



## Consultation response: The Welsh government Ending Homelessness White Paper

January 2024

### Summary points

- Housing associations are committed to ending homelessness in Wales. We agree with the majority of proposals in the White Paper, and have made suggestions as to how we can collectively make a success of these changes. There is one notable exception to this: we strongly oppose the proposal for a Section 5-style mandating of allocations to housing association homes and believe this should be removed.
- Legislation is not the only tool at our disposal, and the evidence does not stack up here. Data within the [Scottish review of Section 5](#) indicates that, even with this provision in place, the variation in lets to homeless households remains, suggesting that the issue is not an obligation to work in partnership. We have an opportunity to learn from Scotland's experience, including the review's recommendations to focus attention on strengthening partnerships and developing common allocations policies.
- There are more effective, quicker ways to achieve the goal of allocating more homes to homeless households. CHC and our members are committed to working at pace with government to explore and implement non-legislative options. This could include the role of regulation and data collections, and maximising CHRs and CAPs.
- We must pursue a sustainable, person-centred route to ending homelessness in Wales. For each person this requires the right home, in the right place, with the right support for as long as it is needed. This will require investment in the supply of affordable homes and the Housing Support Grant, and local dialogue at allocations stage to ensure a sustainable match.
- We need improved data to ensure policy and legislative decision-making is informed evidence-based, and that we are able to judge the effectiveness of any future reforms. CHC has recently undertaken research around allocations. A copy of this report, *A study of housing association allocations in Wales*, will be shared with officials separately to this response. Later this year we plan to undertake research around ways to improve the overall homelessness data landscape.
- The process of implementation will be as important as the drafting of the legislation itself. At the moment the pressure on homelessness services and acute need for more social homes means that, without significant change on both of these fronts, the proposals will require a phased and supported implementation period if they are to be a success once rolled out. As key delivery partners, HAs alongside LAs must play a strong role to bring their knowledge of local places and processes to support effective implementation and phasing.



## Chapter 1: Reform of existing core homelessness legislation

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

Yes/no

### 2. What are your reasons for this?

We believe that the proposals will lead to this, yes, although we have some comments and points of clarification.

- Our members are very much in favour of the proposed duty to support a person to retain accommodation. We know that sufficient Housing Support Grant will be a prerequisite in making this important legislative change work in practice.
- We understand that 12 months is suggested as a duration for the duty as it aligns with contracts in the Renting Homes (Wales) Act 2016, but would suggest that either the legislation or guidance should require the LA to seek the views of the landlord that the tenancy is sustainable before ending this duty.
- Personal Housing Plans (PHPs) can make homelessness services more person-centred and make it more likely that the tenant will be able to maintain their tenancy, but it does rely on housing professionals having the 'capacity and capability' referred to in the White Paper. This will require sufficient resources, guidance and support from the Welsh Government to LA teams.
- PHPs can and should support better matching of person and home. HAs note that a key reason for a failed tenancy is location/distance of a property from an applicant's support network. PHPs should allow for more thoughtful matches which recentres the system to allocate to set people up for success.
- We would appreciate clarity on whether a NoSP equating a threat to homelessness will apply to all social landlords, including LAs (as per point #67).

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

N/A

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

Yes/no

Our members are in favour of abolishing priority need, but recognise that this will need to be implemented following through a planned, phased approach. This should include:

- Sufficient lead in time of at least 5 years, with careful consideration of the requirements to implement this policy ambition in practice whilst mitigating unintended consequences. We would point to learning in Scotland regarding the length of time needed to implement such a significant change.
- Sufficient resource for statutory homelessness services and support services, in order to avoid overwhelming already stretched services and staff
- Learning lessons from both successes and challenges from the No One Left Out period.



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

**Yes/no**

We have no objection to abolishing the intentionality test, and recognise that its use does not support the trauma-informed approach we are collectively committed to.

Our members are concerned that, while they are/will be used at different points in the process, the deliberate manipulation test proposed later in this White Paper feels similar to the intentionality test that will be abolished. We consider that more work could be done to explain how they differ, and the Welsh government's vision for what will improve outcomes for people.

## **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?**

Yes, we agree with this proposal, and note the following:

- We can learn from the pragmatic approach already operational in some local authority areas, specifically for those fleeing domestic violence or those who are employed in a borough.
- It will require joint working and communication between different LAs to make referrals for applicants without local connection. Clear statutory guidance will be very important here to make sure the spirit of legislation is reflected in practice.

## **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?**

N/A



## 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?**

**Yes/no**

**Please give your reason**

Yes, we agree with these proposals and believe they support holistic, person-centred and trauma-informed working. We note that:

- This area will require significant investment on an ongoing basis. Sustained funding and certainty beyond one year is especially important for relationship-based roles such as housing support staff and the school Family Engagement Officers mentioned in this chapter.
- We would welcome consideration of how much non-housing professionals will be expected to understand in order to fulfil this obligation. There will need to be clear parameters and boundaries, as well as appropriate and proportionate training. This should be a priority for consideration as part of plans for implementation.
- We agree that the duty to refer should be acted upon quickly, but would urge caution around potential unintended consequences where staff focus on referring quickly but perhaps not being able to take a person-centred approach and understand what is important to that person. It would be helpful for guidance to provide clarity and support on this.

### **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?**

We are supportive of RSLs/HAs being included in this list, as the strengthening of the existing duty to cooperate as part of a wider partnership landscape will formalise and underpin much of the work already done in the sector. We suggest that:

- There will need to be clear referral pathways for each LA.
- The police and criminal justice partners will be part of the multi-agency effort, and there are many examples across Wales where HAs and local police work very effectively together. However, there are striking differences in policy direction between WG devolved housing and homelessness vs UK Govt reserved policing, criminal justice and ASB management. We would welcome careful thought about this growing tension.

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

Somewhat. We note that:

- The balance mentioned in Q10 does not just apply to health but to other public services too.
- Regional Partnership Boards (RPBs) should take an active role in coordinating and strategising the homelessness response in their operating areas. The role of Public Service Boards (PSBs) and complex needs boards should also be considered. Recognition and involvement of housing and homelessness services in these spaces currently varies across Wales. Currently there seems to be strategic buy-in within the regional partnerships, but this has not yet translated to the operational level.



- There is support amongst our members for developing multi-disciplinary teams within LAs to respond to homelessness, as has been done in areas of RCT and Cardiff & Vale. Proposed reforms should create the conditions for effective partnerships, and there is existing good practice across Wales we can learn from.
- It will be important to establish common thresholds for support across partners, as without them each profession/public body could take their own view.
- To support effective partnership working, we would encourage the Welsh Government to consider education, awareness and training for key stakeholders as a key part of implementation plans to encourage productive partnerships. A lack of universal language amongst professionals is currently, in some cases, affecting a person's ability to access sufficient housing and support services.

**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.**

We observe that:

- These duties must be adequately funded and transitioned to, if they are to be effective.
- Guidance around point #243 (that the listed bodies must cooperate) would be welcome, indicating who decides what counts as 'a good reason', what happens if there is a disagreement and whether a lack of resource/capacity will be an accepted reason for not cooperating.
- The Welsh Government should consider whether the new duty to refer should be not just for a risk of homelessness, but also for the recognition of housing precarity or other need (e.g. overcrowding or lack of adaptations).
- More information around the proposed duty to sustain tenancies would be valuable, particularly on how needs are assessed and action/support monitored, the timeframe and what happens if support needs 'flare up' again soon after this action/support ceases. We would suggest that the role and views of the landlord should be taken into account by the LA when considering how it implements this duty, especially regarding if and when it is appropriate to discharge the duty.
- Point '246 (regarding the ending of cooperation) is currently quite vague, and we would welcome detailed guidance on what happens if different bodies cannot agree. Ideally decisions would be made in partnership, of course, but extreme pressures can cause tensions. Also, we would hope that ongoing cooperation does not end on the basis of one decision by one party.
- Clarity would be welcome on who will assess the application of the duty to support, and decide who requires support to retain their accommodation (as outlined in point #171). This should include the mechanism (e.g. PHP) and whether this will be reviewed at regular points or just at the start, as well as the stakeholders involved. We suggest that the views of the landlord should be carefully considered here.
- The duty to support ends at up to 12 months' into the tenancy but the LA '*should be able to end the duty on the basis it is satisfied there is no obvious risk of the contract failing.*' Guidance would be welcome on who will decide there is no obvious risk, and whether this will be in consultation with HAs/partners and the tenant. We consider that this should be in consultation with the landlord, and that LAs must have a requirement to have due regard to the views of the landlord when considering whether to discharge the duty.
- Our members find that it is currently relatively straightforward for HAs to refer to LAs and vice versa, but very difficult for HAs to refer to Health or other services. We need to consider a central referral point or pathway, whether through the case coordination and multidisciplinary teams proposed in the White Paper, or another mechanism. Otherwise, there is a risk of referrals getting lost or delayed and people not receiving the support they require to live well in their home and sustain their tenancy.



- Our members have raised that often when they refer a person/household to statutory services, support or assessments tend to go back to stage one. This is entirely unhelpful to the individual and the organisation as repeating work does not provide value for money, and we suggest that any guidance reflects this. HA staff members' assessments should be valued and recognised, as should other partners. This could also be supported by further discussions around data-sharing between agencies.
- We must move away from the current pressures that are forcing HAs to serve NoSPs in order to access homelessness prevention funding and/or support from partners. This is far from trauma-informed, and overcoming it will require both resources and a review of support thresholds.

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

Housing associations are wholly supportive of the proposals to provide enhanced case coordination for those with multiple and complex needs. The people who are presenting to homelessness services are doing so with increased needs, at a time where demand continues to rise.

- Our recent cost of living report, [The Ends Won't Meet: the continuing cost of living crisis for social housing tenants in Wales](#), demonstrates the varied and vital ways associations deliver tenant support, including financial wellbeing services, employability training and energy support. Our report also found that half of housing associations are delivering mental health support to their tenants, either directly or through work with other partners. Our members noted that for some individuals the support they can offer is not enough, and many of their tenants desperately need to access statutory mental health services. We hope that case coordination and better multi-agency working will help to facilitate this but ultimately we recognise that adequate resources will be essential to delivering it.
- HAs are fully supportive of the use of PHPs. This person-centred and trauma informed approach is invaluable in setting a person up for success as they move to settled accommodation. Regularly reviewed PHPs are crucially important to make sure nominations are based on accurate and up to date information about the applicant's needs and preferences. In our recent research, *A study of housing association allocations in Wales*, 14% of HAs noted 'change of circumstance' from the original application as one of the three main reasons an application would not proceed.
- It is vital that the Welsh government makes clear when multidisciplinary teams are appropriate and who will be accountable for deciding this. We consider that HAs should be able to request that a multi agency approach be taken from the LA, where the HA is landlord. We would also welcome clarity on which agencies are included in the 'three or more services', and whether statutory homelessness services count towards this total.
- We must also consider how we can improve case coordination and learn lessons from existing models that work well (e.g. MAPPA) and look at already successful co-located services. We note that police presence is not always desirable here, as it can be counterproductive, although probation services are often helpful.



**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?**

The context and timing of this legislative reform is a significant consideration. We agree with the Welsh Government that prevention is more important than ever. However, we must acknowledge and respond to the context in which these reforms will be enacted to ensure they have the greatest chance of success.

In recent years there have been successive crises, with little chance for our homelessness and wider public services to recover or regroup. We cannot underestimate the impact of this on individual or organisational resilience, and the investment required to build this back up.

Adequate funding and sufficient affordable housing supply are prerequisites of a homelessness prevention and alleviation system. An implementation plan, deliverable strategy, best practice, peer support and training are all acknowledged in the White Paper; these are all also vitally important. The process of implementation will be as important as the drafting of the legislation itself. Housing associations can play a key role here.





### 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)?

N/A

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

We have a few observations on the proposals in this section:

We are supportive of the proposal for a duty to help the applicant retain their existing accommodation, as long as the steps taken are genuinely person-centred. It must be the person/household's informed choice, and the home must be suitable with the required support in place for as long as it is needed.

HAs are fully supportive of proposals to ensure disabled people are served well and fairly by the system, including the use of accessible housing registers. We can learn from existing examples, such as ADAPT in Swansea and seek to scale this approach across Wales. Swansea Council hosts an accessible housing register, 'ADAPT'. More work should be done to learn from this approach and identify how it can be scaled so that people with physical disabilities in all local authorities can better access social housing. Guidance on said register will be necessary to ensure that appropriate and accurate information about the accessibility of a property is captured and to ensure consistency across areas. This will aid both housing providers entering properties onto the system and individuals who may be accessing it in multiple local authority areas. Our recent research, *A study of housing association allocations in Wales (January 2024)*, evidences that more work must be done to understand how adapted properties can be let fairly and efficiently. 47% of HAs said that one of the most common reasons an allocations would not go ahead was because a property either did not have the necessary adaptations to meet a person's needs or a property was adapted and the applicant did not require these. Sufficient funding to carry out adaptations is a prerequisite.

We note that current pressures on both allocations to homeless households and adaptations/moves for people with disabilities are creating tensions between these two priorities, and would welcome conversations with the Welsh government and other partners around this. We must guard against unintended consequences for other groups who are not currently homeless but are in unsuitable housing.

- 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 view, are the benefits and challenges of our approach and what unintended consequences should we prepare to mitigate?

We believe that every young person who requires social housing should have the opportunity to stay in a specialised 16-25 year old supported housing facility, if that is what is best for them and is their choice.

Housing is often the final safety net for care leavers where other support services have withdrawn, and any problems sustaining a tenancy is often a consequence of the gap between these services.





**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?**

We are supportive of the proposal to strengthen existing corporate parenting responsibilities, assuming that the various services are funded appropriately to fulfil their obligations.

**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?**

Yes, our members would be open to this proposal, with the following considerations:

- The prerequisites for a successful tenancy must be in place - the right home, in the right place, with the right support for as long as it is needed.
- We must be careful of multiple placements of young people into general needs housing schemes, when in reality a supported scheme might have been more suitable. A trauma-informed approach will be very important here.

**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?**

N/A



## 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?**

We support these proposals and believe these should allow for better, more sustainable matches of applicants and homes. We note that:

- It is vital that the LHA fully understands the home, location and community (and that they are able to take the advice of the HA), as well as the household.
- Housing associations are operating in the way described in point #482 already, but there are significant pressures due to a lack of adapted/accessible housing supply and adaptations funding being stretched by high demand.
- We are supportive of higher standards for temporary accommodation in future, as per point #499. We would welcome more information on likely timeframes here, and on what will happen if housing supply does not recover for many years.
- Regarding point #511, we would like to understand the Welsh Government's intention for these proposals if reliance on temporary accommodation does not reduce (as we all hope it will).
- We agree with the impacts described in point #508, but would add that others are also adversely affected by an unsuitable match - this includes others in the household, neighbours, the wider community and housing support staff.
- We are wholly supportive of the proposal around reasonable travelling distance. Placing someone into an unsuitable home might mean their experience of homelessness is brief (or briefer), but it may not be unrepeated.
- Regarding the exemption described in point #514, we would welcome guidance on what this exemption would cover, and for what time period. We wonder if there might be a risk of over-reliance on this exemption, and would be keen to guard against this.

### **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?**

We strongly disagree with the proposal for more muscular powers for LAs in terms of RSL allocations, and believe this should be removed. We support the outcome being sought, but legislation is the wrong vehicle and this risk of unintended consequences is high.

[Evidence from Scotland](#) shows that with Section 5 in place the variation in lets to homeless households remains. This indicates that the issue is not an obligation to work in partnership, rather that demand is vastly outstripping the supply of suitable homes. The Scottish review recommends focussing attention on other mechanisms, particularly strengthening partnerships and developing common allocations policies.

There are more effective, quicker ways to achieve the goal of allocating more homes to homeless households. CHC and our members are committed to working at pace with government to explore and implement non-legislative options. This could include the role of regulation and data collections, and maximising CHRs and CAPs.

We cannot support this proposal, for several reasons:

1. We do not yet understand the reasons behind the topline statistics, including the variation in allocation rates, and do not have sufficient evidence to take such a big step.



2. The most important outcome is a good match between a person and their home. This means a suitable property and a sustainable tenancy.
3. If we are housing only homeless people, that means we are not housing people who are in acute housing need and may themselves become homeless as a result. This risks pushing people towards crisis, rather than working to prevent homelessness.
4. HAs know their homes and communities, as LAs know the applicants and their needs. The proposed duty would undermine the power of the partnership.
5. There are easier and quicker ways of achieving the goal of housing more homeless people, that protect against unintended consequences such as reclassification.

Below we explain and evidence these reasons in detail.

### **1. We do not yet understand the reasons behind the topline statistics, and do not have sufficient evidence to take such a big step.**

The evidence base does not support such a significant change with so many unintended consequences. The White Paper states that Scotland's Section 5 '*has proved to be an important tool in providing access to housing for people owed a statutory homeless duty*'. We do not consider that the evidence wholly supports this assessment, as the [review of Section 5 undertaken by Scottish Government Social Research](#) is unclear as to the success and impact of the measure:

- Scottish Government analysis shows that just under a quarter of non transfer lets were made to statutorily homeless households in 2006/07, ranging from above 50% in one LA to under 15% in another. The review states that '*This range is even greater between individual RSLs, with some RSLs reporting more than 70% and some under 5% of non-transfer lets as made to statutorily homeless households in 2006/07*'. We can conclude from this data that, even with Section 5 in place, the variation in lets to homeless households remains, suggesting that the issue is not an obligation to work in partnership.
- '*It is worth noting that the proportion of lets made by an RSL to statutorily homeless households does not appear to be affected by whether the referral has been made using Section 5 or another mechanism*'. It appears that Section 5 does not provide a clear route to the goal of increasing the proportion of lets to homeless households.
- The report also explains that: '*One area of obvious tension between local authorities and RSLs arose when an RSL declined to make an offer to a statutorily homeless household that had been referred to them. It was evident that differences of opinion were often resolved after informal discussion.*' We believe this demonstrates the need for open conversations as part of a true partnership, and active consideration should be given to the conditions that support effective partnership
- The review implies that Section 5 referrals may not be needed at all if an area has a Common Housing Register (as this White Paper proposes to be the case): '*In some areas the wider allocations arrangement, in particular the existence of a CHR or the adoption of Choice Based Lettings (CBL), rendered referrals unnecessary.*'
- '*Analysis by a wide range of characteristics and factors... showed very few patterns which could help explain the variations in approach, practice or views on effectiveness.*' - It proved difficult to assess whether S5 had been successful.



- *'The current Section 5 Protocol should be replaced with a guide to developing an agreement between the local authority and local RSLs that sets out how RSL housing in the local area, by whatever route or mechanism, will be made available to statutorily homeless households. This should include agreement on respective roles and responsibilities, expected contributions to providing housing to statutorily homeless households, referral processes, and information exchange arrangements.'* We would urge the Welsh Government to learn from Scotland's experience so far. The 'agreement' described here sounds a lot like a Common Allocations Policy, which we believe would provide a far more flexible and constructive route than a Section 5-type power, as well as encouraging the productive, transparent partnerships required to make maximum progress.

Point #551 of the White Paper states that the co-commissioned research '*identified clear disparity between nomination rates and allocations as an area of concern*' and that '*It isn't always clear what causes the divergence between nominations and allocations.*' We feel strongly that this is an area that we all need to better understand, rather than act on with the blunt tool of legislation before we have all the facts. There are many reasons for lower numbers of homeless direct lets/allocations to homeless households, including a lack of appropriate supply and a lack of available support. Anecdotal information in this space is useful, but not sufficient for evidence-based policy decisions for such significant changes.

The allocations research the Welsh Government has commissioned to Alma Economics, and which HAs look forward to supporting, should shed light on the many unknowns acknowledged in the consultation paper and provide more robust evidence on which to make a decision on future policy and legislation. We feel strongly that a decision on whether or not to proceed with this proposal should not be taken until this improved evidence has been gathered and interrogated, and that our own sector research demonstrates how complex the decision making for each individual allocation can be.

## **2. The most important outcome is a good match between a person and their home. This means a suitable property and a sustainable tenancy.**

Suitability is a vital consideration when finding accommodation for any person or household, and this applies regardless of the duration or support level of the placement. Only through good matches can we ensure that, where it cannot be avoided, homelessness is unrepeatable as well as brief.

We cannot lose sight of the right outcome for individuals, and we must respect individual choice. Housing associations believe that it is generally better to place someone in the right home, which may not always be the 'fastest' allocation, as this is more likely to result in a sustainable tenancy. This approach reflects person-centred and trauma-informed practice.

We are concerned that a blanket power to require placement would put this sensitive and person-centred approach at risk. There are many examples of good quality partnership working which does not rely on legislative powers such as this.

Some members have suggested that 'starter tenancies' and/or 'retained homelessness status' for homeless applicants would be important tools to help them find the right matches. This would mean that if a tenant has a false start in their tenancies it would be easier to move them to alternative properties without re-entering at the starting point of the allocation process. This would of course need to be used carefully to avoid excessive moves for an individual.

Lack of suitable housing at present is reflected in the varying numbers of homeless lets, as highlighted in the co-commissioned research ([Allocations: Understanding more, in the context of homelessness in Wales](#)). Homes can become more suitable, and tenancies more sustainable, if the right support is in place.



Therefore, rather than forcing providers to allocate unsuitable homes to people, it is imperative we consider how we can better use support mechanisms like wrap-around support to maintain tenancies.

CHC's recent research, *A study of housing association allocations in Wales (January 2024)*, found that the most common reasons a HA refused an nomination to a particular home were type or size of a property, a lack of adaptations or unnecessary adaptations, unsuitable location (e.g. the property was too far away from the applicant's support networks) and historical challenges with an applicant. This includes previous ASB, serious arrears and previous convictions. Importantly, however, none of these scenarios would mean an applicant will never get a social home, or even a home with that particular social landlord; it simply means that associations would need to consider an allocation more carefully to ensure they find a match which responds to the needs of the applicant and maintains balance within communities. For example, if there is an area where there have been high levels of ASB due to several Registered Sex Offenders (RSOs) being 'outed' in a community and there is another nomination to a homeless applicant who is also an RSO, then a housing association may consider a property in that area unsuitable and would find them a home in a more appropriate location.

We support the consultation's proposal to exclude historic instances of ASB and arrears in allocating homes, as outlined in point #556, as long as it is understood that additional support may be needed to sustain the tenancy.

CHC's recent research has shed some light on the support needs of people who were allocated homes, and this is an area we will be exploring further:

- 27% were experiencing mental health issues.
- 23% had poor financial resiliency.
- 23% had 'Other' support needs.
- 8% had multiple complex needs

**3. If we are housing only homeless people, that means we are not housing people who are in acute housing need and may themselves become homeless as a result. This risks pushing people towards crisis, rather than working to prevent homelessness.**

The proposed legislative tool is a blunt instrument which risks baking in a crisis response. To ensure we achieve our shared aspiration for homelessness to be 'rare, brief and unrepeatable.' We must seek to provide support as early as possible and protect access to social homes to people in acute housing need, including but not limited to those already classed as homeless.

Our research sheds light on the complexities of housing challenges facing those that are allocated social homes. There is no evidence that HAs are not allocating to those who have housing need or are facing housing crisis. There are significant unintended consequences if we simply focus on crisis response and restrict our collective ability to prevent homelessness by acting upstream (for example in cases of overcrowding).

HAs strongly believe it will benefit no one to build a system that encourages a 'race to crisis' or 'point scoring'. We agree with the prevention of perverse incentives, as stated in point #565, but suggest that we also need to be careful of adding stigma to social housing. This proposal uses a fairly irreversible measure that would undermine a great deal of work undertaken in recent years.

Housing associations allocate homes to people in a variety of ways and for different reasons, as evidenced by our recent research, *A study of housing association allocations in Wales*:

- 45% of allocations were going to those who were owed a statutory duty, reflecting an understanding of the need to support those already experiencing homelessness.



- Where applicants were not owed a statutory duty, nearly half were considered at risk of homelessness within six months if they had not been housed at that point.
- 33% of allocations were made to people living in temporary accommodation, 18% to those living with family and friends and 4% to people who were sofa-surfing.
- 19% of allocations went to people already living in social housing. There are many reasons why someone already living in a social home may have an urgent need to move, for example when circumstances change meaning that they are over or/ under occupying or in relation to health and accessibility needs. HAs are concerned about the current inability of social housing tenants to move in such circumstances. Retaining flexibility for internal moves is also a key part of the sector's commitment to limit evictions into homelessness.

#### **4. HAs know their homes and communities, as LAs know the applicants and their needs. The proposed duty would undermine the power of the partnership.**

RSLs are the experts on their homes and their communities, as well as on where there is housing need and early risk of homelessness due to unsuitable housing among their existing tenants. LAs will have the best understanding of applicants' needs, but they cannot be expected to have the same insight of the potential RSL homes available.

There are other stakeholders involved in each allocation decision. In the case of ex-offenders, for example, HAs have to acknowledge the views of local police forces and the existing community. HAs must consider the needs of neighbours and wider communities when allocating, for the safety and wellbeing of everyone.

As referenced elsewhere in our response, we already have examples of good practice and strong relationships between housing associations and local authorities, which could be developed and expanded. For the allocations process to work successfully there must be equitable relationships at senior and operational levels between all partners working in a local authority area.

Legislation is not the route to achieve this - there are other ways to drive transparency into the process and deliver on the policy intention of this proposal. The White Paper mentions that the legislative proposal seeks to bring about a cultural shift. We think there would be value in exploring what would drive this cultural shift, such as trust, transparency and mutual understanding, and how we can all support it. There is a risk that muscular legislation breeds adversarial, defensive interactions, rather than the robust, transparent partnerships required to make progress at pace.

Differences of opinion between partners when discussing the most suitable match for an individual are not necessarily unhelpful; this can ensure that there is a good balance of views, and that a rigorous approach is taken to allocations. As the [review of Section 5 undertaken by Scottish Government Social Research](#) states, *'Some challenge and some friction in a partnership may be important to ensure that some of the difficult issues which arise in relation to housing statutorily homeless households are addressed rather than being 'smoothed over'.*

On a practical level, we would welcome detail on what will constitute an 'unreasonable refusal' and 'specified circumstances'. For example, whether a lack of supply (that is appropriate and suitable) would be considered an acceptable reason. The White Paper mentions guidance that will be developed, and HAs are willing and able to help shape such guidance, should the proposal be taken forward.





## **5. There are easier and quicker ways of achieving the goal of housing more homeless people, that protect against unintended consequences.**

Legislation is not the right lever to use to tackle the allocations challenge. Our members believe that focussing on accountability, transparency, information sharing and trusting partnerships would secure better outcomes for people.

We strongly believe there is no need or opportunity for disagreements around allocations when working within an agreed set of policies. One such route is the use of a Common Housing Register and Common Allocations Policy (also referred to as a framework or scheme), which this White Paper proposes to make mandatory. We support this, assuming resources are adequate to support it properly. We believe the use of a CHR and CAP would be sufficient to address challenges around the rate of HA allocations to statutory homeless households, and to achieve the desired outcomes, without the risk of adverse consequences inherent in legislation. This reflects the lessons learnt in Scotland. This approach would also avoid crystallising the risk outlined in the consultation paper around reclassification of housing associations as public bodies.

The CAP would allow transparency of decision making, as well as trust and honesty through challenging conversations. We would, of course, need data to hold all partners accountable in this framework or scheme. Our members recognise that CHRs are on the whole a good idea as they ensure a sole access point to social housing for service users and should make the system more efficient. However, for CHRs to be successful they must be adequately resourced and work alongside a common allocations policy or scheme. Any CHR takes a significant amount of resources to maintain and ensure it remains accurate, and there are concerns that some existing CHR lists are out of date. This means that sometimes a HA finds a home for an applicant, they move in and then their support needs are uncovered. We are hopeful that PHPs can be helpful here, but lists being up to date will make shortlisting easier and quicker.

There is good practice in the sector already in this space. The Single Access Route into Social Housing (SARTH) Partnership hosted between Denbighshire, Flintshire and Conwy LAs and five HAs across North Wales is one such example, including their triage process. Stakeholders that deliver SARTH are committed to continuous improvement. They are currently reviewing their approach and seeking to improve their services so that it is more user friendly, more accessible and more efficient. This is the type of practice that could be lost if legislation is made too prescriptive.

Another system to learn from is Tai Teg, a partnership project led by Grwp Cynefin that provides a central hub to access affordable housing (intermediate rent and affordable sale) by hosting a regional register for eligible people and allowing them to apply for properties. We believe that any legislation or guidance should be expressly informed by best practice, and we consider there is a role for the Welsh Government's Relationship Managers here.

Effective regulation, a code of practice and an active learning programme in place of legislation could all also be more impactful tools to make progress at pace, shine a light on what is working well and encourage continuous development

We have also reflected upon some of the other proposals in this section, and provide explanation below:

- 'power to remove people with no housing need' - some uneasiness
- 'deliberate manipulation test' - needs further consideration





## Removing applicants with no housing need

Housing associations feel uneasy about the proposal for LAs to have the powers to remove people not in housing need from the waiting list, and struggled to understand what practical impact this would have.

It is important that frank, honest discussions are had with applicants during the application process about the realities of their housing situation; how likely it is that they will be allocated a social home; and directing and supporting them to access other housing options (e.g. intermediate, PRS) if social housing is not the best or a realistic option for them.

We would urge the Welsh government to consider the unintended consequences of regressing the positive work that has been done to improve the perception of social housing by including this power in the Bill.

The assertion in point #557 (that anyone can register for social housing even if they are not in housing need) is not true. The 'openness' of registers currently varies across Wales. The SARTH partnership, for example, operates a system where only people with a defined and eligible housing need will be added to the social housing register.

## Deliberate manipulation test

HAs would welcome more detail on who would be responsible for making decisions around 'deliberate manipulation', and the criteria used for assessing it. They feel that this lever would rarely be used by individuals because of the risks involved in accusing a person of lying and/or making the wrong decision, especially in cases involving safeguarding, domestic abuse, etc.

HAs are keen to understand how WG envisages the reasonable/additional preference and deliberate manipulation measures working, perhaps with some mapping of scenarios and how an applicant would interact with each test.

HAs feel that the proposed deliberate manipulation test comes at too late a stage in the allocation process, not least because time and resources would have already been directed to allocating the applicant, so it would be more straightforward at that point for the applicant/tenant to stay. If deliberate manipulation was identified, would the social landlord then have to withdraw the offer of a tenancy or evict the applicant, likely back into homelessness? This would clearly be at odds with efforts to end evictions from social housing into homelessness.

### **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?**

N/A

### **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?**

The White Paper notes the risks associated with the reclassification of housing associations as public bodies, and these challenges remain a significant concern to the sector. We do not feel that these risks have yet been sufficiently addressed or mitigated. This issue is not entirely in the Welsh government's control, and the unintended consequences cannot be underestimated.



In June 2023, we provided Welsh Government with a summary of legal advice we procured on this issue, which identified a number of prudent next steps for the Welsh government:

- To engage with and inform the ONS about any material change which could impact classification. Legal advice we have received is that such significant legislative reform should be considered as a material change.
- To seek leading counsel opinion for a view ahead of tabling of any legislation, as these issues are complex with little authority or precedent.
- To engage with funders through UK Finance as a matter of urgency. There are potential significant implications of these proposals for the view taken by funders.



## Chapter 5: Implementation

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

We appreciate the Welsh Government's acknowledgement that the financial and budgetary situation is very challenging at the moment, and we understand that the White Paper represents a long-term, aspirational view. The resources to make this ambition a reality are not available now. While we all hope that the budgetary situation will improve in the future, the delivery of the vision is not possible without sufficient resources, and if they are not there then we risk pushing the system and people further towards crisis.

Careful thought should be given to the potential phasing of each element of this reform. HAs alongside LAs are key delivery partners and must be involved in detailed discussions with the Welsh government to ensure sensible roll out phasing and detailed implementation. CHC would be happy to support this.

As mentioned earlier in our response, we must have strong, reliable data so that we can all understand the real picture. The data on allocations is currently patchy, and evidence from Scotland's experience of allocations legislative reform does not support the need for such significant change. CHC will soon be undertaking some work to understand how to improve the wider homelessness data landscape, exploring the essential components to build this clear picture.

In terms of allocations, our members believe that this involves a two pronged approach:

- Information about the applicant collected on the register. For example, do they require accessible/adapted accommodation; do they have complex needs; what agencies are engaged with applicants at time of application; the level of soft skills an applicant has.
- Detailed information held by the local authority about housing supply in their area (extending across tenures from social housing to the PRS). A local housing strategy shared by homelessness prevention teams and planning departments would ensure all facets of local government were working towards the same end goal. This could be tied into Local Housing Market assessment (LHMA) and local needs assessments. It is critical that these are up to date as they should inform distribution of funding homelessness services, including through the HSG.

Our research, *A study of housing association allocations in Wales* (referred to throughout this response), provides some insights into the many factors and considerations behind each individual allocation. The findings demonstrate clearly why it is so vital that both the applicant's situation and the nature of the property is well understood in order for a sustainable match to be made quickly and smoothly.

We must also consider how data can be shared effectively and proportionately. Personal Housing Plans are a vehicle to consider what level of information should support an application for housing, and which agencies should have access to this information.

### **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?**

The Ending Homelessness Outcomes Framework (EHOF): We are wholly supportive of this as a tool to ensure accountability across public services for the role that they must play in ending homelessness, including any consequences for public bodies not delivering on their obligations. We also must consider how the EHOF can link to existing frameworks such as the Public Health Outcomes Framework.



**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?

N/A

**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.

- a. Do you think that there are opportunities to promote any positive effects?
- b. Do you think that there are opportunities to mitigate any adverse effects?

N/A

**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.

We understand that Welsh government budgets are unprecedentedly tight for the upcoming years. This means that it is even more pressing for the Welsh Government to consider the cost of implementation. Like other key services, housing associations are also bracing economic headwinds and must continue to endeavour to make the best investments they can on behalf of the communities they serve.

We must learn lessons from recent resource-intensive, expensive implementations, including the unanticipated costs of the Renting Homes (Wales) Act 2016, so that associations and both national and local government can continue to direct their resources to the services that need it the most.

### **Housing supply**

We are fortunate in Wales that the Welsh government recognises and prioritises the value of social housing, investing record amounts of capital funding into new affordable social homes for rent and working in partnership to find solutions. Yet building these homes has never been more difficult - and that the net worth of that substantial investment simply does not stretch as far.

We must utilise allocations as a tool to make the best use of housing stock. Our members noted that currently this can be made more difficult by reserved policies like the bedroom tax, which makes allocating small 2-bed flats difficult. We would welcome continued representation to the UK Government on this matter.

### **Data**

We need improved data to ensure policy and legislative decision-making is evidence-based, and so we are able to judge the effectiveness of any future reforms. CHC has recently undertaken research around allocations. A copy of this report, *A study of housing association allocations in Wales*, will be shared with officials separately to this response. Later this year we plan to undertake research around ways to improve the overall homelessness data landscape, exploring the essential components to build a clear picture on which to base our decision-making.



## Definition of homelessness

We would like to highlight a potential issue with the application of the definition of 'homelessness'. This could have huge implications for demand increasing, and could potentially be more impactful than many of the other proposals in the White Paper.

#57 states that *'a person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for that person to continue to occupy'*. The Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness (2016) describes this as including people who are *'unable to remain in, or return to, housing due to poor conditions, overcrowding, affordability problems, domestic abuse, harassment, mental, physical and/or sexual abuse'*.

There are increasing numbers of people in acute housing need, including those in overcrowded homes or people with disabilities whose homes do not currently meet their needs. We consider that many applicants on the housing register, who are not currently considered a homeless applicant, would be captured by the definition: *'A person who has accommodation is to be treated as homeless where it would not be reasonable for them to continue to occupy it.'* These households are in urgent housing need but would not be considered roofless, and may not be owed a duty depending on how the definition is being applied.

#206 describes research undertaken in England by Shelter that found *'more than three quarters (77%) of teachers surveyed had seen children who were homeless or living in bad housing at their school in the last three years. Seven out of every ten teachers (69%) had seen children who were living in overcrowded, unstable or poor-quality housing.'*

We urge the Welsh Government to consider very carefully their definition of 'homelessness', and therefore who is owed a duty. We would welcome a wide definition that covers various types of housing need.

## Role of different housing tenures

In order to end homelessness and address the current level of housing need, we will need a holistic, joined up approach across all tenures. We note that much of the White Paper focuses on social housing, which currently makes up around 10% of homes in Wales. While social housing is a key part of the solution, and housing associations are well placed and eager to play their part, we wonder whether all elements of the housing market have been fully considered. The work of the Senedd Local Government and Housing Committee on the PRS could be helpful here.

Our members have highlighted that more work could be done to explore how intermediate housing options could be maximised. CHC's recent research, *A study of housing association allocations in Wales (January 2024)*, found that only 2% of allocations in our cross-sector sample were intermediate housing options. Some people or households may be well suited for intermediate rent, especially if they have been able to afford a PRS tenancy rent. We would like to see social and intermediate housing stock considered in the round when finding the right match for a person or household.

To discuss this consultation response, please contact [sarah-scotcher@chcymru.org.uk](mailto:sarah-scotcher@chcymru.org.uk).