

| ISLE OF ANGLESEY COUNTY COUNCIL | |
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| Report to: | Executive Committee |
| Date: | 26 May 2015 |
| Subject: | Housing (Wales) Act 2014 |
| Portfolio Holder(s): | Councillor Aled Morris Jones |
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| Local Members: | All |

| A –Recommendation/s and reason/s |
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| <p>Recommendations</p> <ol style="list-style-type: none"> 1. That the Executive Committee notes the changes in homelessness administration arising from Part 2, Chapter 2 of the Housing (Wales) Act 2014, and the implications for service delivery and resources. 2. That the Executive Committee approves that, for the purpose of deciding whether homeless applicants are owed the most substantive homelessness housing duty (under section 75 of the 2014 Act), from 1 July 2015 the Council will, for all priority need categories, have regard to whether persons became homeless intentionally. 3. That the Executive Committee approves the proposed minor changes to the current Housing Allocation Policy, to ensure it complies with the changes in homelessness legislation, to take effect once the Council's partner Registered Social Landlords have been consulted. <p>Background: The Housing (Wales) Act 2014</p> <p>The Housing (Wales) Act 2014 received Royal Assent on 17 September 2014. Most of the provisions concerning homelessness came into effect on 27 April 2015. The previous statutory framework governing the assistance given to homeless persons (contained in Housing Act 1996, Part 7) has been replaced for persons applying for help on or after 27</p> |

April 2015.

The purpose of the homelessness reforms are to strengthen the focus on preventing homelessness, ensure interventions to prevent homelessness are more effective, increase customers' engagement in the assessment process, strengthen the duty on Registered Social Landlords (RSLs) and the Social Services Authority to cooperate in the discharging of homelessness functions, and to enable privately rented accommodation to be used to discharge housing duties. To achieve these policy objectives the legislation provides a new assessment procedure, places new duties on the Council to take reasonable steps to help all applicants in their efforts to secure accommodation (irrespective of the applicant's priority need status), and introduces other associated provisions.

The Council must undertake a statutory assessment wherever a person applies for help in obtaining or retaining accommodation and there is reason to believe s/he may be homeless or become homeless within 56 days (formerly 28 days). The Council is now subject to a variety of strengthened duties in relation to how homeless applicants must be assessed and notified at various stages in the statutory process. In addition applicants have additional opportunities to appeal decisions and certain aspects of the assessment by requesting that a statutory review is carried out by a senior officer.

The Council is subject to significant additional burdens as a result of the new legislation, albeit for purposes consistent with the corporate priorities of delivering customer-focused services, increasing housing options and reducing poverty. Complying with the strengthened duties requires Housing Options Officers to undertake additional tasks, and to adopt an 'active casework management' approach for all persons who may be at risk of homelessness. The extension of the 'threatened with homelessness' threshold from 28 to 56 days and the lessened importance of priority need status is likely to significantly increase demand, both in terms of the number of persons assessed and helped, and the tasks that must be undertaken in respect of each case.

Welsh Government funding of £113,404 has been approved for 2015/16 to cover additional financial burdens. This includes developing a bespoke ICT software module that will reduce manual recording, and help frontline officers meet the new duties, which has been identified as a key priority to ensure the onerous new duties can be efficiently administered, and demand for additional staff resources is minimised.

In addition, the Housing Options service is in the process of being restructured, so as to increase the resilience of those functions relating to housing needs assessments and the sourcing of accommodation, including privately rented accommodation.

Intentional homelessness

Where persons apply for help as homeless the Council is currently obliged to consider whether they have become homeless intentionally to determine the duty owed. Intentional homelessness has a detailed statutory definition (HA 1996, s.191; HWA 2014, s.77).

Broadly speaking a person's homelessness is intentional if it was caused by the applicant ceasing to occupy reasonable accommodation because of their own deliberate actions, e.g. not paying rent, failing to ensure housing benefit was claimed, or vacating accommodation without having arranged alternative housing.

The new legislation allows authorities to consider whether a homeless person in priority need (e.g. a vulnerable person, or someone with dependent children) became homeless intentionally when deciding whether the most substantive housing duty is owed under HWA 2014, s.75. However, to have regard to intentionality the Council must now decide which priority need groups the test will apply to (s.78). A list of the priority need groups is contained in the Intentionality Regulations, which are attached as an appendix.

It is proposed the Council adopts the power to have regard to intentionality for all priority need groups, for the following reasons:

1. It is a desirable policy objective that persons whose homelessness was caused by their own actions should not receive the highest form of housing duty.
2. The availability of the sanction deters potential applicants from deliberately ceasing to occupy suitable accommodation.
3. Persons deemed to have become homeless intentionally will ordinarily be accommodated temporarily, and receive help to secure alternative accommodation, and the new homelessness legislation has strengthened what help must be provided in several key respects. It will ordinarily only apply in cases where initial attempts to help homeless applicants secure accommodation for a period of up to 56 days (under HWA 2014, s.73) have been unsuccessful.
4. There should be parity in the priority awarded for permanent social housing between homeless applicants who are assessed before and after the new legislation came into effect.
5. The Council finds only a small proportion of homeless applicants intentionally homeless (10 cases in all of the past three years 2012/13, 13/14 and 14/15, respectively representing 4.5, 4.2 and 3.9 per cent of all homeless decisions), suggesting the sanction is reserved for cases where officers are satisfied it is warranted and where attempts to prevent homelessness have been unsuccessful.
6. Retaining the intentionality test for all priority need categories will enable the Council to monitor the impact of the new legislation and how the sanction operates within the new regime.

Housing Allocation Policy

The authority must have a policy governing priorities and the procedure to be followed in allocating permanent social housing. The statutory framework for allocations is contained in Part 6 of the Housing Act 1996. This remains largely unchanged by the 2014 Act, but there are minor consequential amendments resulting from the homelessness changes.

The Council operates a Common Housing Register on behalf of the Anglesey Housing

Partnership which includes Clwyd Alyn Housing Association, Grŵp Cynefin, and North Wales Housing. The Council is in the process of developing a new Common Housing Allocation Scheme with these RSL partners.

Impact on the Housing Allocation Policy

Pending the conclusion of the aforementioned review, minor amendments are required to the Housing Allocation Policy, to reflect legislative changes.

How 'reasonable preference' (or the 'head start' in terms of priority for housing) for persons must be given effect by the policy for persons who are homeless has to be amended, as a result of amendments to section 167(2) of the Housing Act 1996 by 2014 Act.

The proposed changes to the policy are set out and highlighted in the accompanying Housing Allocation Policy at Appendix 1. The purpose of the changes is to give effect to the changes brought about by Schedule 3 to the 2014 Act, while broadly retaining parity between persons whose homelessness was assessed *before* the new legislation came into force on 27 April 2015 and those assessed *on or after* this date.

B – What other options did you consider and why did you reject them and/or opt for this option?

Recommendation 2

Alternative option (a): to not exercise the power to consider intentionality for any priority need groups. Alternative option (b): to not exercise the power in respect of categories where applicants are likely to be particularly vulnerable. Both alternative options were rejected for the reasons given on Page 3.

Recommendation 3

We did not consider any other options than amending the policy, given it is a legal requirement.

C – Why is this a decision for the Executive?

Intentional homelessness: Matters relating to the homelessness function have been delegated to the Head of Service under the Constitution (paras 3.5.3.12.5 and 17). The Welsh Government has suggested it may be appropriate for the Executive to determine whether the power to have regard to intentionality is exercised, because it is a new statutory provision, and because of the potential implications for Children's Services (e.g. the possibility of an increase in requests for assistance under section 20 of the Children Act 1989 and section 21 of the National Assistance Act 1948).

Housing allocation policy: Although matters relating to the allocation function were delegated to the Portfolio Holder by Executive on 30 November 2010 it is expedient to consider the allocation amendments at the same time as a decision on adopting the intentionality power.

D – Is this decision consistent with policy approved by the full Council?

Yes.

DD – Is this decision within the budget approved by the Council?

Yes.

| E – Who did you consult? | | What did they say? |
|---------------------------------|---|---|
| 1 | Chief Executive / Strategic Leadership Team (SLT) (mandatory) | |
| 2 | Finance / Section 151 (mandatory) | There is insufficient evidence at this stage to indicate the financial implications of the new legislation. Significant additional monitoring will be required. |
| 3 | Legal / Monitoring Officer (mandatory) | |
| 5 | Human Resources (HR) | No comment. |
| 6 | Property | |
| 7 | Information Communication Technology (ICT) | |
| 8 | Scrutiny | |
| 9 | Local Members | |
| 10 | Any external bodies / other/s | |

F – Risks and any mitigation (if relevant)

| | | |
|---|---------------------------|--|
| 1 | Economic | |
| 2 | Anti-poverty | |
| 3 | Crime and Disorder | |
| 4 | Environmental | |

| | | |
|---|---------------------------|---|
| 5 | Equalities | The Housing Allocation Policy and the power to consider intentional homelessness are relevant to the Council's general and specific equality duties to promote equality and eliminate discrimination. The Housing Allocation Policy is also relevant to the duty to promote and protect human rights (Article 8). No changes have been introduced that impact on the authority's equality duties. |
| 6 | Outcome Agreements | |
| 7 | Other | |

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| FF - Appendices: |
| <p>Housing Allocation Policy (July 2013) showing proposed amendments.</p> <p>The Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015, SI No 1265 (W.65)</p> |

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| G - Background papers (please contact the author of the Report for any further information): |
| <p>Housing Act 1996</p> <p>Housing (Wales) Act 2014</p> <p>The Housing (Wales) Act 2014 (Commencement No.3 and Transitory, Transitional and Savings Provisions) Order 2015, SI No 1272 (W.88)</p> <p>Code of guidance to local authorities on the allocation of accommodation and homelessness 2015 (Welsh Government, April 2015)</p> |



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

ISLE OF ANGLESEY COUNTY COUNCIL

HOUSING SERVICES

HOUSING ALLOCATION POLICY

~~JULY 2013~~MAY 2015

INTRODUCTION

The allocation of social rented housing is largely governed by the legislative framework set out in Part 6 of the Housing Act 1996. Amendments under the Homelessness Act 2002 revoked the *duty* to keep a Housing Register although there remains the requirement to have an allocations scheme which shows the priorities and procedures used to allocate accommodation. The scheme must contain a statement of the Authority's policies on choices and preferences.

Section 159 of the Housing Act 1996 defines the allocation of housing accommodation by housing authorities as:

- selecting a person to be a secure or introductory tenant of accommodation held by the local authority;
- a nomination to such tenancies of accommodation held by another person (ie, as stipulated in Section 80 Housing Act 1985);
- a nomination to an assured tenancy (including assured shorthold tenancy) of accommodation held by Registered Social Landlords.

The broad framework sets out who is eligible/ineligible for inclusion in the allocations scheme and identifies groups of people who must be given reasonable preference.

The Welsh Government's 'Code of Guidance for Local Authorities [on the Allocation of Accommodation and Homelessness 2015](#); ~~Allocation of Accommodation and Homelessness 2012~~' must also be taken into account.

The following Statutory Instruments also apply:

'The Allocation of Housing (Wales) Regulations 2003' cites two cases where the provisions of Part 6 do not apply:

- Where a local authority secures the provision of suitable alternative accommodation under Section 39 of the Land Compensation Act 1973 (3) (duty to rehouse residential occupiers)
- In relation to the grant of secure tenancy under Sections 554 and 555 of the Housing Act 1985 (4) (grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house).

'The Allocation of Housing (Wales) (Amendment) Regulations 2006' amended the 2003 provisions which prescribe classes of persons who are subject to immigration control who are eligible to include persons having humanitarian protection.

| INDEX | PAGE NO |
|---|---------|
| 1.0 COMMON HOUSING REGISTER | 3 |
| 2.0 ELIGIBILITY FOR SOCIAL HOUSING | 4 |
| 3.0 DATA PROTECTION | 5 |
| 4.0 MAKING AN APPLICATION | 5 |
| 5.0 APPLICATIONS FROM 16/17 YEAR OLDS | 5 |
| 6.0 ELIGIBILITY CRITERIA FOR SPECIFIC PROPERTY TYPES/SIZE | 6 |
| 7.0 JOINT TENANCIES | 7 |
| 8.0 RIGHT TO GENERAL INFORMATION | 8 |
| 9.0 CHOICE | 8 |
| 10.0 THE PROCESSING OF APPLICATIONS | 8 |
| 11.0 CHANGE OF CIRCUMSTANCES | 9 |
| 12.0 SUSPENDED APPLICATIONS | 10 |
| 13.0 CRITERIA FOR PRIORITISING APPLICATIONS | 12 |
| 14.0 HOUSING NEED POINTS | 13 |
| 15.0 TRANSFER APPLICANTS | 18 |
| 16.0 LOCAL CONNECTION POINTS | 18 |
| 17.0 VERIFICATION VISITS | 18 |
| 18.0 SELECTION OF APPLICANTS AND GRANTING TENANCIES | 19 |
| 19.0 ROLE OF ELECTED MEMBERS IN THE ALLOCATIONS PROCESS | 19 |
| 20.0 NOMINATIONS TO HOUSING ASSOCIATIONS | 20 |
| 21.0 RIGHT TO INFORMATION ABOUT DECISIONS | 20 |
| 22.0 RIGHT TO REVIEW OF DECISIONS | 20 |
| 23.0 MONITORING AND REVIEW | 21 |
| 24.0 ALLOCATIONS EXCLUDED FROM THE ALLOCATION POLICY | 21 |

1.0 COMMON HOUSING REGISTER

- 1.1** The Isle of Anglesey County Council maintains a common housing register for its residential properties, as well as for those housing associations in the area that have chosen to participate in the Ynys Môn Housing Partnership - Cymdeithas Tai Eryri, Clwyd Alyn, and North Wales Housing.
- 1.2** This document sets out the Council's detailed procedures for processing new applications for social housing and applications from existing tenants wishing to transfer to alternative accommodation, and the processes involved in allocating dwellings.
- 1.3** The Council is committed to promoting equal opportunities and all applicants will be treated equally and without any discrimination.
- 1.3A** The Council will, when administering the allocation scheme, comply with the public sector equality duty. The Council shall have due regard to those matters listed in section 149(1) of the Equality Act 2010, including the need to eliminate discrimination, harassment and victimisation, the need to advance equality of opportunity, and the need to foster good relations between persons who share 'protected characteristics' and other persons.
- 1.3B** The Council will, where necessary, take appropriate steps to meet the needs of persons who share a protected characteristic, and to remove or minimise disadvantages they suffer. In this context, the protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender, and sexual orientation.
- 1.3C** Applicants shall be asked a series of questions, as part of the application process, and allocations shall be monitored, to enable the Council to monitor equality of opportunity, and the impact of the allocation scheme on persons who share protected characteristics.
- 1.3D** The Council shall make this policy and any associated documentation or literature available in another language or format, where necessary for the purpose of advancing equality of access, including to an individual applicant, upon receiving a request to do so.
- 1.4** The policy seeks to ensure that people in the greatest housing need have the highest priority for being housed or rehoused in the area of their choice.

2.0 ELIGIBILITY FOR SOCIAL HOUSING

2.1 Everyone is entitled to go onto the Housing Register unless they are excluded under the Housing Act 1996 [and the regulations concerning eligibility \(The Allocation of Housing and Homelessness \(Eligibility\) Wales Regulations 2014\)](#) ~~as amended by the Homelessness Act 2002.~~

2.2 Statutory Exclusion

Applicants who are subject to immigration control within the meaning of the Asylum and Immigration Act 1996(c.49) are not eligible **unless**:

- a) they are existing secure or introductory tenants or assured tenants of housing accommodation allocated by a local housing authority;
- b) the applicant is a British Citizen;
- c) a Commonwealth citizen who has the right of abode in the UK;
- d) a citizen of a member country within the European Economic Area;
- e) a person who has been granted refugee status;
- f) a person who has been granted exceptional leave to enter or remain in the UK which is not subject to a condition requiring him/her to maintain and accommodate him/herself and any dependants without recourse to public funds;
- g) a person who has a current leave to enter or remain in the UK which is not subject to any time limit or condition. (Other than a sponsored immigrant who has been here for at least 5 years and whose sponsor(s) is still alive.)

2.3 Persons who are not habitually resident within the Common Travel Area of the UK, Republic of Ireland, Isle of Man and Channel Islands.

2.4 Nationals of the European Economic Area with no right to reside. A person who is a national of a country within the EEA and who is notified by the Home Secretary that he/she no longer has a right to reside in the UK.

2.5 A person who is excluded from entitlement to Housing Benefit by Section 115 of the Immigration and Asylum Act 1999 (c.33).

2.6 Discretionary Exclusion (power to exclude on basis of unacceptable behaviour).

The Council will only exclude those persons falling within the statutory provisions. This approach ensures that the allocation policy is not only inclusive but accurately reflects housing need on the island. This does not necessarily mean that all

applicants will be actively considered for housing. Please refer to Paragraph 12.0 'SUSPENDED APPLICATIONS'.

- 2.7** Applicants who feel they should become eligible can reapply to the Housing Authority at any time but will be required to demonstrate that their circumstances have changed.

3.0 DATA PROTECTION

- 3.1** The Council will not disclose information regarding a person's application for housing to any third party or member of the public without their express consent unless required to do so by law. By signing the Housing Register application form, the applicant gives consent to the Council to make relevant enquiries in connection with their application and their suitability to be a tenant.

4.0 MAKING AN APPLICATION

- 4.1** The Council will provide advice and information free of charge to potential applicants about their right to join the Housing Register, including an application form. The Council will also provide help directly or indirectly in making an application, free of charge, to anyone on the island who is likely to have difficulty applying without assistance.
- 4.2** The Council will endeavour to provide information in alternative formats upon request.

5.0 APPLICATIONS FROM 16/17 YEAR OLDS

- 5.1** Section 1 of the Law of Property Act 1925 prevents minors from holding a legal estate in land. Consequently applicants will normally only be considered where the Council has a duty under the homelessness legislation or the Children Act 1989 and an appropriate adult will be required to enter into a guarantee in relation to the tenancy agreement. There may also be a requirement for appropriate support arrangements. The offer of permanent accommodation before an applicant is 18 is at the discretion of the Head of Housing Services.
- 5.2** The housing and support needs of lone parents under 18 years of age will be subject to joint assessment with Social Services and other agencies (where relevant). The consent of the applicant must be sought unless there are child protection concerns.

6.0 ELIGIBILITY CRITERIA FOR SPECIFIC PROPERTY TYPES / SIZE

- 6.1** Priority for houses will be given to households with children under the age of 16 years or with children 16 - 18 who are in full time education or training.
- 6.2** To qualify for OAP bungalows/flats, an applicant must be 60 years of age or over.
- 6.3** To qualify for sheltered accommodation, an applicant must be 60 years of age or over OR be registered disabled. Offers of accommodation will be made subject to an assessment of housing and support needs by a Panel comprising Allocation Officers, Occupational Therapists and Disability Advisors.
- 6.4** To qualify for properties designed or adapted for special needs (e.g. disabled person) an applicant or a member of the applicant's household, must be medically assessed as requiring such specialised accommodation.
- 6.5** The Council assesses the size of home each applicant requires, according to their household size and composition. Size is expressed in terms of the number of bedrooms. Applicants will be prioritised for accommodation of a size that accords with their bedroom requirement, which shall be assessed using the following criteria.

One bedroom shall be deemed necessary for each of the following persons in the applicant's household:

- a single person or couple aged 16 or over; and
- two children of the same gender, where both of the children are aged under 16; and
- two children aged under 10, regardless of gender; and
- any remaining child.

In addition, an additional bedroom shall be deemed necessary where:

- the tenant or his or her partner is disabled, and they require a non-resident overnight carer, providing that the Council is satisfied that the prospective tenant is able to afford the accommodation; or
- it is unreasonable for two persons to share a bedroom, as the result of an illness or disability, providing that the Council is satisfied that the prospective tenant is able to afford the accommodation.

For the purpose of the above calculation, foster children and persons whose principal home is elsewhere shall not be included.

Where, in respect of a particular allocation, there is no applicant eligible for that size of property, or where all the eligible applicants have refused an offer, households with other bedroom requirements may be considered for an allocation, subject to an assessment of their ability to afford the rent and other household expenses.

Couples will be considered for 2 bedroomed OAP bungalows ahead of single applicants. Prospective allocations to OAP bungalows will be subject to an affordability assessment.

6.6 A single -parent household is entitled to the same size of accommodation as a two-parent household with the same number of children

6.7 Households that include a pregnant woman expecting her first child are assessed after 6 months as if the baby had already been born when being considered for houses.

6.8 EXCEPTIONS

a) When the Independent Community Specialist recommends increasing the required property size on medical grounds, subject to an affordability assessment.

b) The Head of Housing Services may allocate property types/sizes outside the eligibility criteria if there are no eligible applicants and/or it is in the best interest of the Council to do so in terms of managing its housing stock, meeting genuine housing need and minimising rent loss on void properties. The Head of Housing Services may also authorise the use of such properties as temporary accommodation for households towards whom the Council has a statutory duty under Part 7, Housing Act 1996 as amended by the Homelessness Act 2002.

7.0 JOINT TENANCIES

The Council encourages joint tenancies, where two adults in a household become joint tenants in the same Council property. Both tenants are then jointly and individually responsible for ensuring the tenancy agreement is kept to. Both parties must individually qualify to join the housing register and be eligible to be considered for offers of accommodation. If the Council refuses to grant a joint tenancy, it will provide written notification detailing the reasons for the refusal.

8.0 RIGHT TO GENERAL INFORMATION

- 8.1** Eligible applicants have the right to request such general information as will enable them to know how their application is likely to be treated, what preference they are likely to be given, what kind of accommodation is likely to be made available to them, and when such accommodation is likely to become available.

9.0 CHOICE

- 9.1** All eligible applicants have the opportunity to state preferences on property type, size and areas/neighbourhoods, subject to the following provisions, including the removal of area choice for homeless households after a period of three months.
- 9.2** All eligible applicants have the opportunity to register an interest in being accommodated by any of the participating Registered Social Landlords (Housing Associations) and approved Private Landlords.
- 9.3** Low turnover and high demand for some areas means that it may not always be possible to meet applicants' preferences for particular types of accommodation or areas on the island. Offers of accommodation will however be suitable for the applicant's needs even if they do not meet their preferences as regards location.
- 9.4** Applicants to whom the Council owes the main homelessness housing duty (Housing Act 1996, section 193) or the corresponding 'threatened with' duty under section 195(2), shall have the opportunity to express, via letting area choices, a preference about the location of accommodation they wish to be offered. At the end of the period of three months, beginning with the acceptance of the homelessness duty, the Council may unilaterally widen the letting areas for which the applicant may be considered. This will only be done where it is considered that accommodation in the additional letting areas would most likely be suitable for the needs of the applicant and his or her household members, for the purpose of discharging the main homelessness duty.

10.0 THE PROCESSING OF APPLICATIONS

- 10.1** Applicants will be required to provide relevant documents to support their application before they will be made an offer including proof of identification and proof of residency. If an applicant fails to provide the requisite information within the specified timescale, the application will be cancelled.

- 10.2** References will be required from a landlord or mortgage provider and further checks will be undertaken where there are concerns that the behaviour of the applicant (or a member of his/her household) may affect their suitability to be a tenant.
- 10.3** Applicants with convictions subject to a custodial sentence will be required to have undergone a risk assessment
- 10.4** Any children included in an application must normally be dependent on and reside with the applicant before they are taken into account when assessing the points levels.
- 10.5** Applicants will be sent an acknowledgement letter within 5 working days and will be notified of the status of their application within the following 30 days once it has been processed. This will enable them to establish their prospects of being rehoused.
- 10.6** Applicants will be removed from the register at their own request provided it is made in writing. Written confirmation will be provided where a forwarding address is known.
- 10.7** If information is received which infers that an applicant already on the list is ineligible, he will be informed in writing and advised of the reasons.
- 10.8** Should the applicant request information about their application over the telephone, they will be asked to confirm their N.I. number or any other information known only to them.
- 10.9** Making a false statement or withholding relevant information to obtain a tenancy is a Ground for Possession (eviction) and a criminal offence for which a fine is payable on summary conviction. Any such applications identified prior to allocation will be cancelled.
- 10.10** If it is found that an applicant has purposely changed address or acted otherwise to worsen his/her circumstances to increase the award of points the application will be pointed as if such a change had not been made for a period of 12 months or, where the applicant is found to be intentionally homeless, until such time as there is a change in circumstances which would overturn the finding of intentionality.

11.0 CHANGE OF CIRCUMSTANCES

- 11.1** Applicants are required to notify the Council in writing of any changes to their personal circumstances so that their details can be amended accordingly.

11.2 Periodic reviews of the Housing Register are undertaken and applicants who fail to return the review form within the specified timescale will be removed from the register.

12.0 SUSPENDED APPLICATIONS

12.1 In some circumstances applications will be suspended, ie, they will be credited with housing need/local connection points but will not be actively considered when a property becomes available for letting. Suspensions can last up to a maximum of 12 months at which time the case will be reviewed. The decision on whether to suspend will be made on the basis of the facts of individual cases and applicants will be notified in writing of the reasons for the suspension and afforded the opportunity to request a review of the decision. See Paragraph 22.0 'RIGHT TO REVIEW OF DECISIONS'.

12.2 Suspensions will be applied in the following circumstances (this list is not exhaustive):-

12.2.1 At applicant's own request.

12.2.2 Pending further information required to process an application, eg, proof of divorce / legal separation / property settlement / property sale and equity released / pregnancy / residence arrangements for children.

12.2.3 Eligible applicants with tenancy related debts with any Local Authority, RSL or Private Landlord (arrears/recharges/court costs). Applicants will be required to enter into and maintain an agreed repayment schedule. While suspensions will be lifted when the debt is equivalent to 4 weeks rent net of any benefit, the offer of accommodation before the debt is cleared in full will be at the discretion of the Head of Housing Services or the Housing Associations / Private Landlords, and only then in exceptional circumstances.

12.2.4 Applicant is in prison.

12.2.5 Applicant is in HM Forces pending confirmation of discharge from Commanding Officer.

12.2.6 Applicant has refused two reasonable offers in the areas of his choice. Suspension for 12 months.

- 12.2.7** Applicant is occupying tied accommodation – pending receipt of Notice to Terminate Employment.
- 12.2.8** Applicant has adequate financial resources to secure own accommodation at market rent or purchase. The average rental cost or purchase price in the applicant's areas of choice will be considered at the time of the assessment. For rental purposes applicants with an annual income of £35,000 will be deemed to have adequate resources to house themselves. Applicant will still be given appropriate advice and assistance.
- 12.2.9** Applicant is a freehold, leasehold or shared owner unless they have a minimum of 20 housing need points (excluding local connection). Applicants will only be considered when they are in the process of disposing of the property and have obtained a completion date unless:-
- a)** urgent re-housing is required on medical grounds (must have minimum 20 medical points) and it is not possible to adapt current accommodation OR applicant needs to live in close proximity to a carer (property must be in the process of being sold or applicant will be required to give a written undertaking to dispose of it within 12 months);
 - b)** the applicant is a joint owner at relationship breakdown and the property is not being disposed of as one partner is to continue to live in it (written confirmation from solicitor required)
 - c)** the property is considered to be 'difficult to let' (property must be in the process of being sold or applicant will be required to give a written undertaking to dispose of it within 12 months).
- 12.2.10** There are issues relating to current/recent anti-social behaviour which are considered relevant to the applicant and/or household members in terms of their suitability as tenants. Consideration will be given to the need to strike a balance between the rights of the individual and the interests of the wider community. Where there is evidence to suggest that an applicant's unacceptable behaviour is due to disability, the application will not be suspended if the Council is satisfied that the person would be able to maintain a tenancy satisfactorily with appropriate support. Any decision will be based on consultation with relevant agencies, eg, GP, Social Services, Mental Health Team, support providers.

- 12.2.11** Transfer applicants who have not occupied their present home for a minimum of 12 months unless there has been a change of circumstances which means they now fall within the reasonable preference categories. (The Head of Housing Services may allow a transfer in exceptional circumstances, which will be recorded on the applicant's file).
- 12.2.12** Transfer applicants with rent arrears/recharges/court costs until they enter into and maintain an agreed repayment schedule. While suspensions will be lifted when the debt is equivalent to 4 weeks rent net of any benefit, the offer of accommodation before the arrears are cleared in full will be at the discretion of the Head of Housing Services or the Housing Associations/Private Landlords and only then in exceptional circumstances.
- 12.2.13** Transfer applicants where their present home does not meet acceptable standards of cleanliness and decoration (the standard required is such that a new tenant could reasonably move into the dwelling straight away if the tenant left today).
- 12.2.14** Transfer applicants pending making good defects which are the tenant's responsibility.
- 12.2.15** Transfer applicants pending bringing garden area to a reasonable standard (having regard to his physical capabilities and those of his family members).
- 12.2.16** Transfer applicants where there are issues relating to current/recent anti-social behaviour which has warranted intervention by the Council.

Applicants will be notified in writing of the reasons for the deferral and, where necessary, how to remedy the situation and the proposed review dates. Applicants suspended on the basis of anti-social behaviour will be required to demonstrate to the reasonable satisfaction of the Council, why they consider themselves suitable to be a tenant.

13.0 PRIORITISING APPLICATIONS

13.1 Eligible applicants are awarded points to reflect housing need and other factors.

13.2 Reasonable preference must be given to the following categories of people set out in s167(2) Part 6 Housing Act 1996 (as amended):

a) people who are homeless (within the meaning of Part 2 of the Housing (Wales) Act 2014

ab) people who are owed a duty by a local authority under s66, s73 or s75 of the Housing (Wales) act 2014;~~people who are homeless within the meaning of Part 7 of the Housing Act 1996;~~

bc) people who are owed a duty by any housing authority under Section 190(2), 193(2) or 195(2) of the 1996 Act (or under Section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under Section 192(3);

ed) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;

de) people who need to move on medical or welfare grounds including grounds relating to disability;

ef) people who need to move to a particular locality in the area of the housing authority, where failure to meet that need would cause hardship (to themselves or to others).

13.3 When distinguishing between applications, the Council will take into account the following factors:

- a) the financial resources available to applicants to meet their own housing need;
- b) any behaviour of the applicant or a member of that household which affects the applicant's suitability to be a tenant;
- c) any local connection between the applicant and the district.

13.4 The Council also has the power under s167(2E) to allocate particular housing accommodation to persons of a particular description regardless of whether or not they fall under s167(2). Any such specific lettings plans would be ancillary to the main Allocation Policy and would allow accommodation developed for a specific purpose to be allocated either primarily or exclusively to a specific category of people irrespective of whether or not they would attract priority under other provisions of the 1996 Act or the Allocation Policy.

14.0 HOUSING NEED POINTS

14.1 HOMELESSNESS, UNSETTLED OR INSECURE ACCOMMODATION

- a) The applicant is threatened with homelessness within 56 days and is owed a s66 duty - **10 points**; OR ~~The applicant is homeless/threatened with homelessness unintentionally - **20 points**; OR~~ Formatted: Font: Bold
- b) The applicant is homeless and is owed a s73 duty~~The applicant is homeless, unintentionally and in priority need as a result of violence or threats of violence likely to be carried out - **30** points; OR~~
- c) The applicant is homeless unintentionally, in priority need and is owed a s75 duty~~The applicant is homeless and in priority need but homeless intentionally - **520** points; OR~~
- d) The applicant is homeless as a result of being subject to domestic abuse and is owed a s75 duty - **30 points**; OR
- de) The applicant is living in lodgings, staying with family/friends - **10 points**; OR
- ef) The applicant is in local authority care or has been living in a hostel/ supported housing project for a minimum period of 6 months and written confirmation has been received that they are ready to move on - **45 points**; OR
- fg) The applicant has been placed in temporary local authority or private leased accommodation under Section 193 of the Housing Act 1996 or Section 75 of the Housing (Wales) Act 2014~~accommodation under Section 193(2) of the Housing Act 1996 (as amended) - **20 points**~~. This category will also attract **10 points** after the first 6 months spent in the temporary accommodation and an additional **10 points** after every further 6 month period they spend in temporary accommodation (at 12, 18, 24 months, and so on), up until the applicant has occupied the temporary accommodation for 5 years.
- h) The applicant is homeless within the meaning of Part 2 of the Housing (Wales) Act 2014 but does not otherwise qualify for priority under any of the other categories in this section (14.1) - **10 points**. Formatted: Font: Bold

NB If an applicant pointed under 14.1 (c) (d) or (g) refuses a final offer of suitable accommodation under Part 6 (allocation of housing), ~~the any homelessness points awarded under those categories will be removed. Similarly, where the s66 or s73 duty has become to an end ended, the homelessness points will be removed.~~14.1(a) (b) or (f) refuses a final offer of suitable accommodation under Part 6 (allocation of housing), the homelessness points will be removed. This also applies to non-priority

~~need applicants.~~ Such applicants will remain entitled to priority under 14.1 (h).

14.2 OCCUPYING ACCOMMODATION WHICH IS UNSANITARY, OR LIVING IN UNSATISFACTORY HOUSING CONDITIONS (APPLIES TO TENANTS AND OWNER OCCUPIERS)

- a) applicants lacking cooking facilities - **5 points**
- b) applicants living in poor housing conditions - **up to 20 points**

The assessment will be undertaken by an Environmental Health Officer using the Housing Health and Safety Rating System risk assessment framework. Rating scores will be calculated for each hazard identified based on the severity of each hazard, and its potential to cause injury to the occupiers.

RATING SCORE:

| | |
|----------------|------------------|
| 5 - 25 | 5 points |
| 30 - 45 | 10 points |
| 50 - 65 | 15 points |
| over 70 | 20 points |

14.3 OVERCROWDING

Points will be awarded for each bedroom deficiency, using the following criteria of the household's need for bedrooms:

One bedroom is deemed necessary for each of the following persons in the applicant's household:

- a single person or couple aged 16 or over; and
- two children of the same gender, where both of the children are aged under 16; and
- two children aged under 10, regardless of gender; and
- any remaining child.

In addition, an additional bedroom shall be deemed necessary where:

- the tenant or their partner is disabled, and they require a non-resident overnight carer every day; or
- it is unreasonable for two persons to share a bedroom, as a result of illness or disability.

For the purposes of the above calculation, foster children and persons whose principal home is elsewhere shall not be included - **20 points for each bedroom deficiency.**

14.4 MEDICAL POINTS

Applicants, who maintain that their present accommodation is detrimental to their health, may apply for medical points. The Council utilises the services of an independent Community Medicine Specialist to undertake such assessments. Requests for adapted accommodation are referred to the 'Housing Link' panel which comprises Housing and Social Services staff.

Medical points will only be awarded when a move to more suitable accommodation would be beneficial in alleviating their medical condition. The degree of urgency in the need for alternative accommodation will be reflected in the points awarded as follows:

- a) to improve quality of life (although existing accommodation is not detrimental to applicant's health) - **5 points**
- b) some medical benefit in moving - **10 points**
- c) significant medical benefit in moving - **20 points**
- d) unable to be discharged from hospital or live in present accommodation - **30 points**

14.5 HARDSHIP POINTS

Applicants wishing to move to a particular locality to avoid hardship to themselves or others, eg, to give/receive care and support and rehousing would dispense with the need for services to be provided by the local authority - **10 points.**

14.6 SOCIAL STRESS / SOCIAL MANAGEMENT POINTS

Points will only be considered in this category in exceptional circumstances where the applicant's personal/housing circumstances are not met by other needs factors. This category would mainly be to assist Social Services to fulfil their duties under the Children Act 1989 (section 17 (1)) "*.....duty of every local authority...:*

- a) *to safeguard and promote the welfare of children within [the] area who are in need; and*
- b) *so far as is consistent with that duty, to promote the upbringing of such children by their families,*

- c) *by providing a range and level of services appropriate to those children's needs."*

Under section 27 of the Children Act 1989, Social Services can ask Housing Services to help in delivering services for children in need and they must comply to the extent that it is compatible with their own statutory duties and other obligations and does not unduly prejudice the discharge of any of their own functions. Points variable and will only be awarded for one offer only.

14.7 CHILDREN IN FLATS

If the applicant has a child under the age of 11 and is living in;

- a) a ground floor flat or maisonette without the sole use of a garden - **20 points**
- b) a maisonette or flat above ground floor - **30 points**

14.8 PREGNANCY

Applicants who are over 6 months pregnant and living in a flat or maisonette above ground floor - **10 points**

14.9 SHARING POINTS

Applicants who have to share facilities with separate households will be awarded points (A separate household does not include relations who have jointly occupied or owned the accommodation with the applicant for a substantial period of time immediately prior to applying for housing).

Points will be awarded for shared:

- living room - **5 points**
- kitchen - **5 points**
- toilet - **5 points**
- bathroom - **5 points**

14.10 UNDER OCCUPATION (COUNCIL/PARTNER HOUSING ASSOCIATION TENANTS ONLY)

In order to give priority to existing council and partner housing association tenants who are under occupying accommodation which is too large for their current needs, points will be awarded for each bedroom in excess of their needs.

In assessing those needs it will be assumed that separate bedrooms are required for a single person or couple aged 16 years or above; two children of the same gender where both children are aged under 16; two children aged under 10 regardless of gender; and any remaining child; with no more than 2 persons treated as occupying one bedroom - **30 points for each bedroom in excess of need.**

14.11 FOSTER CARERS

Applicants who are registered foster carers and whose present accommodation is unsuitable in terms of size or location to prevent them from providing that care - **30 points**

14.12 ADAPTED PROPERTIES

Applicants releasing an adapted property (council or housing association partner) where there is an identified need for the property, ie, Social Services have identified an applicant for whom the adaptations are appropriate - **30 points**

14.13 TIED ACCOMMODATION

Applicants occupying accommodation as a condition of employment with the council or partner housing association leaving through no fault of their own e.g. retirement, redundancy, ill health - **30 points**

14.14 SMALLHOLDINGS

Applicants occupying council owned smallholdings leaving through no fault of their own - **30 points**

15.0 TRANSFER APPLICANTS

Transfer applicants (i.e. all existing tenants of the Council or participating Housing Associations) - **10 points**

16.0 LOCAL CONNECTION POINTS

The Council aims to prevent the dispersal and break up of local communities and strengthen family support networks.

Local connection points will be awarded:-

- a) for each year an applicant has had his/her place of work, or had his/her only or principal home in Anglesey, up to 10 years - **3 points for each year up to 10 years; OR**
- b) if the applicant's mother, father, sister, brother or children have been living in Anglesey for at least 5 years - **10 points; OR**
- c) applicant has been living in Anglesey for 6 out of the last 12 months - **1 point; OR**
- d) Special circumstances e.g. need to be near special medical or support services only available in Anglesey - **5 points**

Up to 20 additional points will be awarded if the applicant has had his/her place of work, or had his/her only or principal home in the parish that they wish to be rehoused for a period of 10 years - **2 points per year up to 10 years.**

17.0 VERIFICATION VISITS

A Council Officer may visit the applicant to verify that the housing circumstances are as set out in the application form and that the correct points have been awarded. Applicants are expected to allow access to all parts of their home.

18.0 SELECTION OF APPLICANTS AND GRANTING TENANCIES

The operation of the allocations scheme is delegated to the Head of Housing Services and his staff.

- 18.1 When a property becomes available for letting, the Lettings Officer will draw up a short list of the highest pointed eligible applicants who have requested that type of property in that particular area.
- 18.2 Consideration will be given to the overriding need to make the best use of the Council's stock, the nature of the stock in the locality, turnover rates and levels of local need.
- 18.3 Where there are more than one equally pointed suitable applicants the original date of application will be taken into account
- 18.4 Successful applicants will be notified in writing that the offer is made provisionally and will not constitute a legally binding contract until the tenancy agreement is signed.

19.0 ROLE OF ELECTED MEMBERS IN THE ALLOCATION PROCESS

19.1 Local Members are responsible for approving, adopting and monitoring the implementation of allocations policies that comply with the Housing Act 1996 (as amended by the Homelessness Act 2002), the Welsh Assembly Government's 'Code of Guidance for Local Authorities: Allocation of Accommodation and Homelessness 2012' and equalities legislation.

19.2 The Local Housing Authorities (Prescribed Principles for Allocation Schemes) (Wales) Regulations 1997 (Statutory Instrument 1997 No 45) prevent an Elected Member from being part of a decision-making process, when either:

- a) The unit of housing accommodation concerned is situated in their electoral ward; or
- b) The person subject to the decision has their sole or main residence in the Member's electoral ward.

This is reinforced in the Code of Guidance referred to in Paragraph 19.1

19.3 Local Members enquiring about the status of a property will be advised whether it is currently void or has been allocated. However, to comply with the Data Protection Act 1998, personal information in relation to the new tenant cannot be disclosed.

19.4 Local Members may make written enquiries on behalf of applicants within their constituency only in relation to the status of their housing register application provided that the written consent of the applicant is held on file by the Council.

20.0 NOMINATIONS TO HOUSING ASSOCIATIONS

The Allocation Policy not only dictates the selection of applicants for council tenancies, but also covers nominations to assured/assured shorthold tenancies offered by Housing Associations. Associations with properties on the island are required to offer a proportion of their lettings to the Council (minimum 50%). When a vacancy is offered for nomination, the Council will nominate the 3 highest pointed applicants. The Association will then decide which of the nominated applicants is the most suitable in the context of their own eligibility criteria.

21.0 RIGHT TO INFORMATION ABOUT DECISIONS

21.1 Applicants have the right to be notified in writing of any decision:

- a) to exclude them from the Housing Register
- b) to suspend their application
- c) to remove them from the register

The Council must give clear grounds based on relevant facts of the case, state the duration of the exclusion/suspension and how the decision may be reversed.

- 21.2** Applicants have the right, on request, to be informed of any decision about the facts of their case which have been or are likely to be, taken into account in considering whether to make an allocation to them.

22.0 RIGHT TO REVIEW OF DECISION

- 22.1** Applicants have the right, on request, to review a decision mentioned in 21.1 or 21.2 above.

Request for review must be made within 21 days of the date of the notification letter and the review will be based on written representations submitted by the applicant or someone acting on their behalf. Representations must be made within 14 days of the date the Council notifies the applicant that it is undertaking the review.

The review will be conducted by someone not involved in the original decision and senior in position to the person who made the original decision.

The local authority will make a decision within 8 weeks of the date the review was requested. Applicants will be notified in writing of the decision on review. If it confirms the original decision, they will be notified of the reasons for the decision.

Following the review, the applicant has no further right to challenge but may appeal to the High Court for a judicial review on a point of law.

If the applicant is dissatisfied with any aspect of the process followed in dealing with the application, he may seek redress through the Council's Complaints Procedure and, if still dissatisfied, may complain to the Public Services Ombudsman for Wales.

23.0 MONITORING AND REVIEW

The Allocation Policy is regularly monitored to ensure compliance with legislative changes, case law and guidance documents. The Council is committed to ongoing training for staff and elected members.

24.0 ALLOCATIONS EXCLUDED FROM THE ALLOCATION SCHEME

- a) Offers of secure tenancies of their current home to introductory tenants;
- b) [Offers of non-secure tenancies to homeless households in pursuance of duties owed under Part 2 of the Housing \(Wales\) Act 2014](#); ~~Offers of non-secure tenancies to homeless households in pursuance of duties owed under Part 7 Housing Act 1996 (as amended)~~;
- c) Transfer of tenancies in pursuance of Court Orders in the course of divorce or other family proceedings;
- d) Statutory succession to secure or introductory tenancies on the death of the tenant;
- e) Assignment of secure or introductory tenancies to a person who is qualified to succeed;
- f) Mutual exchanges;
- g) Other circumstances may be prescribed by the Secretary of State.



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1265 (Cy. 85)

2015 No. 1265 (W. 85)

TAI, CYMRU

HOUSING, WALES

**Rheoliadau Digartrefedd
(Bwriadoldeb) (Categoriâu
Penodedig) (Cymru) 2015**

**The Homelessness (Intentionality)
(Specified Categories) (Wales)
Regulations 2015**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

EXPLANATORY NOTE

(This note is not part of the Regulations)

Mae adran 78(2) o Ddeddf Tai (Cymru) 2014 (“y Ddeddf”) yn darparu na chaiff awdurdod tai lleol roi sylw i ba un a yw ceisydd wedi dod yn ddigartref yn fwriadol ai peidio at ddibenion adrannau 68 a 75 wrth asesu ceisydd am gymorth ynghylch digartrefedd, oni bai ei fod wedi penderfynu rhoi sylw i un neu ragor o'r categorïau o geiswyr a bennwyd gan Weinidogion Cymru. Mae adran 78(1) o'r Ddeddf yn gosod rhwymedigaeth ar Weinidogion Cymru i wneud rheoliadau i bennu categorïau o'r fath.

Section 78(2) of the Housing (Wales) Act 2014 (“the Act”) provides that when assessing an applicant for help with homelessness, a local housing authority may not have regard to whether or not an applicant has become homeless intentionally for the purposes of sections 68 and 75, unless it has decided to have regard to one or more of the categories of applicants specified by the Welsh Ministers. Section 78(1) of the Act places an obligation on the Welsh Ministers to make regulations to specify such categories.

Yn y Rheoliadau hyn, mae Gweinidogion Cymru yn pennu rhestr o gategoriâu o geiswyr at ddibenion adran 78. Mae'r rhestr hon yn rheoliad 2. Mae wedi ei seilio ar adran 70 o'r Ddeddf, sy'n nodi'r rhestr o'r personau sydd mewn angen blaenoriaethol am lety.

In these Regulations, the Welsh Ministers specify a list of categories of applicants for the purposes of section 78. This list is in regulation 2. It is based on section 70 of the Act, which sets out the list of persons who have a priority need for accommodation.

Gan ddibynnu ar y pŵer sydd wedi ei gynnwys yn adran 142(2)(c) o'r Ddeddf, mae'r Rheoliadau hyn hefyd yn gwneud darpariaethau canlyniadol, atodol a throsiannol. Disgrifir y rhain isod.

These Regulations, in reliance on the power contained in section 142(2)(c) of the Act, also make incidental, supplementary and transitional provisions. These are described below.

Mae rheoliad 3 yn darparu bod rhaid i awdurdod tai lleol roi hysbysiad ysgrifenedig o'i benderfyniad i roi sylw i fwriadoldeb i Weinidogion Cymru, o leiaf 14 o ddiwrnodau cyn iddo gael effaith. Rhaid i'r hysbysiad bennu'r categori neu gategoriâu o geiswyr y bydd yr awdurdod tai lleol yn ystyried bwriadoldeb mewn perthynas â hwy. Rhaid i'r hysbysiad hefyd gynnwys rhesymau dros benderfynu rhoi sylw i'r categori neu'r categorïau a bennwyd.

Regulation 3 provides that a local housing authority must give written notice of its decision to have regard to intentionality to the Welsh Ministers, at least 14 days before it takes effect. The notice must specify the category or categories of applicants in relation to which the local housing authority will consider intentionality. The notice must also contain reasons for deciding to have regard to the category or categories specified.

Mae rheoliadau 4 a 5 yn gwneud darpariaeth ar gyfer cyhoeddi hysbysiad o benderfyniad i geiswyr a rhanddeiliaid. Yn benodol, rhaid cyhoeddi'r hysbysiad ar wefan yr awdurdod tai lleol, os oes ganddo un, a rhaid bod copi ohono ar gael, yn ddi-dâl, i'r ceiswyr yr effeithir arnynt.

Mae rheoliad 6 yn darparu na chaniateir diwygio'r penderfyniad fwy na dwywaith mewn cyfnod o 12 mis. Mae hefyd yn egluro bod rhaid cyhoeddi hysbysiadau o benderfyniadau a ddiwygiwyd mewn ffordd debyg i'r hysbysiadau gwreiddiol.

Mae rheoliad 7 yn atal awdurdod tai lleol rhag ystyried bwriadoldeb mewn perthynas â cheiswyr presennol y mae'r ddyletswydd o dan adran 62(1) o'r Ddeddf yn ddyledus iddynt, cyn bod yr awdurdod yn penderfynu rhoi sylw i fwriadoldeb.

Mae rheoliad 8 yn gymwys i geisydd presennol am gymorth, y mae dyletswydd i asesu o dan adran 62(1) o'r Ddeddf yn ddyledus iddo ar yr adeg pan fo unrhyw newidiadau yn cael eu gwneud i gategoriâu. Mae rheoliad 8(1)(a) yn darparu na chaiff yr awdurdod roi sylw i fwriadoldeb mwyach wrth asesu cais os yw ceisydd o'r fath mewn categori sy'n cael ei dynnu o'r rhestr o gategoriâu.

Ar y llaw arall, os yw ceisydd o'r fath mewn categori sydd wedi ei gynnwys mewn rhestr o gategoriâu tra bo'r cais am asesiad yn cael ei ystyried, yna mae rheoliad 8(1)(b) yn darparu na fydd yr hysbysiad yn effeithio ar y ceisydd hwnnw ac na chaiff awdurdod roi sylw i fwriadoldeb y ceisydd hwnnw.

Regulations 4 and 5 make provision for publication of a notice of decision to applicants and stakeholders. In particular, the notice must be published on the local housing authority's website, if it has one, and a copy of the notice must be made available, without charge, to affected applicants.

Regulation 6 provides that the decision may not be revised more than twice in a 12 month period. It also clarifies that notices of revised decisions must be published in a similar manner to the original notices.

Regulation 7 prevents a local housing authority from considering intentionality in relation to existing applicants to whom the duty under section 62(1) of the Act is owed, prior to a decision by the authority to have regard to intentionality.

Regulation 8 applies to an existing applicant for help, to whom a duty to assess under section 62(1) of the Act is owed at the time of any changes of categories. Regulation 8(1)(a) provides that if such an applicant is in a category which is removed from the list of categories, the authority must no longer have regard to intentionality when assessing the application.

If, on the other hand, such an applicant is in category which is included in a list of categories while the application for assessment is pending, then regulation 8(1)(b) provides that the notice will not affect that applicant and that an authority may not have regard to the intentionality of that applicant.

2015 Rhif 1265 (Cy. 85)

2015 No. 1265 (W. 85)

TAI, CYMRU

HOUSING, WALES

**Rheoliadau Digartrefedd
(Bwriadoldeb) (Categoriâu
Penodedig) (Cymru) 2015**

**The Homelessness (Intentionality)
(Specified Categories) (Wales)
Regulations 2015**

Gwnaed 21 Ebrill 2015
Yn dod i rym 27 Ebrill 2015

Made 21 April 2015
Coming into force 27 April 2015

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddwyd iddynt gan adrannau 78(1) a 142(2) o Ddeddf Tai (Cymru) 2014(1).

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 78(1) and 142(2) of the Housing (Wales) Act 2014(1).

Gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo drwy benderfyniad ganddo yn unol ag adran 142(3)(b)(ii) o'r Ddeddf honno.

A draft of this instrument was laid before and approved by resolution of the National Assembly for Wales in accordance with section 142(3)(b)(ii) of that Act.

Enwi, cychwyn a dehongli

Title, commencement and interpretation

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Digartrefedd (Bwriadoldeb) (Categoriâu Penodedig) (Cymru) 2015.

1.—(1) The title of these Regulations is the Homelessness (Intentionality) (Specified Categories) (Wales) Regulations 2015.

(2) Daw'r Rheoliadau hyn i rym ar 27 Ebrill 2015.

(2) These Regulations come into force on 27 April 2015.

(3) Yn y Rheoliadau hyn—

(3) In these Regulations—

ystyr "rhestr o gategoriâu penodedig o geiswyr" ("*list of specified categories of applicants*") yw'r categori neu'r categorïau o geiswyr(2) y mae awdurdod tai lleol wedi penderfynu rhoi sylw i ba un a yw ceiswyr wedi dod yn ddigartref yn fwriadol ai peidio mewn cysylltiad â hwy(3);

"have regard to intentionality" ("*rhoi sylw i fwriadoldeb*") means to have regard to whether or not an applicant has become homeless intentionally for the purposes of sections 68 and 75;

(1) 2014 decc 7.
(2) Fel y'u diffinnir gan adran 62(3).
(3) Gweler adran 78(2).

(1) 2014 anaw 7.

ystyr “rhoi sylw i fwriadoldeb” (“*have regard to intentionality*”) yw rhoi sylw i ba un a yw ceisydd wedi dod yn ddigartref yn fwriadol ai peidio at ddibenion adrannau 68 a 75.

(4) Yn y Rheoliadau hyn, mae cyfeiriadau at adrannau yn gyfeiriadau at adrannau o Ddeddf Tai (Cymru) 2014.

RHAN 1

Categoriâu Penodedig

Categoriâu o geiswyr at ddiben adran 78

2. Mae'r canlynol yn gategoriâu o geiswyr at ddiben adran 78 (penderfynu rhoi sylw i fwriadoldeb)—

- (a) menyw feichiog neu berson y mae'n preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddi breswyllo gydag ef;
- (b) person y mae plentyn dibynnol yn preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;
- (c) person—
 - (i) sy'n hyglwyf o ganlyniad i reswm arbennig (er enghraifft: henaint, salwch corfforol neu feddyliol neu anabledd corfforol neu feddyliol), neu
 - (ii) y mae person sy'n dod o fewn is-baragraff (i) yn preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;
- (d) person—
 - (i) sy'n ddigartref neu o dan fygythiad o ddigartrefedd o ganlyniad i argyfwng megis llifogydd, tân neu drychineb arall, neu
 - (ii) y mae person sy'n dod o fewn is-baragraff (i) yn preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;
- (e) person—
 - (i) sy'n ddigartref o ganlyniad i wynebu camdriniaeth ddomestig, neu
 - (ii) y mae person sy'n dod o fewn is-baragraff (i) yn preswyllo gydag ef (ac eithrio'r sawl sy'n cam-drin) neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;

“list of specified categories of applicants” (“*rhestr o gategoriâu penodedig o geiswyr*”) means the category or categories of applicant(1) in respect of which a local housing authority has decided to have regard to whether or not applicants have become homeless intentionally(2).

(4) In these Regulations, references to sections are references to sections of the Housing (Wales) Act 2014.

PART 1

Specified Categories

Categories of applicant for the purpose of section 78

2. The following are categories of applicant for the purpose of section 78 (deciding to have regard to intentionality)—

- (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
- (b) a person with whom a dependent child resides or might reasonably be expected to reside;
- (c) a person—
 - (i) who is vulnerable as a result of some special reason (for example: old age, physical or mental illness or physical or mental disability), or
 - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (d) a person—
 - (i) who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster, or
 - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (e) a person—
 - (i) who is homeless as a result of being subject to domestic abuse, or
 - (ii) with whom a person who falls within sub-paragraph (i) resides (other than the abuser) or might reasonably be expected to reside;

(1) As defined by section 62(3).

(2) See section 78(2).

- (f) person—
- (i) sy'n 16 neu'n 17 oed pan fo'r person yn gwneud cais i awdurdod tai lleol am lety neu gymorth i gadw neu gael gafael ar lety, neu
 - (ii) y mae person sy'n dod o fewn is-baragraff (i) yn preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;
- (g) person—
- (i) sydd wedi cyrraedd 18 oed, pan fo'r person yn gwneud cais i awdurdod tai lleol am lety neu gymorth i gadw neu gael gafael ar lety, ond nid 21 oed, sy'n wynebu perygl arbennig o gamfanteisio rhywiol neu ariannol, neu
 - (ii) y mae person sy'n dod o fewn is-baragraff (i) yn preswyllo gydag ef (ac eithrio camfanteisiwr neu gamfanteisiwr posibl) neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;
- (h) person—
- (i) sydd wedi cyrraedd 18 oed, pan fo'r person yn gwneud cais i awdurdod tai lleol am lety neu gymorth i gadw neu gael gafael ar lety, ond nid 21 oed, a oedd yn derbyn gofal, yn cael ei letya neu'n cael ei faethu ar unrhyw bryd pan oedd o dan 18 oed, neu
 - (ii) y mae person sy'n dod o fewn is-baragraff (i) yn preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;
- (i) person—
- (i) sydd wedi gwasanaethu yn lluoedd arfog rheolaidd y Goron sydd wedi bod yn ddigartref ers gadael y lluoedd hynny, neu
 - (ii) y mae person sy'n dod o fewn is-baragraff (i) yn preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef;
- (j) person sydd â chysylltiad lleol ag ardal yr awdurdod tai lleol ac sy'n hyglwyf o ganlyniad i un o'r rhesymau canlynol—
- (i) bod wedi bwrw dedfryd o garchar o fewn ystyr adran 76 o Ddeddf Pwerau Llysoedd Troseddol (Dedfrydu) 2000(1),

- (f) a person—
- (i) who is aged 16 or 17 when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, or
 - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (g) a person—
- (i) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who is at particular risk of sexual or financial exploitation, or
 - (ii) with whom a person who falls within sub-paragraph (i) resides (other than an exploiter or potential exploiter) or might reasonably be expected to reside;
- (h) a person—
- (i) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who was looked after, accommodated or fostered at any time while under the age of 18, or
 - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (i) a person—
- (i) who has served in the regular armed forces of the Crown who has been homeless since leaving those forces, or
 - (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- (j) a person who has a local connection with the area of the local housing authority and who is vulnerable as a result of one of the following reasons—
- (i) having served a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000(1),

- (ii) bod wedi ei remandio mewn carchar neu ei draddodi i garchar gan orchymyn llys, neu
- (iii) bod wedi ei remandio i lety cadw ieuenctid o dan adran 91(4) o Ddeddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyr 2012(1),

neu berson y mae person o'r fath yn preswyllo gydag ef neu y gellid disgwyl yn rhesymol iddo breswyllo gydag ef.

- (ii) having been remanded in or committed to custody by an order of a court, or
- (iii) having been remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(1),

or a person with whom such a person resides or might reasonably be expected to reside.

RHAN 2

Gweithdrefn ar gyfer rhoi sylw i fwriadoldeb

Hysbysiad o benderfyniad i roi sylw i fwriadoldeb i Weinidogion Cymru

3.—(1) Rhaid i awdurdod tai lleol sy'n penderfynu rhoi sylw i fwriadoldeb ddarparu hysbysiad ysgrifenedig i Weinidogion Cymru o'i benderfyniad.

(2) Rhaid i'r hysbysiad ysgrifenedig bennu—

- (a) y rhestr o gategoriâu penodedig o geiswyr, a
- (b) y rheswm neu'r rhesymau dros roi sylw i'r categori neu gategoriâu sydd wedi eu cynnwys yn y rhestr o gategoriâu penodedig o geiswyr.

(3) Rhaid darparu hysbysiad ysgrifenedig i Weinidogion Cymru dim llai na 14 o ddiwrnodau cyn gweithredu'r penderfyniad i roi sylw i fwriadoldeb.

Cyhoeddi hysbysiad o benderfyniad i roi sylw i fwriadoldeb

4.—(1) Rhaid i awdurdod tai lleol sy'n penderfynu rhoi sylw i fwriadoldeb gyhoeddi hysbysiad o'i benderfyniad—

- (a) ar wefan yr awdurdod (os oes ganddo un), a
- (b) drwy osod copi o'r hysbysiad yn y swyddfeydd lle y daw ceisiadau am gymorth ynghylch digartrefedd i law,

dim llai na 14 o ddiwrnodau cyn gweithredu'r penderfyniad i roi sylw i fwriadoldeb.

5.—(1) Rhaid i awdurdod tai lleol gymryd camau rhesymol i roi gwybod i'r canlynol am ei benderfyniad o dan reoliad 4(1)—

- (a) ceiswyr a'u cynghorwyr; a

PART 2

Procedure for having regard to intentionality

Notification of decision to have regard to intentionality to the Welsh Ministers

3.—(1) A local housing authority which decides to have regard to intentionality must provide a written notice to the Welsh Ministers of their decision.

(2) The written notice must specify—

- (a) the list of specified categories of applicants, and
- (b) the reason(s) for having regard to the category or categories contained in the list of specified categories of applicants.

(3) The written notice must be provided to the Welsh Ministers no less than 14 days prior to the implementation of the decision to have regard to intentionality.

Publication of notice of decision to have regard to intentionality

4.—(1) A local housing authority which decides to have regard to intentionality must publish a notice of its decision—

- (a) on the authority's website (if it has one), and
- (b) by posting a copy of the notice at the offices where applications for help with homelessness are received,

no less than 14 days prior to the implementation of the decision to have regard to intentionality.

5.—(1) A local housing authority must take reasonable steps to notify its decision under regulation 4(1) to—

- (a) applicants and their advisers, and

(1) 2012 p. 10.

(1) 2012 c. 10.

(b) y fath awdurdodau cyhoeddus neu awdurdodau lleol, sefydliadau gwirfoddol neu bersonau eraill y mae'n eu hystyried yn briodol.

(2) Rhaid i awdurdod tai lleol sicrhau bod copi o'r hysbysiad o'i benderfyniad ar gael, yn ddi-dâl, i geiswyr y bydd y penderfyniad yn effeithio arnynt.

Terfynau ar ddiwygio rhestr o gategoriâu penodedig o geiswyr

6. Ni chaiff awdurdod tai lleol sydd wedi penderfynu rhoi sylw i fwriadoldeb ddiwygio'r rhestr o gategoriâu penodedig o geiswyr fwy na dwywaith mewn cyfnod o 12 mis. Mae rheoliadau 3, 4 a 5 yn gymwys i benderfyniad i ddiwygio rhestr fel y maent yn gymwys i'r penderfyniad gwreiddiol.

RHAN 3

Penderfyniadau ar fwriadoldeb mewn perthynas â cheiswyr presennol

Effaith penderfyniad i roi sylw i fwriadoldeb ar geisydd presennol

7.—(1) Ni chaiff awdurdod tai lleol sy'n penderfynu rhoi sylw i fwriadoldeb yn unol ag adran 78 roi sylw i fwriadoldeb mewn perthynas â cheisydd presennol.

(2) Yn y rheoliad hwn, ystyr "ceisydd presennol" ("*existing applicant*") yw ceisydd y mae'r ddyletswydd yn adran 62(1) yn ddyledus iddo ar yr adeg pan fo penderfyniad i roi sylw i fwriadoldeb yn cael ei wneud.

Effaith newidiadau i restr o gategoriâu penodedig o geiswyr ar geisydd presennol

8.—(1) Ni chaiff awdurdod tai lleol sy'n rhoi sylw i fwriadoldeb roi sylw i fwriadoldeb mewn perthynas â cheisydd presennol—

- (a) os yw'r awdurdod wedi tynnu un neu ragor o gategoriâu o'i restr o gategoriâu penodedig o geiswyr ac oni bai am hynny y byddai'r ceisydd presennol wedi dod o fewn y rhestr o gategoriâu penodedig o geiswyr, neu
- (b) os yw'r awdurdod wedi cynnwys un neu ragor o gategoriâu yn ei restr o gategoriâu penodedig o geiswyr ac o ganlyniad i hynny mae'r ceisydd hwnnw yn dod o fewn y rhestr o gategoriâu penodedig o geiswyr.

(2) Yn y rheoliad hwn, ystyr "ceisydd presennol" ("*existing applicant*") yw ceisydd—

- (a) sydd wedi ei ddisgrifio ym mharagraff (1)(a) neu (b), a

(b) such public or local authorities, voluntary organisations or other persons as it considers appropriate.

(2) A local housing authority must make a copy of the notice of its decision available, without charge, to applicants who will be affected by the decision.

Limitation on revision of list of specified categories of applicants

6. A local housing authority that has decided to have regard to intentionality may not revise the list of specified categories of applicants more than twice in a 12 month period. Regulations 3, 4 and 5 apply to a decision to revise a list as they apply to the original decision.

PART 3

Decisions on intentionality in relation to existing applicants

Effect on existing applicant of decision to have regard to intentionality

7.—(1) A local housing authority that decides to have regard to intentionality in accordance with section 78 must not have regard to intentionality in relation to an existing applicant.

(2) In this regulation, "existing applicant" ("*ceisydd presennol*") means an applicant to whom the duty in section 62(1) is owed at the time when a decision to have regard to intentionality is made.

Effect on existing applicant of changes to a list of specified categories of applicants

8.—(1) A local housing authority having regard to intentionality must not have regard to intentionality in relation to an existing applicant if—

- (a) the authority has withdrawn one or more categories from its list of specified categories of applicants and but for that withdrawal the existing applicant would have been fallen within the list of specified categories of applicants, or
- (b) the authority has included one or more categories in its list of specified categories of applicants and as a result of the inclusion that applicant falls within the list of specified categories of applicant.

(2) In this regulation, "existing applicant" ("*ceisydd presennol*") means an applicant—

- (a) described in paragraph (1)(a) or (b), and

(b) y mae'r ddyletswydd yn adran 62(1) yn ddyledus iddo ar yr adeg pan fo newid yn cael ei wneud i'r rhestr o gategoriâu penodedig o geiswyr.

(b) to whom the duty in section 62(1) is owed at the time when a change is made to the list of specified categories of applicant.

Lesley Griffiths

Y Gweinidog Cymunedau a Threchu Tlodi, un o
Weinidogion Cymru
21 Ebrill 2015

Minister for Communities and Tackling Poverty, one
of the Welsh Ministers
21 April 2015

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