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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1265 (W. 85)**

**HOUSING, WALES**

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

*Made* - - - - 21 April 2015

*Coming into force* - - 27 April 2015

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 78(1) and 142(2) of the Housing (Wales) Act 2014<sup>(1)</sup>.

A draft of this instrument was laid before and approved by resolution of the National Assembly for Wales in accordance with section 142(3)(b)(ii) of that Act.

**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 gategoriâu penodedig o geiswyr*”) means the category or categories of applicant<sup>(2)</sup> in respect of which a local housing authority has decided to have regard to whether or not applicants have become homeless intentionally<sup>(3)</sup>.

(4) In these Regulations, references to sections are references to sections of the Housing (Wales) Act 2014.

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<sup>(1)</sup> 2014 anaw 7.

<sup>(2)</sup> As defined by section 62(3).

<sup>(3)</sup> See section 78(2).

## 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
  - (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(4),
    - (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(5),
- or a person with whom such a person resides or might reasonably be expected to reside.

## 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.

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(4) 2000 c. 6.  
(5) 2012 c. 10.

### **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

*Lesley Griffiths*  
Minister for Communities and Tackling Poverty,  
one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 78(2) of the Housing (Wales) Act 2014 (“the Act”) provides that when assessing an applicant for help with homelessness, a local housing authority may not have regard to whether or not an applicant has become homeless intentionally for the purposes of sections 68 and 75, unless it has decided to have regard to one or more of the categories of applicants specified by the Welsh Ministers. Section 78(1) of the Act places an obligation on the Welsh Ministers to make regulations to specify such categories.

In these Regulations, the Welsh Ministers specify a list of categories of applicants for the purposes of section 78. This list is in regulation 2. It is based on section 70 of the Act, which sets out the list of persons who have a priority need for accommodation.

These Regulations, in reliance on the power contained in section 142(2)(c) of the Act, also make incidental, supplementary and transitional provisions. These are described below.

Regulation 3 provides that a local housing authority must give written notice of its decision to have regard to intentionality to the Welsh Ministers, at least 14 days before it takes effect. The notice must specify the category or categories of applicants in relation to which the local housing authority will consider intentionality. The notice must also contain reasons for deciding to have regard to the category or categories specified.

Regulations 4 and 5 make provision for publication of a notice of decision to applicants and stakeholders. In particular, the notice must be published on the local housing authority’s website, if it has one, and a copy of the notice must be made available, without charge, to affected applicants.

Regulation 6 provides that the decision may not be revised more than twice in a 12 month period. It also clarifies that notices of revised decisions must be published in a similar manner to the original notices.

Regulation 7 prevents a local housing authority from considering intentionality in relation to existing applicants to whom the duty under section 62(1) of the Act is owed, prior to a decision by the authority to have regard to intentionality.

Regulation 8 applies to an existing applicant for help, to whom a duty to assess under section 62(1) of the Act is owed at the time of any changes of categories. Regulation 8(1)(a) provides that if such an applicant is in a category which is removed from the list of categories, the authority must no longer have regard to intentionality when assessing the application.

If, on the other hand, such an applicant is in category which is included in a list of categories while the application for assessment is pending, then regulation 8(1)(b) provides that the notice will not affect that applicant and that an authority may not have regard to the intentionality of that applicant.