

**RESPONSE TO THE WELSH GOVERNMENT CONSULTATION
ON THE 'ENDING HOMELESSNESS IN WALES' WHITE PAPER**

HOUSING & COMMUNITIES (COUNCILLOR LYNDA THORNE)

AGENDA ITEM: 6

Reason for this Report

1. To agree Cardiff Council's response to the Welsh Government's consultation on the 'Ending Homelessness in Wales' White Paper.

Background

2. The Welsh Government has published a 168-page White Paper that sets out a range of proposals to change existing policy and laws, with the aim of ending homelessness in Wales.
3. The White Paper was also accompanied by additional papers:
 - Allocations: understanding more, in the context of homelessness in Wales
 - Integrated Impact Assessment
 - Draft Regulatory Impact Assessment (RIA) which provided an initial estimate of costs and benefits on the main proposals that would require primary legislation.
4. The paper is centred around 4 working principles:
 - Homelessness should be rare, brief and unrepeated
 - The reform will facilitate service delivery that is trauma informed and person-centred
 - The reforms will support the Welsh Government long-term policy aim of Rapid Rehousing
 - The reforms will ensure that preventing homelessness is the responsibility of the entire Welsh public service.
5. The White Paper proposes four main areas of reform. Each of these are allocated a chapter in the White Paper:

- Reform of existing core homelessness legislation
 - The role of the Welsh public service in preventing homelessness
 - Targeted proposals to prevent homelessness for those disproportionately affected
 - Access to accommodation.
6. The fifth area sets out the implementation plans of the proposed reforms.
 7. The consultation paper consists of 28 questions and asks for responses to a number of key proposed changes. There are also questions that relate to each chapter asking for opinions on the costs and benefits that are laid out in the Draft Regulatory Impact Assessment (RIA).
 8. To meet the deadline set by the Welsh Government, an initial draft response to the consultation was submitted on 16 January 2024. A final draft response can be found at **Appendix A**. Should Cabinet approve the response, this will be submitted to the Welsh Government as Cardiff Council's final submission.
 9. Cardiff Council's response to the consultation has been shared with the Community and Adult Services Scrutiny Committee and no comments were received.

Issues

10. This consultation takes place in the context of unprecedented pressures on housing and homelessness services. In December 2023, Cardiff Council announced that the city was facing a housing emergency. A report to Cabinet set out the issues, both in terms of lack of supply of affordable housing and the very high numbers of households coming forward for support. Unfortunately, in this context, the proposals contained in the White Paper seem far removed from the reality of what is happening on the ground, and they lack the sense of urgency required to address the crisis.
11. A summary of the key issues included in the consultation and proposed responses are set out below:

Overall Summary of the Response to the White Paper

12. While agreeing with many of the principles and ambitions contained within the White Paper, the proposed response makes clear that over the short to medium term the changes would have a negative impact on the prevention and relief of homelessness in Cardiff.
13. While many of the proposals are supported in principle, a significant increase in capital and revenue funding would be required to deliver these changes and implementation could only take place in the longer term when the current housing emergency has stabilised.

14. Some other proposals, particularly regarding what is considered “suitable accommodation” are not considered achievable at all even with considerable investment. Unfortunately, these proposals show little understanding of the reality of the housing options available in the city or of the volatility and unpredictability of demand for homeless services.
15. The draft response makes clear that some of the proposals will lead to unintended consequences as they will increase dependency, remove personal responsibility and lead to expectations from applicants that cannot be met by the Local Authority. In this, the proposals move away from an approach that empowers and supports individuals to find their own solutions, which was a key element of the Housing (Wales) Act 2014.
16. As stated above, Cardiff Council declared a Housing Emergency in December 2023 due to the lack of supply of affordable housing in the city and the unprecedented demand on services. Many of the proposed changes within the White Paper will only add more pressure and demand on services that are already significantly overstretched, while not addressing the fundamental issue of the lack of affordable housing.
17. It is also noted that the proposals do not take into account the differences between local authority areas including demographics, communities and housing need and supply. These are issues that require local solutions. Local authorities are best placed to understand local need and how best to address this.
18. Throughout the White Paper there is little mention of the Private Rented Sector (PRS) and its part in the solution to homelessness. Private landlords provide a very significant proportion of the housing in Cardiff and anything that deters private landlords from letting their accommodation as settled accommodation will negatively impact on homelessness in the city. The draft response recommends that more is done to incentivise private landlords to continue to let their properties as settled homes.

Estimated Cost Implications

19. Before these new proposals can even be considered, current pressures need to be addressed. There are currently 2,787 applicants on Cardiff’s Common Housing Waiting List who are in immediate or urgent housing need, homeless or need to urgently downsize. It is estimated that approximately £418.9 million capital funding would be required to meet this existing demand for social housing.
20. The Regulatory Impact Assessment provided by the Welsh Government includes costings for some but not all of the proposals. These costings have been reviewed and alternative estimated costs calculated. When comparing the costings in the RIA to Cardiff’s calculations, it is clear that the Welsh Government have significantly underestimated the cost implications of implementing the changes. High level estimated costings, based on a number of assumptions have been included in the response at questions 7, 13, 19 and 23 of **Appendix A**.

21. In summary, to increase staff within the homeless service and to provide additional support services for more complex clients, an increase in revenue would be required. It is estimated that these costs could range between approximately £22.8 million to £30.7 million. If the ambitions set out in the proposals were to be achieved it is also estimated that approximately £510 million extra in capital would be required to increase temporary and permanent housing. Not all of the proposals were costed in the RIA and no calculations have been carried out for those additional proposals, so costs are likely to be even higher than those stated above.

Chapter 1: Reform of existing core homelessness legislation – Summary of Response

22. Each proposal within this section of the White Paper has been fully examined and responded to in the consultation response. A summary of the key issues is set out below.
23. A number of proposals are made which would increase the Local Authority's duty to take early **action to prevent homelessness**, including the requirement to take preventative action 6 months before a person is likely to become homeless and additional duties to develop and review Personal Housing Plans. There are also proposals to support households to retain the accommodation that the Local Authority has helped them to secure and to improve communication with applicants. While these proposals are welcomed, they could not be implemented in the short term due to the current pressures on services and would require considerable additional staffing resources if they were to be implemented.
24. There is a proposal to include a **duty to include an applicant's views on their accommodation needs in their Personal Housing Plan**. The proposal is not clear on what "needs" should be considered. While in principle an applicant's views on their accommodation needs should be taken into account, it is not realistic given the current lack of housing supply in Cardiff to provide any significant level of choice on type of accommodation, such as for example preference for a house rather than a flat, or for accommodation with a private garden. There is concern that this requirement would give applicants unrealistic expectations which are very unlikely to be achieved. So unfortunately, this proposal is not agreed as there is a risk it could significantly delay move on from temporary accommodation.
25. There is a proposal to include a **right to request a review of the suitability of accommodation at any time** during an applicant's occupation of the accommodation. This proposal is not agreed as it appears to allow a client to raise concerns many years later, that their property is unsuitable for their current needs. A sensible time limit must be in place to request a review of a decision under the homelessness legislation and the current 21 days is considered sufficient time for a client to decide whether the allocated accommodation is suitable.

26. A further proposal **restricts the grounds for an “unreasonable failure to co-operate” decision**. Under this proposal failure to pay rent when the individual has the means to do so, refusal to attend property viewings, or behaving inappropriately during property viewings would no longer be regarded as unreasonable failure to co-operate. This proposal is not supported as it removes the consequences from homeless applicants who deliberately fail to co-operate with the services that are seeking to support them.

The Tests

27. The White Paper proposes the abolition of two key tests that underpin homeless legislation – the Priority Need Test and the Intentionally Homeless Test. The draft response sets out clearly Cardiff Council’s strong objection to these changes.
28. **The proposal to abolish the Priority Need Test** would result in the Local Authority having a duty to house anyone who presents to the service. Currently, certain groups have priority for homeless services, including families, victims of domestic abuse, young people and those who are street homeless. For other, less vulnerable groups the duty is to help them to secure their own accommodation and temporary accommodation will not normally be provided unless they are at risk of rough sleeping.
29. Under this proposed change all groups would have the same level of priority and the same right to be housed by the Local Authority. The change would prevent the prioritisation of the most vulnerable individuals or households as all cases will be given equal priority.
30. The unintended consequence of this proposal is that it will increase dependency and expectancy by requiring the Local Authority to house all who present as homeless. This proposal removes all requirement for individuals to take personal responsibility to find accommodation. It would draw more people into Local Authority provided accommodation resulting in a significant increase in demand and long delays in move on to settled accommodation.
31. It is clear from the experience in Scotland, where the Priority Need Test was removed and as a result the demand for temporary accommodation tripled, that this change will result in a significant increase in demand on temporary accommodation. This is simply not achievable given current pressures.
32. There needs to be a balance between the duty of the Local Authority to assist individuals and the individual’s responsibility to meet their own housing needs where they are able to do so, while focusing support on the most vulnerable.
33. **The proposal to abolish the Intentionality Test** would mean that the Local Authority has no ability to address cases where evidence shows that there has been a deliberate act or omission which has resulted in

homelessness. This would increase demand on the service and result in a lack of consequence for an individual's actions.

34. Cardiff stopped applying the Intentionality Test during the pandemic and has now decided to consult on reapplying the test as a response to increasing cases where individuals have deliberately withheld their rent, despite having the means to pay, so that they can enter homeless services and secure social housing more quickly.
35. Not considering whether someone is intentionally homeless sends the wrong message to those who present as homeless and encourages poor behaviour in a minority of homeless applicants. This behaviour also leads to private landlords becoming less likely to work with the Local Authority to prevent applicants from becoming homeless and makes them reluctant to house future homeless applicants.
36. The White Paper also proposes to **add groups of people that will be exempt from the "Local Connection Test"** and thereby increase the number of people for which Cardiff will have a homeless duty. This proposed extension includes those who do not have local connection to Cardiff and are:
 - care experienced and not accommodated by social services.
 - veterans and those who cohabited with veterans during their time in service.
 - people at risk of domestic or other abuse / exploitation and will experience trauma if they are referred to another authority.
 - Prison leavers who need to move to a new area as part of their rehabilitation or to meet restrictions placed on where they can live because of their offence.
37. There are also further proposals to encourage the Local Authority to be more flexible with certain groups for example, those 25 and under, those from the LGBTQ+ community, gypsy and travellers, and those recovering from substance misuse.
38. Cardiff as a capital city will be disproportionality affected if this proposal is introduced. There is a natural draw into the city, for those in search of work or a multi-cultural environment. We know that the city draws in homeless people from many backgrounds and initial information from Scotland, which has recently introduced changes on the Local Connection Test, indicates that pressure on support services and social work has also increased as people move between authorities, an unintended consequence that must be fully considered.
39. Cardiff already issues 'waivers' to those with no local connection who have exceptional circumstances. The city does not have the housing supply to support more individuals from outside the local area and for this reason the response to the consultation sets out strong objections to this proposal.

Chapter 2: The role of Welsh public service in preventing homelessness – Summary of Response

40. This section of the White Paper places a duty to identify, refer and co-operate on a set of relevant bodies such as social services and local health boards in order to prevent homelessness. For some other bodies, such as Registered Social Landlords the duty will be to take action to sustain occupation contracts (tenancies).
41. These proposals are welcomed in principle as they would allow services to work with individuals at the earliest possible opportunity. It is noted however that the proposal will require an increase in resources to meet the demand that these additional referrals will generate and to train the referring organisations for example. Inclusion of educational establishments in the duty is recommended in the response as is an increased involvement from health services.
42. The proposals also include enhanced case co-ordination for those with multiple and complex needs. The benefits of this approach have been demonstrated through the success of Cardiff's Homeless Multidisciplinary Team and the more recently formed Young Persons Multidisciplinary team. The success of this approach and the need for properly funded general medical services for this cohort are set out in the response.

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

43. Some groups of people are more likely to become homeless than others and the White Paper outlines proposed changes to support these particular groups. This includes:
 - Children and young people
 - People with mental health problems
 - People leaving hospital
 - People being abused
 - Disabled people
 - People leaving prison
 - Veterans
44. It is agreed that this list reflects those who are disproportionately affected by homelessness. The detailed consultation on this area focuses largely on the response to young people aged 16 and 17 years. Cardiff Council has already made real progress in joining up services for this age group, a good example being the development of the Young Persons Accommodation and Support Gateway and Young Persons MDT. Further resources would be needed to develop this work. Greater clarity is needed on some of the recommendations and the consultation response proposes that a code of guidance should be considered to support good practice in this area rather than legislation.

Chapter 4: Access to Accommodation – Summary Response

45. The White Paper proposes a number of changes to what is considered “suitable accommodation”. While supportive in principle, overall, the draft response to the consultation disagrees with these proposals as they fail to reflect the demand on services and the availability of accommodation. No further duties should be placed on Local Authorities in this regard until the chronic shortage of affordable accommodation has been addressed as a national issue. Responses to the key proposed changes in this chapter of the White Paper are summarised below:
46. It is proposed that **shared sleeping space is never permitted (even for severe weather provision)**. While it is agreed that shared spaces are not ideal, current demand means that this option is required to be able to place those in urgent need of temporary accommodation. It would be impossible to commit to no shared spaces in the short to medium term. In the longer term this would require considerably more temporary accommodation. Significant work has been done in Cardiff to increase the number of good quality units of temporary accommodation for single people so that they have their own bedroom and facilities. However, shared spaces are still used as emergency accommodation due to high and unpredictable levels of demand. This demand increases further in the winter months as efforts are made to provide accommodation to all individuals in need during the cold weather, even those that Cardiff does not have a legal duty to house.
47. Even during severe weather some rough sleepers will only come into open access spaces and would not access a more formal style of accommodation. It is possible that this type of accommodation would be needed even if the amount of temporary accommodation was significantly increased.
48. Unpredictable peaks in demand must be responded to rapidly and shared space allows this. Hotel type accommodation is unlikely to be secured for single people quickly, and shared space is better than no space. The use of shared spaces is closely monitored with the aim to move people on as quickly as possible, but currently it remains essential as emergency accommodation in Cardiff.
49. The White Paper also proposes to strengthen legislation to make clear, when determining the suitability of accommodation, **placement in overcrowded accommodation is never permitted**. The response to the consultation objects to this proposal until action has been taken to address the current homeless crisis and to make more large units of affordable accommodation available. It would currently be impossible with the current available stock to offer all families the correct bedroom size, either on a temporary or permanent basis.
50. Demand for larger accommodation in Cardiff is high with some families presenting with 10 or more family members. The ethnically diverse nature

of the city means there are a number of multi-generational families and families with 6+ children requiring larger properties and despite the current new build programme, there is not the housing stock to accommodate this. Providing accommodation that is larger than the home the applicant is currently residing in, and thereby meeting some of their need, is preferable to waiting for a property of the correct size to become available, which could take several years or, due to current stock levels, may never happen.

51. Some clients moving into private rented sector accommodation ask for assistance to move into a property that is a bedroom size less than their needs require. Support is given on the basis that the family wish to take this offer despite being overcrowded. This is agreed to only in exceptional circumstances, again due to the impossibility of meeting their full need due to lack of available accommodation.
52. In the short-term, financial resources to support downsizing and mutual exchanges should be provided to help better balance accommodation suitability. It is recommended that Welsh Government should make additional funding available specifically to develop larger homes as these may be less financially viable than developing smaller flats. Practical solutions to problems should be supported and funded, rather than placing additional duties on Local Authorities which cannot be met.
53. The White Paper proposes that **for people aged under 25, the use of unsuitable temporary accommodation, including Bed and Breakfast and shared accommodation, should not be permitted for any time period**. While supporting the provision of good quality accommodation for young people, it is not agreed that shared accommodation should never be used for those aged under 25.
54. The Young Persons Gateway accommodation uses shared houses with 24/7 support on site and discussions with young people show that some prefer to live in shared accommodation as this reduces social isolation, helps to share bills and also facilitates support.
55. "Under 25" is a wide age range, with many under 25's being mature enough to live within shared accommodation. In addition, it is not always realistic for those under 25 to reside in self-contained private sector accommodation as the benefit system does not support this. The Local Housing Allowance in the private rented sector only pays for the shared accommodation rate for those under 35 years old (with an exemption for care leavers), making it unaffordable for many young people to live in a self-contained flat / house. The unintended consequence of this proposal is that it will be difficult to move people on if they are used to living in self-contained accommodation on a temporary basis.
56. It is proposed that **settled accommodation cannot be deemed suitable unless it is located within reasonable travelling distance of existing or new educational facilities, employment, caring responsibilities and medical facilities**. Again, this proposal is not agreed as it cannot always be guaranteed that a placement will be in an area of choice due to very

limited availability, but the need for good transport links to support education and employment is accepted.

57. Length of stay in temporary accommodation could become longer if people waited for their ideal property and location to become available. In some cases, children may need to move school once settled accommodation has been allocated. Consideration needs to be given to each client's circumstances to determine whether, on balance, the offered property is suitable.
58. **It is proposed that applicants from the travelling community, if culturally averse to bricks & mortar, should be offered the most suitable accommodation.** While Cardiff Council is committed to providing appropriate accommodation for the gypsy traveller community that meets its cultural needs, the current demand for settled pitches means that it is not possible to deliver temporary accommodation pitches on gypsy traveller sites in Cardiff. It is also felt that Welsh Government have a role to play in supporting this, by making appropriate land available for additional gypsy traveller sites and additional revenue funding to support the operation of these sites which can be complex and costly to operate.
59. It is proposed that **care leavers and those fleeing domestic abuse are given urgent priority on the waiting list.** Cardiff agrees with this proposal and already gives the highest priority to these groups. However, further clarification is required on the definition of those fleeing violence (and the associated risk level/assessment) and the definition of a care leaver to fully understand the impacts.

Chapter 5: Implementation

60. Unfortunately, the Implementation chapter of the White Paper does not lay out timescales for when proposed changes are expected to be implemented or when funding would become available and therefore does not provide an effective implementation plan. The chapter largely focuses on how Welsh Government will support the implementation of the reforms and how the legislation will be enforced by using existing mechanisms. It is accepted that the proposals set out are the most appropriate way to oversee the reforms.
61. While agreeing in principle with many of the proposals set out in the White Paper, the draft response to the consultation sets out concerns that most proposals are not achievable in the short to medium term and will require considerable additional resources if they are to be implemented. The response to the consultation also sets out concerns that the proposals do not support individual responsibility and risk creating greater dependence on local authority services, among those who could with support find their own housing solution. The proposals do not take into account the current housing crisis or the challenges facing homelessness services as a result. The draft response to the consultation makes clear that no additional duties should be placed on local authorities until the national shortage of affordable housing has been addressed and sufficient resources are provided to fund the changes.

Reason for Recommendations

62. To enable the Council to respond to the Welsh Government's White Paper on 'Ending Homelessness in Wales'.

Financial Implications

63. In respect to the four main areas of reform as well as the implementation plan, it is identified that the costs of revenue and capital investment required are significantly understated where these are identified in the Welsh Government Regulatory Impact Assessment. Where policy and regulatory changes are introduced without additional funding and without that funding being certain and sustainable into the long term, this adds to financial budget pressures and increases financial resilience risk for the Council, at a time when there are significant financial and demand pressures identified in the Council's Medium Term Financial Planning and service updates.
64. The report response estimates that between approximately £22.8 million and £30.7 million revenue is required each year to increase staff within the homeless service and to provide additional support services. In addition, over £510 million in capital would be required to increase temporary and permanent housing if the proposals were to be achieved.

Legal Implications

65. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.
66. The Council has homeless duties currently under Part 2 of the Housing (Wales) Act 2014.
67. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are:
- Age
 - Gender reassignment
 - Sex
 - Race – including ethnic or national origin, colour or nationality
 - Disability

- Pregnancy and maternity
- Marriage and civil partnership
- Sexual orientation
- Religion or belief – including lack of belief

68. As such a decision to implement the proposal has to be made in the context of the Council’s equality act public sector duties.

HR Implications

69. There are no HR implications arising directly from this report.

Property Implications

70. There are no further specific property implications in respect of the Welsh Government White Paper on ‘Ending Homelessness in Wales’. Where there are any relevant property management matters, property transactions or valuations required to deliver any proposals, they should be done so in accordance with the Council’s Asset Management process and in consultation with Strategic Estates and relevant service areas.

RECOMMENDATIONS

Cabinet is recommended to:

- 1) Note the Welsh Government White Paper and its proposals to change policy and law, to end homelessness in Wales.
- 2) Approve the Council’s response to the Welsh Government consultation response to the ‘Ending Homelessness in Wales’ White Paper (Appendix A).

SENIOR RESPONSIBLE OFFICER	Jane Thomas Director, Adults, Housing & Communities
	23 February 2024

The following appendix is attached:

Appendix A: Cardiff Council Response to the Welsh Government Consultation on the ‘Ending Homelessness in Wales’ White Paper.

The following background papers have been taken into account:

- [Welsh Government Consultation on the White Paper on Ending Homelessness in Wales](#)
- [Welsh Government – Draft Regulatory Impact Assessment](#)