



Llywodraeth Cymru  
Welsh Government

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Welsh Government  
Consultation – summary of response

## Post pandemic interim homelessness measures

September 2022

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

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## **Overview**

This document summarises the consultation for the proposed post pandemic interim homelessness measures, the responses provided to the consultation questions and the steps the Welsh Government proposes to take as a result of the feedback it has received.

## **Action Required**

This document is for information only.

## **Further information and related documents**

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

## **Contact details**

For further information:

Housing Policy Division  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Email: [HomelessnessConsultation2022@gov.wales](mailto:HomelessnessConsultation2022@gov.wales)

## **Additional copies**

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: [Post pandemic interim homelessness measures | GOV.WALES](#)

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## Introduction

The purpose of this consultation was to gather views on three statutory orders under Part 2 of the Housing (Wales) Act 2014:

- The Homelessness (Priority Need) (Wales) (Amendment) Order 2022 – which seeks views on the proposal to add ‘Person sleeping rough’ as an 11<sup>th</sup> category of Priority Need under Section 70 of the Act;
- The Homelessness (Intentionality) (Specified Categories) (Wales) (Amendment) Regulation 2022 – which seeks views on the consequential amendment to the Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015 to include ‘Rough Sleeping’ as the 11<sup>th</sup> category; and
- The Homelessness (Suitability of Accommodation) (Wales) (Amendment) Order 2022 – which seeks views on two changes:
  - o Adding a sub-category to Article 6 of the (Homelessness) Suitability of Accommodation (Wales) Order 2015 for where an Authority’s ability to provide accommodation has been restricted as a result of pressures from Covid-19, subject to a time limit of 31 March 2023; and
  - o Explicitly including public health emergency in the list of emergency events under Article 6a.

## Consultation process

Between 9 May and 20 June 2022, the Welsh Government held a consultation on the proposed interim homelessness measures. The six-week consultation period reflected the urgent need for transitional legal arrangements to bridge the gap between the statutory guidance note issued in April 2020 and the introduction of new primary legislation to continue the ‘no-one left out’ approach. Furthermore, the proposed Secondary Orders will need to follow the [draft affirmative procedure](#) through the Senedd which will take a number of months to work through.

The proposed interim measures were published online in Welsh and English. Partners in local authorities, Third Sector organisations and other relevant groups were notified of the consultation when it began and two virtual consultation events were held in May and June on the proposed changes and provide an additional opportunity to feed their views back.

Six questions were asked in total, which led to 51 responses being submitted during the consultation period; a further 5 responses came in after the consultation closed and have been reflected in this report. The responses were provided by public sector, Third Sector, representative organisations and individual respondents. 25 responses were provided where no name or organisation was given or where the respondent asked for their response to be treated anonymously (a full list of respondents is provided at Annex A). Some respondents provided partial responses, answering some but not all questions, or provided more general observations on the proposed measures.

This Report summarises those responses under the most appropriate question.

### Summary of responses

**Question 01:** Do you agree with Welsh Government's 'no-one left out' policy?  
[Yes, No, Not answered]

	Number of responses	%
Yes	49	88%
No	6	10%
Not answered	1	2%

The vast majority of respondents agreed with Welsh Government's 'no-one left out' policy. The following key issues were identified in responses:

Several of the responses acknowledged and supported the success of the policy throughout the pandemic in keeping people safe from Covid-19. A small number questioned whether it was an official Welsh Government policy in terms of having been consulted on and supported by documentation.

Practical difficulties in moving people out of temporary accommodation and into settled homes were identified as a key challenge to address. One respondent drew out the need to consider the competing pressures on LAs caused by the Ukraine response, Renting Homes Act and Rapid Rehousing. Linked to this were comments made by some respondents around the pressures on temporary accommodation, with one respondent citing reliance on B&B as a key issue.

A small number of responses raised the issue of partnership working and the need for responsibilities to be shared between housing and other key agencies. Some respondents also referred to the pressure on LA staff and the need to invest in their wellbeing.

One respondent identified the potential risk that the approach may lead to individuals making themselves intentionally homeless as a shortcut to finding a home. Comments also highlighted the need to maintain a focus on early intervention and prevention.

Two respondents raised the need for clarification around individuals with No Recourse to Public Funds and how they fit into this approach. The risk of missing people experiencing 'hidden homelessness' was also highlighted.

**Question 02:** Do you agree that adding an 11<sup>th</sup> category of Priority Need of a 'person sleeping rough' will achieve the policy aim of ensuring no-one is left without accommodation? If not, how else could this be achieved? [Yes, No, Not answered]

	Number of responses	%
Yes	43	77%
No	12	21%
Not answered	1	2%

The vast majority of responses agreed that adding the 11<sup>th</sup> category of 'person sleeping rough' would help to achieve the policy aim of ensuring no-one is left without accommodation. The following issues were also noted.

A small number of consistent themes emerged which centered on the desire to see Priority Need phased out entirely; an agreement that people sleeping rough should be in Priority Need; and the need for very clear guidance to be issued alongside this change. Those that commented felt guidance was especially necessary to ensure all 22 LAs implement the changes consistently and that issues around intentionality, discharge duties and vulnerability are clarified.

A number of responses highlighted the concern that certain people may abuse the system and choose to sleep rough to gain temporary accommodation or social housing. On a related point, the question of how to prove a person is sleeping rough was raised.

A number of points were raised in relation to the pressure the changes would put on services and the lack of resources to implement them. One respondent raised the high number of case loads currently faced by staff and the fact that these changes may lead to more presentations and pressure on temporary accommodation, leaving less space to focus on prevention. One suggestion was to expand LA teams to be able to focus on care leavers, prison leavers and other vulnerable groups, another was to allow night shelters to be used.

There were some questions related to the status of people with No Recourse to Public Funds, as they can often find themselves sleeping rough, and whether they would also be considered to be Priority Need.

Several respondents wanted people at risk of rough sleeping to also be included within the 11<sup>th</sup> category and another suggested adding a new category for people aged under 35. Also raised was those who are pet owners who face challenges in finding suitable accommodation.

**Question 03:** Do you agree with the proposed definition of ‘person sleeping rough’? If not, please provide a reason for your answer and an alternative proposal.  
[Yes, No, Not answered]

	Number	%
Yes	35	62.5%
No	19	34%
Not answered	2	3.5%

The responses to this question touched on two main aspects: who the definition should cover and the mechanics of how it should work in practice.

Of those who answered ‘yes’ to this question, there were a few tweaks suggested to the definition which came up relatively consistently across the responses. These include the need to define what a ‘station of bashes’ means, clarity on whether a certain number of nights ‘out’ was required and the need to make sure the definition wasn’t dependent on a person literally sleeping or being close to bedding down.

Of those who answered ‘no,’ a small number were concerned that the definition was only suitable for a one-night count and therefore not fit for purpose in this context.

The issue of sofa surfers and whether they should be included on the face of legislation, within guidance or not at all was consistently referred to across the responses. 12 respondents (7 of which answered ‘no’ and 5 ‘yes’ to the question) argued that sofa surfers *should* be included within the 11<sup>th</sup> priority need category. Reasons for this include: the concern that not doing so would encourage some individuals to sleep rough to gain support, potential inconsistencies in approach by LAs and the danger that as a more ‘hidden’ aspect of homelessness, certain demographics (such as women) could slip through the net.

One respondent commented that those who do not have a key to their own front door should be considered homeless.

A smaller number agreed with the suggested approach to include those at risk of sleeping rough (including sofa surfers) within guidance. Reasons given for this were the pressure doing otherwise would have on resources and LAs having more freedom to stay in touch with sofa surfers and determine whether they are in need of accommodation.

Some argued that definitions aside, local authority outreach teams should be given the freedom to use their local knowledge in identifying who in their area is at risk. Others asked for very clear guidance on the verification process. Guidance was also raised in relation to those who are temporarily excluded from accommodation due to bad behaviour.

A couple of respondents raised a point around gypsy/travellers and how their needs fit into the definition.



Finally, one suggestion was made that those who are at risk of sleeping rough in the next 24 to 48 hours should be included within the priority need category.

**Question 04:** Do you agree that pressures caused by Covid-19 should be added as a new exemption under Article 6 of the 2015 Suitability Order? If not, please provide a reason for your answer.

[Yes, No, Partly, Not answered]

	Number	%
Yes	44	79%
No	6	11%
Partly	3	5%
Not answered	3	5%

Overall, there was overwhelming support from the respondents in the agreement with the proposal to include an exemption to Article 6 which would allow the continued use of B&B and hotels.

There was general agreement that the use of B&Bs should be limited and reduced, but that in the current circumstances of the pandemic, recovering from the pandemic, the cost of living crisis, large numbers of PRS landlords leaving the sector, increase in second homes and participation in Ukraine, Afghanistan and Syria resettlement programmes, that it was a necessary approach.

Concern was raised, however, that the exemption will reduce the much-needed focus from being placed on re-prioritising prevention activity for example as well as concerns over whether enough of the appropriate support was being made available to people while in temporary accommodation.

There were a small number of respondents who did not agree with the need for an exemption, arguing that there should no *new* placements into B&B with alternative temporary accommodation solutions found, while work is prioritised to move people out of B&B.

The definition of 'public health emergency' was also flagged as something that requires clarification in guidance, with one respondent suggesting it shouldn't be decided by the Welsh Government and instead be subject to an amendment via the Senedd affirmative process each time the need arises. A further respondent also suggested where the Welsh Government confirm a 'public health emergency', additional funding would then need to be made available.

A further respondent suggested that 'public health emergency' should also include 'humanitarian' disaster to cover such things such as the ongoing Ukraine crisis.

A number of comments collected under Q4 overlapped into Q5 so have been collated under that section of the response.

**Question 05:** Do you agree with time limit of 31 March 2023 to address the temporary accommodation pressures caused by Covid-19 exemption?  
 [Yes, No, Partly]

	Number	%
Yes	16	28%
No	28	50%
Partly	6	11%
Not answered	6	11%

Whilst half of respondents disagreed with 31/03/23 as a suitable date for the Covid-19 exemption to end, there were few concrete suggestions for alternative dates.

There were significant concerns raised over the ongoing pressures faced by homelessness services due to issues like the cost-of-living crisis, unaffordability in the private rented sector, the Ukrainian crisis and continuing delays in completing new builds – all of which are likely to contribute to an even higher demand on B&Bs in the future. The additional stress this was already placing on front-line staff was also highlighted as a reason that 31 March 2023 was considered an unachievable date for moving people out of B&B. Fears were also raised that aiming for such a date may result in people being made to leave B&Bs and ending up sleeping rough.

A number of respondents suggested that the original proposed date of 31 March 2023 could be used as a target date to move any children under the age of 16 out of B&B.

In terms of alternative options to B&Bs, several respondents raised concerns over whether there was enough settled accommodation for those currently in B&B. Some also mentioned that the funding made available by Welsh Government to increase the supply of accommodation was a long-term solution and comes with too many restrictions on what it can be used for.

There were also a number of calls for a sector-wide discussion to take place along with the development of a clear plan, led by the Welsh Government and co-produced with local authority and third sector colleagues, that sets out clearly how the proposed deadline is to be met in practice.

Many respondents recognised the hard work and dedication of staff across both the housing and homelessness sectors during the pandemic given the significant increases in demand for services, but understood that an exemption could not last forever and that many people had already spent too long in B&Bs.

Several respondents suggested the date should be aligned with local authorities' Rapid Rehousing Transition Plans so as to not encourage short-term thinking. One respondent suggested that the proposal contradicts rapid rehousing as more temporary accommodation will need to be built to replace B&Bs (rather than less, as the RRH approach advocates).

One respondent felt a right to adequate housing could help the policy framework, pathway and offer clarity over a sustained period of time to local authorities, housing providers and homelessness services.

A key challenge identified by some respondents was the increase in people's expectations that an end date to the exemption will mean alternative accommodation is ready and waiting for individuals to move into (which they highlighted is not the case across Wales).

Questions were also raised around what happens when a LA is in breach once the date has passed and what support will be provided to LAs who are faced with a number of clients who refuse to move out of B&B.

Whilst it was recognised that establishing the exemption end date is always likely to cause debate and conflicting positions, a recommendation was made to undertake a sector-wide discussion on the topic and aim to reach agreement and a way forward.

**Question 06:** What impact do you foresee on resources (for example staffing)? Do you have evidence to support this?

Responses generally focused on services being under considerable pressure, which was linked to additional, pandemic-related changes to practice, insufficient staff numbers and lack of affordable housing.

Most of those that answered the question considered that the main pressure on resources related to staffing, in particular caseloads which are higher than pre-pandemic and the subsequent impact on staff wellbeing. Responses pointed to staff feeling stressed and over-worked and the need for extra staff to be recruited to support the changes proposed. A few respondents referred to available evidence to support this if required.

Some responses highlighted the difficulties caused by a lack of necessary funding and temporary accommodation. Others referred to the need for other partners to be more integrated into the homelessness response, particularly NHS, mental health and substance misuse services.

A further issue was noted in respect of the capacity to reduce the reliance on B&B given the pressures on authorities that will be caused by the changes in priority need. A higher number of presentations was predicted to be the result.

## Welsh Government response

The Welsh Government is grateful to everyone who has participated in this consultation and in particular those who participated in consultation events and who submitted a written response. As a summary document, not all issues outlined in responses will have been reflected fully, but each response has been considered carefully. It should be noted that the absence of issues or suggestions does not mean they have been disregarded. The specific nature of the three Statutory Orders limits what can be reflected coherently. Therefore, many issues will remain relevant to the wider programme of work aimed at ending homelessness in Wales and will be captured as part of the development of new primary legislation, which will begin later in 2022.

The responses to the consultation have been carefully considered in the development of the draft Regulations. In light of the analysis of the consultation responses and for the purposes of consistency and clarity, officials propose to remove the definition of a person sleeping rough used in the consultation, which mirrors the annual night count definition, and include the definition of 'street homeless' included in the Housing (Wales) Act 2014 at section 71(2) which is there to help to define someone who is vulnerable. Namely:

'Street homeless' in relation to a person means that the person has no accommodation available for the person's occupation in the United Kingdom or elsewhere, which the person –

- 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 license to occupy, or
- c) Occupies as a residence by virtue of any enactment or rule law giving the person the right to remain in occupation or restricting the right of another person to recover possession.

The arguments made against the definition of persons sleeping rough informed our willingness to adopt the description of street homelessness provided by section 71(2) of the 2014 Act. Officials also propose the same wording is used to add to the list of categories within Article 2 of the Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015.

The Welsh Government has also accepted the arguments for guidance to augment the draft regulations in explaining key terms, such as street homelessness and in addressing the provision of services and anti-social behaviour. Guidance will be developed once the draft regulations are agreed.

In relation to the Suitability Order, amendments will be made to the drafting following feedback received. Further discussions will be undertaken with key stakeholders and we will work to address concerns over the proposed 31<sup>st</sup> March 2023 deadline to end the use of B&B. We will refine this work to prioritise and address concerns over placement of children within unsuitable accommodation and set out proposals to phase out the use of unsuitable temporary accommodation for all homeless households.

## **Annex A – List of respondents to the consultation**

Bridgend County Borough Council	Monmouthshire County Council
Cardiff Council	Newport City Council
Carmarthenshire County Council	Public Services Ombudsman for Wales
Centre for Homelessness Impact	Rhondda Cynon Taff County Borough Council
Chartered Institute of Housing Cymru	RSPCA Cymru
Community Housing Cymru	Robert Jones
Colwyn Bay Men's Shed	SAM Recovery Swansea C.I.C
Conwy County Borough Council	Shelter Cymru
Crisis	Swansea Council
Cymorth Cymru	Tai Pawb
Cyngor Sir Ynys Mon	Take Notice
Digartref Cyf	Torfaen County Borough Council
Hafod	The Wallich
Housing Support Network	Welsh Local Government Association
Merthyr Tydfil County Borough Council	
Monmouthshire Housing Association	