

# Agenda – Equality, Local Government and Communities Committee

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Meeting Venue:

Committee Room 3 – The Senedd

Meeting date: 5 July 2018

Meeting time: 09.00

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Pre-meeting (9.00 – 9.10)

- 1 Introductions, apologies, substitutions and declarations of interest**
  
- 2 Renting Homes (Fees etc.) (Wales) Bill – evidence session 2**  
(9.10 – 10.10) (Pages 1 – 37)  
David Cox, Chief Executive, Association of Residential Letting Agents (ARLA)  
Propertymark  
Isobel Thomson, Chief Executive, National Approved Letting Scheme (NALS)  
Charlotte Burles Corbett, Managing Director, Parkmans / RICS
  
- 3 Renting Homes (Fees etc.) (Wales) Bill – evidence session 3**  
(10.10 – 11.10) (Pages 38 – 41)  
Douglas Haig, Vice-Chairman and Director for Wales, Residential Landlords Association (RLA)  
Chris Norris, Director of Policy & Practice, National Landlords Association (NLA)  
Break (11.10 – 11.20)
  
- 4 Renting Homes (Fees etc.) (Wales) Bill – evidence session 4**  
(11.20 – 12.20) (Pages 42 – 52)  
Liz Silversmith, Campaign Director, Let Down in Wales  
Cerith D. Rhys Jones, External Affairs Manager, National Union of Students  
Hannah Slater, Policy and Public Affairs Manager, Generation Rent



## **5 Papers to note**

(Pages 53 – 54)

- 5.1 Letter from the Cabinet Secretary for Economy and Transport in relation to making the economy work for people on low incomes**

(Pages 55 – 56)

- 5.2 Letter from the Cabinet Secretary for Local Government and Public Services in relation to Communities First**

(Pages 57 – 64)

- 5.3 Letter from the Welsh Local Government Association (WLGA) in relation to Communities First**

(Pages 65 – 68)

- 5.4 Letter from the Chair of the Children, Young People and Education Committee in relation to its forward work programme**

(Page 69)

- 5.5 Letter from the Minister for Children, Older People and Social Care in relation to the Welsh Independent Living Grant**

(Pages 70 – 72)

- 5.6 Letter to the Minister for Housing and Regeneration in relation to the Renting Homes (Fees etc.) (Wales) Bill**

(Pages 73 – 74)

- 5.7 Letter from the Chair of the External Affairs and Additional Legislation Committee to the First Minister in relation to human rights in Wales**

(Pages 75 – 76)

- 5.8 Letter to the Minister for Housing and Regeneration in relation to fire safety in high rise blocks in Wales**

(Pages 77 – 79)

- 6 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of the meeting**

**7 Renting Homes (Fees etc.) (Wales) Bill – consideration of the evidence received under items 2, 3 and 4**

(12.20 – 12.35)

**8 Inquiry into pregnancy, maternity and work in Wales – consideration of the draft report**

(12.35 – 14.00)

(Pages 80 – 127)

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### **Background**

1. ARLA Propertymark is the UK's foremost professional and regulatory body for letting agents; representing over 9,000 members. ARLA Propertymark agents are professionals working at all levels of letting agency, from business owners to office employees.
2. Our members operate to professional standards far higher than the law demands, hold Client Money Protection and we campaign for greater regulation in this growing and increasingly important sector of the property market. By using an ARLA Propertymark agent, consumers have the peace of mind that they are protected, and their money is safe.

### **Executive Summary**

3. A ban will make buy-to-let investment even less attractive and result in the extra costs borne by landlords being passed on to tenants through rent rises.
4. Banning fees will reduce competition in the market and agents will become more selective about the tenants they choose.
5. Clarification in the Bill is needed on the role of portals in displaying information, payments for utilities (contract for services), and the Green Deal requirements.
6. The Welsh Government need to specify whether Change of Sharer and Surrender of Tenancy will be classed as payments in default and if the premium associated with Deposit Replacement Insurance Schemes will be acceptable.
7. The Welsh Government should exempt reference checks from the legislation to ensure that tenants are not overstretching themselves in terms of what they can afford.

### **General comments**

8. ARLA Propertymark does not support the banning of letting agents charging fees to tenants. We believe fees should be open, transparent and reasonable. They represent legitimate costs to business that need to be covered.

9. When renting a property, a tenant is taking a legal interest in land for the duration of their tenancy and the fees charged to tenants are broadly like those charged when purchasing a property (referencing checks equate to mortgage application fees, contract negotiation charges are akin to conveyancing, and inventory costs are like a survey).
10. In terms of fees, the only difference between renting a home and buying a property is that when purchasing a property, the fees are paid to three different parties and generally cost the purchaser much more, whereas when renting a property, the letting agent acts in a quasi-legal capacity, undertaking these tasks on behalf of the tenant.

### **Response to the Renting Homes (Fees etc.) (Wales) Bill**

#### Intended effect

11. ARLA Propertymark does not believe that banning fees to tenants will ensure that the private rented sector remains functional and affordable for those who wish to access it. The Renting Homes (Fees etc.) (Wales) Bill will not increase accessibility and transparency for tenants and prospective tenants. Furthermore, we do not believe that the Bill will help tenants find homes within the private rented sector and move more easily. A ban on letting agent fees will have a profoundly negative impact on the rental market in Wales and not increase accessibility and transparency for tenants and prospective tenants. Currently, tenants know and understand what they are committing to at the start of the tenancy. A ban will reduce the services that letting agents provide and cost the sector jobs. It will make buy-to-let investment even less attractive and ultimately, as the Impact Assessment notes on page 20<sup>1</sup>, result in the extra costs borne by landlords being passed on to tenants.
12. The Bill will not ensure that the private rented sector remains functional for those who wish to access it. If less professional and part-time landlords turn away from agents due to increasing costs, they will likely be unaware of new (and existing) legal requirements, causing widespread non-compliance and putting tenants in danger. This could result in more tenants having to seek assistance from their local authority. In the current fiscal climate, many local authorities are dispensing with their Tenancy Relations Officers and their Housing, Environmental Health and Trading Standards teams. These teams are already over-stretched and under resourced. They will struggle to enforce the laws. This will leave tenants, particularly vulnerable tenants, living in substandard conditions with nowhere to turn.

<sup>1</sup> <http://www.assembly.wales/laid%20documents/pri-ld11586-em/pri-ld11586-em-e.pdf>

13. The Welsh Government outline in the Explanatory Memorandum on page 10<sup>2</sup> that the Bill has been developed in the context of helping tenants find homes within the PRS. However, we fundamentally believe that the Welsh Government is misguided in its approach for two reasons. Firstly, banning fees will reduce competition in the market by driving some agents out of business. Smaller agents will struggle, their turnover will become smaller, with some driven out of business altogether or taken over by larger agencies creating corporate monopolies rather than increasing competition in the sector. Secondly, those agents that remain in the sector will become more selective about the tenants they choose. Furthermore, the private rented sector in Wales is regulated through Rent Smart Wales with both landlords and agents complying with the additional burdens that the new legislation has imposed. However, with the proposal of this ban the mainstream providers of rental accommodation are faced with further financial pressure which, in many cases, will lead to fewer agents and landlords operating in the market giving tenants far fewer opportunities to get into good quality, affordable rented housing. The average fee charged by ARLA Propertymark agents is £202 per tenant, which we think is fair, reasonable and far from exploitative for the service tenants receive. As the ban shifts the focus of the agent from the tenant to the landlord this will lead to agents selecting the best tenant for the landlord; ultimately leading to some tenants finding it almost impossible to find property to rent.
14. The ban will not make the sector more affordable to tenants. Fees charged by letting agents represent legitimate business costs that need to be covered as outlined on pages 19 and 20 in the Impact Assessment<sup>3</sup>. As a consequence of a ban, these costs will be passed on to landlords, who will need to recoup the costs elsewhere; inevitably through higher rents. Independent research commissioned by ARLA Propertymark and carried out by Capital Economics, predicts that because of a full ban on fees tenants will pay an increased rent of £103 per year.<sup>4</sup> Their analysis shows that as rents will increase by less than the average tenant fees, those tenants who move more frequently will enjoy savings on overall costs. However, those that move property less often will not reap the same benefits in savings. Typically, these are likely to be lower income families who will probably move less often than younger, wealthier millennials. For savings to accrue to tenants from the change in policy they would need to move as often as every two-and-a-half to three years. Consequently, those tenants

<sup>2</sup> <http://www.assembly.wales/laid%20documents/pri-ld11586-em/pri-ld11586-em-e.pdf>

<sup>3</sup> <http://www.assembly.wales/laid%20documents/pri-ld11586-em/pri-ld11586-em-e.pdf>

<sup>4</sup> <http://www.arla.co.uk/media/1045728/letting-the-market-down-assessing-the-economic-impacts-of-the-proposed-ban-on-letting-agents-fees.pdf>

in long term tenancies will end up worse off. Rather than creating a system which is more affordable and encourages long-term tenancies, the proposed ban will financially disadvantage tenants unless they move on a regular basis.

15. The Welsh Government's approach will not increase accessibility and transparency for tenants and prospective tenants. Letting agent fees should be open, transparent and reasonable. Under the Consumer Rights Act all letting agents in Wales must openly display a list of all fees, charges or penalties which may be incurred by a landlord or tenant.<sup>5</sup> However, there has been very little enforcement of these rules meaning that tenants and landlords are not getting the control and clarity they need to make informed decisions. Rather than pressing ahead with plans for more legislation in the sector to ban letting agent fees, the Welsh Government could provide greater control and clarity by using the powers they already have to improve transparency and introduce tougher penalties for agents found to be breaching the law.

#### Provisions in the Bill

16. Clarification in the Bill is needed on the role of portals in displaying information, payments for utilities (contract for services), and the Green Deal requirements. The Welsh Government also need to specify whether Change of Sharer and Surrender of Tenancy will be classed as payments in default and if the premium associated with Deposit Replacement Insurance Schemes will be acceptable. We also strongly believe that the Welsh Government must exempt reference checks from the legislation to ensure that tenants are not overstretching themselves in terms of what they can afford.
17. It is sensible that the Renting Homes (Fees etc.) (Wales) Bill extends the requirement for agents to display all fees, charges and penalties under the Consumer Rights Act to any online advertiser such as property portals and third-party websites. Most tenants now search for rental accommodation by using the portals and will not visit the letting agent's own website or go into a branch until later in their property search. However, the Welsh Government need to clarify that once agents have provided the relevant information to the portals, it will be the legal responsibility of the portals to ensure that the fees are showing correctly. Agents pay to advertise on portals and by ensuring that liability is with them, it will guarantee that every agent provides this information in a unified way; reducing the risk of agents opting out from using some portals and not others. It is also very difficult to display fees if properties are being advertised on

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<sup>5</sup> <http://www.legislation.gov.uk/wsi/2015/1904/made>



third party websites like Twitter that require users to provide information in 280 characters or less.

18. Despite the Renting Homes (Fees etc.) (Wales) Bill banning landlords and agents from requiring tenants to secure and pay for services from any third party, the Welsh Government must be clear that loans under the Green Deal (or any subsequent energy efficiency scheme) which are payable by the tenant must be excluded from the ban. The Energy Act 2011 introduced a series of energy efficiency targets for residential properties.<sup>6</sup> The Green Deal helps tenants and landlords make energy-saving improvements to the property. Tenants pay for the agreed proportion of the improvements through their energy bill during their tenancy. Therefore, tenants must agree to the non-optional Green Deal Charge as a condition of granting, renewing or continuing a tenancy. In its present form, this would fall foul of Clause 3 (2) of the Renting Homes (Fees etc.) (Wales) Bill. If the Welsh Government wants the sector to use the Green Deal, then the loans which are payable by the tenant must be exempt from the ban.
  
19. The Bill should be amended to clarify that landlords and their agents can require tenants to secure and pay for utilities (electricity, gas or other fuel, water or sewerage), communication services (such as telephone, internet, cable/satellite television), Council Tax and payments for a television licence where they are required by the tenancy agreement to make the payment. In its current form it is unclear from Clause 2 (2) and (3) in the Bill whether these payments are permitted. The Welsh Government should re-word this part of the Bill and confirm that these are “Permitted Payments” where they are in the tenancy agreement.
  
20. We believe letting agents should be able to charge tenants for dealing with Change of Sharer / Tenant or where a tenant wants to leave their tenancy early (Surrender of Tenancy). This is a breach of their tenancy agreement and almost every service provider (e.g. mobile phone contracts) comes with a default payment for early termination. By enshrining this into law it will give agents ultimate certainty and not create a “PPI moment” for the industry. Furthermore, a significant amount of time and resources are involved by agents in either a Surrender of Tenancy or Change of Tenant / Sharer as effectively an entire new agreement, referencing and Right to Rent checks (when introduced in Wales) need to be undertaken. Such a situation will only ever occur at the request of the tenant or due to the tenant’s actions. It will never be instigated by either a landlord or letting agent and therefore, we would argue that

<sup>6</sup> <http://www.legislation.gov.uk/ukxi/2015/962/contents/made>

these should be exempt from the ban. Additionally, if they are not classed as a default payment by the tenant we are concerned that this service may not be provided at all, restricting tenant's ability to move and reducing choice.

21. Recently, we have seen the emergence of Deposit Replacement Insurance Schemes whereby the tenant pays a non-refundable insurance premium (usually around one week's rent) before they sign the tenancy agreement. This insurance product then acts in place of a deposit and should the tenant go into rent arrears or damage the property, the landlord will be able to claim on the insurance policy. These schemes are not mentioned in the Renting Homes (Fees etc.) (Wales) Bill. Clarification is needed as to whether it will be acceptable to pay the premium rather than a tenancy deposit under the legislation. If they are permitted, will the annual insurance premium payment become a Prohibited Payment to a third party under Clause 3 (2) of the Renting Homes (Fees etc.) (Wales) Bill or will these schemes be deemed acceptable. The issue arises because essentially the option is only available at the beginning of the tenancy and not at renewal. Therefore, if the option is chosen it will become a premium for continuing the tenancy and breach Clause 3 (3) of the Bill.
  
22. We believe that there should be an exemption for checks involved in referencing tenants. Reference checks are an essential part of the letting process, ensuring that tenants are who they say they are, work where they say they work and can make rental payments. If a tenant falls into rent arrears this could result in County-Court Judgments made against them, which could have a significant impact on their credit rating and their subsequent ability to obtain credit. In addition, tenant referencing is time consuming for letting agents and often involves significant time spent chasing all parties to complete the referencing process. Checks are frequently complex procedures and under the Phase Three roll out of the Immigration Act 2014, Right to Rent checks will soon be required by law in Wales.<sup>7</sup> With such a chronic shortage of rental housing, a ban on fees for tenant referencing may make securing a rental home very difficult for those on low incomes or those who have a poor credit rating. To ensure that a tenant takes on manageable levels of financial commitment and help to ensure that they are not subsequently made homeless, reference checks should be exempt from legislation banning letting agent fees to tenants.

## Corrections

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<sup>7</sup> <http://www.arla.co.uk/media/1045722/immigration-act-2016-phase-3-response.pdf>

23. A correction to Schedule 2, 7 (b) of the Bill should be made so that it says, “the landlord did not know, and could not reasonably have been expected to know, that was the case before the landlord accepted the holding deposit.” In the Bill’s current form “holding” is not included and must be added to make it clear which deposit the legislation is referring to.
24. In Schedule 1, 2 (1) (4) Security deposit, the “prescribed limit” should be set out in the Act and if not, subject to Affirmative Resolution rather than “a limit specified by, or determined in accordance with, regulations”. This will ensure that the prescribed limited is outlined clearly in the Act and approved by the Welsh Assembly.

### Enforcement

25. The Renting Homes (Fees etc.) (Wales) Bill outlines that local authorities will enforce any ban. We are concerned about the low level of fines currently prescribed in the Bill and the resources available to local authorities. It is imperative that the fines for breaching the ban are reflective of the amount of money involved in a tenancy and act as an effective deterrent to rogue operators. It is vital that local authorities are adequately resourced and funded.
26. The fines set out in the Bill for a breach of the ban are too low. As outlined in Clause 11 (3) a fine not exceeding level four on the standard scale is not a deterrent to those looking to flout the rules. Furthermore, a fine of £500 for a Fixed Penalty Notice is much too low. For instance, if a letting agent has 200 tenancies and charges £202 in fees per tenant this amounts to £80,800 if there is an average of two tenants per tenancy. Therefore, over the length of time the agent manages these properties the local authorities would need to issue 162 Fixed Term Penalty notices at £500 each for the agent to be out of pocket. A breach of the fees ban must result in a significantly larger fine to deter rogue operators. Fines should amount to a financial penalty of up to £5,000. Successive breaches of the ban within five years (where a financial penalty has been issued or conviction secured in respect of the earlier breach) should be a criminal offence with an unlimited fine. The local authority should be able to impose a financial penalty of up to £30,000 as an alternative to criminal prosecution. Local authorities should also be notifying Rent Smart Wales to prevent the worst offenders from operating.
27. Local authorities need extra support to enforce any ban on fees. Unless specific funding is set aside for the sole purpose of enforcing these new laws, then we expect the same lack of effective enforcement on the ban on lettings fees as has been

demonstrated on the transparency rules under the Consumer Rights Act 2015. This will result in professional agencies complying with the ban and rogue operators continuing to charge fees with impunity; thus creating a two-tier market. Furthermore, the level of enforcement across all aspects of landlord and tenant law is woefully inadequate. Until this issue is addressed and existing laws are properly enforced, we do not believe that new laws should be introduced as the result will be history repeating itself over again – professional landlords and agents will comply, and the criminal element will continue operating under the radar.

Impact of the legislation on key stakeholders including tenants, letting agents and landlords

28. In response to the UK Government’s announcement in November 2016 that they will ban letting agent fees to tenants, ARLA Propertymark surveyed 1,008 letting agents across England and Wales to ask what the impact of a ban on fees would be. The majority of agents (90%) responded saying that rent prices will increase as a result of banning fees. 60% said the quality of properties will decline and 40% think the ban will result in a fall in employment in the medium to long term.<sup>8</sup>
29. Letting agents deliver a hugely valuable service in ensuring that properties are safe, compliant and professionally managed. Up to June 2015, there were 145 laws with over 400 regulations that landlords need to abide by to legally let a property in England and Wales.<sup>9</sup> Legislation on residential lettings is amended regularly with new laws introduced frequently. If less professional and part-time landlords turn away from agents due to increasing costs, they will likely be unaware of new (and existing) legal requirements, causing widespread non-compliance and putting tenants in danger.
30. An outright ban on letting fees will likely mean that agents become unable to continue offering a full service to tenants; particularly Local Housing Allowance tenants who often require the assistance of their agent to fill in increasingly complex benefit applications. If agents withdraw the services they currently provide, the Department for Work and Pensions will likely see an increase in the number of failed Housing Benefit and Universal Credit applications because tenants have been unable to complete the forms on their own.<sup>10</sup> Exempting referencing, as we suggest above, should effectively mitigate against this eventuality as letting agents will be able to retain current service levels to tenants.

<sup>8</sup> <http://www.arla.co.uk/media/1045477/tenant-fees-research-report.pdf>

<sup>9</sup> [http://www.propertychecklists.co.uk/downloads/20170508\\_1](http://www.propertychecklists.co.uk/downloads/20170508_1)

<sup>10</sup> <http://www.arla.co.uk/news/january-2018/arla-propertymark-provide-evidence-for-universal-credit-debate-in-parliament/>

31. The private rented sector is now the largest housing tenure outside of owner-occupation, set to grow and with an increasing number of families and longer-term tenants. The professional services that letting agents provide will become even more important as a growing percentage of the population, from increasingly diverse demographics, rent their homes within an ever more complex legislative framework. However, after successive governments have effectively focused on increasing property standards for those living in the private rented sector, policies such as this ban could well see the good work of the last two decades undermined as landlords struggle, with some failing, to make ends meet. The result will be a reduction in property conditions and an increase in poor management practices with the use of the professional services provided by letting agents reserved for only those who can afford it; leaving the most vulnerable tenants in the hands of inexperienced and/or unscrupulous landlords and agents.
32. The cost of running a letting agency – an office, staff, travel expenses, advertising properties and administration costs all mount up. Official statistics show that real estate activities (both sales and lettings) in England and Wales provided employment for 241,000 people in 2015 (6,500 in Wales, 19,000 in the South West and 19,000 in the North West).<sup>11</sup> Some letting agents may not be able to absorb the loss of income created by the ban and will close. Others may have to cut staff and costs. Capital Economics’ analysis suggests that in the worst-case scenario (where agents do not pass on any additional costs to landlords), 16,000 jobs will be lost in the sector and a further 8,000 in the supply chain and even in the most plausible scenario, whereby letting agents pass on 75% of the loss from the fees ban to landlords, this will result in 4,000 jobs in the sector being lost.<sup>12</sup> In either situation, unemployment will increase as a direct result of the ban on letting fees; adding additional costs to the public purse in terms of direct unemployment benefits from those losing their jobs. It will also result in the reduction of new roles being created in the industry as it will reduce the ability for small businesses to grow, train their existing staff and take on properly-trained apprentices who will become the next generation of professional, qualified letting agents. Therefore, this policy again runs contrary to the Welsh Government’s efforts to support small businesses; which represent the majority (60%) of the industry.

<sup>11</sup> <http://www.arla.co.uk/media/1045728/letting-the-market-down-assessing-the-economic-impacts-of-the-proposed-ban-on-letting-agents-fees.pdf>

<sup>12</sup> <http://www.arla.co.uk/media/1045728/letting-the-market-down-assessing-the-economic-impacts-of-the-proposed-ban-on-letting-agents-fees.pdf>

33. Private landlords are an important source of investment in housing stock and a worsening of their financial position will likely result in less investment. Some would-be landlords are likely to be put off by the increased costs that may be demanded by letting agents, and together with the withdrawal of Mortgage Interest Rate Relief<sup>13</sup> and additional stamp duty<sup>14</sup>, this will likely reduce the number of new entrants. This will put upward pressure on rents and stifle the market.
34. Finally, it is also important to note that residential lettings activity provides 58,000 jobs across England and Wales, which generate employee taxes in the order of £400 million for the Exchequer each year. Furthermore, Value Added Tax (VAT) is currently charged on letting fees. Capital Economics estimate that the sector provides the Exchequer with annual tax revenues of around £1 billion, from VAT, business rates and employee taxes. Therefore, banning letting fees outright will result in a significant loss of income to the Exchequer.

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<sup>13</sup> <https://www.gov.uk/government/publications/restricting-finance-cost-relief-for-individual-landlords/restricting-finance-cost-relief-for-individual-landlords>

<sup>14</sup> <https://gov.wales/newsroom/finance1/2017/171003-progressive-tax-plans-for-wales-published/?lang=en>

The National Approved Letting Scheme (NALS) [www.nalscheme.co.uk](http://www.nalscheme.co.uk) is an independent not for profit licensing scheme for lettings and management agents operating in the Private Rented Sector.

NALS agents are required to:

- Deliver defined standards of customer service
- Operate within strict client accounting standards
- Maintain a separate client bank account
- Be included under a Client Money Protection Scheme

Agents must provide evidence that they continue to meet NALS criteria on an annual basis, in order to retain their licence. The scheme operates UK wide and includes 1550 firms with over 2,500 offices. . NALS is an authorised provider of approved training for Rent Smart Wales and a member of its stakeholder group. NALS also administers the SAFEagent campaign [www.safeagents.co.uk](http://www.safeagents.co.uk) the purpose of which is to raise consumer awareness nationally of the need to ensure that landlords and tenants should only use agents who are part of a Client Money Protection Scheme offering reimbursement in the event that an agent misappropriates their money. The campaign is recognised by the UK Government.

## Summary

NALS welcomes the Welsh Government's commitment to a better Private Rented Sector (PRS) offering safety and security for tenants.

NALS believes the majority of agents charge tenants fair and reasonable fees\* for the services that they provide. The small minority who overcharge are held up as the norm – this is erroneous. NALS does not support the overcharging of tenants.

NALS does not support a ban on all upfront letting agent fees because it believes that this will not deliver the outcome to which the Welsh Government aspires.

NALS believes it will reduce the range of services on offer to tenants and make it more difficult for tenants to access the PRS. Of particular concern is the constraints on accessibility the fee ban may place on vulnerable tenants who will no longer get the level of service they have enjoyed previously from agents and they may be less likely to obtain tenancies.



## Understanding the service agents provide to tenants

NALS understands that agency fees can be perceived as unaffordable when viewed alongside deposits and the other costs which tenants' incur when moving. We know that many tenants have little information about why fees are charged, or what for. However, we believe that banning of upfront fees would limit the services that can be offered to tenants by agents. Furthermore, a ban on legitimate fees may lead to tenants paying more over the longer term.

Agents provide services to both landlords and tenants. For example, they typically offer tenants a choice of properties, with viewings arranged at mutual convenience for existing and incoming tenants. They carry out referencing checks on both the tenants and any guarantors. They also help to negotiate the Tenancy Agreement, explaining to both parties what the agreement covers and the obligations that come with it. They take deposits if required and provide protection of the deposits through the relevant protection schemes.

NALS believes that in order to ensure a stable sector and fairness for all - tenants, landlords and agents – the implementation of a fee ban should be considered within the regulatory regime which already exists in Wales. Where Rent Smart Wales already has strict oversight of agents and landlords, we believe that agent fees could be capped rather than banned completely.

## Implications of the ban

### **For Tenants**

Rents may need to rise, if the fees for essential services provided to tenants – for example, referencing, deposit administration and the tenant's share of inventory costs - are passed on to the landlord. If rents rise, this could result in tenants paying more over the life of a tenancy than if fair and reasonable charges were levied in advance.

Certain types of tenant will be particularly disadvantaged. These include benefits claimants (who are more likely to be vulnerable), and those that need guarantors. Agents provide an important service to these groups, but will be unable to resource this if fees are banned.

Agency staff are trained and possess the right level of knowledge, to ensure that neither their landlord clients nor their tenant customers are unfairly disadvantaged. However, with the abolition of fees, it is highly likely that letting agencies will have to reduce staff and training budgets. They will have to refer tenants to solicitors or legal specialists on tenancy agreement queries. This will result in higher costs and possible delays.

### **For Landlords**

Any increase in fees to landlords is likely to increase any reluctance they may have to engage a reputable agent. Service and property standards are then likely to fall AND there will be increased financial pressure on landlords to self-manage.

Some small landlords may simply quit the market when faced with the burden of absorbing costs previously met by tenants, coupled with changes in Stamp Duty Land Tax and Mortgage Interest Relief.



## For Agents

With reduced income, agents will be unable to maintain investment in training and development of staff. Many agents have staff capable of preparing legal documentation with support from a landlord and tenant specialist solicitor. If agents are no longer able to provide this service, this will definitely disadvantage tenants. NALS does not believe that a fee ban will make the market more competitive. The resulting cost pressures may well lead to job losses and closure of branches resulting in small local agents leaving the market.

## General points in relation to the Bill

### Security deposits

NALS is concerned that the Bill refers to “prescribed limits” for security deposits but there is no indication as to what the “prescribed” limit would be. We would ask the Welsh Government to provide clarification on this before the enactment of the Bill.

### Enforcement

We would ask the Welsh Government to ensure that resources are available for enforcement of any fee ban to ensure that appropriate action is taken against those agents who may flout the law.

## Conclusion

NALS urges the Government to consider the wider implications of the proposed fee ban. In order to ensure a stable sector, a level playing field and fairness for all, NALS believes that the proposed fee ban legislation should be re-examined, within the wider context of the already regulated lettings and management agent market where fees could successfully be capped rather than banned.

June 2018

[\\*NALS fees survey October 2016](#)

1. RICS in Wales is the principal body representing professionals employed in the land, property and construction sector and represents some 4000 members divided into 17 professional groups.
2. As part of our Royal Charter we have a commitment to provide advice to the Government of the day and in doing so we have an obligation to bear in mind the public interest as well as the interest of our members
3. We welcome the opportunity to respond to the Bill, and look forward to providing further views and comments at the forthcoming oral evidence session.
4. However, given the compacted timescale between the tabling of this Bill, and the request for written evidence to support the oral evidence, this submission focusses on the general principles, potential impact and unintended consequences of the Bill.
5. RICS will be providing a supplementary submission, prior to the 7 September 2018, which will consider all provisions in more detail. If the Committee has any concerns with the Bill, RICS can explore these in our second submission.
6. It is important to note that the PRS is a fast-growing sector in Wales (as it is across the UK) with more and more people and families, across the demographics, choosing to stay in rented accommodation, or are dependent on it due to a combination of high (and increasing) house prices, coupled with high rents inhibiting potential to save for a deposit. In these latter cases, it is very much the case that the PRS is not regarded as the stop-gap on the housing ladder that it once was.
7. Considering our public interest remit, reducing costs for tenants should allow them access PRS more easily, and this should be welcomed.
8. However, the Committee needs to ensure that the right balance is struck as to what is fair for tenants, but what won't deter existing letting agents and landlords from investing in, or entering, the sector.

### **General Remarks**

9. The Bill marks another step change in residential legislation in Wales. The Bill's provisions do not impose an outright ban on fees; they shift the responsibility of payment for services away from the tenant.
10. This monetary responsibility may culminate in additional costs to the landlord – either directly or via a letting agent; to the letting agent – through absorption of costs; or to the tenant - through increased rent.
11. Research undertaken prior to the Bill's drafting – as highlighted in the Explanatory Note – indicated that most, if not all, letting agents view the landlord as their client, and hold a duty of care to the tenant.

12. It also highlighted that as tenants cannot choose a landlord or letting agent, and thus have no option but to pay fees – of which there are great differences for the same levels of service.
13. This Bill, essentially, defines the landlord as the client of a letting agent, and therefore shifts the onus of payment responsibility onto the party which has a choice.
14. A key outcome from this Bill is that it reduces the financial burden at the start of a tenant's letting journey – thus increasing access affordability and transparency.
15. It is important to note, however, that letting agents do provide a professional service to tenants. The drafting of legal contracts or preparing a property for let are two such examples of professional services that letting agents provide, and request payment from the tenant.

## Overview

16. RICS has welcomed many Welsh Government policies and legislatures that have had an impact on the residential sector over a number of years; most notably the Rent Smart Wales (RSW) scheme which should improve professional standards and, thus, the landlord and tenant experience of the Private Rented Sector (PRS).
17. Indeed, due to regularly changing rights and responsibilities through legislative and policy changes, the PRS in Wales – which has a noted ever-growing importance to the Welsh residential sector as a whole – is becoming increasingly complex to navigate.
18. The use, therefore, of a professional letting agent has become more a necessity than a luxury.
19. Indeed, we would urge the Welsh Government to highlight the benefits of a more professionalised PRS and the benefits of using a Rent Smart Wales compliant agent.
20. The professionalisation of the sector, however, has come at an additional financial burden for those who operate it; the stand out example being the registration costs for RSW. In addition to the initial registration fee, compliance with the scheme includes costs for the training of staff and obligation to meet the CPD requirement.
21. In wake of these additional costs, to maintain a professional level of service to clients, letting agents have had to re-examine how their business models and practices are delivered within the boundaries of the revenue generated through reasonable costs to landlords and tenants for their services.
22. At present, letting agencies charge varying levels of administration fees to landlords and tenants to cover the time and cost implications that arise from the varying phases of the letting process, including: credit, reference and immigration checks, for an accompanied viewing, or the drafting of legal contracts.

23. The draft Bill, however, is not entirely clear on what payment for services will be seen as prohibited payment.
24. One of the key drivers behind this Bill, however, was the variation of charges applied to tenants by letting agents - this Bill removes the option to charge tenants for these services.
25. Whilst this removal will reduce upfront costs for tenants, there are a number of unintended consequences that this Committee will need to consider.

### **Costs and Impact**

26. The key issue of this Bill that the Committee needs to consider what impact the transferal of costs to the landlord and, potentially, the letting agent could have on the service provision within sector
27. There are two fundamental consequences that that have similar outcomes:

#### Increase charges to the landlord

28. If letting agents cannot charge tenants for services, one change in approach would be to impose further charges on the landlord for their services instead.
29. This could impact on existing landlord-letting agent relationships, potentially leading to landlords moving their portfolios to maintain [what they deem as] adequate levels of income from their properties to let. As such, letting agents will need to balance charging landlords for services they provide to remain financially competitive. This could increase market competition and, with that, service delivery.
30. Whilst this outcome will be welcome in some sector participants, there will be some letting agents, or agencies, that will have to adapt their working practices and efficiency, or risk reductions in landlord's properties they manage, reduce staff, or cease to operate.
31. This market competition may improve service delivery through more efficient delivery of letting agency; but conversely it could also reduce the number of letting agents operating in the sector – reducing choice for landlords and letting agency services across Wales.
32. Additionally, any increase in landlord fees could also increase rents and, of course, the holding deposit which this Bill legislates to be one week's worth of rent. However, the one week rent deposit – as provisioned for in this Bill – is more affordable than existing fee structures; and a welcome provision for improving access affordability.
33. Both the above outcomes could mean that whilst tenants may be able to afford to apply and gain entry to a PRS property, they may be liable to higher rents over the longer term.

34. Whilst a short-term saving, could become a long-term financial burden – research suggests that it is preferable for tenants to reduce upfront costs.

Absorbing the costs:

35. In order to remain competitive in attracting landlords, some letting agents or agencies may choose to resist the transferal of costs from the tenant to the landlord, and absorb any loss of revenue of charging fees to tenants by operating through a slightly amended business model or practice.
36. However, it is likely that only larger firms, or those operating at the higher end of the rental market, can manage this approach.
37. This outcome could increase market competition within the letting sector – which could lead to more effective and efficient working practices.
38. However, this could have negative consequences as smaller firms, or individual practitioners, will not be able to compete with the fee structure of larger firms; leading them to reduce operational costs e.g. staff, or cease trading altogether.
39. Similarly, landlords may absorb the costs, which would lead to minimal change in the sector. However, we assume this approach by the landlords would be unlikely.
40. These two outcomes illustrate the concerns raised by RICS professionals who operate in the lettings market in Wales; concerns that the Committee should examine in closer detail.

**Additional Landlord Costs**

41. We also have to consider the additional financial burden for landlords.
42. As mentioned previously, the Bill's provisions could shift letting agent fees to landlords – which could increase costs and reduce income for the landlords.
43. Whilst the overall aim of this Bill is fairer to the tenant, these additional costs have to be considered in conjunction with other, pre-existing, costs for landlords, such as landlord registration fee, the additional 3% LTT for second properties, and step-reduction in buy-to-let mortgage relief.
44. RICS research in 2017 indicated since the introduction of the Stamp Duty Land Tax (SDLT) surcharge, small-scale landlords have either reduced, or sold, their portfolios. As a result of the mortgage rate relief cut, those that have remained in the sector had also seen their margins cut.
45. This has to be considered in conjunction with RICS' monthly Residential Market Surveys which regularly point to a lack of supply pushing up house prices and rents across the UK.
46. Further reductions in rental supply will only serve to increase rents.

## Recommendations

### Capped Fees

47. It is important that this Committee recognises that tenants receive professional services from letting agents (examples outlined in paragraphs in 15 and 22). As such, in the interests of fairness and balance, tenants should pay for these services – a practice that emulates commercial property leases, whereby the tenant and landlord share the legal fees.
48. With this in mind, we would recommend that this committee recommend a cap on fees for professional services provided to a tenant. The capped fees should cover prescribed professional services only.
49. A prescribed list of what “professional services” would encompass would strengthen this Bill, and we would urge the Committee to take forward this view.
50. These recommendations would ensure that any fees for professional services are not excessive, and paid for by those who acquire them.

### Tenant Passports

51. RICS has previously explored the notion of “tenant passports”, which would negate the need for administrative checks being undertaken by a letting agent.
52. In short, tenants would provide a registration body with all the information sought by letting agents, receive a “passport”, and simply pass this information to letting agents or landlords for a property they wish to rent.
53. This could feasibly reduce, or bypass, tenant fees; however, it raises many issues around costs, cost effectiveness and registration body. RICS can explore this notion further with at the request of this Committee parliamentarians.

### Concluding remarks

54. Ultimately, reducing costs for tenants will increase access affordability, but this bill needs to strike the right balance between access affordability, with any potential impact on market rent, and supply of PRS properties.
55. RICS in Wales will continue to monitor the impact of legislative and policy changes via our monthly Residential Market Surveys.

# Agenda Item 3



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We would like to thank The Equality, Local Government and Communities Committee for the opportunity to be able to grant evidence for the scrutiny of the general principles of the *Renting Homes (Fees etc.) (Wales) Bill*.

Fundamentally the Residential Landlords Association (RLA) is opposed to this measure of statutory penalisation of agency fees in the sector. We believe that the current Bill as proposed will not meet the Welsh Government's aims and objectives. That the transparency of the cost of the agency fees will not be clear for those who will still be paying for the service, essentially through increased rents.

Instead we propose to use current powers conferred in the '*The Consumer Rights Act 2015*' and introduce a capped agency fee scheme throughout Wales. This would serve to grant transparency in the sector as the amount and terms of fees charged will be clear to the prospective tenant (Contract Holder) and there is fair remuneration for work completed for the agency. This is reflected as Option 3 in the consultation contained in memorandum accompanying the Bill.

With the Welsh Government's aim being to 'reduce the barriers to enter the Private Rented Sector' we believe that they have not taken the lead by taking a proactive approach of allowing transferrable insured deposits within this Bill.

We have further concerns to the sections relating to fixed penalty notices and the lack of consultation with the sector for determining the 'prescribed limit' for security deposits.

We detail below our concerns and proposed amendments.

## **About the Residential Landlords Association**

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The Residential Landlords Association (RLA) represents the interests of landlords in the private rented sector (PRS) across England and Wales. With over 30,000 subscribing members and an additional 20,000 registered guests who engage regularly with the Association, the RLA is the leading voice of private landlords. Combined, they manage over a quarter of a million properties.

The RLA provides support and advice to members and seeks to raise standards in the PRS through its code of conduct, training and accreditation, and the provision of guidance and updates on legislation affecting the sector. Many of the RLA's resources are available free to non-member landlords and tenants. The Association campaigns to improve the PRS for both landlords and tenants, engaging with policymakers at all levels of Government to support its mission of making renting better.

### **1.1 Transferable Deposits**

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The RLA recognises that one of the biggest upfront costs tenants face is the deposit. This is exacerbated by a system that means that when a tenant moves to a new rental property they need to raise funds for a new deposit before being repaid the deposit for their last property.



To remove this barrier, the RLA is calling specifically for the development of a new insurance-based scheme that would enable a tenant to transfer a deposit from one rental property to another while protecting the new landlord from a reduced deposit caused by deductions for the previous tenancy.

This would include provisions for a tenant to be able to top up a deposit being transferred where the new one is higher, or claim some of the deposit back where it is lower than for the previous property. This will allow tenants to save a larger deposit as they move and reduce financial barriers when moving in the private rented sector. Further landlords will have the assurance that under such a scheme that a deposit would be available in full if the tenant could not top it up between tenancies.

## **1.2 Deposit ‘Prescribed Limit’ Amount**

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The RLA welcomes the Welsh Government’s comments in the memorandum that maintaining the option of charging higher security deposits will provide flexibility for landlords to adapt to the conditions of the property and to cover possible higher cleaning costs, for example, such as tenants with pets. We further welcome the fact that the Bill doesn’t place an immediate cap on security deposits. However, with severe penalties in place for those charging prohibited payments the RLA is concerned that there is insufficient clarity within this *Bill* for consultation when seeking to set, increase or decrease the ‘prohibited amount’ for security deposits.

The RLA believes that any future cap should not simply be determined by further regulations by the Minister without further consultation. With the memorandum mentioning a possibility of a similar 6-week cap being introduced in later regulations, the RLA is concerned that for those tenants whom are deemed to be of ‘higher risk’ they will be less likely to obtain a tenancy.

To address this concern the RLA proposes that there is an amendment to the Bill, that where security deposits are set to a ‘prescribed limit’ that the landlord can request for a higher deposit in justified situations of specific extenuating circumstances. Such examples could be listed, such as tenants with pets, tenants with uncertain or unprovable income or properties with unique masonry. This would allow landlords to balance the risk posed by tenants whilst retaining the core objectives of the limitation.

## **1.3 Fixed Penalty Notices**

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We have further concerns with regards to the lack of transparency for fixed penalty notices (FPN) under s13 of the Bill. The officer may grant a FPN in lieu of proceedings being taken against a person for an alleged breach of ss 2 or 3 of the Bill. S13(4) of the Bill states that a FPN will be served as if it was given under s29 of the *Housing (Wales) Act 2014*.

The RLA is concerned that there is a lack of provision to grant the person being offered the FPN of any or at least a summary of the evidence of the alleged breach. With the authorised officer granted this authority under s13(1), for transparency and accountability, the RLA believe that it is only fair that there is a provision for the person offered the penalty is granted sufficient details of the breach to decide as to whether to accept the FPN or to challenge the alleged offence in court.

## **Conclusion**

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We will seek to grant a more detailed written evidence as invited in the Consultation by the 7<sup>th</sup> of September 2018. We look forward to granting our further oral evidence on the Bill on the 5<sup>th</sup> of July and we thank you again for the opportunity to contribute.



## **Renting Homes (Fees etc.) (Wales) Bill**

### **Written evidence from the National Landlords Association**

26 June 2018

#### *About the NLA*

1. The National Landlords Association (NLA) is the UK's leading organisation for private residential landlords, with 40,000 landlord members – ranging from full time landlords with large property portfolios to those with just a single letting.
2. NLA membership helps landlords make a success of their lettings business by providing a wide range of information, advice and services.
3. We campaign for the legitimate interests of landlords by seeking to influence decision-makers at all levels of government and by making landlords' collective voice heard in the media. We seek to raise standards in the private rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

#### *Summary*

4. We welcome the opportunity to comment on the draft Renting Homes (Fees etc.) Wales Bill and look forward to providing further oral evidence to the Committee on 5 July 2018.
5. We recognise the impact of additional fees on both landlords and tenants, however we note that the Welsh Government's analysis shows that the majority of landlords do not overcharge their tenants on deposits or on payments in default (*Explanatory Memorandum*, paragraphs 3.27-3.28).
6. It remains our position that it is reasonable for tenants to be asked to contribute to the cost of limited services of which they are beneficiaries. We believe this should include relevant referencing checks and the cost of providing a professional inventory.
7. We are concerned that increasing the non-recoverable cost of such services to landlords and letting agents may result in a deterioration of quality – affecting outcomes for both landlords and tenants.
8. However, we welcome the flexibility embedded in the draft Bill around security deposits and payments in default, and the recognition in the explanatory memorandum that the majority of landlords are not currently charging excessive deposits or default payments.

#### *The relationship between agents and landlords, and agents and tenants*

9. Traditionally, property agents treat landlords as 'clients' and as such the law of agency applies. Increasingly, applicants and tenants take on status as secondary clients, as chargeable services are provided to them. We have been concerned for some time that this represents a potential conflict of interest should the agent need to negotiate on the behalf of the tenant.
10. Removing the agent's ability to charge tenants may provide greater clarity for landlords in this respect, albeit at the expense of increasing costs. However, it may leave applicants and tenants with few avenues for support, short of instructing solicitors or contracting advisers to work on their sole behalf. This would potentially add significantly to the process of accessing rented housing.

## *Managing risks*

11. For some tenants, perceived as higher risk by landlords, reducing the ability to make specific payments may decrease the likelihood of landlords being willing to consider renting to them. Such payments are occasionally used as a means of mitigating the risk presented by an applicant with an unusual background or enhanced needs.
12. For example, an individual with an atypical renting or employment history may appear too high-risk for a landlord or agent to reference if they expect to bear all of the costs. However, were such an applicant able to split the referencing cost with the landlord, they may be perceived more positively and subsequently be more likely to be offered a tenancy.

## *Holding and security deposits*

13. We welcome the flexibility which the draft Bill provides with regard to security deposits. A cap on security deposits would present challenges for prospective tenants who are seen as more risky, for example those with pets. Landlords would reasonably seek to increase the security deposit to mitigate the increased risk of damage to the property by pets. With a cap on security deposits, landlords may be discouraged from renting to tenants with pets at all, reducing accessibility of the market.
14. The Welsh Government's explanatory memorandum outlines that there is little evidence to suggest that landlords or agents are overcharging tenants for security deposits, with the majority of landlords charging one month's rent, and agents one month plus one or two weeks (*Explanatory Memorandum*, paragraphs 3.22-3.24). We would agree with this analysis and urge the Committee to maintain the flexibility in the Bill as drafted.

## *Enforcement*

15. We would also impress on the Committee the importance of enforcement in order to ensure that the regulations are complied with across the sector. The vast majority of landlords will no doubt ensure they are operating within the law. However, it is the minority of rogue landlords and agents who may feel the risk is worth taking, if the deterrent is not sufficient or if they do not believe they are likely to be caught. Those who contravene the law will often be renting to the most vulnerable of tenants, who will be less able to challenge illegal practice.
16. Therefore, robust enforcement is vital to protect tenants as well as all landlords and agents who follow the regulations.

## *Default payments*

17. The draft Bill allows for payments in default, in respect of the standard occupation contract. We welcome this inclusion but would caution that any supporting guidance around default payments be considered carefully, given the risk that explanatory guidance is interpreted as de facto regulatory standards.
18. The Bill as drafted remains open to default payments being specified in the tenancy contract. This is proportionate and reasonable, and ensures that tenants are clear about their responsibilities.

## *Impact on the agency market*

19. Letting agents estimate that as much as 20 per cent of their income currently comes from fees paid by tenants, equivalent to approximately £0.7 billion annually.<sup>1</sup> With almost two-thirds of letting agencies categorised as 'small' with one to three offices, fee limits will be challenging for agents to absorb. Where costs cannot be passed on and margins recovered elsewhere, we anticipate a contraction in the letting agent market.
20. It is also possible that reduced budgets could decrease service standards, leading to poor customer experience and deteriorating professional standards.

<sup>1</sup> J Chaloner et al, *Letting the Market Down*, Capital Economics, 2017, p36 (<http://www.arla.co.uk/media/1045728/letting-the-market-down-assessing-the-economic-impacts-of-the-proposed-ban-on-letting-agents-fees.pdf>). Last accessed 26 June 2018.

# Let Down in Wales

*Campaigning for renters*

## Response: ELGC Committee inquiry into General Principles of the Renting Homes (Fees etc.) (Wales) Bill

### Summary

Let Down has been campaigning since 2013 for Wales to take a lead on reforming the private rented sector. The licensing of landlords under the Housing Act made a positive first step, but the Renting Homes Act did little to improve renters' rights overall.

So we're delighted that Welsh renters will finally see a letting fees ban brought in, which will substantially change people's day to day experiences. During the Welsh Government consultation on banning letting fees, we compiled a survey of renters' experiences to inform it, available online here: <http://bit.ly/lettingfeesresponse>

For more information on our campaign, see:

- Website: <https://letdown.wales/>
- Twitter: <https://twitter.com/letdownwales>

### General Principles of the Renting Homes (Fees etc.) Bill

1. Let Down very much welcomes the legislation and absolutely thinks it is necessary in order to reduce the costs faced by renters. The market is not taking any action by itself; the charging of high fees takes advantage of a shortage of supply and heightened demand. In no other business are costs added on like this at the point of purchase, or even six months after your purchase. Landlords and letting agents, in particular, are running a business and therefore the costs of the business should be borne by the one who owns it and is profiting from it. Let Down has been calling for a letting agent fee ban since 2013 and included it in our 2016 Assembly manifesto<sup>1</sup>.

### Fees

2. The costs of reference checks, inventory fees or renewal fees are not appropriate; they take advantage of renters' lack of choice and the lack of available housing in the market. Letting agents charge fees because they can and renters pay them because they have no other choice.

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<sup>1</sup> Let Down Manifesto, 2015. 'A 2016 Manifesto for the Let Down renters of Wales'. <https://letdownincardiff.files.wordpress.com/2015/08/let-down-manifesto-2016.pdf>

3. It's **particularly important fees are banned due to the potential vulnerability of those being made to pay them**. Renting is increasingly the only option for families and the age demographic is rising. Shelter Cymru's survey<sup>2</sup> of private renters found that *"the figures shatter the stereotype of private tenants as being primarily young and child-free"*. Half of renters are over 35 and 29% are over 45. 15% are over 55, which shows that more vulnerable older people need to be taken care of in this sector. Due to the Housing (Wales) Act 2014, new homelessness duties mean that more vulnerable people are being referred by local authorities to the private sector, making this particularly pertinent.
4. Particularly considering the poverty often suffered by people who have to rent, it is important for their burden to be lessened and their existing debt and low income not exacerbated by renting costs. The Joseph Rowntree Foundation found in their evidence review<sup>3</sup> of housing and poverty that: *"Low rents are important in reducing poverty. The private rented sector is paying an increasingly important role with 18% of private tenants in poverty before housing costs are taken into account and 38% in poverty after housing costs are paid."*
5. The description of **prohibited payments** in the Explanatory Memorandum – *"any payment, as part of the granting, renewing or continuing of standard occupation contracts (other than for rent, security deposits, holding deposits and payments in default)"* – seems appropriate. Renters tend to find the upfront fees for signing up to a tenancy as the most prohibitive and frustrating. Moving house is already costly; it doesn't need to be exacerbated with extra fees that don't seem to pay for any kind of service. Renewal fees or 'adding a tenant' fees were cited numerous times in our survey of renters, with some agents using them as a mechanism to generate more money every 6 months, by not letting renters sign up for longer contracts (therefore, paying a £50-£100 renewal fee every 6 months for no reason at all).
6. However, the lack of action on 'charging payments in default' is worrying, and we'd recommend that the Bill define default fees and put limits on these. **This could become a loophole through which agents charge default fees instead**, looking for ways in which a renter could have breached their contract or writing in new clauses to contracts and reframing them as a breach.

## Deposits

7. **Holding deposits** are to be capped at a week's rent, which again, seems reasonable. Holding deposits shouldn't really be necessary, but if it helps landlords and letting agents to be assured that tenants are 'serious' about the property, then it's an adequate mechanism. It still requires renters to have funds upfront, but it at least has a clearer purpose.
8. It's very welcome that Welsh Ministers are introducing **powers to cap deposits**. Holding deposits are usually at 4-6 weeks' rent and Let Down doesn't think there's any need for them to be above 4 weeks' rent.

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<sup>2</sup> Shelter Cymru, 2015. 'Fit to Rent: Today's Private Rented Sector in Wales'. <https://sheltercymru.org.uk/wp-content/uploads/2015/02/Fit-to-rent-Todays-Private-Rented-Sector-in-Wales.pdf>

<sup>3</sup> The Joseph Rowntree Foundation, 2013. 'The Links between Housing & Poverty: An Evidence Review'. <https://www.jrf.org.uk/report/links-between-housing-and-poverty>

9. The real issue with deposits, which is possibly outside of the Welsh Government's devolved powers, is the **delay in returning them to renters after leaving a property**. Even though they're usually held in a deposit holding scheme (although renters do often have trouble in finding a record of them in one of the three schemes), there is a reluctance to return them quickly.
10. This means that **renters actually need twice the amount of holding deposit available** whilst moving house. One to pay upfront for their new property, and one to sit in the deposit scheme whilst they wait for their former landlord / agent to transfer it. Any gap to wait for its return would render renters' homeless. We would very much welcome a way of tenants' deposits being checked up on and simply transferred in name from one property to another. To allow for deductions from any potential damage, perhaps a 20% deposit could be required instead. We'd urge the Welsh Government to explore this in future.
11. Even when renters do dispute deposit deductions, they often won't because they need access to the money quickly. It also requires confidence to challenge your landlord / agent on the deduction, which many do not feel able to do.

## Enforcement

12. It's good to see local housing authorities being given the enforcement powers, although we would have expected them to go to Rent Smart Wales. But it's welcome that they can fine a fixed penalty notice of £500 and that they notify Rent Smart Wales. We would urge for the withdrawal of licences to be a first rather than last resort to ensure that landlords and agents comply.

## Unintended consequences

13. As repeatedly threatened by landlords and agents, rents could rise as a consequence of fees being banned. Despite no evidence showing this in Scotland when they reiterated their ban on fees, and the fact that rents are set by supply and demand, not the whim of an agent, this would still be preferable to high upfront costs through fees.
14. It is unlikely to result in the scenario of having two identical 2-bed flats at £600 a month and £700 a month, with the latter having put up the rent as an agent that used to charge upfront fees. The cheaper flat will be rented quickly and the other will have to lower the rent to what the market is willing to pay.
15. But again, if £5-£10 a month is put on the average rent, this is clearly far more manageable to renters than a lump sum and our survey reflected renters' preference for this. It also makes a lot more sense in business terms. If agents and landlords maintain the property as the contract states – i.e. making repairs, answering renters' queries, conducting safety checks – then this is an on-going cost that should be reflected in their ongoing income.

## ELGC(5)-21-18 Papur 7/ Paper 7

18 June 2018

John Griffiths AM c/o Chloë Davies, Deputy Clerk (chloe.davies@assembly.wales)  
Chair, Equality, Local Government, and Communities Community  
National Assembly for Wales  
Tŷ Hywel  
Cardiff Bay  
Cardiff CF99 1NA

Dear Mr Griffiths,

### **Renting Homes (Fees etc.) (Wales) Bill**

I am pleased to accept your kind invitation to give evidence before your committee on the above-named Bill on 5 July 2018.

I am very happy that this Bill was presented some days ago. Letting agency fees have been of great concern to NUS Wales and its members for some years.

We therefore welcome the Welsh Government's proposals to end unreasonable letting agency fees, which are unfair and damaging to the financial and emotional welfare of students.

### **Banning additional fees**

The cost of living is the greatest barrier to students accessing education. Paying for accommodation is, of course, one of the largest costs students face.

In our response to the Welsh Government's consultation on letting agency fees, we called on the Welsh Government to legislate to prevent landlords and/or their agents from charging tenants additional fees. Our firm belief is that any fee, with the exception of a month's rent in advance and a refundable security deposit, is unfair.

As you may know, our research shows that the cost of accommodation is a significant barrier to students. Indeed, in our *Pound in your pocket* research, 62% of students who paid £300-399 a month indicated that they often worried about not having enough money to cover basic living costs such as rent and utility bills<sup>i</sup>.



In addition, in research conducted by our NUS UK colleagues, *Homes fit for study*, 37% of respondents noted that they had entered some kind of debt to pay for the initial costs of a tenancy<sup>ii</sup>.

That is why I believe the provisions of this Bill will be of great benefit to students who have faced high charges in relation to their accommodation for too long.

### **Effect on rent levels**

#### **ELGC(5)–21–18 Papur 7/ Paper 7**

In their responses to the Government's consultation, landlords and agents noted the possibility of rents rising to recoup costs, should this Bill come into law.

To some extent, we can accept small rises, as that is significantly better than unreasonable up-front costs.

However, we are somewhat concerned that landlords and agents might use this as an excuse to raise rents unreasonably.

Another risk is that landlords or agents might choose to invest less in their properties in order to reduce their own costs. However, we are of the belief that they have a responsibility to provide high-quality homes.

The banning of letting agency fees should not lead to a reduction in the quality of houses.

NUS UK's *Homes fit for study* research found that 75% of students had experienced at least one problem with their home e.g. mould, damp, infestations, which had negatively affected their ability to continue, and thrive, in education<sup>iii</sup>.

It is essential, therefore, that landlords invest in their properties to ensure that they are of sufficient quality.

Following the ban on fees in Scotland, 59% of agents reported no negative affect on their business<sup>iv</sup>. Indeed, there had been no rise in rent in Scotland as a result of the ban; only as a result of the economic climate.

If rent rises in Wales following this ban here, we are of the view that that will be as a result of greed on the part of landlords and/or agents, and not as a direct consequence of the ban itself.

### **Refundable security deposit**

We welcome the proposal which would ensure that tenants aren't treated unfairly in terms of security deposits. Our general view is that these provisions would not only be fair to tenants, but also to agents and to landlords.

Students very often arrange their accommodation during the first half of the calendar year in advance of September. Perhaps you will be aware of the common practice of charging half rent or even full rent during the summer break, but not allowing access to the property during that time.

As far as we see, this would not represent a permitted payment. If our understanding is correct, then we welcome that strongly.

### **Promotion and advertisement**

Part 6 (18)(1)(a) permits regulations to amend the Consumer Rights Act to require agents to ensure that their specific fees are advertised online.

That is a good start, but we must now ensure that not only are fees advertised online, but that landlords and agents are required to proactively ensure that tenants are aware of all relevant fees before they view a property, and certainly before entering a contract.

In our view, landlords and agents have a moral responsibility to ensure that the fees they charge are clear from the outset. Only in that way can tenants assess if the home in question will be affordable for the duration of the tenancy.

In addition, we would expect the Welsh Government to fully implement and monitor the provisions of the Renting Homes (Wales) Act 2016. There remains some work to be done in ensuring that tenants understand their rights and obligations, and we would ask that the positive changes in this Bill happen hand-in-hand with the full and proper implementation of the Renting Homes (Wales) Act 2016.

### **Other comments**

In our response to the consultation, we called on the Welsh Government to consider ending the requirement for a UK-based guarantor. It does not appear that provision has been made in this Bill in that respect.

There are a range of reasons why tenants may not be able to provide a UK-based guarantor. One of the main reasons is when a student comes from overseas. Very often, such students will depend on personal savings (and not, as often thought, on parents) to pay for additional costs associated with not being able to provide a UK-based guarantor.

It should also be remembered that students are sometimes unable to provide a guarantor because they have lost family connections, or because they come from underprivileged financial backgrounds. In our view, raising additional fees on these groups of students is wholly unfair. We would therefore like to have seen provision made in this regard.

### **General comments**

Our view is that banning letting agency fees will be good for tenants across Wales, and particularly good for students.

The proposed changes will do much to ensure that students are able to have access to affordable homes without facing unreasonable additional costs. We are confident that this will have a positive effect on students' welfare and on their financial situation.



As I'm sure you know, being on a course of education, very often away from home for the first time, is no small thing. Students face incredible challenges and stresses, and the ability to afford living costs is one of them.

As a society we have a duty to ensure that everyone can have access to, and thrive in, education, no matter what their social or financial background. I am of the view that these changes are a positive

step in that direction.

I would like to note my thanks to the Welsh Government for its willingness to legislate in this area, to work with us and to include us in consultations, and to listen to our views and concerns.

I look forward to further discussion with you and the committee in some weeks' time. I hope this letter is useful to you in summarising our views, but should you require any further information in the meantime, please get in touch.

Yours sincerely,



Gwyneth Sweatman

NUS Wales President (1 July onwards)

c/o Cerith Rhys Jones, External Affairs Manager (cerith.rhys-jones@nus-wales.org.uk)

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<sup>i</sup> [https://www.nus.org.uk/PageFiles/12238/NUS\\_poundinyourpocketWales\\_report-English.pdf](https://www.nus.org.uk/PageFiles/12238/NUS_poundinyourpocketWales_report-English.pdf)

<sup>ii</sup> [https://www.nus.org.uk/Global/Homes%20Fit%20For%20Study/Housing%20research%20report\\_web.pdf](https://www.nus.org.uk/Global/Homes%20Fit%20For%20Study/Housing%20research%20report_web.pdf)

<sup>iii</sup> Ibid

<sup>iv</sup> [https://england.shelter.org.uk/\\_\\_data/assets/pdf\\_file/0010/834832/6636\\_Scottish\\_letting\\_fees\\_report\\_v9.pdf](https://england.shelter.org.uk/__data/assets/pdf_file/0010/834832/6636_Scottish_letting_fees_report_v9.pdf)

## **Renting Homes (Fees etc.) (Wales) Bill**

### **Written evidence to the Equality, Local Government and Communities Committee, submitted by Generation Rent**

Generation Rent represents the UK's private renters and campaigns for secure, safe and fair private rented homes. We have campaigned for a ban on letting fees since we were established in 2014.

#### **Summary**

Generation Rent supports the purpose of the Renting Homes (Fees etc.) (Wales) Bill, which it believes will cut costs for tenants, give them greater bargaining power, and create a more efficient market. It will also bring Wales in line with other parts of the UK, as Scotland banned letting agent fees in 2012 and the Tenant Fees Bill, which will ban letting agent fees in England, is currently proceeding through Parliament.

- We are concerned that default fees open a loophole which some landlords and letting agents may exploit to continue to charge unfair fees to tenants. We recommend that default payments are defined in regulations to reduce this risk.
- We are concerned that a security deposit cap of six weeks risks deposits rising to the cap level and reducing affordability. We believe that the wider system of deposits needs review.
- It is welcome that holding deposits are covered by the Bill, and tenants would benefit from the process being more formalised. We recommend amendments to prevent agents from wasting tenants' time by taking more than one holding deposit for a property at a time, to require the landlord or letting agent to provide the proposed tenancy agreement as soon as they take the holding deposit, and to ensure that tenants who fail a right to rent check as a result of a Home Office error are entitled to the return of their holding deposit.
- We welcome the provision of a route for tenants to claim back prohibited payments directly through the courts, as we are concerned that local authorities may lack the resources to enforce the legislation. However we believe that tenants should be entitled to an element of compensation on top of getting a prohibited payment repaid, and there should be a mechanism for reporting breaches to the licensing authority. In addition, we believe that a £500 fine for operators charging a prohibited payment is low and will not be sufficient deterrent in some cases.
- We are concerned that the Bill does not prevent the serving of a Section 21 eviction notice on the tenant if action is taken by either the local authority of the tenant directly regarding the prohibited fee, and recommend that a clause is inserted to prevent retaliatory evictions.

#### **Benefits of the Bill**

More than one in three renters in Wales have been charged over £200 in admin fees at the start of their tenancy and some have been charged admin fees as high as one month's rent plus VAT, on top of paying a security deposit and a month's rent in advance.<sup>1</sup> This represents a huge cost at the beginning of a new tenancy and is a barrier to moving home for many renters, two thirds of whom have no savings.<sup>2</sup>

By banning the routine charging of fees to tenants, the Bill will reduce the upfront cost of moving home and put tenants in a stronger negotiating position with their landlord or letting agent as the threat to moving out is more credible. A landlord is more likely to fix disrepair and less likely to raise the rent stronger if there is a higher risk of a void period.

The market will work more efficiently because landlords will bear the full cost of the agent, who they appoint and who works on their behalf. Renters will benefit from transparent pricing in the rental market, which will allow them to better manage the cost of moving home.

Because landlords will have more incentive to shop around to get the best value for money from their letting agent, we do not expect fees to rise significantly for landlords. Because the market sets the rent that the tenant pays, rather than the costs of the landlord, we do not expect rent levels to rise considerably.

### **Default fees**

We are concerned that permitting charges for defaults will be abused by some agents and landlords. If the circumstances under which default fees can be charged is not clear, then some landlords and agents may write unfair clauses in tenancy agreements which are difficult for the tenant to comply with and result in default fees being charged to the tenant. They may also make claims that exaggerate the amount of time spent dealing with a default, or the value of their time. Letting agents in England have explicitly said that they would increase the use and cost of fees for any breach of the tenancy agreement to recoup the loss of admin fees resulting from the Tenant Fees Bill.<sup>3</sup>

This lack of clarity around what constitutes a default will mean tenants won't have confidence to challenge fees they believe are prohibited. We believe that guidance will not have the weight needed to ensure that disputes are handled consistently by authorities and courts.

We asked our supporters for their experiences of disputes with landlords and agents and attempts to claim deductions on spurious grounds are common, such as excessively prescriptive cleaning requirements and for damage that has been caused by the landlord's neglect.

Many respondents had succeeded in having fees and deductions waived but felt that less confident tenants would not be as tenacious in challenging them. Others had relented in their deposit disputes because they needed the reduced sum of money as soon as possible rather than wait longer for the

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<sup>1</sup> <https://sheltercymru.org.uk/lettingfees/>

<sup>2</sup> Mintel, 2014, [Two thirds of UK renters have no savings or investments](#)

<sup>3</sup> Commons Housing Committee, March 2018, [Pre-Legislative scrutiny of the draft Tenant Fees Bill](#), para 62

full amount. This behaviour, from a minority of landlords and agents, suggests that there will be attempts to exploit loopholes in the Bill.

We question whether there is a need for default fees to be included within the Bill at all. If default fees are to remain a permitted payment, we recommend that the Committee amend the Bill to require subordinate legislation to define default fees and limits on these. This would provide a clearer, legal definition of default fees, which would prevent abuse and protect tenants against continuing to be charged unfair fees.

### **Holding Deposits**

Holding deposits serve a purpose but would ideally not exist if the referencing process was more efficient and decisions could be made immediately. However, assuming that there will be always be some cases where a landlord will need to take a refundable holding deposit, we welcome the Bill's aims to formalise the process and prevent abuse.

We recommend that the Committee amends the Bill to provide clarity on what the tenant should expect when they hand over their deposit. Problems we have heard from supporters are:

- Only getting the tenancy agreement the day before or the day of moving in, at which point it is very difficult to object to unfair terms. The tenancy agreement should therefore be provided upon payment of the holding deposit.
- Being declined for a tenancy because the agent took holding deposits from several prospective tenants then selecting one. Doing this means that the prospective tenants must put their househunting on hold because they cannot afford to put any more holding deposits down. Even though the Bill would entitle them to a refund, they will have wasted up to 15 days when they could have been finding a new place to live. The Bill should prohibit landlords and agents from taking a holding deposit when they already hold one for the same property.

We are also concerned that a potential tenant who fails a right to rent check as a result of a Home Office error will not be entitled to the return of their holding deposit, despite failing the check through no fault of their own. We recommend that the Committee amends the Bill to ensure that the tenant is entitled to their holding deposit back in this situation.

### **Security Deposits**

Most security deposits are four weeks rent although there may occasionally be valid reasons for a higher security deposit, for example letting to tenants with pets. We are concerned that capping security deposits at six weeks risks deposits rising to the cap level and increasing upfront costs for tenants when moving home. It is welcome that the Bill gives Welsh Ministers the power to lower the cap if security deposits do rise as an unintended consequence of the legislation.

Given the need to find a new deposit well before the current tenancy ends and the existing deposit is refunded, we support calls to develop a system of passporting deposits between tenancies, and a

wider review of the deposit protection system. We have made proposals on this subject in a report of March 2018.<sup>4</sup>

### **Enforcement**

We are concerned that local authorities may not have enough resources to fully enforce the ban, and that a fine of £500 for a breach will not be sufficient deterrent. The Tenant Fees Bill in England makes prohibited payments an offence for which the local authority may issue a fine up to £5000, and we would like to see the fine increased to a similar level in Wales.

It is welcome that, if a landlord or letting agent is convicted of a breach, local housing authorities will be required to notify the licensing authority. However the licensing authority will not hear of cases where landlords and letting agents have breached the ban if the local authority lacks the capacity to enforce the legislation.

We welcome the creation of a right for tenants to apply directly to the court to recover prohibited payments. To strengthen this channel as a deterrent and to motivate tenants to apply to county court if their local authority is unwilling or unable to enforce the legislation, we recommend that tenants should be able to receive compensation at up to three times the amount of the prohibited payment, and inform the licensing authority directly of the breach. Compensation at this level is in line with tenancy deposit protection legislation, and would give tenants more of a reason to enforce their rights as well as something in return for the inconvenience of applying to the tribunal.

### **Protection from retaliatory evictions**

We note that the Bill does not prevent the serving of a Section 21 eviction notice on the tenant if action is taken by either the local authority of the tenant directly regarding the prohibited fee. We strongly recommend that the Bill is amended to protect tenants from retaliatory evictions in this scenario.

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<sup>4</sup> Generation Rent, 2018, [Rethinking Tenancy Deposits](#)

# Agenda Item 5

## Equality, Local Government and Communities Committee

5 July 2018 – papers to note cover sheet

Paper no.	Issue	From	Action point
ELGC(5)-21-18 Paper 9	Making the economy work for people on low incomes	Cabinet Secretary for Economy and Transport	Response to the Chair's letter dated 21 May 2018
ELGC(5)-21-18 Paper 10	Communities First	Cabinet Secretary for Local Government and Public Services	Response to the Chair's letter dated 15 May 2018
ELGC(5)-21-18 Paper 11	Communities First	WLGA	Response to the Chair's letter dated 15 May 2018
ELGC(5)-21-18 Paper 12	Forward work programme	Chair of the Children, Young People and Education Committee	Forward work programme: areas of shared interest
ELGC(5)-21-18 Paper 13	Closure of the Welsh Independent Living Grant (WILG)	Minister for Children, Older People and Social Care	Response to the Chair's letter dated 30 May 2018
ELGC(5)-21-18 Paper 14	Renting Homes (Fees etc.) (Wales) Bill	Letter to the Minister for Housing and Regeneration	Matters following the evidence session on 21 June 2018
ELGC(5)-21-18 Paper 15	Human Rights in Wales	The Chair of the External Affairs and Additional Legislation Committee to the First Minister	Seeking further clarification on: <ul style="list-style-type: none"> <li>- the EU Charter of Fundamental Rights;</li> <li>- Non-regression.</li> </ul>
ELGC(5)-21-18	Fire safety in	The Chair to the	Response to the

Paper 16	high rise blocks in Wales	Minister for Housing and Regeneration	Minister's letter dated 12 June 2018
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Ken Skates AC/AM

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth  
Cabinet Secretary for Economy and Transport



Llywodraeth Cymru  
Welsh Government

John Griffiths  
Chair of the Equalities, Local Government  
and Communities Committee  
National Assembly for Wales

15 June 2018

Dear John

Thank you for your letter of 21 May 2018 asking me to clarify the roles and terms of reference for the Fair Work Board and Fair Work Commission to inform your inquiry into poverty in Wales.

When Welsh Government set out its ambition for Wales to become a Fair Work nation it was decided to take the work forward in two stages. Phase one was intended to conduct initial scoping and identification of the key practices that impact on Fair Work. To include:

- a review of the available evidence;
- identifying the gaps in the evidence base;
- identifying the levers available to Welsh Government to enable it to promote and drive Fair Work across Wales;
- and a definition of Fair work.

The Fair Work Board was established in May 2017, to conduct the initial scoping work. The Board has been a source of good, creative and critical advice in helping to test our thinking. I believe that it has made good initial progress in identifying the evidence gaps and the levers available to Welsh Government to drive a Fair Work agenda. Having examined the evidence it considered that the Euro Foundation Fair Work dimensions would be a good set of key headings upon which to set a framework for Fair Work in Wales which would encompass:

- Participation in the decision making process (A right to be heard)
- Earnings (Fair and guaranteed hourly earnings)
- Prospects (Job security, career progression and contract quality)
- Intrinsic Job Quality (skills and autonomy, absence of abuse, good physical environment, a balanced and fair level of work)
- Working Time Quality (Discretion over the length, scheduling and flexibility of working time.)

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

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



Whilst it has been possible for the Board to agree what constitutes Fair Work (at a very high level) and the levers available to progress fair work, it has not been able to finalise a definition of Fair Work or reach consensus on the means and processes by which to deliver fair work outcomes during the scoping stage. We therefore concluded that it was time to transition the work into the next phase to take forward the Board's initial scoping work and to undertake more in-depth expert analysis.

Last month the First Minister announced his intention to establish a Fair Work Commission to take forward the second phase of the work and to test the evidence and make recommendations on the changes that are needed to support fair work in Wales. It will be a Welsh Government body with an independent and authoritative chair appointed by the First Minister and comprising a small number of experts in the field of employment law and arbitration and an active or former senior trade unionist. The First Minister hopes to be in a position to announce the Chair of the Commission and its Terms of Reference within the next few weeks.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Skates', written in a cursive style.

**Ken Skates AC/AM**

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth  
Cabinet Secretary for Economy and Transport





ELGC(5)-21-18 Papur 10/ Paper 10

Ein cyf/Our ref ARD/001864/18

Llywodraeth Cymru  
Welsh Government

John Griffiths AM

Chair of Equalities and Local Government Committee National  
Assembly for Wales

18<sup>th</sup> June 2018

Dear John

Thank you for your letter of 15 May in which you request an update on a number of recommendations following the Committee's enquiry into the closure of Communities First.

Please find below responses to the questions and updates requested.

- **The number of projects that are no longer continuing as a result of the closure of Communities First. This should include details of the geographical distribution and the types of programmes which have been discontinued**
- **Which projects have been sustained by support from the Legacy Fund, and an assessment of the longer term sustainability of these projects once the Legacy Funding comes to an end**
- **Which projects are being continued in some form by other organisations.**

Communities First was established in 2001. In April 2012 it was renewed as a community-focused tackling- poverty programme building on the achievements of the original programme and working in 52 cluster areas across Wales.

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

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

After careful consideration during 2016-17, it was found that while the programme had done much for individuals, overall poverty levels remained stubbornly high and no single programme could be expected to remedy this.

Phasing out the programme over twelve months rather than opting for a sudden closure, together with the mitigation measures put in place such as the legacy fund and funding for Communities for Work Plus has provided opportunities for staff redeployment and the continuation of some of the most effective aspects of Communities First.

As a government, we have emphasised the need to ensure that we deliver for those with the greatest needs and act to tackle the root causes of poverty. In addition to the mitigation measures that were established, organisations were encouraged to work together with their partner organisations to respond to local need.

Communities First projects were delivered across 52 Communities First areas in 19 local authorities. During the transition year ending 31st March 2018 there were a total of 323 projects operating in Communities First areas across Wales. A geographical breakdown of these by local authority can be found at Annex 1. During the transition year, the majority of projects focused on helping people towards employment such as jobs clubs, improving skills, addressing low level mental health issues and improving people's confidence. Other projects included improving IT skills and digital inclusion, financial inclusion and improving physical health and well-being.

Employment and employability themed projects included in the above continue under the Welsh Government's legacy fund. The 19 local authorities in receipt of Communities First have since submitted Legacy Fund plans outlining 87 separate projects and a continuing focus on community engagement and partnership working. 64 of the 87 projects, almost three quarters, are a continuation of former Communities First work. The Legacy Fund plans reflect local priorities, well-being assessments and the involvement of Public Service Boards, the local community and other key partners and stakeholders.

In some local authorities much of the support previously provided by Communities First has been reviewed and since reflected in different ways of working. In one local authority, Newport, Communities First projects were phased out gradually whilst a new 'Neighbourhood Hub and Spoke' model was developed. This will see the co-location of services and staff teams working together enabling a strong alignment with other Welsh Government programmes. This streamlined and customer-focused model will identify the most effective way to help individuals into employment.

Newport City Council is also developing this place-based approach alongside other Welsh Government early intervention and prevention programmes including Families First, Flying Start, Supporting People and Communities for Work. The Legacy Fund projects will be working in partnership with other ESF-funded provision, Careers Wales and Job Centre Plus thus providing a tailored package of support to those individuals facing multiple barriers to employment such as housing, finances, food poverty, access to IT and so on.

Other Communities First projects which will continue to be run directly by local authorities include the Creative Engagement project in Swansea which will receive support from the Council's Adult Learning team and in Torfaen the County Borough Council will fund the financial inclusion project. Also in Torfaen, the Aneurin Bevan University Health Board will use Neighbourhood Care Network funding to ensure the social prescribing project continues.

In terms of projects being continued by other organisations, officials met with health boards and education consortia to ensure they were aware of the changes taking place to Communities First. In Pembrokeshire, for example, the Lead Delivery Body engaged closely with the Local Health Board to incorporate the Communities First approach around healthy eating into the Local Health Board's general service delivery. Additionally, a local GP surgery was facilitating the work of an action group that supports people with additional needs to live in the community. These examples demonstrate how projects previously delivered by Communities First continue to develop through partnership working.

The Citizens Advice shared outcome project which had operated in 42 Communities First clusters is also continuing alongside the Better Advice Better Lives project and Front Line Advice Services Grant, which are overseen by the Welsh Government's Communities Division's Financial Inclusion Team. To ensure all future funded advice services within a locality are better integrated, work is progressing to merge the current three advice service funding streams into a single fund.

Streetgames, another of the shared outcome projects has also continued to be funded as part of wider legacy arrangements following Communities First closure. They continue to work with Communities First cluster areas and have built relationships with a number of local authorities to continue the work in this area.

### **The implementation of recommendation 7, and which projects that are continuing have been assessed as supporting 'empowerment'**

Through the publication of *Prosperity for all – the national strategy (2017)* we provided further clarification on the importance of empowering people and communities, and how the Government's role is to support and empower those who want to make a difference in their communities. Our commitments under the strategy, and in particular the *United and Connected* theme capture many of the actions the government will take to deliver our aim to build a nation where people take pride in their communities. Our national strategy represents a new way of working, acknowledging that "how" we deliver is just as important as "what" we deliver, and recognises the need to do things differently and involve people in shaping the services they use every day. The strategy clarifies how empowering communities will need to be a cross-government and cross-sector effort with many key actions taken across portfolios. Collectively these actions will foster environments for deeper links between people, within families, neighbourhoods, workplaces and wider communities, which give us our sense of belonging and well-being.

With regards local authorities I made clear my commitment for discussion and debate about how we strengthen and empower communities and councils across Wales in the Green paper *Strengthening Local Government: Delivering for People* (March 2018). A key part of this approach is delivering stronger, more powerful Local Authorities with the ambitions, skills and flexibilities to support communities to be empowered and engaged; prosperous and successful; and, represented and influential.

In terms of the continuation of projects that support empowerment, the legacy fund was made available to continue the best aspects of the Communities First programme. Local authorities have used the legacy fund to develop and deliver a range of support to communities, not necessarily to simply deliver individual projects. Within the legacy fund applications, local authorities were asked to demonstrate how the most successful aspects going forward supported the empowerment agenda within their applications. For example, a number of applications included the empowerment of young people. One local authority is working with young people to develop and build resilience, focusing on skills that promote positive wellbeing and develop confidence and self esteem.

As part of the project children and young people will be offered the opportunity to become involved in either Youth or Junior Forums, where they can be involved in local and national decision making and access opportunities for learning associated with Active Citizenship and Children's Rights.

### **An update on the exploratory work the Welsh Government was undertaking on the feasibility of a longitudinal study (recommendation 10)**

Developing a new survey or 'boosting' (funding additional interviews) an existing survey, both of which have been previously considered by Welsh Government would be cost prohibitive but more pertinently would still not provide sufficiently detailed information for analysis down to the kinds of small geographical levels required or for relatively rare population groups such as some of those with protected characteristics under the Equalities Act 2010.

The top priority recommendation to the ESRC of the Longitudinal Studies Strategic Review 2017 was that longitudinal studies, in order to deal with diverse and changing populations need to "develop and maintain a longitudinal administrative data spine with maximum population coverage that can be used as the basis for data linkage." The ESRC, in response, reported they were developing a strategy to build a "UK Population Laboratory" to ensure the strengths of longitudinal survey data, administrative data, big data and new forms of data are recognised and supported in a way that facilitates the combination of different types of data for different research purposes.

It is an approach aligned to this that Welsh Government is exploring for a potential longitudinal study into poverty. This would build on separate data linkage studies already underway in Wales (covering Supporting People, Flying Start and Fuel Poverty) and be structured in a similar way to the current Housing Stock Analytical Resource for Wales (HSAR) which offers a data 'spine' to which data sets or indeed surveys can be attached. This essentially ensures that the anonymised data pertaining to one individual, household or dwelling is all held in one place in a linkable format for research or statistical purposes, subject to the correct information security and governance procedures.

A feasibility study has already been approved focused on developing our understanding of deprivation at an individual or household level, using linked survey and administrative data. This will supplement our area-based understanding – provided by the Welsh Index of Multiple Deprivation (WIMD) – with an understanding of the deprivation of individuals and households. It also seeks to bring together data from a number of key sources including Department for Work and Pensions, DVLA, Valuation Office Agency, SAIL.

The feasibility study will explore issues and considerations vital in taking forward a longitudinal study of individual deprivation and would provide a starting point for a potential longitudinal study on poverty in Wales. It is seeking to bring together the relevant administrative data sources as well as the National Survey for Wales and to this could be added specific programme data (Flying Start, Supporting People, Fuel poverty schemes etc.) so that people could be 'flagged' when they use a WG programme. From this 'spine' we could build an understanding of poverty over the life course and look specifically at whether there is evidence that WG interventions have an impact.

The findings of the feasibility study will need to be fully considered before commitment to a fuller study could be sought. At present, the study has secured access to Census 2011 data is awaiting delivery of data from DWP. The study will commence once the data has been acquired for the SAIL Databank.

**What adjustments have been made to other relevant Welsh Government programmes, such as Communities for Work, Lift, Flying Start and Families First (recommendation 11)**

Following the closure of the Communities First and successful completion of the Lift programme, Communities for Work Plus was launched as a £12 million per annum programme introduced from 1 April 2018. This supports the continued delivery of Communities for Work and will embed the learning from Lift. It has been possible to transfer the expertise of Communities First staff in many of the local authorities now delivering Communities for Work Plus. This has enabled relationships and expertise to remain with communities.

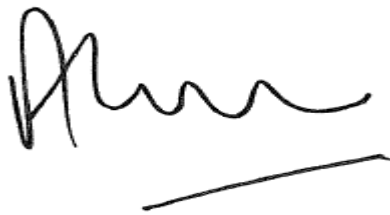
Communities for Work Plus is enabling employability support to be provided to people who are not eligible for Communities for Work, Parents, Childcare and Employment (PaCE) or other regional ESF Programmes, including those who live outside the former Communities First area postcodes. In addition, Communities for Work Plus funding has now also been awarded to Powys, Ceredigion and Monmouthshire County Councils which now ensures there is support to all local authority areas. As detailed above, a number of employment related projects have continued as part of the legacy proposals to compliment the delivery of Communities for Work and Communities for Work Plus.

The refocus of Families First, detailed in the original response to the Committee took place after a review which considered evidence collected during the three year independent evaluation of Families First, as well as evidence collected from the Families First Coordinators responsible for the commissioning and delivery of services. During this process, it became clear that the programme was highly valued and performed well in a number of key areas, most notably through the Team Around the Family approach. However, there were concerns around the wide range of commissioned services which had become increasingly broad, leading to concerns over sustainability, should this continue. As a result, the programme continues to maintain a focus on providing bespoke, multi-agency support to whole families will have a key role in helping parents to create stable and nurturing environments in which children and young people can thrive. Importantly, it retains the key elements of the successful Joint Assessment Framework for Families (JAFF), Team Around the Family (TAF) and disability focus.

The decision was taken to refocus the strategic projects to ensure the programme can develop services which are more able to address the needs of parents, children and young people and link the work of the programme clearly with the prevention of Adverse Childhood Experiences (ACEs).

Local authorities are still able to commission a range of services and retain the flexibility to design commissioning models which are suited to local arrangements. The projects which are commissioned should now focus on equipping families with a range of skills to build their confidence and resilience and support them to achieve long term positive outcomes. It is also important that services for parents and young people are not delivered in isolation, bringing a greater emphasis on local authorities ensuring services are linked together and coherent to enable families to receive the breadth of support they need. Families First programme guidance was revised in collaboration with key delivery partners and published in April 2017. All local authorities began operating under the new arrangements from 1 April 2018.

Kind regards

A handwritten signature in black ink, appearing to read 'Alun', with a horizontal line underneath it.

**Alun Davies AC/AM**

Ysgrifennydd y Cabinet dros Lywodraeth Leol a Gwasanaethau Cyhoeddus  
Cabinet Secretary for Local Government and Public Services



## COMMUNITIES FIRST TRANSITION YEAR 2017-18

### NUMBER OF PROJECTS BY LOCAL AUTHORITY AREA

Anglesey	5
Blaenau Gwent	28
Bridgend	17
Caerphilly	17
Cardiff	47
Carmarthenshire	9
Conwy	7
Denbighshire	6
Flintshire	6
Gwynedd	10
Merthyr Tydfil	72
Neath Port Talbot	9
Newport	14
Pembrokeshire	11
Rhondda Cynon Taf	24
Swansea	9
Vale of Glamorgan	14
Torfaen	5
Wrexham	13
	323

The above projects were in receipt of Communities First funding during the 2017-18 financial year. Communities First funding for the 323 projects ended 30 March 2018 however not all projects ended.



Dear John,

### **Response: Closure of the Communities First Programme**

Thank you for your letter dated 15<sup>th</sup> May 2018 seeking further information on the impact of the closure of the Communities First programme. This response builds on our previous evidence submitted to the inquiry undertaken by the Committee.

We have further engaged with all our member Authorities in preparing the Welsh Local Government Association's response to the further queries outlined in your letter:

### **How effective the closure programme has been, and whether local government has had sufficient support from the Welsh Government in the transition period**

The decision to close the Communities First programme came formally on 14th February 2017. The Welsh Government proposed a transition period throughout 2017-18 to provide an opportunity to phase out the programme fully by March 2018 with a view of ensuring its legacy through successor/alternative funding programmes.

Lead Delivery Bodies were expected to submit outline transition plans by 31 March 2017, with more detailed plans to follow by 31 May 2017 – outlining the approach to transition, intended timescales, engagement and involvement arrangements and type of projects to be continued in-year. To support the transition, Welsh Government established a Transition Team, and produced guidance notes and supplementary documents.

Undertaking programme closure will always be a challenge, let alone closing a programme of such significant scale and by that point one that had been operational in some areas for well over 10 years. In many areas, the programme had become the infrastructure within communities that ensured many other services reached those citizens in need of support.

Steve Thomas CBE  
Prif Weithredwr  
Chief Executive

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**Croesawn ohebiaeth yn y Gymraeg a'r Saesneg a byddwn yn ymateb i ohebiaeth yn yr un iaith.**

**Ni fydd defnyddio'r naill iaith na'r llall yn arwain at oedi.**

We welcome correspondence in Welsh and English and will respond to correspondence in the same language.  
Use of either language will not lead to a delay.

Whilst there can never be a “good” time to close a programme however, the general feeling amongst Local Authorities was that the closure of the Communities First programme could have been better managed for several reasons:

- First, the short timescales were a challenge to be able to plan and respond effectively for transition. There is a general feeling amongst the responses that the timescales between formal announcement of closure, and expected transition plans were not sufficient.
- Second, the timing of the announcement came just before the 2017 Local Government Elections. This added further complexity for officers managing the change on a local level.
- Third, at the time of the announcement of closure – clarity and guidance of alternative/replacement funding models were not immediately available. There was also a developing policy landscape in relation to Working Wales and the new employability plan – details of which were still to be confirmed, making forward planning of transitional arrangements difficult.

A point that we should make in relation to the process of announcing the closure of the programme was the impact upon staff morale. Most Authorities have reported that the first their staff knew of the programme closure was through media outlets – putting Local Authorities as employers in an extremely difficult position. This led to a challenging transition year as Local Authorities tried to manage staff retention and morale through transition to a future model that was subject to further approval and uncertainty. Local Authorities were faced with difficult decisions in managing staff retention in balancing financial risk, reputational risk and their obligations as employers to the employees (with some staff having served for many years within the Authorities).

There are contrasting experiences from Local Authorities in terms of support and communication from the Welsh Government throughout the transition period. All responses however, welcomed the Welsh Government’s approach to ensuring regular meetings with relevant Leads across Wales – however many felt this could have been further strengthened by ensuring the timely availability of written guidance to ensure key messages were disseminated clearly.

Despite the uncertainties – most of the Local Authorities have commended the ability to locally determine the resource implications of the transition period, as it allowed Local Authorities to determine approaches that was appropriate to local circumstances and need.

In conclusion, all Local Authorities have indicated that despite the uncertainty and risks during the early part of the transition phase, they have successfully managed the closure of the Communities First programme – and have now adopted entirely new approaches focused around employability within their local areas. Local Authorities were able to engage with their communities and wider stakeholders to develop a new way of working that was fit for purpose for their local area, that focussed around the needs of the individual in a single joined up cross-sector and multi-agency approach, simplifying and consolidating funding streams.

## **Data on the number of projects that have been able to continue in some form and the number that have closed down completely**

We have explored our response to this question with our Member Local Authorities, as it requires technical data and input to be a comprehensive response. However, local circumstances vary greatly, and providing the data alone of the number of projects continuing or not does not represent an accurate picture of the context of closure within each local community. The Welsh Local Government Association does not retain this level of detail on individual projects within individual Local Authorities. Therefore, due to the timescales and the level of complexity involved in compiling a comprehensive response - we are unable to respond fully to this question. We have however, outlined some key points below that you may find helpful.

To coincide with the end of the programme closure process, each Lead Delivery Body was required to submit a Formal Final Report to the Welsh Government for the year ending 31 March 2018. This final report contains comprehensive information on the detail of programme closure in each cluster area, the details of continuing/closing project activity and the detail of the implications locally upon local communities.

Different approaches across Local Authorities were undertaken, with some unable to mitigate the financial/staffing risks and closed a number of projects during the transition year. With some Local Authorities, the involvement of third party organisations within the delivery model further added complexities and risks to their role as Lead Delivery Bodies. Some Local Authorities were however able to shoulder the risks and able to continue with most of their activity and retain some staff – albeit with many changes to the funding and delivery models.

As a general observation from the responses received, Local Authorities who had already begun to transition towards a more integrated model previously through pilot/pathfinder activity were generally responding more positively about the transition process, and the ability to continue with a higher level of project activity.

To conclude, whilst the experience of Local Authorities managing the transition period has been mixed, they all welcome the approach that they have transitioned to. There is a recognition and support for the “one team” approach, to integrate and align support services around local circumstance. Local Authorities have greatly appreciated the ability to utilise multiple funding streams and approaches – tailored to the needs of their local communities. This approach to integrate and simplify provision is further enhanced through the Funding Flexibilities Pilot, of which there is strong support - to ensure that the people in our communities get the help they require, regardless of funding source or provider. The Welsh Local Government Association looks forward to working further with the Welsh Government and its partners to further develop the Flexible Funding agenda – and that the principles of integration and simplification are fully recognised both in delivery and governance terms.

I hope that this response goes some way in responding to your queries.

**Croesawn ohebiaeth yn y Gymraeg a'r Saesneg a byddwn yn ymateb i ohebiaeth yn yr un iaith.**

**Ni fydd defnyddio'r naill iaith na'r llall yn arwain at oedi.**

We welcome correspondence in Welsh and English and will respond to correspondence in the same language.

Use of either language will not lead to a delay.

Yours sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Cllr Rob Stewart  
WLGA Spokesperson for Economic Development, Europe and Energy

**Croesawn ohebiaeth yn y Gymraeg a'r Saesneg a byddwn yn ymateb i ohebiaeth yn yr un iaith.**

**Ni fydd defnyddio'r naill iaith na'r llall yn arwain at oedi.**

We welcome correspondence in Welsh and English and will respond to correspondence in the same language.

Use of either language will not lead to a delay.

John Griffiths AM  
Chair, Equality, Local Government and Communities Committee  
By email

26 June 2018

Dear John,

### **Forward work programme: areas of shared interest**

The Children, Young People and Education Committee recently considered its forward work programme. Members agreed a number of priorities, two of which overlap with the Equalities, Local Government and Communities (ELGC)

Committee's portfolio:

- School funding
- Post-legislative scrutiny of the Rights of the Child and Young Person (Wales) Measure

The Committee intends to consult on its school funding inquiry in the autumn term. Given its relevance to local government funding, I will ensure that the Committee Clerk provides regular updates to the Clerk of the ELGC Committee and explores any viable opportunities for joint working, if appropriate.

In light of the Committee's existing commitments, work on post-legislative scrutiny of the Rights of the Child and Young Person (Wales) Measure is unlikely to begin until spring/summer 2019 at the earliest. Again, I will ask the Clerk to keep you updated.

Yours sincerely,



**Lynne Neagle AM**  
Chair





Llywodraeth Cymru  
Welsh Government

ELGC(5)-21-18 Papur 13 / Paper 13

Our ref MA-P/HID/2091/18

John Griffiths AM  
Chair  
Equality, Local Government and Communities Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

26 June 2018

Dear John,

Thank you for your letter of 30 May regarding correspondence you have received from Julie Morgan AM about the closure of the Welsh Independent Living Grant (WILG).

As I indicated in my Written Statement of 23 May, as at the end of March this year around 75% of the 1,300 people who had been receiving payments under the WILG had either completed, or were in the process of completing, the review of their future support needs with their local authority. As a result over a third of all people who received payments – around 400 people – were now having their future support needs to live independently met by their local authority, either directly by the authority or by receiving direct payments from the authority to arrange this support themselves.

This left at that time around 900 people in total to either complete their review where they had commenced this, or to commence this for completion. As I said in my Written Statement all reviews of people's future support needs are to be completed by the end of September this year. We are about to seek the quarterly monitoring data we obtain from local authorities on this process which I would expect that for the period since March to show that this number of outstanding cases has reduced significantly further since then.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Huw.Irranca-Davies@llyw.cymru](mailto:Gohebiaeth.Huw.Irranca-Davies@llyw.cymru)  
[Correspondence.Huw.Irranca-Davies@gov.wales](mailto:Correspondence.Huw.Irranca-Davies@gov.wales)

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

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

With those people who are now receiving their support from their local authority, these authorities report some people have had their level of support increased, whilst the majority have receive support similar to the level they had through their WILG payment. Only in a small number of cases has their support reduced, particularly where authorities have identified that services paid for using payments under the WILG were not of a social care nature. Where this has occurred, authorities are working through these with the people affected to come to a satisfactory solution. That said, this is ultimately not about whether people get more or less support as a result of the review of their future needs with their local authority. It is about ensuring that disabled people have the appropriate support they need to deliver their wellbeing outcomes and are able to live independently at home.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Huw', with a horizontal line underneath it.

**Huw Irranca-Davies AC/AM**

Y Gweinidog Plant, Pobl Hyn a Gofal Cymdeithasol  
Minister for Children, Older People & Social Care



ELGC(5)-21-18 Papur 14/ Paper 14

**Rebecca Evans AM**

Minister for Housing and Regeneration  
Welsh Government

26 June 2018

Dear Rebecca

## **Renting Homes (Fees etc.) (Wales) Bill**

Thank you for attending our meeting on 21 June to give evidence in connection with our scrutiny of the Renting Homes (Fees etc.) (Wales) Bill.

At the meeting you agreed to provide further details on:

- An assessment of the evidence considered in Westminster during scrutiny of the Tenants Fees Bill that there was a 4.2% increase in rent in Scotland when equivalent legislation was passed compared to a decrease of 0.7% in England over the same time period.
- Whether the provision in Schedule 2, paragraph 3, sub-sub-paragraph (b), is sufficient to cover incidences when a landlord/agency breaches this agreement, in particular in instances when students secure properties months before they move into the property and the agreement is pending further works by the landlord.
- Whether fines issued by the Courts given to those in breach of the Bill should go to local authorities, as with fixed penalty notices.


At the end of the meeting, I advised that I would also write to you with some technical and drafting questions that weren't reached during the evidence session. I should be grateful if you could provide a response to the following:



- Section 4 refers to “letting agency work”. Section 8 refers simply to “lettings work” which is the term used in the Housing (Wales) Act 2014. Why is this the case?
- Under Sections 2(6), 3(5) and 17, should the Bill require that interest also be payable or would a court automatically award interest?
- Section 2(3) allows landlords to require a person to enter into a contract for services as a condition of the grant, renewal or continuation of an occupation contract where the contract for services confers the right to occupy a dwelling. Could you explain the purpose of this provision and why is there no equivalent provision in Section 3?
- Providing false or misleading information in relation to a notice under Section 10 is an offence if a person is “reckless as to whether it is false or misleading”. What was the rationale behind setting “reckless” as the threshold for Section 12(1)(b) and 12(2)(a)? Why was the lower threshold of negligence, not chosen?

I should be grateful if you would respond by **7 September** in time to inform the next stage of our scrutiny of the Bill.

Yours sincerely



John Griffiths AM  
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



ELGC(5)-21-18 Papur 15/ Paper 15

The Rt Hon Carwyn Jones AM  
First Minister of Wales

28 June 2018

Dear First Minister,

## **Equality and human rights implications of Brexit**

Following my joint letter with the Chair of the Equalities, Local Government and Communities Committee Chair, John Griffiths AM, I am writing to seek further clarification on a couple of the points raised.

As of last week the final text of the European Union (Withdrawal) Bill has been agreed by Parliament. You will be aware that during the passage of the Bill, the UK Government rejected the House of Lords amendments which contained provisions for the inclusion of the European Charter of Fundamental Rights in UK law. You will also be aware that the Bill was amended to provide an enhanced scrutiny procedure for statutory instruments which amend or revoke subordinate legislation made under section 2(2) of the European Communities Act 1972 to implement EU law. However the enhanced procedure does not apply to instruments made by Welsh Ministers and subject to scrutiny in the Assembly. Furthermore, I note that the Welsh Government has formally begun the process of repealing the Law Derived from the European Union (Wales) Act as of 8 June 2018.

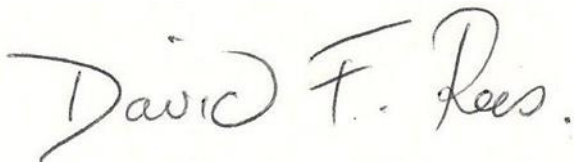


In light of these developments, I would welcome an updated response from you in relation to:

- ***the EU Charter of Fundamental Rights***: how the Welsh Government will ensure that Charter Rights continue to apply in Wales; and
- ***Non-regression***: how the Welsh Government intends to ensure that existing rights and obligations (particularly equality and human rights standards in devolved competence) are not eroded or removed as a result of Brexit.

I am copying this letter to the Chair of the Equality, Communities and Local Government Committee and would welcome a response from you within the usual timescales.

Yours sincerely,

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style with a large initial 'D' and 'R'.

David Rees AM

Chair of the External Affairs and Additional Legislation Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



ELGC(5)-21-18 Papur 16/ Paper 16

**Rebecca Evans AM**  
**Minister for Housing and Regeneration**  
**Welsh Government**

26 June 2018

Dear Rebecca

## **On-going inquiry into fire safety in high rise buildings**

Thank you for your letter dated 12 June 2018, which we discussed at our meeting on 21 June. We agreed to follow up a number of issues with you.

### **Private sector – the role of block managing agents**

In our previous letter dated 17 May, we sought reassurances that the Welsh Government will provide support to companies set up to manage privately owned residential blocks. In this letter, we noted that in a number of blocks management responsibility has passed to flat owners, and that they are now having to deal with complex building, health and safety, financial and legal issues. We asked you what actions the Welsh Government was taking to ensure management boards have the skills and resources to deal with these issues.

In your response, you detailed the work the Welsh Government is undertaking in relation to lease management, as well as saying that you would be developing and refining the appropriate options following the Hackitt report, and the response to the recommendations that relate to dutyholders. However you did not provide any details as to what actions the Welsh Government is taking in the interim to help companies set up to manage privately owned residential blocks deal with these



complex issues, and in particular those that may not always have the experience or knowledge to easily navigate these difficult decisions.

We note that while the primary focus has been on blocks with ACM cladding, there have been safety concerns in blocks without such cladding. Therefore it is important the Welsh Government's response must consider this aspect, and ensure that these residents also get support and advice on how to ensure their blocks are safe.

Furthermore, we continue to have significant concerns about who is liable for costs of remedial work or interim fire safety measures (such as fire wardens). We are aware that the costs for some of this remedial work to bring buildings up to a basic safety standard could be high, and that not all owners will be in position to secure funds to pay for the work. We are aware of reports which suggest that people are now in a position where they may be unable to secure mortgages or sell properties because of the on-going uncertainty about safety, the amount of remedial work necessary and how this will be funded.

We note with interest the proposal by the RLA, for the Welsh Government to establish a low interest loan fund which would prevent safety work being held up because of disputes over liability or difficulties raising funds. What consideration has the Welsh Government given to this proposal, or other options to prevent delays to remedial work being carried out?

### **Expert Group**

We welcome the establishment of the Expert Group to consider the recommendations made in the Hackitt Review. We feel it is important for us to maintain an active role in monitoring how the Welsh continues to respond to developments, and would like your views on how we can best keep updated with the work of the Expert Group?




Additionally, in light of the work of the Expert Group, could you clarify whether the Fire Safety Advisory Group will continue, and if so what will they be focusing on?

It strikes us that people living in high rise blocks in the private sector are facing a period of considerable uncertainty and lack the assurances provided to leaseholders and tenants in the social sector. Therefore, the Committee is now considering undertaking further work looking at fire safety in private sector high rise buildings.

In light of the forthcoming summer recess, and the importance of this issue, we would welcome a response that we could consider at our last formal meeting of the summer term, which is 11 July.

Yours sincerely



John Griffiths AM  
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



# Agenda Item 8

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

Document is Restricted