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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1265**

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

**Title, commencement and interpretation**

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

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

(3) In these Regulations—

“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;

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

(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

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

(2) See section 78(2).

- (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;
- (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<sup>(3)</sup>,
  - (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<sup>(4)</sup>,or a person with whom such a person resides or might reasonably be expected to reside.

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<sup>(3)</sup> 2000 c. 6.

<sup>(4)</sup> 2012 c. 10.

## 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
- (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) 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.

21 April 2015

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