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Welsh Government
Consultation – summary of responses.

Renting Homes (Wales) Act 2016

**Renting homes: Bed and breakfast accommodation
used for homelessness purposes.**

October 2023

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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Introduction

The consultation sought views on preventing a licence granted for a homeless person or household to occupy privately provided bed and breakfast ('B&B') accommodation from being an occupation contract. This will apply where the accommodation is being provided by a private B&B provider, under arrangements made with a local housing authority, in pursuance of that local authority meeting its "homelessness housing functions" as defined in paragraph 12(5) of Schedule 2 to the 2016 Act. The consultation was focussed on the following points:

- the risk of a reduction in the availability of bed and breakfast provision as temporary accommodation; and
- identifying any additional risks to homeless households.

The consultation ran from 21 July until 15 September and consisted of a consultation document published online, which described the proposal, set out the rationale for it and invited responses to nine questions. The consultation document was drawn to the attention of a wide audience of key stakeholders including private landlord representative groups, social landlords, tenant representative groups and housing charities.

Responses Summary

This document summarises the responses to the nine consultation questions and gives the Welsh Government's initial response to each. Whilst the document cannot capture every comment, it tries to convey the key messages. Several comments were made on matters that did not have a direct bearing on the subject of the consultation. These comments have been noted but not considered in any detail within this summary. Individuals could submit their responses by online questionnaire, email or post. Most consultation responses were received from people or organisations based in Wales.

A total of 67 responses were received, with 41 of those being submitted using the online questionnaire. This included 19 of the 22 local authorities with responsibility for meeting the needs of homeless people in their area responded, along with a range of representative bodies and third sector homelessness organisations. Other respondents included landlord and tenant representative bodies and private sector short term accommodation providers, such as guesthouses and B&B establishments.

The breakdown by sector was as follows:

B&B / hotel owners	9
Homelessness organisations	4
Representative Bodies	5
Local Authorities	19
Responses from individuals	21

No identifying details	9
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Key Findings

The key finding from the consultation is that there is very strong support for the proposal, with a clear acknowledgment of the risk of losing what is currently an essential provision of emergency accommodation. This is in the context of current extreme pressures faced by the housing system. However, there was also a clear message from the comments that B&B accommodation should wherever possible be used only as a short-term option, and not be the default option¹. Ten responses suggested the proposal did not go far enough and that all homelessness temporary accommodation should be exempt from having to provide occupation contracts, citing the lack of flexibility to remove disruptive individuals and the increased duties associated with the 2016 Act. We welcome these views and will feed them into the ongoing evaluation of the Act²

Responses to individual consultation questions

The content of responses was largely consistent with the rationale for undertaking the consultation. Most respondents addressed the majority of the key policy questions asked in the consultation. In addition, some respondents made comments on issues beyond the scope of the consultation, which have been noted but not considered in detail for the purposes of this summary.

The key themes raised in response to each question are summarised below.

Question 1 – Do you agree with the policy of excluding B&B accommodation provided to meet homelessness housing duties from being an occupation contract?

Yes	62	92.5%
No	4	6.0%
Don't know	1	1.5%

Welsh Government response to Question 1

There was a good response from stakeholders at an organisational and individual level, who provided a range of views on the legislation on how it deals with temporary accommodation.

¹ The Homelessness (Suitability of Accommodation) (Wales) Order 2015 will remain in force and is not affected by this proposal (see related [Ministerial Written Statement](#))

² The Welsh Government has secured an independent research company to undertake an evaluation of the implementation of the Renting Homes (Wales) Act 2016. The evaluation will assess the impact of the act on contract-holders, landlords and the rental market overall, indicate the successes of the Act in meeting the intentions set out through the development of the Act by the Law Commission and the Welsh Government and assess the progress of implementation. It is being conducted in three phases over three years (December 2022 to July 2025) with a report published at each stage.

It is unclear from the responses received if people experiencing homelessness and currently living in B&B accommodation responded to the consultation.

However, of all those who did respond, just over 92% agreed with the proposal and the rationale for it. All 19 of the local authority responses agreed with the proposal, as did the Welsh Local Government Association. One local authority said “it seems the right approach at this time in view of extreme pressures in local authorities to secure temporary accommodation provision.” All respondents who identified themselves as B&B owners (9) also supported the proposal.

Of the small number that did not agree, the reasons cited related to standards of B&B accommodation potentially falling if solely used as homelessness accommodation and that not receiving an occupation contract removes a person’s security of tenure which could result ‘occupants’ being forced out of their accommodation with little or no notice and forced to seek alternative accommodation or sleep rough. However, it should be noted on this point, that where a local authority is still subject to an accommodation duty, alternative accommodation will be secured.

Question 2 – Do you think that B&B accommodation providers are likely to stop providing temporary accommodation to those who are homeless, if the accommodation is subject to an occupation contract?

Yes	62	92.5%
No	4	6.0%
Don’t know	1	1.5%

Welsh Government response to Question 2

The Welsh Government notes that a clear majority of respondents considered that B&B owners would withdraw from providing this form of emergency accommodation if an occupation contract would arise between the owner / landlord and the person occupying the accommodation. Concerns were raised regarding losing B&B accommodation and the possibility of having to open emergency rest centres.

Question 3 – Does the proposal mitigate the risk of a reduction in the availability of B&B provision as temporary accommodation, due to it otherwise becoming subject to an occupation contract?

Yes	53	79.1%
No	7	10.8%
Don’t know	7	10.8%

Welsh Government response to Question 3

The Welsh Government notes that a clear majority of respondents agreed that the proposal would mitigate a reduction in B&B accommodation. Three respondents suggested the proposal may incentivise the use of B&B over other forms of temporary accommodation for which an occupation contract may be required. The Wallich, one of Wales' largest 3rd sector homelessness organisations also said, "Whilst we understand the reason for the proposed amendments and support the changes in the light of ongoing challenges faced by all local authorities when discharging their homelessness duties, we remain of the view that bed & breakfast style accommodation is not suitable as a long-term form of temporary accommodation for people experiencing homelessness." In this context, it is important to note that the proposal is not advocating an increased use of B&B accommodation and the Homelessness (Suitability of Accommodation) (Wales) Order 2015 remains in force. Currently, B&B accommodation is needed to provide homeless people with emergency housing and the proposals is seeking only to maintain this provision.

Question 4 – Do you consider there to be any additional risks to homeless households directly, or on the wider approach to homelessness prevention as a result of these proposals?

Yes	23	34.3%
No	43	64.2%
Don't know	0	0.0%
No answer	1	1.5%

Question 5 - If yes, please identify these risks and possible mitigations.

Welsh Government response to Questions 4 and 5

Of the responses received to Question 4, roughly two thirds of respondents did not think the proposals created any additional risks for homeless households, whilst around a third of respondents considered there would be. Question 5 asked respondents to identify any risks and possible mitigations.

Whilst a number of respondents who answered "Yes" to Question 4 did provide some further information, they tended not to identify additional risks or mitigations but rather reconfirm the risks set out in the consultation document if the proposal was not taken forward, in particular a reduction in emergency accommodation and people possibly being forced to sleep rough.

Of those who did identify risks, one respondent referred to security of tenure concerns, and a person having little or no notice before being evicted. In contrast, one respondent commented that an occupation contract would be inappropriate in any case, as it may give the impression to the occupant that the B&B accommodation was a permanent home.

Further risks identified included an increased use of B&B and the government being portrayed as supporting this position, due to bringing forward regulations allowing people to live in B&B temporarily without an occupation contract arising. Further comments were made in relation to the use of B&B accommodation for people with pets and also those with disabilities.

As stated in the consultation document, the current requirement for temporary accommodation is unprecedented. When the Renting Homes (Wales) Act 2016 was passed the situation was very different and the use of B&B was at a minimum, with some local authorities not using B&B at all following the new approaches to prevent homelessness contained within the Housing (Wales) Act 2014. Any use was very short-term and therefore would not have resulted in an occupation contract arising. The current proposal aims to ensure that B&B provision continues to be available and to be used appropriately in line with current legislation and statutory guidance. This includes the current Suitability of Accommodation Order and the key matters which need to be considered for accommodation to be suitable.

Question 6: Do you consider there to be any wider potential risks or adverse effects of the proposal?

Yes	23	34.8%
No	26	38.8%
Don't know	4	6.0%
No response	14	20.9%

Welsh Government response to Question 6

Respondents took this opportunity to further highlight a number of points mentioned in the previous questions, calling for a review of occupation contracts within temporary accommodation and supported housing settings, one respondent called for a complete ban on the use of B&B accommodation, arguing it is not fit for purpose in this context and the impact continued use would have on the local economy and tourism.

Q7. We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

No effect	28	82%
Would have an effect	6	18%

Nb: Only 51% of those who responded to the consultation overall gave a response to question 7 (34 out of 67).

Q8. Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Commented	<u>10</u>	<u>15%</u>
No Comment	<u>57</u>	<u>85%</u>

Welsh Government response to Questions 7 and 8

Of those who answered question 7, 82% did not think the proposal would have an impact on the Welsh language being treated less favourably. Where an impact was identified, commentators recognised that the proposal could have a positive impact on the Welsh language by ensuring the widest range of accommodation continuing to be made available, therefore enabling Welsh speakers to remain in Welsh speaking communities. One response in relation to question 8 suggested that the accommodation should have bi-lingual signage and the ability to provide customers with the option of communicating in Welsh.

Welsh Government does not consider the proposal will have an impact on Welsh language either negatively or positively but notes the potential positive impact of ensuring accommodation currently being offered can continue, may have on enabling local authorities to keep people close to their communities and support networks and that this may include Welsh speaking communities. Local authorities do provide Welsh language services should customers wish to communicate in the medium of Welsh.

Conclusion

The Welsh Government is very grateful to everyone who gave the time and effort to respond to the consultation and is acutely aware of pressures that are currently being experienced by local authority homelessness services and the impact this is having on people who are homeless. The responses and comments made by many respondents confirmed that imposing occupation contracts may lead B&B owners to withdraw their accommodation, thus diminishing the supply of emergency temporary accommodation. This strongly reinforces the case for the proposal.

However, it should be stated that the Welsh Government's overarching policy is that B&B accommodation should not be used for prolonged periods of time where it can be avoided.

We remain concerned about the number of children in temporary accommodation and will continue to work with authorities to reduce this by prioritising investment in more homes, supporting move-on of children and families out of Temporary Accommodation, particularly B&B and hotel accommodation and by enhancing the monitoring arrangements to understand more about families in B&Bs

A number of respondents took the opportunity to highlight other concerns they have relating the 2016 Act, including the use of occupation contracts in supported housing. The Welsh Government has commissioned an independent evaluation of the 2016 Act, which will provide an opportunity for stakeholders to further share their views on the 2016 Act.

Next steps

The Welsh Government will now bring forward regulations that seek to amend the 2016 Act so that B&B accommodation used for homelessness purposes will not be subject to an occupation contract as currently provided for in the 2016 Act.