



Llywodraeth Cymru  
Welsh Government

OPEN CONSULTATION

# Post pandemic interim homelessness measures

We want your views on changes to homelessness provision to ensure no one is left to sleep rough in Wales.

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## What is this consultation about?

The purpose of this consultation is 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:

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- 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
- Explicitly including public health emergency in the list of emergency events under Article 6a.

## What is the current position?

At the beginning of the pandemic in March 2020, an emergency homelessness response was put in place in recognition of the potential impact that Covid-19 could have on people who were homeless especially people who were rough sleeping. On 28 April 2020, the Minister for Housing and Local Government (now Minister for Climate Change) issued a **statutory guidance note** in relation to the homelessness legislation set out in the Housing (Wales) Act 2014, which expanded the definition of vulnerability to include Covid-19.

Thanks to the outstanding response from local authorities and third sector partners, this 'no-one left out' approach has resulted in over 18,900<sup>[1]</sup> people being brought into emergency accommodation since March 2020, therefore providing a much clearer picture of the scale of previously hidden homelessness in Wales, as well as the previously unmet support needs. This has led to increased investment from the Welsh Government, with over £195m invested in housing support and homelessness services, a record £310m in social housing in 2022/23 and the launch of the Private Rented Sector Leasing Scheme Wales which offers incentives for property owners who lease their properties to the local authority. A £60m fund was also recently announced which has been made available to Local Authorities and Registered Social Landlords to rapidly increase permanent accommodation capacity across Wales as part of the Transitional Accommodation Capital Programme.

**[1]** Accurate as of latest data available, see the **Welsh Government Homelessness Accommodation Provision and Rough Sleeping Management Information page** for up-to-date figures.

# Why are we proposing change?

The **Programme for Government** made a clear commitment to reform homelessness provision to focus on prevention and rapid rehousing. Whilst the primary legislation required to make longer-term changes will take a number of years to enact, the interim legal measures proposed:

- maintain the policy approach taken in the April 2020 statutory guidance note; and,
- reinforce the policy message from the Minister for Climate Change outlined in the **Ending Homelessness Action Plan** and **Oral Statement** that we are not going back to the pre pandemic approach to prioritising support for people who are homeless.

This approach is intended to ensure no one is left to sleep rough in Wales.

## What specific changes are we proposing? What options are we considering?

We are proposing to introduce three new statutory orders under Part 2 of the Housing (Wales) Act 2014.

### 1) The Homelessness (Priority Need) (Wales) (Amendment) Order 2022

Under Section 70 of the Housing (Wales) Act 2014, the following persons (and those who reside or might reasonable be expected to reside with) have a priority need for accommodation:

- a. A pregnant woman
- b. People responsible for dependent children
- c. Vulnerable as a result of some special reason

- d. People made homeless by fire, flood or other disaster
- e. Victims of domestic abuse
- f. Young people aged 16 or 17
- g. People aged 18 – 20 who are at particular risk
- h. People aged 18-20 who have spent time in care
- i. Armed forces personnel
- j. Vulnerable as a result of time in prison

Section 72(1)(b) of the Act provides that Ministers may, by order, amend or omit the descriptions of persons who have a priority need for accommodation. Specifically section 72(1)(c) allows ministers to specify further descriptions of persons as having Priority Need for accommodation.

Prior to the April 2020 statutory guidance note, rough sleeping was only a factor to be considered when assessing vulnerability under Sections 70 and 71 of the 2014 Act. Without additional problems to compound their rough sleeping, applicants were unlikely to be considered in Priority Need as a result of rough sleeping alone.

In light of the Welsh Government's aim of 'no going back' to the pre-pandemic model of rationing homelessness services, **we propose to add an 11<sup>th</sup> category of Priority Need category of 'person sleeping rough'**

A 'Rough Sleeper' is not defined in the 2014 Act, but a definition was drafted during the planning for the re-introduction of the annual Rough Sleeper count in 2016. For statistical purposes, the Welsh Government closely followed the definition used by the then Ministry for Housing, Communities and Local Government (now Department for Levelling Up, Housing and Communities) and have used the following in each annual count since 2016:

*'For the purpose of the count the following definition of a rough sleeper is recommended:*

1.
  - a. *People sleeping, about to bed down (sitting on/in or standing next to their bedding), actually bedded down in the open air (such as on the streets, in tents, doorways, parks, bus shelters or encampments);*
  - b. *People bedded down in buildings or other places not designed for*

*habitation (such a stairwells, barns, sheds, car parks, cars, derelict boats, stations of 'bashes').*

*This definition does not include:*

1. People in hostels or shelters;
2. Sofa surfers;
3. People in campsites or other sites used for recreational purposes or organised protest, squatters or travellers.'

The proposal is to retain this definition for the new 11<sup>th</sup> category.

Alongside this change, additional guidance will be issued clearly setting out the expectation that LAs support and accommodate people at risk of sleeping rough or living in unsuitable accommodation.

Furthermore, the new guidance addendum will:

1. as outlined above, ensure those 'at risk' of rough sleeping are included in the new 11<sup>th</sup> category;
2. reinforce the benefit of a more detailed initial assessment process to avoid missed opportunities to prevent homelessness;
3. add clarification over intentionality, local connection and use of discharge points in alignment with our direction of travel;
4. reinforce expectations around limiting use of B&Bs where possible;
5. highlight best practices identified during the pandemic; and
6. provide clarity to support LAs to implement Welsh Government policy and legislative objectives to support all people at risk of homelessness as the pandemic comes to an end.

## **2) The Homelessness (Intentionality) (Specified Categories) (Wales) (Amendment) Regulation 2022**

The Housing (Wales) Act 2014 allows for an authority to find an applicant intentionally homeless if they have deliberately ceased to occupy accommodation which was available and appropriate for occupation. Before it

can do so, a local authority has to follow the procedure laid out in Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015, which sets out that an authority must formally decide and publish which categories of individuals (which directly mirror the ten Priority Need categories) that they intend to have regard to intentionality to.

While intentionality will be looked at as part of wider legislative reform later in this Government term, to ensure that the intentionality categories continue to mirror the Priority Need categories, we propose that 'Rough Sleeping' is added as a category within the Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015.

### **3) The Homelessness (Suitability of Accommodation) (Wales) (Amendment) Order 2022**

The (Homelessness) Suitability of Accommodation (Wales) Order 2015 ("The 2015 Suitability Order") specifies that B&B is not to be considered suitable accommodation. Due to the 'no-one left out' approach and the wider pressures created by the pandemic, however, there are now more than 7,500 people and households residing in temporary accommodation, many of whom are in B&B and hotel accommodation.<sup>[2]</sup> Despite Welsh Government's strong commitment to move all households into permanent accommodation as soon as possible, the increasing cost of private rented housing and the severe shortage of single person accommodation has meant that many are residing in B&Bs and hotels beyond the legally permissible time limits.

Article 6 of the 2015 Suitability Act provides exceptions under which B&B accommodation may be considered suitable. These exceptions are currently:

1. the authority believes that the applicant may be homeless or threatened with homelessness as a result of an emergency such as fire, flood or other disaster, and no other accommodation is reasonably available to the authority; or
2. the authority has offered suitable accommodation to the applicant, but the applicant wishes to be accommodated in other accommodation.

In order to acknowledge the pressures caused by Covid-19 on the temporary accommodation options open to local authorities, we propose the following:

- That a new sub-category is added 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
- Explicitly including 'public health emergency' in the list of emergency events under Article 6a.

[2] Accurate as of latest data available, see the [Welsh Government Homelessness Accommodation Provision and Rough Sleeping Management Information page](#) for up-to-date figures.

## Consultation Questions

**Question 1:** Do you agree with Welsh Government's 'no-one left out' policy?

**Question 2:** Do you agree that adding a 'person sleeping rough' as the 11<sup>th</sup> category of Priority Need allows us to continue with the 'no-one left out' policy? If not, how else could this be achieved

**Question 3:** Do you agree with the definition of 'person sleeping rough' than we propose to use? If not, please provide a reason for your answer.

**Question 4:** 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.

**Question 5:** Do you agree with time limit of 31 March 2023 to address the temporary accommodation pressures caused by Covid-19 exemption?

**Question 6:** What impact do you foresee on resources (for example staffing)? Do you have evidence to support this?

## 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.

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