

Welsh Government - White Paper on Ending Homelessness in Wales
Response from Propertymark
January 2024

Background

1. Propertymark is the UK's leading professional body for estate and letting agents, inventory providers, commercial agents, auctioneers and valuers, comprising over 17,500 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Overview

2. The Welsh Government have published a White Paper looking at a range of proposals for changes to policy and the law, to end homelessness in Wales. The proposals within the White Paper form part of a long-term transformation process to the homelessness and housing system, as set out in the Programme for Government and Cooperation Agreement. These proposals include reform of existing core homelessness legislation, the role of the Welsh public service in preventing homelessness, targeted proposals to prevent homelessness for those disproportionately affected, access to housing and implementation of proposals.

Consultation questions

Chapter 1: Reform of the existing core homelessness legislation

1. Do you agree these proposals will lead to increased prevention and relief of homelessness?

3. Yes, we are broadly in agreement that that the proposals to reform homelessness legislation will lead to increased prevention and relief of homelessness in Wales.

Comments on proposed changes

The period of time in which a person should be assessed by a local housing authority as threatened with homelessness and what can trigger this assessment.

4. In principle we agree that the time when a person is considered as at threat of homelessness should be increased from 56 days to six months. However, as the consultation acknowledges, many local authority homelessness services are reactive due to high caseloads, staff vacancies and the high volume of homeless presentations. On the one hand these pressures could increase with a higher case load from the extended time. On the other hand, providing support and intervention for individuals and families before they hit crisis point could prevent homelessness cases and support local housing authorities plan their resources more effectively. We also acknowledge that the six-month proposal would align with Section 173 of the Renting Homes Wales Act 2016. However, if tenants are deemed at threat of homelessness

on receipt of a Section 173 landlords possession notice, it should be acknowledged that landlords often issue these notices for reasonable and practical reasons such as to allow the landlord or landlord's family member to live in the property themselves or to sell the property. Landlords do not issue Section 173 notices lightly, and local authorities should improve their relationship with both landlords and tenants. When a tenant is issued with a Section 173 notice, local authorities should support the tenant, if appropriate, to alternative privately rented accommodation. This can only be achieved when local authorities have good relationships with landlords and their property agents.

Where a person is permitted to reside in an area, but does not have access to clean water, waste facilities and toilet facilities, they should fall within the definition of homeless under section 55 of the HWA 2014.

5. There is already sufficient legislation to ensure that tenants renting in the Private Rented Sector have access to clean water, waste facilities and toilet facilities including the Housing (Wales) Act 2014 and the Fitness for Human Habitation Standards under Renting Homes Wales Act. However, the proposals would support those people who reside in accommodation that is a moveable structure, vehicle or vessel adapted for human habitation (such as a caravan or houseboat).

A statutory duty to draw up a PHP containing the steps the local housing authority will take to secure accommodation for the applicant

6. We recognise that there are many reasons why individuals and families could be at threat of homelessness and that to reduce the threat, individuals will require specific solutions tailored to their needs and problems. Personal Housing Plans (PHP) are a good opportunity for officers of local housing authorities to highlight solutions to specific barriers to housing and reduce the individual threats to homelessness people may face. However, for this to be effective, local housing authorities will have to be resourced accordingly to provide PHPs. We would also encourage local housing authorities to improve engagement with landlords and their agents to better enable them to sign post people at threat of homelessness to the PRS when social housing is not available especially as the PHP should consider location and accessibility needs of the applicant.

3. Are there additional legislative proposals you think we should consider to improve the prevention and relief of homelessness?

7. Given the increased resources required to support a greater number of people who could be at risk of homelessness, Welsh local authorities need to improve engagement with letting agents and private landlords. One method they could consider is keeping a database of adaptable property to enable local authorities to sign post people to appropriate accommodation within the PRS. Unfortunately, there is currently an unlevel playing field between support for the most vulnerable tenants with complex needs who live in the PRS compared to those who have dedicated support and live in social housing. This support can include mental health support, support with accessing employment and benefits as well as

signposting support services. To support vulnerable tenants to have greater access to the PRS, local authorities should also consider schemes to reduce barriers in obtaining bonds for accommodation, improved training to sustain tenancies and advice lines for those tenants with the greatest and most complex needs to ensure they can be signposted to support their needs.

4. Do you agree with our proposal to abolish the priority need test?

8. Propertymark supports the proposal to end priority need when there is sufficient supply of housing to accommodate all people in need. We are aware of the current policy of priority need being administered differently by local housing authorities resulting in some people who are already experiencing homelessness not being able to access support and services. Significant resources are used up by local housing authorities on investigating whether housing applications meet the priority needs test when these resources could be far better utilised in finding solutions and supporting people at risk. We also accept that individuals having to prove how vulnerable they are not only a humiliating experience for many, but recalling traumatic events could also have a detrimental impact on their well-being. While it is devastating that evidence has revealed that some single persons who are already experiencing homelessness have been excluded from homelessness support, we are concerned there is currently an inadequate supply of appropriate accommodation to protect those with the most complex needs, people with disabilities and families with young children. Therefore, we welcome the acknowledgement that ending priority need will require a lead in time to ensure that appropriate housing levels are at adequate supply levels and that those impacted are not confined to temporary accommodation for long periods of time. We are equally pleased that local housing authorities can still use a triage system for the priority to access social housing. While adequate levels of appropriate housing are produced across Wales, more must also be done to improve the relationship between local housing authorities, private landlords and their agents and to ensure that access to the PRS from vulnerable households is improved and that barriers are removed.

5. Do you agree with our proposal to abolish the Intentionality test?

9. We are supportive of the proposal to remove the intentionality test from legislation, so it is no longer applied in determining whether an applicant is entitled to the prevention and main duties (section 68-interim duty to secure accommodation (in the context of ending the duty) and section 75 (duty to secure accommodation) of the HWA 2014) or any future duties in new legislation. However, for those cases where tenants have made themselves intentionally homeless through acts of serious rent arrears and repeat cases of anti-social behaviour within the PRS, the Welsh Government must support local housing authorities find safe routes into social housing where they may receive greater support for their needs. In many of these cases, these tenants have found access to the PRS difficult due to poor credit ratings and references from landlords and they will subsequently require the greater levels of support to appropriate housing resources.

6. Do you agree with our proposal to keep the local connection test but add additional groups of people to the list of exemptions to allow for non-familial connections with communities and to better take account of the reasons why someone is unable to return to their home authority.

10. Propertymark supports retaining the local connection test, at least until the supply of all housing tenures could support potential increased external demand from other areas. We also believe that by removing the local connection test, resources could be constrained especially for larger local authorities where a large cohort may wish to locate to the area. However, we also agree that extending the list of exemptions to the local connection test to those in certain circumstances who are veterans, care leavers, prison leavers as part of their rehabilitation and those experiencing domestic abuse would be fair as these are groups that are restricted by the legislation most. Furthermore, we do not believe that these cohorts would contribute to significant challenges to resources in contrast to ending the local connections test in its entirety.

7. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?

11. We do not have any further comments.

Chapter 2 - the role of the Welsh Public Service in preventing homelessness

8. Do you agree with the proposals to apply a duty to identify, refer and co-operate on a set of relevant bodies in order to prevent homelessness?

12. Yes, we agree with the proposals to apply a duty to identify, refer and co-operate on a set of relevant bodies in order to prevent homelessness. Relevant public bodies are in a good position to identify the key risks of homelessness from as early as possible to prevent escalating the problem. We agree that public bodies should only refer cases to local authorities with the approval of the individual as this will prevent inappropriate cases or individuals who do not require support being referred. We also welcome the commitment to share best practice, provide education and sign posting to ensure the referral process is widely understood.

9. Do you agree with the proposed relevant bodies, to which the duties to identify, refer and co-operate would apply? Would you add or remove any services from the list?

13. Yes, we agree that social services departments both within local authorities and other local authorities, local health boards and registered social landlords are in the best position to support the early referral of persons at risk of homelessness. We think this for two reasons. Firstly, these bodies have specific responsibility to the devolved powers within Wales. Secondly, they may hold specific data on rent arrears or life changing characteristics such as disabilities or poor health outcomes which could increase the risk of homelessness. Additionally, we think that schools, further education settings and pupil referral units should be added to the list of bodies with these duties providing the referral process is streamlined and does not add further unnecessary workload and bureaucracy to educational staff. Ideally, we agree that additional public bodies should be included including the Department for Work and Pensions, Probation Services, Police and HM Courts and Tribunal Services. These organisations would hold valuable data that could highlight the risk of homelessness before it

escalates. However, we also acknowledge that these public bodies are subject to the UK Government's control. While we welcome the commitment from the Welsh Government to share their intentions with the UK Government, we would recommend the list of public bodies remains on review to be amended as and when appropriate.

14. Finally, the expert panel recommended that private landlords should be placed under a duty to refer tenants at risk of homelessness to a local housing authority. We welcome the Welsh Government's acknowledgment that this proposal should not be included in the proposed Homelessness Bill. Firstly, there was no clear proposal on the duty for those landlords to act who have discharged their management duties to a property agent. We assume that had the proposal have gone forward then property agents would have been subject to the same requirements. However, some property agents might not have the same level of interaction with tenants on a regular basis, thus making it difficult to identify characteristics that lead to homelessness. Secondly, and as the White Paper identifies, such duties would be more appropriately identified as part of the review of Rent Smart Wales licensing or as part of the ongoing work on adequate housing, fair rents and affordability. While we welcome the proposal not to establish the duty on landlords or property agents, we would be happy to continue to engage with the Welsh Government on how property agents can informally support the early detection of homelessness from tenants.

10. In your view have we struck the right balance between legislative requirements and operational practice, particularly in relation to health?

Yes, we do think that the Welsh Government have struck the right balance between legislative requirements and operational practice, particularly in relation to health.

11. What practical measures will need to be in place for the proposed duties to identify, refer and co-operate to work effectively? Please consider learning and development needs, resources, staffing, location and culture.

15. Where property agents will be engaging with new policy functions the Welsh Government should consider the impact on agent businesses, training of staff and how current working relationships between property agents and support networks and outside bodies can be enhanced and utilised.

12. In addition to the broad duties to identify, refer and co-operate, this chapter contains proposals to provide enhanced case co-ordination for those with multiple and complex needs. To what extent will the proposals assist in preventing homelessness amongst this group?

16. Propertymark welcomes the proposal to empower individuals with lower-level needs with regards to the threat of homelessness. This could include being aided to enable them to respond independently to tackle the barriers they are facing in their housing needs to prevent homelessness. We also welcome the realisation that this method would not be appropriate for some individuals especially those with more complex needs, people who have repeat incidents of homelessness, people who have been homeless for long periods of time and those who require the support of multiple stakeholders.

17. For people who fall into such cases of homelessness, we welcome the proposal to establish a compulsory case coordination, which would identify a lead organisation to collaborate with other relevant stakeholders. Given the complexity of some homelessness cases, we also welcome the acknowledgement that the lead stakeholder may not always be the local authority. For example, in cases where community safety is of major concern, it may be appropriate in such cases that the police take a leading role.

13. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?

18. We do not have any further comments.

Chapter 3: Targeted proposals to prevent homelessness for those disproportionately affected

14. Are there other groups of people, not captured within this section, which you believe to be disproportionately impacted by homelessness and in need of additional targeted activity to prevent and relieve this homelessness (please provide evidence to support your views)?

19. We are not aware of any other groups of people that need to be captured and received targeted activity to prevent and relieve homelessness.

15. What additional legislative or policy actions could be taken to prevent or relieve homelessness for the groups captured by this White Paper?

20. We welcome the outline of specific groups who are particularly vulnerable to the threat of homelessness including disabled people. Propertymark is pleased to see that the White Paper acknowledges the advantages of local authorities compiling an accessible housing register, which has been a policy proposal that Propertymark has campaigned for local authorities across the UK to complete. We also welcome the acknowledgement that few local authorities in Wales have such a register in place, and that the Welsh Government see this as a useful tool in maximising housing options for the disabled. To this end to support these measures additional legislative or policy actions are needed in the following areas:

- **An accessible housing register should include housing from all tenure** - including the PRS where local authorities could sign post disabled tenants to suitable property in the event of insufficient social housing stock.
- **The Welsh Government should use this opportunity to increase the uptake of Disabled Facility Grants (DFG) in the PRS** - to ensure more properties in this tenure are accessible for tenants needs. We understand that awareness of the DFG is relatively limited amongst landlords and their agents and there is evidence that when they are made aware of grant funding, they become more amenable to improving the accessibility of their properties for their tenants.

- **The Welsh Government to open an inquiry to investigate the barriers to making PRS properties more accessible** – this should include ways to promote the advantages of improving accessibility and consequently landlords future proofing their businesses.
- **The Welsh Government should carry out a review of older person’s housing in Wales** - improving the accessibility of property for disabled people may have a positive impact on older person’s housing. While older people have not been identified as a vulnerable group and at significant threat of homelessness, the rate of older people is set to significantly increase, and their housing needs should be closely monitored. The latest estimates show that there are 866,006 people over the age of 60 living in Wales. This number is estimated to rise to 956,000 (30% of the population) by 2026, and to 1,015,000 (31% of the population) by 2031.

16. Our proposals related to children, young people and care experience seek to improve and clarify links between homelessness legislation and the Social Services and Wellbeing Act. Significant policy development is required to assess the practicality of this. What, in your views are the benefits and challenges of our approach and what unintended consequences should we prepare to mitigate?

21. Propertymark understands that there are many factors that contribute towards homelessness and to tackle the complex needs of those who experience homelessness, local housing authorities must liaise with colleagues in health and social care. The Social Services and Wellbeing Act Wales 2014 has outlined a code which demonstrates that that many services provided under the Act are to be delivered in partnership with others, including housing and health services. Propertymark also recognises that people who are care experienced are also particularly vulnerable to homelessness. Many young people, including those who are care experienced, have had difficulty in accessing support services once they have transitioned into adult care services. We hope that by incorporating a more collaborative approach that the needs of those leaving children’s support services will be better aligned and maintained to support their needs.

17. Do our proposals go far enough to ensure that 16 and 17 year olds who are homeless or at risk of homelessness receive joint support from social services and local housing authorities? What more could be done to strengthen practice and deliver the broader corporate parenting responsibilities?

22. Yes, we do think that the Welsh Government’s proposals do go far enough to ensure that 16 and 17 year olds who are homeless or at risk of homelessness receive joint support from social services and local housing authorities We welcome the acknowledgment in the requirement to strengthen the corporate parenting responsibilities to ensure individuals aged 16 and 17 years who are homeless or at risk of homelessness do not fall between services when they transition to adult care services. We also welcome other proposals including using legislation to ensure 16 and 17 year olds are not housed in unsupported temporary accommodation. However, we believe that the long-term needs of young people still need to be focused on to ensure once they are housed, they have sustainable housing options. This could include

adopting approaches such as Housing First specifically aimed at this cohort to looking at financial barriers that act as a barrier to accessing housing particularly in the PRS.

18. Do you agree or disagree that the Renting Homes (Wales) Act 2016 should be amended to allow 16 and 17 year olds to be able to hold occupation contracts?

23. We agree in principle as this would formalise the rights for tenants aged 16 and 17 years old and would also make clear the obligations of both landlords and property agents as well as tenants. However, if such a proposal was made, we would firstly recommend that careful consideration is given to the impact on this age group and that sufficient time is given to landlords and property agents to issue occupational contracts and that sufficient awareness is made to landlords and property agents.

19. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?

24. We do not have any further comments.

Chapter 4: Access to accommodation

20. To what extent do you agree or disagree with the short-term proposals to increase the suitability of accommodation? Are there additional immediate actions you believe should be taken for this purpose?

25. Short-term care is not within the remit of Propertymark. However, we agree with the proposals.

21. To what extent do you agree or disagree with the proposals around the allocation of social housing and management of housing waiting lists? What do you believe will be the consequences of these proposals?

26. We agree with the proposals around the allocation of social housing and management of housing waiting lists. However, where a local authority has removed an individual from a waiting list as they deem them to have no housing need, the local authority should direct them to suitable options within the PRS. This would be supported by greater cooperation between local authorities and landlords and their agents.

22. To what extent do you agree or disagree with the proposal for additional housing options for discharge of the main homelessness duty? What do you foresee as the possible consequences (intended or unintended) of this proposal?

27. We agree with the proposal for relevant officers from the local authority should be able to have the discretion to issue additional housing options prior to the discharge of the main homelessness duty. We recognise that there might be legitimate reasons why an applicant may refuse suitable Part 6 accommodation including housing in social housing or accommodation

in the PRS. When the local authority recognises and accepts the reasons for refusal then they should have the discretion to offer an increased range of housing options through which the main homelessness duty at section 75 HWA 2014 can come to an end. We recognise the pressure that housing departments are already under at local authorities and are concerned that some local authorities may not have the capacity and resources to offer additional housing options. This could take the capacity away from local authorities in providing important prevention services. Ultimately, however, we believe that local authorities are in the best position to assess what is fair and acceptable and to act at their discretion on a case by case basis.

23. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals in relation to access to housing. Are there any costs and benefits we have not accounted for?

28. We do not have any further comments.

Chapter 5: Implementation

24. To what extent do you think the proposals outlined above will support the implementation and enforcement of the proposed reforms?

29. We welcome the change in emphasis of local authority members scrutiny functions focusing on the overall performance of homelessness services rather than individual decisions. Equally we welcome the proposal to use and extend the existing structures provided through local government scrutiny to monitor homelessness provision and the implementation of the proposed legislative reform. However, we would like clarity on what this would look like in principle. Local government scrutiny functions are under increased pressure in some local authorities due to an already lack of resources and capacity. We also believe that members of local authorities may require specific training to understand specific housing legislation particularly for the PRS where there has already been systematic and fundamental change through the Renting Homes (Wales) Act 2016. However, the proposal to allow the Welsh Government to 'call in' decisions made by local authorities through the analysis of homelessness data will allow an additional layer of scrutiny of performance which we welcome.

30. Additionally, we are supportive of the other proposed measures especially the proposal to use the experiences of people who have experienced homelessness to shape services. However, currently homelessness services are scrutinised through complaints received for malpractice of homelessness services to the Public Service Ombudsman for Wales. The White Paper does not acknowledge that people who are at risk of homelessness are some of the most marginalised in society and to some degree might not consider making referrals to the Ombudsman. Equally, we would recommend the Welsh Government liaises with the Ombudsman to detail proposed changes and to discuss strategies to improve access to service users.

25. What other levers/functions/mechanisms could be used to hold local housing authorities and other public bodies accountable for their role in achieving homelessness prevention?

31. We think there are two functions that the Welsh Government should explore that could be used to hold local housing authorities and other public bodies accountable for their role in achieving homelessness prevention. Firstly, adopting the Scottish model of regulation of homelessness services through the Scottish Housing Regulator.¹ We have reservations that local authorities have the capacity and resources to perform this through member scrutiny functions. Secondly, local authorities should be encouraged to set up joint scrutiny functions with neighbouring authorities or as part of the joint scrutiny function of local health boards. This would not only increase capacity and resources but would align the scrutiny of health and social care conterminously with homelessness services to provide greater integration.

26. The accompanying Regulatory Impact Assessment sets out our early consideration of the costs and benefits of these proposals. Are there any costs and benefits we have not accounted for?

32. We do not have any further comments in this regard.

27. What, in your opinion, would be the likely effects of the proposed reforms in this White Paper on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

Do you think that there are opportunities to promote any positive effects?

Do you think that there are opportunities to mitigate any adverse effects?

33. We think that the impact on the Welsh language would be largely neutral and that local authorities have sufficient resources to support service users who wish to engage in the Welsh language.

28. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

34. We would be delighted to continue to engage with the Welsh Government to outline how we can support the Welsh Government in their aims of tackling homelessness.

¹ <https://www.housingregulator.gov.scot/>