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Welsh Government

## Consultation Document

# Statutory Instruments under Part 2 of the Housing (Wales) Act 2014

Date of issue: 15 January 2015

Action required: Responses by 26 February 2015

## Overview

This consultation is to gather views on a number of statutory orders under Part 2 of the Housing (Wales) Act 2014:

- The Homelessness (Suitability of Accommodation) (Wales) Order 2015 – which seeks views on the proposed suitability requirements for housing people under the Act;
- The Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015 – which sets out the process that a Local Authority will need to follow in order to have regard to intentionality when considering homelessness applications; and
- The Homelessness (Review Procedures) (Wales) Regulations 2015 – which sets out the process for undertaking reviews of decisions associated with the Act.

## How to respond

Please respond by completing the questionnaire at the back of this document and sending it to [HomelessnessRegsConsultation2015@wales.gsi.gov.uk](mailto:HomelessnessRegsConsultation2015@wales.gsi.gov.uk)

Or

Homelessness Policy Team  
Housing Policy  
Welsh Government  
Rhydycar Business Park  
Merthyr Tydfil CF48 1UZ

## Further information and related documents

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

More details about the Act can be found on the Welsh Government website:

[www.wales.gov.uk/legislation/programme/assemblybills/housing/?lang=en](http://www.wales.gov.uk/legislation/programme/assemblybills/housing/?lang=en)

[www.wales.gov.uk/legislation/programme/assemblybills/housing/?lang=cy](http://www.wales.gov.uk/legislation/programme/assemblybills/housing/?lang=cy)

Also additional information about the Act, including amendments laid by the Government and other Assembly members throughout the scrutiny process, can be found on the National Assembly website:

[www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?IId=8220](http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?IId=8220)

## Contact details

For further information please contact:

For further information:  
Homelessness Policy Team  
Housing Policy  
Welsh Government  
Rhydycar Business Park  
Merthyr Tydfil CF48 1UZ

Email: [HomelessnessRegsConsultation2015@wales.gsi.gov.uk](mailto:HomelessnessRegsConsultation2015@wales.gsi.gov.uk)

## Data protection

### How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

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. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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## **Summary**

The Housing (Wales) Act 2014 was passed by the National Assembly for Wales in July 2014 and received Royal Assent on 17 September 2014.

Part 2 of the Act introduces a new system to tackle homelessness and the threat of homelessness, including a far greater emphasis on preventing homelessness in the first place. This has been achieved by strengthening the role of prevention in the duties that Local Authorities owe to homeless people.

The purpose of this consultation is to seek views on the statutory instruments associated with Part 2.

## **Consultation responses**

Your views are welcomed and a response form is provided at the back of this document. The questions ask for your views on the statutory instruments which will form part of the procedures for supporting homeless people.

## **Introduction**

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

The National Assembly for Wales passed the Housing (Wales) Act 2014 in July 2014 and Royal Assent was granted in September 2014. Part 2 of the Act introduces a new system to tackle homelessness and the threat of homelessness.

The main features of Part 2 of the Act are:

- To achieve an even greater focus on preventing homelessness in the first place.
- To extend the entitlement of many applicants who under current legislation would only be entitled to advice and assistance.
- To ease the burden on local authority accommodation by allowing authorities to discharge their homelessness duty into suitable private rented accommodation.
- Greater duty on Registered Social Landlords to co-operate with Local Authorities in the discharge of their homelessness duties.

## Legislative Background

### The Homelessness (Suitability of Accommodation) (Wales) Order 2015

Section 59 of the Housing (Wales) Act 2014 allows the Welsh Ministers to, by order, 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.

The suitability of accommodation was the subject of discussion during scrutiny of the Housing (Wales) Bill. The draft statutory instrument requires:

- The retention of the existing criteria as set out in the Housing Act 1996 relating to location, health, employment, care needs and other personal factors;
- Retention of the aspects of the Homelessness (Suitability of Accommodation) (Wales) Order 2006, which set out specific standards for shared and bed and breakfast accommodation;
- Adoption of the criteria associated with physical standards and safety requirements which are similar to those in the Homelessness (Suitability of Accommodation) (England) Order 2012;
- Reference to Part 1 of the Housing (Wales) Act 2014 in relation to standards in the private rented sector;
- An exemption for Local Authorities who have no alternative to using sub-standard accommodation in the event of a disaster such as flooding;
- An exemption if the applicant for help chooses to stay in accommodation of a lower standard than prescribed; and
- An exemption for domestic abuse refuges, but only if they meet the basic standard, and if the applicant has been made an offer of suitable accommodation.

### The Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015

Section 78 of the Housing (Wales) Act 2014 stipulates the Welsh Ministers must, by regulations, specify a category or categories of applicant a Local Authority can choose to have regard to when making a decision on whether or not someone is intentionally homeless.

Section 78 of the Act allows a Local Authority to utilise an intentionality test, but they must have first stipulated categories of applicant who would be subject to the test.

Since the intentionality test would only be applicable to applicants who were considered in priority need, the draft regulations propose the utilising of the priority need categories from the Housing (Wales) Act 2014 when suggesting the categories by which a Local Authority can have regard to intentionality.

In relation to the process, the draft regulations propose the following:

- A 14 day notice period before an Authority can amend their categories;
- Restricting Authorities to just two opportunities to amend their categories per year; and
- Ensure an applicant would only be subject to the intentionality categories in place on the date the original application/presentation was made, and would only be affected by any changes if they were to the applicant's advantage.

#### The Homelessness (Review Procedures) (Wales) Regulations 2015

Section 86 of the Housing (Wales) Act 2014 allows the Welsh Ministers to make provision by regulations as to the procedure to be followed in connection with a right to request a review (section 85).

The proposed draft regulations incorporate and consolidate existing procedures, making the necessary expansions to cover the additional duties contained within the Housing (Wales) Act 2014.

The existing regulations (made in 1999) also contain reference to reviews of certain allocation decisions. Since the enabling power to make the allocation review regulations was repealed in 2002, the new regulations are restricted to reviews of Homelessness decisions.

## Response Form

Name:

Email:

Telephone:

Address:

Postcode:

Organisation  
(if applicable)

### Returning this form

The closing date for replies is **26 February 2015**

Please send this completed form to us by email to:  
[HomelessnessRegsConsultation2015@wales.gsi.gov.uk](mailto:HomelessnessRegsConsultation2015@wales.gsi.gov.uk)

Or by post to:  
Homelessness Policy Team  
Housing Policy  
Welsh Government  
Rhydycar Business Park  
Merthyr Tydfil  
CF48 1UZ

If you are sending your response by email, please mark the subject of your e-mail **Statutory Instruments – Housing (Wales) Act 2014, Part 2**

### **Publication of responses**

*Responses to consultations may be made public – on the internet or in a report. Normally the name and address (or part of the address) of its author will be published along with the response, as this helps to show the consultation exercise was carried out properly.*

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|--|--------------------------|--------------------------|
| If you would prefer your name and address not to be published, please tick here: | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|



**The Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015**

**1. Do you agree with the categories of applicant specified in Part 1 of the Regulations?**

Yes

No

If not, why not?

**2. Are the procedures for having regard to intentionality set out in Part 2 appropriate**

Yes

No

If not, why not?

**The Homelessness (Suitability of Accommodation) (Wales) Order 2015**

**3. Do you agree with the additional matters to be taken account of under Part 1 of the draft Order?**

Yes

No

If not, why not?

**4. Are the specific requirements in Part 2 (which set out the circumstances in which accommodation is not to be regarded as suitable) appropriate?**

Yes

No

If not, why not?

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**5. Are the exceptions to the specified requirements appropriate (see Articles 7 and 8)?**

Yes

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| <input type="checkbox"/> |
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No

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| <input type="checkbox"/> |
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If not, why not?

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**6. With regard to Part 2, Article 8 sets out a number of time limits by when alternative offers of accommodation must be made. Are these the appropriate time limits?**

Yes

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| <input type="checkbox"/> |
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No

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| <input type="checkbox"/> |
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If not, why not?

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**7. Article 8(h) makes an exception for domestic abuse refuges. Is this appropriate? What is the correct standard?**

Yes

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| <input type="checkbox"/> |
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No

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| <input type="checkbox"/> |
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If not, why not?

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### **The Homelessness (Review Procedures) (Wales) Regulations 2015**

**8. Do you agree with the draft procedures on the right to request a review?**

Yes

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| <input type="checkbox"/> |
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No

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| <input type="checkbox"/> |
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If not, why not?

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**9. Are there any more comments you would like to make about the draft regulations?**

**Yes**

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| <input type="checkbox"/> |
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**No**

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| <input type="checkbox"/> |
|--------------------------|

**If not, why not?**

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