



Llywodraeth Cymru
Welsh Government

IMPACT ASSESSMENT

Amendments to the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014: integrated impact assessment

How changes to the regulations to reflect the immigration status of victims of slavery or human trafficking and their eligibility to housing and homelessness assistance will impact on a number of areas.

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What action is the Welsh Government considering and why?

In narrative form, please describe the issue and the action proposed by the Welsh Government. How have you applied / will you apply the five ways of working in the Well-being of Future Generations (Wales) Act 2015 to the proposed action, throughout the policy and delivery cycle?

The UK Government has established a new form of temporary leave to remain in the UK for victims of slavery or human trafficking, known as 'temporary permission to stay' (TPS), through section 65 of the Nationality and Borders Act 2022^[1]. This change will bring the UK in line with its international obligations under the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT)^[2], in particular how it applies to the identification and support of victims. The drafting of section 65 of the 2022 Act is similar to the text of Article 14 of the ECAT, with TPS available to:

- assist the person in their recovery from any physical or psychological harm caused by their exploitation;
- enable the person to seek compensation because of their exploitation, or
- enable the applicant to co-operate with a public authority in connection with an investigation or criminal proceedings in respect of their exploitation.

Victims of slavery and human trafficking are currently able to access housing and housing assistance through discretionary powers (leave outside the rules) granted by the Home Office, with many living in refuges and similar types of temporary housing. The TPS will replace the use of discretionary powers for victims of slavery and human trafficking so that leave is granted within rather

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than outside the Immigration Rules. The Home Office estimate that around 28% of adult victims have no immigration status before they get support through the Modern Slavery Victim Care Contract[3], under the National Referral Mechanism[4].

The TPS, which is expected to start from 30 January 2023, will provide 30 months of leave, or 12 months for those seeking compensation, and grant recourse to public funds to those receiving a positive ‘Conclusive Grounds’ decision[5] (eligibility to public funds being a statutory requirement for housing assistance). Beyond the period of the TPS, an individual can apply for an extension if they still need permission to stay in the UK or apply for permission to stay in another category, if one is appropriate, such as relating to family or private life. However, if neither of these options apply, the Home Office’s expectation is that they should leave the UK as the TPS is not considered a route to permanent settlement in the UK.

The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 [“the 2014 Regulations”] determine eligibility for housing and housing assistance for people who are subject to immigration control. Unless the 2014 Regulations are amended, people qualifying for the TPS will not be eligible for housing and homelessness assistance in Wales.

If the 2014 Regulations are not amended, it may harm the interests of a group of people with particularly high support needs currently residing in Wales. Whilst the Home Office currently permit victims of slavery and human trafficking to be housed or offered housing assistance outside the rules, this will stop from 31 January 2023 after the TPS comes into force.

In addition to the practical necessity of aligning the housing rules in Wales to the changes made to the Immigration Rules by the UK Government, there are also compelling arguments in favour of making applicants seeking TPS eligible for housing and housing assistance in Wales. This is a reflection of the Welsh Government’s commitment to promote Wales as a globally responsible nation

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and as a nation of sanctuary, through its International Strategy.

We do not envisage that the TPS will add any further burden on the ability of local authorities to offer accommodation, as the new category of people are currently eligible to remain temporarily in the UK.

Conclusion

How have people most likely to be affected by the proposal been involved in developing it?

As the TPS is a product of reserved UK Government policy (immigration), it would not be possible to undertake a meaningful consultation on alternative approaches, as the effect of the proposal is to ensure consistency between Welsh housing law and immigration law.

What are the most significant impacts, positive and negative?

Positive impacts

Extending the eligibility rights for people coming to Wales via the TPS immigration route for housing and housing assistance, will help protect these individuals from the threat of homelessness and damaging effect that can have on their personal well-being. The proposal will enable the Welsh Government to demonstrate its aspirations towards global responsibility and commitment to human rights and promoting peace.

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Negative impacts

There will be no long term negative impacts of this proposal. The Welsh Government is working to ensure adequate accommodation and longer-term homes for those affected in addition to those currently in temporary accommodation and seeking appropriate and affordable homes.

In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals; and/or,
- avoid, reduce or mitigate any negative impacts?

Good quality homes are the bedrock of vibrant and cohesive communities and form the basis for individuals to flourish in all aspects of their lives. Accessing secure, affordable housing will ensure that vulnerable individuals are protected and are better able to flourish within Wales.

The proposed changes brought about through this proposal will ensure that people coming to Wales via the TPS immigration route will be able to seek housing or housing assistance, which in turn will enable them to settle more easily and contribute towards the ambitions of the seven well-being goals.

Whilst some individuals will be able to access temporary accommodation via the provision of homelessness services, this type of accommodation comes with challenges and may not provide stability and security in the lives of people with TPS, who may benefit from a longer-term option. Also, some forms of temporary accommodation might not be appropriate as it could involve living near or with people who have chaotic lives or experience mental health or substance misuse issues. Given the trauma many people who have been granted TPS will have experienced, temporary accommodation provided through homelessness services may prove inappropriate or inadequate for some individuals. Although it

should be acknowledged that TPS is not a route to permanent settlement in the UK and specialist support and accommodation is available in Wales through Bawso.

How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

The Regulations to be brought forward under this proposal will be kept under review in the normal way. Welsh Government officials will monitor any adverse impacts that are reported to them by local authorities or Third Sector organisations dealing with people coming to Wales via the TPS route, requiring housing or housing assistance.

Children's Rights Impact Assessment

All completed Children's Rights Impact Assessments must be sent to the CRIA@gov.wales mailbox

The Rights of Children and Young Persons (Wales) Measure 2011 places a duty on the Welsh Ministers to pay due regard to the [United Nations Convention on the Rights of the Child \(UNCRC\) and its Optional Protocols](#) when exercising any of their functions.

Please note we have an established Children's Rights Advisory Group (CRAG), comprising the Children's Commissioner for Wales's office, UNICEF, the Wales Observatory on Human Rights of Children and Young People, and Children in Wales, who can be used to discuss or test your draft CRIA. Please contact the Children's Branch CRIA@gov.wales for further information.

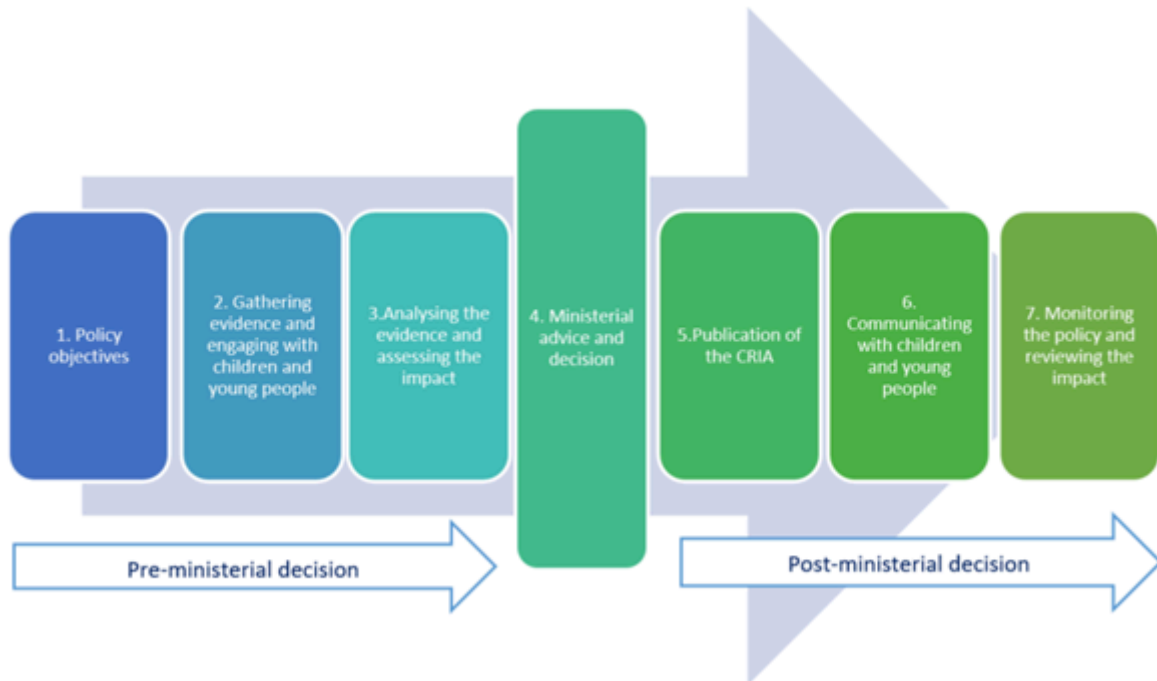
The CRIA process is the agreed mechanism officials should use to support Ministers to meet this duty and ensure they give balanced consideration to

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children's rights in their decision making. A CRIA should be used to inform ministerial advice and must be completed prior to a ministerial decision being made. Once a decision has been reached, your CRIA must also be published.



For further advice and guidance on the CRIA process, please consult the **Children's Rights Manual for Staff** or contact the Children's Branch CRIA@gov.wales

1. Policy objectives

- What decision are you impact assessing?

The relevant decision relates to the amending of eligibility regulations to enable people who qualify for TPS due to experiencing slavery or human trafficking to access housing and housing assistance. The proposal to amend housing law in

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Wales reflects the need to ensure compliance with a reserved UK Government policy matter (immigration).

2. **Gathering evidence and engaging with children and young People**

- What existing research and data on children and young people is available to inform your specific policy? Your policy objective may impact on other policy areas – discussions with other policy teams will be an important part of the impact assessment process ensuring you have gathered a range of information and evidence.
- Using this research, how do you anticipate your policy will affect different groups[6] of children and young people, both positively and negatively? Please remember policies focused on adults can impact children and young people too.
- What participatory work with children and young people have you used to inform your policy? If you have not engaged with children and young people, please explain why.[7]

For further advice and guidance on the CRIA process, please consult the Children's Rights Manual for Staff or contact the Children's Branch
CRIA@gov.wales

For advice on participatory work with children and young people, please contact the Children's Branch. We have an established relationship with Children in Wales, who may be able to help you work with children and young people through their Young Wales programme.

There is limited data on children and young people affected by the proposal, with very few likely to be affected in the UK and possibly none in Wales. However, the proposal will maintain eligibility to housing for the families of children and young people. Given the low number affected and because the policy that underpins the proposal is a reserved matter no participatory work with children and young people is planned.

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3. Analysing the evidence and assessing the impact

- Using the evidence you have gathered, what impact is your policy likely to have on children and young people? What steps will you take to mitigate and/or reduce any negative effects?

The amendments will make it easier for families arriving in Wales who have been granted TPS, to achieve a tenancy and to move between properties. In being able to move more easily into and within the social housing sector, parents may be better able to locate and secure property which is adequate to their needs, and the needs of their family as a whole. Their considerations in moving will include access to a clean and safe environment, as well as ensuring the standard of living in their new property is good enough to meet the whole family's physical and mental needs.

It is possible that some families benefitting from the Regulations will include children who have experienced adverse childhood experiences and who have been living in poverty. By simplifying the method by which the families of children become eligible to housing and housing assistance should have a positive impact on their lives.

- How does your proposal enhance or challenge children's rights, as stipulated by the UNCRC articles and its Optional Protocols? Please refer to the [articles](#) to see which ones apply to your own policy.

How does your proposal enhance or challenge children's rights

UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
Article 24 (Health and health services): Children have the right to good quality health care – the best health care possible – to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. Rich countries should help poorer countries achieve this.	X		By making the families of children eligible to apply for housing and housing assistance, those children will be able live in a safe environment.
Article 27 (Adequate standard of living): Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.	X		The proposal will make it easier for children included within these Regulations to get help finding and living within a home in Wales. With the rights provided by the proposal they will be able to enjoy an enhanced quality of life that would not have otherwise been possible.

- Consider whether any EU Citizens Rights (as referenced in the Equality

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Impact Assessment) relate to young people up to the age of 18.

Not applicable.

4. Ministerial advice and decision

- How will your analysis of these impacts inform your ministerial advice?

The analysis within this assessment will be reflected in the advice taken by the Minister in bringing forward these amending regulations.

5. Publication of the CRIA

The CRIA will be published on the Welsh Government website along with the IIA.

6. Communicating with Children and Young People

- If you have sought children and young people's views on your proposal, how will you inform them of the outcome?

As the TPS is a product of reserved UK Government policy (immigration), it would not be possible to undertake a meaningful consultation on alternative approaches, as the effect of the proposal is to ensure consistency between Welsh housing law and immigration law.

If your policy affects children and young people, remember to produce child-friendly versions of any public document relating to your proposal. Please contact the Children's Branch for further advice.

7. Monitoring and Review

It is essential to revisit your CRIAs to identify whether the impacts that you originally identified came to fruition, and whether there were any unintended

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consequences.

Where you are taking forward secondary legislation, it will not be sufficient to rely on the CRIA for the primary legislation; you will need to update the CRIA to consider how the details of the proposals in the regulations or guidance may affect children.

The policy lead can revisit the published version of their CRIA, rename it as a review of the original CRIA, and update the evidence of impact. The reviewed impact assessment should be presented to Ministers with any proposals to amend the policy, practice or guidance. This review CRIA should also be published.

- Please outline what monitoring and review mechanism you will put in place to review this CRIA.
- Following this review, are there any revisions required to the policy or its implementation?

As the TPS is a product of reserved UK Government policy (immigration); it will not be possible to amend the policy or its implementation in any meaningful way, as the intent will be to ensure consistency between Welsh housing law and immigration law. However, we will engage with Home Office colleagues should we become aware of possible unintended consequences which are detrimental to children and young people.

[1] Nationality and Borders Act 2022 (legislation.gov.uk)

[2] Full list (coe.int)

[3] modern slavery statutory guidance, non statutory guidance v2.11 (publishing.service.gov.uk)

[4] National referral mechanism guidance: adult (England and Wales) - GOV.UK (www.gov.uk) - the framework for identifying and referring potential

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victims of slavery and ensuring they receive the appropriate support

[5] A “positive conclusive grounds decision” means a decision made by a competent authority (which are Home Office bodies) that a person is a victim of slavery or human trafficking

[6] You may, for instance, consider how your policy would affect the following groups of children and young people differently: early years, primary, secondary, young adults; children with additional learning needs; disabled children; children living in poverty; Black, Asian and minority ethnic children; Gypsies, Roma and Travellers; migrants; asylum seekers; refugees; Welsh-language speakers; care experienced children; LGBTQ+ children. Please note that this is a non-exhaustive list and within these cohorts there will not be one homogenous experience.

[7] Article 12 of the UNCRC stipulates that children have a right to express their views, particularly when adults are making decisions that affect them, and to have their opinions taken into account.

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