

Report

Cabinet Member for Housing and Planning

Part 1

Date: 11 March 2025

Subject **Housing (Wales) Act 2014 – Test of Intentionality (Homelessness)**

Purpose To seek approval from Cabinet Member to apply the test of intentionality to all household groups presenting as homeless to the Council in line with requirements of the Housing (Wales) Act 2014.

Author Housing Service Manager

Ward All Wards

Summary The Housing (Wales) Act 2014 requires the Council to consider and subsequently decide which household groups will be assessed as being intentionally homeless, in accordance with legislative requirements.

In June 2015, Newport City Council approved retaining the intentionality test for all 10 priority need categories (as set out in Housing (Wales) Act 2014). However, in December 2022, Welsh Government introduced legislation to add an eleventh priority need category relating to those who are 'street homeless'. The intention of this legislation is to ensure no-one in Wales is forced to sleep rough and continued the 'no-one left out' approach that was put into place as an emergency response during the pandemic.

This paper is seeking to add the eleventh priority need group to the household groups that will be assessed as being intentionally homeless, in accordance with legislative requirements.

Proposal **To approve an amendment to the policy to apply the test of intentionality to all household groups presenting as homeless.**

Action by Head of Housing & Communities

Timetable Immediate

This report was prepared after consultation with:

- Head of Law and Standards
- Head of Finance
- Head of People, Policy and Transformation

Signed

1.0 BACKGROUND

- 1.1 The Housing (Wales) Act 2014 came into force on 27th April 2015, replacing the Housing Act 1996.
- 1.2 Local Authorities apply the intentionality test to consider whether a person presenting as homeless has done, or failed to do, something which could be considered to have caused the loss of their last settled accommodation and could therefore be deemed to have caused their homelessness 'intentionally'. Where a person has become homeless intentionally, the Authority does not have a statutory duty to secure permanent accommodation for that person.

The Housing (Wales) Act 2014 defines intentionality to be when a person 'deliberately does or fails to do anything in consequence of which the person ceases to occupy accommodation which is available for the person's occupation and which it would have been reasonable for the person to continue to occupy'.

- 1.3 From 1st July 2015, Councils in Wales can decide which categories of Priority Need they will apply the test of intentionality to. Newport City Council approved retaining the intentionality test in June 2015 for all 10 priority need categories (as set out in Housing Wales Act 2014). The paper can be found via the following link - [Part 1 Report Template \(newport.gov.uk\)](https://www.newport.gov.uk/part-1-report-template)

The priority need categories are outlined below:

- Households with dependent children
 - Households with a pregnant woman
 - Households vulnerable due to old age
 - Households vulnerable to physical disabilities or mental illness / learning disability
 - Households vulnerable due to being a care leaver / or a young person at particular risk of sexual or financial exploitation (18-20 year olds)
 - Households vulnerable due to being a 16 or 17 year old
 - Households vulnerable due to fleeing domestic violence / abuse or threatened violence
 - Households vulnerable due to leaving the armed forces
 - Households vulnerable due to other reasons
 - Households homeless upon release from leaving prison and considered vulnerable as a result
- 1.4 There are some exceptions to the intentionality test. The Housing (Wales) Act 2014 Section 75(3) ensures that the following categories of applicants will continue to be eligible for the section 75 duty (i.e. an absolute duty to secure that suitable accommodation) even where a local authority is satisfied that they have been found intentionally homeless:
- A pregnant woman
 - A person with whom a dependent child resides
 - A person who had not attained the age of 21 when the application for help was made
 - A person who had attained the age of 21, but not the age of 25, when the application for help was made and who was looked after, accommodated or fostered at any time while under the age of 18

However, section 75(3)(f)(i) limits this provision so that where someone has been found intentionally homeless twice in a five year period, they would not then be subject to the section 75 duty.

- 1.5 The Homelessness (Priority Need and Intentionality) (Wales) Regulations 2022 ("the 2022 Regulations") came into force on 24th October 2022. They have the effect of adding an 11th priority need category which describes a person who has a priority need for accommodation to the pre-existing ten categories identified within section 70 of the Housing (Wales) Act 2014 and is to be used when determining whether a duty is owed under section 68 and 75 duties. This

category is 'street homeless'. The local authority will continue to apply the test of intentionality to all 11 categories of priority need.

- 1.6 The Housing (Wales) Act 2014 places a requirement on the Council to provide a formal public statement outlining which priority need groups the Council will assess as being intentionally homeless.

2.0 Intentionality Data

- 2.1 The number of households historically found to be intentionally homeless over the last 4 years by the Council are outlined below.

Year	Total no. of homelessness presentations	Total number of intentional decisions	Intentional decisions as a % of homelessness presentations
2020/21	2784 (average)	5	0.18%
2021/22	2339 (actual)	4	0.17%
2022/23	2529 (actual)	1	0.04%
2023/24	2607 (actual)	6	0.23%

The table above shows that the number of intentional decisions made by the authority is very low in comparison to the number of homelessness presentations.

In the main these powers will be used as tool to prevent homelessness by discouraging households from giving up accommodation which is suitable for their needs or engaging in behaviour which puts their housing at risk (e.g., Anti-Social Behaviour, Rent Arrears). In all cases, whether determined as intentionally homeless (or not), steps will continue to be taken to provide appropriate advice and assistance to applicants to secure alternative accommodation, usually either within the private rented sector or within supported housing.

3.0 Next Steps

- 3.1 The Council is required to take a decision on which groups are to have the test of intentionality applied and this requires the approval of the Cabinet Member. The decision must be communicated to the Welsh Government and details must be made public at least 14 days before it takes effect in order to ensure that both agencies and residents are aware of the Council's policy and decision on this matter. It must also make provision to publicise a notice to this effect on the Council's website and by posting a notice at the offices where applications for help with homelessness are received. This decision may not be revisited more than twice a year.

Financial Summary (Capital and Revenue)

If the council decides not to apply the test of intentionality to all priority need groups outlined in this report, there is a risk that additional resources continue to be expended on providing temporary and permanent accommodation to households for a number of times.

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
To continue to assess intentionality as	L	L	Risks to the Authority:	Housing Service Manager

<p>part of the homeless assessment process for all priority need categories previously agreed and include the eleventh priority need category</p>			<p>A statutory duty to provide temporary accommodation beyond 56 days, until such time that suitable, permanent accommodation is secured will apply to a reduced number of households, avoiding a further increase in the costs associated with providing accommodation.</p> <p>Reduction in the likelihood of individuals sleeping rough for the occasional night in order to be able to access temporary accommodation more easily and be owed a full homelessness duty under section 75 of the HWA where the authority must secure permanent accommodation (as there is no time limit within the definition of street homeless).</p> <p>Risks to individuals:</p> <p>As NCC has historically made intentional decisions to less than 1% of those presenting as homeless. Consequently, the number of households who are affected by a decision to apply the test of intentionality is likely to remain low, reducing the impacts on individuals.</p> <p>Where individuals are in priority need, but found to be intentionally homeless, the authority still has a duty to provide temporary accommodation for up to 56 days during which time there is a statutory duty to continue to provide help and assistance to secure permanent accommodation, thus reducing the impact on the individual.</p>	
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			All intentional decisions will be signed off by a Service Manager, who will consult with the authority's legal team if required.	
To assess intentionality as part of the homeless assessment process for all priority need categories previously agreed, and not include the eleventh priority need category	M	L	As above, but the risks to the authority would be increased.	Housing Service Manager

Links to Council Policies and Priorities

Completion of this work supports the Council's **Corporate Plan 2022 - 2027**, [Corporate Plan 2022-27](#) specifically in relation to the themes to deliver an ambitious, fairer, greener Newport for everyone. The Council's Corporate Plan supports the Welsh Government's [Well-being of Future Generations Act](#) seven National Well-being Goals and the Council's strategic priorities for the next 5 years. Newport Council's four Well-being Objectives are:

1. **Economy, Education & Skills** - Newport is a thriving and growing city that offers excellent education and aspires to provide opportunities for all.
2. **Environment and Infrastructure** – A city that seeks to protect and enhance our environment whilst reducing our carbon footprint and preparing for a sustainable and digital future.
3. **Quality Social Care and Community Services** – Newport is a supportive city where communities and care are at the heart of what we do.
4. **An Inclusive, Fair, and Sustainable Council** – Newport City Council is an inclusive organisation that places social value, fairness, and sustainability at its core.

The proposal supports the following objectives within the Corporate Plan:

- **WB Objective 3:** *Reduce the number of people that are and/or at risk of becoming homeless through the provision of a holistic housing and preventative multi-agency support services.*

Options Available and considered

Options

There are a number of options to consider:

1. To continue to assess intentionality as part of the homeless assessment process for all priority need categories previously agreed and include the eleventh priority need category.
2. To assess intentionality as part of the homeless assessment process for all priority need categories previously agreed, and not include the eleventh priority need category.

Preferred Option and Why

The preferred option is to continue to assess intentionality as part of the homeless assessment process for all priority need categories previously agreed and include the eleventh priority need category.

If the intentionality rule is not applied to all categories of priority need, the Local Authority will have increased homelessness duties to a higher number of applicants. There have already been significant changes being brought into effect under the Housing (Wales) Act 2014 placing additional responsibilities upon the Council in terms of seeking to prevent homelessness and find solutions for households.

These changes will place a greater level of pressure on services, including financial pressure which will inevitably be an additional pressure on staff. The added pressure of changing the process around the assessment of intentionality would only serve to add additional complications and provide additional pressures on services at a time of ongoing significant demands.

In addition, there is also a risk that by changing the requirement to not find the above groups to be intentionally homeless then there is a real financial risk on the Council in the continued provision of accommodation where individuals are failing to engage with services and to not take responsibility for their actions. It is therefore essential that households are provided with services aimed at preventing homelessness where practicable to do so and to seek to build services around individuals so that they are able to develop the necessary skills to sustain accommodation in the long term, thereby reducing the overall impact on services.

In summary, it is recommended that the intentionality test is retained for all household groups, with this being reviewed in 2 years which will allow for a more comprehensive assessment of the position and the impact of the legislation to be better examined and evaluated.

Comments of Chief Financial Officer

Whilst the inclusion of a separate category for Street homelessness requires the Council to review its approach, street homelessness is not a new phenomenon and would likely have been captured as a subset of existing traditional priority needs categories. There are no direct financial implications identified as a consequence of adding a specific eleventh category, or from recommending the same intentionality test apply to that group too.

Comments of Monitoring Officer

The law in regard to the test of intentionality is accurately set out within the body of the report. This report has been prepared in response to a change in law. Updating the policy ensures that the Council is legally compliant.

By retaining the test of intentionality, the Local Authority would not have a duty to accommodate those who have carried out deliberate acts, the consequence of which has resulted in the loss of their home. Applying the test of intentionality to all categories of person ensures that the Council is fully equipped to manage its homelessness functions.

It is the responsibility of the Cabinet Member to determine and amend any policy relating to the portfolio.

Comments of Head of People, Policy and Transformation

The proposal to continue to assess intentionality for all priority need categories also including the eleventh priority need category is in line with the Council's Well-being Objectives, which commit to 'reducing the number of people that are and/or at risk of becoming homeless through the provision of a holistic housing and preventative multi-agency support services'.

The principles of the Well-being of Future Generations (Wales) Act 2015 and its five ways of working are supported, through a focus on preventative work to tackle homelessness which is known to have long-term consequences for the wellbeing of individuals and families. Moreover 'street homeless' people are amongst the most vulnerable people in our society and principles of fairness place a high regard on prioritising the needs of such groups.

A Fairness and Equalities Impact Assessment has been prepared considering all relevant impacts of the proposal.

There are no direct staffing or HR related issues arising directly from this report.

Scrutiny Committees

Consultation with Scrutiny committees has not been required to date.

Fairness and Equality Impact Assessment:

A Fairness and Equalities Impact Assessment (FEIA) has been completed. A link to the FEIA is included at Appendix A.

Children and Families (Wales) Measure

The proposals set out in this report are not relevant to the aims of the Children and Families (Wales) Measure.

Wellbeing of Future Generations (Wales) Act 2015

The proposed Scheme would contribute to the following Well-being Goals set out in the Wellbeing of Future Generations (Wales) Act 2015: a prosperous Wales, a healthier Wales, and a Wales of more cohesive communities.

The five things public bodies need to think about to show they have applied the sustainable development principle put into place by the Act are set out below:

- **Long term:** Ensuring that a Local Housing Market Assessment is completed will ensure that the housing needs is clearly articulated and communities are therefore supported in a long term, proactive way.
- **Prevention:** Suitable and sufficient housing across Newport is a key fundamental issue that can prevent numerous detrimental impacts on individuals, families and communities from occurring.
- **Integration:** There would be a positive impact on Newport City Council's Well-being Goals from the completion of this work:
 - To improve skills, educational outcomes, and employment opportunities.
 - To enable people to be healthy, independent, and resilient.
 - To build cohesive and sustainable communities.
- **Collaboration:** This work has completed in collaboration with Planning Policy and will support further collaboration with key partners in the future.
- **Involvement:** Consultation that is appropriate to the current stage of the process has been completed.

Consultation

Appropriate consultation within the Council has been completed. Wider public consultation would not have been an appropriate action for this piece of work.

Background Papers

[Part 1 Report Template \(newport.gov.uk\)](http://newport.gov.uk)

[Housing \(Wales\) Act 2014 \(legislation.gov.uk\)](http://legislation.gov.uk)

[Allocation of accommodation and homelessness: guidance for local authorities | GOV.WALES](http://GOV.WALES)

[code-of-guidance-addendum.pdf \(gov.wales\)](http://gov.wales)

Dated: 11 March 2025

Appendix A Fairness & Equalities Impact Assessment



Intentionality Test
FEIA 20.02.25.docx