policy intention here is that an entire local authority has a responsibility – not just the local housing authority. The extension of the duty to support the retention of a contract to other public authorities aligns to the proposed duty to co-operate. Therefore, any public authority required to co-operate with a local housing authority to prevent homelessness could also be required to assist with the retention of a contract, including the provision of all forms of support.

172. Assuming a contract-holder settles into their new home, having received assistance from a local housing authority, an end point of this duty will be necessary. We consider, for consistency with the minimum contract period for contract-holders in Wales, this is set at 12 months. However, should the local housing authority, in partnership with the landlord, assess the contract-holder is settled and living stably in their home, it should be able to end the duty on the basis it is satisfied there is no obvious risk of the contract failing.

Simplifying the current homelessness system by removing the “relief duty (section 73 of the HWA 2014)

173. Should our proposals to abolish the priority need and intentionality tests be taken forward into future legislation, it will no longer be necessary to maintain the relief duty provided by section 73 of the HWA 2014, as the distinction which existed between those with priority need and those without will naturally end.

174. The proposed removal of the relief duty aims to create a process wherein a person threatened with homelessness will be owed the prevention duty (section 66 HWA 2014), and a person who is homeless will be owed the main housing duty (section 75 HWA 2014), unless there is a referral under local connection (section.80 HWA 2014).

175. We are aware in practice, local housing authorities have been operating in a 'priority need neutral' manner since the pandemic (and after the Homelessness (Priority Need and Intentionality) (Wales) Regulations 2022 came into force, which specified that those who were street homeless have a priority need for accommodation) and previously had significantly reduced the use of the intentionality test to negligible levels.

176. However, we note a potential unintended consequence of removal of the relief duty to be a loss of the actions the local housing authority is expected to consider under section 64 of the HWA 2014, which are not required under the main duty. Should the relief duty be removed, it is our policy intention the actions currently required under the relief duty are maintained as expected preventative duties of a local housing authority or set against their responsibilities when securing accommodation under the main housing duty (section 75 of the HWA 2014).

Local connection, serving prisoners and the proposed abolition of the current relief duty

177. Should the relief duty (section 73) be removed, as proposed, we would still want to allow local connection referrals for applicants provided with assistance by section 75 of the HWA 2014. However, there may be benefits for serving prisoners for a referral under local connection to be made at the prevention rather than the main housing duty stage. This is explored further in the targeted prevention section on the Criminal Justice System.

The unreasonable failure to co-operate test

What the law currently says

178. The local authority has a number of duties under Part 2 of the HWA 2014 towards applicants who are in housing need. For each of the duties a specific circumstance or set of circumstances will bring the duty to an end. Section 79 of the HWA 2014 sets out further circumstances in which the local housing authority's duties under sections 66, 68, 73 and 75 come to an end. Most of the provisions within this section set out fact-based reasons to end a duty; relating to eligibility, mistake and withdrawal. However, sub-section 79(5) states any duty owed to an applicant can end where the local housing authority is satisfied the applicant is "unreasonably failing to co-operate" with the local housing authority in the exercise of its functions.

How the law currently works

179. The application of the unreasonable failure to co-operate test requires a more subjective decision to be taken and although we do not have data on the use of this test in practice, we are concerned this test is at odds with our policy aims to ensure the homeless system is person centred and trauma informed. A person at risk of or experiencing homelessness, will at times have gone through unimaginable pressures and traumas and have few positive options available. If they are unable to obtain

assistance the risk of harm is significant, which may instead require the intervention of emergency rather than housing services.

Proposed Changes

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

180. Based on the Expert Review Panel's recommendations we propose the following:

- a) Threatening behaviour towards local housing authority staff.
- b) Consistent non-contact with housing options services.

181. Should this proposal be taken forward, we will also set out additional requirements related to the communication of the decision to the applicant. In these circumstances, the applicant should be notified of the local housing authority's intention to consider they have deliberately and unreasonably refused to co-operate with the local housing authority. This will provide a final opportunity to the applicant to offer an explanation for their behaviour or loss of contact and be provided reasons for the decision.

Communication between the local housing authority and the applicant

What the law currently says

182. Section 84 of the HWA 2014 sets out that where a local housing authority concludes its duty to an applicant under section 66, 68, 73 or 75 of the HWA 2014 has come to an end, the authority is required to notify the applicant. Section 84(3) requires the local housing authority must give this notification in writing, and it must explain why it no longer regards itself as being subject to the relevant duty, why the duty has ended and, in relation to the section 73 duty, the reasonable steps undertaken, the assistance offered and why the steps failed. The notice must also include information about the applicant's right to request a review of the decisions made, and the time period within which a request for a review must be made.

183. The current legislation sets out a requirement to notify clients in writing. In the early training programme to support implementation of the HWA 2014 it was made clear to authorities this requirement could be discharged via text or electronic mail, but it is understood the vast majority of notification practice is done via letter. Practice based feedback suggests the reason for this is mainly risk of challenge if plainer language or alternative delivery means are used.

How the law currently works

184. Feedback provided to develop the policy proposals for this White Paper, particularly from people who are or have been homeless, is that the process of applying for assistance is complex and unclear and the way certain decisions are communicated (in written letters, using legalistic language) can be inaccessible. Due to the significant demand on housing services and capacity of the workforce itself, providing sufficiently frequent and regular communication can also be challenging.

185. Evidence provided by Experts by Experience is critical of the notifications provided by a local housing authority at various stages of an application.⁵⁶ Recent work undertaken by End Youth Homelessness Cymru also suggests the current notification system used by most local housing authorities is not accessible to young people and those who are neuro-diverse.⁵⁷ There will also be accessibility issues for those who speak Welsh or English as a second language, those with learning disabilities and those who are unable to read. Local housing authorities also point out 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 their clients and their staff teams.

186. A local housing authority is currently required to write to an applicant at various points in the application process, confirming whether they have been successful, unsuccessful or when a duty owed ends. The letters an applicant receives, in representing a variety of circumstances and outcomes, must be accurate in reflecting the duties owed, refused or ended. Any inaccuracy, where the local housing

⁵⁶ Section 63 (notice of outcome of assessment of homelessness, outcome of prevention duty, outcome of interim duty, outcome of relief duty and outcome of main duty), Section 84 (end of prevention, interim, relief and main duties).

⁵⁷ [EYHC Roadmap Full Report.pdf \(cardiff.ac.uk\)](#).

authority is at fault, could lead to a challenge being made. Consequently, we have heard from practitioners that they may adopt a cautious approach at times, with correspondence issued in formal language which can be hard to understand and follow.

Proposed Changes

We propose to make it clear that local housing authorities must ensure (based on a rigorous assessment of need and a PHP) they communicate with applicants in a way which is accessible and tailored to any individual needs.

187. As part of this consultation, we want to explore good practice in relation to alternative ways of communicating key decisions, which are more accessible, particularly for those with a learning disability or with experience of neurodiversity. These alternatives might include plain English letters issued alongside a formal letter and better use of digital technology. Any proposal we take forward to amend how decisions are communicated will need to be balanced with ensuring clear information is articulated which does not raise the risk of legal challenge.

188. Local housing authorities have overcome issues associated with communicating with applicants by working with officers from other areas, support workers of applicants, third sector partners, using film, QR codes or peer delivered virtual messaging and working with communication specialists. This suggests informal arrangements, developed at a local level are most likely to make a difference, rather than any prescription in legislation. We will therefore consider the role of clearer guidance in setting out options for accessible and effective communication, working alongside bodies such as the Welsh Local Government Association to share good practice.

We also 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 reviews of the suitability of the accommodation and of any other relevant decisions.**
- iii. Support that may be available to the applicant.**

We propose further detail relating to communication be outlined in guidance.

Consultation questions

- 1. Do you agree these proposals will lead to increased prevention and relief of homelessness?
Yes/no**
- 2. What are your reasons for this?**
- 3. Are there additional legislative proposals you think we should consider to improve the prevention and relief of homelessness?**
- 4. Do you agree with our proposal to abolish the priority need test?
Yes/no**
- 5. Do you agree with our proposal to abolish the Intentionality test?
Yes/no**
- 6. Do you agree with our proposal to keep the local connection test but add additional groups of people to the list of exemptions to allow for non-familial connections with communities and to better take account of the reasons why someone is unable to return to their home authority.**
- 7. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?**

Chapter 2: The role of the Welsh public service in preventing homelessness

Wider duties on the Welsh public service to prevent homelessness

189. The causes of homelessness are varied and wide ranging. For some, homelessness is a consequence of complex factors, which require an equally varied and wide-ranging response. For others, homelessness is linked to pressures within the property market and they may have few other support needs. Whatever the cause, 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.⁵⁸ It is vital each of these services acts to prevent homelessness, either by itself or with partners to help a potential homeless applicant to access housing and homelessness support at an early stage. We want to ensure a person's housing situation is considered when they encounter these public services. It is on this basis, and in recognition of the evidenced intersection between homelessness, health issues, criminal justice arrangements and matters which are the responsibility of the social care sector, that we propose reforms which widen responsibility for identifying and preventing homelessness across the public service.

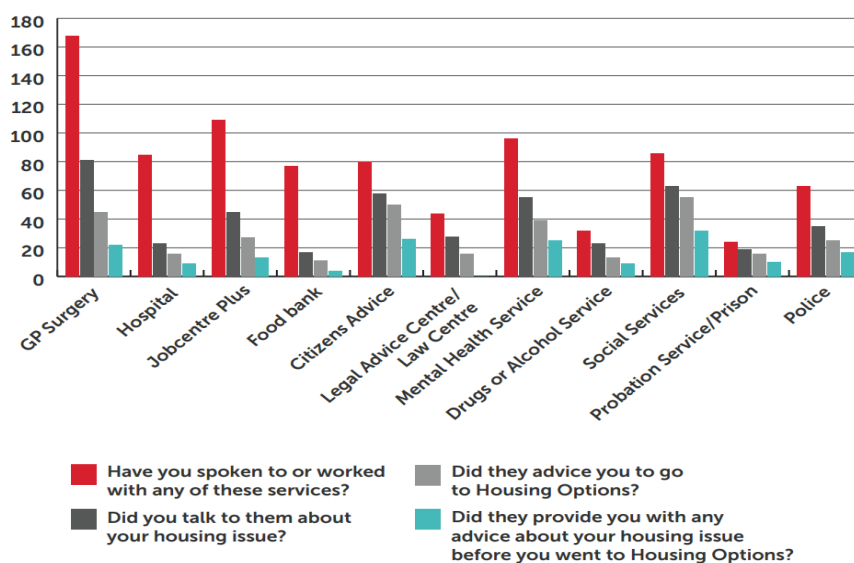
190. The reforms proposed by this White Paper aim to ensure people who experience homelessness receive the person-centred support they need from a variety of organisations, working in partnership to intervene as early as possible and prevent homelessness. It is our view such practice will not only prevent homelessness more effectively but will improve services to individuals and bring wider benefits to all aspects of the Welsh public service. An example of such practice would be a referral to a local housing authority by NHS mental health services when a precarious housing situation is identified as a contributory factor to an individual's mental health. In so doing, it is likely the service offered by a local housing authority could prevent risk of homelessness materialising, which may have a positive impact on the person's mental health and well-being.

191. The type of public services accessed by people experiencing homelessness is illustrated in research undertaken by Crisis into the implementation of the Homelessness Reduction Act 2017, as set out in the chart below.⁵⁹ The chart is based on participants experience in England, but it is likely the experiences will be similar in Wales.

⁵⁸ *Homelessness Action Group: report March 2020 (gov.wales)*

⁵⁹ [hra-report-2022.pdf \(crisis.org.uk\)](https://www.crisis.org.uk/hra-report-2022.pdf)

Figure 2.10: Experience of contact with other services, Wave 3



192. Practice-based evidence suggests despite the wide range of services which may be involved with an individual experiencing or at risk of homelessness, this does not always result in the holistic, person-centred, trauma-informed and multi-disciplinary response which is most effective in sustaining tenancies and preventing homelessness. The various Housing First projects operating across sixteen local authorities in Wales illustrate how an intense form of wraparound public service support can assist individuals in maintaining their tenancies, with the average tenancy sustainment rate at 90% recorded up to September 2021.⁶⁰

193. Engagement with local authorities, RSLs and third sector homelessness and housing support services has identified the following challenges in relation to current multi-disciplinary responses to homelessness prevention.⁶¹

Lack of understanding of risk factors

194. Stable housing is a prerequisite for almost any successful public service intervention. Risk factors associated with insecure housing and homelessness are not always well understood by professionals working across related sectors. As a result, opportunities to intervene and prevent homelessness early can be missed. The most appropriate time to tackle homelessness is before it has occurred, preventing a person from losing their home or supporting them to move into a home when they are leaving care or another institutional setting. Evidence suggests once an individual enters temporary or insecure accommodation, their ability and the ability of public services to engage and manage decreases.⁶² When the risk factors are missed or homelessness itself emerges too late, local authority teams must

⁶⁰ [HF Wales Tracker - Sep 2021.pdf \(cymorthcymru.org.uk\)](#)

⁶¹ Feedback received through pre-consultation events undertaken in Newport, Llandrindod Wells and Carmarthen in March 2023.

⁶² ["I hoped there'd be more options:" Experiences of the Homelessness Reduction Act, 2018-2021 | Crisis | Together we will end homelessness](#)

respond to a crisis, which tends to focus on “getting a roof over someone’s head” rather than the causative factors leading to the crisis.

A cultural focus on rooflessness

195. Homelessness can be misunderstood as the experience of having, literally, no roof over a person’s head. There is also often a misconception that homelessness is a consequence of anti-social behaviour or a lack of personal responsibility. However, in many cases, it is a result of a complex variety of structural, societal and economic factors as well as personal pressures, which require an equally wide-ranging response. Some people may have low needs, whilst others require more from services.

196. Local housing authority teams repeatedly report they often work alone with people who are experiencing homelessness alongside a range of other support needs, even though accommodation is only one of those support needs. The ‘no one left out’ approach, applied during the pandemic period, was a policy decision taken in recognition of the public health risks people who were street homeless were facing. Whilst provision and access to housing is a key component of measures to prevent homelessness, there remains a vital need for a broader public service response.

197. In many cases, due to unprecedented demand on homelessness services, the accommodation on offer to a person applying for homelessness assistance is a medium to long-term placement in temporary accommodation. Despite the best efforts of providers, placement in temporary accommodation can be damaging to a person’s health and well-being, often exacerbating unhealthy coping strategies, and requiring more support, not less. Even where a permanent offer of accommodation can be made, a person’s wider, complex needs will not be addressed by the provision of accommodation alone.

Competing priorities

198. There are many examples of good practice across the Welsh public service when preventing homelessness, as illustrated by pathways for children, young people, and adults in the secure estate.⁶³ However, we recognise this good practice does not happen across the public service as routinely as it should, resulting in poorer outcomes for some individuals and an increased reliance on wider public services, such as emergency units for routine medical care. In some circumstances, the practice of a public authority may actually undermine homelessness prevention. For example, decision makers, when assessing the settlement of people leaving the secure estate, particularly those convicted of sexual offences, may prevent an individual being housed in accommodation recommended by housing professionals. There are of course safeguarding measures that must be fulfilled, but continual refusal of settlement will inevitably impact on other public services and the reintegration of a person into a community.

⁶³ [National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate](#)

Homelessness as a public service issue

199. The following section summarises the impact of homelessness on other public services.

Health and inclusion health

200. Health services are increasingly targeting 'inclusion health groups', made up of people who have traditionally been excluded from mainstream health care services (due to a number of risk factors, including stigma and discrimination and lack of registration with care providers). People who are homeless are one of the inclusion health groups, but others include people with a drug and alcohol dependence, vulnerable migrants and victims of slavery and human trafficking.

201. Poor health is one of the causes and consequences of homelessness and the physical and mental health impacts of this experience are extremely serious and life limiting, with the average age of death amongst people experiencing all types of homelessness being 45 for a man and 43 for a woman in England and Wales (around 30 years lower than the general population).⁶⁴ Not surprisingly, evidence suggests individuals experiencing homelessness have a disproportionately high need for healthcare services; 78% of people who are homeless report having a physical health condition, with 29% having between 5-10 diagnoses.⁶⁵ Preventable mortality amongst some causes of death is at a much higher rate for a person with experience of homelessness than that of the wider population in Wales.⁶⁶ For example, people experiencing homelessness are twice as likely to die as the general population from heart attacks and chronic heart disease.⁶⁷

202. These physical health impacts are exacerbated further as people experiencing homelessness often find it difficult to access healthcare services.⁶⁸ This is demonstrable when comparing attendance in emergency services between people with lived experience of homelessness; 562 Accident and Emergency attendances per 1,000 population for people who are homeless, compared to 83 in the general population.⁶⁹ A health and homelessness data linkage project undertaken in

⁶⁴Office for National Statistics (ONS), [Deaths of homeless people in England and Wales: 2021 registrations](#) -accessed via Expert Review Panel on Homelessness Briefing for Meeting 7: Health, Social Care and Homelessness March 2023

⁶⁵ Homeless Link, [Unhealthy State of Homelessness 2022: Findings from the Homeless Health Needs Audit](#) -accessed via Expert Review Panel on Homelessness Briefing for Meeting 7: Health, Social Care and Homelessness March 2023

⁶⁶ Grey CNB and Woodfine L. (2019). Voices of those with lived experiences of homelessness and adversity in Wales: informing prevention and response. Cardiff: Public Health Wales NHS Trust - accessed via Expert Review Panel on Homelessness Briefing for Meeting 7: Health, Social Care and Homelessness March 2023

⁶⁷ Watson I, MacKenzie F, Woodfine L and Azam S. (2019). Making a Difference. Housing and Health: A Case for Investment. Cardiff, Public Health Wales -accessed via Expert Review Panel on Homelessness Briefing for Meeting 7: Health, Social Care and Homelessness March 2023

⁶⁸ Public Health Wales, [Health of individuals with lived experience of homelessness in Wales, during the COVID-19 pandemic](#) -accessed via Expert Review Panel on Homelessness Briefing for Meeting 7: Health, Social Care and Homelessness March 2023

⁶⁹ Song J, Moreno-Stokoe C, Grey CNB, Davies AR. (2021). Health of individuals with lived experience of homelessness in Wales, during the COVID-19 pandemic. Cardiff: Public Health Wales - accessed via Expert Review Panel on Homelessness Briefing for Meeting 7: Health, Social Care and Homelessness March 2023

Scotland showed people's use of health services peaks just before they make their first homelessness application, a finding similar to experiences of people who were helped by the Housing Support Programme (previously known as Supporting People Programme) in Wales.^{70 71}

203. The impact of homelessness also extends beyond physical impacts to mental health. There is a lack of robust data on mental health problems and homelessness in Wales, however, statistics in England demonstrate that mental health is the most common support need for those who approach local authorities for homelessness assistance.⁷²

Substance use

204. 30% of people experiencing street homelessness cite substance use as a contributing factor to their homelessness.⁷³ Research undertaken by Cymorth Cymru found more than two thirds of people who are homeless had either a drug or an alcohol problem whilst additional work by St Mungo's found substance use is directly connected to the length of time a person has spent street homeless.⁷⁴ This research found more than a third of people who experienced intermittent and long-term street homelessness had substance or alcohol support needs.⁷⁵

Social care

205. Care experienced young people are significantly overrepresented in homelessness services.⁷⁶ According to Public Health Wales, more than one in four of all young people who are care experienced are homeless, 26% have sofa surfed, and 14% have been street homeless.⁷⁷ Children in Wales, regardless of whether they have received care, who experience four or more adverse childhood experiences, are 16 times more likely to experience homelessness and those with supportive family environments have almost 90% lower odds of experiencing homelessness compared with those who do not. Consequently, adolescents who are homeless are more likely to report depressive symptoms and have limited ability to cope with stressors experienced in their lives and increased rates of physical health problems compared to those who live in stable accommodation.⁷⁸

Education

206. Staff working in education and school settings may have an increasingly important role to play in identifying the risk of homelessness for children and young people.⁷⁹ Research undertaken in England by Shelter found more than three-

⁷⁰ [Health and homelessness in Scotland: research - gov.scot \(www.gov.scot\)](https://www.gov.scot/research/publications/health-homelessness-scotland/2019/01/health-and-homelessness-in-scotland-research-gov-scot)

⁷¹ [Supporting People data linking project | GOV.WALES](https://gov.wales/supporting-people-data-linking-project)

⁷² Department for Levelling Up, Communities, and Housing. (2021). Homelessness Statistics

⁷³ Public Health Wales, [Health of individuals with lived experience of homelessness in Wales, during the COVID-19 pandemic](https://phw.nhs.wales/files/housing-and-health-reports/a-case-for-investment-report/)

⁷⁴ Cymorth Cymru (2016) Health Matters The health needs of homeless people in Wales

⁷⁵ Chain, [Chain Annual Report, Greater London, April 2022-March 2023](https://chain.org.uk/chain-annual-report-greater-london-april-2022-march-2023)

⁷⁶ See glossary for definition

⁷⁷ [ENGLISH-PHW-Preventing-homelessness-in-care-experienced-individuals.pdf \(phwwhocc.co.uk\)](https://phw.nhs.wales/files/housing-and-health-reports/a-case-for-investment-report/)

⁷⁸ <https://phw.nhs.wales/files/housing-and-health-reports/a-case-for-investment-report/>

⁷⁹ [Housing in Wales \(Census 2021\) | GOV.WALES](https://gov.wales/housing-in-wales-census-2021)

quarters (77%) of teachers surveyed had seen children who were homeless or living in bad housing at their school in the last three years. Seven out of every ten teachers (69%) had seen children who were living in overcrowded, unstable or poor-quality housing.

207. Homelessness can impact on a range of indicators of a child's development and well-being and the amount of time a child will or should be in a school setting provides an opportunity to identify pupils at risk of homelessness, arguably more so than any other regular interaction with public services.⁸⁰ A data linkage project undertaken in Swansea found becoming homeless or at risk of homelessness was associated with a 7% increase in total sessions absent from school.⁸¹ It also found the proportion of children who were eligible for free school meals was greater amongst households accessing the local authority housing team.

208. There is [evidence](#) of a link between not being in education, employment or training (NEET) and youth homelessness. A sample of people experiencing homelessness in Wales suggests 59% first became homeless before the age of 21. Further, 78% had been homeless more than three times, showing that once someone has become homeless once, it is likely to recur, enhancing the argument for strong prevention initiatives. This is not to say all young people identified as NEET are at risk of youth homelessness, although there is undoubtedly some read across.

209. Through the refreshed [Youth Engagement and Progression Framework](#), published in 2022, we are working with local authorities to strengthen and adapt their successful early identification systems to account for additional risk factors and indicators associated with youth homelessness. Through the Youth Service and in collaboration with a range of partners, the aim is to identify and support young people who start to show some of the risk factors that can lead to homelessness. Investing in services at this early stage to support young people and their families will address issues before they escalate. Schools are crucial in this process as not all indicators are data based and need to be supplemented by practitioner input. Discussions between school practitioners and other multi-agency partners can build a holistic picture of the young person and their situation, which can change quickly. Practitioner input can highlight changes to family circumstances, indicators of challenging behaviour, changes in support requirements etc. and is vital in ensuring effective support can be provided at the right time.

210. In addition, we are investing to make sure more schools are able to operate and develop as Community Focused Schools, which reach out to engage families and work with the wider community to support all pupils and particularly those from low-income households. This year we provided £6.5m to local authorities to increase the number of Family Engagement Officers (FEO) employed by schools, ensuring that positive partnerships with families are developed, offering bespoke support and signposting to relevant services as appropriate. We are also continuing to fund a trial of Community Focused Schools Managers, who will work on developing better engagement between schools and their communities. A suite of guidance is being

⁸⁰ [Teachers Research Report.pdf \(ctfassets.net\)](#)

⁸¹ [Absence from school amongst children living in homeless households | GOV.WALES](#)

developed to support key stakeholders to implement a Community Focused Schools approach; [overarching guidance on Community Focused Schools](#) was published in November 2022, with supplementary guidance [Developing family engagement in Community Focused Schools](#) published in January. Further supplementary guidance on the key aspects of community engagement and multi-agency engagement will be published in due course, along with further research and case studies.

What the law currently says

211. Duties and powers provided by the HWA 2014 to prevent and alleviate homelessness fall primarily on a local housing authority. However, section 95 of the HWA 2014 provides for co-operation to be undertaken to help prevent and alleviate homelessness via the broader functions of a local authority; specifically between social services and homelessness teams. Section 95 also extends requirements for co-operation beyond the local authority and allows a local housing authority to seek co-operation from certain listed public bodies so they can help it deliver its homelessness functions. Co-operation must be given unless the request is incompatible with the public bodies duties or has an adverse impact on its functions.

212. Practice based feedback suggests the provisions in section 95 have helped facilitate strong working relationships, particularly, between social services and RSLs in some areas, but this practice does not appear to be strong across the whole of Wales. Moreover, it does not appear that the range of organisations required to address the causes and effects of homelessness are engaged routinely.

213. Homelessness Strategies, made under section 50 of the HWA 2014, are also critical to how a local housing authority sets actions it may wish to undertake with partners who operate in the public and third sector to prevent or alleviate homelessness. This should be done through agreement and in an integrated way, whilst reflecting the needs of the people being supported (in a person-centred and trauma-informed manner and in line with the principles of the 2022 Trauma Informed Wales Framework).⁸²

214. Arrangements to promote co-operation that help prevent or alleviate homelessness are not limited to the HWA 2014 and are also reflected in:

- part 9 of the Social Services and Well-being (Wales) Act 2014, including the role of a Regional Partnership Board as well as non-statutory arrangements.
- the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 which includes a duty for a local strategy.
- the National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate.⁸³
- the Care leavers accommodation and support framework for Wales⁸⁴ and,
- the National Housing Pathway for Ex-Service Personnel, which complements the Armed Forces Covenant duty requiring a local authority to

⁸² [Trauma-Informed Wales \(traumaframeworkcymru.com\)](https://traumaframeworkcymru.com)

⁸³ [27291 Homelessness Pathway for Prisoner \(gov.wales\)](https://gov.wales/27291)

⁸⁴ [Care leavers accommodation and support framework for Wales - Shelter Cymru](#)

consider the Covenant when performing certain functions related to housing.⁸⁵

UK Comparators

215. In England, section 10 of the Homelessness Reduction Act 2017 introduced a duty to refer requiring specified public authorities to notify a local housing authority about individuals if they consider them to be homeless or likely to become homeless.⁸⁶ Those public authorities are named in the Homelessness (Review Procedure etc.) Regulations 2018 (the 2018 England Regulations).⁸⁷ The aim of the 'duty to refer', is to improve joint working between services to prevent homelessness, ensuring a person's housing needs are actively considered by a public authority. Through this collaboration, services can better intervene at the earliest possible stage.⁸⁸ Whilst actual homelessness will be easier for a public authority to identify, the threat of homelessness is more challenging to spot and in these circumstances, consideration is expected to be given to possible financial issues, tenancy problems (such as disputes with landlords about the condition of accommodation or rent levels), experiences of domestic abuse and different types of violence, discharge from public institutions and experiences in care, prison or the armed forces.

216. The Scottish Government has recently consulted on a proposed duty to 'ask and act', wherein a range of public bodies may be required to identify whether the people they work with are at risk of homelessness or are experiencing housing problems, and to take action to address this risk.⁸⁹ In some cases, the action required would be a referral to the local authority, in other cases, the public body may be in a position to take more direct action to prevent homelessness, such as providing enhanced care for mental health needs.

How the law currently works

217. The HWA 2014 does not provide a method for ensuring co-operation across the Welsh public service to prevent homelessness and the Expert Review Panel are clear there is evidence of a lack of co-operation between health and social care services and homelessness services to prevent homelessness.⁹⁰ This is despite the point of entry and exit from health and social services often being a critical point to intervene in preventing homelessness, for example, where someone is entering hospital for inpatient psychiatric assistance or leaving the care system.

218. As outlined earlier in this chapter, those working in local authorities and RSLs have reported that at times they perceive their partners will withdraw or provide limited assistance to prevent homelessness when faced with competing priorities. In many cases this reflects pressures across the wider Welsh public service and the challenges faced by professionals since the Covid 19 pandemic and the current cost of living crisis.

⁸⁵ [national-housing-pathway-for-ex-service-personnel.pdf \(gov.wales\)](#)

⁸⁶ [Homelessness Reduction Act 2017 \(legislation.gov.uk\)](#)

⁸⁷ [The Homelessness \(Review Procedure etc.\) Regulations 2018 \(legislation.gov.uk\)](#)

⁸⁸ [A guide to the duty to refer - GOV.UK \(www.gov.uk\)](#)

⁸⁹ To note this is not the "Ask and Act" policy referred to in the Welsh Government's Violence against Women, Domestic Abuse and Sexual Violence legislation.

⁹⁰ [Wales Expert Review Panel \(crisis.org.uk\)](#)

219. All parts of the public service will rely on others to deliver services, but the holistic approach needed to prevent and alleviate homelessness, given its wide-ranging causative factors, can limit positive outcomes, especially as the 'no one left out' approach has transformed ambitions for ending homelessness. It is our view the current system does not facilitate joint working as well as we would like it to. If homelessness is to become rare, brief and unrepeatable it is crucial the entire public service in Wales is able to play its part in identifying and preventing homelessness. Good practice of collaborative working has been identified in parts of Wales to address street homelessness and it is vital this approach becomes more widespread.⁹¹

Proposed Changes

220. Reforms to existing legislation are required to prevent more cases of homelessness, enable intervention at the earliest possible opportunity and to create a more holistic, person-centred and trauma-informed response across the Welsh public service for people who are homeless or at risk of experiencing homelessness. To achieve this, we propose to make sustainment of a person's accommodation (principally aimed at contract holders) and homelessness prevention the shared responsibility of wider public service partners and require them to work with local authority homelessness teams to both prevent homelessness and assist a person to retain their place in their permanent accommodation. Where necessary, we also propose the creation of multi-disciplinary teams around people who are homeless or threatened with homelessness, to address the complexity of their needs. We propose to meet this policy intention through the following proposed legislative reforms:

A duty to identify and refer

- **A new duty to identify those at risk of homelessness and refer on to specified parts of the public service, so a local authority is notified as soon as possible a person is facing a threat of homelessness or is already experiencing homelessness.**
- **We propose 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 standard or secure occupation contracts and mitigate the risk of homelessness.**
- **An expanded duty to co-operate (currently imposed by section 95 of the HWA 2014), 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.**

⁹¹ [Rough Sleeping in Wales – Everyone's Problem; No One's responsibility \(audit.wales\)](#)

221. Evaluation of the Homelessness Reduction Act 2017 in England has identified the duty to refer has been useful in guiding people at risk of homelessness to housing services.⁹² The evaluation also provides some learning for implementation of such a duty; it is crucial the duty is acted upon as quickly as possible to maximise opportunities to intervene earlier and the duty is most likely to be effective where it is part of a wider culture of co-operation and shared responsibility. It is our view a duty to refer must also ensure, where necessary and appropriate, relevant public services continue to take an active part in a person's service provision and these duties must be set against a wider requirement for specified bodies to co-operate. We believe, in combination, this approach is more likely to bring about the transformation required to make homelessness in Wales rare, brief and unrepeatable.

222. A proposed duty to identify and refer will rely on a national learning and development campaign to ensure those working in relevant parts of the Welsh public service are able to identify the risk factors for homelessness, including rent arrears, financial difficulty, abuse or relationship breakdown. The requirements of the proposed duty to identify and refer would mean, subject to a specified body identifying one or more of these risk factors and receiving the agreement of the person affected, it would be required to notify a local housing authority the person is, or is at risk of, experiencing homelessness. Alongside the proposed legislation we would also provide guidance encouraging local housing authorities to include consent for sharing of information in key housing and social services forms, assisting them to share information where a person is homeless or at risk of experiencing homelessness. We recognise that it will be important to strike the right balance between what is required in legislation and what good practice delivers our policy intention. Throughout the consultation, and beyond, we will work across the public service to establish what this balance looks like, the role of legislation and how best to deliver our aims through collaboration and shared good practice.

223. It is proposed supporting guidance and education materials would make it clear responding to the risk of homelessness should be one of the first considerations made by a specified body and encourage referrals as early as possible, rather than waiting for a prescribed point before homelessness could occur - currently 56 days (or potentially six months if related homelessness proposals in this White Paper are agreed). The principle of acting early has been stressed in the guidance to local authorities through the prevention and relief duties of the HWA 2014 and should be reiterated with the proposed duty to refer.⁹³ We propose specified bodies are proactive in identifying people at risk of homelessness, with the onus placed on them to act rather than rely on a local authority to initiate their involvement. In so doing, it is likely, in partnership, the relevant involved services will be able to take action which prevents the risk of homelessness materialising, or if this cannot be achieved, are better prepared to address the ongoing accommodation and support needs of the person.

224. As consent will have been obtained from the person affected, it is intended the referral will act as an application for homelessness assistance, accelerating the process by which a local authority could intervene, rather than waiting for the person

⁹² [hra-report-2022.pdf \(crisis.org.uk\)](#)

⁹³ [allocation-of-accommodation-and-homelessness-guidance-for-local-authorities_1.pdf \(llyw.cymru\)](#)

to apply again. Homelessness or the risk of homelessness would be defined as set out in the proposals in this White Paper.

225. Alongside the proposals in this White Paper, we also intend to develop tools to assist the Welsh public service to identify homelessness earlier and make these referrals as part of our early implementation planning. These tools may include an eLearning package alongside guidance, which will also describe the process of making the referral, set out how consent should be given and how alignment can be achieved with potential other legislative reforms proposed in this White Paper.

226. The identification of the specified bodies to whom a proposed duty to identify and refer will apply is informed by the evidence summary outlined at the beginning of this chapter, alongside the evaluation of related legislation and the engagement undertaken to develop these reforms.

227. In line with the recommendation of the Expert Review Panel, we propose the duty to identify and refer should apply to these specified bodies in Wales:

Organisations or bodies subject to devolved control

- i. Social services departments (both within the same local authority as the relevant homelessness department and from different authorities);
- ii. Local Health Boards including primary care;
- iii. Registered social landlords.

228. With reference to the [recent commitments](#) made by the Welsh Government in relation to reducing workload and bureaucracy for school staff we will undertake further testing and workload impact assessment in order to assess the viability of inclusion of schools, pupil referral units, further education and higher education establishments in the list of relevant bodies.

229. We recognise, in order to be most effective, it would be preferable for a wider range of public service organisations to practice in line with the proposed duties to identify, refer and co-operate and it is our policy aim this should be the case. These bodies are listed below:

Organisations or bodies subject to the control of the UK Government

- iv. Department for Work & Pensions;
- v. Youth Justice Services;
- vi. Probation;
- vii. Prisons and other criminal justice detention centres;
- viii. His Majesty's Courts and Tribunals Service;
- ix. The police;
- x. The Home Office when aware that an asylum seeker accommodated under the Immigration and Asylum Act 1999 has been granted refugee status and so will be threatened with homelessness within six months (and possibly much sooner);
- xi. The Secretary of State for defence in relation to armed forces accommodation.

230. However, we acknowledge powers to confer functions on these bodies are reserved to the UK Government and for any proposed provision to progress, the Welsh Government will need to make a request to the relevant UK Government Secretary of State to consent. We have shared our intentions with UK Government Ministers and hope to engage further throughout the consultation period and beyond.

231. We also propose a power for the Welsh Ministers to adjust the list of bodies subject to this obligation over time.

232. A crucial facet of the proposed duty to identify and refer, is ensuring the specified bodies, also take the action they can (within the parameters of the purposes of the organisation), to help prevent homelessness. The following are examples of the types of activity this might include:

- Where the risk of homelessness is identified for a person in receipt of social care, the social services department of a local authority should make a referral to the local housing authority. If they consider there are unmet social care needs, a social care needs assessment should be carried out and appropriate action taken to meet those needs.
- Where a mental health team identifies a risk of homelessness, they should make a referral to the local housing authority. If they consider there are unmet mental health needs, they must take action, alongside the referral to meet these needs.

The proposed application of the duty to identify and refer on providers of Asylum accommodation

233. The engagement work undertaken by Tai Pawb to support the development of this White Paper has demonstrated a particular need related to providers of asylum accommodation in the application of the proposed duty to identify and refer.⁹⁴ This application relates specifically to asylum seekers granted refugee status who are in Home Office accommodation provided by powers in the Immigration and Asylum Act 1999.

234. An individual is normally given 28 days to leave their asylum accommodation once their refugee status is granted often putting them at risk of homelessness.⁹⁵ We propose at the point the individual is notified that they have been granted leave to remain (and so they will at some point be served with a 28 day notice to quit) they should be deemed to be threatened with homelessness (as per the proposals in the previous chapter). At the same time, should the accommodation provider notify a local housing authority of the risk of homelessness, and/or act so the risk of homelessness is prevented, the risk of homelessness may be mitigated. We recognise that more effective prevention work can take place if notice can be provided earlier and would prefer this to be aligned to our proposed six month prevention period in Wales. As this notification is not given routinely, we hope to explore with the UK Government, a proposal that the Home Office or asylum

⁹⁴ [Experiences-of-homelessness-Final-Version-PDF.pdf \(taipawb.org\)](#)

⁹⁵ [Living in dispersal accommodation - English - GOV.UK \(www.gov.uk\)](#)

accommodation providers be affected by a duty to identify and refer. Whilst we favour the use of the duty to identify and refer, in providing a consistent approach amongst partner organisations, there may be other, more suitable approaches available. This could include establishing a memorandum of understanding or other methods for agreeing how asylum services can help a local housing authority effectively identify and take action to address the needs of people at risk of homelessness. We aim to explore a range of mechanisms with our UK Government counterparts.

Private Landlords

235. The Expert Review Panel recommended a private landlord should be placed under a duty to refer tenants at risk of homelessness to a local housing authority. They propose this could be reflected through the registration arrangements of a landlord by Rent Smart Wales.⁹⁶ The referral duty for private landlords could be developed, through agreement with the Ministry of Justice, so if a pre-action protocol is introduced for private landlords beginning possession proceedings, the duty to refer could be part of the requirements of the protocol, when a notice requiring possession is served.

236. We do not consider this proposal should be included in the proposed Homelessness Bill, as it is more appropriately considered as part of an ongoing review of Rent Smart Wales and as part of parallel policy development in relation to adequate housing, fair rents and affordability.⁹⁷ However, it is useful to note the Welsh Government prescribed landlord's notice of termination (Form RHW16⁹⁸) does already signpost the contract-holder to seek support from relevant third sector agencies and to contact the local housing authority should they identify a contract holder is at risk of homelessness. The Rent Smart Wales licensing training, as well as the statutory Code of Practice for landlords and letting agents, provides that the landlord should, (following service of a notice to end the occupation contract), as best practice, provide details of relevant third sector agencies to contract-holders who do not have accommodation to move into, or are struggling to find alternative accommodation.⁹⁹

237. The new Housing Loss Prevention Advice Service also provides government-funded legal advice to someone from the point they receive a possession notice or similar. The Welsh Government has issued guidance to contract-holders on the possession process which is available [here](#).

Expanding the duty to co-operate

238. A local housing authority's responsibility for preventing and alleviating homelessness should not be diminished by the proposed legal reforms. Notwithstanding the proposals, we intend that they remain the experts in preventing homelessness and providing the infrastructure available to any person who is homeless or at risk of becoming homeless. However, they cannot and should not be

⁹⁶ For definition see glossary

⁹⁷ [Securing a path towards adequate housing including fair rents and affordability | GOV.WALES](#)

⁹⁸ [form-RHW16.pdf \(gov.wales\)](#)

⁹⁹ [Code of practice: Rent Smart Wales \(gov.wales\)](#)

expected to address wider support needs which, for some, will be intrinsically linked to homelessness. It is critical the current provisions of section 95 of the HWA 2014 (in relation to co-operation) are improved to ensure a range of specified bodies co-operate more consistently to prevent or alleviate homelessness and are not reliant on the local housing authority to drive action or to be responsible for support needs they are ill equipped to meet.

239. As outlined earlier, section 95 of the HWA 2014 sets out the aspects of co-operation to be promoted between officers of a local authority who carry out housing and social services functions which enable it to:

- Prevent homelessness,
- Provide suitable accommodation to a person who is or may be homeless,
- Provide satisfactory support to a person who is or may be homeless, and
- Enable the discharge of a local housing authority's homelessness functions effectively.

240. Co-operation can also be requested with other listed bodies in order to discharge those functions unless that request is incompatible or has an adverse effect on the listed bodies' own functions. The Welsh Government considers these desired outcomes have not altered in importance and should remain. We wish to make it clear both preventing homelessness and sustainment of an occupation contract are the basis upon which the duty to co-operate could be triggered.

241. Section 95 of the HWA 2014 does not go far enough in securing the multi-disciplinary services required to support a person who is experiencing or may be at risk of experiencing homelessness or requiring support to retain an occupation contract. We propose therefore to expand the legislation which creates a duty to co-operate so it applies to a wider range of relevant bodies. We expect these bodies to mirror those proposed to fall under the duty to identify and refer but will specify further in guidance where this may not be appropriate. For example, it may be beneficial for an emergency unit of a hospital to be subject to a duty to identify and refer but the staff within that unit are unlikely to be able to comply with a duty to co-operate as they will rarely conduct a long-term professional relationship with their service users.

242. In addition to the bodies listed in section 95 of the HWA 2014, the Welsh Government will also propose re-issuing guidance to local authorities to encourage Housing Support Grant funded contracts to include requirements for voluntary organisations to take part in co-operation activity and provide information to local housing authorities upon request.¹⁰⁰ This will be done through the grant award process.

243. Section 95 of the HWA 2014 currently requires a listed body to comply with a local authority's request to co-operate (or provide information) unless they consider doing so would be incompatible with their own duties or otherwise have an adverse impact on the duties of a specified body. We propose to make clear within legislation the listed bodies must co-operate unless it has a good reason for not doing so. The main aim of the duty to co-operate is to ensure all specified bodies take actions

¹⁰⁰ [Housing Support Grant: practice guidance | GOV.WALES](#)

which are within the normal functions of their organisation but, when combined with other multi-agency work and under the leadership of the local housing authority, are likely to mitigate the risk of an individual's homelessness (or risk of becoming homeless).

244. The proposed new duty to identify and refer would provide an initial trigger for a specified body to act and having done so, be prepared to co-operate with the local housing authority, so it is able to carry out its homelessness functions. Acting promptly should be a fundamental principle of the duty to co-operate given the significance such actions can have in preventing homelessness. Similar to the duty to identify and refer, we would want efforts to co-operate to begin once a risk is identified.

245. We hope the proposed, revised duty to co-operate will be radical in reshaping how assistance is provided to people who are, or at risk of, experiencing homelessness, given the range of proposed additional specified bodies identified. Once in force, the additional specified bodies would also be required to co-operate with the work of a local housing authority, preventing and alleviating homelessness, enabling a local housing authority to discharge its homelessness functions and provide support to those who need it to retain occupation contracts.

246. We propose co-operation would end through a process of mutual agreement between the local housing authority and relevant specified bodies. This will rely on judgement and justification on the part of those co-operating and further guidance around the circumstances for ending co-operation will be provided.

Co-operating to prevent homelessness for those with the highest and most complex support needs

247. People who are, or at risk of, experiencing homelessness are not a homogenous group. Some may have no or low support needs and will require very limited multi-disciplinary assistance. Others, including many who have been street homeless for long periods, will have extensive and complex needs. For this reason, we do not propose setting out one model through which the duty of co-operation can be delivered to those requiring the services of two or fewer support agencies.¹⁰¹

248. For people with multiple and complex needs requiring input from three or more public services, or to facilitate community safety, we propose a compulsory case co-ordination approach including the identification of a lead professional (which would not be expected to be the local housing authority in all cases) alongside a means for overseeing this case co-ordination to identify and address gaps in service provision for such individuals, as well as to manage and prevent escalation of risk. Should this proposal be taken forward into draft legislation we will set out further guidance around the case co-ordination approach. Good practice models across Wales include co-located teams, multi-disciplinary panels, and case conferences, as set out

¹⁰¹ We consider that those with lower needs may benefit from being offered assistance in ways which enable them to respond independently and take ownership of decisions to prevent or alleviate their homelessness. Empowering people in this sense can often speed the process of recovery from the experience of homelessness. Circumstances will vary, but people with two types of support needs or fewer is an appropriate threshold for a less intense form of assistance.

in the NICE guidelines on integrated health and social care for people experiencing homelessness.¹⁰²

Regional arrangements to establish and lead a multi-agency approach to homelessness

249. The Expert Review Panel have recommended a new statutory duty on the local housing authority to establish and lead a multi-agency approach to homelessness functions through a Joint Homelessness Board. The panel recommend such a board could assist with any dispute resolution in relation to co-operation and should include all public authorities to whom the proposed duty to identify and refer would apply. The panel also recommend the relevant bodies have the power to request to convene a Joint Homelessness Board as well as a duty to co-operate with the board.

250. Whilst we support the recommendation for a board in principle, we are mindful of the findings of the [Review of Strategic Partnerships](#) and the ongoing need to simplify and align the partnership landscape, working where possible within the current policy and leadership structures. As such, we propose to, first, scope existing partnership functions or boards which may be able to deliver the policy aims of the Expert Review Panel recommendations; to discuss and resolve issues with complex cases, investigate where there are incidents of a serious nature, and to establish effective mechanisms for joint working. In undertaking this scoping exercise, we will consider the recent review of the role of Regional Partnership Boards and the broader work of Public Service Boards and Area Planning Boards, alongside the recommendation of the Expert Review Panel to strengthen Regional Partnership Board representation for homelessness. Once an appropriate option has been identified, we will consider how such an option can be effectively implemented.

¹⁰² [Recommendations | Integrated health and social care for people experiencing homelessness | Guidance | NICE](#)

Consultation questions

- 8. Do you agree with the proposals to apply a duty to identify, refer and co-operate on a set of relevant bodies in order to prevent homelessness?**

Yes/no

Please give your reasons

- 9. Do you agree with the proposed relevant bodies, to which the duties to identify, refer and co-operate would apply? Would you add or remove any services from the list?**
- 10. In your view have we struck the right balance between legislative requirements and operational practice, particularly in relation to health?**
- 11. What practical measures will need to be in place for the proposed duties to identify, refer and co-operate to work effectively? Please consider learning and development needs, resources, staffing, location and culture.**
- 12. In addition to the broad duties to identify, refer and co-operate, this chapter contains proposals to provide enhanced case co-ordination for those with multiple and complex needs. To what extent will the proposals assist in preventing homelessness amongst this group?**
- 13. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?**

Chapter 3: Targeted proposals to prevent homelessness for those disproportionately affected

251. Evidence suggests certain groups are disproportionately impacted by homelessness and this chapter sets out bespoke proposals which are designed to ensure that, even for those most vulnerable to homelessness, it is rare, brief, and unrepeatable.

252. Building on the previous chapter, which sets out why the role of the wider public service is so important in preventing homelessness, this section sets out additional evidence about the experience of homelessness for the following groups:

- Children, young people and care experienced young people.¹⁰³
- People with complex health needs, including mental illness or mental health problems, substance misuse and those leaving hospital.
- Survivors of violence against women, domestic abuse and sexual violence.
- Disabled people.
- Ex-armed services personnel.
- People leaving prison.
- People with No Recourse to Public Funds.

253. These groups are referenced because the engagement undertaken to develop this White Paper, including the work of the Expert Review Panel and engagement with people who have experienced homelessness, has led to specific legal proposals to address some of the challenges presented by the current homelessness system. They should not be interpreted as the only groups for whom homelessness poses an issue and the experiences of many other groups, including those with protected characteristics and those who have experienced wider disadvantage have been considered in the development of the White Paper and throughout the impact assessment process. The absence of other groups here does not signify an absence of consideration but a view that bespoke legislative reform is not the option that best addresses any challenges identified for these groups. We hope to use feedback gathered via the consultation to test this view and as the proposed reforms are refined and draft legislation is prepared, we will consider whether any additional action is necessary, for example, to ensure effective application of the public sector equality duty (section 149 Equality Act 2010) throughout the homelessness system.

254. As with previous sections, for each group we will provide a high-level summary of what the law currently provides, how the law works in practice and our proposals for reform.

Children, young people and care experienced young people

255. In developing the reforms proposed within this section, we have considered the experience of dependent children whose families are homeless, alongside young people experiencing homelessness as an individual and those who are leaving care

¹⁰³ See glossary for definition.

or the secure estate and are at risk of homelessness. For the purposes of this chapter children are defined as those under 16 and young people are those aged 16-25.

256. During 2018 – 2019 around 44% of all households threatened with homelessness in Wales were families with dependent children. Of the 10,869 individuals in temporary accommodation at the time of writing, 3,346 are dependent children aged under 16. The type of accommodation temporarily housing the most individuals at the current time are Bed and Breakfasts and hotels. 3,612 individuals are currently staying in this type of temporary accommodation, of which 974 are dependent children, according to statutory homelessness data.

257. Evidence suggests 6,018 young people were the lead applicant presenting to their local authority for homelessness assistance within 2022-2023 (the last full year for which we have data). Of these, 423 presentations were people aged between 16-17 years old. In the same year 16 and 17-year-olds were placed in temporary Bed and Breakfast accommodation on 114 occasions.¹⁰⁴ Care leavers aged 18 to 21 years old were placed in temporary Bed and Breakfast accommodation on 171 occasions.¹⁰⁵ It is likely this data under-represents the extent of homelessness amongst young people, which is likely to include forms of homelessness that are considered 'hidden', such as sofa-surfing and sleeping in cars.

258. A particular group of children and young people significantly overrepresented in homeless figures are those who are care experienced. According to Public Health Wales, more than one in four of all young homeless people are estimated to have been in care, with 26% of care experienced individuals having slept on friends or family's sofas, and 14% having slept rough on the streets.¹⁰⁶

259. Young people who are LGBTQ+ are known to be disproportionately affected by youth homelessness. The Albert Kennedy Trust found that 24% of the youth homeless population across the UK identified as LGBT.¹⁰⁷

What the law currently says

260. Law pertaining to homelessness of children and young people is set out in various pieces of legislation which include the Social Services and Wellbeing Act 2014 (SSWB Act), the Care Leavers (Wales) Regulations 2015 and the HWA 2014. In addition, there is relevant case law in relation to this group which is referenced in this section.

¹⁰⁴ Combining data on those placed under Homelessness and Social Services and Wellbeing legislation

¹⁰⁵ [Total placements in bed and breakfasts during the quarter, by length of stay and provision \(gov.wales\)](#)

¹⁰⁶ [ENGLISH-PHW-Preventing-homelessness-in-care-experienced-individuals.pdf \(phwwhocc.co.uk\)](#)

¹⁰⁷ [Download.ashx \(llamau.org.uk\) The different use of the terms of LGBTQ+ and LGBT are used to reflect the language used in the study and the preferred Welsh Government terminology.](#)

Social Services and Wellbeing (Wales) Act 2014 (SSWB Act)

261. The SSWB Act sets out a range of duties falling to the local authority, involving the accommodation and support of children under 18 who are homeless or about to become homeless, including unaccompanied children seeking asylum. It also sets out a range of entitlements for looked after children and those leaving the care system.

262. The Code of Practice on Part 6 (Looked After and Accommodated Children) of the SSWB Act states *"plans for transition to adulthood must be in place for all looked after young people aged 16 and 17 who have been looked after for at least 13 weeks after they reached the age of 14. The 13 weeks can be continuous or made up of separate episodes of care. They exclude short-term placements made by way of respite care, but must include a period of time (at least 24 hours) after reaching the age of 16."*

263. Guidance in both the Code of Guidance (Allocation of accommodation and homelessness guidance for local authorities) and the Code of Practice on Part 6 is explicit that the primary responsibility for accommodating homeless 16 and 17 year olds, and care leavers, lies with social services and both homelessness and social services should work together to secure suitable accommodation.

264. This is expanded upon in the Code of Practice on Part 6 which is clear homelessness services should only be used as a last resort for 16 and 17 year olds.

265. The SSWB Act does not require a social services department to provide accommodation directly (such as accommodation provided under section 76 of the SSWB Act which would normally be in foster care), however the accompanying Code of Practice on Part 6 of the Act states *"When young people leave their care placement, the local authority must ensure that their new home is suitable for their needs and linked to their wider plans and aspirations – for example located near their education or work. Moving directly from a care placement to living independently will often be too big a step for young people. It will therefore be good practice for local authorities to commission a range of semi-independent and independent living options with appropriate support – for example supported accommodation schemes, supported lodgings, and access to independent tenancies in the social and private rented sectors with flexible support"*.

The Housing (Wales) Act 2014 (the HWA 2014)

266. The HWA 2014 does not define dependent children, but the Code of Guidance states:

"Local authorities should treat as dependant all children under 16, and all children aged 16-18 (up to their 19th birthday) who are in, or are about to begin, full-time education (including further but not higher education) or training, or who for other reasons are unable to support themselves and who live at home".

267. Under the current legislation all 16 and 17 year olds and people with whom a dependent child resides or might reasonably be expected to reside are considered to be in priority need. Young people aged 18-20 who are at particular risk of sexual or

financial exploitation are also considered to be in priority need, alongside young people aged 18-20 who were looked after or fostered at any time while under the age of 18. The Code of Guidance states the following in relation to care leavers at risk of homelessness and local connection:

“In the case of young people in the looked after system who have been placed out of area, where they are leaving care and wish to return to the area to which they were originally connected they should be accepted as having a connection with the area, even where they have been placed for a considerable time elsewhere. In assessing whether an applicant’s household has a local connection with their area, an Authority should also consider whether any person who might reasonably be expected to live with the applicant has such a connection. Care leavers who wish to remain in the area of placement should also be considered to have a local connection should they meet the local connection test.”

268. Local Authorities must ensure there is a co-ordinated response to young people aged 16 and 17 who are homeless or threatened with homelessness and should have protocols in place to ensure the best outcomes for the young person accessing their services.

269. Section 52 of the HWA 2014 provides that local authority homelessness strategies must include provision relating to action planned in relation to people leaving youth detention accommodation. The ‘National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate’ sets out to improve services designed to meet the housing needs of people leaving the secure estate.¹⁰⁸

270. The children and young people pathway expands on the agencies that can provide support to young people in the secure estate. Youth Justice Services work closely with the secure estate to ensure there are appropriate resettlement arrangements in place when a child or young person leaves the secure estate. Youth Justice Services have a responsibility to help provide suitable accommodation on release and they should do this with Children Services and/or the local housing authority.

271. The Code of Guidance is clear Bed and Breakfast accommodation should not normally be considered a suitable option for 16 and 17 year olds. Moreover, the Homelessness (Suitability of Accommodation) (Wales) Order 2015 (“the Order”) sets out further suitability requirements for priority need households in relation to location and Bed and Breakfast and shared accommodation.

¹⁰⁸ [National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate | GOV.WALES](#)

The Care Leavers (Wales) Regulations 2015

272. The Care Leavers (Wales) Regulations 2015 make provision about the support to be provided to certain young people who are no longer looked after by a local authority. The requirements differ depending on care leaver status (which is grouped into four categories) but the general requirements are local authorities should:

- plan with young people and involve them in decisions;
- avoid moving young people who are settled;
- assess young people's needs and prepare them for any move;
- ensure that the accommodation meets any needs relating to impairment;
- consider education, training and employment needs;
- where practicable, offer a choice of accommodation;
- set up a package of support to go with the accommodation; and
- have a clear financial plan for the accommodation and a contingency plan.

Case law

273. In May 2009, the House of Lords made a landmark judgement which clarified how local authorities provide accommodation and support for homeless 16 and 17-year-olds.¹⁰⁹ Following this case, if a homeless 16 or 17-year-old applies to a housing authority, they should be provided with interim accommodation under the homelessness legislation. They should then be referred to social services for an assessment of their needs under section 21 of the Social Services and Well-being (Wales) Act 2014. Accommodation duties owed to homeless 16 and 17 year olds under the SSWB Act takes precedence over accommodation duties under the HWA 2014.

How the law currently works

274. There are a number of areas where the current legislative framework appears to fall short in facilitating the level of service we would expect for children and young people. It must be said, in some cases this cannot be attributed to a failure in law. There are several areas of practice where children and young people have shared poor experiences or where stakeholders have expressed challenges, which should not have happened based on the current legislation.

275. Important examples of this relate to the experience of 16 and 17 year olds who are homeless and those leaving the care system. Despite the clarity in law, which is explicit that responsibility for this group lies with the local authorities as the corporate parent, feedback from young people themselves and from stakeholders is that often, as a young person approaches the time where they become too old for children's services but have not yet transitioned to adult services, they are bounced between different departments in the local authority, who (based on their perception) are not willing to take responsibility for them due to their age and housing status. One young person who contributed to the development of these proposed reforms described a "battle" between local housing and social services departments to avoid

¹⁰⁹ R (G) v London Borough of Southwark UKHL 26

having to take responsibility.¹¹⁰ Stakeholders express a lack of clarity over whether support for 16 and 17 year olds who are homeless is the core responsibility of social services or housing departments. The case law has clarified that primary responsibility for supporting homeless 16 and 17 year olds and care leavers belongs to social services and both homelessness and social services are required to work together to secure suitable accommodation. However, it appears there is an implementation gap between legislation and practice.

276. Despite the range of entitlements set out in legislation to ensure young people discharged from the care system are properly housed, feedback gathered to develop this White Paper is clear that it is still commonplace for a young person to be discharged from the care system directly to the homelessness system; undermining corporate parenting commitments and the principles of a Wales Trauma-Informed Approach.¹¹¹ Broader research suggests unsupported transitions from care, custody, and in-patient healthcare institutions, directly causes homelessness for many young people.¹¹² The Children, Young People and Education Committee has recently published a report looking at radical reform for care experienced children and young people and recommendation 25 of the report has been considered as part of the development of the proposed reforms below.^{113 114}

277. Some of the young people engaged throughout the development of this White Paper, have found it difficult to access help from their local authority. These experiences are further borne out in research which notes it is difficult to access comprehensive information about housing support that is available in Wales and the challenges young people face when navigating the homelessness support system.¹¹⁵ Work by Conti et al has highlighted inaccessibility of communication and correspondence around the homelessness system and the particular challenges for those who are neurodiverse.¹¹⁶ Furthermore, care-experienced people often encounter multiple services and have expressed that having to repeat their story to each of these services in order to get the support that they need is re-

¹¹⁰ End Youth Homelessness Cymru, Don't Let Me Fall Through the Cracks (2020) cited in Experts by Experience: Report to the Expert Review Panel - VAWDASV and Young People (February 2023) Reynolds-Feeney F; Dalton K

¹¹¹ [Trauma-Informed-Wales-Framework.pdf](#)

¹¹² Preventing Youth Homelessness | WCPP

¹¹³ *“As part of umbrella reforms to corporate parenting and as part of its planned reforms of housing legislation, the Welsh Government should bring forward legislation to;*

- *Amend the Housing Act 1996 to provide that care experienced people have the highest priority in housing allocation.*

- *Amend the Housing Act 1996 to state that ‘local connection’ should be disregarded for care experienced people at their election.*

- *Amend the Housing (Wales) Act 2014 to ensure that care experienced people over the age of 21 retain “priority need” status when homeless.*

- *Amend the Housing (Wales) Act 2014 so that care experienced people facing homelessness cannot be referred to another local authority due to ‘local connection’ if they do not wish to be”.*

¹¹⁴ [If not now, then when? Radical reform for care experienced children and young people \(senedd.wales\)](#)

¹¹⁵ Youth-homelessness-and-care-leavers-Mapping-interventions-in-Wales.pdf (wcpp.org.uk) and Llamau's Youth Experiential Learning Simulation - Missing People, cited in Expert Review Panel on Homelessness Briefing for Meeting 6: Children and Youth Homelessness and Violence Against Women Domestic Abuse and Sexual Violence (VAWDASV) March 2023

¹¹⁶ Presented at the Homelessness Research conference, Cardiff University. Dec 2022

traumatising.¹¹⁷ Young people's feedback suggests the involvement of specialist young people's services helps to mitigate these negative experiences.¹¹⁸

278. Young people also describe very mixed experiences of temporary accommodation. Many speak highly of specialist young people's temporary supported accommodation (accommodation provided alongside specialist support workers), however, it is clear through the engagement work to support this White Paper some young people are being placed in unsuitable temporary accommodation including hostels, night shelters and floor space and these placements can be frightening, traumatic and may lead to unhelpful coping strategies or additional support needs, such as substance use or mental health problems.

279. Whilst not a direct impact of the current legislation, it is currently exceptionally difficult for young people to find a settled home which is affordable. Young people have access to very limited accommodation options due to the financial restrictions imposed by the under 35 shared room rate (single people under 35 are entitled to a lower Local Housing Allowance rate which is meant to cover the cost of renting a room in a shared house but falls short in many areas).¹¹⁹ The lack of move on accommodation, particularly for single people, combined with unaffordability is likely to mean many young people will be placed in unsuitable and sometimes unsafe shared temporary accommodation.¹²⁰

280. Work undertaken by the Wales Centre for Public Policy highlights the importance of "Housing Stabilisation" for young people and the value of housing subsidies and monetary supports, as well as the use of Housing First for Youth initiatives, in order to assist young people into settled accommodation.¹²¹ Research also suggests young people face additional barriers when attempting to access social housing, including being unable, in law, to take on an occupation contract (for those under 18) and facing perceptions they are potentially risky tenants, particularly if they have wider support needs.¹²²

Proposed changes

We intend to strengthen existing corporate parenting responsibilities to ensure individuals aged 16 and 17 years who are homeless or at risk of homelessness do not fall between services, and social services and homelessness services work in true partnership to secure suitable accommodation and any broader support these young people's need.

¹¹⁷ Don't+Let+Me+Fall+Through+The+Cracks+--+Full+Report+-+End+Youth+Homelessness+Cymru+09-2020.pdf (squarespace.com)

¹¹⁸ Experts by Experience: Report to the Expert Review Panel VAWDASV and Young People February 2023 Reynolds-Feeney F and Dalton K

¹¹⁹ [Local housing allowance \(LHA\) if you're under 35 - Shelter England](#)

¹²⁰ Experts by Experience: Report to the Expert Review Panel VAWDASV and Young People February 2023 Reynolds-Feeney F and Dalton K

¹²¹ Preventing Youth Homelessness | WCPP

¹²² [ABS-Report-v5high-1.pdf \(sheltercymru.org.uk\)](#)

281. 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. We want to ensure the assessment and consideration of support required properly takes account of the increased vulnerability the young person may experience as a homeless person and the negative impacts they may well suffer should they be funnelled through the adult homelessness system. We note the main driver behind these proposals is unlikely to be legislative reform but strengthened implementation advice, guidance and training.

282. Should a crisis arise, despite planning, joint work should be undertaken to ensure the individual is accommodated in a suitable setting.

We propose, in line with their corporate parenting responsibility, and in order to prevent any care leavers or care experienced young people getting lost in the system, 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, as proposed earlier in this White Paper.

283. Should they identify an individual is a care leaver, they should bring in relevant services to support them, as necessary.

We propose to explore further, through this consultation exercise, whether the Renting Homes (Wales) Act 2016 should be amended to allow 16 and 17 year olds to be occupation contract-holders, and, in so doing, broaden the accommodation options available to this group.

284. We understand this proposal may lead to a range of unintended consequences that could lead to more young people entering the homelessness system and, in alignment with the recommendation of the Expert Review Panel, wish to explore this option further, through this consultation, before determining whether an amendment to the Renting Homes Act is required.

In response to recommendation 25 in the Children, Young People and Education Committee report, we propose care-experienced people should be considered priority need (unless or until the test is abolished (based on the proposals set out earlier in this White Paper)).¹

285. The policy effect of this change would be to ensure no upper age limit should be applied when assessing priority need for a person who falls under section 70(1)(h) of the HWA 2014.

For young people leaving the secure estate, we propose 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, for young people in youth detention, who are or were care leavers aged 18 to 21 (or 18 to 24 if in education or training) should also benefit from joint work between social services and the local housing authority to support and accommodate.

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

286. Mental illness is both a cause and consequence of homelessness and the experience of mental illness is disproportionately present amongst the homeless population; 45% of people experiencing homelessness have been diagnosed with mental health issues, rising to 80% of those who are street homeless.¹²³

287. The onset of mental illness can make it very difficult to undertake everyday tasks, including maintaining employment and managing finances. Issues such as these increase the risk of losing accommodation and the experience of this and of homelessness can have a detrimental impact on a person's mental wellbeing.¹²⁴

288. 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. Two thirds of people experiencing homelessness cite drug or alcohol use as a reason for first becoming homeless and those who use drugs are seven times more likely to be homeless than those who do not.¹²⁵

What the law currently says

The Housing (Wales) Act 2014 (“the HWA 2014”)

289. Section 70(1)(c) of the HWA 2014 sets out a person who is vulnerable as a result of some special reason (for example, old age, physical or mental illness or physical or mental disability) is categorised as a person who has a priority need for accommodation. Substance use is not included in the legislation as a specific reason to consider applicants as vulnerable, but authorities may consider it a ‘special reason’ for vulnerability.

290. Section 52(6) of the HWA 2014 states a homelessness strategy must include provision relating to action in relation to those who may be in particular need of support if they are or may become homeless, including:

- people leaving hospital after medical treatment for mental disorder as an inpatient,
- people receiving mental health services in the community.

¹²³ [Homelessness and mental health | Crisis UK](#)

¹²⁴ [Homelessness and mental health | Crisis UK](#)

¹²⁵ [Drugs and alcohol | Crisis UK | Together we will end homelessness](#)

291. When discharging a housing function to secure that accommodation is available for an applicant who is homeless, or threatened with homelessness, under Part 2 of the HWA 2014 Act, a local housing authority must ensure the accommodation is suitable for the applicant and all members of their household. Section 59 of the 2014 Act (suitability of accommodation) specifies certain matters to be taken into account when determining suitability. Section 59(3) confers powers on the Welsh Ministers to specify circumstances in which accommodation is or is not to be regarded as suitable for a person, and the matters to be considered when determining whether accommodation is suitable for a person. The Welsh Government has set these matters out in the Homelessness (Suitability of Accommodation) (Wales) Order 2015 (“the Suitability Order”) and they include specific health needs of the person; any disability of the person; the proximity and accessibility of medical facilities, and other support services which are currently used by or provided to the person; and are essential to the well-being of the person. See section 4: Access to accommodation for more on suitability.

Social Services and Wellbeing Act Wales 2014

292. The duty to accommodate and support outlined in the Social Services and Well-being (Wales) Act 2014 applies to an adult who is ill, disabled or has mental health needs.

293. The provisions relating to help with accommodation are contained in:

- Part 3 – needs assessments for people with care and support needs
- Part 4 – duties and powers to meet care and support needs
- Part 6 – looked after and accommodated children

294. In addition local authorities, when exercising their social services functions, must act in accordance with the requirements and have regards to any guidelines contained in the relevant Codes of Practices issued under section 145 of the SSWB.

295. The Act’s Part 8 Code of Practice advises that many services provided under the Act are to be delivered in partnership with others, including housing and health services. The Code of Practice states that local authorities must work with and support people who need care and support and carers who need support to achieve greater economic well-being, have a social life and live in suitable accommodation that meets their needs.

Mental Health (Wales) Measure 2010 (MHWM)

296. Under Part 1 (section 2) of the MHWM local mental health partners (local authorities and Local Health Boards) are required to take reasonable steps to agree a scheme which secures the provision of primary mental health support services for the local authority area. Section 3 of the MHWM requires local mental health partners to provide primary mental health support services in accordance with their agreed scheme.

297. Section 6(4) of the MHWM lists the bodies who are permitted to make a referral for a primary mental health assessment which are limited to those working within the NHS and medical sectors.

298. Under section 25 of the MHWM a previous service user will be able to seek a further assessment of their mental health, with a view to determining whether secondary mental health services may be required to improve or prevent a deterioration of the individual's mental health. The assessment may also reveal that other community care services, housing or well-being services might improve or prevent a deterioration of the person's mental health.

299. Section 28 of the MHWM provides that where a secondary mental health assessment has identified a housing or well-being service which might help to improve, or prevent a deterioration in, an adult's mental health, the partner must ask the responsible service provider to consider whether to provide the service to the adult or, if that is not appropriate, whether to invite the adult to apply for the service.

The Misuse of Drugs Act 1971

300. The law relating to drugs is reserved to the UK Government and focuses heavily on criminalisation. Section 8 of the Misuse of Drugs Act 1971 creates an offence where a person, being the occupier or concerned in the management of any premises, knowingly permits or suffers any of the following activities to take place on those premises; producing or attempting to produce a controlled drug; supplying or attempting to supply a controlled drug to another, or offering to supply a controlled drug to another; preparing opium for smoking and smoking cannabis, cannabis resin or prepared opium.

301. The Equality Act 2010 (Disability) Regulations 2010 makes clear addiction to alcohol, nicotine or any other substance does not amount to an impairment for the purposes of the Equality Act 2010, other than in consequence of the substance being medically prescribed.

Broader policy

302. In addition to this legislative framework, several broader policy measures are in place in relation to mental health, substance use and homelessness.

303. The Welsh Government has issued guidance on the residence of mental health patients, which states that where a person 'ceases to be detained' under the Mental Health Act 1983, they are eligible for aftercare services, including housing. In this case the assessment is made under section 47 of the National Health Service and Community Care Act 1990.¹²⁶

304. The Welsh Government's Together for Mental Health strategy emphasises the strong connection between mental wellbeing and homelessness. It identifies stable housing as a key foundation for mental wellbeing and acknowledges those who are homeless are at higher risk of poor mental health and vice versa. The strategy also

¹²⁶ [National Health Service and Community Care Act 1990 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

highlights the need to ensure a full range of housing solutions, with support, should be available for those in need of mental health support. The successor strategy to Together for Mental Health is under development, and it is envisaged this document will be published for formal consultation at the end of 2023, in addition to a successor to the Substance Misuse Delivery Plan 2019-22, which will be developed shortly.

305. The Welsh Government has also published several pieces of guidance outlining the importance of multi-disciplinary approaches to substance use and homelessness.¹²⁷

How the law currently works

306. Practice based feedback suggests people with multiple and serious support needs often do not meet the threshold of priority need, despite overlapping complex needs. Moreover, unmet mental health needs and substance use can be misinterpreted as unacceptable or anti-social behaviour leading to withdrawal of services, including housing. It is hoped this situation will have improved following the implementation of the ‘no one left out’ approach (as described in Chapter 1 of this White Paper) but where this happens it can lead to entrenched and repeat cycles of homelessness and worsening health impacts.

307. Unmet mental health problems and substance use needs can have a significant impact on a person’s ability to obtain or maintain an occupation contract. Feedback suggests people with complex needs including mental health and substance use issues are often required to move through different steps of accommodation, including hostels and other forms of temporary and supported accommodation, to be able to demonstrate ‘tenancy readiness’ before being able to access mainstream housing. This approach can result in re-traumatisation and increased likelihood of repeat homelessness.

308. Evidence is clear that co-ordinated, multi-disciplinary, person centred approaches to mental health, substance use issues and homelessness are most effective and should include both health and non-health services.¹²⁸

309. However, research undertaken by Crisis suggests having multiple support needs often means an individual has a worse experience or outcome than others.¹²⁹ People experiencing multiple disadvantages often “face a unique form of dislocation” from society which means they are often under-served and in requirement of pro-active outreach services which are matched to their full range of needs.¹³⁰

¹²⁷ The Substance Misuse Delivery Plan, Good Practice Framework for the Provision of Substance Misuse Services to Homeless People and those with Accommodation Problems, Working Together to Reduce Harm Revised Guidance for Substance Misuse Area Planning Boards and The Welsh Government’s Service Framework for the Treatment of People with a Co-occurring Mental Health and Substance Misuse Problem

¹²⁸ [What works in inclusion health: overview of effective interventions for marginalised and excluded populations - The Lancet; cr-ld15568-e.pdf \(senedd.wales\)](#)

¹²⁹ [Experiences of the Homelessness Reduction Act | Crisis UK](#)

¹³⁰ [Microsoft Word - Meeting 7 briefing paper_29 March 2023 \(crisis.org.uk\)](#)

What do we want to change?

We propose much of the improvement work required to strengthen multi-disciplinary practice between homelessness, mental health and substance use services can be achieved without legislative reform and may be better outlined within the development of the Together for Mental Health strategy and the successor to the Substance Misuse Delivery Plan alongside use of the complex needs funding programme.

310. This approach will align to the Expert Review Panel recommendations to ensure these plans cross-reference housing support and the need, where a person is at risk of homelessness, to work collaboratively with housing options/homelessness services.

311. Through the review of these plans, we will also consider improvement to partnership work between local housing authorities and health boards including possible co-funding of multi-disciplinary homelessness and housing support teams with dedicated mental health expertise, co-location of services, or pathways that enable swift access to NHS mental health services for people experiencing or at risk of homelessness.

In line with the Expert Review Panel we propose to ensure key assessments and plans such as Care Treatment Plans routinely consider housing needs and the stability of a person's accommodation. We will work with services to strengthen how a person's accommodation is considered as part of care and treatment planning wherever accommodation is a contributing factor to a person's mental health or wherever a person's accommodation could potentially become at risk (for example if the person is deemed by a landlord to be behaving unacceptably or if the person is unable to work and maintain bills associated with their accommodation).

Preventing discharge from hospital into homelessness

312. Welsh data is lacking in relation to how many people are discharged from hospitals into homelessness, however, Cymorth Cymru's Health Matters report suggests 11% of participants in the research were discharged from hospital onto the streets. According to research undertaken in London with people identified as being homeless who were in hospital, 92% of participants were unable to return to their pre-admission living environments as they were not appropriate, safe or secure for their needs.¹³¹

313. It is clear discharge from hospital provides a particular intersection of both vulnerability and opportunity for those who are homeless, at risk of homelessness or

¹³¹ [Health, housing and social care integration for people experiencing homelessness: needs identified in an inpatient audit - Transformation Partners in Health and Care](#)

those for whom a hospital admission increases the likelihood of them becoming homeless (due to current accommodation no longer being suitable, for example).

314. Research published by the Chartered Institute of Housing outlines a range of other vulnerabilities associated with the increased risk of homelessness following discharge from health settings. These include the need for accommodation adaptations following a hospital stay or ongoing support needs.¹³²

315. Evidence suggests the likelihood of discharge into homelessness is exacerbated by a range of factors including lack of planning, uncertain information, changes in the patient's circumstances, a lack of appropriate accommodation and short-term intermediate care and an absence of ongoing care and specialist case-working. Mental health is the health issue most often raised in relation to this risk.

316. Overall, it is clear system-wide pressures and a lack of integration between homelessness and health services contribute to this risk in individual cases. Historically there has been some system wide variation in tackling discharge between hospitals, health boards, local authorities and other discharge partners. However, more recently, there have been significant moves to align practice across Wales to provide a consistent approach. An example of this has been the implementation of "Discharge to Recover then Assess" (D2RA) which refocuses patient pathways so teams have a clearer idea of the potential needs and support an individual might need on discharge and 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 (social care, housing, etc.) should be in place and ready for that individual when their treatment has completed, and they are ready for discharge.

¹³² [from-hospital-to-home-final.pdf \(cih.org\)](#)

Proposed Changes

317. Evidence in relation to the intersection between health and homelessness is clear that risk of homelessness is exacerbated where a person has a range of support needs (in the London research only one individual (1%) required accommodation alone following their hospital stay).

We propose to build on our existing strategic commitment to ensure no one is discharged from hospital into a homelessness situation and recent work to establish the D2RA system to ensure the prevention of homelessness is considered in hospital discharge planning, by setting out the following in legislation:

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

318. It will be crucial when a local authority receive a referral from a hospital for a person at risk of or experiencing homelessness, they act quickly to respond to that referral to ensure discharge from hospital is not delayed.

319. Delayed discharge of individuals who are fit to return home from hospital is one of the single highest pressures for the NHS at the current time. It is not the policy intention for these proposals to require hospitals to "hold" individuals in a hospital bed. Our policy aim is to ensure health and homelessness services work together to plan for discharge and to ensure nobody leaves a stay in hospital to the streets.

320. The broader policy recommendations made throughout this White Paper are intended to mean more people, who may previously have been excluded from the homelessness system, will now have access to services. It is not our intention for hospitals to provide ongoing accommodation. We will explore through this consultation how we can best achieve our policy objectives.

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

321. The experience of violence against women, domestic abuse and sexual violence is known to have a significant correlation with homelessness. Domestic abuse in particular is a significant cause of homelessness applications across the UK.¹³³ Evidence suggests local authorities have seen an increase in people presenting for homelessness assistance due to domestic abuse, over a number of years, and particularly during Covid-19 lockdown restrictions.¹³⁴

322. There is extensive evidence in place 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.¹³⁵ Women are also more likely to be abused (verbally, physically, sexually) when street homeless.¹³⁶

323. In addition to its causal role, it is also important to consider how the experience of domestic abuse can characterise an applicant's engagement in the homelessness system, which is likely to be at the time of a crisis and, in many cases, will involve dependent children.

What the law currently says

The Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 (VAWDASV Act)

324. The VAWDASV Act provides the following definitions in relation to Violence against Women, Domestic Abuse and Sexual Violence:

“violence against women and girls” means gender-based violence, domestic abuse and sexual violence where the victim is female”, for the purposes of section 2 of that Act.

This is expanded in the VAWDASV Act's definitions as:

“abuse” means physical, sexual, psychological, emotional or financial abuse;

“domestic abuse” means abuse where the victim of it is or has been associated with the abuser;

“gender-based violence” means—

- a) violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation;*
- b) female genital mutilation;*

¹³³ Fitzpatrick, S. et al (2022) The homelessness monitor: Great Britain 2022. Crisis: London.

¹³⁴ [The Shadow Pandemic: Violence against women during COVID-19 | UN Women – Headquarters](#)

¹³⁵ Bimpson E, Green H, Reeve K, Centre for Homelessness Impact (2021) Women, homelessness and violence: what works

¹³⁶ Sanders, B. & Albanese, F. (2016) “It's no life at all”: Rough sleepers' experiences of violence and abuse on the streets of England and Wales.

- c) *forcing a person (whether by physical force or coercion by threats or other psychological means) to enter into a religious or civil ceremony of marriage (whether or not legally binding);*

“sexual violence” means sexual exploitation, sexual harassment, or threats of violence of a sexual nature;

“financial abuse” means—

- a) *having money or other property stolen,*
- b) *being defrauded,*
- c) *being put under pressure in relation to money or other property, and*
- d) *having money or other property misused.*

325. The VAWDASV Act also provides a definition of associated persons for the purpose of the definition of domestic abuse.

326. The VAWDASV Act sets out a range of requirements on a list of relevant bodies to strengthen the response to VAWDASV in Wales, including duties to prepare local and national strategies and the establishment of a National Adviser role. The latest Welsh Government strategy on Violence against Women, Domestic Abuse and Sexual Violence is available here: [Violence against women, domestic abuse and sexual violence: strategy 2022 to 2026 | GOV.WALES](#)

327. The VAWDASV Act also provides Welsh Ministers with a power to issue guidance on any subject pursuant to the purpose of the Act. Under this power Ministers have established the National Training Framework on Violence against Women, Domestic Abuse and Sexual Violence and a policy of targeted enquiry for VAWDASV known as “Ask and Act”.¹³⁷

The Housing (Wales) Act 2014 (“the HWA 2014”)

328. Under this legislation a person who is homeless as a result of domestic abuse and anyone (except the abuser) residing or reasonably expected to reside with them has a priority need for accommodation. They do not need to demonstrate vulnerability and the local authority must not refer a person to another area if anyone in the household is at risk of abuse in that area.

329. The HWA 2014 defines abuse as meaning physical violence, threatening or intimidating behaviour and any other form of abuse which, directly or indirectly, may give rise to the risk of harm: abuse is domestic abuse where the victim is associated with the abuser.

330. Even if a homeless applicant has accommodation they can legally occupy, the HWA 2014 sets out that it is not reasonable to continue to occupy accommodation if it is probable this will lead to the person, or a member of their household, being subjected to abuse.

¹³⁷ [National Training Framework on violence against women, domestic abuse and sexual violence | GOV.WALES; ask-and-act-guidance-leaders-co-ordinators-managers.pdf \(gov.wales\)](#)

331. The HWA 2014 is clear where a victim of domestic abuse applies to a local housing authority, the authority must offer them assistance, unless they have a local connection to another area, where the household is not at risk of abuse.

The Social Services and Well-being (Wales) Act 2014 (“the SSWB Act”)

332. For the purpose of Part 7 of the SSWB Act an "adult at risk" is defined as an adult who:

- (a) is experiencing or is at risk of abuse or neglect,
- (b) has needs for care and support (whether or not the authority is meeting any of those needs), and
- (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

333. Part 7 of the SSWB Act includes the duties described below:

334. The duty to enquire (section 126 of the SSWB Act) requires a local authority, where it has reasonable cause to suspect a person is an adult at risk, to make enquiries; cause others to make enquiries; decide if the person is an adult at risk; decide what if any action is required and record conclusions in their care and support plan.

335. The duty to report (section 128 of the SSWB Act) requires relevant partners of a local authority to report to their local authority when they have reasonable cause to suspect a person is an adult is at risk. It also requires a local authority to inform another local authority (in Wales or in England) if an adult they suspect to be at risk is living or moving to the area of that other authority.

336. The SSWB Act also contains a duty to consider whether it is necessary to meet the person’s assessed needs in order to protect them from abuse or neglect or a risk of abuse or neglect. If it is concluded it is necessary to meet the needs for this reason, the local authority will be obliged to meet those needs, even if they do not meet eligibility criteria. Social services support is not classed as a public fund in this context and therefore provides some benefit to those who are subject to a No Recourse to Public Funds (“NRPF”) condition. Under the SSWB Act, authorities must carry out an assessment of the adult, child, and/or carer where they may have needs for care and support. This duty is mandatory and arises regardless of their immigration status.

The Renting Homes (Wales) Act 2016 (“the 2016 Act”)

337. The 2016 Act allows for contract-holders to be added or removed from occupation contracts without the need to end one contract and start another. An occupation contract cannot be ended unless all of the contract-holders act together.

This can help people experiencing domestic abuse by enabling the perpetrator to be targeted for eviction.

UK Government legislation

338. UK Government legislation sets out a further definition of domestic abuse in the Domestic Abuse Act 2021:

Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—

- a) A and B are each aged 16 or over and are personally connected to each other, and*
- b) the behaviour is abusive.*

Behaviour is “abusive” if it consists of any of the following—

- a) physical or sexual abuse;*
- b) violent or threatening behaviour;*
- c) controlling or coercive behaviour;*
- d) economic abuse (see subsection (4));*
- e) psychological, emotional or other abuse;*

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

“Economic abuse” means any behaviour that has a substantial adverse effect on B’s ability to—

- a) acquire, use or maintain money or other property, or*
- b) obtain goods or services.*

For the purposes of this Act A’s behaviour may be behaviour “towards” B despite the fact that it consists of conduct directed at another person (for example, B’s child).

339. The Act also sets out ways in which two people are “personally connected”.

How does the law currently work?

340. Practice based feedback suggests some survivors find it difficult to access appropriate and timely support for their circumstances. This may be due to a lack of knowledge and understanding by those advising them or a lack of access to specialist support. Poor communication between agencies and authorities can compound these issues, at a time when risk of abuse could be extremely high for the survivor and their family.

341. Accessibility of appropriate accommodation can also be a particular barrier for some. The intentionality test may disproportionately impact survivors of abuse who will make decisions based on their own view of their risk and wellbeing that might be misinterpreted by professionals as making themselves intentionally homeless.

342. Lack of availability of financial support is particularly challenging for survivors of domestic abuse when they are forced to leave their homes, especially where there has been financial control and abuse. A lack of financial support can result in an individual remaining in an abusive relationship. They may also have been isolated

from friends and family during the period of abuse and feel that they have no-one to turn to for financial help.

343. For those suffering domestic abuse, being joint occupation contract-holders with the perpetrator can make it extremely difficult for a survivor to stay safe or escape abuse. Other factors such as owning a home with the perpetrator or feeling pressured to take them back into the home can make it extremely difficult for survivors to qualify for help or understand their rights.

344. Many survivors of domestic abuse report the priority need test is not applied effectively for their benefit. This is often down to a local authorities' level of knowledge and understanding of VAWDASV but is also impacted by the availability of refuge and move-on accommodation in the specialist VAWDASV sector.

345. Survivors of abuse subject to a NRPF condition, and those specialist organisations that support them, have expressed concern duties under the SSWB Act, available to this group, are not well understood by all relevant professionals and some have described professionals being resistant to offering support in some cases.

346. A pilot scheme operated by the Home Office since 2020, the Support for Migrant Victims Scheme, has provided an important step forward in securing safe accommodation for refugee, migrant and asylum-seeking victims of sexual violence and abuse. However, despite the recent announcement of a Welsh Government funding top-up, there remain significant gaps in provision.¹³⁸ For example, there are limits on housing options, due to the time restrictions of the scheme. Engagement work undertaken to support the work of the Expert Review Panel and this White Paper heard from 'by and for' Black, Asian and Minority Ethnic specialist services about the struggles these survivors face trying to care for their families within the funding available.¹³⁹ It is also apparent support and signposting arrangements can be difficult to access.

¹³⁸ The Home Office has piloted the Support for Migrant Victims Scheme since 2020. It provides some support, accommodation, and subsistence to people with no recourse to public funds who are fleeing violence against women, domestic abuse and sexual violence. The Welsh Government have recently launched a supplementary Migrant Victim of Abuse Support Fund, which will be piloted for a year by BAWSO. We intend to use the learning from this pilot, together with the evaluation of the Home Office's Support for Migrant Victims Scheme to shape the design of longer-term support to meet the needs of migrant victims in Wales.

¹³⁹ By and for services' are organisations run by minoritized groups that provide specialist support for and are rooted in the communities they serve. This is distinct from services that are run 'by and for' women.

Proposed Changes

We propose to widen the definition of “domestic abuse” to more explicitly include controlling or coercive behaviour, economic or psychological abuse. The Expert Review Panel have also recommended the definition should apply where abuse is perpetrated by a person in an intimate personal relationship with the victim of any duration. This is already the case in Wales under the VAWDASV Act (section 24(2)(h)).

347. Through this proposal we aim to bring definitions across the VAWDASV Act, HWA 2014 and the UK Government’s Domestic Abuse Act 2021 into line, and it is our policy intention it will ensure victims of domestic abuse, no matter how that abuse has been perpetrated, will benefit from the proposed reforms.

We propose a further amendment to ensure the main housing duty should include a duty to help the applicant retain their existing accommodation (immediately or in the long-term) if they wish to and it is safe to do so (such help could include assisting them to obtain an occupation order, installing physical safety features or helping them obtain advice to have the ownership or occupation contract transferred to their name).

348. This reform is designed to ensure the main housing duty enshrined in legislation can be discharged where a survivor of domestic abuse is able to return to the family home following a period away, rather than having to stay in refuge/temporary accommodation/move away from their community if they do not wish to. It is important to be clear this additional discharge option would be led by the views of the applicant and based on their choice and assessment of what is safe, including a risk assessment completed by a qualified VAWDASV specialist.

349. Through these proposed reforms we aim to strengthen opportunities through which a survivor/applicant’s views as to where they would be safe, in terms of the location of any accommodation secured under HWA 2014 duties, can be taken into account when housing decisions are made. This will aim to give survivors of abuse a greater say in where they should be accommodated following acceptance of the main homelessness duty and allow greater consideration of matters such as the proximity and accessibility of the applicant’s support network (which might be broader than family) when considering location of accommodation.

It is proposed involvement of specialist VAWDASV services in the decision-making for these service users should also be strongly encouraged when the survivor is accessing this support. This will ensure safe and informed decisions.

350. In order to support these proposed legislative changes, we will also consider the following broader policy work:

- We will consider the feasibility of “Ask and Act” training being offered to RSLs in Wales, including the likely cost of such an expansion and the capacity of the current training programme.
- We will also seek to strengthen guidance and awareness of the ability to remove perpetrators from a home where there is a joint occupation contract. Although these powers have already been created under the Renting Homes (Wales) Act 2016, it appears the option is not well known or utilised currently.

351. The Welsh Government announced the establishment of the Migrant Victim of Abuse Support Fund in July 2023, which will be piloted for a year by the Welsh specialist “by and for” organisation, BAWSO. We will learn from this pilot work as we work to develop this legislation.

Disabled people

352. According to the 2021 census 21.1% of the Welsh population are disabled.¹⁴⁰ Welsh data on the proportion of disabled people experiencing homelessness in Wales is not available, however data from England suggests 17% of those to whom a homelessness duty is owed are disabled or experiencing physical health problems. An additional 5% have a learning disability.¹⁴¹ Furthermore, smaller scale evaluation undertaken by Crisis showed 39% of those supported by their Skylight project were disabled whilst those working in housing services often describe high levels of disabled people staying in temporary accommodation.¹⁴²

353. It is also clear from the engagement work undertaken by Tai Pawb and the Disability Advice Project, on behalf of the Welsh Government, that the homelessness system does not always meet the needs of disabled people who are experiencing or at risk of homelessness well enough and there are issues related to accessible accommodation.

What the law currently says

The Social Services and Well-being (Wales) Act 2014

354. The Social Services and Well-being (Wales) Act 2014 sets out the duties on local authorities, relating specifically to support services for disabled people, and regarding the choice and control disabled people should be able to exercise over support, including where and with whom to live. The Social Services and Well-being (Wales) Act 2014 Part 2 Code of Practice (General Functions) says: ‘when exercising social services functions in relation to disabled people who need care and support

¹⁴⁰ [Disability, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-and-population/disability)

¹⁴¹ [Tables on homelessness - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/tables-on-homelessness)

¹⁴² [Hidden Homeless Exposed: Disability in Temporary... | Justlife](https://www.justlife.org.uk/news/hidden-homeless-exposed-disability-in-temporary-accommodation)

and disabled carers who need support, local authorities must have due regard to the United Nations Convention on the Rights of Persons with Disabilities.’

The Housing (Wales) Act 2014

355. Section 70(1)(c) of the HWA 2014 sets out a person has priority need if they are vulnerable due to some special reason, including “physical or mental disability”.¹⁴³ The Code of Guidance is clear disabled people can be particularly vulnerable to homelessness if their needs are not identified and addressed through the statutory care framework.

356. The Code of Guidance also sets out where accommodation is allocated to a person who needs to be rehoused on medical or welfare grounds including grounds relating to disability, it is essential to assess any support or care needs. Moreover, it encourages partnership work to ensure hidden impairments are not missed, including mental impairment and learning disabilities.

357. The Homelessness (Suitability of Accommodation) (Wales) Order 2015 provides that in determining whether it would be reasonable for a person who is vulnerable and who is or may be in priority need, to occupy accommodation and in determining whether accommodation is suitable for a vulnerable person, there shall be taken into account matters that include: a) the specific health needs of the vulnerable person; b) the proximity and accessibility of social services; c) the proximity and accessibility of family support or other support services; d) any disability of the person; e) the location / proximity of alleged perpetrator of domestic abuse to the accommodation provided.

The Equality Act 2010

358. The main purpose of the Equality Act 2010 is to uphold the rights of individuals, protect them from unfair treatment due to a perceived protected characteristic and increase equal opportunity. It sets out a range of characteristics which are protected (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and defines and prohibits discrimination linked to these characteristics. In relation to disability, the Act says an individual must not be discriminated against because they are disabled, someone thinks they are disabled (this is known as discrimination by perception) or they are connected to someone who is disabled (this is known as discrimination by association).

359. The 2010 Act defines a disability as a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on a person’s ability to do normal daily activities. “Substantial” is further defined as being “more than minor or trivial” and “long-term” and means the impairment has lasted or is likely to last at least 12 months or the rest of the person’s life.

¹⁴³ The Housing Act (2014) was written prior to the Welsh Government adoption of the social model of disability and this language reflects that.

360. The Equality Act 2010 also sets out a legal duty for public sector organisations and bodies which carry out functions of a public nature to make changes in their approach to ensure services are accessible to disabled people. These changes are referred to as reasonable adjustments and can mean alterations to buildings by providing lifts, wide doors, ramps and tactile signage, but may also mean changes to policies, procedures and staff training to ensure services work equally well for disabled people, people with learning disabilities and non-disabled people.

361. The 2010 Act also introduced the Public Sector Equality Duty (PSED) which has 3 overarching aims. Those subject to the duty must have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and those who do not.

362. The aim of the PSED is to ensure those subject to it consider advancement of equality when carrying out their day to day business. For the Welsh Government this includes shaping policy and delivering services as well as being relevant to our relationship with our employees. A list of bodies subject to the PSED is available [here](#) and includes local authorities and Local Health Boards.

363. Registered Social Landlords are not explicitly named as PSED organisations, however, case law established in 2009 has specified housing providers are “hybrid authorities”, as they *exercise a mix of public and private functions. In each case it will be necessary to determine whether a particular act (for example terminating an occupation contract) is of a private or public nature. However, if they are undertaking a public act, they would be subject to the duty and their actions will also be capable of challenge on public law/ECHR grounds.*

The Renting Homes (Wales) Act 2016 (“the 2016 Act”)

364. The 2016 Act provides a simplified legal framework for renting based on two types of occupation contract. This will make it easier for disabled and non-disabled people to understand their rights and responsibilities. In addition, the Act provides a new form of occupation contract for any person who occupies premises in conjunction with the provision of particular support services, including supporting people who require additional assistance to achieve independent living. Additionally, the Act extends succession rights to carers.

The Well-being of Future Generations (Wales) Act 2015 (“the 2015 Act”)

365. The 2015 Act requires public bodies in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate

change. One well-being goal is a more equal Wales, where everyone can reach their potential.

366. Additional policy activity and documents outline the Welsh Government's commitment to fulfilling their obligations arising from the UN Convention on the Rights of Persons with Disabilities and a strategic commitment to achieving equality for disabled people.

Local Housing Market Assessments

367. In March 2022, the Welsh Government published a new approach to undertaking Local Housing Market Assessments (LHMAs). LHMAs are vital in determining local housing requirements and form a key part of Local Development Plans (LDPs).¹⁴⁴

368. LDPs must set out how and where an authority intends to provide affordable homes to meet the target they have established. LHMAs should also be used to plan for the diverse needs of different people and communities, including those who are Black, Asian and Minority Ethnic, disabled people and people of different ages, to ensure homes meet those needs.

Action on disability: The right to Independent Living Framework and Action Plan¹⁴⁵

369. This plan was published in 2019 and is informed by engagement with disabled people and wider stakeholders. It sets out a number of actions in response to recommendations made in the Equality and Human Rights Commission and the Auditor General's 2018 review of housing adaptations.

Disability Rights Taskforce

370. The Disability Rights Taskforce was set up in 2021 and brings together people with lived experience, Welsh Government policy leads and representative organisations to identify the barriers that affect the lives of many disabled people in Wales. The Taskforce works within the scope of the Welsh Government's legal remit and not in areas that solely fall under the UK Government's responsibilities.

371. The Taskforce has identified key priorities for its programme of work, which are to be addressed through the following working groups:

- Embedding and Understanding of the Social Model of Disability (across Wales)
- Access to Services (including Communications and Technology)
- Independent Living: Health
- Independent Living: Social Care
- Travel

¹⁴⁴ [Local housing market assessment \(LHMA\): guidance for local authorities | GOV.WALES](#)

¹⁴⁵ [Action on disability: the right to independent living framework and action plan | GOV.WALES](#)

- Employment and Income
- Children and Young People
- Affordable and Accessible Housing
- Well-being

372. The working groups have a range of stakeholders including organisations that support disabled people and disabled people. Recommendations from these groups will inform the Disability Rights Action Plan. The first four working groups have concluded, and their recommendations have been presented to the wider Taskforce. Travel, Employment and Income and Children and Young People workstreams are underway, with Affordable and Accessible Housing to start in the Autumn of 2023. The taskforce aims to publish its 'Disability Rights Action Plan' in March 2024.

Autism: A Guide for Practitioners within Housing and Homelessness Services¹⁴⁶

373. This guide was published in September 2019 in collaboration with the WLGA, Public Health Wales, the Welsh Government and the National Autism Team, in response to research that demonstrates the higher proportion of homeless people who are autistic and of the challenges faced by this group in accessing homelessness services. The guide highlights the issues some people with autism face when applying for housing for the first time, or the obstacles they can encounter in managing occupation contracts. The guide, and the associated training which will be available, provides housing practitioners with practical solutions for dealing with issues which are sometimes seen as anti-social behaviour.

The Social Model of Disability

374. The Welsh Government is committed to using the Social Model of Disability in all aspects of its work. The Social Model of Disability takes the view people may have impairments, but they are disabled by society. The Social Model was developed by people with disabilities themselves. Their experiences showed most of the problems they face are caused by the way society is organised. Their impairments or conditions are not the problem. Social barriers include people's attitudes to disability and physical and organisational barriers.

How the law currently works

375. Accessible housing and housing-related support is critically important for disabled people as it is a key enabler for independence, autonomy, dignity and safety.¹⁴⁷ Throughout the engagement work undertaken to support the work of the Expert Review Panel and development of this White Paper, stakeholders and people with lived experience of homelessness have been clear that being disabled and experiencing homelessness are linked. There is limited data in this area which means it is challenging to evidence this intersection, however stakeholders describe

¹⁴⁶ [Autism_A-Guide-for-Practitioners-within-Housing-and-Homelessness-Services_Eng.pdf \(autismwales.org\)](#)

¹⁴⁷ [housing-and-disabled-people-wales-hidden-crisis.pdf \(equalityhumanrights.com\)](#)

an ongoing and challenging situation where many people currently staying in temporary accommodation are disabled and some non-disabled residents are at risk of becoming disabled due to the deterioration of ongoing health issues. Moreover, the onset of a physical impairment can lead quickly to risk of homelessness and suitable and accessible accommodation is not always readily available.

376. In recent years two significant inquiries (the Public Services Ombudsman Own initiative review [Homelessness reviewed: an open door to positive change](#) and [The Equality and Human Rights Commission inquiry into disability and housing](#)) have been undertaken which relate to the experience of disabled people in relation to access to housing. Subsequent inquiry reports identified similar themes which are summarised below and considered against the feedback we received via the engagement work undertaken by Tai Pawb in support of this White Paper.¹⁴⁸

The Public Sector Equality Duty

377. The Public Sector Ombudsman noted a lack of consideration of protected characteristics within homelessness case management.¹⁴⁹ This lack of consideration carried across to the assessment of whether a person was vulnerable for the purposes of the priority need test and the Ombudsman noted in some cases, only the priority needs of the client were considered, and not medical evidence relating to the health or disability needs of a partner or dependent. The consequence of this omission is disabled people are offered accommodation that was 'wholly unsuitable or inaccessible'. These findings are mirrored in the Tai Pawb engagement work.

Accessible accommodation

378. 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 and, according to the Equality and Human Rights Commission (EHRC); failure of broad duties in planning legislation to pay regard to the needs of disabled people to translate into full consideration of disabled people within strategic housing plans and Local Housing Market Assessment.¹⁵⁰ These supply issues mean disabled people are waiting long periods of time for homes to be adapted to meet their needs and, 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 well-being.

379. The Tai Pawb engagement completed for the purposes of this White Paper suggests local authority and RSL knowledge of the stock available to them is limited, which leads to a lag in allocations and the allocation of inappropriate properties. This is also raised in the EHRC report (linked above) which notes a lack of knowledge regarding the supply of accessible housing.

¹⁴⁸ [Experiences-of-homelessness-Final-Version-PDF.pdf \(taipawb.org\)](#)

¹⁴⁹ [Complaints Step 4 : 01 HOME - S21 Draft Investigation Report \(ombudsman.wales\)](#)

¹⁵⁰ [housing-and-disabled-people-wales-hidden-crisis.pdf \(equalityhumanrights.com\)](#)

380. The Welsh Government published data on Accessible Housing Registers in 2016.¹⁵¹ This found the majority (81%) of the 21 local authorities responding to the survey reported having an Accessible Housing Register with 19% reporting they do not have one. Those who do not have an Accessible Housing Register use other vehicles, such as the Common Housing Register, a manual list, or Choice Based Lettings to perform the same function.

Suitability

381. The Public Service Ombudsman found suitability of accommodation offered to disabled people does not always meet appropriate standards and a person's needs are not always fully explored and considered when making an offer of interim and permanent accommodation.¹⁵²

Systems access

382. The EHRC found local authority and RSL bidding, and application systems are often inaccessible, placing disabled applicants at a disadvantage. It highlighted that often disabled people felt pressurised to accept unsuitable accommodation for fear of being removed from housing lists.¹⁵³ This finding has been expanded in the work of Tai Pawb where disabled people expressed frustration their personal information was not captured appropriately within systems which meant they felt their needs were not well assessed or understood.

Allocations

383. The EHRC state "disabled people are overwhelmingly represented in social housing, because of its lower affordable rent, security of tenure and provision of support" but despite this, allocation policies and practices frequently disadvantage disabled people.¹⁵⁴

Proposed Changes

It is our policy intention that the Personal Housing Plans proposed in section 1 of this White Paper will improve the service provided to disabled people through consideration of individual housing needs and support needed to retain accommodation, in addition to inclusion of any impairments of the applicant or any member of their household.

To improve the efficiency of allocation of accessible accommodation, we propose all local authorities in Wales be legally required to hold an accessible housing register and undertake a regular review of the accessible accommodation within their stock.

¹⁵¹ [Local Authorities ,Common Housing Registers™ and ,Accessible Housing Registers™: A Report \(gov.wales\)](#)

¹⁵² [housing-and-disabled-people-wales-hidden-crisis.pdf \(equalityhumanrights.com\)](#)

¹⁵³ [housing-and-disabled-people-wales-hidden-crisis.pdf \(equalityhumanrights.com\)](#)

¹⁵⁴ [housing-and-disabled-people-wales-hidden-crisis.pdf \(equalityhumanrights.com\)](#)

384. Such a review would involve all social housing stock holding partners. Whilst data published in 2016 suggests most local authorities have an accessible housing register, these figures are brought into question by subsequent publications which suggest use is lower. Feedback from stakeholders and service users suggests knowledge of accessible housing within localities could be improved, alongside efficiencies in allocations practice.

385. As set out in Chapter 1 of this White Paper we will also ensure communication and notification procedures throughout the application process are accessible and, as part of this, will work to eliminate disadvantage for disabled people.

Ex armed services personnel

386. The Census 2021 suggests there are around 115,000 veterans in Wales which is 4.5% of the population. Data suggests the numbers of ex armed forces personnel coming through the homelessness system is low. Of the 2,631 households who were owed a duty in 2018-19 (the last full year for which we have data) between 6 and 9 were ex-armed service personnel.¹⁵⁵ However, engagement undertaken by Crisis and the Welsh Government to develop this White paper suggests ex-service personnel encounter a number of barriers related to homelessness to be considered as part of the aims of this White Paper.

What the Law Currently Says

The Armed Forces Act 2006 and the Armed Forces Act 2021

387. The Armed Forces Act 2021 amended the Armed Forces Act 2006 to place a legal duty (the 'Covenant Duty') on specified public persons and bodies to have due regard to the principles of the Armed Forces Covenant when exercising certain statutory functions in the fields of healthcare, education and housing. In relation to Wales, the specified bodies are listed in section 343AB(3) and relevant functions are set out in section 343AB (4-6). The Covenant Duty came into effect on 22 November 2022.

388. The Armed Forces Covenant duty states when a specified body exercises a relevant function, it must have due regard to:

- “(a) the unique obligations of, and sacrifices made by, the armed forces;
- (b) the principle that it is desirable to remove disadvantages arising for service people from membership, or former membership, of the armed forces, and
- (c) the principle that special provision for service people may be justified by the effects on such people of membership, or former membership, of the armed forces.”

¹⁵⁵ [Households found to be eligible for assistance, unintentionally homeless and in priority need during the year: Categories of priority need by type of household \(section 75\) \(gov.wales\)](#)

Section 343AB (4) of the Armed Forces Act 2006 sets out that the covenant applies to relevant housing functions under Part 2 of the HWA 2014, alongside other relevant housing law in Wales.

The HWA 2014

389. Section 70 of the HWA 2014 sets out that people who have formerly served in the regular armed forces of the Crown and who have been homeless since leaving those forces are recognised as being in priority need.

390. The Welsh Government published its National Housing Pathway for Ex-Service Personnel in 2016, which sets out the pathway for meeting the housing needs of former members of the Armed Forces in Wales.

How the law currently works

391. Homelessness amongst ex-armed services personnel is often delineated into two categories: people leaving the forces being 'discharged' into homelessness, or people becoming homeless some time after leaving the forces. Research undertaken in England suggests the risk of homelessness immediately following service is largely reduced due to significantly improved discharge programmes, however, stakeholder engagement undertaken to develop this White Paper suggests data may under-represent those who have served and there are a number of areas where veterans experience additional barriers in relation to the homelessness system.¹⁵⁶

392. In the engagement work undertaken to develop this White Paper stakeholders have been clear homelessness does not only affect ex-armed forces personnel, but the whole family unit, who may experience specific challenges in navigating housing pathways. The local connection test came up as a particular challenge; those in service may move every two years, based on their placement and, as a result, may find it difficult to evidence a local connection anywhere. Engagement also suggests this test can be particularly problematic for separated families of veterans.

393. As outlined above, those who have served in the armed forces fall into one of the eleven priority need categories and this is widely welcomed by ex-services personnel and the organisations who support them. However, this categorisation relies on a person disclosing their service, which may not always happen, particularly if service took place some time ago. Securing housing becomes much more complicated if someone becomes homeless years after they have finished service and have not been supported with trauma. It is possible in such cases, individuals may not be assessed as in priority need.

394. As is the case for anyone with unmet support needs, veterans experiencing an impairment, mental illness, substance use or complex needs may find temporary

¹⁵⁶ The Homelessness Monitor: England 2021; Fitzpatrick et al, Institute for Social Policy, Housing and Equalities Research

accommodation particularly difficult and these wider support needs may negatively impact move on options to longer term accommodation.

395. The National Housing Pathway for Ex-Service Personnel provides a strong framework for multi-agency working, but our engagement work suggests there is more to do in embedding this practice across Wales. A strong package of support for the armed forces, their families and veterans in Wales is already in place and this will be complemented by delivery of the broader aims of these proposed reforms; to ensure a needs led, person centred and trauma- informed response to those experiencing or at risk of homelessness.

Proposed Changes

In additional to the proposals outlined in section 1 on local connection we also propose to review the National Housing Pathway for Ex-Service Personnel and seek ways to ensure it is consistently applied across local authorities.

People leaving prison

396. Only a minority of people experiencing homelessness will become involved in offending, but spending time in prison increases the risk of homelessness and a lack of stable accommodation can increase the risk of offending or reoffending. This can lead to a self-perpetuating negative cycle, with repeated episodes of homelessness and imprisonment.¹⁵⁷ Settled housing and productive use of time are two of the most important protective factors against re-offending and risk of serious harm. Everyone leaving prison should have somewhere safe and secure to live; accommodation provides a foundation to aid in rehabilitation.

397. Over the past eight years homelessness amongst those leaving custody has and continues to be one of the most significant challenges faced by homelessness teams. Over the coming decade it will act as a litmus test for the success of the legislative reform and the transition to Rapid Rehousing as a whole.

398. His Majesty's Prison and Probation Service (HMPPS) data suggests 14% of those leaving prison are homeless upon release, while statutory homelessness data indicates 11% of homelessness presentations are from people leaving custody.¹⁵⁸ This figure is almost certainly under-representative, given the possibility for some leaving custody to be counted in other categories for data recording purposes and would not include those who are hidden from services, i.e. those who are sofa surfing.¹⁵⁹

¹⁵⁷ Crisis (2019); Criminal Justice and Homelessness: Introductory briefing for Prevention Review Group

¹⁵⁸ [Ad Hoc - Accommodation Following Release from Custody - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

¹⁵⁹ [Households found to be eligible, homeless subject to duty to help to secure during the year. Main reason for loss of last settled home by type of household \(Section 73\) \(gov.wales\)](https://gov.wales)

399. In addition, the most recent Welsh annual rough sleeper data count suggested of those rough sleeping, 43% had a history of having spent time in custody.¹⁶⁰ This supports anecdotal evidence which suggests those leaving custody, particularly single men, make up most of those applicants who are most difficult to positively support and liable to fall into ongoing short cycles of repeat homelessness and rough sleeping.

400. The reasons for this are varied and complex and differ when considering men, women, young people and children. The issues range from difficulties within provision of in-custody support services, the challenges of providing a homelessness prevention service at distance and the stigma faced by people who have been in contact with the justice system. Unsurprisingly many former prisoners face personal histories of trauma, abuse and (in some cases) a reliance on legal and illegal substances to manage the effects of trauma. An offending history will often result in a significantly reduced list of support and housing options. In addition, those who are subject to the Multi Agency Public Protection Arrangement (MAPPA) process or are Registered Sex Offenders (RSO) will also find their options greatly limited as a result of the perceived risks of accommodating them.

401. Combined, these challenges mean a relatively small cohort of people face extreme disadvantage and lead to a disproportionately high workload for services. Those leaving the secure estate risk falling into a cycle of detention and homelessness services, intersecting with increased substance use issues as well as mental illness.¹⁶¹ This can lead to a downwards cycle of continued abuse and an inability to access services, making it challenging to house and resettle them each time they leave custody and present to services.

402. The challenges faced by women in the secure estate differ slightly, in that there is a growing recognition of increased vulnerability of female offenders and a developing understanding that often women offenders will have been the victims of crime as well as a perpetrator, have caring responsibilities and increased likelihood of childhood trauma. Women leaving custody are also considered to be at increased risk of exploitation making safe spaces to stay of paramount importance. As there is neither a female prison or Approved Premises (CAS1) in Wales, female offenders encounter geographical difficulties related to traveling back to their home area on the day of their release which can also increase the risk of exploitation and/or rough sleeping. The Probation service will support where there is a period on licence or post sentence supervision. However, if the woman is released at her sentence expiry it will be the third sector and whole system approach in Wales that offers this support. The Women's Justice Blueprint agreed by the Welsh Government and UK Government is delivering work to mitigate these challenges, working with partners to build on and accelerate the transformation of services for women in Wales through a system-wide focus. This includes strengthening the network of housing solutions to better consider the specific needs of women.

403. Homelessness amongst young people and children leaving the Youth Justice System is relatively rare due to the work of Youth Justice Services, made up of Health, Social Services, Education, Police and Probation. These young people are

¹⁶⁰ [Download.aspx \(wlga.wales\)](#)

¹⁶¹ See glossary for definition

more likely to be accommodated in a supported housing environment on release. There remain, however, consistent reports from services of challenges when young people move to adult estates during their sentence, primarily in relation to the transition of support. The Youth Justice Blueprint will also continue to deliver recommendations for partners to focus their work.

404. There are themes associated with preventing homelessness for anyone leaving prison and those with an offending history. These themes are summarised below and involve a culture of discrimination, compounded by significant resourcing issues. There are also additional challenges associated with gaining access to people in the secure estate and in managing devolved and non-devolved areas of this policy.

Stigma

405. Research has established securing adequate housing for prison leavers can significantly reduce re-offending, by up to 50%.¹⁶² ¹⁶³ If we do not support former offenders into secure and stable housing there is a likelihood they will not be able to resolve trauma related issues and escape cycles of offending which, perversely, increases risk to communities and makes it more challenging for criminal justice services to support and supervise former offenders.¹⁶⁴ Homelessness is a stigmatised experience and this stigma is exacerbated for those who also have an offending history. Unfortunately, this often reflects a complex narrative in the media, amongst professionals and the public which can associate homelessness with anti-social behaviour and begging. Sometimes it may be less conscious prejudice, while at other times it is more overt. While individuals leaving custody face additional levels of prejudice, Registered Sex Offenders may experience this to an increased extent which may result in significant barriers to them rehabilitating and re-joining society.

Access to accommodation

406. According to the evaluation of the HWA 2014, those leaving custody face additional barriers when attempting to secure private rented accommodation.¹⁶⁵ Reasons cited by participants include reluctance from landlords to wait until release dates to fill vacant properties and outright refusal from some landlords to accommodate anyone who has served a prison sentence. In some cases, potential tenants will be held to a higher standard of vetting and required to disclose their full offending history before being provided with an occupation contract. HMPPS has worked closely with Welsh Government to develop a “being a good tenant” package to support people on probation to understand their tenancy but also to support and reassure landlords, but there are still difficulties in finding this type of accommodation for people on probation.

¹⁶² Social Exclusion Unit 2002.

¹⁶³ [Basic housing to keep offenders off streets and cut crime - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

¹⁶⁴ Social Exclusion Unit (2002) Reducing reoffending by ex- prisoners, London: Social Exclusion Unit Dore (2015) [Prison leavers and homelessness](#)

¹⁶⁵ [Welsh Government \(2018\); Post-implementation evaluation of Part 2 of the Housing Act \(Wales\) 2014: Final Report](#)

407. The situation within the social rented sector is complex. Whilst some local authorities report exemplary support from their RSL partners, there is also persistent feedback to suggest those leaving custody are subject to additional barriers, often in the form of exclusions from waiting lists or allocations based on historical behaviour or rent arrears.

Local connection and out of county placements

408. Feedback from local authorities suggests the local connection test remains of value for resource management. However, the test becomes more challenging in relation to supporting people leaving custody and transferring applicants between localities. Local authorities report concerns resettlement of prison leavers leads to an increased likelihood of local connection referrals, as well as increased likelihood of challenge from the local authority receiving the referral. The HWA 2014 does not prevent a local authority from providing accommodation outside of its area without the need for a local connection referral, but section 91 of the HWA 2014 makes it clear notification should be provided to the local authority where the applicant will be accommodated within 14 days of commencement of the placement and include basic information in relation to the name of the lead applicant and make-up of the household. Details of any past offending behaviour is not a requirement. The second local authority has no power to refuse or object to that placement. Evidence has identified local authorities, on occasion and when they have become aware of a placement of an applicant with an offending history in their area, will make contact with the original local authority who have placed the applicant in their area and demand they are moved elsewhere, failing to undertake inquiries as to why it may be beneficial for a former prisoner to move to a new location.¹⁶⁶

Resource challenges

409. A lack of housing supply, in particular a lack of single person accommodation is a significant barrier faced by those leaving prison, often resulting in extended stays in temporary accommodation. Despite the best efforts of providers, long stays in temporary accommodation increase the risk of re-engaging with the criminal justice system due to lack of support, instability and interactions with a high turnover of residents.

410. There is also a specific challenge in relation to those who are subject to MAPPA. Positive multi-agency working can lead to additional preference in relation to the allocation of accommodation or matching to willing social and private landlords, however being subject to such arrangements can also lead to additional challenges in sourcing accommodation which meets the satisfaction of partners. This can lead to situations where accommodation is not considered suitable based on its location and challenging expectations placed on local authorities to find a second or third option. This can be a significant challenge and can lead to tension, particularly in parts of Wales where availability of a wide range of accommodation, which meets very specific requirements, linked to location and risk, is limited, even though all are working towards protecting the public.

¹⁶⁶ [Evaluation of homelessness services to adults in the secure estate | GOV.WALES](#)

411. As part of HMPPS reforms of Community Accommodation Services (CAS), a new form of temporary accommodation has been developed in response to the issue of homelessness for those leaving custody. The CAS3 accommodation (CAS1 – approved premises and CAS2 – Bail Accommodation and Support Services) provides temporary accommodation, along with support to move-on to settled accommodation and is aimed at those subject to probation supervision and assessed as being at increased likelihood of homelessness upon release from custody or Approved Premises (CAS1). It has the potential to provide accommodation for those that may otherwise have found themselves without and may reduce the chances of a recall to custody. However, bedspaces are limited across Wales and the support and accommodation only lasts for 84 nights.

What the law currently says

412. Crime and justice are reserved matters. The Criminal Justice System is controlled by the UK Government and, as such, much of the legislative framework in this area relates to UK legislation. However, reference to prison leavers, related to housing, is made in the HWA 2014 and Welsh specific practice has been developed within this context.

The Housing (Wales) Act 2014

413. The HWA 2014 was designed to provide support to anyone who is homeless or at risk of homelessness regardless of their background. The key duties within the Act (like its predecessor the Housing Act 1996), makes no distinct provision for anyone who is in custody or leaving custody, other than in relation to the presence of a specific priority need category.

414. There are, however, a number of specific provisions within the HWA 2014 for those who are in custody or to support the planning for those leaving custody.

Homelessness strategies

415. Section 52(6) of the HWA 2014 ensures every strategy must have provision relating to action for ‘people leaving prison or youth detention accommodation’.

Advice service

416. Section 60 of the HWA 2014 places a duty on each local housing authority to provide a homelessness advice service and section 60(4)(c) places a requirement on the local housing authority to (in particular by working with other public authorities, voluntary organisations and other persons) ensure the service is designed to meet the needs of ‘people leaving prison or youth detention accommodation’. As section 60 makes clear, the service must be available to ‘people in its area’ or who ‘have a local connection with its area’ this could include the provision of a service to those in custody where there is a prison located within the geographic boundaries of the local authority area or a service to those in prison outside of its geographic boundary. The Code of Guidance sets out further information on how this can be achieved.

Detention/local connection

417. Section 81 of the HWA 2014 outlines local connection. Section 81(3) makes it explicit someone who is a resident in an area as a result of being detained under the authority of an enactment is not there by choice. That person therefore would not have a local connection in the local authority area of the detention facility as they would not normally be resident there and residence was not of their own choice.

Priority Need

418. The HWA 2014 saw the revision of the automatic priority need status for everyone leaving custody, which had been in place since 2003, to only those who were vulnerable due to being in custody or detention, defined as the following:

(j) a person who has a local connection with the area of the local housing authority and who is vulnerable as a result of the one of the following reasons –

(i) having served a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 222 of the Sentencing Code,

(ii) having been remanded in or committed to custody by an order of a court or

(iii) having been remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or a person with whom such a person resides or might reasonably be expected to reside.

419. Section 70(1)(j) of the HWA 2014 sets out the intention of this provision to support those who have been institutionalised or been traumatised by their stay in custody.

420. In the years prior to 2014 between 800 and 1000 people per year were found to be in priority need due to being found to be vulnerable as a result of having been in prison. That figure had dropped to well under 100 in the years following the introduction of the revised definition. However, given the emphasis on prevention laid out in the HWA 2014 and the potential of being captured under a different priority need category, a direct comparison should not be made.

Duty to provide information, advice and assistance in accessing help

421. The duty to secure the provision of an information and advice service as set out in section 60 HWA 2014 states that service should be available to 'people in its area'. This includes anyone without a local connection who is held in custody in that area. There are no local authority funded teams within any of the five Welsh prisons. This stands in sharp contrast to other statutory services, such as health and education, which have a consistent and accessible presence in custody. Welsh Government and HMPPS have however jointly funded accommodation pathway co-ordinators within the probation setting with the aim of working closely with the prison offender managers and community offender managers to seek to ensure the

seamless release of individuals. The resettlement teams work closely with all three of these roles to ensure information regarding homelessness is shared in advance with local authorities. HMPPS also established Homelessness Prevention Taskforces (HPTs) who share data with local authorities to ensure the risk of someone being released as street homeless is reduced.

Early release

422. In some instances, an early release from custody may be being considered for an individual. This is only possible where accommodation is identified and assigned to the individual, making them eligible for Home Detention Curfew. Those without accommodation or access to CAS2 accommodation may therefore lose out on the opportunity for early release and the benefits that may bring.

Transforming Rehabilitation

423. As part of the Transforming Rehabilitation agenda, the UK Government introduced the Offender Rehabilitation Act 2014. The Act expanded the eligibility for probation supervision, whilst also laying the platform for a suite of Community Rehabilitation Companies (CRCs) to undertake resettlement services during the final six months of a sentence for those considered low or medium risk of harm. The National Probation Service were charged with supervising those considered higher risk.

424. In Wales Offender Management moved into the National Probation Service in December and in 2021 all other aspects of delivery moved into the new Probation Service. The Probation Service continue to commission specific services through a dynamic framework and these are called, Commissioned Rehabilitation Services.

The National Pathway for Homelessness Services to Children, Young People and Adults Leaving the Secure Estate¹⁶⁷

425. In 2014, the Prisoner Accommodation Resettlement Working Group was set up to examine the options available to ensure everyone due to leave custody was able to access homelessness prevention duties in the HWA 2014. As a result, the National Pathway for Homelessness Services to Children, Young People and Adults Leaving the Secure Estate was published in December 2015. Taking account of the different systems and support needs of adults and children, the pathway developed two separate processes and was developed with all partners and endorsed a referral process between non-devolved resettlement services operating in custody and the devolved statutory homelessness services being undertaken in the community by local authorities.

426. While the majority of the Adult Pathway is explicitly based on linking the HWA 2014 to probation services, to ensure the most effective use of the reasonable steps within the 56 day time limit under sections 73 and 74 of the HWA 2014, the National Pathway proposes where someone is homeless (i.e. no accommodation is available to them in custody), applications should be delayed until 66 days prior to release

¹⁶⁷ [27291 Homelessness Pathway for Prisoner \(gov.wales\)](https://www.gov.wales/government/27291-homelessness-pathway-for-prisoner)

from custody. The 66 day timeframe was chosen to allow for a desk top assessment to be undertaken by the authority and a duty commenced and ended while an applicant was still in custody so, where a section 75 duty is not owed, the applicant would be eligible for a second duty under section 73 of the HWA 2014 upon release based on the material change of circumstance of leaving custody.

427. Whilst developing the Adult Pathway, the working group also influenced changes to the South Wales Prison Link Cymru projects, to ensure it worked exclusively at reception to custody, with the objective of retaining tenancies wherever possible, usually through maximisation of benefit entitlements during someone's stay in custody. In addition, the National Pathway also proposes where a threat of homelessness is identified at any time during a sentence, an immediate application can be made to the homelessness team.

How the law currently works

Access to the system

428. There is no legal barrier to anyone in custody benefiting from the core duties under the HWA 2014. The law makes no distinction or provision to disallow anyone in custody from being entitled or eligible. Moreover, a prison cell is not considered suitable accommodation by law and therefore, anyone who has no legal right to occupy accommodation in the community, is legally homeless or threatened with homelessness while in custody. In turn, anyone in custody who is either homeless or threatened with homelessness is entitled to make a homeless application (via a third party or in writing if necessary) and entitled to an assessment under section 62 of the HWA 2014. Where a homeless duty is owed, local authorities would be expected to deliver reasonable steps as they are for anyone else.

429. However, despite the attempts to improve communication and the development of Homelessness Prevention Taskforces (HPTs) within HMPPS, practice based feedback is clear there remain barriers to delivering the process as set out above. These barriers include the obvious challenge faced by housing advice teams attempting to access individuals in prison as well as the capacity of resettlement services.

The National Pathway for Homelessness Services to Children, Young People and Adults Leaving the Secure Estate

430. The Adult Pathway assumes resettlement services and homelessness teams will have the capacity to deliver its aims and, given the pressures felt by housing services across Wales, its implementation has been inconsistent. In some cases, this leads to newly discharged prisoners presenting to homelessness teams who have no prior knowledge of their release.

431. An evaluation of the National Pathway and the removal of priority need for people leaving custody was undertaken by Glyndwr University in 2018. This evaluation provided a clear picture that where the National Pathway was followed, outcomes were improved compared to outcomes for those who were supported under the Housing Act 1996. The report also suggested that whilst reception

services were working effectively in maximising benefit entitlements and retaining accommodation, where appropriate, for re-access upon release, these services should be extended to support more cases at reception stage.¹⁶⁸

432. The report from Glyndwr University also identified engagement between the (then) CRCs and local authorities, prior to an individual's prison release, was overly focused on determining vulnerability (i.e. priority need eligibility) rather than sourcing alternative accommodation options.¹⁶⁹ This resulted in those who did not meet the threshold for priority need, who were being released, unlikely to be provided with accommodation. Prior to the "no one left out" approach and the subsequent addition of the street homelessness category of priority need in October 2022, this may have been a significant factor behind patterns of rough sleeping amongst former prisoners.

Vulnerability

433. The evaluation of the HWA 2014, alongside feedback from Shelter Cymru, highlight concerns those leaving custody are required to demonstrate a higher level of vulnerability in order to trigger either the section 68 temporary accommodation duty or the main section 75 duty to secure, than those who do not have an offending history.

Proposed Changes

434. Our proposed changes to legislation fall into a number of categories:

- Changes to existing core duties
- Shared responsibilities
- Children and Young People

435. The proposals set out below should be read alongside Chapters 1 and 2 of the White Paper on prevention and relief and the proposed new duties to identify, refer and co-operate. In relation to the proposal for Personal Housing Plans, it is crucial a needs assessment and Personal Housing Plan should be carried out with a person entering custody as early as possible during the prevention duty (at least six months prior to release) in person and should record the applicant's wishes as to the outcome they hope to achieve. It is proposed further detail around practice related to Personal Housing Plans will follow in guidance but the plan should record how existing accommodation could be retained and steps to be taken by the local housing authority in order to achieve this.

436. The Expert Review Panel have provided an extensive list of recommendations for future statutory guidance in this area and we will be mindful of these as we take forward any proposals below into draft legislation.

¹⁶⁸ [Evaluation of homelessness services to adults in the secure estate: Background paper \(gov.wales\)](#)

¹⁶⁹ [Evaluation of homelessness services to adults in the secure estate | GOV.WALES](#)

Changes to core duties

Prevention activity at reception stage

We propose when an individual is first sentenced to imprisonment, an assessment should be made at reception stage (the point the person first enters prison) 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.

437. Where risk of homelessness or loss of possessions is identified, we would like to see partnership work between the local housing authorities, the prison service and relevant support organisations to provide the individual with access to advice. Where a person is threatened with homelessness within six months, a referral should be made by prison authorities to the local housing authority and a prevention duty will be owed by the local housing authority. As we consult on this proposal, we will engage further with HMPPS to explore how this proposal is most effectively implemented.

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

We propose to set out clearly in legislation that someone held in custody is not homeless despite not having access to accommodation in the community.

We propose those in custody (be it on remand, recall or sentence) do not meet the criteria for homelessness unless one of the three following conditions are met:

- **they are already under an existing duty under the HWA 2014;**
- **where existing accommodation is at risk as per the existing (or amended) definition; and/or**
- **six (or fewer) months prior to release.**

438. The effect of this proposal will mean an applicant in prison can only be subject to the prevention duty (currently section 66 of the HWA 2014) whilst in custody. At the point of release, should that applicant be homeless (as per the section 55 definition) they will be immediately subject to the main duty. An applicant who remains at risk of homelessness (as per the definition at section 55 of the HWA 2014) following release would continue to be supported under the prevention duty.

439. Our policy intention for this proposal is to provide clarity for the applicant and wider stakeholders as to when to make applications to the homelessness service and what service to expect. We intend the triggering of the prevention duty 6 months

prior to release, when combined with strengthened activity at the point of reception, will improve actions taken to prevent homelessness amongst prisoners. The proposals will also ensure those who continue to be homeless or threatened with homelessness upon release are entitled to further help to alleviate their homelessness.

Prison leavers, prevention and local connection

Where it becomes apparent a prisoner will be homeless upon release from prison, we propose the local connection test should be applied at the prevention duty stage.

440. As part of the initial assessment of housing need of a prisoner at risk of homelessness, the local housing authority should be permitted to refer the prevention duty under a local connection referral, so the prevention duty and main housing duty are carried out by the same local housing authority, rather than one local housing authority carrying out the prevention duty and subsequently referring the main housing duty to another local housing authority.

Early release

We propose legislation should set out that where a prisoner needs accommodation from a local housing authority in order to achieve an early release, parole or bail, the prisoner should be deemed to be homeless at the early release date.

441. The policy intention for this proposal is to remedy a scenario where those eligible for early release are denied it by not having accommodation and accommodation not being provided until release. This proposal will ensure those who are in custody, eligible for early release and owed duties under sections 68 and 75 of the HWA 2014 are owed those duties ahead of release and an address is provided ahead of release.

Material change of circumstance

442. Section 62 of the HWA 2014 provides that if a person applies to a local housing authority for accommodation or for help in keeping or finding accommodation and it appears to the authority the person may be homeless or threatened with homelessness, it must carry out an assessment of the applicant's case. Section 62(1)(c) provides that this duty to assess is not required if an authority has previously assessed the person, and the authority is satisfied the applicant's circumstances have not changed since that assessment was carried out and there is no new information which materially affects the assessment.

We propose to make clear any time in custody must be considered a change of circumstances regardless of the length of the detention or whether it is related to a recall to prison.

Discharge of duty

We propose to make clear those who are recalled or sentenced to custody while in receipt of an existing duty must not have their duty automatically ended.

443. Most offenders who are already homeless enter prison for short-term sentences and as such this will ensure continuity of service and enhance the chance of preventing homelessness. The change to the definition of homelessness proposed above should ensure someone in receipt of a duty would continue to be supported. In addition, we propose to make it explicit anyone who is remanded, sentenced, or recalled to custody is not subject to the discharge points at section 79(2) to (5) of the HWA 2014.

444. There will be a need for wider work to ensure the updated Code of Guidance reflects the policy position that those who choose to return to family and friends should not be denied their wider rights to homelessness support and reasonable steps. There is also the need to ensure those who choose not to return to family and friends, sometimes due to concerns over risks of re-offending, are not negatively impacted in terms of having their duty discharged (see chapter 4: Access to accommodation).

Reciprocal arrangements

445. There is currently no legal reason why reciprocal arrangements, where one local authority works with a neighbouring authority to support and accommodate someone leaving custody in exchange for support in the future, cannot take place. There are many good reasons why a reciprocal approach would be beneficial for both the applicant and the local authority including allowing the applicant a fresh start, the opportunity to escape bad influences and creating a higher chance of finding suitable accommodation.

446. However, for a variety of reasons, reciprocity processes can be difficult to manage; they can result in disputes over 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 appropriate.

To strengthen this further, we propose a new power for Welsh Ministers to make regulations in relation to reciprocal arrangements.

447. Should this proposal be taken further, we will work with local authorities to develop the arrangements. This proposal would also require changes to eligibility for local connection; specifically for some who would benefit from a new environment

and where their risks of re-offending or returning to negative behaviours would be reduced.

Duty to provide information, advice and assistance in accessing help

448. Under section 60(1) of the HWA 2014, a local authority must secure the provision of an information and advice service which is available to anyone ‘in its area’, while section 60(4) requires an authority to ‘ensure that the service is designed to meet the needs of groups at particular risk of homelessness, including in particular people leaving prison or youth detention accommodation.’

To ensure consistency of access and assessment, we propose to make it clear 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 both adult or youth custody.

449. There will need to be detailed discussions with HMPPS and individual prisons to explore how this can be facilitated and how it can complement the work of existing staff and services, while revisions to the duty to refer and co-operate will also need to ensure the ‘hosting’ authority is able to undertake an assessment on behalf of the home authority.

Retention of accommodation

We propose, where possible, consideration is given to whether accommodation could be offered to a person in prison under the prevention duty, with a view to it being available on release, either under an occupation contract or on a more informal basis (accommodation with family or friends).

450. We do not intend for this option to lead to an individual being penalised if they refuse the offer of informal accommodation.

We propose the main housing duty should apply if the prevention duty comes to an end and the applicant is due to be homeless on release, even if the applicant has refused accommodation offered under the prevention duty.

451. Wherever possible, priority should be given to retaining a person’s existing accommodation. To do so, it is of paramount importance activity takes place at the point someone is sentenced and received into prison. This could be done through closer collaboration (linked to the duty to co-operate) and linked to ensuring advice services are more proactive in working inside prisons (see paragraphs on the duty to provide information advice and assistance).

To strengthen co-ordination and case management we also propose to develop further guidance in this area which will explore the detail of implementation. This may include the role of lead co-ordinators for planning an individual's housing support.

452. Evidence is clear the best outcomes for an applicant often result from multi-agency case co-ordination led by a single and consistent lead officer, with a trusting relationship with the applicant. As part of our wider proposals on case co-ordination (as set out in section 2 of this White Paper) we want to ensure a lead organisation is identified and a lead case management officer is allocated to those in custody, in order to ensure continuity of support for the applicant. It is our view the lead officer would not need to be based within the local housing authority and we suggest in most cases the lead officer should be based within probation or the Youth Justice Service and we will undertake further engagement with partners to explore further.

Retention of belongings

We propose an amendment to the Social Services and Well-being (Wales) Act 2014 to ensure retention of belongings is included as part of the reasonable steps that need to be taken under Part 11 of that Act.

Young People

453. Where a young person is held in the adult estate or a young offender institution, it is crucial a multi-agency response is in place to respond to the needs of these young people.

We propose legislation and guidance should be clearer about the link with Part 11 of the Social Services and Wellbeing (Wales) Act 2014 that 16 and 17 year old children, who are expecting to be released from the youth justice system within six months, receive a joint response across a local authority, in alignment with our proposals earlier in this section on children and young people.

Review of the National Pathway

454. These proposals will be supported by broader policy work including a review and update of the National Pathway, additional support, training and guidance for landlords around vulnerable clients and those with complex needs, as well as work with HMPPS to improve data collection and analysis and strengthen partnership working.

People with No Recourse to Public Funds

455. The Welsh Government's Nation of Sanctuary – Refugee and Asylum Seeker Plan sets out a commitment to support the integration of those seeking sanctuary in Wales and limit their risk of destitution.¹⁷⁰ The Welsh Government has also committed, through the Ending Homelessness Action Plan, to develop, revise or improve implementation of pathways with tailored support, appropriate interventions and housing solutions for groups at risk of harm. This includes refugees along with a broad range of people who could be exposed to homelessness.

456. However, any deliberate difference of policy and practice between Wales and England must avoid the possibility that leads to a person seeking sanctuary acting so they break a condition of their right to be and remain in the UK. As a result, Welsh Government Regulations governing eligibility, mirror the equivalent eligibility Regulations for England as closely as possible. Recent amendments to eligibility rights affecting certain groups of people, such as people fleeing the violence in Sudan, have extended the numbers of people who may be eligible to access housing and homelessness assistance.¹⁷¹

457. The UK Government has set out that it recognises the contribution immigration makes in enriching British society and the UK's moral responsibility to support refugees fleeing peril and aims to create a "compliant" environment. This approach seeks to ensure the asylum system is made fair and differentiates between legal and illegal forms of migration.^{172 173} Restrictions are placed on the ability of people coming to the UK to access public funds (made through a 'No Recourse to Public Funds' (NRPF) condition placed on a person's immigration status), to ensure those arriving can maintain and accommodate themselves. The UK Government sets out this is done to reassure public concerns the limited resources of the state are provided to those settled in the UK permanently.¹⁷⁴

458. Independent assessments have found the UK Government's asylum law and policy may undermine efforts in Wales to protect refugee rights.¹⁷⁵ Each of the Homelessness Action Group reports, which examined the steps needed to end homelessness in Wales, identified issues which led them to recommend the Welsh Government seek to persuade the UK Government to lift its NRPF policy, in particular addressing the key needs of survivors of violence against women, domestic abuse and sexual violence.¹⁷⁶ Data indicates although the numbers of people with a NRPF condition in Wales are relatively small, the impact of ineligibility for housing and homelessness assistance is significant and UK wide data suggests it

¹⁷⁰ [Nation of Sanctuary Refugee and Asylum Seeker Plan \(gov.wales\)](#)

¹⁷¹ Other recent amendments to eligibility rights have been made for EEA Citizens, Stateless people, Hong Kong BN(O) visa holders, Afghan arrival and returnees, people coming to Wales from Ukraine, victims of slavery and human trafficking.

¹⁷² These terms are often contested in the context of migration, making use of terms such as legal and illegal problematic. [Irregular migration in the UK - Migration Observatory - The Migration Observatory \(ox.ac.uk\)](#)

¹⁷³ [New Plan for Immigration: policy statement \(accessible\) - GOV.UK \(www.gov.uk\)](#)

¹⁷⁴ [Public funds \(publishing.service.gov.uk\)](#)

¹⁷⁵ [Council of Europe human rights commissioner finds significant regression in UK's protection of rights of refugees and asylum seekers | Electronic Immigration Network \(ein.org.uk\)](#)

¹⁷⁶ [Homelessness Action Group: report July 2020 \(gov.wales\)](#)

results directly in street homelessness. Local housing authorities in Wales are reliant on the third sector to assist in accommodating people with an NRPF condition in Wales and demand often outweighs supply. This relatively small number of cases require significant resource from several parts of the Welsh public service.

459. We note the Expert Review Panel recommend the Welsh Government seeks to include people who have NRPF within those eligible for homelessness assistance, liaising with the UK Government to find a way forward. As eligibility for housing and homelessness assistance relates to matters of nationality and immigration, many of the relevant powers to make changes in these areas rest with the UK Government. Unless or until the UK Government changes its position, there are limited options available to adopt eligibility arrangements which are more consistent with the priorities of the Welsh Ministers. The Welsh Government will continue to support local authorities in responding to the immigration policies of UK Government and engage with UK Government Departments with any policy changes they bring forward.

460. Within the limits of the devolved settlement, the Welsh Government has published guidance on the specific circumstances of people with an NRPF condition, encouraging local authorities to offer as much support as possible to those in these circumstances.¹⁷⁷

461. We have also established a crisis fund, building on the Home Office's Migrant Victims Scheme, which service providers can access to support migrant women who are victims or survivors of sexual and gender-based violence and who are subject to NRPF. The crisis fund will operate on a pilot basis and is the first stage of a longer-term commitment to funding support services for gender-based violence victims with NRPF. However, this service will only be made available where all other legal avenues have been exhausted.

462. The unfamiliarity of local authority officers with NRPF cases, as well as the infrequency in which those cases occur, can mean even with the Welsh Government's guidance and experience of dealing with a specific case, officers will not develop a depth of knowledge and expertise to assist a person effectively. Consequently, the Welsh Government intends to procure training, online resources and other tools that can be applied by a local authority and other stakeholders to accurately assess and legally determine the assistance that can be provided to people with a NRPF condition. This will build upon and help refine the current NRPF guidance. We will also explore options to establish an independent host for a specialist officer to advise and assist a local authority in managing cases of people with NRPF.

¹⁷⁷ [No recourse to public funds \(NRPF\): guidance \[HTML\] | GOV.WALES](#)

Consultation questions

14. Are there other groups of people, not captured within this section, which you believe to be disproportionately impacted by homelessness and in need of additional targeted activity to prevent and relieve this homelessness (please provide evidence to support your views)?

15. What additional legislative or policy actions could be taken to prevent or relieve homelessness for the groups captured by this White Paper?

16. Our proposals related to children, young people and care experience seek to improve and clarify links between homelessness legislation and the Social Services and Wellbeing Act. Significant policy development is required to assess the practicality of this. What, in your views are the benefits and challenges of our approach and what unintended consequences should we prepare to mitigate?

17. Do our proposals go far enough to ensure that 16 and 17 year olds who are homeless or at risk of homelessness receive joint support from social services and local housing authorities? What more could be done to strengthen practice and deliver the broader corporate parenting responsibilities?

18. Do you agree or disagree that the Renting Homes (Wales) Act 2016 should be amended to allow 16 and 17 year olds to be able to hold occupation contracts?

19. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?

Chapter 4: Access to accommodation

Suitability and Temporary Accommodation

Suitability

463. Whenever a local authority secures accommodation for an applicant, that accommodation must be 'suitable' for their needs and anyone who is residing with them or who might reasonably be expected to reside with them. This Chapter sets out the current legislation surrounding suitability, assesses the effectiveness of the current legislation, particularly in relation to the continued strain within the homelessness system in Wales and sets out a series of proposals in relation to improving the overall suitability of accommodation.

What the law currently says

464. Section 59(1) of the Housing (Wales) Act 2014 (HWA 2014) sets out the legislative provisions a local housing authority must have regard to when securing or offering accommodation. These include:

- Slum clearance ([Part 9 of the Housing Act 1985](#));
- Overcrowding ([Part 10 of the Housing Act 1985](#));
- Housing conditions ([Part 1 of the Housing Act 2004](#));
- Licensing of housing in multiple occupation ([Part 2 of the Housing Act 2004](#));
- Selective licensing of other residential accommodation ([Part 3 of the Housing Act 2004](#));
- Additional control provisions in relation to residential accommodation ([Part 4 of the Housing Act 2004](#)); and,
- Regulation of private rented housing ([Part 1 of the HWA 2014](#)).

465. In addition, section 59(2) of the HWA 2014, provides that a local housing authority must have regard to whether the accommodation being offered to a person is affordable for them, in order to determine whether it is suitable accommodation.

466. Section 59(3) of the HWA 2014 sets out the Welsh Ministers may specify circumstances in which accommodation is or is not to be regarded as suitable for a person, and matters to be taken into account or disregarded in determining whether accommodation is suitable for a person, (e.g. the Homelessness (Suitability of Accommodation) (Wales) Order 2015 ('the Suitability Order')).

467. The local housing authority must have regard to section 59 of the HWA 2014 and the Suitability Order when fulfilling the following duties under the HWA 2014.

- The interim accommodation duty (section 68 of the HWA 2014).

468. This is accommodation secured whilst a local housing authority makes enquiries into whether an applicant is eligible and homeless and whilst assessing and determining what duties might be owed to the applicant. It also applies to accommodation secured under the relief duty (section 73 HWA 2014), once the local housing authority is satisfied the applicant is homeless and in priority need. Such accommodation is referred to as emergency or interim accommodation.

- The prevention duty (section 66 of the HWA 2014).

469. This is accommodation the local housing authority must help to secure that it does not cease to be available for occupation by the applicant, (provided the local housing authority is satisfied the applicant is threatened with homelessness and is eligible for help). This accommodation must also be considered suitable for the applicant and any member of their household.

- The duty to applicants whose case is considered for referral (section 82(1) of the HWA 2014).

470. This is accommodation secured where a local authority has decided to notify another authority the applicant should be referred to them, often due to reasons of local connection. The first local housing authority must undertake this duty and accommodate the applicant until it can notify the applicant agreement between the two local housing authorities and subsequent conditions for referral have been met.

- The final or main housing duty (section 75(1) of the HWA 2014).

471. This is accommodation provided to an eligible applicant who has a priority need, has not become homeless intentionally and where the relief duty has come to an end. In other words, the three tests have been met. Such accommodation is referred to as 'temporary accommodation' and may be used until longer-term settled accommodation can be found.

472. At each of these stages the accommodation offered and supplied must be suitable, and the local housing authority must have regard to the legislative provisions set out above including the Suitability Order when determining suitability. Moreover, they must also take account of specific characteristics of the individual or household as set out in the Suitability Order (and discussed further below). Any long term settled accommodation (which results in the prevention, relief or main housing duties coming to an end), whether offered by the local authority or sourced by the applicant themselves, must also be suitable.

473. There are instances where a local housing authority does not have to secure accommodation for an individual or household but may choose to do so. Such instances include accommodation secured following a review of a decision, requested by an applicant, including: a review of the decision the interim or relief duty has come to an end (section 69(11) of the HWA 2014); a review of a decision where the applicant should be referred to another local housing authority (section 82(6) of the HWA 2014); and, pending an appeal to the County Court (section 88(5) of the HWA 2014). The HWA 2014 also sets out when an individual or applicant may

request a review of the suitability of accommodation offered and these reviews may also be undertaken where the accommodation is offered as interim accommodation under a section 68 duty (see the right to review section 85(3) of the HWA 2014); pending a local connection referral under section 82 (see the right to review section 82(6) of the HWA 2014); and accommodation offered to bring the prevention, relief or main housing duty to an end (see sections 67, 69, 74 and 76 of the HWA 2014). In these instances, the local authority may choose to secure accommodation at their own discretion and in such instances this accommodation must also be suitable.

474. Section 59(3) of the HWA 2014 confers powers on the Welsh Ministers that they may, by Order, specify circumstances in which accommodation is or is not to be regarded as suitable for a person, and the matters to be considered when determining whether accommodation is suitable for a person. The Welsh Government has set these matters out in the Homelessness (Suitability of Accommodation) (Wales) Order 2015 (the Suitability Order), which concerns Bed and Breakfast accommodation (B&Bs), shared accommodation and accommodation of the private rented sector.

The Homelessness (Suitability of Accommodation) (Wales) Order 2015 (“the Suitability order”)

475. Article 3 in Part 1 of the Suitability Order sets out the matters that must be taken into account, where appropriate, in determining whether accommodation is suitable for persons who are, or may be, in priority need.

These include:

- the specific health needs of the applicant and any member of their household;
- the proximity and accessibility of family support;
- any impairment;
- proximity and accessibility of medical facilities and other support services which are currently used by or provided to the applicant or a member of the household and are essential to that person’s well-being;
- where the accommodation is situated outside the area of the local authority, the distance from the area of the local authority; the significance of the disruption that would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person; and,
- the proximity of alleged perpetrators and victims of domestic abuse.

Suitability of emergency accommodation and exceptional circumstances

476. Part 2 of the Suitability Order prescribes Bed and Breakfast and shared accommodation are not to be regarded as suitable accommodation for a person who is or may be in priority need, except where there is an exception.

477. Article 7 of the Suitability Order specifies exceptions to this rule and distinguishes between basic and higher standards of accommodation for both Bed and Breakfast and shared accommodation (articles 4 and 5 of the Suitability Order).

Basic and high standard accommodation are defined in the Suitability Order (see article 2). The Suitability Order determines Bed and Breakfast and shared accommodation may be suitable when it is not occupied for a period of longer than two weeks for basic standard accommodation, and six weeks for higher standard accommodation (see article 7). Additional emergency exemptions (set out in article 6 of the Suitability Order) allow these time limits to be disregarded in certain circumstances, including emergencies such as homelessness caused by fire or flood.

Suitability of Private Rental Sector accommodation

478. Part 3 of the Suitability Order relates to private rented sector accommodation offered in discharge of an authority's duties to homeless applicants in priority need of accommodation as provided by section 76(3) and (4) of the HWA 2014. Article 8 of the Suitability Order specifies circumstances in which such accommodation is not to be regarded as suitable. Private rented accommodation cannot be regarded as suitable for an applicant where the authority is of the view that the accommodation does not comply with all statutory requirements (such as requirements relating to fire, gas, electrical, carbon monoxide and other safety requirements) and where the authority does not view that the landlord is a fit and proper person within the meaning of section 20 of the HWA 2014 to act in the capacity of landlord. In addition to these prescribed conditions, Part 1 of the HWA 2014 requires a person who is responsible for managing a property to be licenced. The Code of Guidance provides that the local authority may wish to review the proposed occupation contract. The guidance also strongly recommends an inventory is provided (and the provision of an inventory is included as a supplementary term in the prescribed model written standard contracts) and the local authority should remind prospective landlords and tenants of the requirements of the tenancy deposit rules.

How the law currently works

479. As outlined above, there is a breadth of legislation around suitability of all forms of accommodation in place. However, feedback from those with lived experience of homelessness suggests this legislation is not being implemented as intended. The key challenges around implementation are outlined here:

Physical characteristics

480. In order to determine the suitability of accommodation, there are certain minimum physical conditions of a property which should be met. For example, accommodation which has the presence of Category 1 hazards, should be considered as unsuitable as they present a risk to an individual's health and safety.¹⁷⁸ These hazards can include asbestos, damp & mould, and carbon

¹⁷⁸ Category 1 hazards are defined as those which are of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount within [Part 1 of the Housing Act 2004](#)

monoxide.¹⁷⁹

481. However, the current legislation only provides that a local housing authority must 'have regard to' such physical conditions and characteristics, including the presence of hazards and overcrowding. This does not act as a complete prohibition which prevents placement of an individual or a household into such accommodation. Local housing authorities want to be able to offer the highest standard accommodation possible and the Housing Act 2004 requires local housing authorities to take appropriate enforcement action in relation to the confirmed presence of Category 1 hazards. The Housing Act 1995 requires local authorities to take enforcement action in response to overcrowding. However, feedback from those with lived experience of homelessness has highlighted some people have experienced accommodation which poses a health and safety hazard. We therefore consider clearer legal prohibition of such placements may be necessary to ensure no one is placed in accommodation which places them at any health and safety risk.

Homelessness and physical impairment

482. Accommodation must be accessible, based on individual, specific requirements. Therefore, whilst a property may be suitable for one household, due to the unique and individual circumstances of individuals, it may not be suitable for another family or household.

483. Engagement undertaken by Tai Pawb to inform this White Paper identified disabled people do not feel their impairment is always appropriately considered when being allocated emergency, temporary and long-term accommodation, even though this should be a prime determining factor in assessing suitability.¹⁸⁰ This may be due to availability of housing supply, and in particular, the availability of accessible or adaptable properties. However, housing people in accommodation that is not suitable for their physical needs, or is inaccessible for the specific individual, may not be compatible with the Equality Act 2010 and may have a detrimental impact on a person's wellbeing and ability to live their life independently.

Overcrowding

484. As outlined above, local authorities must have regard to space and overcrowding when determining whether an offer of accommodation is suitable. Part 10 of the Housing Act 1985 sets out the tests used to determine whether accommodation is statutorily overcrowded. However, these tests are now dated and are not reflective of modern housing standards or the changing demography of housing needs in Wales.

485. The average household size in Wales has been decreasing since 1991 when the average household size was 2.52 people, falling to 2.26 people in 2020.

¹⁸¹However the number of households made up of 5 or more people has risen, in

¹⁷⁹ [Housing health and safety rating system \(HHSRS\) operating guidance: housing inspections and assessment of hazards - GOV.UK \(www.gov.uk\)](#)

¹⁸⁰ Tai Pawb – [The experience of homelessness of people with protected characteristics in Wales](#) – MARCH 23

¹⁸¹ [Household estimates: mid-2020 | GOV.WALES](#)

particular with households where there is 1 adult and 4 or more children (2,191 households in 1991, to 3,559 households in 2020) and households of 5 or more with no children present (from 7,269 households in 1991, to 11,525 households in 2020).¹⁸² The availability of accommodation suitable for households this size, particularly within social housing stock, is limited and far exceeded by demand.

486. Our Equality Impact Assessment suggests overcrowding, whilst an issue across Wales, affects certain protected groups and household types at disproportionate levels. The 2021 Census sought to understand overcrowding levels in Wales and identified clear differences based on the ethnicity and faith of the household; households where all members identified as “Muslim” were more than six times more likely to be in overcrowded accommodation in comparison to all households in Wales. Households where all members identified as “Black, Black British, Black Welsh, Caribbean or African” had the highest level of overcrowding (11.9% in Wales) compared with all households (2.2% in Wales).¹⁸³ The Census data suggests that age profiles of high-level ethnic groups should be considered when looking at differences in occupancy rating and that occupancy ratings may be influenced by the differing age profiles of religious groups.

487. It is important suitability of accommodation considers what is culturally appropriate, whilst providing sufficient space for healthy living.

Single person households

488. Conversely, single person households in Wales grew by 57% between 1991 and 2020.¹⁸⁴ There is a considerable shortfall in single and one-bed properties across Wales, and single males make up a significant proportion of the homeless population; often placed in temporary accommodation for significant periods of time due to a lack of suitable move on accommodation.

489. There is evidence to suggest, as a result of changes to housing benefit rules, there are smaller two-bedroom properties within social housing and Private Rental Sector (PRS) stock that are unsuitable for housing families, but due to other pressures, including the under-occupancy charge (often referred to as the bedroom tax) are not able to be made available to single people as they are unaffordable.

Affordability

490. The law provides that a local housing authority must have regard to affordability when deciding the suitability of accommodation. The current cost of living crisis is having an ongoing impact on the affordability of accommodation, increasing the chance that the already limited housing stock is deemed unaffordable and therefore unsuitable. The Local Housing Allowance continues to be frozen at 2019 rates, whilst rents have continued to rise. With disposable income reducing in light of increasing costs, more people are at risk of becoming homeless or finding their current

¹⁸² [Households by Type and Year \(gov.wales\)](https://gov.wales)

¹⁸³ [Overcrowding and under-occupancy by household characteristics, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

¹⁸⁴ [Households by Type and Year \(gov.wales\)](https://gov.wales)

accommodation is no longer affordable. This is particularly relevant to the PRS, which, increasingly, is no longer affordable for those on benefits or low incomes. This, in turn puts further pressure on an already stressed system in which demand far exceeds supply.

491. A report by the Chartered Institute of Housing commissioned by the Northern Ireland Department of Communities found affordability issues for low-income households had been driven less by rent inflation, and more through punitive aspects of the welfare system, such as freezes in Local Housing Allowance rates and the use of the shared-accommodation rate for younger single people in one-bedroom homes.¹⁸⁵

492. Whilst unfreezing the Local Housing Allowance rate would have a significant positive impact on affordability in the PRS, welfare matters are not devolved to the Welsh Government and increasing the rate is a matter for the UK Government. The Welsh Government has repeatedly written to UK Government to urge them to unfreeze the Local Housing Allowance rate as its increase is a key component to our aim of ensuring homelessness is rare, brief and unrepeatable.

493. Affordability is also an issue in temporary accommodation. Practice based feedback suggests the costs and service charges associated with this form of accommodation can result in people being faced with the choice of giving up work (in order to receive benefits which better cover these costs) so they can stay in accommodation that is intended to be a temporary step on their housing journey.

Temporary accommodation requirements

494. As outlined above, guidance and secondary legislation are in place regarding the suitability of temporary or emergency accommodation, including the size, standard and time frames which apply to Bed and Breakfasts, hotels and shared accommodation. Such accommodation is therefore unsuitable where it does not meet these standards or is occupied for longer than the permitted time.

495. As set out in chapter 1 of this White Paper, at the start of the pandemic all local authorities were asked, on public health grounds, to accommodate everyone who presented to homeless services without accommodation. Where local authorities accommodated homeless applicants who were in priority need in interim Bed and Breakfast accommodation, they likely relied upon article 6 of the Suitability Order, which provides an exception to the time constraints in relation to such accommodation. This allowed local authorities to accommodate people in those circumstances for more prolonged periods of time.

496. As outlined in chapter 1 of this White Paper, at the current time, the numbers of people in all forms of temporary accommodation is very high and there remain a significant number of people in Bed and Breakfast accommodation. This includes young people aged 16-17 years, and vulnerable people aged 18-21 years old, including care leavers. The Welsh Government has actively advised that such

¹⁸⁵ [Rent Regulation in the Private Sector in Northern Ireland | Department for Communities \(communitiesni.gov.uk\)](https://communitiesni.gov.uk)

accommodation should only be used in relation to such groups in the most urgent of cases, and that accommodation should be ‘supported’ accommodation, in which applicants receive appropriate and necessary support during their stay. The Code of Guidance outlines specific steps that should be taken to support young people in section 19.

497. Guidance is being developed to support local authorities to minimise use of this type of temporary accommodation and a programme of additional data collection will be introduced in Autumn 2023 to provide more detailed data on its use across Wales.

What do we want to change?

498. As chapter 1 and the Expert Review Panel’s report make clear; at the current time there is an inadequate supply of settled homes and considerable strain on temporary accommodation. The panel heard significant evidence from people with lived experience that practice around temporary accommodation may not meet current legal standards.

499. The Welsh Government agree with the principle applied by the Expert Review Panel who have set out their appetite to see minimum thresholds of temporary accommodation quality improved, whilst acknowledging clear feedback from local authorities about what is realistic at the current time; where temporary accommodation space is at a premium and limited choice is on offer to both providers and applicants. Welsh Government agree with the panel’s recommendation that higher standards for temporary accommodation should be introduced in the future as housing supply is increased and the strain on temporary accommodation is reduced.

500. The Welsh Ministers currently have powers, contained in the HWA 2014, to specify, by Order, circumstances in which accommodation is not to be regarded as suitable and other matters that must be taken into account or disregarded. The proposed reforms outlined below however, provide an opportunity to address the issues outlined above and to consider longer term standards of temporary accommodation.

Proposals for immediate improvement in standards

Ensuring accommodation with Category 1 Hazards is always unsuitable

We propose the existing legislation be strengthened to prohibit accommodation which has Category 1 Hazards as being deemed suitable.

501. The purpose of any accommodation, whether temporary or long-term settled accommodation is to provide a safe and secure environment for individuals and families to live their lives. Risks to physical and mental health and safety caused by such problems within the home, should be minimised wherever possible. We will set out in guidance how risks of placement in such accommodation can be minimised and ways in which applicants should be encouraged to report such matters.

We propose this also includes accommodation that is deemed 'unfit for human habitation' (having regard for the 29 matters and circumstances listed within the Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022 ("the 2022 Regulations")). If accommodation would be deemed unfit for human habitation in accordance with section 91 of the Renting Homes (Wales) Act 2016 ("the 2016 Act") and the 2022 Regulations, that accommodation must not be used.

Prohibiting shared sleeping space

502. Shared sleeping space is currently permitted (within the prescribed timeframes) in basic and higher standard temporary accommodation.

We understand shared sleeping space is rarely used but we propose to make clear in legislation, shared sleeping space is never permitted, regardless of the temporary or emergency nature of accommodation.

503. Whilst emergency accommodation may require shared facilities such as laundry, bathroom or cooking facilities, a shared sleeping space is never appropriate under any circumstance.

Applying the same standards across privately owned and local housing authority/registered social landlord owned or managed non-self-contained accommodation

We propose exceptions in law, which provide that accommodation that does not meet the higher standard will be suitable for up to 6 weeks if the accommodation is owned or managed by a local housing authority or registered social landlord, should be removed.

504. The same standards should apply across privately owned and local housing authority/registered social landlord owned or managed non-self-contained accommodation.

Building choice into the system

505. In order to deliver the person-centred, trauma-informed approach that is central to the aims of this legislative reform, it is important the applicants' view of what accommodation is suitable for them is built into the homelessness process.

506. Chapter 2 of this White Paper outlines our proposal to make the completion of a Personal Housing Plan a requirement on local housing authorities. As part of this plan the local housing authority should ascertain the applicant's views on the suitability of accommodation in relation to their personal circumstances, and evidence how these views have influenced subsequent offers of accommodation. The plan should apply to emergency, interim and settled accommodation.

507. The personal housing plan should capture a broad assessment of an individual's needs. We do not propose to set these needs out in legislation but will provide guidance and case management tools in time.

508. We recognise currently and over the short and medium term, it is very difficult for local housing authorities to provide the level of choice they would like to as they allocate temporary accommodation placements and there will be cases where it is not possible to meet an individual's full range of needs within the limited supply of accommodation on offer. However, through these reforms and supporting work, we are aiming to achieve a more person-centred system which is better able to take account of individual needs and how meeting or not meeting these needs might impact a person's health and wellbeing. Such needs may include being accommodated with a pet, or being placed in accommodation that will support their recovery from substance use.

We propose to introduce a requirement that these personal circumstances must be given consideration in assessing suitability of accommodation, even if it is not possible at the time of the assessment to meet all of those needs through accommodation placement.

509. Alongside these reforms, the Welsh Government will continue to work closely with local authorities to monitor use of temporary accommodation and explore broader policy requirements in line with our Rapid Rehousing policy.

Ensuring placement in overcrowded accommodation is never suitable at the point of discharge of the main housing duty.

We propose to strengthen legislation to make clear, when determining the suitability of accommodation at the point the main housing duty is owed, placement in overcrowded accommodation is never permitted.

There must be no predilection for placing families in overcrowded conditions, however, it is noted such a placement (with family members of friends) may be preferential to households entering emergency accommodation and for this reason, we propose the prohibition does not apply to the prevention duty, should this be in line with the applicant's wishes.

Prohibiting the use of unsupported temporary accommodation for young people

We propose for people aged under 25, the use of unsuitable temporary accommodation, including Bed and Breakfasts and shared accommodation, should not be permitted for any time period.

510. The often chaotic environments of such accommodation are not conducive to building resilience and navigating the housing system.

We propose to make it clear through legislation that where people of this age group are to be housed in temporary accommodation, it must be supported accommodation. Therefore, the accommodation should be combined with support (which is tailored to the individual or household and their needs) and should be made available until the individual is ready to move on to an independent living setting.

In addition, we propose to make clear in legislation those aged 16-17 must never be accommodated in adult focussed, unsupported temporary accommodation in Wales (see section 3 of this White Paper).

511. We recognise these proposals are ambitious and local authorities will find it challenging to comply with them in the immediate and short term. However, as we transition to a Rapid Rehousing approach, we expect reliance on temporary accommodation to reduce overall. We will continue to work closely with local authorities across Wales and, as part of this consultation will assess timeframes in which the duties can realistically be met.

512. The policy intention of these proposals is to break repeat homelessness cycles which, for some, can begin at a young age. It is critical a young person's first encounter with the system is holistic; in order to address wider support needs and, efficient; to provide access to long term accommodation.

Location

513. Where the applicant is offered longer term or settled accommodation in order to bring the prevention or main housing duty to an end, it may be reasonable to expect the applicant to change schools and/or medical facilities, depending on the individual circumstances. It would never be reasonable to expect the applicant or a member of their household to leave existing employment.

We propose 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 the applicant wishes to move beyond a reasonable travelling distance from those facilities.

514. The proposed amendments should provide for an exception where interim accommodation is to be secured under section 68 of the HWA 2014 and no suitable accommodation is available. That exemption should be time limited for a maximum period.

Taking into account wider support needs

We propose the local housing authority be required to take into account, in relation to both the applicant and any member of the applicant's household, any specific health needs, any impairment, where the accommodation is situated outside of the area of the authority, the distance of the accommodation from the authority's area, the significance of any disruption caused by the location of the accommodation to the employment, caring responsibilities or education of the person and the proximity of alleged perpetrators and victims of domestic or other abuse.

515. We also propose to allow a more general consideration of an applicant's wellbeing and access to support more generally, including non-family networks.

Culturally appropriate accommodation

We propose legislation provides for sites (rather than bricks and mortar accommodation) to be generally considered the most suitable accommodation for an applicant from the travelling community (Gypsy, Roma and Travellers) and the local housing authority should be obliged to ask an applicant from the Gypsy, Roma and Travelling Community whether or not they are culturally averse to bricks and mortar and to ensure suitability of accommodation is culturally appropriate for the applicant.

Broader supporting policy and guidance

516. There are several wider measures that may be required to support these proposed legislative reforms. We will outline these changes in guidance as this work develops but a summary of these proposed changes is below:

- The Code of Guidance will be strengthened to support local authorities in implementing a Rapid Rehousing approach and reducing their reliance on temporary accommodation generally.
- Guidance on Rapid Rehousing development and use of temporary accommodation will be framed to cover; short, medium and long term and illustrative case studies of best practice will be developed and shared with local authorities.
- Local authorities will be required to progress the implementation of their [Rapid Rehousing Transition Plans](#) across Wales, setting out their strategic direction and plans to facilitate and support the move of the local authority and their partners to fully embracing and implementing Rapid Rehousing, and supporting individuals into long-term homes, suitable for the individual as quickly as possible. This is intended to reduce both the use of, and time spent within, temporary accommodation.
- Local authorities will be required to work in partnership with social and Private Rented Sector (PRS) landlords to ensure the alignment of build plans with housing need in local areas.
- The Code of Guidance will be strengthened to make clear that individuals and households should have access to fully functional toilet, personal washing and cooking facilities (whether private or shared facilities) and should not be placed in accommodation with no access to at least shared laundry and cooking facilities and free or affordable Wi-Fi.
- Where accommodation is situated at a distance from public transport and necessitates the use of expensive private transport (such as taxis), or expensive public transport (such as several journeys and fares) to access key facilities including education and employment, the accommodation will not be considered as suitable unless the local housing authority is satisfied the cost is affordable for the applicant.
- The circumstances when it might be reasonable to expect an applicant to change schools and/or medical facilities.
- During the engagement process to develop these reforms people with lived experience of homelessness shared that 'house rules' (such as no visitors, set curfews, and the use of CCTV) can be isolating, unsupportive and impact their ability to live independently. It should be noted such rules are often set at the discretion of the landlord, manager or owner of the site, however we propose to develop and issue guidance to local authorities, who either work with landlords to provide temporary accommodation or manage their own sites, to discourage unnecessary and intrusive rules and encourage independence and successful move on.
- The consideration of an individual's connection to the Welsh language within an assessment of suitability of accommodation.

Homelessness at home

We propose to formalise a Homeless at Home Scheme on a national basis.

517. Such a scheme would provide individuals who have been told they must leave accommodation, they are currently occupying, in the longer term, the option to remain at that accommodation (where feasible and safe for them to do so) for a shorter period of time and be deemed homeless or threatened with homelessness. The applicant will be entitled to make an application for homelessness assistance to the local housing authority.

518. This may provide a preferable solution to some applicants than moving into temporary accommodation and is currently informally operated by some local authorities across Wales, in varying forms. It is proposed a formalised national policy might assist in addressing some legal anomalies encountered in local implementation.

519. It is proposed a Homelessness at Home definition will be provided and will assist authorities in recognising their ongoing main housing duty. This will also set out that the individual who is 'Homeless at Home' should be seen as any other applicant in temporary accommodation and should not be deprioritised in terms of finding longer-term more suitable accommodation.

520. This is to ensure applicants are not disincentivised from becoming Homeless at Home; a practice that alleviates pressure on temporary accommodation.

Data Collection

We will ensure at both a local and national level we are able to profile the availability and stock of temporary accommodation in Wales.

521. Building on work already underway through the development of local authority Rapid Rehousing Transition Plans, the [Local Housing Market Assessment](#) (an assessment of long term housing need) and Build plans, we will ensure at both a local and national level we are able to profile the availability and stock of temporary accommodation in Wales, the profile of those using it (including the experience of protected groups) and the length of time people are staying in temporary accommodation.

Proposals for longer term improvement to temporary accommodation

522. We propose to review suitability standards every three years in order to assess whether developments in the supply of accommodation enable us to bring forward a higher level of minimum standards. In line with the recommendations of the Expert Review Panel, these higher standards may include:

- a) whether to prescribe overcrowded temporary accommodation is never suitable;
- b) whether to prescribe for living space to be separate from bedrooms;
- c) whether to prescribe more generous space standards for sleeping rooms;
- d) whether to prescribe minimum standards pertaining to private (as opposed to shared) access to facilities such as cooking and toilets.

Allocation of social housing

523. Local authorities and registered social landlords (RSLs) (also known as Housing Associations and Community landlords) provide social housing and collectively are known as social landlords. They are distinguished from other landlords by having the principal objective of meeting housing need and, in Wales, as being not-for-profit organisations. Social housing is the provision of housing at affordable rates for those who cannot afford to rent or purchase a home on the open market.¹⁸⁶ The procedures local authorities and housing associations follow to determine who receives access to this housing and in what order is described as “allocations”. An individual or household can apply for social housing through the local allocation scheme or ‘waiting list’.

524. Dependent on the scheme in operation and whether a local authority holds its own housing stock or not, social homes are either allocated directly to individuals by a local authority or they will nominate an individual or household to a RSL to be considered for one of their properties. Whilst governed by legislation, allocation schemes differ across local authorities and between RSLs, even those working within the same authority area.

525. There are complexities to how social housing allocations operate across Wales, making a detailed assessment of the effectiveness of social housing allocations difficult. To improve our understanding of the issue and to allow for an accurate assessment of the current legislation, the Welsh Government has worked with Community Housing Cymru (CHC) and the Welsh Local Government Association (WLGA) to commission independent research into allocations across Wales.

526. ‘*Allocations: Understanding more, in the context of homelessness in Wales*’ has been published alongside this White Paper, following a period of work undertaken during April and May 2023. This work investigated the application of allocations procedures at both an all-Wales level and through detailed “spotlight” case studies in five local authority areas. The findings of this work were presented to the Expert Review Panel and helped inform both their recommendations and the proposals set out in this White Paper.

527. This chapter builds on this research to set out how existing legislation is used to govern allocation schemes operated across Wales, and how effective current schemes are in providing access to social housing for people experiencing homelessness. Proposed reforms, which aim to ensure allocation schemes are an effective mechanism in our wide-ranging response to end homelessness, are considered towards the end of the chapter.

¹⁸⁶ [Social housing | Law Wales \(gov.wales\)](#)

What the Law Currently Says

528. The statutory regime concerning the allocation of social housing in Wales by local authorities is governed by Part 6 of the Housing Act 1996 (“HA 1996”). This applies to the allocation of social housing to those in housing need and those who are not, provided they are eligible. It is not specific to homelessness, however consideration should also be given to Part 2 of the HWA 2014 and the consideration of homelessness duties in the development of allocation procedures.

Allocation Schemes

529. Under section 167 of the HA 1996, local authorities are required to have an allocation scheme that determines the authority’s priorities and the procedure to be followed in allocating housing. The Code of Guidance specifies and gives examples of how allocation policies within the scheme may look, but it is at the discretion of the local authority as to how they develop and implement their allocation scheme. Under s.167(1A) of the HA 1996, the scheme must include a statement of the local authority’s policy on offering eligible applicants a choice of accommodation or the opportunity to express preferences about housing accommodation to be allocated to them.

530. Legislation sets out a series of requirements for allocation schemes including the requirement to keep a housing register, set out eligibility criteria for joining the allocation scheme and the particular groups that may be afforded reasonable preference for housing under the scheme.

Eligibility for allocation

531. A local authority cannot allocate housing to a person who is not eligible. However, where a person is already a contract-holder in relation to accommodation allocated by a local authority the allocation rules do not apply. If this is the case, an authority is free to allocate properties at its discretion. Legislation prescribes circumstances in which a local authority must not allocate housing accommodation, as set out below.

Immigration status

532. Under 160A(3) and (5) of the HA 1996, a local authority is not permitted to allocate housing accommodation to persons from abroad who are subject to immigration control (within the meaning of the Asylum and Immigration Act 1996), unless they are of a class prescribed by the Welsh Ministers.¹⁸⁷ The Welsh Ministers may also prescribe other classes of persons from abroad who are not subject to immigration control, but are nevertheless ineligible for an allocation of housing accommodation. [The Allocation of Housing and Homelessness \(Eligibility\) \(Wales\) Regulations 2014 \(as amended\)](#), make provision for which persons from abroad will be eligible or ineligible for an allocation of housing accommodation under Part 6 of the HA 1996.

¹⁸⁷ As prescribed in Section 160A(1) and (3) of the HA 1996.

Unacceptable behaviour

533. The only other circumstances by which a local authority may treat an applicant as ineligible for the allocation process is prescribed in section 160A(7) of the HA 1996, where the authority is satisfied the applicant, or a member of their household, has been guilty of unacceptable behaviour, serious enough to make them unsuitable to be a tenant of the local housing authority, and at the time of the application they are still considered to be unsuitable by reason of that behaviour.

534. The 'unacceptable behaviour test' and the behaviour which is considered unacceptable is established within legislation and a local authority can only consider these specific types of behaviour when applying the test.

535. Section 160A(8) of the HA 1996 specifies the only behaviour that may be considered as unacceptable for the purpose of excluding somebody from an allocation of housing is behaviour which, if that person were a contract-holder of the authority, would breach section 55 of the Renting Homes (Wales) Act 2016. This behaviour is defined in Section 55 and includes engaging in or threatening to engage in behaviour capable of causing nuisance or annoyance to other residents or people living locally, the landlords or a person employed to exercise the functions of the landlord or inciting another resident or visitor to behave in such a way. The Code of Guidance sets out a threefold test for considering whether the unacceptable behaviour is serious enough to warrant exclusion from eligibility.

536. It is however at the discretion of the local authority whether they apply this test and where the test is applied, a local authority may still place an applicant who has failed the test on the waiting list. Local authorities are also permitted to penalise the individual through removal of additional or reasonable preference (please see section below). The local authority must notify the applicant of the outcome of the 'unacceptable behaviour test' and of any subsequent decision based on this outcome.

537. Local authorities are not permitted to consider any other factors to exclude someone from an allocation scheme, nor are they able to apply blanket exemptions to categories or groups of people. Subsequently, regardless of whether they have an urgent housing need, all persons who are not treated as ineligible for an allocation of housing on the basis of the 'unacceptable behaviour test' and who are persons from abroad who are eligible, can apply and be put on the waiting list for social housing.

Reasonable Preference

538. The HA 1996 specifies within a local housing authority's allocation scheme there are five specified groups of which 'reasonable preference' must be given by the local authority.¹⁸⁸ Those groups are:

- people who are homeless (within the meaning of Part 2 of the HWA 2014);
- people who are owed any duty by a local housing authority under sections 66, 73 or 75 of the HWA 2014;

¹⁸⁸ Section 167(2) HA 1996.

- people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- people who need to move on medical or welfare grounds; and,
- people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

539. Whilst legislation specifies these five groups must be awarded reasonable preference, local authorities have discretion as to how this should be delivered and whether any group should be prioritised within the five categories. This is normally reflected in how local housing authorities apply bandings or award 'points' to those on the waiting list.

540. An individual may fall into one of these five reasonable preference groups, but may not be afforded reasonable preference, due to being treated as ineligible due to the application of the unacceptable behaviour test.

Additional preference

541. Section 167(3) of the HA 1996 allows local housing authorities discretion to award 'additional preference' to applicants. This can only be awarded to those who both fall within one of the five reasonable preference groups and who have an 'urgent housing need'. The Code of Guidance gives examples of such cases, such as people owed a homeless duty as a result of being forced to leave their homes by actual or threatened violence.

542. In addition, local authorities have discretion to set categories and factors that could be used to award applicants, who do not fall within the reasonable preference categories, greater or lesser priority within the allocation scheme. Factors that could be considered as possible reasons to increase the priority of an individual applicant could include local connection or residents who are under-occupying and wish to urgently move to a smaller property. A local authority must set these categories and factors out clearly in their allocation policies and ensure the allocation scheme is not dominated by those who are not entitled to a reasonable preference.

Local Lettings policies

543. Local authorities can provide for their allocation scheme to include a specific local lettings policy under section 167(2E) of the HA 1996, which will provide for the allocation of particular accommodation to an applicant who makes a specific application for that accommodation and to persons of a particular description, who do not themselves have to be entitled to reasonable preference. Such schemes allow for specific types of accommodation to be used as sheltered accommodation for those who need it, or adaptable or accessible accommodation for disabled people.

The application of the law

544. The legislation discussed in this chapter prescribes and governs the allocation of social housing by local authorities in Wales. It does not apply to RSLs or other housing partners.

545. The only legislative duty RSLs are subject to is section 170 of the HA 1996, which requires a private registered provider of social housing or RSL to co-operate at the request of the local housing authority to such an extent as is reasonable in offering an allocation of housing accommodation to people with priority under the authorities' allocation scheme. This is further supported through the duty to co-operate with local housing authorities to support them in the delivery of their duties under section 95 of the HWA 2014. In order to support this co-operation, RSLs may enter into contractual arrangements with local housing authorities to define roles and responsibilities within the partnership, and these agreements should include RSLs receiving nominations from the local housing authority of individuals or households for vacant properties.

546. RSLs in Wales have to comply with standards of performance set for them by Welsh Ministers, within [the Regulatory Framework for Housing Associations in Wales](#), and the [Housing Association Circular 004/15](#).^{189 190} Currently there are no standards within this framework that govern the allocation of accommodation, either independently or in their obligation to co-operate with local housing authorities. However standard RS1a) is relevant. This standard sets out the RSL must have a strategy which reflects its vision, culture and values and sets out how the organisation will achieve its core purpose as a social landlord – the provision of social housing and meeting local housing need.

547. Although some good practice around allocations is set out in the Code of Guidance, RSLs are unrestricted in the development of their own allocation schemes, which may include refusal of nominations for allocations based on the previous history of an applicant or a member of their household, rent arrears or previous possession orders. There is no legislation to define these agreements or the process of agreeing or refusing nominations (unless clear agreements and protocols are drafted into their contractual agreements with the local authorities), although there is guidance provided within the Code of Guidance that local housing authorities and RSLs should work together towards common housing policies.

How the law currently works

548. The 1996 Act sets out a considerable legal framework for local housing authorities to apply as they develop and implement their allocation schemes. However, the housing landscape has changed significantly in the 23 years since the introduction of this legislation and in the 38 years since its precursor, the Housing Act 1985 (“HA 1985”). Whilst there have been several changes to these Acts during this time, there remains significant elements of the Acts that are no longer relevant to the current housing environment, or where the legislation is not sufficient to address today's housing need. At the time of the HA 1985, local housing authorities were

¹⁸⁹ [WG44078 \(gov.wales\)](#)

¹⁹⁰ As set out in section 33A and 33B HA 1996

obliged to hold housing stock. Since that date, an increasing number of local housing authorities have transferred their stock to RSLs, following a tenant's ballot. As of 31st March 2022, only 11 local authorities in Wales hold their own housing stock, totalling 87,927 units, compared to 149,468 units held by RSLs in Wales. This demonstrates a distinct shift in ownership of social housing stock over the past four decades, with RSLs the far more prominent asset holder. Despite this transfer of stock to organisations to whom the HA 1985 and HA 1996 do not apply (with the exception of the duty to co-operate in section 170 HA 1996, discussed below), the legislation applying to allocation of social housing has not changed in this time. The following section summarises some of the issues arising from this legislative oversight.

Duty to co-operate

549. Section 170 of the HA 1996 requires an RSL to co-operate with a local authority as is 'reasonable in the circumstances' in offering an allocation to people with priority under the authority's allocation scheme. Section 170 does not require an RSL to accept all nominations, and nominations may be secured in a number of ways. Where traditional nomination agreements are in place, the basis on which an RSL can accept or refuse a nomination by the local housing authority should be contained in the contractual arrangement agreed between the RSL and the local housing authority, however this is rarely specified within these contracts, and local authorities have little scope to query or challenge a decision refusing a nomination.

550. We are aware however, the majority of local authorities have replaced "traditional" nomination agreements with common allocations policies and common housing registers (allocations partnerships). These are partnerships between RSLs and a local authority intended to simplify the allocations process for applicants in a particular area through a single point of access into social housing (a single housing register) and establishing a consistent allocations policy across all providers, albeit with certain locally agreed variations. Allocations partnership is generally supported by a formal agreement which is entered into voluntarily by all parties and sets out the way the partnership works as well as its system of prioritisation and offer/refusal arrangements. It will set out appeals processes as well as how the partnership monitors and reviews it and how long the agreement is in force. The partnership jointly develops the common allocations policy and carries out the consultation and publicity arrangements for the new way of working. It is usual for one of the partners to administer the scheme on behalf of the others and in most cases the partners fund a proportion of the costs of running the scheme, usually proportionate to the stock they hold in the area. Participation in allocations partnership normally means the whole stock of an RSL is available to the partnership and as there is a common allocations policy, the ability to refuse nominations is no longer required. Anecdotal evidence suggests homeless households are not always prioritised for social housing, and local housing authorities indicate they have minimal opportunity to influence allocation of those most in need where such agreements are in place.

551. Research commissioned by CHC, the Welsh Government and the WLGA to support the work of the Expert Review Panel and the development of this White Paper identified clear disparity between nomination rates and allocations as an area

of concern.¹⁹¹ Although many local authorities state 100% of the nominations they make for social housing are for homeless households, levels of allocations of social housing to homeless households are far lower than this. In the spotlight areas highlighted in the research, allocations varied from 23-60%. It isn't always clear what causes the divergence between nominations and allocations.

552. The most recent Great Britain Homelessness Monitor 2022 highlights for homeless and other households in urgent need, the annual flow of lettings has a bigger impact on ending homelessness than new provision of homes.¹⁹² There can be valid reasons, where allocations agreements permit, why a RSL may refuse a nomination, for example, availability of stock or accessibility. However, the current varied, and in many cases, low rates of allocation of social housing to people experiencing homelessness is a cause for concern.

Application of the unacceptable behaviour test

553. As outlined above, local authorities may only exclude an individual from an allocation scheme based on immigration status or unacceptable behaviour.

554. At the time the local authority applies the 'unacceptable behaviour test' they will consider past behaviour and the ongoing risk continued behaviour of that kind would pose to an occupation contract.

555. There is concern the test in its current application does not allow for appropriate consideration of changes in behaviour or mitigating actions which will reduce the risk of the behaviour happening again, leaving people experiencing homelessness for longer. This is evidenced in the apparent inconsistency in the application of the test across local authorities and even between applicants. The research commissioned to support the development of recommendations by the Expert Review Panel and this White Paper, suggests both rent arrears and anti-social behaviour were inconsistently assessed across the board. This resulted in some households with relatively low rent arrears or relatively minor offences being assessed as ineligible, whilst others with a history of greater rent arrears or more significant anti-social behaviour were assessed as eligible and received support into new tenancies. This inconsistency in application acts as a barrier to social housing for those in need and extends beyond the assessment stage. The research also found RSLs could be inconsistent in their approach to considering previous behaviour (although where there are common allocation policies in place, all partners of the agreement should have agreed the detailed requirements underlying historical behaviour and rental arrears). Some required 12 months evidence of an applicant being deemed as 'tenancy ready'. For applicants who are homeless, this would require 12 months of being placed in temporary accommodation, during which time the negative experiences associated with being placed in such accommodation may create negative impacts; further decreasing their likelihood of accessing social housing via

¹⁹¹ *Allocations Understanding more, in the context of homelessness in Wales* Commissioned by Community Housing Cymru, Welsh Government, and Welsh Local Government Association and available alongside this White Paper

¹⁹² [Homelessness Monitor 2022 | Great Britain | Crisis UK](#)

the allocation scheme. With the level of demand for social housing as it is, anonymous respondents to the allocations survey indicated RSLs are currently able to choose between those in need of social housing, ‘cherry-picking’ applicants in some cases. Further research will be commissioned by the Welsh Government to explore this assertion further and assess the extent to which such decisions happen and the underlying reasons why. The findings of this research will inform future draft legislation.

556. The exclusion of historic instances of anti-social behaviour and rent arrears in allocating homes was a clear recommendation of the Shelter Cymru review of allocations in Swansea in 2020.¹⁹³

Unmanageable waiting lists

557. Anyone who is eligible for social housing may register on the allocation scheme, regardless of whether they are in any form of housing need.

558. Whilst there are limitations to the data collected by local authorities, available data indicates the number of people on the social housing waiting list has grown considerably over recent years, partly due to the significant increase in the number of people presenting as homeless and also linked to housing demand far outstripping supply. As a result, it is inevitable the time people spend on the waiting list will increase.

559. The flow of people being housed from the waiting list is decreasing, with only 9,746 households allocated social housing (excluding transfers and exchanges) in 2021-22, compared to 12,863 households in 2018-19, showing a reduction of movement through the waiting list.¹⁹⁴ 4,567 households were provided social housing who are homeless and in need in 2021-22, an increase from 3,722 homeless households in 2018-19.

560. Given the demand for social housing based on homelessness and wider housing need, it is very likely some people on the waiting list will be on the list for a considerable amount of time and may never be allocated social housing.

Priority within allocation schemes

561. As outlined throughout this White Paper, homelessness is currently at peak levels, with high numbers of people in temporary accommodation; some of whom will be experiencing detrimental impacts to their mental wellbeing and health including lack of control over their own environment, lack of space and restricted freedom for children to learn, play and develop.

562. Despite these figures it does not appear homeless households are universally receiving additional priority within allocation schemes. Chartered Institute of Housing (“CIH”) research undertaken in 2020 found at least seven Welsh local authorities did not place homeless applicants, or those threatened with homelessness, in the

¹⁹³ [Allocation-of-Social-Housing-Report.pdf \(sheltercymru.org.uk\)](#)

¹⁹⁴ [Number of lettings by year and letting type \(gov.wales\)](#)

highest priority bands.¹⁹⁵ There are a variety of reasons for this including local political decisions, or ‘additional preference being given’ having greater weight, including having a local connection to the area, or being linked to the armed forces.

563. It should be noted the [Schedule to the Local Housing Authorities \(Prescribed Principles for Allocation Schemes\) \(Wales\) Regulations 1997](#) specifies elected members should not be part of the decision making in respect of any individual allocation decision. However, there is no legal requirement to exclude whole allocation scheme characteristics, such as awarding priorities or additional preference, from elected member determination in agreeing the local policy.

564. Whilst the discretion afforded to local authorities with regards to the application of ‘additional preference’ is important to maintain communities, particularly rural, Welsh speaking communities, it is concerning that a higher priority does not appear to be being placed on accommodating those who have no home.

565. We understand homeless households are often excluded from the highest priority banding to ensure homelessness is not perceived as a direct route into social housing and, therefore, does not drive a perverse incentive into the social housing system. This point came through as a significant concern of both local authorities and RSLs in the findings of the allocations research undertaken to support the work of the Expert Review Panel and the development of this White Paper.

Common Housing Registers

566. Although common allocation policies have been adopted by the majority of local authorities across Wales, there is currently no legislation in place in Wales requiring local authorities and RSLs to operate a Common Allocation Policy or Common Housing Register (CHR) (although this is strongly encouraged in the Code of Guidance). A CHR operates as a joint waiting list for housing that is provided by the local authority and any RSL partner or partner housing authority. This allows for improved understanding of the total stock and type of stock available and widens the options available to applicants on the waiting list or allocation scheme. Such policies also provide the opportunity for all partners to agree the conditions and details of the scheme, affording the opportunity to move away from individual nomination agreements, and the need for nomination refusal.

567. A review undertaken by the CIH found 19 of the 22 local authorities operating across Wales currently choose to operate a CHR and indicates in so doing, they are promoting better relationships and collaboration between local authorities and their RSL partners.¹⁹⁶

568. In addition, where CHRs operate, they are considered to provide greater transparency and ease of navigation for the applicant, who have one ‘waiting list’ to join, and one ‘register’ to check against. A CHR also helps to promote choice-based lettings, widening the stock opportunities for individuals, to allow for more suitable stock to be considered for households. Overall, once established, a CHR requires fewer resources to operate as opposed to the operation of several housing lists and

¹⁹⁵ [time-to-refocus.pdf \(cih.org\)](#)

¹⁹⁶ [time-to-refocus.pdf \(cih.org\)](#)

facilitates the development of agreed letting plans between local authorities and RSLs to help them to jointly determine and provide allocations of housing to priority groups.

Support needs and occupation contract retention

569. Some people experiencing homelessness will have additional support needs and, for some, these needs might be complex. Individuals with complex needs require high levels of support to help them into a home and to maintain an occupation contract. More efficient provision of a secure long-term settled home is likely to assist these individuals in meeting their other support needs, whilst minimising the negative impacts temporary accommodation may have on them. Instead, too often this requirement for support acts as a barrier to accessing social housing. Some RSLs feel ill-equipped to support such tenants, which may impact on their decision regarding nominations offered by the local housing authority.

Proposed Changes

570. Existing legislation around the allocation of social housing is dated and does not apply to the bodies in control of the majority of social housing stock in Wales. Much of the legislation allows for ambiguity in its application, and as a result, local allocation policies across Wales differ widely.

571. The Welsh Government proposes a series of reforms which aim to ensure allocations practice is used more effectively as a lever to end homelessness. This is particularly important as Wales transitions towards delivering a key aim of our Rapid Rehousing policy; to ensure people experiencing homelessness are allocated long-term settled homes that are suitable, as quickly as possible.

We propose new legislative provision which will make clear an RSL cannot unreasonably refuse a referral from a local housing authority, within a specified timeframe, except in specified circumstances.

572. RSLs are a vital partner in preventing homelessness and throughout the development of the White Paper we have heard many examples of strong working relationships between RSLs and local authorities and the crucial wider role RSLs play in alleviating housing distress that may not be directly related to homelessness.

573. However, evidence suggests there is more that can be done to strengthen the role of RSLs in alleviating homelessness.¹⁹⁷ In line with the recommendation made by the Expert Review Panel, we propose legislative reform to allow local authorities to require RSLs to rehouse statutory homeless referrals, within a set period of time, except in specified circumstances. This is a proposal similar to the provision in [section 5 of the Housing \(Scotland\) Act 2001](#), which has proved to be an important tool in providing access to housing for people owed a statutory homeless duty.¹⁹⁸

¹⁹⁷ Allocations Understanding more, in the context of homelessness in Wales Commissioned by Community Housing Cymru, Welsh Government, and Welsh Local Government Association

¹⁹⁸ A. Britain, L. Robertson, J. Tate, S. Livingstone Craigforth (2009) Review of Section 5 of the Housing (Scotland) Act 2001.

574. It is proposed this change to primary legislation would ensure homeless households have greater access to available social housing and could potentially widen the options available in securing accommodation. This proposed requirement on RSLs would be in addition to the current co-operation duty. We propose the requirement will apply following a local authority's request to the RSL and will only apply to an applicant experiencing homelessness.

575. It is proposed this will not be an absolute duty on RSLs. Local housing authorities will have to take into consideration the availability of stock within the area, access to support, schools and public transport amongst other matters to ensure they are not placing undeliverable requirements on the RSL. There will be times RSLs are unable to fulfil this requirement for genuine reasons and these will be encompassed within the specified circumstances which will allow an RSL to refuse the request.

576. It is not our intention to introduce a quota or target scheme for allocations and this does not form part of our proposals. However, we understand some localities have developed their own quota system. It is proposed refusal to accept a referral, on the basis an RSL has met an existing quota agreed with the local authority, will not be acceptable as a specified circumstance or a good reason to refuse to allocate accommodation. The specified circumstances will be established and developed as part of subsequent Bill development, taking into consideration this consultation, the views of local authorities and RSLs and the recommendations of the 2009 review of the similar provision in Scotland.¹⁹⁹

577. The policy intention of this proposal is to ensure allocations are used to their greatest effect in preventing homelessness, to support greater co-operation between local authorities and RSLs and drive transparency into the allocations process. It is envisaged the presence of this additional duty will encourage better alignment of allocation policies and priorities and, over time, this cultural shift will minimise the need for local authorities to utilise this power. The similar duty in Scottish legislation is used at varying levels and frequencies across Scottish authorities, with some authorities never using it and others making frequent use of it. Stakeholders have been clear, however, the presence of the power and related duty are key components in creating a cultural shift which maximises allocations to homeless households.

Classification considerations

578. In making this proposal we are mindful of the classification status of RSLs as Private Non-financial Corporations by the Office for National Statistics (ONS), for the purposes of national accounts, and of the Expert Review Panel's recommendation that any risk of reclassification should be mitigated within the development of these proposals.

579. As a result of a decision by the ONS in 2016, to reclassify RSLs as Public Non-financial Corporations, the Welsh Government introduced the Regulation of

¹⁹⁹ A. Britain, L. Robertson, J. Tate, S. Livingstone Craigforth (2009) Review of Section 5 of the Housing (Scotland) Act 2001.

Registered Social Landlords (Wales) Act 2018; a regulatory reform act which removed public sector (central and local government) controls over RSLs to enable a return to the current Public Non-Financial Corporations status.

580. We recognise the development of new, significant legislative change, which is seen to reintroduce central or local government controls, may trigger a further reclassification review which could have significant implications for RSLs. These implications could include a possible negative impact on their ability to develop new homes, as their borrowing capacity would have to be considered in the context of the Welsh Governments' overall capital budget, therefore competing with other Welsh Government capital spend priorities. The borrowing, (existing and new) would also increase public sector net borrowing/debt.

581. Therefore, as we consult and develop this proposal, we will consider the impact on RSLs and undertake relevant impact assessments at the appropriate time. It is not the Welsh Government's intention to impose legislative requirements on RSLs in Wales which result in their reclassification as public bodies.

Unacceptable Behaviour Test

We propose the current test for unacceptable behaviour, which permits a local housing authority to exclude applicants from their allocation scheme, or to remove any reasonable preference from them, should only apply where:

- a. an applicant (or a member of their household) has been guilty of unacceptable behaviour, serious enough to breach section 55 of the Renting Homes (Wales) Act 2016 so as to result in an outright possession order; and**
- b. at the time of consideration of the application, the applicant remains unsuitable to be a tenant by reason of that behaviour (sections 160A(7) and (8) and 167(2B) and (2C) of the Housing Act 1996).**

582. We also propose to develop further guidance around the application of the 'unacceptable behaviour test', highlighting good practice and how mitigating circumstances and support provision should be factored into the assessment, reducing the reliance on so-called poor behaviour and rent arrears to exclude applicants.

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

583. Given the short and medium-term pressures related to homelessness and housing supply, people with no housing need applying for social housing will wait several years for accommodation and in some cases, will never receive an allocation.

584. Local authority resource is still required to manage the list and the high numbers of people waiting can overwhelm local authority teams and make prioritisation and management very challenging.

We therefore propose to provide local authorities the power to remove people with no housing need from the waiting list in their areas.

585. We propose that legislation is amended so as to provide local housing authorities with a power to specify that certain groups of people, who are not in housing need, will not qualify for their allocation scheme. This power would be permissive only; local housing authorities will retain a discretion to admit all applicants onto their allocation scheme regardless of whether they have a housing need”.

586. Should this proposal be taken forward, a definition for housing need will be provided in guidance which will also seek to set out where exceptions to this power are necessary. We will work with local authorities and RSLs as we develop legislative proposals to consider how such exceptions can be identified and assessed.

587. The intention of this proposal is to increase accessibility to housing for those most in need, to ensure accurate data related to homelessness and housing need across Wales and to ensure those who are not in need but are on the waiting list are given clear advice about their probable access to social housing. The proposed power will only apply to those assessed to be in no housing need and living in suitable accommodation.

Providing ‘additional preference’ to people experiencing homelessness

We propose 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’.

588. This proposal does not amend the five groups who are currently afforded ‘reasonable preference’ within allocation schemes, but it will prescribe for the prioritisation of homeless households within these five categories. Currently, local authorities are permitted to determine their own priorities between the reasonable groups and, due to differing allocation schemes and other locality preferences (including local connection), not all local authorities place people who are homeless in their priority bands. This proposal aims to ensure the needs of homeless applicants are prioritised in allocations, and to lead to shorter time periods in temporary accommodation and mitigation for the potentially negative consequences of such stays.

589. Both the Expert Review Panel and the Welsh Government are clear this proposal should not be required as routine, long-term policy. In the longer-term, following the implementation and transition to Rapid Rehousing and an increase in housing supply, we envisage local authorities will no longer need to allocate additional preference. As such we will explore options to time limit this proposal or provide a power for Welsh Ministers to ‘switch off’ the requirements for additional

preference at such a time waiting lists and homelessness applications have reduced to prescribed levels.

Providing ‘additional preference’ to care experienced people who are homeless and those fleeing abuse

590. As outlined in section 3 of this White Paper (targeted prevention), people leaving care or those with experience of care, are at a higher risk of becoming homeless in Wales.

Welsh Government therefore proposes to introduce amendments to legislation to allow for care leavers who are homeless, to be provided with additional preference over other priority groups defined as having an urgent housing need. This will allow for greater prioritisation of care leavers within existing allocation systems, with the intention of increasing their access to affordable accommodation and mitigating the additional risk of homelessness they face.

We propose a similar change so local housing authorities are permitted to specify in their allocation schemes people who are homeless as a result of fleeing abuse should be awarded greater priority.

A statutory requirement for a Common Housing Register/Common Allocations Policies

We propose to introduce legislation to require the use of CHRs and common allocations policies across all local authorities in Wales.

591. Whilst the majority of local authorities already operate a CHR and many operate common allocations policies, the benefits to delivery partners and end users are such that it is important to ensure this service is on offer in every part of Wales. A single register will ensure all partners operate to aligned priorities. The policy intention of this proposal is to establish a consistent, understandable approach and drive improved efficiency into the allocations procedure. The adoption of a CHR across all local authority areas will support the implementation of other proposals within this section.

592. There is already advice in the Code of Guidance recommending the use of CHRs and the development of common allocation policies across Wales. It is proposed this will be strengthened to support the proposed change to legislation. Whilst it will remain for local authorities and RSLs to establish and agree formal contractual arrangements to support the register and allocation policy operating under this, advice will be strengthened. We note some social housing (e.g. specialist supported accommodation) is currently managed outside of local CHR processes on the basis it is required in response to social services referrals. As future guidance is

developed on CHRs we will work with stakeholders, to ensure those with chronic, complex and long-term needs are not disadvantaged by the proposal.

593. In considering the above proposals, further to engagement and consultation to be undertaken by the Welsh Government in formulating legislation, there is also a requirement under section 167(7) of the HA 1996 for local authorities to liaise with, engage and notify their RSL partners regarding their allocation schemes and any proposed changes. Draft copies of the proposed changes to a scheme must be sent to every RSL, and the RSLs must be provided with a reasonable opportunity to comment on those proposals.

594. Should this proposal be taken forward, we will consider further guidance to both local housing authorities and RSLs around social housing allocation policies, seeking to achieve a more consistent approach and to reduce the impact of policies known to create barriers such as historic rent arrears, guarantors (where circumstances are such an applicant can demonstrate it would be difficult to obtain a guarantor), advance rent policies, over 55s restrictions, no pet policies, restrictions on ex-offenders and the application of local connection criteria. Such guidance will be developed in collaboration with the sector and informed by existing best practice.

Challenging an allocations decision

595. Should these proposals be taken forward into draft legislation we will also explore whether it is appropriate and workable to develop a mechanism or process through which an applicant may challenge a decision on allocation of social housing by a local authority or RSLs.

Introduction of a ‘deliberate manipulation test’

596. Throughout the engagement work to develop this White Paper we have heard concerns that in delivering these proposals we may, inadvertently create a perverse incentive within the system which drives people to become homeless in order to access social housing. The risk of exploitation of the scheme by those not in most urgent housing, could lead to the diversion of services and resources away from those who are most in need and adds pressure to an already oversubscribed system.

We therefore propose to introduce a ‘deliberate manipulation test’ to be applied at the allocations stage of the homelessness process.

597. This test is intended to limit/remove any additional priority given on the basis of homelessness and would be limited to those who are found to have engaged in ‘deliberate manipulation’ of the homelessness system, in order to gain advantage when applying for social housing. It is important to stress this proposal does not aim to affect the rights of those applying for housing (homelessness) assistance; it will only apply to the allocation of social housing. The test would permit local authorities the discretion to remove any ‘reasonable preference’ the applicant would normally

have been eligible for in allocations. We are committed to ensuring any person who is homeless or at risk of becoming so, maintains access to the assistance they need, to prevent or alleviate homelessness.

598. “Deliberate manipulation” could include, falsifying evidence or misleading authorities to believe an applicant was not able to access suitable accommodation when they are able, or falsifying evidence or misleading authorities to believe an applicant is not able to afford to access housing through means outside of the homelessness system (i.e. the Private Rented Sector or as a property owner), when evidence suggests they are able to afford this. Deliberate manipulation could also include other acts or omissions, though this would be more limited than the examples listed in the current Code of Guidance, to recognise types of behaviours, such as anti-social behaviour, are often a product of trauma or wider support needs, than deliberate or wilful behaviour.

599. Any decision and resulting action to reduce an individual’s priority within the allocation system would be subject to a review, as are other decisions taken surrounding the allocation of housing accommodation as set out in section 167(4A)(c) and (d) of the Housing Act 1996.

600. It is envisaged the test would not only provide for the identification of individuals who are trying to manipulate the system, but also operate in a way to deter such activity in the first instance, removing the potential perverse incentives the other proposals outlined may have otherwise resulted in. We will monitor application of the test to ensure it is used appropriately and develop safeguards where necessary.

Additional housing options for discharge of the main homelessness duty

What the law currently says

601. At the present time the main homelessness duty can only end where the applicant is offered and accepts or refuses suitable Part 6 accommodation (social housing) or suitable private rented sector accommodation (or refuses suitable accommodation). In addition, certain actions taken could also trigger the cessation of the duty, such as, the withdrawal of an application, if an applicant becomes homeless intentionally from temporary accommodation or should the applicant fail to co-operate with the local housing authority.

Proposed Changes

We propose an increased range of housing options through which the main homelessness duty at section 75 HWA 2014 can come to an end.

602. These options may include supported lodgings, supported accommodation and remaining or returning to previous accommodation, including the family home.

603. This recommendation would allow a local housing authority to utilise these options only where the local housing authority is satisfied the following conditions are met and only where the applicant agrees the accommodation is suitable for the applicant and all members of their household to occupy and the accommodation is likely to be available for occupation by the applicant and all members of their household for at least 12 months.

604. The aim of including these additional options is to provide flexibility for a wide range of circumstances, and to maximise the options available in a local area, particularly in light of the pressures in the current system. Providing additional options should mean that people facing homelessness have the same range of options available to them as other members of the public, and choice and control over those options wherever possible. Parity of options should also mean there is no disincentive to engage with the prevention offer in order to get a 'better' housing offer (i.e. social housing).

605. We propose the main housing duty would not end if the applicant refuses such accommodation.

606. In line with the recommendations of the Expert Review Panel we propose the following additional means of ending the main housing duty:

- providing advice and assistance that has allowed an applicant who was homeless because they had accommodation but it was not reasonable to continue to occupy (because of the risk of domestic abuse or other abuse or violence) to return to occupy that accommodation. Examples of such advice and assistance include helping an applicant to obtain an occupation order or other legal remedy to exclude a perpetrator, installing physical safety features, helping the applicant to obtain advice to have the ownership or occupation contract-transferred to their sole name;
- assisting the applicant into supported lodgings or other supported accommodation;
- assisting the applicant to return to a home from which they were excluded by parents or family, by, for example, providing mediation services.

607. We propose the following safeguards to accompany these additional discharge options:

- A written agreement such as an occupation contract (if appropriate) and/or a statement from the landlord to the contract holder of the rights and responsibilities of both parties.
- The applicant must have been notified in writing of the consequence of acceptance of the offer (the duty will come to an end).
- An offer of such accommodation must be accepted in writing by the applicant if this option is to be utilised to end the housing duty. A refusal of such accommodation cannot lead to the main housing duty coming to an end.
- Access to independent housing advice for the applicant prior to accepting an “additional option” accommodation.
- Written information to the applicant on their right to request a review of the suitability of the accommodation.
- Informing the applicant they may make a new application for homelessness assistance to the local housing authority if the agreement breaks down (and how to do so).
- In addition to the accommodation meeting all of the usual standards for ‘suitability’, we propose the following be provided:
 - i. 24-hour access to that accommodation
 - ii. adequate toilet and washing facilities
 - iii. access to kitchen facilities
 - iv. a private bedroom
 - v. availability of living space where the applicant is living with children.

608. We propose the local housing authority be under a duty to make contact with the applicant six months after acceptance of the offer in order to ascertain whether the accommodation continues to be suitable and/or whether the applicant is threatened with homelessness or homeless. If it appears to the local housing authority the accommodation is no longer available to the applicant (or to all members of their household) or is no longer suitable, then the local housing authority should assist the applicant to make a new application for homelessness assistance (section 62(1) HWA 2014).

Evictions

Evictions from social housing

609. At the time of writing, thanks to the commitment and strong partnership working between RSLs and local housing authorities, there are very few evictions from social housing into homelessness in Wales. It is our view, that as long as this position continues and is strengthened where necessary, legislative reform in relation to evictions from social housing is not required.

Evictions from the private rented sector

610. The Renting Homes (Wales) Act 2016 has recently been fully implemented and the Welsh Government considers this legislation provides a strong offer of protection to private tenants. It is therefore not our intention to revise this legislation at this time. Should further changes relating to the Private Rental Sector be required, the appropriate legislative vehicle for this might be the complementary, but parallel work underway on securing a path to adequate housing, fair rents, and affordability.

611. Data on evictions into homelessness from social housing and the Private Rented Sector will be kept under review to ensure progress towards ending evictions into homelessness continues.

Consultation questions

20. To what extent do you agree or disagree with the short-term proposals to increase the suitability of accommodation? Are there additional immediate actions you believe should be taken for this purpose?

21. To what extent do you agree or disagree with the proposals around the allocation of social housing and management of housing waiting lists? What do you believe will be the consequences of these proposals?

22. To what extent do you agree or disagree with the proposal for additional housing options for discharge of the main homelessness duty? What do you foresee as the possible consequences (intended or unintended) of this proposal?

23. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals in relation to access to housing. Are there any costs and benefits we have not accounted for?

Chapter 5: Implementation

Implementation of the proposed reforms

612. The proposed reforms within this White Paper are broad and complex and, as The Case for Change outlines, they are being introduced at an exceptionally challenging time for the Welsh public service and, in particular, the housing sector. At the time of writing the cost of living crisis and the wider inflationary pressures on housing and related services have created a uniquely difficult landscape in which to deliver the scale and ambition set out in this White Paper.

613. We recognise however, long term transformation is required to address the pressures in the housing system, and as part of this, legislative reform is required to support the move to a system focused on prevention and Rapid Rehousing. As we have set out, the proposed reforms form part of the wider strategy to end homelessness in Wales which will take some time to deliver. Unfortunately, given the pressures we face, the reforms may take longer to deliver than we would hope but it is important to begin their design and to plan future implementation. This chapter outlines how we propose to support the implementation of the future reforms and enforce the future legislation.

614. In recognition of the very difficult landscape, we hope to use the consultation period to test methods, timeframes, resources and requirements for implementation and plan for this with stakeholders. In doing so, we will build on the work of the local authority reference group who have assisted with initial planning as we have developed this White Paper.

What the law currently says

Homelessness services

615. The HWA 2014 does not provide the Welsh Ministers with powers to regulate the functions of a local housing authority in the delivery of its homelessness services. Those powers are devolved to local authority members as part of their established oversight and scrutiny of a local housing authority's functions.²⁰⁰ Broadly, that oversight and scrutiny will focus on the overall performance of homelessness services rather than individual decisions.

616. Further scrutiny of a local housing authority's decision-making is also available through the Public Services Ombudsman for Wales (PSOW).²⁰¹ This role involves investigating complaints of alleged maladministration and service failure of a local housing authority when providing housing assistance. The PSOW may also undertake 'own initiative investigations' into public services where there may have been systemic maladministration or service failure (where they are satisfied the criteria for investigation is met).²⁰² An investigation of this type about homelessness

²⁰⁰ Powers for scrutiny were provided by the Local Government Act 2000, which was subsequently amended by the Local Government (Wales) Measure 2011

²⁰¹ [Public Services Ombudsman for Wales](#)

²⁰² [Own Initiative Investigations \(ombudsman.wales\)](#)

services in Wales was published in October 2021.²⁰³ Such investigations have historically considered specific issues rather than regular and routine scrutiny of the regulation of public services in Wales.

Social housing and registered social landlords

617. The Welsh Ministers have powers under Part 1 of the Housing Act 1996 to regulate RSLs in Wales. Part 1 of the 1996 Act has been amended by Part 2 of the Housing (Wales) Measure 2011 (“the Measure”). The Measure provides the Welsh Ministers with enhanced regulatory and intervention powers concerning the provision of housing by RSLs and the enforcement action that may be taken against them. The regulatory standards are published in the Regulatory Framework.²⁰⁴

618. The Welsh Government’s Regulation Team undertakes the function of regulation on behalf of the Welsh Ministers. This function forms part of a co-regulatory approach wherein the board of each housing association is ultimately responsible for the effective governance, performance and financial viability of their organisation. As well as undertaking a robust self-evaluation, boards must satisfy themselves that they comply with the regulatory standards. The role of the Regulation Team is to assess and report on the adequacy and effectiveness of both the process and substance of this self-assessment through ongoing regulatory oversight and by issuing regulatory judgements for governance, including tenant services and financial viability.

619. RSLs and any other providers of regulated care services are also subject to a separate regulation process overseen by Care Inspectorate Wales through a statutory process of registration, inspection and, where needed, setting requirements to improve the quality of services.²⁰⁵

UK models of regulation

620. Alternative models of regulation for homelessness and social housing have been adopted across the UK. In Scotland, a Scottish Housing Regulator provides independent regulation to both social landlords and local housing authorities, operating as a Non-Ministerial Department, separate from the Scottish Government.²⁰⁶ The Scottish Housing Regulator assesses performance in respect of social housing tenants, people who are homeless and those using a social landlords’ services. The Scottish Housing Regulator employs approximately 50 members of staff and is currently operating with a revenue budget of £4.92m for 2022/23.²⁰⁷

621. For England, the Regulator for Social Housing has a narrower remit than the Scottish Housing Regulator, considering performance of the social housing sector in

²⁰³ [Ombudsman publishes his first-ever own initiative investigation into the homelessness review process in Wales, finding evidence of “systemic maladministration” by local authorities](#)

²⁰⁴ [WG44078 \(gov.wales\)](#)

²⁰⁵ Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA)

²⁰⁶ [Home | Scottish Housing Regulator](#)

²⁰⁷ [scottish_housing_regulator_annual_report_and_accounts_2021-22.pdf \(housingregulator.gov.scot\)](#)

respect of economic and consumer standards, without specific reference to homelessness services.²⁰⁸

Individual rights of review

622. Although not a regulatory function, it is important to note the homelessness application process involves inbuilt opportunities for challenge of individual decisions. An applicant may challenge a decision of a local housing authority through a right of review provided by section 85 of the HWA 2014. A review will consider decisions made by a local housing authority in relation to:

- an applicant's eligibility to receive housing assistance;
- whether an applicant is owed a duty provided by sections 66, 68, 73 or 75 of the HWA 2014 (and whether those duties have been ended appropriately);
- where the authority has referred the applicant's case to another authority or decided that the conditions for referral are met; and
- the suitability of accommodation when it is offered to an applicant.

623. Reviews are undertaken by an officer of the local housing authority, who will not be involved in the original decision. A further right of appeal to the County Court on points of law may be made by the applicant.

624. Section 1 of this White Paper sets out proposals for additional individual rights of review.

Data

625. Throughout the engagement work to develop this White Paper we have heard feedback that data collection and analysis around homelessness could be improved to facilitate better understanding of the key factors that contribute towards homelessness and to monitor performance of services. In their report to the Welsh Government, the Expert Review Panel state that as we move towards a Wales where homelessness is rare, brief and unrepeated, improving the data landscape is an essential part of mapping and monitoring that journey, as well as establishing whether further measures may be required.

626. The Welsh Government collects data to monitor the extent of homelessness in Wales, through published Monthly Management Information and annual statutory homelessness statistics.²⁰⁹ ²¹⁰ This data is aggregate in nature, helping to explain the circumstances of those who are or may be homeless and the assistance they may receive. Local authorities contribute to the Welsh Government data collection, providing their own aggregate data which reflects the interaction they have with people seeking housing assistance.

²⁰⁸ [Regulator of Social Housing - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

²⁰⁹ [Homelessness accommodation provision the and rough sleeping | GOV.WALES](#)

²¹⁰ [Homelessness statistics | GOV.WALES](#)

627. The current annual statutory homelessness statistics cover how assistance has been provided by outcome and household type for:

- those households who are threatened with homelessness and receive assistance to prevent them becoming homeless (section 66 HWA 2014),
- those given relief of homelessness under the duty to secure accommodation (section 73 HWA 2014), and
- those eligible for homelessness assistance and in priority need (the main duty - section 75 HWA 2014).

628. Through our engagement with partners and the Expert Review Panel, we have heard feedback on the quality of the current data collection arrangements, particularly the annual statutory homelessness statistics, and how these could be improved. This feedback suggests current information and research could be strengthened in a number of areas, including the:

- circumstances of under-served communities and those with protected characteristics,
- experience of people within temporary accommodation,
- application of the local connection test,
- rights of review of local housing authority decisions made on homelessness applications,
- allocation of social housing,
- application of suitability standards,
- undertaking of repossession proceedings,
- treatment of people who may be discharged from services and become homeless,
- trends in evictions,
- the experience of prison leavers, and
- the experience of ex-service personnel

629. Work is already underway to develop an individual case-level homelessness data collection system in Wales.

630. Access to more granular data will enable a greater understanding of the circumstances of those who experience statutory homelessness and how their applications for assistance are progressed through the system, enriching the evidence base upon which policies are developed.

631. Consultation upon the Welsh Government's Ending Homelessness Outcomes Framework has outlined key principles by which data indicators should be developed, namely:

- focussed and specific, to ensure we are measuring the most important aspects of homelessness to understand the progress being made against each detailed outcome,
- proportionate in their volume, to reflect the level of complexity in measuring a detailed outcome,
- drawn from robust data sources where possible, such as official statistics or management information, and

- based on existing data measures where possible, but can also be identified as aspirational data measures to be collected in the future where they are not yet available.²¹¹

632. These principles are relevant to any data gathering that may be required through the proposed legislative reforms outlined in this White Paper. The UK Statistics Authority also has a Code of Practice for Statistics, which applies to UK Government and devolved administrations and should be used by all those in government who produce and use statistics. The framework for the Code is based on three pillars - trustworthiness, quality and value.²¹² In addition, the Code of Practice for Statistics encourages data and indicators to be developed collaboratively, coherently and transparently.

633. In the context of social housing lettings (allocations), the Welsh Government does not request data from Welsh local authorities at the same scale and frequency as the UK Government collects from English local authorities through its Continuous Recording (CORE) system.²¹³

Strategy and planning

634. Periodical reviews of housing need have been a long-standing responsibility of a local authority, required by section 8 of the Housing Act 1985, with section 87 of the Local Government Act 2003 (“the 2003 Act”) establishing a regular cycle for this work. In addition, local authorities must develop a homelessness strategy every four years under sections 50, 51 and 52 of the HWA 2014.

635. The tool for reviewing housing need is a local authority’s Local Housing Market Assessment (LHMA). In March 2022, the Welsh Government produced guidance for local housing and planning officers who undertake an LHMA in their areas, setting out a new methodology for those undertaking this work.²¹⁴ The LHMA’s themselves feed into the evidence for the wider Development Plans of a local authority and their housing policies, which support the needs of different people and communities. The LHMA guidance sets out that LHMA’s will be a key source document to inform homelessness strategies required under section 50, 51 and 52 of the HWA 2014 and that Housing and Homelessness teams should share available information to best support the assessment of housing need.

636. Discussions held by the Expert Review Panel have suggested legislation could be amended to ensure consideration of the local homeless population is more explicit in assessing local housing need and development of new accommodation is informed by the demography of the local homeless population. This could be supplemented further by the profiling of housing supply within a local authority area to consider particular types of accommodation suitable for certain groups of people who are homeless, including accessible and supported accommodation.

²¹¹ [Ending Homelessness Outcomes Framework | GOV.WALES](#)

²¹² [About the Code – Code of Practice for Statistics \(statisticsauthority.gov.uk\)](#)

²¹³ [Social housing lettings - GOV.UK \(www.gov.uk\)](#)

²¹⁴ [Undertaking Local Market Assessments \(LHMA’s\), March 2022](#)

637. The first cycle of LHMA's using the revised LHMA guidance and methodology are in the process of being completed and will help improve the housing needs assessments, including the housing needs of people at risk of becoming, or who are homeless.

How the law currently works

638. Recent Senedd scrutiny has identified potential changes which could be made to the regulation of existing homelessness services in Wales, with particular regard to temporary accommodation standards, but also in improving services and progressing wider ambitions for ending homelessness and consideration being given to establishing a homelessness regulator.²¹⁵

639. Both the Expert Review Panel and the Welsh Government have considered these recommendations carefully and, further, how to ensure consistent levels of service and effective joint working between local authorities and their partners.

640. It is essential applicants seeking homelessness services should be able to do so through a process which is accessible, transparent and consistent. Moreover, it is imperative themes around homelessness provision can be identified both locally and nationally to drive improvement, ensure efficient implementation of the law and to identify emerging challenges.

641. Effective scrutiny or regulation of homelessness services in Wales has become more challenging due to the transformation seen since the pandemic. Changes which have taken place are not as easily recorded through existing data collection or reporting arrangements, particularly from the perspective of individual applicants of homelessness services. The unclear picture we now have makes it difficult to judge whether homelessness services are performing as effectively as possible. The aims outlined in this White Paper, for more public services in Wales to contribute towards ending homelessness, also promote an approach which has yet to be recognised through current scrutiny and regulation. The effect of proposed duties to refer and co-operate, along with other reforms are likely to need to be captured in a different manner.

642. It is likely establishing a new regulator would bring focus and attention to the matters considered above. However, neither the Expert Review Panel (who were unable to achieve a consensus view) nor the Welsh Government are convinced the potential value of creating additional regulation arrangements on local housing authorities is justified by the increase in complexity of governance arrangements and administrative costs. Rather, we consider the same outcomes could be achieved through utilising broader regulatory functions; improvements to data collection and analysis, as well as mechanisms for achieving consistency through corporate or peer to peer support for local housing authority staff. These options will make use of existing resources more effectively and are more affordable.

²¹⁵ [Homelessness \(senedd.wales\)](https://www.senedd.wales)

What do we want to change?

643. We have begun a review of all available levers which can be utilised to strengthen implementation, and where necessary, enforce our proposed reforms.

We propose to use and extend the existing structures provided through local government scrutiny and social housing regulation in order to monitor homelessness provision and the implementation of the proposed legislative reform.

644. There are alternative ways in which these and other regulatory regimes could better consider the needs of people who are homeless and the services that support them and we set this out below.

We will consider whether it is appropriate to make changes to the Regulatory Standards that apply to Registered Social Landlords to encourage an even greater commitment to ending homelessness and to monitor performance and delivery.

645. Any such changes would be subject to consultation with sector representative organisations, as required by section 33C of the 1996 Act.

We propose to consider the functions of existing inspectorates in Wales, such as Care Inspectorate Wales and Healthcare Inspectorate Wales to identify the role these organisations can play in ensuring delivery of the aims outlined in this White Paper to achieve broader responsibility for homelessness prevention across the Welsh public service.

646. Welsh Ministers currently have broad intervention and direction making powers under Part 6 of the Local Government and Elections (Wales) Act 2021.

We will review and consider whether additional powers for Welsh Ministers are necessary in order 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. As we develop these proposed reforms our policy intention will be to ensure, should it become clear (via a complaint, stakeholder/service user feedback or through Welsh Government oversight) a local authority is failing to deliver the requirements of the proposed Bill or not delivering a service to the standard we expect, the Welsh Government is able intervene to support and, if necessary, to challenge and direct improvement.

647. We consider improving consistency of performance in local housing authorities could also be improved by drawing on the expertise that exists within the housing and homelessness sector. The WLGA are exploring methods of growing the capacity

and capability of local government colleagues, which could represent a key step in improving performance. Previously, the Welsh Government has undertaken its own informal visits to local housing authorities to assist with understanding of policy and practice following the introduction of the HWA 2014. Such visits could underpin the reporting arrangements aligned to the Welsh Government's Ending Homelessness Action Plan and the proposed Ending Homelessness Outcomes Framework, which will be reported on annually.^{216 217}

We will also consider how we can ensure the views of people with lived experience of homelessness can continue to inform our understanding of how homelessness systems work and ensure this feedback influences ongoing development of services and prompts action from Welsh Ministers where appropriate. We will work closely with expert partners to undertake such work and design methodology in partnership with them.

In line with recommendations by the Homelessness Advisory Group and the recent Ending Homelessness National Advisory Board Annual Report, the Welsh Government will work to improve continuous data collation across the housing and homelessness sector.

648. This data will be utilised to assist in monitoring compliance with statutory requirements as well as to identify gaps within the system. The data will include specific consideration of equality, diversity and inclusion.

We also propose the creation of a power by which the Welsh Government could 'call-in' data collected by a local housing authority when undertaking its homelessness functions.

649. This would help identify suitable indicators of progress in implementing the reforms proposed by this White Paper and provide for detailed analysis of specific issues. Such a power would be used proportionately to avoid over-burdening local housing authorities. We will also consider whether there is value in recommencing the data collection in Wales, which mirrored the CORE system (Continuous Recording of Lettings and Sales in Social Housing in England) but was stopped recently.²¹⁸

650. We want to ensure local housing authorities take into account their homelessness review and strategy (sections 50, 51 and 52 HWA 2014) and the levels, and likely future levels, of homelessness in their area, when drawing up their housing strategy and LHMA. However, given the very recent revision of the LHMA's and an intention already in place to draw these documents and the Rapid Rehousing

²¹⁶ [Ending homelessness in Wales: a high level action plan 2021 to 2026 | GOV.WALES](#)

²¹⁷ [Ending Homelessness Outcomes Framework | GOV.WALES](#)

²¹⁸ [CORE - Frequently Asked Questions \(communities.gov.uk\)](#)

approach closer, we do not intend to bring forward legislative change at the current time.

Consultation questions

24. To what extent do you think the proposals outlined above will support the implementation and enforcement of the proposed reforms?

25. What other levers/functions/mechanisms could be used to hold local housing authorities and other public bodies accountable for their role in achieving homelessness prevention?

26. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?

27. What, in your opinion, would be the likely effects of the proposed reforms in this White Paper on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

- **Do you think that there are opportunities to promote any positive effects?**
- **Do you think that there are opportunities to mitigate any adverse effects?**

Annex 1: Consultation questions

1. Do you agree these proposals will lead to increased prevention and relief of homelessness?

Yes/no

2. What are your reasons for this?
3. Are there additional legislative proposals you think we should consider to improve the prevention and relief of homelessness?
4. Do you agree with our proposal to abolish the priority need test?

Yes/no

5. Do you agree with our proposal to abolish the Intentionality test?

Yes/no

6. Do you agree with our proposal to keep the local connection test but add additional groups of people to the list of exemptions to allow for non-familial connections with communities and to better take account of the reasons why someone is unable to return to their home authority.

7. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?

8. Do you agree with the proposals to apply a duty to identify, refer and co-operate on a set of relevant bodies in order to prevent homelessness?

Yes/no

Please give your reasons

9. Do you agree with the proposed relevant bodies, to which the duties to identify, refer and co-operate would apply? Would you add or remove any services from the list?
10. In your view have we struck the right balance between legislative requirements and operational practice, particularly in relation to health?
11. What practical measures will need to be in place for the proposed duties to identify, refer and co-operate to work effectively? Please consider learning and development needs, resources, staffing, location and culture.

12. In addition to the broad duties to identify, refer and co-operate, this chapter contains proposals to provide enhanced case co-ordination for those with multiple and complex needs. To what extent will the proposals assist in preventing homelessness amongst this group?
13. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?
14. Are there other groups of people, not captured within this section, which you believe to be disproportionately impacted by homelessness and in need of additional targeted activity to prevent and relieve this homelessness (please provide evidence to support your views)?
15. What additional legislative or policy actions could be taken to prevent or relieve homelessness for the groups captured by this White Paper?
16. Our proposals related to children, young people and care experience seek to improve and clarify links between homelessness legislation and the Social Services and Wellbeing Act. Significant policy development is required to assess the practicality of this. What, in your views are the benefits and challenges of our approach and what unintended consequences should we prepare to mitigate?
17. Do our proposals go far enough to ensure that 16 and 17 year olds who are homeless or at risk of homelessness receive joint support from social services and local housing authorities? What more could be done to strengthen practice and deliver the broader corporate parenting responsibilities?
18. Do you agree or disagree that the Renting Homes (Wales) Act 2016 should be amended to allow 16 and 17 year olds to be able to hold occupation contracts?
19. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?
20. To what extent do you agree or disagree with the short-term proposals to increase the suitability of accommodation? Are there additional immediate actions you believe should be taken for this purpose?
21. To what extent do you agree or disagree with the proposals around the allocation of social housing and management of housing waiting lists? What do you believe will be the consequences of these proposals?
22. To what extent do you agree or disagree with the proposal for additional housing options for discharge of the main homelessness duty? What do you foresee as the possible consequences (intended or unintended) of this proposal?
23. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals in relation to access to housing. Are there any costs and benefits we have not accounted for?

24. To what extent do you think the proposals outlined above will support the implementation and enforcement of the proposed reforms?
25. What other levers/functions/mechanisms could be used to hold local housing authorities and other public bodies accountable for their role in achieving homelessness prevention?
26. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?
27. What, in your opinion, would be the likely effects of the proposed reforms in this White Paper on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.
- Do you think that there are opportunities to promote any positive effects?
 - Do you think that there are opportunities to mitigate any adverse effects?
28. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

When you reply, please confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name
- your position (if applicable)
- the name of organisation (if applicable)
- an address (including post code)
- an email address, and
- a contact telephone number

Respond to the consultation

Submit your comments by 16 January 2024, in any of the following ways:

- complete our online form
- download, complete our response form and post or email to:

HomelessnessLegislationReform@gov.wales

Homelessness Prevention Legislation Team
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Response to White Paper consultation from Vale of Glamorgan

General

1. The Council welcomes the aspiration to end homelessness in Wales and agrees that homelessness is intolerable. It also recognises that homelessness should be considered more broadly than 'rooflessness' and households staying in temporary accommodation sourced by Local Authorities. There are a large number of households living in inappropriate, insecure, or unaffordable accommodation as well as people who might be described as 'hidden homeless' namely people living with friends or family, sofa surfing or moving between different addresses.
2. The 'No One Left Out' approach implemented during the Covid pandemic did a great deal to identify and assist these households and quantify the scale of the housing challenge in Wales. Whilst the NOLO approach was helpful in assisting a broader range of people, it has increased the pressures on Local Authorities, both in terms of securing additional accommodation and in terms of meeting the cost of this accommodation, which tends to be bed and breakfast type provision.
3. The Vale of Glamorgan Council is grateful to Welsh Government for the grant received to tackle homelessness over the last few years, however as this grant is reduced, the financial burden is increasing on the Council. This is at a time when Council budgets are under acute pressures and significant budget savings are needed. Many years of cost savings mean that Council services have been pared back and are focussing most on ensuring legal and statutory responsibilities are met. Non statutory services are facing severe cuts and key services may need to cease in future, these include preventative services which are likely to result in further pressures on statutory services in future. It is vital therefore, that the current financial environment and Local Authority budgets are given serious consideration when new Legal obligations are being proposed. It is correct that Policy and Law need to be aspirational, but they also need to be realistic, especially when the bulk of the new obligations will be delivered by Local Authority Housing Options team and within existing budgets.
4. Whilst changes to Homeless legislation provides opportunity to improve services delivered to citizens, it does not tackle the root causes of homelessness. The operation of the Housing market in Wales is the key issue, with the shortage of existing homes, increased house prices, lower rates of new house building, high interest rates, as well as increases in costs of private renting – putting high numbers of households at risk of homelessness and preventing newly formed households getting onto the property ladder.
5. Fundamental changes in the economy and the way the housing market operates are key to increasing the supply of housing and addressing the

affordability issues experienced by so many households. Increasing the burden of responsibility on Local Authorities when there are not increases in the supply of housing and without significant financial support, will be tantamount to setting them up to fail and putting them in a position where they are unable to meet their statutory obligations.

Reforms to core homeless legislation

6. Taking account of the first section of the White Paper, the Council supports the proposal to extend the period households threatened with homelessness, are entitled to assistance (from 56 days to 6 months). This gives Housing Options team opportunities to work with households at an earlier stage to prevent or resolve homelessness. It also brings the homelessness duties into line with the contractual notice periods set out in the Renting Homes Wales Act.
7. In terms of the proposals around Personalised Housing Plans (PHP's), the need to take into account the needs and preferences of the household is supported, as is the need to tailor the actions to reflect the specific circumstances, however PHP's needs to be realistic and take into account the availability of homes locally, as well as affordability of rents. To further strengthen the PHP process, it would be helpful if applicants felt empowered to act themselves to address their housing issues, and avoid the onus being placed on Housing Options staff to do things for people.
8. The requirement to update and review PHPs every 8 weeks will have significant resource implications for the Vale Housing Options team and provide limited benefits to applicants. The Vale team are struggling to cope with current service pressures and the financial challenges faced by the Local Authority, mean it would be difficult to make the business case to expand staffing levels to cope with the additional requirements. A more flexible approach would be preferable with the removal of a minimum review period. Each applicant's circumstances are different, so it would be preferable to agree scheduled case review dates with each person or limit these to when there are changes in personal circumstances.

Three tests

9. It is accepted that removing or changing the three tests makes it simpler and more straightforward for households, at risk of homelessness, to get help to prevent homelessness or secure suitable accommodation. The tests were introduced in the first place to prioritise certain groups of people and protect the most vulnerable. The removal of the tests and making everyone a priority, effectively means that no one is a priority. Given the limited supply of temporary and permanent accommodation and the fact that when it is full, there are no other options, means that groups who were given reasonable preference previously, may not receive the same access to temporary accommodation in future. It also means that Housing Options team are having to decide who will

get the temporary accommodation that is available. For example, if there are three households needing accommodation and just one room available, staff are faced with making a difficult decision about who to accommodate.

10. It is accepted that the 11th priority need category broadens the scope of 'priority need' to many single people who may not have been assisted with temporary accommodation previously, but the impact this is having on Local Authorities, and the fact the majority of these single people are housed in hotels for long periods of time, is creating huge financial pressures. Whilst Rapid Rehousing Plans are expediting 'move on' strategies, placements of people in hotels exceeds the rate of move on, highlighting the increasing problem. It is likely in future that Local Authorities will not be able to access the single person accommodation required or are not able to pay for it. Recently, there have been examples of Local Authorities opening barracks style accommodation with rows of single beds in a warehouse type setting. It is likely the move towards this type of provision will expand when Council's are not able to pay for hotel accommodation. The added pressures arising from expedited asylum claims and resettlement schemes is likely to expedite these pressures.
11. Very few negative decisions are made in the Vale regarding 'intentionality' especially in relation to priority needs groups, however there is a real concern that without this test in place, there is potential for misuse by applicants. Feedback from Homelessness case workers shows an increase in presentations from private renters who have seen their rent increase and many people indicating they will only consider 'social housing' due to the lower rents and extra security of tenure. Affordability assessments have shown that whilst the private rents remain affordable for many tenants, they remain eager to access social housing. Whilst this is understandable, there is a risk that people could contrive their circumstances or leave affordable private rental homes to secure social housing. The intentionality test currently acts as a barrier to prevent misuse of the system. The removal of the intentionality test is not supported.
12. The local connection test enables Councils to prioritise people in their own areas for assistance. There is a danger that removing these tests will result in increasing demands on Councils in some areas and this is likely to be urban areas. Increased demands on housing in these areas and a growth in use of temporary accommodation would increase financial demands on receiving Councils and could lead to community cohesion concerns. There are tensions even within Local Authority areas, where people from one area/ town are seen to be moving to other parts of the area, these objections are likely to intensify amongst local people if they perceive that people from further afield are accessing social housing ahead of them.
13. The proposals regarding suitability of accommodation highlight the need for people to be housed close to existing networks of support and existing services

e.g. schools. Removal or relaxation of the local connection test makes this more difficult to achieve.

14. There are already exceptions to the local connection rules, for example, people fleeing domestic abuse. There are also separate arrangements and pathways to deal with care leavers and prison leavers, a relaxation would be a concern, and will provide opportunities for those particularly in the criminal justice system across the border to exploit this. There are prisons in the two neighbouring local authorities, so an increased amount of prison leavers would be a real concern for the Vale.
15. Based on the previous information and considering the concerns identified, the Council opposes the proposed changes to the three tests.

Broader duty on Public sector

16. The recognition that the broader public sector has a key role in preventing and tackling homelessness is welcomed. The proposals strengthen the existing requirements set out in the Housing Wales Act (duty to cooperate) and will require other public bodies to take account of homelessness when making decisions.
17. It is essential to consider significant budget and legislative/policy improvements, for relevant key partners in relation to 'duty to cooperate', giving these services, clear statutory/legal obligations to act in the prevention of homelessness, failure to do this would mean this element of the Bill would not prove effective and the entire burden of homelessness prevention would continue to fall on Local Authority Options Teams.
18. Of course, there are competing priorities for all public bodies, and these will need to be taken account of, however each body/ agency will respond to the consultation and give their own views. There will need to be some oversight of these broader responsibilities and a way of monitoring. Whilst a local/ regional Board seems logical, it would need to fit within existing local partnerships to avoid duplication and ensure decision making is streamlined. The existing landscape in respect of partnerships, including the Public Services Board, Regional Partnership Boards, Area Planning Boards, Regional Safeguarding Boards etc is already complex. It would be preferable if the responsibility for oversight of this new duty (in respect of preventing homelessness) could be absorbed within an existing structure and not via an additional Board.
19. Many public bodies fall under the jurisdiction of the UK Government, so there will need to be effective ways of involving the Police, Probation, Department of Work and Pensions etc.

Targeted prevention

20. Laws, regulations, and pathways are in place currently to assist people in specific groups e.g. care leavers, domestic abuse victims, prison leavers etc. If people are falling through the gaps, it may be more appropriate to understand the reasons for this and fill the gaps rather than introducing new or additional laws. For example, there is a Prisoner Pathway in place which is designed to address issues and barriers experienced by prisoners. It may be better to ensure this is adhered to and that Resettlement teams and Prison staff are able to work with offenders (focussing on prevention work) rather than passing responsibilities to Local Authorities after release.
21. Currently, Prisons and Probation services have numerous initiatives and teams which from a LA 's understanding, seem to work in isolation when it comes to resettlement. It appears therefore, that significant resources available, for example, CAS3, CAS2, CAS1, Forward Trust etc with duplication of responsibility. A structured pooling of resources and a homelessness prevention reasonability must be considered.
22. There are concerns over the ability to fulfil the requirement of all offenders being entitled to assessment whilst in custody and that the Local Authority must provide offenders with an address as soon as possible and possibly before release. It is unclear who will do this work and co-ordinate with all the agencies that are likely to be involved.
23. The proposal to include those with 'no recourse to public' funds within the eligibility for homelessness assistance is out of step with England and could lead to an increase in presentations from people who have been living in England. There will be increased costs of processing applications i.e. translation and of placing and paying for accommodation. It is not clear either, how the accommodation costs will be paid. It is acknowledged the numbers of people with NRPF are low and the proposal to procure training and resources to assist Local Authorities deal with cases is welcomed.
24. The exemption for VAWDASV victims is supported (however concerns over who would be responsible for the cost of ongoing support). However, there are real concerns over prison leavers being part of the exemption – more information is required on this, as concerns over increase of crime if not managed effectively and what the added cost would be on local services – and information sharing protocols would be needed. It is agreed that reciprocal arrangements need to be reviewed, especially in light of local issues where other Local Authorities are placing people in the Vale which has resulted in additional demands on services and work for the Community Safety Partnership, Substance Misuse services, Police, and local health practices.
25. With respect to care leavers, although the removal of local connection test is not supported, a pragmatic approach is needed for this vulnerable group,

allowing the same tests to be applied to the general population rather than a mandatory referral back to the original local authority area.

Improving access

26. The aspirations to assist households to secure 'suitable' accommodation is welcomed. It is recognised that many people occupy homes which do not meet their needs on account of their size, location, condition etc. Given pressures on Housing, these households will have limited choice or be unable to secure accommodation which meets their needs and enables them to thrive.
27. Considering the challenges currently faced eradicating homelessness and minimising the use of temporary accommodation, it is unlikely that Council's will be able to address the needs of new applicants or existing tenants (who are housed but in unsuitable accommodation) in the short or medium terms. Creating a legal duty to provide 'suitable' accommodation will not create the Housing that is needed in the areas it is needed, but will place a legal duty on Councils, which they will not be able to deliver. It also opens the potential for legal challenges which will be costly to defend.
28. Whilst Local Authorities have worked with Welsh Government and partners to increase the supply of affordable housing, the pace of new building is not sufficient to keep pace with demand. This undersupply results in reduced choice and requires applicants to make compromises in terms of the home they live in or where it is. The Housing market has traditionally operated in this way and households with the highest income or savings, can exercise the greatest choice regarding accommodation. There is a concern that setting very specific requirements for suitability will build expectations which are not realistic. Furthermore, even if this were possible it would create an imbalance, with people who are not accessing accommodation via the homeless route as these households will be making compromises about the property size, type and area based on what they can afford.
29. The suitability rules proposed make it more difficult for local authorities to discharge their homeless obligations. It also makes it difficult to make use of private rented accommodation, thereby increasing the time spent in temporary accommodation and growing the numbers of housing waiting lists.
30. Financial suitability will also continue to be a barrier, especially for people aged under thirty-five. Local Housing Allowance rates and limits for people under thirty-five, will continue to make it very difficult for Councils to secure private rental accommodation for applicants and single people in particular. The small increases in the local housing allowance rates are unlikely to change this as market rents continue to be far higher than LHA rates in the Vale.
31. In terms of allocations to social housing, the shortage of suitable accommodation and high levels of homeless presentations mean that nearly all

social housing is being allocated to homeless households. This is appropriate as part of the Rapid Rehousing approach, however the consequence of this is to push applicants towards the homeless route (as there are limited prospects for others). Currently, very few social housing tenants can transfer to another social rented home and this leaves people trapped in unsuitable accommodation. Unless there are increases in Housing supply leading to a reduction in homeless cases and waiting list applicants, this will continue to be the case during the short to medium term. Whilst the White Paper sets out stricter criteria in terms of suitability of accommodation, there is very little prospect of these being met.

32. Homeless at Home – the principle of prioritising homeless people not going into temporary accommodation is logical as it reduces pressure on temporary accommodation, however the practicalities of how this might work and the danger that could be manipulated, need to be worked through. Giving people who are ‘homeless at home’ the same rehousing priority as those living in hotels (and other forms of temporary accommodation) would lead to longer stays in hotels and not support the rapid rehousing approach.
33. The proposal that 16- and 17-year-olds should be housed in supported accommodation that is separate to adults, is supported. However, given the scarcity of supported housing and the costs of providing this, it will not be possible to make the same commitment to young adults. The number of homeless presentations from young people means it would not be feasible or realistic to make a commitment to avoid housing people under the age of twenty-five in hotels or shared accommodation.
34. The proposal to remove people with no Housing need from its waiting lists is worthy of further exploration. There are costs associated with maintaining a very large waiting list, especially when many applicants have no reasonable prospect of securing social housing. However, it is likely that many applicants would challenge their priority banding to try and retain a position on the housing waiting list (when they became aware they would be removed from the list). The time dealing with these appeals may outweigh the benefits of managing a shorter waiting list.
35. The proposal to introduce a ‘deliberate manipulation’ test is welcomed. Casework feedback has indicated there are people ‘gaming’ the system to secure social housing. This has become more evident as people realise the only route into social housing is via homelessness. This diverts staff resource away from the households in greatest need of assistance. The challenge will be identifying where this is happening, and investigations will be labour intensive.

Conclusion

36. The Council welcomes the opportunity to provide feedback to the proposals set out in the white paper, the Welsh Government aspiration to end homelessness in Wales is also supported. There are, however, deep concerns about deliverability, considering both the current housing crisis - when there have been record numbers of households seeking assistance with homelessness from Councils but also, the financial challenges Local Authorities are under. The Vale of Glamorgan is no different to other Councils who are trying to balance the books and identify large cost savings across the whole range of services. Homelessness challenges and in particular the need to provide temporary accommodation to homeless households, creates a huge cost pressure.
37. The Housing service Rapid Rehousing Plan is designed to reduce the need for temporary accommodation, however the sustained high levels of new applicants and the long lead in time to increase the supply of more permanent accommodation, means the overall situation in terms of numbers of households in temporary accommodation, remains stubbornly high. After the next financial year, it is unlikely this continued provision of hotel type accommodation will be affordable.
38. Recognising these pressures it is strongly suggested that the requirements proposed be reviewed again or paused.