



Landmark Chambers' webinar

Homelessness and Social Housing Allocations (Wales) Bill: all change?

Monday 21 July 2025

The recording may be accessed [here](#).



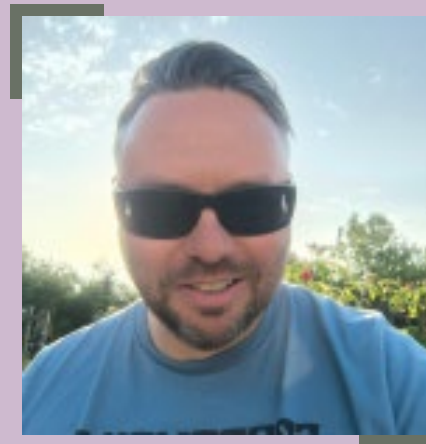
Your speakers for today



Justin Bates KC



Crash Wigley



Mark Prichard



Journey to the Homelessness and Social Housing Allocation Bill: A Tale of Divergence



Crash Wigley



How did we get here - a brief history of Welsh housing and homelessness law

- Brief history of devolution and divergence in housing and homelessness law
- **Localism Act 2011**
- **Housing (Wales) Act 2014**
- **Renting Homes (Wales) Act 2016**
- Backdrop to the Homelessness and Social Housing Allocation (Wales) Bill



Devolution – a brief and partial history

- Starting point pre-1998: no Senedd/Welsh Assembly, no Welsh Government, no Welsh legislation
- Single “England & Wales” jurisdiction – with common law and statute (almost always) identical in both nations
- National Assembly for Wales created in 1999. Housing and homelessness “devolved areas” from the outset. Primary legislative powers in 2011.
- Welsh legislation passed in Welsh and English, implications for statutory interpretation: *Driver v Rhondda Cynon Taf CBC and Comisiynydd y Gymraeg* [2020] EWCA Civ 1759; [2021] ELR 193 at paras 11-15.
- Bi-directional divergence.



Localism Act 2011

- Some significant changes to homelessness and allocations law – but some changes only apply to England!
- Examples: Allocations - Section 160ZA: local housing authorities In England may decide what classes of persons are, or are not, qualifying persons.
- The existing section 160A is amended to say insert the words “in Wales” throughout.



Housing (Wales) Act 2014

- First primary legislation on housing and homelessness law passed by the Senedd.
- Part 1 (Regulation of Private Rented Housing): Sets up a system of registration and licensing for landlords.
- Part 2 (Homelessness): moves the law on homelessness out of Part VII Housing Act 1996. Now on the the Welsh statute book with some significant reforms (eg introduction of “prevention duty”). Part VII of the Housing Act 1996 amended throughout to say “in England”.
- Other parts address duties towards Gypsies and Travellers, Standards for Social Housing, Housing Finance etc.



Renting Homes (Wales) Act 2016

- Passed in 2016, in force from 1 December 2022
- Wholesale reform of residential landlord and tenant law in Wales
- Origins in Law Commission reports: 'Renting Homes' (Law Com No 284) published in November 2003
- Recommendations rejected in England, accepted in Wales.
- Based on consumer rights approach, simplifying legislation, two kinds of contracts, rights set out accessibly in definitive "written statement", use of "model contracts"



Renting Homes (Wales) Act 2016

S 239 Abolition of assured, secure and other tenancies

(1) On and after the appointed day [1 December 2022], no tenancy or licence (whenever made) can be—

- (a) a restricted contract;
- (b) a protected shorthold tenancy;
- (c) a secure tenancy;
- (d) an assured tenancy (including an assured shorthold tenancy);
- (e) an introductory tenancy;
- (f) a demoted tenancy

...

(3) Nothing in this section ends a tenancy or licence within subsection (1) or (2).



Renting Homes (Wales) Act 2016

What replaces statutory tenancies?

- Two kinds of “occupation contracts” (defined in section 7) – standard or secure (section 8).
- Two kinds of landlords – “community landlords” (including local authorities and RSLs) and “private landlords”
- General rule (section 2(2)): occupation contracts made with or adopted by community landlords are secure contracts, and contracts made with or adopted by private landlords are standard contracts, but this is subject to various exceptions.



Renting Homes (Wales) Act 2016 – homelessness context

- Provisions in the Act to avoid the grant of occupation contracts to homeless persons when tenancies/licences are granted in temporary accommodation context
- Exceptions in Schedule 2 (exceptions to section 7: definition of occupation contracts):
- Paragraph 10 – “direct access accommodation” provided by a community landlord or registered charity
- Paragraph 10A (introduced November 2023): private sector temporary homelessness accommodation (within the statutory definition of B&B accommodation)
- Paragraph 11: tenancies and licences made with an individual by a local housing authority because of its homelessness functions not an occupation contract unless it is satisfied that it owes a section 75 duty



Renting Homes (Wales) Act 2016 – Schedule 2, paragraph 12

‘(1) This paragraph applies where a local housing authority, in pursuance of any of its homelessness housing functions, makes arrangements with a relevant landlord for the provision of accommodation... [but not paragraph 10A accommodation].

(2) A tenancy or licence within section 7 but made with a relevant landlord in pursuance of the arrangements is not an occupation contract until immediately after the end of the notification period.’

[Subpara 3: unless notice is given before then that it is an occupation contract]

At the end of the notification period: will become an occupation contract.

Notification period = 12 months starting with notification of outcome of section 62 assessment, or decision under section 80(5) (referral to another LHA) - or English equivalent. If there is a review or an appeal, 12 months starting with day notified of outcome of review or determination of appeal: para 12(4).



Renting Homes (Wales) Act 2016 – supported accommodation

Definition in section 143:

‘(2) For the purposes of this Act accommodation is “supported accommodation” if—

(a) it is provided by a community landlord or a registered charity,

(b) the landlord or charity (or a person acting on behalf of the landlord or charity) provides support services to a person entitled to occupy the accommodation, and

(c) there is a connection between provision of the accommodation and provision of the support services.

...’



Renting Homes (Wales) Act 2016 – supported accommodation

Section 143

“...(4) “Support services” include—

- (a) support in controlling or overcoming addiction,
- (b) support in finding employment or alternative accommodation, and
- (c) supporting someone who finds it difficult to live independently because of age, illness, disability or any other reason.

(5) “Support” includes the provision of advice, training, guidance and counselling.”



Renting Homes (Wales) Act 2016 – supported accommodation

Supported accommodation:

- Schedule 2, paragraphs 13-16. May be provided for an initial 6 month period before an occupation contract is granted. This period may be extended, but extensions subject to specific consultation procedure, notice requirements and obtaining LHA consent. Tenant/licensee has right to county court review.
- Schedule 3, paragraph 2: "Supported standard contracts" one of the exceptions where a community landlord can issue a standard contract, subject to the requirement to serve a valid notice (Form RHW1) at the correct time.



Homelessness and Social Housing Allocation Bill - backdrop

- October 2019: WG Strategy for Preventing and Ending Homelessness: vision is “*A Wales where everyone has a safe home that meets their needs and supports a healthy, successful and prosperous life. A Wales where we work together to prevent homelessness and where it cannot be prevented ensure it is rare, brief and unrepeated.*”
- August 2022: Expert Review Panel convened by Crisis to make recommendations on legislative reform to end homelessness. Cross-sector representation.
- September 2023: Expert Review Panel reports on recommendations.
- October 2023-January 2024: Welsh Government consults on White Paper on ending homelessness in Wales.



White Paper working principles

- Homelessness should be rare, brief and unrepeated.
- Homelessness services should be trauma informed and person-centred.
- Those who are homeless should be able to obtain long term housing quickly, increase their own self-sufficiency, and stay housed (Rapid Rehousing).
- Preventing homelessness is the responsibility of the Welsh public service.



Homelessness and Social Housing Allocation Bill – in the Senedd

- 19 May 2025: Homelessness and Social Housing Allocation (Wales) Bill introduced to the Senedd, accompanying Explanatory Memorandum (on [Senedd website](#))
- Bill currently with the Local Government and Housing Committee: Stage 1 consideration (general principles)
- Committee heard evidence from experts and stakeholders on the Bill in June. Consultation now closed.
- Committee's draft Stage 1 report expected in September



Bill – policy intent (Explanatory Memorandum)

- “Two main challenges of homelessness service provision are managing increasing demand at the front of the system and improving the flow of people through the system into suitable and sustainable accommodation.
- The first part of the Bill will re-focus homelessness service delivery on prevention, with a stronger emphasis on early identification and intervention. It will expand access to the homelessness system and target additional support to those who need it most. It will enable a person-centred approach that considers the root causes of homelessness and better addresses individual support needs and will widen responsibility for this across the Welsh public service.
- The second part of the Bill will enable increased flow through the homelessness system by targeting and utilising limited social housing to those most in need.”



Homelessness and Social Housing Allocations (Wales) Bill: all change?



Mark Prichard



Threatened with homelessness – Meaning

- Currently:
 - Likely that applicant will become homeless within **56 days**.
- Proposed replacement (clause 1(3); s.55(4)):
 - 3 alternatives:
 - Likely that applicant will become homeless within **six months**.
 - Applicant received written notice requiring them to give up occupation of their accommodation.
 - Application made by another person to court (county or High Court) for possession.



Threatened with homelessness – Meaning (2)

- Provision regulating:
 - Receipt of written notice requiring giving up of occupation (cl.1(3); s.55).
- Deemed threatened only if:
 - Person giving notice appears entitled to give such a notice in respect of the accommodation.
- But regardless of:
 - Whether notice is otherwise invalid, and
 - The merits of any potential claim for possession.



Homelessness – Meaning

- Definition largely unchanged.
- Remains a matter of establishing whether:
 - Right to occupy accommodation.
 - Entry can be secured.
 - Accommodation is 'available'.
 - Reasonable to continue to occupy (s.55).
- Exception:
 - Definition of 'abuse' amended (cl.28; s.58)
 - When considering whether continued occupation reasonable.



Abuse & reasonable continued occupation – Nature of test

- Unchanged.
- Concerns likelihood of abuse:
 - Probable that continued occupation will lead to household member being subjected to abuse (s.57(1)).



Abuse – Meaning

- Current definition (s.58) omitted in entirety (cl.28).
- Replaced with two-fold definition (alternatives):
 - Domestic abuse within meaning of section 1, Domestic Abuse Act 2021.
 - Any other kind of abuse that, directly or indirectly, may give rise to a risk of harm, including:
 - Exploitation within meaning of Modern Slavery Act 2015.
 - Harassment or stalking within meaning of Protection from Harassment Act 1997 (cl.28; s.58).
- Two latter categories are examples, not exhaustive of “any other kind of abuse”.



Applications for help – Generally

- Homelessness application defined in Wales since 2015 as:
 - Duty to carry out assessment (s.62).
- Current threshold remains:
 - Person applied for help with obtaining/retaining accommodation.
 - Appears to LHA that person may be:
 - Homeless, or
 - Threatened with homelessness.
 - Not disqualified as repeat application under s.62(2).
 - No new material facts or no material changed circumstances since previous Part 2 assessment.



Applications for help – Deeming provision

- In addition, application deemed to be made if:
 - Notification.
 - Of local housing authority.
 - By public authority.
 - Under s.94A(3).
- ‘Ask and Act’ provisions (cl.21(2); s.94A(4)).



S.62 assessment – Notifying decision not to assess

- New duty to:
 - Notify a decision **not** to carry out a s.62 assessment to a person who has applied for help.
- Must notify:
 - The decision.
 - Reasons for decision (cl.3(3)(b); s.63(A1)).
- Examples – decisions that:
 - Does not “appear” that applicant “may be” homeless or threatened.
 - Satisfied that repeat application.



S.62 assessment duty – Performance

- Substance of duty – what must be assessed when applicant is eligible – amended (cl.3(2)(c); s.62(5)).
- Specifically, in respect of support needs:
 - Support needed for any household member:
 - To retain accommodation which is or may become available (existing).
 - To overcome any barrier to living independently (new).
 - To make communication with the applicant, in the exercise of HWA 2014 Chapter 2 functions, accessible (new).



S.62 assessment – When undertaking assessment

- In carrying out the assessment, the LHA must:
 - Seek applicant's views on the matters it must assess (ie circs causing homelessness, housing needs, support needs).
 - Have regard to those views (cl.3(2)(d)(i); s.62(6)(a)).
 - Make inquiries relevant to the assessment regarding the applicant's and household members':
 - Circumstances, and
 - Personal characteristics.
(cl.3(2)(d)(ii); s.62(6)(a) and (b)).



S.62 assessment – Notifying outcome – enhanced duty

- LHA must notify applicant of outcome of its assessment (or any review of its assessment) in respect of:
 - Whether or not eligible for help.
 - Circumstances causing homelessness or threatened homelessness.
 - Housing needs of applicant and household members
 - Support needed:
 - Retain accommodation.
 - Overcome any barrier to living independently.
 - To make communication accessible.
 - Whether or not a Ch 2 duty is owed (cl.3(3)(c); s.63(1)).



Personalised housing plans – Current position

- No statutory duty to formulate a PHP.
- Statutory guidance recommends (Code, 10.33).
- Bill:
 - Puts plans on a statutory footing.
 - Goes beyond position in England.
 - Enhanced requirements.
 - Rebranded:
 - “Prevention, support and accommodation plans”



Prevention, support and accommodation plans (“PSAPs”; “plan”)

- Threshold:
 - LHA considers that a Ch.2 duty is owed (cl.4; s.63A(1)).
- Duty:
 - Prepare and maintain a plan.
 - Have regard to outcome of assessment (cl.4; s.63A(1) and (4)).
 - Give a copy of plan (or of any document forming part of plan) to applicant
 - Notify applicant of right to request review of plan, and period for requesting review (cl.4; s.63A(12)).



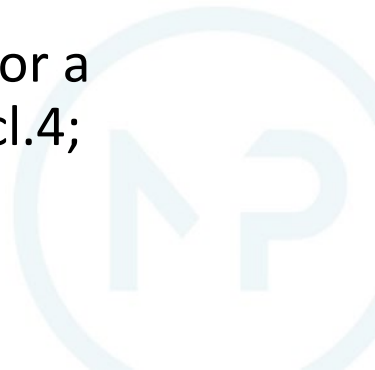
PSAP plan – Content (1)

- Assessment of housing & support needs.
- Applicant's views (if any) in relation to those matters.
- Any steps LHA will be taking to communicate with applicant in a way that is accessible.
- Record of outcome applicant wishes to achieve with LHA's help.
- Any written information or advice for the applicant that the LHA considers appropriate.



PSAP plan – Content (2)

- Steps to take for:
 - Applicant.
 - LHA – in exercise of any of its functions (including social services functions).
- Record of:
 - Agreement between LHA and applicant regarding steps, or
 - Reasons for non-agreement.
- Steps that another public authority has agreed to take (of which LHA are aware) in relation to the applicant for purpose of securing that applicant (or a household member) is able to secure or retain suitable accommodation (cl.4; s.63A).



S.62 assessments & s.63A plans – Duty to review

- General duty to keep under review (s.62(8); cl.4; s.63A(13)).
- Duty to review in certain circumstances (cl.4; s.63B(1)).
- Specified circumstances listed in new s.63B:
 - Reason to believe household member's circumstances have changed in a way that may affect:
 - Accommodation needs.
 - Support needed to help retain accommodation.
 - Entitlement to help under Ch.2.
 - It appears to LHA that s.66 (prevention) duty or s.76A (help to retain) duty:
 - Has ended, or
 - Is likely to come to an end
 - Because the applicant is homeless.
 - 8-week period passes without review of plan (cl.4(2); s.63B(2)).



Steps for applicant – Underlying policy

- No sanction for non-compliance.
- Voluntary.
- Swing away from rights '*and responsibilities*'



Prevention duty – Performance

- Currently:
 - ‘Help to secure’ =
 - Reasonable steps.
 - Having regard to the LHA’s resources (s.65).
- Substance of what required changed:
 - S.66 prevention duty:
 - “must help to secure that suitable accommodation does not cease to be available for occupation by the applicant by taking reasonable steps ***likely to achieve that purpose.***” (cl.2(3)(a); s.66(1A)).
 - Does not (as now) require LHA to provide accommodation (cl.2(3)(a); s.66(1B)).



Entitlements & duties – Key changes

- Bill abolishes differences in entitlement based on:
 - Priority need (cl.9).
 - Intentionality (cl.10).
- Bill abolishes:
 - Section 73 'relief' duty (cl.9(2)(c)).



Abolition of priority need – Effect

- Interim s.68 accommodation duty owed if LHA has reason to believe that applicant is:
 - Eligible for help (immigration & nationality status), and
 - Homeless (cl.8(2)(b); s.68(2)).
- Full s.75 accommodation duty is:
 - Not postponed.
 - Owed if (broadly) LHA satisfied that applicant is:
 - Eligible for help (immigration & nationality), and
 - Homeless.
 - Household member has local connection with Wales (cl.6(3); s.75(1)).



Abolition of intentionality – Effect

- Perverse outcome?
 - Persons will be able to deliberately give up accommodation that is reasonable to continue to occupy.
 - And still benefit from full s.75 accommodation duty.
 - Lack of powerful disincentive.



Ending of 'full' s.75 accommodation duty – Change

- Following successful outcomes remain:
 - Acceptance of:
 - Offer of allocation of social housing.
 - Tenancy which is an occupation contract or 6-month AST (s.76(2) to (4)).
- Additional successful discharge ground:
 - Applicant is no longer homeless.
 - Suitable accommodation available.
 - Accommodation is likely to be available for at least 12 months.
 - Applicant is given notice of consequences of agreeing to duty ending.
 - Applicant subsequently agrees to duty ending (s7(3); s.76(7A)).



Ending of 'full' s.75 accommodation duty – Change #2

- New discharge ground:
 - Applicant is serving a custodial sentence.
 - LHA is satisfied that no reasonable prospect of applicant being released from detention before the end of a period of 6 months, beginning with:
 - Date of application for help, or
 - If s.66 prevention duty was owed (at any time), the day the s.66 duty ended (cl.7(3); s.76(7D)).



Prisoners – Changes

- Various provisions amending how duties operate.
- Example - full s.75 accommodation duty is not owed if:
 - Applicant is:
 - Prisoner.
 - Serving custodial sentence
 - LHA is satisfied that:
 - No reasonable prospect of applicant being released from detention within 6 months of:
 - Date of application under Ch.2, or
 - If s.66 prevention duty owed – the day the duty ends (cl.6(3); s.75(1) and (7)).



Homelessness and Social Housing Allocations (Wales) Bill: all change?



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The other stuff!

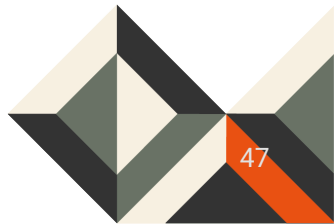
- 1) Reviews
- 2) Act and Ask
- 3) Vulnerable people (inc the homeless themselves)
- 4) Allocations



Reviews

Clause 5, amending s.85 (right to request a review)

- Right to seek a review of a decision not to carry out a s.62 assessment
- Right to seek a review of the various assessments (contrast with England and *AA v Waltham Forest* [2025] EWHC 1625 (Admin))
- Possible to ask for a suitability review up to six months after the date on which it was accepted (new s.85(4B)(b))
- Open question: can you ask for a review or do you have to specify grounds? Para.20.11 CoG / *Ofori-Addo v Haringey LBC*



Act and Ask

Clause 21, inserting new s.94A

New duty applicable to a “specified public authority” (s.94B, includes social landlords, health boards, prisons)

Applies if they consider that a person in Wales for whom they are exercising functions is or may be homeless/threatened with homelessness

Duty is to ask the person concerned if the specified public authority can contact a local housing authority (in England or Wales) and tell the LHA how to contact the homeless person

(How does this work in England? Is it an application? It looks like it is going to be a s.213B HA 1996 referral – see cl.22)

Presumably a lot to come in guidance (new s.98(2A))



Vulnerable people

Care leavers

Cl.23 – new s.108A Social Services and Well-Being (Wales) Act 2018

- Certain care leavers must have suitable accommodation (which doesn't necessarily mean suitable in the homeless sense – regs will define it for these purposes, see s.109A)
- Also become a reasonable preference category

Vulnerable persons

- Statutory protocol for joint working between homeless teams and social services teams for care leavers
- Statutory protocol for joint working between homeless teams and anyone working in the homelessness field – very, very broad



Vulnerable people (cont...)

New duty to “seek the views of homeless persons” in respect of s.52(8) (homelessness strategies) and s.60(4) (advice services)

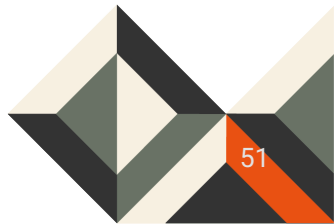
“nothing about us, without us”



Social Housing Allocation

New s.160A, 1996 Act

- Power to decide who qualifies for an allocation. Bringing Wales into line with England and, presumably, all the same problems will arise (discriminatory policies; reasonable preferences exclusion debate *etc*)



Social Housing Allocation (2)

A new definition is to be created relating to people who have manipulated the housing system. A local authority will not be required to give such a person any reasonable preference.

A person manipulates the housing system if they deliberately do or fail to do something in consequence of which they cease to occupy accommodation which was available for their occupation and which it would have been reasonable for them to continue to occupy and did so either intending to improve their chances of being allocated accommodation in consequence of a homelessness application or they acted contrary to the advice of a public authority, where that authority had provided advice which was adequate to enable the person to continue to occupy their original accommodation.

An act or omission in good faith is, however, not a deliberate act.



Social Housing Allocation (3)

“160B Offers of housing accommodation held by registered social landlords and private registered providers of social housing: Wales

(1) Registered social landlords and private registered providers of social housing may only offer housing accommodation which they hold in a local housing authority’s area in Wales to persons included on the common housing register for that area.

(2) Subsection (1) does not otherwise affect the right of registered social landlords or private registered providers of social housing to choose who is offered housing accommodation which they hold in Wales.”




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Thank you

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