

# Communities, Equality and Local Government Committee

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Meeting Venue:  
**Committee Room 2 – Senedd**

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Meeting date:  
**29 January 2014**

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Meeting time:  
**09:00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

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## Agenda

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**Private pre-meeting (9:00–9:15)**

**1 Introductions, apologies and substitutions**

**2 Housing (Wales) Bill: Stage 1 Evidence – Session 7 Welsh Tenants (9:15–10:15)** (Pages 1 - 42)

Steve Clarke, Managing Director

Hannah Smith, Private Sector Development Officer

**3 Housing (Wales) Bill: Stage 1 – Evidence Session 8 Tai Pawb (10:15–11:00)** (Pages 43 - 51)

Alicja Zalesinska, Director

**Break (11:00–11:10)**

**4 Housing (Wales) Bill: Stage 1 – Evidence Session 9 Academics (11:10–12:10)** (Pages 52 - 80)

Victoria Hiscocks, Cardiff Metropolitan University

Dr Simon Hoffman, Swansea University

Dr Bob Smith, Cardiff University

**5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business: Item 6**

**6 Inquiry into participation levels in sport: Consideration of Report (12:10–12:30)** (Pages 81 - 116)

**7 Papers to note** (Pages 117 - 126)

# Agenda Item 2

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To:

Tennatiaid Cymru/ Welsh Tenants  
Milbourne Chambers, Glebeland Street  
Merthyr Tydfil, CF47 8AT  
Tel 0685 723922  
Email: info@welshtenants.org.uk

Christine Chapman AM, Chair  
Communities, Equality and Local  
Government Committee  
National Assembly for Wales

Date: 23<sup>rd</sup> January 2014

Dear Christine Chapman AM,

**Re: Written submission Housing (Wales) bill**

Please accept our profound apologies for not meeting the deadline for written response as intended. Our work commitments are such that our small administrative team has been under huge pressures in recent months.

Yours sincerely

A handwritten signature in black ink that reads 'Steve Clarke'. The signature is stylized with a large 'S' and 'C'.

Steve Clarke  
Managing Director

## Written response regarding legislation and policy consultation

Tenantiaid Cymru / Welsh Tenants  
Milbourne Chamber  
Glebeland Street  
Merthry Tydfil  
CF47 8AT



<b>Written Evidence to:</b>	Christine Chapman AM Chair of the Communities, Equality and Local Government Committee National Assembly for Wales
<b>In respects of:</b>	Housing (Wales) Bill
<b>Date:</b>	January 9 <sup>th</sup> 2014
<b>For further information</b>	Steve Clarke, Managing Director
<b>Contact Details:</b>	steve@welshtenants.org.uk Tel 01685 723922
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### About Us

The Welsh Tenants was formed as a not for profit limited company in 1988 but has a longer history supporting and representing tenants dating back to 1977.

The Welsh Tenants mission is to *'enhance and protect the rights, representation and housing standards of those whom rent in Wales'*.

To this end we work cooperatively with our 340 member groups and associates, the Welsh Government and key stakeholders across the housing sector.

## Introduction

The Tenantiaid Cymru / Welsh Tenants (WT) welcomes the invitation by the chair and cross party committee members to provide a written and oral statement to the Communities, Equality and Local Government Committee at stage 1 of the Housing (Wales) bill.

WT have been extensively involved in a number of Welsh Government working groups relating to the Bill and its tributaries providing written and oral submissions based on feedback from tenants. We have extensively engaged our members throughout its development.

This paper provides a summary of the key thoughts on those submissions, and includes our member's views on the final draft of the Housing (Wales) Bill.

We reaffirm our collective view to what we consider is an excellent bill that is a mature reflection of how legislation, policy and practice needs to develop, particularly in the area of the private landlord and letting agent mandatory licensing scheme.

Our submission is largely focused on this part of the bill as we feel this requires most scrutiny from us. We are however supportive of other elements of the bill.

We would wish to acknowledge the extensive work by all concerned in helping to shape the bill, particularly members of our "make the difference – shape the change" groups who have assisted with our response.

## Summary comments

We fully support the key principles behind the bill that gives meaning to the practical issues faced by Welsh Housing, particularly the emphasis the bill places on ensuring that those whom rent are adequately safeguarded in a vastly changing housing sector.

- Private rented sector - We very much support the ability to know whether the property tenants seek to rent is managed by a competent landlord or letting agent. That prospective renters can seek reassurance that a landlord is licensed to manage and either has, or is working towards, some form of competence to understand their obligations under the law and where appropriate advise the tenant on their contractual obligations under the tenancy.
- Homelessness - We are supportive of the principle to be more proactive in relation to homelessness and to ensure fair and equal access based on identified needs to homelessness support.
- We recognize the need to place a duty on local authorities to provide Gypsies and Traveller sites where need has been identified.
- HRASS scheme – We welcome the efforts to end the Housing Revenue Account Subsidy System that will enable tenants who voted to remain with their council to better invest in their stock. We endorse the recommendation for option 3. We also support measures to enable ministers to have the necessary tools and powers to ensure that appropriate standards are applied in relation to rents, service charges and quality of accommodation.
- We fully endorse the provision to allow local authorities to charge more than the standard rate of council tax on homes empty for over a year, and would wish to see any revenues generated applied to furthering effective housing delivery in the PRS.
- Cooperative housing - We fully endorse the measure that will assist in helping to deliver the commitment to help build the cooperative sector in Wales and meet or exceed the target of 500 cooperative homes. The two prime measures will help considerably.
- We recognise the need for amendments to the Mobile Homes (Wales) Act 2013 and other provisions subject to the comments outlined below.

## Response to the specific questions sought by the committee.

### (A) A compulsory registration and licensing scheme for all private rented sector landlords and letting and management agents

#### Private should not mean secret!

1. **Sector growth** - The private rented sector represents 14% of all housing provided in Wales and is expected to reach 20% by 2020. We acknowledge that private landlords and letting agents provide a vital role in communities and that many provide good standards of accommodation, management and ethical standards. However, the sectors rapid growth and the struggle to provide below market rents equates to the need to tackle management standards and the rights and obligations in the sector, particularly as more vulnerable groups have to rely on this form of accommodation.
2. **Government investment in the sector** - Tenants should have a right to know from whom they rent. This information is vital to target and deliver on a range of policy initiatives in cost effective ways. Devolved and non-devolved areas of government provide considerable investment in the sector. Recent research indicates that buy-to-let landlords obtain £2 billion in tax relief at an average of 40% relief (20-50% range). The HMRC conservatively estimates around £500million in tax fraud due to ignorance or intentional evasion. In Wales 48% of “working and non-working” private renters claim housing benefit to offset rents at Local Housing Allowance (LHA) rates. Wales has seen the biggest rise in rents 3.1% (LSL property services) with average rents now at £573 pcm. Wales has a right to demand better standards of the sector.
3. **Stock condition** - In many areas of Wales we have older stock that require considerable investment. While the social housing renter has seen vast improvements in stock through policy initiatives such as Welsh Housing Quality Standards (WHQS), the PRS still has the highest number of unfit stock. Former council housing sold under right to buy represent more than 50,000 properties in Wales, many of which are now in the hands of private landlords that own between 1 and 3 properties.
4. **Energy efficiency** - Both devolved and non-devolved governments commit millions on energy improvement grants to the sector. WT have seen cases where welfare claimants have accessed grants on behalf of their landlords to later have their tenancy agreements terminated once improvements are made. Government and the tax payer has a right to demand better standards across the board for the considerable investment it makes.
5. **Comparison of responsibilities** - Under the Right To Manage regulations 1994 (and subsequent amendments) secure tenants are able to take on certain



aspects of the management of their homes. To do so, they have to meet a comprehensive set of procedures that includes an assessment of their “competence to manage” by an independent agent. The process for doing so requires a minimum of two years and three key stages that includes feasibility, development, independent assessments of competence to manage and registration. There is something perverse that because of “tenure status” tenants have to undertake this procedure, while there is no “mandatory registration or competency assessment” for landlords who manage potentially several hundreds of properties. Further, there is no ‘requirement’ to belong to a professional body or institute, only recommendations to do so. The law needs to recognise that mandatory registration and competence is something that cannot be ignored for any longer.

6. **Public interest** - There is considerable public interest in ensuring that local authorities know whom private renters are, for the effective enforcement and assessment of local markets and to respond to concerns regarding rights and obligations that impact on local public service provision. There are also significant fears among the tenant community regarding major landlords (including those in Wales) who have publicly stated “they may have to withdraw access to housing benefit claimants”. Reports suggest that this is irrespective of whether they are “working or not”, or “in arrears or not”.
7. **Knowing who your landlord is** - Current and prospective tenants should have a right to know who their landlord is. Government as system steward should also be in a position to bar certain people from managing homes, particularly where they have had criminal or civil proceedings brought against them through incompetence, negligence, acts of fraud or other proceedings. It is unsatisfactory to have a position where the local authority has the means to sign-post tenants to the private market, potentially into a situation worse than whence they came. The considerable governmental investment in the sector means that ‘private’ should not mean ‘secret’.
8. **Servitude and exploitation**– Recent reports suggest that the number of immigrants in the UK is largely unknown, this is no different here in Wales. People awaiting asylum decisions or having been refused asylum and lost to the system have to have shelter as well as those who may have lost homes due to sanctions or other reason. Not all are registered homeless and/or appropriately managed. People live in “Housing Above Retail Premises” (HARPs), some do so, in a variety of retail outlets in return for shelter - sometimes illegally. This may also be the case for people who have simply fallen out of the system. Trading Standards and environmental health recognise this as such. We wholly endorse the principle that if ‘you rent shelter’, then local government should know that you do so, and can target appropriate information to the landlord and their occupiers in order to properly perform their legal functions in a cost effective way.

9. **Equality under the law** - For far too long, certain unscrupulous landlords and letting agents in the private rented sector have been able to flout key considerations of equality and fairness that other renters have enjoyed. Practices such as excluding people from accessing accommodation because of mental health, their culture or religious beliefs and or disability should not be permitted. WT are firmly of the belief that the rights and obligations of both landlords and tenants should not be solely determined by 'whom they rent too or from' but by the laws, policy's and principles that we want to see enacted here in Wales. We firmly believe that a mandatory registration scheme will better triangulate the policy, practices and evidence concerning the effectiveness of policy and practice and help to engage consumers in making choice more of a reality.
10. **Phasing** - There are some who consider that letting agents should be mandatorily included first, and then landlords phased in over time or, to restrict registration too letting agents solely. **We do not subscribe to this view.** The mandatory registration is we believe linked to a range of reforms within Wales' vision for a fairer renting system. The Rented Homes (Wales) draft legislation 2015 seeks to introduce two tier's of tenancy agreement that ensures that anyone who rents their accommodation has access to "a tenancy agreement". Framing legislation, utilising principles contained in the European Convention on Human Rights, UK equalities legislation and consumer protection principles is a mature reflective approach, one that many tenants in Wales will benefit from once enshrined in statute. The timing of both registration for all landlords and letting agents and the introduction of the rented homes bill are inextricably linked allowing time for registration to work. We see phasing may seriously impact on the success of both bills. However we must ensure that registration is vigorously promoted in equal measure across all Local authority areas.
11. **Consumer engagement** - We have long advocated for a better system of accountability for renters in all markets through the formation of localised communities of interest and place to compliment landlord's interactions with local authorities for addressing consumer issues via trading standards, environmental health and as strategic regulators and partners.
12. Work undertaken by ourselves to better understand private tenants as consumers in addition to research undertaken by the Welsh Government, Consumer Focus Wales, Shelter Cymru, CIH Cymru and many others have also consistently highlighted tenants concerns regarding the need to have more knowledge of the sector its providers and its customers.
13. The process of knowing who provides, and working with tenants has helped to improve the registered social landlord sector immensely over the past 25 years. We need to learn the lessons of that era and apply them to the private rented sector. It is our firm belief that this must start with registration.

14. **Reciprocal consumer choice** - There is now extensive information concerning 'individuals' whom rent in the private rented sector via the growth of "landlord referencing agency services" with lists of tenants who may pose a "risk" to private landlords and letting agents. However, there are no similar provisions for tenants to seek such assurances that their landlord or managing agent is both a "fit and proper person" and that they have the "knowledge, skills and capacity" to be so. If we are to adopt principles of giving consumers choice and aim for fairness in the rented market, then we need to ensure that landlord practices are reciprocated with transparency and accountability for consumers to ensure fairness and guard against potential abuses of powers.
15. Tenants believe that the system needs to change. It appears confusing to most whom rent, that to own and drive a car (which can put others at risk of harm) you need a Motor vehicle test certificate, insurance, and a test to prove your competence to drive, yet you can own and let a home, which is arguably as dangerous, without proof of competency or transparency concerning whom the authorities can pursue to offer guidance or prosecute - should an issue arise.
16. **Rent to Rent schemes** – In England (and no doubt here in parts of Wales) there is a growth of "Rent 2 rent" schemes where small investors rent properties to tenants enabling them to sub-let. These occasionally neither agents nor landlords that let tenancies with the express purpose of renting out to other tenants covertly. They often fall under the radar of local authorities as the tenancy agreement does not highlight that they are potentially running an unlicensed HMO or abuse their powers. Failure to ensure that ALL landlords have to register may mean a growth in rent 2 rent schemes.

### Is this the right scheme?

17. **Voluntary registration schemes** – VRS while proving extremely useful to engender interest by the sector, has enabled good landlords to gather together to consider the impacts on their industry and work with local authorities to improve standards among themselves. However the LAWS (Landlord Accreditation Wales) has only managed to attract some 2000 members. The majority of these are already registered with landlord and letting agent trade bodies and therefore has attracted the reasonably 'compliant' as opposed to addressing the training and support needs of landlords who are 'non-compliant' or ignorant of their responsibilities.
18. **Local authority licensing** – Many landlord representative bodies argue that there are considerable powers available to local authorities (even though poorly matched with resources). However local licensing schemes are restricted to Houses of Multiple Occupation (HMOs) and areas where there is considerable Anti Social Behaviour (ASB). Under the Housing Act 2004 councils can only adopt "*local licensing*" as opposed to "*additional licensing*"

where there are HMOs, where demand is significantly low (such as high levels of voids) or considerable ASB. Widening licensing without reform of the law opens local authorities up to the potential of “judicial review”. Ward wide areas subject to licensing has a potential to also de-value properties and stymie investment. This also means placing particular emphasis on ASB in a community in order to justify the imposition of a license which is not good for landlords, renters, investors or the wards concerned. Further, such schemes only work where there are considerable efforts and resources applied by the local authority in partnership with a range of stakeholders to address standards, compliance and competency issues - which are considerably rationed within trading standards and environmental enforcement departments.

19. **Private rented sector and the need for legislation** - The WT has argued for recognition and action on reforming the Private rented sector for many years. We fully recognise that by and large landlords and letting agents are professional bodies wishing to deliver good customer care and professional standards of service. However, the same can be said of registered social landlords. This does not negate the argument for registration for the RSL sector and where appropriate refocusing regulation.
20. **Prevention work** - The need for local authorities and the Welsh government to identify the risks posed by the sector and of consumers is critical in order to perform preemptive work. The Welsh Tenants acknowledge that the Welsh Government and all stakeholders need to work constructively with the sector to improve perceptions and better support private landlords and tenants with information, advice and training in addition to effective enforcement.
21. **Existing regulation powers** - The provision of ‘housing health and safety’ of ALL residential dwellings is contained in the powers local authorities have under the health and safety rating system introduced under the Housing Act 2004. However the HHSRS requires local authorities to provide “statutory intervention” only where there is a “category 1 hazard” through the provision of closure orders or prohibition notices which means serious detriment causing death or injury.
22. The majority of issues faced by tenants relate to category 2 hazards that only gives “discretionary intervention powers” by local authorities, these are often resource dependent. Therefore resources and action are focused on those that cause greatest potential harm. The Act itself therefore is not an effective deterrent in dealing with the majority of consumer concerns regarding standards. We do not support the position as proposed by Parliament regarding private rented sector, that is to effectively “reduce red tape”, this should not mean holding a ‘white flag’ to the issues that consumers face in addressing standards and the challenges in the private rented market.

23. **Legislation** - The arguments by representatives of the sector is that there is a considerable body of legislation and guidance to enable government and its agencies to address bad landlords and or failures in the market. However, the Law Commission and indeed the research conducted by Professor Julie Rugg (Rugg review 2008) argued that we need to address standards. This has been endorsed by the Essex review and subsequent 'Affordable housing inquiry' that followed and indeed the recommendations made by the Communities equality and local government committee.
24. **Consumer protection** – There is a considerable body of evidence by consumer organisations and indeed by landlords themselves that more needs to be done to bring fairness and better consumer choice in the private rented market and to “better improve the perceptions of the sector” to provide more choice and accountability. Issues such as “fees”, “tenancy agreements” and “charging” (by landlords as well as letting agents) and other matters, require that local authorities can efficiently exercise their functions. Knowing who the landlord is, having a competency test, meeting fit and proper persons criteria and strengthening access to information advice and support is we believe the right approach.
25. In brief we are of the firm belief that registration will not by itself improve the sector, but will undoubtedly improve our knowledge and understanding of the sector and its challenges and hence the responses required to improve this rapidly growing sector.
26. The mandatory scheme
  - Tenants expressed support for the scheme even though the fees (as envisaged) would be passed on to them, they appeared to be accepting of this provided there are considerable gains in standards. In this respect we would wish to see private rented sector tenant forums established across local authority areas that feeds into a national voice, as we have argued.
  - They endorsed the view that local authorities needed to collaborate to ensure administration is effective so as not to increase fees. Any registration scheme needs to ensure good data protection for tenants as well as landlords.
  - We would wish to ensure that there are more formal structures of reporting to local authorities for landlord’s with more than 100 properties with the “ability of local authorities to call to account providers and to bring responsible persons before scrutiny committees”.

- Tenants wished to see better “Tenants Support” and that local authorities make use of the range of enforcement powers they already have.
- They did not support the phasing of registration but stated that registration for landlord’s and their agents should commence as soon as practicable to ensure that future legislation on Rented Homes is introduced in a timely fashion, thus allowing private landlords and their letting agents time to adjust to the Rented Homes provisions.

**(B) Reforming homelessness law including placing a stronger duty on local authorities to prevent homelessness and allowing them to use suitable accommodation in the private rented sector.**

1. **General provisions** – We welcome the Homelessness reforms as proposed in Part 2 of the bill as an opportunity to strengthen the rights of citizens to find shelter and sustain their accommodation where it is reasonable for them to do so. There are opportunities (as others in the sector have argued) to “strengthen equality” by ensuring that people with protected characteristics are not indirectly discriminated against. We also welcome the broad definition of “domestic abuse” provided in the bill that supports the intentions outlined in the Domestic Abuse (Wales) bill.
2. The Welsh Tenants have dealt with many cases where the lack of available budgets to respond to a pressing repair need has been used as an excuse to deny a tenant their right to repair. A right should not be consigned to a budgetary consideration. For the Welsh Tenants, a ‘right is a right’ and a ‘responsibility is a responsibility’ it must be clear and unambiguous.
3. We are concerned about the phrase contained in section 51a that the authority is *“required to take reasonable steps to help, having regard (among other things) to the need to make the best use of the authority’s resources”*. There is either a required responsibility or there is not a requirement to exercise this responsibility. If there is a responsibility to prevent homelessness and to respond within 56 days then you cannot restrict this to a budgetary consideration. There is either a statutory responsibility or there is a ‘discretionary one’. This needs to be made clearer for information and support bodies to properly interpret the proposed duty.
4. **Pro action v’s reaction** - We welcome the reforms to homelessness legislation which places a “duty” on authorities to adopt a more “preventative” as opposed to “reactive” approach. The preventative work adds further strength



to the argument to have a whole sector approach to registration for all who provide accommodation, not just the lettings industry, otherwise we would see a two tier approach to preventative work.

5. **Extended periods intervention** - We also welcome extending the period of intervention to 56 days from the current 28 days (the widely used notice to quit (NTQ) period). We fully endorse this approach, giving local authorities prevention duty longer to intercede. It would be useful to extend the NTQ period to 56 days in the model tenancy agreement under the proposed Rented Homes Bill.
6. **Definition of vulnerability** – Members have cautiously welcomed removing former prisoners from the priority need category group, unless they qualify as “vulnerable”. They are of the opinion that there are flows in the access to “priority needs status” that does need to be bridged to enable other vulnerable groups to have fair and equal access to accommodation, for example, people suffering mental health disorders.
7. We do however recognise that there is a need for more research in this area to ensure that we have a system of prioritisation that prevents abuse by any group, regardless of their real or perceived status. Better definition of “*vulnerability*” would therefore be helpful in this regard.
8. **Family Homelessness** – Access to a secure home is a basic human necessity, however the right should always be balanced with responsibilities. We particularly welcome the defence of the right of children in Wales to be accommodated as a family.

**(C) Duty on local authorities to provide sites for Gypsies and Travellers where a need has been identified.**

1. We welcome the strengthening of the duty to provide Gypsies and Traveller sites. We recognise that there are several local authorities that have struggled to provide appropriate sites even though need has been identified. A statutory duty where there is a clearly identified need will help address accessing sites illegally which is an issue raised by Gypsies and Traveller communities.

**(D) Standards for local authorities on rents services charges and quality of accommodation**

1. **Standards for local authorities** – Welsh Tenants welcomes provisions contained in sections 94-97 in respect of standards for rents, service charges and quality of accommodation. We recognise that while there are provisions to ensure standards in respect of financial matters, there is a deficiency in relation to rents, service charges and quality of homes. We welcome the

intention of ministers to ensure that standards within the retained local authority stock mirror the provisions elsewhere for social housing.

**(E) Reform of the Housing Revenue Accounting Subsidy System**

1. Reform of the Housing Revenue Accounting System (HRASS) is overdue, it is a system that tenants have lobbied for change for many decades via the ‘daylight robbery’ and other campaigns. Having been consulted over the reform of the system we have supported the huge efforts made by the Welsh Government and all stakeholders on seeking to reform the system that disadvantages Wales. We fully recognise the need to ensure that Ministers have the appropriate powers to ensure that this occurs.
2. In this regard the Welsh Tenants very much supports “Option 3” to abolish the HRASS and recognises the disadvantages of options 1 & 2. We agree that option 1 offers no additional resources for investment in WHQS and option 2 requires voluntary agreement of all 11 authorities which would be difficult to achieve. We further recognise that option 2 would not be supported by HM Treasury England.
3. Tenants who have voted to stay with the council deserve the opportunity to have sustained improvements to their homes. The estimated £33million resource this would generate would be welcomed by tenants to reduce debt and help achieve the Welsh Housing Quality Standard. And for those that are close to achieving they would be in a stronger position to begin to build much needed social housing.
4. Transparency in how and when WHQS is achieved still requires some work in Wales. We would wish to see “local charter agreements” in place for those who have yet to achieve WHQS, and for those that have, how the standard would be maintained through continual investment including environmental improvements. The charter should set out a clear and concise road of travel including the resources applied and being accountable to local, regional and national tenant representatives. This will be an historic and hugely welcomed agreement by the tenants’ movement.

**(F) The power for local authorities to charge more than the standard rate of council tax on homes empty for over a year.**

1. Given the demand for housing, bringing empty homes into use is an excellent way of making best use of existing resources that are under utilised. We welcome the additional funding to ensure that local authorities have the appropriate resources to deliver on this commitment.



2. We also support the provision to vary the council tax charge as a disincentive for owners to leave homes empty. We do however need to clarify the position for the RSL sector in relation to empty homes given the impacts of welfare reform on some parts of Wales where abandonment or demand has fallen off due to their remoteness, condition, accessibility or viability.

**(G) The Provision of cooperative Housing Associations**

1. We support the provisions contained in Part 6 section 120-121 to enable fully mutual housing associations to grant assured tenancies. We welcome the initiative that will enable co-operative schemes to develop social housing projects.
2. The assured tenancy agreement will be replaced by a model “secure tenancy agreement” for all assured tenancies. Given the proposed reforms outlined in the draft Rented Homes (Wales) bill, there needs to be consistency with those provisions.

**(H) Amendments to the Mobile Homes (Wales) Act 2013**

1. We recognise the need to amend legislation.

**2. Potential barriers to the implementation of these provisions and whether the Bill takes account of them.**

1. **PRS registration** - Despite the collaborative nature of the bill. We are aware of the concerns as expressed by the private rented sector. We are also aware of the difficulties other devolved administrations have had in ensuring that the registration scheme captures all landlords. The success of the registration scheme requires that there is consistency of effort.
2. When Scotland introduced the same, there was varying degrees of priority applied to the registration scheme, meaning that some did well while others did not. We would recommend that an “PRS Advisory body” be established with appropriate consumer representation to monitor the registration scheme and the aims of part 1 of the bill. Such a body would advise the minister accordingly.

**3. Whether there are any unintended consequences arising from the bill**

1. Welsh Tenants have seen a huge rise in the interest in private rented sector and the corresponding difficulties renters face, both in terms of “resolving disputes”, “lack of understanding of the rights and obligations” and other matters. The levels and expectation of support is set to grow exponentially over time. We do believe that there will be a pressing need to “engage with private renters” in the same way local authorities have engaged with private landlords and government has ensured that social tenants have appropriate independent advocacy and a voice.
2. **Awareness campaigns** - We understand that there will be many landlords who may not be permitted under their mortgage arrangements to let their property. These tend to be not those who are utilising letting agents to manage their home. The scope and range of information available to landlords and renters will need to be increased considerably as well as national awareness raising campaigns. This will require considerable investment and a national advertising campaign to ensure all landlord’s and tenants are aware of their obligations.
3. **Specific support** - It is our firm belief, based on discussions with small landlords and owners of 1 or two properties that they will not register and place the property in the hands of managing agents. Many small landlords may consider ending their tenancy arrangements or putting the property in the hands of letting agents, they should be supported to do so. Letting agents and or tenants impacted by these changes need to be aware of a potential surge in the growth of letting agents as a consequence. This is we believe will be an opportunity to increase jobs growth in Wales and letting agents either current or as “social letting agents in the RSL sector may require support to meet the corresponding demand.

- 4. Financial implications of the bill (as set out in Part 2 of the Explanatory Memorandum (the regulatory Impact Assessment which estimates the costs and benefits of implementation of the Bill)).**
  1. We have nothing further to add and support the general assumptions outlined in the EM.
  
- 5. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum which contains a table summarizing the powers for Welsh Ministers to make subordinate legislation).**
  1. We fully support the powers being made available to Ministers to ensure that they have a range of powers and tools to ensure a whole system approach to housing.

End

CELG(4)-03-14 Paper 2



## Tai Pawb

**Written Evidence to the Inquiry into the General Principles of the Housing (Wales) Bill.**

**Communities, Equality and Local Government Committee.**

13<sup>th</sup> January 2014

For further information about this paper please contact:

Alicja Zalesinska

Director

[alicja@taipawb.org](mailto:alicja@taipawb.org)

### **Who we are**

Tai Pawb (housing for all) is a registered charity and a company limited by guarantee. The organisation's mission is, "To promote equality and social justice in housing in Wales". It operates a membership system which is open to local authorities, registered social landlords, third (voluntary) sector organisations, other housing interests and individuals.

### **What we do**

Tai Pawb works closely with the Welsh Assembly Government and other key partners on national housing strategies and key working groups, to ensure that equality is an inherent consideration in national strategic development and implementation. The organisation also provides practical advice and assistance to its members on a range of equality and diversity issues in housing and related services.

### **Tai Pawb's vision is to be:**

The primary driver in the promotion of equality and diversity in housing, leading to the reduction of prejudice and disadvantage, as well as changing lives for the better.

A valued partner who supports housing providers and services to recognise, respect and respond appropriately to the diversity of housing needs and characteristics of people living in Wales, including those who are vulnerable and marginalised.

For further information visit: [www.taipawb.org](http://www.taipawb.org)

Charity registration no. 1110078  
Company No. 5282554

## Introduction

1. Tai Pawb welcomes the introduction of Housing (Wales) Bill and the opportunity to provide evidence to the Committee. Tai Pawb welcomes the content and the ambition of the Bill. We believe this is an exciting opportunity to strengthen the strategic housing function, encourage cooperation, improve outcomes for tenants and service users, reduce homelessness and improve fair and equal access to affordable housing for all citizens.
2. Robust equality impact assessments are necessary to consider and mitigate any barriers and unintended consequences of the Bill. Unfortunately, we have been disappointed with the content of majority of the published Equality Impact Assessments (except for the Gypsy and Traveller Equality Impact Assessment). In our opinion these are not sufficient to appropriately assess the impact of the Bill on various groups. They lack robustness, do not contain sufficient data and evidence of engagement and in some cases manifest lack of understanding of equality legislation. Although we understand current pressures of resources, this is disappointing, considering the Welsh Government leadership and commitment to equality impact assessments and the specific equality duties in Wales.

### **A compulsory registration and licensing scheme for all private rented sector landlords and letting and management agents.**

3. We strongly support the proposals. If implemented, the proposals will provide the first step towards a better promotion of equality and protection of human rights of groups such as ethnic minority communities and migrants who tend to utilise private rented sector to a much greater extent and as a result are disproportionately affected by any malpractice. For example, in Wales 15% of White people live in private rented sector compared to ca. 50% of White Other groups (which usually include White Migrants) and over 45% of Chinese people, over 45% of Black Africans and over 37% of Non-White people as a group. There is good practice in the sector and Tai Pawb recognises the vital contribution that private sector housing is making towards the provision of accommodation and alleviation of homelessness. However there is also far too much malpractice which, considering the above statistics, affects some groups disproportionately. A Recent BBC undercover investigation found that 10 out of 10 letting agents were willing to discriminate against prospective tenants

on the grounds of race<sup>1</sup> and research by Runnymede found that 29% of Black Caribbean survey respondents 28% of Black African respondents and 27% of Pakistani respondents discriminated against because of their ethnic background, nationality or religion when applying to private housing<sup>2</sup>. If we don't work with the private rented sector, we risk further marginalising BME people in Wales who are already disproportionately affected by poor housing and poverty in general.

4. The regime should also be a prerequisite for ensuring that the new opportunity to discharge homelessness duty to PRS does not lead to greater uncertainty and worse treatment of those who are most in need. Licensing, registration, accreditation and training can be used to ensure and communicate appropriate treatment of those who may be vulnerable or disadvantaged due to learning or other disabilities or mental ill health and victims of domestic violence or hate crime. It will help drive up standards. Greater engagement between social and private rented sector could also mean that more is understood about the real market need and business case for accessible housing and more is done to meet this need. We think that diluting the private rented sector proposals in any way would be a real step backwards for equality.
5. In our opinion the Equality Impact Assessment of the private rented sector proposals is not robust enough in identifying the clear positive impact of the proposals on groups such as migrants, BME groups, people with learning and other disabilities.  
<http://wales.gov.uk/topics/equality/inclusivepolicy/impactassessments/housingbilleia2013/?lang=en>

### **Reform of homelessness law, including placing a stronger duty on local authorities to prevent homelessness and allowing them to use suitable accommodation in the private sector.**

1. The new approach and duties related to homelessness are all welcome developments although not nearly as robust as the proposals in the White Paper which considered making redundant the notions of intentionality or priority need when providing ALL of those who are homeless with a 'safe place to stay'. This would

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<sup>1</sup> BBC News, *London Letting Agents Refuse Black Tenants*, 14<sup>th</sup> October 2013, <http://www.bbc.co.uk/news/uk-england-london-24372509>

<sup>2</sup> Runnymede, *'No Dogs, No Blacks' new findings show that minority ethnic groups are still discriminated against when trying to rent private housing*, 14<sup>th</sup> October 2013, <http://www.runnymedetrust.org/news/525/272/No-Dogs-No-Blacks-new-findings-show-that-minority-ethnic-groups-are-still-discriminated-against-when-trying-to-rent-private-housing.html>

have made a world of a difference to groups such as non-priority need Asylum seekers who are granted refugee status, humanitarian protection or discretionary leave who unfortunately have limited access to support or those ex-offenders who are not classed as vulnerable but may have complex support needs not related to custody.

## **Prisoners**

2. Prisoners leaving custody will no longer be classed as priority need and it is yet to be seen how these proposals will mitigate against the negative equality impact on people with mental health problems and BME people, as both these groups are overrepresented in the prison population (a well-documented fact, e.g. Statswales). Contrary to this, The Equality Impact Assessment does not identify any disproportionate impact on people with mental health conditions or disabilities in general. With an estimated 36% of prison population declaring themselves as disabled within a recent survey compared to 19% of the general population. This is broken down to 55% of the female prison population and 34% of the male prison population in the UK<sup>3</sup>. Whether vulnerability is defined or not, the proposals, as the currently are, have the potential to indirectly discriminate against disabled people due to the statistical overrepresentation of disabled people in the prison population.
3. The Welsh Government Equality Impact Assessment identifies impact on BME people however the EIA suggests this will be mitigated because the “new proposal of duties to help prevent or relieve homelessness are inclusive of all groups including prisoners and this will offset the possible disadvantage to this group”. Such statements directly contradict the spirit and requirements of the Equality Act to either mitigate against negative impact or justify it through indirect discrimination provisions. In our opinion, women will also be disproportionately affected by these proposals. As there is no women’s prison in Wales, it is already harder for homeless female ex-offenders to find accommodation due to the need to re-locate. The proposals will only make the situation harder, unless extra support is available to mitigate this impact. This is also relevant to older people - the fastest growing age population in prison is the over 60s group<sup>4</sup>. This is reflected and recognised in specific resettlement programmes for this group of prisoners in England. For example, RECOOP – Re-settlement and Care for Older Ex-offenders and Prisoners. This group has trebled in size in the UK prison population in the last 20 years, consideration needs to be given as to their status in the proposals.
4. While we understand the increased pressure which local authorities are being faced with in relation to homelessness as a direct result of the present economic climate and housing shortage, we do not believe that these proposals will deliver any real savings. We believe that the Welsh Government should see priority housing for

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<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217398/estimating-prevalence-disability-amongst-prisoners.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217398/estimating-prevalence-disability-amongst-prisoners.pdf)

<sup>4</sup> <http://www.prisonreformtrust.org.uk/ProjectsResearch/Olderpeopleinprison>



homeless ex-prisoners as a long term investment which not only helps reduce re-offending but also the need for other support and advice associated with rough-sleeping or overcrowding and its associated costs. Whilst we lack statistical evidence on the contribution of housing to reduction of re-offending in Wales, there is no evidence to suggest otherwise. We would urge the National Assembly and the Welsh Government to consider the need for robust research on this complex topic before making any decisions.

5. It is unclear as to what “vulnerable” means in relation to former prisoners and we would urge the government to clarify the definition and take into consideration the needs of people with protected characteristics as outlined above. Clarity is also needed as to the meaning of “vulnerable as a result of” having served custodial sentence etc.

### **Other Homelessness Provisions**

6. We welcome the extended period of 56 days to deal with homelessness cases and greater focus on prevention which will undoubtedly improve the current situation, especially if accompanied by a shift in culture and appropriate guidance from Welsh Government which takes account of the needs of people with protected characteristics.
7. We believe that the extended period of 56 days referred to above will help reduce homelessness amongst refugees as the current notice of 28 days to quit asylum seeker accommodation (following a decision on their asylum application) is often not sufficient and results in homelessness. This is a particular problem for those asylum seekers not in priority need when they are granted refugee status, humanitarian protection or discretionary leave who struggle to find their own accommodation (especially with decreasing support from refugee organisations whose funding is under constant threat).
8. There is a need to either specify or provide more examples of persons who are in priority need due to being vulnerable “as a result of some special reason” – these reasons are clearly defined in current legislation and include for example mental illness or learning difficulty or disability.
9. We welcome the broad definition of domestic abuse provided in the Bill which is not only limited to physical abuse and follows the spirit of Domestic Abuse (Wales) Bill. We would urge the government to check how the new homelessness provisions will be interlinked with the Renting Homes Bill provisions, especially whether homelessness assessments will be in any way dependent on the proposed definition of prohibited conduct in the Renting Homes proposals (which is not as broad and refers more to physical aspects of abuse).

10. Section 51a of the Bill explains the meaning of “help to secure accommodation” stating that the authority is “required to take reasonable steps to help, having regard (among other things) to the need to make the best use of the authority’s resources”. We believe that singling out “authority’s” resources and not mentioning the “other things” in this case may be damaging and misunderstood especially when those “other things” relate to the duty to make reasonable adjustments for disabled people (case law shows that the cost of reasonable adjustments is often given lower priority by courts than the need of a disabled person to access a service or function). We would urge the government to consider broadening this definition to provide examples of what should be considered when helping to secure accommodation.
11. We believe that the Bill and the planned new guidance for local authorities offer a good opportunity to take account of recent case law relating to equality in housing and re-new local authority focus on equality when making homelessness decisions. It is particularly important to consider needs related to protected characteristics when assessing intentionality (for example Pieretti vs. Enfield 2010) such as the duty to have due regard to a person’s disability or ethnicity (e.g. language and communication needs). The new guidance offers an opportunity to strengthen the focus on equality and its importance when making decisions.
12. The guidance should also focus on consistency of approaches not only in relation to assessing intentionality but also eligibility. For example, our members and stakeholders told us that due to the complex nature of immigration law, homelessness decisions are inconsistent across local authorities. The same relates to language assistance – whilst national and local policies and procedures advise to make use of telephone interpreting services, such as language line, to assist non-English or Welsh speaking service users, anecdotally, the practice varies across local authorities. The Bill offers a great opportunity to promote consistency alongside good practice, to drive up standards. The use of telephone interpreting services is an example of considering the public sector equality duty when for example fulfilling the duty to prevent or the relief duty. Again, we would like to stress that consideration of local authority resources should not be the only consideration exemplified in the Bill in relation to the relief duty (as above)
13. Finally we welcome the provisions relating to reducing family homelessness, which will have a positive impact on particularly women, children and young people and will enable the Human Rights and the Rights of Children in Wales to be promoted further. A consideration needs to be given to the definition of intentionality in relation to Gypsy and Traveller families and families living in unauthorised encampments.

**Duty on local authorities to provide sites for Gypsies and Travellers where a need has been identified.**

14. This part of the Bill is very welcomed by Tai Pawb and our stakeholders. We know that there is a big gap between supply and demand for sites in Wales. There are

already strong business and obvious moral arguments for site provision but it is quite clear that these have not been sufficient as the last sites in Wales were built as long ago as 1997. To make this duty work as intended we need to ensure that local authorities, partners and Gypsies and Travellers themselves are supported through the process as site provision is unfortunately a contentious issue. Welsh Government should support local authorities through guidance and assistance on issues such as facilitating and supporting strong leadership or clear and focused local communication and public engagement strategies. The local authority housing champions should have a key role in relation to supporting the case for Gypsy and Traveller sites where needs are identified. There is a significant need to do more community engagement work and work with the media on their portrayal of Gypsy and Traveller Communities which tends to focus on negative aspects of these communities. Effective management of current sites is also a prerequisite to better community relations. Tai Pawb has already received requests for assistance from some local authority members, especially in relation to practical learning from those developments which have worked in the past and we are looking forward to assisting Welsh Government through this aspect of our work and promotion of good practice.

15. Additionally, in our housing White Paper response we supported recommendations included in the response submitted by Save the Children. We would like to re-iterate those below:

*“Welsh Government should scrutinise the robustness of needs assessments by comparing conclusions against the levels of illegal encampments, Gypsy and Traveller school roll figures, and through discussions with local Gypsy and Traveller advocacy groups.*

*If evidence of need can be demonstrated, prevent the adoption of local authority Local Development Plans (LDPs) without identification of Gypsy and Traveller site accommodation for 5 years’ worth of population growth.*

*Establish a procedure to ensure that family homelessness can be prevented amongst Gypsies and Travellers resident in local authorities that continue to fail to create Gypsy and Traveller site provision. (please also see paragraph 13 above)*

*Clearly define what qualifies as a “suitable housing solution” for Gypsy and Traveller families.*

*Establish a procedure about how the new homelessness duty will apply to families living on unauthorised encampments.”*

We would also recommend that the need is captured on broader regional levels and regional considerations are part of the needs assessments. Consideration also needs

to be given as to the need to consult Registered Social Landlords on their interest in developing or managing sites.

## Housing (Wales) Bill

# Evidence to the Communities, Equality and Local Government Committee National Assembly for Wales

January 2014

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## **1. Introduction**

1.1 Thank you for the invitation to present evidence to the Communities, Equality and Local Government Committee of the National Assembly for Wales for the stage one scrutiny of the Housing (Wales) Bill.

1.2 I am a Senior Lecturer in Housing in the School of Planning and Geography at Cardiff University where I have worked for more than 25 years (initially in the Department of Town Planning at University of Wales Institute of Science and Technology). In total I have more than 30 years' experience of teaching and researching housing policy and practice within the UK, working within a framework of higher education. In addition, I am a corporate member of the Chartered Institute of Housing.

1.3 In preparing this evidence I have had opportunity of consulting appropriate colleagues with regard to specific parts of the Bill. However, whilst acknowledging the valuable inputs of others, the views expressed in this paper (and any errors and misinterpretation) are personal ones and should not be assumed to reflect the views of either Cardiff University or the School of Planning and Geography or any other individual staff.

1.4 The Bill is wide ranging and there is considerable detail across the different parts. In a submission of this nature it is not possible to present a comprehensive critique. Instead, I have elected to highlight those issues which are of personal concern.

## **2. General Comments**

2.1 In general, I am very supportive of the main proposals set out in the Housing (Wales) Bill, and the broad principles which underlie the proposed legislation. Wales' first ever Housing Bill is to be welcomed, as a further opportunity to tailor housing policy in Wales to the requirements and priorities of Wales, although it should not be seen in isolation, but as one part of a programme (or series of programmes) to address many of the housing challenges which the country faces (inadequate housing supply, poor housing conditions, affordability, the needs of particular and often vulnerable groups etc.).

2.2 It will also be of critical importance in seeking to meet the most pressing housing issues that legislative change is accompanied by making every effort to maximise and make best use of the resources available to the housing sector. In the current economic climate many housing organisations (as well as many households in Wales) are facing serious financial challenges.

2.3 Since political devolution in 1999 I believe there has been a strong commitment in Wales to collaborative working, across different sectors and traditional administrative, political, professional and geographic boundaries. This has been strongly evidenced in relation to housing, and there will be an ongoing need for continuing effective joint working, not just in relation to implementing legislative changes but in a broadly shared approach to housing in Wales more generally.

2.4 I would also wish to highlight with respect to housing in Wales the need for good quality information, effective monitoring and independent research to evaluate the impacts and consequences not only of legislative change but also housing policies and housing system interventions more generally, as well as the often changing context in which they take place. There are areas where significant progress has been made in tackling housing problems, but there remain significant gaps in our housing knowledge in Wales (the private rented sector is a good example) and there will be an ongoing need for good quality data and information to ensure not only a good understanding of the key housing issues, but also to judge whether proposed solutions and interventions are working and how best to identify and promote good practice in housing in Wales.

2.5 It will also be important to ensure that the provisions of proposed Housing legislation in Wales are consistent with any proposals for change in other intended related legislation.

2.6 This paper now goes on to consider a number of issues in relation to the main parts of the Bill.

### **3. The Private Rented Sector**

3.1 Over recent decades the long-term decline of the private rented sector has been halted and a degree of political consensus has evolved as to the potential role that the sector might play in meeting housing needs and demands. The available evidence suggests not only a significant growth in the number of households accommodated within the private rented sector (particularly in the last 10 years) but also a growing diversity in terms of the nature of the housing stock within this sector and of the characteristics of the households living in private rented accommodation. However, at a UK level, despite attempts through Government policy to attract increased levels of institutional investment, the indications are of a sector which, although encompassing a variety of different types of landlord (with different investment strategies, economic rationales and managerial attitudes and experiences) is still dominated by individual, often small-scale and in some instances, temporary landlords.

3.2 At one end of the spectrum the private rented sector provides very high quality rented housing, aimed at relatively high income, often highly mobile professional households, for whom the tenure is entirely appropriate at a particular stage in their housing careers. If the sector only provided such accommodation and served just those households with significant economic power in the housing market then the requirement for regulation might be fairly minimal. However, the sector (or at least sub sectors of private renting) provides a wide range of different types and quality of housing (some of it very poor) and serves a variety of housing needs, including in some localities significant numbers of low income and often extremely vulnerable households with relatively little power or choice within the housing system, which suggests a higher level of regulation is required. The key is to achieve an appropriate balance which protects consumers without deterring investment by decent private landlords.

3.3 Given the growth of the private rented sector, the different roles which it plays in local housing markets, the range of households which it accommodates (including significant numbers of vulnerable households) and concerns about some of the challenges evident in the sector (poor conditions in parts of the stock, a small minority of poor landlords etc.) then, in my view, there is a strong argument in favour of introducing a compulsory registration and licensing scheme for all private rented sector landlords and managing agents in Wales. Thus far, councils in Wales have had limited options in terms of ensuring decent standards in the private rented sector and although voluntary licensing and accreditation has been used, available evidence suggests such approaches only capture a small proportion of landlords (and often not those who might be regarded as problematic). Although the make-up of the sector may change, it is likely to remain an important element of the housing market in Wales, not only for those for whom the sector provides a flexible housing option but also for those individuals and families who are unable to access either affordable home ownership or social rented housing. However, it should be



acknowledged that for many households the private rented sector may be either a temporary stop in their housing career and/or a sub-optimal housing choice.

3.4 It seems to me that the proposed scheme strikes an appropriate balance between regulating standards across the sector without placing undue burdens or costs on private landlords. The suggested costs to landlords and managing agents seem modest and the obligations on them (for example, in terms of training) do not seem particularly onerous. Discretionary, selective licensing is unlikely to attract a high proportion of private landlords and is less likely to identify those poor landlords who may be least interested in improving their properties and the services which they provide to tenants. In the absence of a compulsory registration and licensing scheme I believe most private landlords (and their tenants) would remain outside of any regulatory framework, with limited protection for many consumers.

3.5 The Housing (Wales) Bill proposes that individual local authorities should have a duty to maintain an up-to-date register of privately rented properties, private landlords and managing agents, with a single local authority administering the scheme on behalf of all Welsh authorities. This seems a broadly sensible approach, but of course there will be significant local variations across Wales in terms of the nature and extent of private renting. Individual Welsh local authorities will face a variety of challenges, relating to the number, type and nature of private landlords in different geographical locations, levels of demand for private renting (and levels of income, affluence and poverty amongst private tenants), the nature and quality of the private rented stock in their area and in developing relationships and working with landlords and managing agents. Whilst I do not take the view that licensing is likely to damage working relationships, or that identifying and dealing with non-compliant landlords undermines the idea of a mandatory licencing scheme, I do have concerns as to whether there will be sufficient resources across local government in Wales to ensure effective registration and licencing. Whilst the proposed fees may cover the costs of administering the scheme (through a single local authority), it will be vital that there are adequate resources to take enforcement action and that resources are not diverted away from dealing with poor quality privately rented housing.

3.6 At the present time there is a lack of good quality data with regard to the private rented sector in Wales. The proposed registration and licensing scheme has the potential to provide a rich source of information regarding private rented housing in Wales which will enable local authorities to work more effectively with the private rented sector. However, it will be important that there is close working between Welsh Government and individual local authorities (and others) to ensure that the collection of reliable and up-to-date information is undertaken in ways which are as efficient and effective as possible. As I have indicated above, I have some concerns as to the adequacy of resources which will need to be allocated to this work, and it will be important to avoid any unnecessary duplication of effort and to ensure that innovative approaches to identifying privately rented accommodation are shared.

3.7 The introduction of a mandatory licensing scheme is highly likely to identify properties in the private rented sector which are in poor quality and/or poorly managed. Whilst good landlords are those most likely to respond most positively to a licensing and registration scheme (and are probably more likely to belong to professional landlord bodies), the major challenge facing local authorities will be to deal with those who do not comply with the legal requirements, either through ignorance or deliberate avoidance. If local authorities do not have the means of identifying privately rented properties in a systematic manner then enforcement will be reactive and piecemeal.

3.8 Evidence from elsewhere in the UK suggests that effective enforcement of registration is critical if schemes are to enjoy public confidence and that action will need to be taken in relation to unregistered landlords. The Bill outlines a number of approaches which might be taken to encourage compliance (licence number on individual property listings, “rent stopping orders” etc.) which is encouraging. There is also reference in the Bill to a “fit and proper person requirement” (Section 11). It will be important that this is more than just an automatic approval and it might be useful if this could include a Disclosure and Barring Service (DBS) check.

3.9 It is noted that Welsh Ministers may issue a code of practice setting appropriate standards for the management of private rented housing. In doing so, it will be important for the Welsh Government not only to work with representative bodies in Wales (and private sector tenants) but also to draw on positive practice elsewhere in the UK. There has been substantial research undertaken in relation to the private rented sector in relation to England and Scotland and also valuable examples of licensing schemes which have been in operation for a number of years.

3.10 In itself a registration and licensing scheme will not be sufficient to achieve appropriate standards within the private rented sector. There will be an ongoing need for individual local authorities to work with responsible private landlords and their agents and to demonstrate that they are prepared to enforce standards. There will be a need for Government and local authorities to work with “good” landlords and the appropriate representative bodies for the sector to promote positive practice, to identify what might be termed “rogue” landlords and raise overall standards across the sector

3.11 There will also be a need for appropriate publicity to highlight the responsibilities on landlords and agents to register and meet their obligations under the proposed scheme and for tenants to be made aware not only of the duties imposed under the legislation but also action taken against poor landlords and those who do not register.

3.12 I would also suggest that in due course (perhaps after three years) there will need to be an independent evaluation of the scheme to consider whether it is meeting its objectives, to examine its operation and impacts, to consider the views of

local authorities, private landlords and tenants as to its effectiveness (or otherwise) and to reflect on how the scheme might need to be modified.

#### **4. Homelessness**

4.1 The broad framework set out in the Housing (Wales) Bill in relation to proposed changes in homelessness legislation is to be welcomed. The increased emphasis on prevention, the expectation of increased collaborative working and the widening of the safety net beyond those traditionally seen as in priority housing need are all positives. The commitment to end family homelessness in Wales by 2019 is to be commended, as are the proposals to provide greater protection for households with children even where found to be intentionally homeless.

4.2 The continuation of a duty on individual local authorities to undertake periodic reviews of homelessness and to develop their local homelessness strategies is important. However, these need to be linked to wider local strategic responsibilities, not only in relation to meeting housing needs (and the role that different sectors might play) but also in terms of social service provision, health and well-being and community development.

4.3 The Housing (Wales) Bill acknowledges the role which the private rented sector will be expected to play in both preventing and addressing homelessness, with local authorities using the private rented sector to discharge some of their statutory homelessness duties. Given the limited availability of social rented sector lettings in many parts of Wales this is almost inevitable. It also reinforces the importance of raising standards across the private rented sector in Wales and the vital roles which a national licensing scheme, effective regulation and positive working relationships between local authorities and private landlords all might play in this respect (see above).

4.4 The increased emphasis on prevention within the legislation is welcome. An analysis of recent Welsh Government homelessness statistics shows that homelessness presentations have been increasing but the proportion of applicants accepted as homeless and in priority need under the current legislation has declined, particularly over the last 12 months. There may be a number of explanations underpinning this trend, but in part it may reflect local authorities in Wales already placing an increasing emphasis on homelessness prevention, no doubt partly in recognition of the growing pressures on housing providers. In the long term for many households prevention may be a more appropriate response and represent a more effective approach to dealing with homelessness and the legislative proposals are likely to reinforce the emphasis which local authorities will place upon preventative work.

4.5 My understanding is that, under the proposed legislation, if homelessness prevention is unsuccessful (or the applicant is already homeless), then local authorities in Wales will have a duty for up to 56 days to take reasonable steps to relieve that homelessness. For those in priority need and deemed unintentionally homeless there will be a duty to secure accommodation (though not necessarily social housing). Thus, despite indications in the earlier White Paper of the intention to dispense with priority need the Welsh Government is retaining this concept, presumably due to resource concerns. It is a little disappointing that the Welsh Government doesn't at this stage feel confident enough to follow the example of Scotland and move towards a more rights based model of homelessness legislation which would enable the concepts of priority need and intentionality to be removed.

4.6 Under the current proposals it is intended to remove the priority need for former prisoners and this gives me cause for concern. Many such people will have significant housing and support needs and very limited housing options, and the proposal to remove them from the priority need category seems a retrograde step. I would be concerned that this could have negative consequences in terms of rough sleeping and also potential impacts on reoffending. It is also not clear to me from reading the Bill whether prisoners will have the right to access prevention services. If the Welsh Government's proposals to remove priority status for prisoners are enacted (and I understand, though do not support, the arguments in favour of removing priority need status) then it will be even more critical that they are able to access prevention services at an early stage, to maximise the prospects of an appropriate package of accommodation and support services being in place when they are released.

4.7 The proposals also allow local authorities the option of applying the intentionality test in relation to priority need applicants. Again, I appreciate the need to prevent abuses of the legislation, and that the Bill does not intend that such a test be applied to families with dependent children, but I would have concerns how such powers might be used to deny access to some of those in the greatest housing need. Whilst striking a balance between needs, rights and responsibilities is a difficult one, the ways in which intentionality is taken into account by different local authorities would need to be closely monitored.

4.8 The Bill also proposes improved co-operation between local authorities and housing associations (Registered Social landlords), strengthening the duties on the latter. In many parts of Wales there are excellent working relationships between councils and housing associations which are helping to address the needs of the homeless, but it will be important to ensure that such collaborative working is effective across all parts of Wales.

## **5. Gypsies and Travellers**

5.1 The proposal to introduce a new statutory duty on Welsh local authorities to provide sites to meet the accommodation needs of Gypsies and Travellers is a positive one.

5.2 The evidence is of a need for additional sites, but in the past it has often been difficult (sometimes in the face of local opposition to such developments) to secure planned development. I would hope that the new duty, combined with strategic and collaborative approaches to the planning and development of authorised sites, will help to address these needs and improve the levels and quality of provision for gypsy and traveller communities.

## **6. Standards for Social Housing**

6.1 The commitment in the Housing (Wales) Bill to consistent standards across different parts of the social housing sector in Wales, for example in relation to standards of accommodation and rents and service charges, is highly desirable.

6.2 As a member of the recent (2012-13) Ministerial Task Group in relation to Welsh Housing Quality Standard (WHQS) I particularly welcome the requirement on all social landlords in Wales to ensure that all their properties meet the standard by 2020, and that it is maintained beyond this date. It will, of course, be important to ensure that there is continued progress by both Welsh Government and individual social landlords (and their representative bodies) to ensure that there are appropriate systems in place to monitor progress and verify achievement. I am aware that research is currently underway in this area.

6.3 The proposal to require social landlords in Wales to comply with a rents and service charges standard (and for compliance to be monitored) is also to be welcomed. There is considerable value in having consistent standards across the social housing sector in Wales (and greater transparency as to how services are costed and paid for). However, it will be important also to draw lessons from looking at service standards across the social housing sector and to encourage the identification and dissemination of positive practice.

## **7. Housing Finance**

7.1 The settlement reached in 2013 between the Welsh Government and the UK Treasury was very important in giving those local authorities in Wales which retain a landlord function the opportunity to ensure that their council housing service will become self-financing. This will give these authorities the opportunity to ensure further progress towards the attainment of Welsh Housing Quality Standard (where

not yet achieved) in relation to their own council stock, and sustaining the standard over the longer term.

7.2 The reform of the Housing Revenue Account Subsidy System (HRASS) will also provide an opportunity for local authorities, if they so choose, to provide new affordable council owned homes, although individual authorities will need to consider whether this will represent the best and most effective use of their resources. For some here will be hard choices to be made between investing in achieving and maintaining WHQS in relation to the existing stock and building new affordable homes. It will be important that the latter does not squeeze out the former.

## **8. Allowing fully mutual housing associations to grant assured tenancies**

8.1 My understanding is that the proposals in this part of the Bill will strengthen the opportunity for fully mutual housing co-operatives to contribute to the provision of additional affordable housing in Wales, encouraging the provision of private loan finance to such organisations.

8.2 The scale of co-operative housing in England and Scotland is significantly greater than in Wales, and the recent research from the Wales Co-operative Centre and Chartered Institute of Housing Cymru has highlighted the potential for an increased contribution from this sector of the housing system, although I do not believe this should be overstated. Nevertheless, the proposals help to remove barriers and offer a potential boost to the development of this form of housing.

## **9. Council Tax on Empty Dwellings**

9.1 In recent times there has been a growing concern with the problem of unnecessarily empty dwellings, which clearly represent a waste of often scarce housing resources. Whilst it is inevitable that there will be a number of dwellings vacant at any given time (a necessary prerequisite if the housing system is to function efficiently, facilitating both residential mobility and the improvement and on occasion redevelopment of existing housing stock), if housing remains unoccupied for no good reason then the existing stock is not being used as effectively as it might be. Official statistics have consistently pointed to a higher level of vacancy (both in terms of numbers of empty dwellings and rates of vacancy) in the private as opposed to social housing sector.

9.2 The Welsh Government's "Houses Into Homes" programme (developed in conjunction with the Welsh Local Government Association and others) appears to be making a valuable contribution to bringing longer-term vacant properties back in to use and it is very much welcomed that this programme is subject to ongoing independent research which will evaluate its impact and effectiveness and identify



the opportunities and constraints in returning long term empty housing to beneficial occupation. Many local authorities in Wales are also taking steps as part of their strategic housing function to identify and encourage the reuse of long-term vacancies.

9.3 However, local authorities also need a range of powers to deal with long-term empty dwellings and the proposal in the Bill to give local authorities in Wales the discretion to increase council tax levies to 150% on residential properties unoccupied and substantially unfurnished for at least 12 months might be a valuable additional tool to tackle the issue of long-term vacant housing. It would be important to monitor the use and impact of such powers and the extent to which their use acts as a disincentive to owners leaving property empty long term, as well as the amount of revenue raised through setting a higher council tax levy. There may then be a case for giving further discretion to allow local authorities to increase the levy on the owners of long-term vacant housing still further over time, where individual dwellings remain empty for several years.

**Bob Smith**

**School of Planning and Geography**

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**January 2014**

Communities, Equality and Local Government Committee

**The Housing (Wales) Bill**

Evidence submitted by: Dr Simon Hoffman, College of Law, Swansea University\*

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I very much welcome this opportunity to contribute to the Committee's discussion on the Housing (Wales) Bill.

**Introduction**

1. In my response to the Welsh Government's consultation on its White Paper, *Homes for Wales* (submitted on behalf of the Wales Observatory on Human Rights of Children and Young People), I noted that many challenges lie in the path of making a reality of human rights in the lives of children and young people in Wales. This observation applies equally to the case of individuals and families facing the blight of homelessness in Wales.
2. As a member of the team of investigators which published a report for the Welsh Government on options for reform of homelessness legislation in Wales<sup>1</sup> I was keen to contribute a rights-based perspective. In this context I would refer the Committee

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<sup>1</sup> *Options for an improved homelessness legislative framework*, 2012, P. Mackie, S.Fitzpatrick, S. Johnson and S.Hoffman.



to the right to an adequate standard of living, which includes the right to adequate housing, established by the International Covenant on Economic Social and Cultural Rights<sup>2</sup> (the UK is a State Party). The Committee on the ICESCR has made it abundantly clear that a roof over one's head is a key component of the right to adequate housing<sup>3</sup>.

3. Housing is a fundamental human right which is recognized by the international community of nations, the UK government and Parliament (by adoption of international treaty), and by implication the Welsh Government, which has often stated its rights-based approach to social justice in Wales.
4. When framing Welsh domestic legislation the Rights of Children and Young Person (Wales) Measure 2011 (the Measure) applies. This requires Welsh Ministers to have due regard to the UNCRC when introducing new law or policy, or when reviewing existing law or policy<sup>4</sup>. Article 27 of the UNCRC provides all children (aged 17 and under) with a right to an adequate standard of living.
5. I have previously argued before the Committee that there exists in Wales a real opportunity to develop a distinctively Welsh approach to legislation, and to cultivate human rights leadership as an aspect of law and policy making in Wales<sup>5</sup>. This reflects the tendency of successive Welsh administrations to articulate policy in terms which incorporate notions inherent in human rights: dignity, humanity, equality, and, social justice<sup>6</sup>.
6. The White Paper, *Homes for Wales* recognised that homelessness legislation should provide a 'rights-based' framework to ensure protection against the hardship caused by homelessness<sup>7</sup>, and emphasised the importance of housing to support

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<sup>2</sup> Article 11. A similar guarantee is provided by Article 25 of the Universal Declaration on Human Rights.

<sup>3</sup> E.g. Committee on ESC, 1992, *The Right to Adequate Housing*, General Comment No.4.

<sup>4</sup> Section 1.

<sup>5</sup> Submission and evidence to: Communities, Equality and Local Government Committee, Inquiry into the future of equality and human rights in Wales, August 2013.

<sup>6</sup> A distinctively Welsh approach to human rights was noted by the Commission on a Bill of Rights: *A UK Bill of Rights? - The Choice before us*, December 2012. An exemplar is in the field of children and young people where policy has been explicitly informed by the United Nations Convention on the Rights of the Child.

<sup>7</sup> See: *Homes for Wales*, Welsh Government, 2012 at para. 8.12.

human rights ideals such as equality and inclusion<sup>8</sup>. The White Paper also makes reference to the need to take into account children's rights as set out in the UNCRC when formulating law and policy on housing in Wales<sup>9</sup>.

7. The Housing (Wales) Bill covers many areas: it would be impractical and beyond my expertise to attempt to address all the areas covered. I will focus my response on Part 2 of the Bill which deals with homelessness, and the Committee's inquiries in this field, and in particular on question 1 in the consultation letter insofar as it refers to homelessness.
  
8. I welcome many of the provisions contemplated by Part 2 of the Housing Bill. I believe the Bill will better contribute toward tackling homelessness in Wales than does the existing statutory framework. I do however have a number of reservations. Some of these will be dealt with by others. I have had the opportunity of discussing these issues with Dr Peter Mackie: I am in agreement with his submission, and in particular with his views on prevention and priority need. I will confine my submission to two issues which cause me particular concern: [i] the Bill's failure to provide direction to local government to promote housing as a fundamental right; and [ii] intentionality.

**The Bill's failure to provide direction to local government to promote housing as a fundamental right**

9. The Welsh Government and the National Assembly for Wales has shown a willingness to introduce innovative legislation to establish duties on public bodies which reflect human rights and equalities principles<sup>10</sup>. The Housing (Wales) Bill is a missed opportunity to adopt an approach to housing which would promote rights. It avoids the opportunity to establish a clear rights-based duty, i.e. recognising the fundamental right of all citizens in Wales to adequate housing, and requiring local government to promote access to the right for all citizens.

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<sup>8</sup> See: *ibid*, at para. 7.66.

<sup>9</sup> See: *ibid*, at para. 7.55 *et seq.*

<sup>10</sup> An example is the Rights of Children and Young Persons (Wales) Measure 2011, which makes a direct link between children's human rights and the conduct of government business.

10. Section 36 of the Bill establishes a requirement for a local authority to formulate and adopt a homelessness strategy. Section 38(1) explains that a homelessness strategy is a strategy for achieving the following objectives: the prevention of homelessness; the availability of suitable accommodation and support for people who are, or may become homeless.
11. These are laudable objectives; however, the Bill does not go far enough to embed these objectives as key priorities for local government, or to make it clear that Part 2 is intended to promote rights. In fact section 38(2) of the Bill expressly permits other objectives to be included in a homelessness strategy, including objectives relating to local authority functions beyond housing. I should emphasise that I do not consider this objectionable on its own (as housing functions will need to be coordinated with other functions), but I do believe there is a risk that unless these objectives are prioritized they will be diluted in the preparation of a homelessness strategy, and may be lost altogether during implementation.
12. In this context it must be recognised that a local authority will not be able always to prevent individual or household homelessness, or to secure accommodation. A mechanism is needed which will achieve the correct balance between requiring local government to tackle homelessness as a key priority, and the need for local authorities to have the discretion to take account of local needs, limited resources, and competing priorities (whether they be priorities which are rights-based, or other lower-order priorities).
13. In my view this would be achieved if Part 2 were to include a duty on local government to have due regard to: the need to prevent homelessness; and, the need for suitable accommodation and support to be available for people who are or may become homeless. Due regard is an effective legal mechanism for prioritising rights but also for achieving the balance referred to in the preceding paragraph. It is a mechanism already adopted in equalities legislation<sup>11</sup> and by Welsh law<sup>12</sup>.

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<sup>11</sup> Section 1 (not in force) and section 149, Equality Act 2010.

<sup>12</sup> Rights of Children and Young Persons (Wales) Measure 2011.

14. The Welsh Ministers have accepted due regard as a suitable mechanism to ensure they take children's fundamental rights into account when exercising their functions (including in times of austerity). I see no good reason why local government should not undertake a similar responsibility when delivering a public service which concerns everyone's fundamental human right to adequate housing.

### **Intentionality**

15. Much has been said about the use of 'intentionality' to make access to public housing conditional. It is not my intention to repeat these arguments; suffice to say that many find this type of conditionality objectionable in principle, and punitive in practice. More pragmatically it may be seen as counter-productive when it comes to dealing with homelessness as an individual, family or social issue<sup>13</sup>. In my view intentionality should be abolished.

16. The issue of intentionality has to be seen in the context of other duties established by the Bill, most significantly the duties which are directed at preventing homelessness. These will be engaged earlier as the Bill has extended the period of threatened homelessness from 28 days to 56 days (section 41(4)). This means that local authorities will have more time to work with applicants to prevent homelessness<sup>14</sup>.

17. Sections 50-52 require a local authority to take reasonable steps to 'help to secure' that accommodation is available or does not cease to be available to an applicant. Examples of what might constitute reasonable steps are set out in section 50(2). These provisions make it less likely that a person will leave their accommodation under circumstances in which they might be deemed intentionally homeless, and is a welcome innovation.

18. The increased focus on prevention in the Bill is intended to reduce the number of applicants who are homeless. I take the view that this allows room to consider the issue of intentional homelessness. Two options were presented to the Welsh

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<sup>13</sup> The Impact of Intentional Homelessness Decisions on Welsh Households' Lives, Shelter Cymru Research Report (2011).

<sup>14</sup> Whilst I welcome the extension of the period of threatened homelessness from 28 to 56 days, I do not see any necessity of a time limit.

Government to reform Welsh domestic law on this issue: to give local authorities the power to disregard intentionality; or to abolish intentionality<sup>15</sup>. The Bill incorporates a version of the former. Section 61 gives local authorities the power to disregard intentionality but only in respect of categories of persons prescribed by regulations made by the Minister.

19. In my view this two stage process amounts to no more than retention of the intentionality test. My experience (including my reflection on evidence), is that local authorities would not welcome the abolition of the intentionality provisions; as such there is no reason to suppose that they will elect to use their power to disregard intentionality. The power to disregard intentionality is in effect a power to continue to take it into account.
20. Proper discharge of the prevention duties set out in sections 50-52 will lead to a decrease in the role of intentionality. This may suggest that there is no harm in retaining it for some cases. However, the continuance of an intentionality test which enables a local authority to discharge its responsibility to a homeless applicant may have the unintended consequence of undermining prevention work, in particular where under-pressure housing officers are unable to easily identify appropriate housing solutions which either avoid homelessness or provide an alternative. In any event, where reasonable steps (section 51) are taken to help to secure that the applicant does not become homeless, or has alternative accommodation available, a local authority is able to discharge its duty in several ways (sections 53 and 62).
21. If local authorities are to be given power to disregard, i.e. to retain, the intentionality test it would be preferable for this to be an 'opt in' rather than 'opt out' election. Local authorities should be required to disregard the intentionality test for categories of person prescribed by the Minister unless they proactively decide to apply the test.
22. Further, and in any event, local authorities should be required to explain their decision to retain intentionality. This could be achieved as an aspect of conducting a homelessness review, or in a homelessness strategy. In this way local authorities

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<sup>15</sup> Above, n.1, pp.20-21.

would be properly accountable for any decision to retain intentionality, and will be required to explain why they consider it necessary. In my view, given the fundamental importance of the right to housing, and the impact of intentionality to deny access to this right, a full and proper explanation of why a local authority considers it appropriate to retain its use in its area should be given.

23. The Bill has adopted a mechanism to introduce special provisions on intentionality in relation to children (aged 17 and under) living in a family unit which is homeless or threatened with homelessness, or children who are aged 16 or 17 years. Section 58(2) of the Bill has the effect of requiring local authorities to disregard the intentionality provisions when dealing with households with dependent children, or applicants aged 16 or 17 years who live independently. Notwithstanding that the wording of the Bill is difficult to follow, this is a very welcome recognition of the rights of the child as set out in the UNCRC.

24. What is less welcome is that the intentionality test will only be disregarded once in any five year period (section 58(3(d))). This is unrealistic and contrary to children's rights. It is unrealistic as households that have difficulty maintaining accommodation may become homeless several times in a short period. The difficulties which give rise to homelessness may not be immediately resolved once a family is housed, and homelessness may be a reoccurring problem in the short term. Those aged 16 or 17 years who live independently may require several attempts at independent living before being able to maintain themselves in accommodation. The imposition of a once only disregard fails to recognise this reality of homelessness.

25. The Bill recognises that children should not be penalised by the application of the intentionality test: either because as family members they are at the mercy of adult conduct, or because as 16 or 17 year olds they are permitted to make mistakes as part of their development. However, the Bill totally overlooks these highly persuasive arguments in cases where homelessness reoccurs within the five year period: there is no good reason why children should be penalised in these circumstances.

**Simon Hoffman**

17<sup>th</sup> January 2013



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## **Consultation on the Housing (Wales) Bill**

**Evidence paper to the Communities Local Government  
and Equality Committee**

**Centre for Applied Community Sciences  
Cardiff Metropolitan University**

**January 2014**



## Introduction

- 1 Thank you for the invitation to present evidence to the Communities, Equality and Local Government Committee of the National Assembly for Wales for the stage one scrutiny of the Housing (Wales) Bill. This paper has been produced on behalf of the academic staff team within the Centre for Applied Community Sciences at Cardiff Metropolitan University. Within this group there is substantial and wide ranging expertise in teaching, researching and working within the housing policy and practice arena. The views presented in this paper are informed by this collective knowledge and experience and are intended to provide an independent and impartial critique of the proposals contained with the Housing (Wales) Bill.
- 2 The team is generally supportive of the aims and aspirations of the Housing Bill. The interventions proposed are to a certain extent more realistic and achievable than those put forward in the preceding White Paper and it is clear that Welsh Government has taken on board a number of concerns previously highlighted by the housing sector in developing this draft legislation.
- 3 We share the concerns of others regarding the need for well drafted and appropriate legislation in Wales and the risks of trying to fix non-legislative problems with legislative solutions. Many of the problems in the current housing market in Wales have at their root cause a shortage of supply and without addressing some of these wider macro-economic and housing market issues there is a limit to what a Housing Bill can achieve. Notwithstanding this, the Bill, as currently drafted, does stand to make a positive difference to those in need of secure, well-managed housing. Our overall concerns are primarily centred on the practical implementation of the Bill. The detail of these is set out in our responses to individual questions however they broadly relate to:
  - The phasing of the introduction of some of the proposals and the need for an incremental approach
  - The resource implications and their impact on local authorities in particular
  - Potential consistency of interpretation and application of the proposals across different organisations
  - The need for clear and detailed guidance to underpin the legislation
  - The requirement for robust monitoring, evaluation and research to measure the impact of the various proposals within the Bill at appropriate stages

## Part 1: Compulsory registration and licensing scheme for all private rented sector landlords and letting and management agents

- 4 The private rented sector trend in recent years has been a sector which is growing both in absolute size and in its relative proportion of the total housing stock<sup>1</sup>. There is a general assumption that the profile of private rented sector tenants is shifting alongside this trend and that the sector is increasingly housing household types that have not traditionally accessed this sector, of which families with children are a notable example. There has also been an assumption that the profile of landlords has changed with 'reluctant' or 'accidental' landlords increasing as a result of wider housing market and economic influences. It is the combined impact of these trends and the growing realisation that the sector will play an increased role in meeting the housing needs of lower income or vulnerable people, that sit behind the proposals for increased regulation through registration and licensing.
- 5 Evidence suggests<sup>2</sup> that the private rented sector does not have a good public image and is not regarded as a tenure of choice. Its role in the UK housing system is one which generally meets the needs of those who lack alternative options (falling between access to homeownership and access/ eligibility for social rented housing). If the Welsh Government's policy response is to see the private rented sector as the only workable housing solution for households whose housing needs cannot be met elsewhere, then there is a clear case for a regulatory framework which improves standards, professionalises the sector and offers increased protection to vulnerable tenants. This is particularly relevant given the proposals under Part 2 of the Bill to allow local authorities to make use of the private rented sector in discharging homelessness duties.
- 6 Overall, we support the aim within the Housing (Wales) Bill to move to a national registration and licensing scheme for all private rented sector landlords. As well the intended benefits around the quality of property and management within the private rented sector, the introduction of this scheme will do much to improve our knowledge of the sector which hitherto has been significantly underdeveloped. There is currently no mechanism for local authorities to identify either the private landlords operating in their area or the properties that are privately rented. As such, we have no accurate picture of the true scale of private renting or the detailed characteristics of landlords and tenants within this sector. This has far reaching implications, not least for local authorities' abilities to strategically assess and plan within their local and regional housing market areas.
- 7 We are aware of the views of some groups who suggest that the introduction of a national registration and licensing scheme will act as a disincentive to new landlords

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<sup>1</sup> Welsh Housing Statistics: Dwelling Stock Estimates

<sup>2</sup> NAW (2011) Making the Most of the Private Rented Housing Sector. Report by the Communities and Culture Committee.

entering the sector and may therefore have unintended consequences. The suggested costs to landlords and letting agents do not appear to be at a level which would deter potential new entrants to this sector and seem proportionate given that the scheme will also potentially offer benefits to landlords in terms of additional support, information and advice. Concerns have also been raised that, as well as the cost of the scheme, new landlords may be deterred from entering the sector due to the additional bureaucracy or time demands such as the training requirement. Overall, our knowledge of housing markets suggests that market forces will exert a greater degree of control on the willingness of landlords to enter this sector than any additional burden created by a new regulatory framework. Whilst there is a demand for homes and a profit to be made from private renting, landlords will be generally be willing (if not happy) to comply with whatever requirements are placed on them. The biggest risk to the sector is a sudden shift in the overall housing market leading to significant numbers of 'reluctant' landlords looking to 'cash in' their accumulated assets.

- 8 Publicity should make the low cost of registration to the landlord very clear in order to reassure landlords and also to avoid unintended consequences in terms of rent rises. There are concerns in current discretionary licensing schemes that landlords have used the scheme as an excuse to drive up rents. In such circumstances tenants have suffered and landlords have gained perverting the ethos of the legislation. Publicity will also be needed to highlight the new requirements on landlords and agents and to make tenants aware of how they can check the status of their current or future landlord.
- 9 We share the concerns of others regarding the resource implications associated with the introduction of this national scheme, particularly in respect of enforcement. Given the large number of landlords who will be required to register in each area of Wales, it is not feasible for the local authority to prosecute every one who does not comply. An interim solution needs to be considered to deal with such high volumes of unregistered people/organisations. Local authorities could be able to charge increased fees to landlords/agents who do not register after a set period of time to reflect the additional cost of enforcement in bringing them into the scheme. The assertion that court fines will be used to partly fund this scheme can be called in to question as costs are rarely given in full by the courts and most cases do not get as far as court, but still incur heavy costs.
- 10 We are also aware of the views of some consultees that registration and licensing should not necessarily apply to all landlords in a blanket way. Given the evidence that a growing proportion of the private rented sector is owned by landlords with just one or two properties<sup>3</sup> there is a strong case that over time all landlords should be brought within the scheme. It is often these landlords that have the most limited knowledge of their legal responsibilities and the most to gain from the

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<sup>3</sup> Rugg, J & Rhodes (2008) The Private Rented Sector: its contribution and potential. University of York.

additional information and advice that will hopefully come with registration. However, due to the resource implications of a 'big bang' approach that we have already outlined, it seems sensible to advocate an incremental approach to the implementation of the scheme. This would allow any teething problems (in terms of IT, administration etc.) to be ironed out at an early stage and allow local authorities to monitor and respond to any increased demands on their capacity. We suggest that letting and management agents would be the obvious point at which to start this process as they are fewer in number and more visible than individual landlords.

- 11 An incremental approach to implementation would also allow the potential for early independent monitoring and evaluation to consider the operation and impact of the scheme, and how effective it is from the perspective of different stakeholders.
- 12 We would recommend that landlords who employ an agent should also require registration. Agents have very little power to influence a landlord should they refuse to allow works to be done at a property to comply with legislation. If the landlord does not have to register they can effectively 'hide' from some parts of the legislation. Both parties must be held responsible for the condition of the premises.
- 13 Any criteria for loss of registration should be well thought through and very clearly set out in the legislation. Ambiguity in the Housing Act 2004 over what a landlord or agent has to do lose their fit and proper person status and how they can go about recovering that fit and proper person status makes enforcing such legislation extremely difficult. Legislation around loss of registration also carries with it high risk of compensatory claims for local authorities, making them reluctant to use it where any ambiguity exists.
- 14 The Housing Act 2004 and subsequent legislation are poorly drafted and unclear in many places. This has led to problems with understanding and enforcing the legislation. This concern should be paramount when drafting the new legislation. Advice should be sought from local authority enforcement officers in the phrasing to prevent the use of costly case law to clarify issues that should have been apparent at the time of drafting.

**Part 2: reform of homelessness law, including placing a stronger duty on local authorities to prevent homelessness and allowing them to use suitable accommodation in the private sector;**

- 15 The overall changes to the framework of homelessness legislation are to be broadly welcomed. The new focus on preventative duties and widening the safety net beyond those in priority need groups are positive steps which to a certain extent bring the current practice of many organisations on to a statutory footing.

- 16 The requirement on local authorities to carry out a homelessness review and formulate a homelessness strategy is an important stage in responding pro-actively and strategically to homelessness at a local and regional level. It is essential that homelessness strategies do not stand alone but are closely integrated with wider housing and community strategies if they are to have the required impact. Homelessness is a symptom of wider housing market failure and only by looking holistically at housing and support needs can local authorities respond effectively.
- 17 The proposal to allow local authorities to discharge their homelessness duties using the private rented sector is one of the more radical steps in the Housing (Wales) Bill. If implemented it will have a number of positive consequences including breaking the link between homelessness and social housing and opening up a much wider range of housing options to homeless households. However, we must question the degree to which the private rented sector is currently geared up to respond to this new challenge, particularly in light of the proposals outlined in Part 1 of the Bill. Consideration needs to be given to the quality of accommodation being offered and the extent to which it represents an affordable and sustainable solution to an individual household. There is a significant potential role for the growing number of social lettings agencies being developed by social landlords to offer a specific package of support in implementing the duties under this section of the Bill, through longer term leasing arrangements, intensive housing management and support etc.
- 18 The Bill proposes improved cooperation between local authorities and housing associations and places additional duties on the latter. This, again consolidates what is generally already happening in practice across Wales but should help bring a greater degree of consistency to this collaboration. We would be interested to hear the views of financial lenders in respect of these new duties, in terms of whether they feel this represents an increase risk for housing associations. In the current economic environment, any new responsibilities or duties that are perceived as increasing the level of risk to organisations could potentially lead to corresponding increase in the cost of private lending.
- 19 The greater protection offered to children experiencing homelessness within a household found to be intentionally homeless, by awarding a right to the full homelessness duty, provided that it is the first time they have been found to be intentionally homeless within the past five years is a progressive step and commensurate with the UN Convention on the Rights of the Child. We note that the proposals on intentionality within the original White Paper to adopt the Scottish example of a rights based model of homelessness legislation have been retracted. The consistency of application of the intentionality test has been a long standing issue in homelessness practice and should therefore be closely monitored and the impact evaluated.

- 20 The point about consistency of application across local authorities is a key issue and can be applied to most of the changes to the homelessness legislation (the vulnerability test for example) and indeed to many other aspects of the Bill.
- 21 The proposals to remove priority need for former prisoners has to date been one of the most controversial proposals within the Bill and is an issue which tends to polarise public opinion. The evidence regarding suitable accommodation being a necessary but not sufficient prerequisite in the prevention of reoffending is well cited<sup>4</sup>. If the proposals to remove priority need status for former prisoners are enacted then it is essential that they have the right to access prevention services at the earliest possible stage (perhaps earlier than the 56 day period where possible). The changes in this Bill must not lead to people becoming street homeless on release from prison. Ensuring that this does not happen will require effective partnership and collaboration across a range of different agencies and that the right resources are put into accommodation and support services for this group of people. There will also be a need for very clear guidance on how 'vulnerability' is being decided in respect of former prisoners across different local authorities. Finally, the impact of this change in terms of reoffending level as well as the personal impact on former prisoners should be undertaken at an appropriate stage.

### **Part 3: a duty on local authorities to provide sites for Gypsies and Travellers where a need has been identified**

- 22 The new duties on local authorities in respect of Gypsy and Traveller sites are to be welcomed. This is often a contentious local issue and a lack of local public and political support has meant that the needs of Gypsies and Travellers have not been met in some parts of Wales. The introduction of statutory duties around assessing and meeting the needs of this group will in all likelihood increase focus and activity.
- 23 However, the problems of political and public opposition will not be resolved by legislation alone. We would suggest that strong leadership and support from Welsh Government on this issue will be needed to ensure that these proposals are fully implemented.

### **Part 4: standards for local authorities on rents, service charges and quality of accommodation;**

- 24 The proposals under this section of the Bill are necessary to ensure consistent standards across different parts of the social housing sector in Wales.
- 25 It is important that local authorities are obliged or compelled to comply with the new deadline of 2020 in meeting the Welsh Housing Quality Standard (eight years after the original deadline). This is particularly significant for those tenants who

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<sup>4</sup> Humphreys, C and Stirling, T. (2008) Necessary but not sufficient: housing and the reduction of reoffending. Welsh Government: Cardiff



continue to live in homes that are in poor condition. Given the new requirements being placed on the private rented sector elsewhere in the Bill the social housing sector should lead by example in terms of compliance with national quality standards.

- 26 The Bill also gives some flexibility in terms of how standards can be set in future. This should not be seen as an ability to ‘move the goalposts’ but gives Welsh Government the ability to ensure that Wales’ social housing stock is fit for purpose in the long term and ensures that this legislation is ‘future-proofed’ as far as possible.
- 27 In order to ensure the revised deadline is achieved there is a need for continuous and consistent monitoring arrangements, and for early intervention and support should it become evident that local authorities are in danger of slipping behind in their progress. Welsh Government has a clear leadership role to play in this issue.
- 28 Proposals for rents and service charge standards are also to be welcomed. These proposals will help ensure greater consistency and transparency for those in receipt of services and will help local authorities to benchmark across their activities.
- 29 Consideration should be given as to how the proposals under this section of the Bill are intertwined with those under section 5 below. For example, the final arrangements for exiting the Housing Revenue Account subsidy system might impact on certain local authorities’ ability to meet the 2020 target. Local authorities should not be ‘set up to fail’ by these new arrangements.

#### **Part 5: reform the Housing Revenue Account Subsidy system;**

- 30 The agreement between the Welsh Government and the UK Treasury to reform the Housing Revenue Account Subsidy system is positive and long overdue. This section of the Bill sets out the necessary legislative changes to allow the current system to be dismantled.
- 31 Depending on the final settlement, the move towards self-financing will give an impetus to the achievement of WHQS, increase transparency to tenants in respect of the link between rent paid and services received and in some cases allow local authorities to consider developing new homes. It is important that achievement of WHQS takes priority and hence why sections 4 and 5 of the Bill should be considered in tandem.

#### **Part 6: the power for local authorities to charge more than the standard rate of council tax on homes empty for over a year;**

- 32 Homes may be empty for a wide range of reasons, for example between change of occupants or whilst undergoing modernisation, repair or conversion. Empty homes such as these are a necessary feature of any well-functioning housing system.

- 33 The problem of longer term or problematic vacancies has risen up the political and policy agenda in recent years in response to wider macro-economic pressures, a shortage of supply and increased demand for social housing. There is now a great deal of consensus about the advantages of initiatives to bring back in to use those homes that are inactive in the housing market and have been empty for more than six months.<sup>5</sup>
- 34 Initiatives to bringing empty homes back in to use tend to start with ‘softer’ approaches such as providing information, advice and support to owners, (as evidenced through Welsh Government’s Houses into Homes scheme) with ‘harder’ enforcement solutions, using a broad range of legislative powers currently available to local authorities, only being used when other methods have failed.
- 35 The proposals within the Housing (Wales) Bill to allow local authorities the power to charge 50 per cent more than the standard rate of council tax on homes that have been empty for a year or more adds another tool to the extensive range of options already open to local authorities. The advantage of this intervention compared to other legal solutions is that it would be simple and quick to implement, would have immediate effect, is easy for owners to understand and would potentially act as a disincentive to owners of long-term empty properties.
- 36 As with most enforcement solutions, the use of this tool will be most effective as a last resort when more preventative or supportive approaches have failed, but it does provide a useful bridge between this supportive work and the more resource intensive and bureaucratic legal solutions available to local authorities. With all cases of empty homes, there is a need to tailor the solution to the particular situation as there is no ‘one size fits all’ response i.e. charging additional council tax will be a deterrent to certain owners but not all.
- 37 We understand that there has already been some debate about whether the proposals in the Bill should be amended to allow local authorities to vary the amount of council tax charged in line with the length of time that a property has been empty; a so-called ‘staircasing’ approach. This would seem a sensible way forward that would allow local flexibility.
- 38 Guidance supporting the legislation should make it clear which properties should be exempted from the powers under this section as there may be very good reasons why a property has remained empty for longer than a year. Examples might include an owner who has had to stay in hospital for a protracted length of time, or an older person who has entered a residential care environment but is hoping to be able to return home.

## **Part 7: the provision of housing by Co-operative Housing Associations;**

- 39 We understand that the proposals in the Bill will remove some of the current barriers to the development of cooperative housing and allow fully mutual

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<sup>5</sup> CIH and Shelter (2009) Empty Properties: Making the Most of the Existing Stock. Key information briefing Issue 9



cooperatives to grant assured and short-hold assured tenancies and that this will encourage the provision of private loan finance to such organisations.

40 Recent research<sup>6</sup> has suggested that there is a degree of public appetite for this type of housing and this legislation is likely to give some security and confidence to current and potential tenants. Overall, co-operative housing could make a small but interesting contribution to the range of housing options in the Welsh housing market.

### **Part 8: amendments to the Mobile Home (Wales) Act 2013.**

41 We have no comments to make regarding Part 8.

#### **Contact details:**

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<sup>6</sup> Wales Cooperative Centre (2013) research into the potential demand for cooperative housing in Wales. Available at <http://www.walescooperative.org/index.php?cID=826&cType=document> Last accessed 17.01.14

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted



Llywodraeth Cymru  
Welsh Government

**Carl Sargeant AC / AM**  
**Y Gweinidog Tai ac Adfywio**  
**Minister for Housing and Regeneration**

Ein cyf/Our ref: SF/CS/0113/14

22 January 2014

Christine Chapman AM  
Chair  
Communities, Equality and Local Government Committee  
National Assembly for Wales

Dear Christine

Thank you for your letter of 3 December providing the Committee's comments and recommendations following its inquiry into the barriers to home building in Wales.

I am grateful to the Committee for undertaking this inquiry – as I have made consistently clear, my main priority is to see more homes built because such investment generates jobs and growth and can provide a circumstance that helps people out of poverty. It also complements the review undertaken by the Housing Supply Task Force that I set up during the summer and which will report shortly.

My (attached) response to the Committee's recommendations therefore touches upon aspects of the Task Force's remit and I will be responding further to it in due course. I am also currently consulting on the Draft Planning (Wales) Bill and proposals to modernise the planning system in Wales which will heavily influence how we enable appropriate development of homes in the future.

As recent figures have indicated, we are well on target to achieve our target of 7,500 affordable homes during this administration (and to bring 5,000 empty homes back into use), but I want to do more. I want to exceed our target for affordable homes but I also want the private sector to build more homes.

I look forward to continuing to work closely with the Committee on these matters.

**Carl Sargeant AC / AM**  
**Y Gweinidog Tai ac Adfywio**  
**Minister for Housing and Regeneration**

## **CELG Committee - Inquiry into Barriers to home building in Wales** **Welsh Government response – Minister for Housing & Regeneration**

1)..... merit in looking afresh at the current type of housing being built in Wales, how it could be improved and the criteria for this. **We believe you should consider setting up a Task Group for this purpose, which could develop guidelines for both affordable housing and the private sector to ensure that future housing in Wales is built to an appropriately high standard.**

### **Accept in Principle:**

I agree that we need to look at alternative building types in Wales. There are already examples in use in Wales that we can learn from and are more common elsewhere in Europe.

My officials are already exploring options around this in conjunction with the Design Commission for Wales. There is also work underway on the use of Welsh timber that will be considered. I'm not against setting up a Task Group but I will be in better position to decide whether this is necessary in the light of the aforementioned expected advice and the understanding I get of the operation of the market coming out of the Housing Supply Task Force Report.

**Financial Implications:** None currently. If a Task Group was necessary it could be accommodated through existing Departmental Running Costs (DRCs).

2)..... establish why developers appear to be reluctant to develop in less affluent areas. On this basis, **we believe you should undertake a comprehensive analysis to identify why some areas of Wales have historically proved unattractive for development, and where those areas are.** This would enable Welsh Government support to be focused on encouraging development.

### **Accept in Principle:**

I commissioned the Housing Supply Task Force to provide further advice on the nature of the new build market in Wales and the factors that affect development. In considering, and responding to, the findings of the Task Force I will want to develop a detailed and up to date economic analysis. The nature of this work will however be influenced by my response to the Task Force report in due course. We will also need to develop our spatial understanding of the issues to implement the proposals contained in '*Positive Planning*', this will need to be done in conjunction with Local Planning Authorities.

**Financial Implications:** None

**3) Regulatory burden.....**continue to maintain regular dialogue with all sections of the industry. However, we feel that the steps taken by you address many of the primary concerns of the industry and **we want you to continue to maintain the high standards that are essential to deliver a high quality, safe and sustainable housing supply across Wales.** An issue of particular concern was that Building Regulations and the Community Infrastructure Levy cannot be negotiated on a site by site basis to take account of particular local issues such as local land values or the costs associated with redeveloping brownfield sites.

**Accept in Principle:**

My commitment to high standards is clear. We gain little from developing low standard homes which are unsustainable in economic, social or environmental terms. However, standards represent a cost for development and it is important that our expectations deliver something of real value to people. I will continue to use regulation to drive forward our policy agenda but I will want to ensure that standards justify themselves against this test.

Building Regulations, are established through legislation and are applicable to all appropriate forms of development, so they cannot be locally negotiated. Developers / agents will take account of all known / emerging costs when purchasing land and these costs should be reflected in the price paid. Welsh Government decision on standards will continue to be informed by full consideration of any associated costs.

The Community Infrastructure Levy (CIL) is non-devolved; its operation is set out in the CIL Regulations 2010 (as amended). The CIL charge is voluntary, set by the local planning authority based on financial viability and tested through a public examination. All interested parties can make their views known as to the appropriateness of the charge. The independent examiner will take all views into account and reflect them accordingly in their report. A CIL charge should not make development financially unviable, hindering it from coming forward. Any CIL charge set should reflect all known costs. When purchasing land a developer / agent should again take a CIL charge into account, if relevant, and this should be reflected in the price paid for the land.

**Financial Implications:** No direct implications for Welsh Government. However, higher standards have implications for the level of delivery that can be achieved from market housing.

4) RSLs..... some flexibility in the design of homes that would allow for innovation without being overly prescriptive and, most importantly, without lowering standards. **We believe you should continue to maintain high standards in social housing, and continue to work with the sector to identify opportunities to increase the rate of development of additional affordable housing.**

**Accept:**

I welcome the Committee's views on the need to maintain high standards. The Housing White Paper in 2012 recognises the importance of the quality of people's homes to their lives and their neighbourhoods. This is particularly true if you are poor or have other pressures in your life.

I also agree about the need for a flexible approach. A review of the Welsh Government's Development Quality Requirements (DQR) - the Standard that social landlords need to use when building homes through the Social Housing Grant – started in August 2013, and I am expecting a report and recommendations from them in May 2014. The Review Group has wide representation from across the sector including the Home Builders Federation, Welsh Tenants, the Design Commission for Wales, the Police, the NSPCC and RSLs. This is looking at whether the Standard which was developed in 1998 is still fit for purpose and whether it could be improved. The challenge I have posed to the review is to justify the requirements against the test of delivering real value for people, this is the best way to ensure the right balance is achieved between standards and the numbers of new homes built. The group will be looking at the relevant evidence in reaching their conclusions.

**Financial Implications:** No immediate implications over and above those already being committed through the DQR Review. There are longer term implications for the delivery from capital grant programmes resulting from impact on build costs.

5)....concerns from smaller developers that they were at a disadvantage because the LDP process favoured larger volume home builders and only larger sites were identified in LDPs. **We urge the Welsh Government to ensure that there is an appropriate balance between the need to redevelop brownfield sites, where development costs are often higher because of remediation costs, and the justifiable need for sustainable and affordable development in rural communities.**

**Accept:**

It is the responsibility of each local planning authority to identify the allocations within their Local Development Plan (LDP). Authorities should be alive to the need to support opportunities for small scale local development as part of this process. All LDPs have to identify the appropriate scale of land, in the relevant locations, to address the evidence. The precise nature of the allocations, be they brownfield or greenfield, is for the authority to determine and justify in relation to the evidence underpinning the plan. National policy, as set out in *Planning Policy Wales*, identifies the importance of brownfield land, although recognises that an appropriate mix of land is necessary to satisfy local circumstances. The factors determining allocations will include an assessment of constraints, delivery against the evidence base,

sustainability principles and financial viability. This will all form part of the supporting evidence base and be tested through the public examination, led by an independently appointed Inspector.

The level of housing requirements that need to be met across Wales means that the volume house-builders will continue to have a significant role to play. However, as mentioned above, local planning authorities should ensure that they identify a variety of sites. As part of this process authorities should address the scope and potential for rehabilitation, conversion, clearance and redevelopment and can also make use of exception sites to provide affordable housing; these sites often provide opportunities for smaller builders. In determining individual planning applications local planning authorities must not take into account the identity of the applicant.

**Financial Implications:** None.

**6) ....we believe you should consider the potential for the forthcoming Planning Reform Bill to address some of these issues. We see the Bill as an opportunity to streamline the planning process, reduce delays within the planning system and facilitate the delivery of more homes.**

**Accept:**

The draft Planning (Wales) Bill and consultation paper '*Positive Planning*' were published on 4<sup>th</sup> December 2013. Many of the proposals are intended to streamline the planning process, reduce delays within the planning system and facilitate the delivery of more homes. Key proposals include the introduction of Strategic Development Plans to address issues of more than local importance, such as future housing supply, and front loading the planning application process for the largest planning applications. Front loading the planning application process will allow the community to be consulted early on development proposals and discussions to take place between the applicant, local planning authority and statutory consultees. This will allow the quality of planning applications to be improved and community concerns to be addressed. The result should be faster and more consistent planning decisions.

**Financial Implications:** The consultation paper has identified some initial areas where financial implications may arise. A full Regulatory Impact Assessment will accompany the Bill at introduction.



**7) We urge you to confirm that national planning policy should support realistic Section 106 contributions which are appropriate to the economic conditions, and that these should not threaten development viability or community sustainability.**

**Accept:**

I agree entirely that Section 106 agreements should optimise the public contribution of development without undermining viability. As has been said many times, 50% of nothing is still nothing. The Housing Supply Task Force was commissioned to advise on the factors affecting this balance and the flexibility required. In considering the report as well as responses to *'Positive Planning'* I will wish to emphasise a realistic balance.

We have published guidance for local authorities on taking a realistic view of the contributions that can be sought from developers under section 106 agreements (*Delivering affordable housing using section 106 agreements: Practice Guidance*, July 2008 and update, September 2009). This guidance sets out how local authorities can use the planning process to facilitate and bring forward development, whilst ensuring that they continue to deliver the maximum possible amount of affordable housing. The guidance also covers the renegotiation of section 106 agreements to address viability issues. In addition, the Planning Officers' Society Wales are organising a 2-day training course for local authorities on viability appraisals and negotiating section 106 agreements. The course is due to take place at the end of January, funded by the Welsh Government

**Financial Implications:** None for Welsh Government.

**8) We believe you should review the effectiveness of TAN 6 (Planning for Sustainable Rural Communities), and in particular whether it is presenting an insurmountable obstacle to sustainable and affordable development in rural communities.**

**Accept in Principle:**

Technical Advice Note (TAN) 6 Planning for Sustainable Rural Communities encourages planning authorities to adopt a positive enabling approach to development in rural areas, particularly where it would improve the sustainability of the local community and economy. In terms of rural housing development, local planning authorities should identify sufficient land to meet the needs of both market and affordable homes. Guidance on local housing needs for market housing is set out in Planning Policy Wales. The Welsh Government's planning policies in respect of affordable housing are set out in Planning Policy Wales (PPW) and TAN 2 Planning and Affordable Housing. PPW and TAN 6 encourage local planning authorities to give priority to affordable housing in rural areas where need is identified. TAN 6 provides additional affordable housing guidance on working with local communities and housing enablers to identify appropriate affordable housing sites, and adopting a wide ranging approach to affordable housing delivery involving community land trusts, private landlords and unsubsidised development. Local planning authorities should set targets for the provision of affordable housing in their



development plans and should supplement this approach with an affordable housing exception site policy.

The TAN provides specific advice on Rural Enterprise Dwellings which are designed to provide greater flexibility and scope for rural enterprise workers to live at or near their place or work. To ensure Rural Enterprise Dwellings continue to meet the need they were intended for, TAN 6 sets out occupancy conditions restricting their future use to eligible rural workers. Where there are no suitable rural workers, eligible occupiers should meet affordable housing criteria; in this way TAN 6 can contribute to meeting need for affordable housing in rural areas. Information about Rural Enterprise Dwelling planning applications has been monitored on an annual basis since 2010. It is too soon to form an accurate assessment of the policy's impact.

One Planet Development (OPD) policy, which is supported by Technical Advice Note 6 (2010) and the One Planet Development Practice Guide (2012), is a clear indication of the Welsh Government's intent to provide opportunities for exemplar sustainable development in the countryside where new development is strictly controlled and requires special justification. The strict controls on development in the countryside mean that the requirements of OPD, which are mainly located in the open countryside, are rightly very challenging. It is for local planning authorities to determine OPD applications and they should be satisfied that any evidence presented in support of a proposal is both comprehensive and robust. Whilst the Welsh Government does not collect information about planning applications for OPD at the present time it is proposed to add this to the requirements of the Rural Enterprise Dwelling monitoring exercise which collects data in May each year.

**Financial Implications:** None.

**9) We believe you should continue to support the delivery of affordable housing through innovative funding mechanisms.**

**Accept.**

The Welsh Government is committed to developing innovative housing funding solutions. We have already launched a new way of funding affordable housing through the introduction of a revenue based Housing Finance Grant. This will deliver over a 1,000 new affordable homes in the next two years. We are working closely with the housing sector to understand innovative funding models. We must take a balanced approach to this work as we would not want to promote innovative funding to such an extent that it undermines the financial viability of the registered social landlords.

**Financial Implications:** No immediate implications

**10) We welcome your commitment for a council house building programme following the abolition of the Housing Revenue Account Subsidy System in Wales. We note your predecessor's statement, setting a target of 7,500 additional affordable homes by the end of the current Assembly. However, **we believe you should set a more ambitious target for the number of affordable homes to be delivered in each local authority area as soon as possible.****

**Accept in Principle:**

As you will know, recent data demonstrates that we are ahead of schedule in meeting the target of providing 7,500 additional affordable homes in Wales, showing 4,474 affordable homes have already been delivered - 60 percent of the overall target. In the context of the UK Government cuts and welfare reform hitting the people of Wales hard, it is imperative that we continue our good work and provide more good quality, safe and affordable homes. I have already made it clear that I am determined to do more

I have also asked Community Housing Cymru to provide more detail on the rationale behind their call to increase the target to 10,000 affordable homes. I intend to use their response to inform my consideration of the scope to stretch this target further.

**Financial Implications:** Affordable housing delivered with the support of social housing grant and other forms of capital funding support will need to be considered as well as capacity for housing associations to match finance or self fund.

**11) We heard a substantial amount of evidence that was critical of the role utility companies, in particular Welsh Water, played in both the planning and home building process. We share the concerns of witnesses that both the costs and delays associated with connecting new homes to mains utility and sewerage networks hinders development and places a particular burden on small and medium sized developers. We would like to see improved working between developers and utility providers that is neither unduly complicated nor protracted and only imposes reasonable costs that reflect the cost of the providing the connection. Furthermore, we would also like to see utility providers using LDPs to inform the on-going maintenance programmes, upgrading and extensions of their networks. **We were encouraged by evidence from the RSL sector that dialogue between the sectors was improving, and we believe the Welsh Government should take a strategic lead in facilitating further positive dialogue.****

**Accept:**

I am keen to see Welsh Water and other utility companies support development with appropriate infrastructure investment. I will take this matter forward with my Ministerial colleagues.

**Financial Implications:** None.

**12) We welcome the Prime Minister’s announcement that Stamp Duty Land Tax (SDLT) will be devolved. This issue was raised by a number of witnesses who felt it distorted the market and had a negative impact on home building because of its “slab” approach. We urge the Welsh Government to take full advantage of this development.**

**Accept in Principle:**

We are committed to ensuring that the arrangements for devolving Stamp Duty Land Tax are developed in conjunction with the construction industry. My aim will be to ensure that we harness this opportunity to maximise home building, whilst securing an appropriate revenue base for Welsh Government.

**Financial Implications:** There are significant financial implications of the various options for Stamp Duty Land Tax. These will be advised on separately

**13) We would be grateful if you would update us on the actions being taken by the Welsh Government to promote self-build.**

**Accept:**

I have asked my officials for advice on what more we might do as a government to promote self- build. I believe that self-build needs to play its part, where it can, in delivering more homes and meeting housing need. I want this to form part of a wider commitment towards innovation in housing supply. I expect to have more to announce on this in due course.

**Financial Implications:** We would expect there to be limited financial implications should it be decided to launch an initiative in this area.