



Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff
CF99 1SN

17 July 2025

Dear Mike,

Thank you for your letter of 27 June following my oral evidence to the Legislation, Justice and Constitution Committee's scrutiny session of the Homelessness and Social Housing Allocation (Wales) Bill. I am writing to provide you with the further information requested by the Committee.

I offered to provide the Committee with a note on the Welsh Government's intentions in relation to applying the duty to "ask and act" to primary care. This is attached at annex A.

Definition of "threatened with homelessness" and possession notices

Thank you for drawing my attention to the evidence given to the Local Government and Housing Committee relating to the definition of "threatened with homelessness" and whether section 1(2)(a) of the Bill is broad enough to capture a range of possession notices, such as a serious rent arrears notice or breach of contract notice.

New section 55(4)(a) of the Housing (Wales) Act 2014 ("2014 Act") is intended to capture notices that require a person to give up occupation of their accommodation, whether fault-based or not. "Notice" in new section 55(4)(a) of the 2014 Act includes not only notices that may be served in relation to occupation contracts under the Renting Homes (Wales) Act 2016 ("2016 Act") but also notices that require a person to give up occupation of their accommodation, whatever the underlying arrangements. For example, it includes notices ending arrangements where a person resides with a landlord (which fall outside the definition of "occupation contracts" for the purposes of the 2016 Act) and it includes notices for possession served under Schedule 10 to the Local Government and Housing Act 1989 to end a long lease.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

New sections 55(4)(b) and (c) of the 2014 Act, on the other hand, deal with scenarios where a person may be required to give up occupying their accommodation. Under section 55(4)(b), a person is “threatened with homelessness” if an application to the court has been made for a possession order. And under section 55(4)(c), a person is threatened with homelessness if it is likely that the person will become homeless within 6 months.

In relation to notices under the 2016 Act that do not of themselves require a person to give up occupation (e.g. a serious rent arrears notice), neither new section 55(4)(a) nor (b) of the 2014 Act will apply. Instead, under new section 55(4)(c) of that Act, a local housing authority would need to assess whether it is likely that the person will become homeless within 6 months, and if a notice has been served under the 2016 Act, that would be a relevant consideration for that purpose.

I am therefore of the view that new section 55(4)(a) when considered together with paragraphs (b) and (c) of that section meet the policy intention. They allow not only people who are required to leave their homes to access help under the Act, but also those who may be required to leave their homes in the near future.

Duty to “ask and act”

In your letter you reference use of the term “considers” in relation to the proposed duty to “ask and act”, querying whether “has reason to believe” may be language better aligned to the 2014 Act.

Within the context of new section 94A of the 2014 Act, I do not believe that there would be a significant difference in meaning had we used “has reason to believe” instead of “considers”. The reason for using “considers” in this provision is for consistency with the language of section 213B of the Housing Act 1996, as (broadly) the same bodies will be subject to the duty to “ask and act” under new section 94A of the 2014 Act in relation to Wales and the duty to refer under section 213B of the Housing Act 1996 (“the 1996 Act”) in relation to England. There is, therefore, value in using the same language in both provisions.

You also note evidence suggesting that the duty on specific public authorities to “consider” in new section 94A(5)(b) and (c) could be stronger, and a duty “to provide” would be more robust from an enforcement perspective.

The duty in section 94A(5)(b) requires more than consideration of whether to take steps. Under that section, if a specified public authority considers that there are any other steps it could reasonably take to help the person secure or retain accommodation, it must take those steps. This allows the specified public authority to decide what steps might be appropriate to take. This is important as the actions required in relation to an individual will need to be considered on a case-by-case basis and the specified public authorities are best placed to make the assessment as to what steps should be taken (if any) in relation to a particular individual.

The duty in section 94(5)(c) is a duty to consider whether the specified public authority’s opinion that a person is homeless or threatened with homelessness affects the exercise of its functions in relation to the person. Again, how functions should be exercised in relation to an individual who may be homeless or threatened with homelessness will need to be assessed on a case-by-case basis and so, again, prescribing the particular things that should be provided or done in particular scenarios under this section would not be appropriate. The specified public authorities themselves are best placed to make this assessment and guidance will be provided to assist these considerations.

The deliberate manipulation test

You also note that section 167A(2) of the Housing Act 1996, as inserted by section 36 of the Bill, inserts a deliberate manipulation test and suggests that new section 167A(2)(b)(ii) does not require the individual to have had any intent to deliberately manipulate the system. You refer to evidence provided to the Local Government and Housing Committee which queries whether the new test is too broad or sufficiently different to the intentionality test being removed by section 10 of the Bill.

The new deliberate manipulation test and the existing intentionality test are different in two distinct ways. The first difference is that the tests operate on different legislative systems. The test that is in section 77 of the 2014 Act is about entitlement to help for homeless persons under that Act, and removing that test meets the policy intention of not denying homelessness assistance to persons who may be intentionally homeless. New section 167A of the 1996 Act, on the other hand, is about entitlement to an allocation of social housing and the provision seeks to prevent persons from doing things or failing to do things for the purpose of improving their chances of being allocated social housing. No such test currently exists.

The second difference is that, although the tests appear similar, the test in new section 167A of the 1996 Act is narrower than the test in section 77 of the 2014 Act. New section 167A(2)(a) and (b)(ii) of the 1996 Act provide that a person is trying to manipulate the housing system if the person did something or failed to do something that led to them ceasing to occupy their accommodation and before doing that thing (or not doing it) they had advice that was intended to enable them to stay in their home. In other words, persons who are properly informed as to the potential consequences of their actions (or inactions) can be trying to manipulate the housing system, but persons who do something (or fail to do something) without being fully informed of the consequences of doing that thing (or not doing it) would not be trying to manipulate the system. This is in contrast to the test in section 77 of the 2014 Act, where a person could be intentionally homeless if they did something (or didn't do something) that led to them being homeless – regardless of whether they fully understood the consequences of their actions (or omissions).

I am of the view that the test in new section 167A meets the policy intention and sufficiently describes the acts or omissions that are intended to amount to trying to manipulate the housing allocation system (guidance will be an important tool in setting out further detail). I am content that the provision is not too broad; it is narrower than the test in section 77 of the 2014 Act that is being removed by the Bill.

“Shall” vs “Must”

You also note that Schedule 1 to the Bill provides that local housing authorities in Wales "shall" have regard to guidance and provides that regulations made by the Welsh Ministers "shall" be made by Welsh statutory instrument and query why this term is used instead of "must".

Section 169 of the 1996 Act uses "shall" and the amendments to that section made by paragraphs 5(b) and 6(b) of the Schedule to the Bill use "shall" to be consistent with the language of that section (see also paragraph 7:30(2) of *Writing Laws for Wales*, which states that when amending existing legislation, it may be appropriate to use "shall" in text that will be inserted near to existing provisions that already use "shall" in the same way).

I hope this additional information aids your ongoing scrutiny of the Bill and I thank the Committee for your work on this Bill.

I am copying this letter to the Local Government and Housing Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Jayne Bryant". The signature is written in a cursive style with a large, stylized 'J' and 'B'.

Jayne Bryant AS/MS

Ysgrifennydd y Cabinet dros Lywodraeth Leol a Thai
Cabinet Secretary for Housing and Local Government

Annex A

Briefing paper in relation to applying the duty to “ask and act” to primary care contractors.

Overview

The list of specified bodies within the Homelessness and Social Housing Allocation (Wales) Bill includes a Local Health Board, but only in relation to individuals to whom it provides or arranges health care services that are not primary care contracted services (or where, in limited circumstances, Local Health Boards provide such services under the ‘managed practices’ approach). Services not within the remit of the Bill are General Medical Services (GMS), General Dental Services (GDS), Optometry Services and Community Pharmacy Services. These services are all contracted with Local Health Boards and operate as private businesses.

That said, there is a far wider provision of services outside of hospital or secondary care settings and whilst the contracted functions are outside of the remit, there are a number of services included in the wider umbrella of Primary and Community Care which are within scope as they are delivered by Health Boards. This includes services delivered by nurses, midwives and Allied Health Professionals (AHPs) who **work within multi-professional primary care clusters to deliver health and social care**. The inclusion of the Local Health Board means the duty will apply to, amongst others, urgent and emergency care, inpatient care and mental health and substance use services.

Primary Care contracted services are not included in the Bill because they are not public bodies and NHS Wales has a different, contractual based relationship with this element of health services. We do, however recognise the important role primary care services play in homelessness, and work is underway with health services to meet our policy objectives outside of the legislation.

Primary care focused work

The Welsh Government has set out a requirement for health boards to develop strategic plans that articulate their approach to reduce inequity and improve the lived experience of vulnerable people (letter attached at annex b). This includes the development of Inclusion Health Services to meet the needs of people traditionally excluded from mainstream services, which includes patients who are homeless or at risk of homelessness. [Planning support and resources](#) have been developed to support health boards to lead this work through community focused cluster planning and delivery of health and care that is inclusive of the needs of the most vulnerable individuals.

Resources include a [‘Blueprint for needs-based Services for Inclusion Health’](#) to assist GP practices to plan services to address the inequalities in health often seen by patients experiencing homelessness.

The Blueprint is informed by [NICE guidelines](#) which promote equitable access to primary care services. Emphasis is placed on the importance of integrated care which includes making a referral (with consent) to housing services.

Training and education are fundamental to changing systems and culture. Public Health Wales and the Strategic Programme for primary care have developed a programme of work to include inclusion health and homelessness in GP training schemes. Delivered by GPs, third sector organisations and people with lived experience of homelessness, the training is underpinned by evidence, data and approaches to identify and support people who present as homeless or at risk of homelessness. This includes making referrals to the local housing authority and other support services to prevent the escalation of poor outcomes.

The [Directed Supplementary Service – Homeless Scheme](#) can be used by health boards to strengthen local care arrangements through commissioning enhanced care from GPs, who ‘opt-in’ to provide this service. This includes a requirement to develop and produce an up-to-

date register within the practice to identify people affected by homelessness, a requirement to liaise with local statutory services and homelessness agencies and where appropriate, the development of joint protocols, and links with local urgent and emergency care units.

We consider this renewed focus on inclusion health in both secondary and primary care delivers on the policy intention to ensure people at risk of homelessness or experiencing homelessness are identified and referred to the local housing authority and relevant support services earlier.

Annex B

**Cyfarwyddwr Cyffredinol Grŵp Iechyd, Gofal Cymdeithasol a'r
Blynyddoedd Cynnar / Prif Weithredwr GIG Cymru**



**Director General Health, Social Care & Early Years Group /
NHS Wales Chief Executive**

**Llywodraeth Cymru
Welsh Government**

To: NHS Wales Health Board Chief Executives

Our Ref: JP/RD/SB

26 March 2025

Dear Colleagues

Guidance for the development of local Inclusion Service models

A Healthier Wales has an ambition to build a society in which people's physical and mental wellbeing is maximised and in which choices and behaviours that benefit future health are understood.

The national milestone on healthy life expectancy is to increase the healthy life expectancy of adults and narrow the gap in healthy life expectancy between the least and the most deprived by at least 15% by 2050. However, inequalities in life expectancy and mortality remain wide and for the most vulnerable in our society life expectancy is significantly reduced and many years are lived in poor health.

Through our focus on understanding and improving health for communities it is important that we understand the needs of our most vulnerable citizens and that all services work together to plan seamless solutions that are tailored to individual needs. These developments should be proportionate to the scale and complexity of local needs.

Strategic plans must clearly articulate the approach to reducing inequity and improving the lived experience of vulnerable people to satisfy the Duty of Quality and Equity [The Duty of Quality in healthcare | GOV.WALES](#)

Under the IMTP / NHS Wales Technical Planning Guidance 2025/28 NHS organisations are expected to develop plans demonstrating:

- Clear and strong board level commitment to prevention and tackling health inequalities based on the 5 ways of working in the Well-being for Future Generations Act (long-term, prevention, collaboration, integration and involvement) and on Value in Health interventions.
- Developing Inclusion Health Services to meet the needs of vulnerable groups.

Resources have been developed to support Health Boards to lead this work, encouraging and supporting local collaboration to build community focused Cluster planning and delivery of health and care that is inclusive of the needs of the most vulnerable individuals.

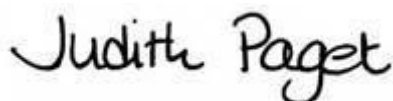
[Planning Support and Resources - Primary Care One](#)

These include: -

1. Inclusion Health Planning Tool
2. Inclusion Service Development Guidance
3. Examples of good practice

The Maturity Matrix for Cluster Working also describes how this work can be developed. More effective service provision for vulnerable groups will improve outcomes, reduce inequity and make more effective use of resources. These are key priorities for public services in Wales. Progress will be monitored through Integrated Quality Planning and Delivery and Regional Partnership Board reviews.

Yours Sincerely

A handwritten signature in black ink that reads "Judith Paget". The signature is written in a cursive, slightly slanted style.

Judith Paget CBE