

# Agenda – Equality, Local Government and Communities Committee

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Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 18 March 2020

Meeting time: 09.20

For further information contact:

Naomi Stocks

Committee Clerk

0300 200 6565

[SeneddCommunities@assembly.wales](mailto:SeneddCommunities@assembly.wales)

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## Pre-meeting (09.20 – 09.30)

- 1 **Introductions, apologies, substitutions and declarations of interest**
- 2 **Renting Homes (Amendment) (Wales) Bill – evidence session 6**  
(09.30 – 10.30) (Pages 1 – 31)  
Jim McKirdle, Policy Officer (Housing), Welsh Local Government Association  
Fiona Wilkins, Housing services Manager, Caerphilly County Borough Council  
Will Henson, Policy & External Affairs Manager, Community Housing Cymru  
Matt Dicks, Director, Chartered Institute of Housing Cymru  
Ross Thomas, Policy and Public Affairs Manager, Tai Pawb
- 3 **Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of the meeting**
- 4 **Renting Homes (Amendment) (Wales) Bill – consideration of the evidence received**  
(10.30 – 10.40)



Document is Restricted



## **Renting Homes (Amendment) (Wales) Bill**

### **Submission to Equality, Local Government and Communities Committee**

The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities are associate members.

The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA also appoints senior members as Spokespersons and Deputy Spokespersons to provide a national lead on policy matters on behalf of local government.

The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.

This submission is framed around the Committee's terms of reference: -

- **the general principles of the Renting Homes (Amendment) (Wales) Bill and the need for legislation to deliver the stated policy intention.**

WLGA are supportive of the general principles of the Bill, and agree that legislation is required to deliver the policy objectives.

### *Landlord's notice: minimum notice periods*

Extending the minimum notice period for a section 173 under the 2016 Act from two months to six months will provide greater security to PRS contract-holders, as this will give them more time to find suitable alternative accommodation. The current notice period of two months often does not give tenants enough time to find suitable accommodation within their chosen area (for example, to stay close to family or to reduce disruption to children's education), and leads to contract-holders having to "take what's available" even if it is not ideal.

Housing Options teams are likely have more time to find suitable accommodation for households presenting as at risk of homelessness due to having received a Section 173 notice. This is likely to improve the ability to prevent homelessness in some circumstances.

### *When landlord's notice may be given*

Extending the restriction on giving notice from four months to six months after the occupation date of the periodic standard contract will have the effect of providing greater security to PRS contract holders. This is likely to make the PRS more attractive to prospective tenants ,therefore, increasing potential housing options for those in housing need and reducing pressure on the scarce supply of social housing in many areas.

### *Giving and withdrawing landlord's notice*

The restrictions on the circumstances where landlords are able to give notice will have the effect of increasing security of tenure within the PRS, and will add to the perception of the PRS being an attractive and viable choice for households in housing need. These provisions also support a more equitable and balanced approach to contract holders in different housing sectors.

- **any potential barriers to the implementation of the Bill's provisions**

The capacity of the Court Service in Wales has been highlighted by a number of stakeholders as a possible barrier to the successful implementation of the Bill's provision and achievement of the overall policy objectives. As a partial response to these concerns, Welsh Government colleagues have identified the voluntary move by social landlords to a position of "no evictions into homelessness" as a way of significantly reducing the use of possession proceeding by social landlords which will have the effect of reducing pressure on Court Service resources. While we are in

agreement with the overall principle of avoiding the situation where social landlords have no option but to take action which results in a household becoming homeless, the implementation of such an approach is at an early stage. It may take some time for this to be successfully implemented, and discussions about the additional resources required to support success, e.g. through additional services commissioned via Housing Support Grant, have yet to be meaningfully advanced.

- **the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation** (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

The provisions within the Bill for Welsh Ministers to bring forward regulations appear to be appropriate, given the need to ensure enough flexibility to respond to changing and emerging housing practices.

- **whether there are any unintended consequences arising from the Bill**

The provisions within the Bill will make the PRS a more attractive option for prospective tenants, and will make it easier for Housing Options teams to promote the PRS as a sustainable and secure option, and as a viable and genuine alternative to social housing.

However, it is possible that some PRS landlords may be more reluctant to rent their properties to vulnerable people who are on low incomes, therefore reducing housing options in some areas.

In addition if, as a consequence of the provisions of the Bill, some PRS landlords chose to leave the market, or not enter it in the first place, this could have the unintended effect of reducing the overall stock of housing available to vulnerable households.

The impact on the use of Introductory Tenancies by Community Landlords is rightly identified within the Explanatory Memorandum and this will have an impact on local authorities by reducing the perceived effectiveness of Introductory Tenancies, however, we are in agreement with the overall principle that social housing settings should be no less secure than those in the private rented sector. It is not the current practice of Local Authority landlords to utilise Section 21.

- **the financial implications of the Bill**

We broadly agree with the financial implications for local authorities as set out in Part 2 of the Explanatory Memorandum in respect of their roles in relation to housing advice and homelessness prevention and their role as community landlords. However, we would highlight that the cost savings identified for local authorities' homelessness functions identified is minimal, at less than 1% of total costs. The additional costs for familiarisation are likely to exceed the identified annual savings.

Jim McKirdle  
WLGA Housing Policy Officer  
9<sup>th</sup> March 2020



## *CHC's Response*

### **About Us**

**Community Housing Cymru (CHC)** is the representative body for housing associations and community mutuels in Wales, which are all not-for profit organisations. Our members provide over 158,000 homes and related housing services across Wales for around 10% of the population.

CHC launched its twenty-year 'Housing Horizons' vision for Welsh housing associations in November 2017. Our vision is a Wales where good housing is a basic right for all, and the vision's commitments include a pledge to build 75,000 new homes by 2036.

Our members work closely with local government, third sector organisations and the Welsh Government to provide a range of services in communities across Wales.

### **CHC's objectives are to:**

- Be the leading voice of the social housing sector.
- Promote the social housing sector in Wales.
- Promote the relief of financial hardship through the sector's provision of low cost social housing.
- Provide services, education, training, information, advice and support to members.
- Encourage and facilitate the provision, construction, improvement and management of low cost social housing by housing associations in Wales.

CHC welcomes the opportunity to provide evidence to the ELGC Committee on the Renting Homes (Amendment) (Wales) Bill on behalf of Welsh housing associations.

### **Summary of Response**

1. Housing associations are committed to working with partners in the public sector and beyond to end homelessness. Significant progress has been made by the social rented sector in recent years, including a halving of the use of eviction notices since 2006.
2. The Renting Homes (Amendment) (Wales) Bill aims to reduce the impact of "no fault" evictions of tenants under the Standard Contract in the private rented sector. We agree that it will go some way towards this aim.



3. However, certain housing association contract types are linked to the Standard Contract due to the drafting of the Renting Homes (Wales) Act 2016. These three contract types are designed to widen access to social housing and prevent eviction.
4. We are pleased that Welsh Government has recognised the impact on two of the three contract types and made provision for them in the Bill. We urge the Committee to further consider the impact of the proposed changes to the third contract type, the Introductory Standard Contract.

### **Introduction and Background (S.173 in the Social Rented Sector)**

5. Collectively, housing associations and CHC are committed to supporting people to thrive in safe, warm homes. In the rare instances where someone cannot remain in their home, we are working to ensure that they never become homeless as a result through developing partnerships to ensure alternative accommodation and support. We are working closely with Welsh Government and public sector partners to make this a reality and continue our leading role in ending homelessness in Wales. The eviction rate in the social rented sector in Wales has halved since 2006, a result of the significant efforts to sustain tenancies by housing associations.<sup>1</sup>
6. We are making good progress towards a system where evictions are rare and, when they do occur, people do not become homeless as a result. However, housing associations take the safety of the neighbourhoods they manage very seriously and must have the tools to move tenants damaging community cohesion, as a last resort.
7. We believe the Bill delivers the stated policy intention in the private rented sector and that legislation was required to reduce the impact of the use of S.21 without fault.
8. Increasing security of tenure for tenants in the private rented sector (PRS) where tenants generally enjoy significantly less security than in the social rented sector will make a vital contribution to reducing homelessness and providing peace of mind for a growing number of families living in privately rented homes. The threat of “no fault” evictions in the PRS can prevent families from feeling settled in their homes, and in some instances contribute to mental health issues including depression and anxiety.<sup>2</sup>
9. Housing associations do not undertake “no fault” evictions, primarily due to this being in opposition to their core purpose as providers of social housing, secondarily due to additional regulations preventing the use of S.21 in a no fault manner by housing associations.
10. Extending the notice period of a S.173<sup>3</sup> notice under the Standard Contract to be used in the private rented sector will be likely to reduce the impact of “no fault” evictions,

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<sup>1</sup> Ministry of Justice court proceedings data <https://www.gov.uk/government/collections/mortgage-and-landlord-possession-statistics>

<sup>2</sup> [https://housingevidence.ac.uk/wp-content/uploads/2018/08/R2018\\_06\\_01\\_Frustrated\\_Housing\\_Aspirations\\_of\\_Gen\\_Rent.pdf](https://housingevidence.ac.uk/wp-content/uploads/2018/08/R2018_06_01_Frustrated_Housing_Aspirations_of_Gen_Rent.pdf)

<sup>3</sup> S.173 of the Renting Homes (Wales) Act 2016





through providing additional time for a family to secure a new home when faced with eviction due to no fault of their own.

11. We support the intention of the Bill to increase security of private rented sector tenants in Wales. However, there are some adverse consequences to social landlords, whether housing associations or councils. We do not believe these fall within the original intention of the Bill or overall policy aim of improving security of tenure in rented housing in Wales.
12. The Standard Contract is set to replace the Assured Shorthold Tenancy (AST), which is the tenancy type currently issued to the majority of PRS tenants. The AST is also used in the social rented sector, in specific circumstances. However, the vast majority of housing association tenants live in their homes under an Assured Tenancy, giving long term security and succession rights. This situation will remain under the Renting Homes (Wales) Act, under the Secure Contract.
13. Housing associations currently issue Assured Shorthold Tenancies (ASTs) in the form of Starter Tenancies and Demoted Tenancies. Additionally, ASTs are issued in medium term supported housing, where tenants may be resident for longer than a few months but not permanently. The use of ASTs in these circumstances provide flexibility for both tenant and landlord and provide a route to a longer term Assured Tenancy when longer term residency is envisaged.
14. Unlike private landlords, housing associations are regulated and restricted in their use of Section 21 of the Housing Act 1988 to undertake repossessions under these ASTs. Housing associations can only issue Section 21 notices in response to rent arrears or anti-social behaviour (ASB). Due to this, housing associations cannot undertake no fault evictions as is the case in the private rented sector. In any case, the core social purpose of housing associations in Wales would prevent any such action.
15. Furthermore, housing associations must follow an additional pre-action protocol when issuing a notice seeking possession (NoSP), which includes informing the tenant of the reason for intended repossession and supporting the tenant to resolve the issue. Due to these additional measures and the regulation described in paragraph 10, the use of Section 21 by housing associations is fundamentally different to its use in the PRS.
16. Local authority landlords currently operate under a different tenancy regime to housing associations. However, parallel tenancy types exist to the Starter and Demoted Tenancies used by housing associations, under similar terms, and a similar route to repossession to S.21<sup>4</sup>

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<sup>4</sup> Local Authorities Introductory and Demoted Tenancies are created by the Housing Act 1996. Housing Association Assured and Assured Shorthold Tenancies are created by the Housing Act 1988.



17. Under the Renting Homes (Wales) Act 2016, local authority and housing associations tenancy types are combined, and both categories of landlord brought together under the banner of 'Community Landlord'.
18. Contract types derived from the Standard Contract are created under the Renting Homes (Wales) Act 2016 to replace the use of ASTs by housing associations and their local authority equivalents. These new tenancies, for Community Landlords, are:
  - a. Introductory Standard Contract (replacing the Starter and Introductory Tenancies)
  - b. Prohibited Conduct Standard Contract (replacing demoted tenancies). Demoted tenancies can be ordered by a court and provide an important alternative to eviction, through keeping people in their homes under a different contract for a short time period before restoring full security of tenure.
  - c. Standard Supported Contract (a new contract type designed to encourage greater security of tenure for residents of supported housing).
19. These contract types are based on the Standard Contract and, as such, contain provisions under Section 173 and associated sections, and are affected to varying degrees by the Renting Homes (Amendment) (Wales) Bill.
20. We are pleased to see that Welsh Government has recognised the specific impacts of extending the notice period for a S.173 notice served under the Prohibited Conduct Standard Contract and the Standard Supported Contract. This has been reflected in an exemption from the extension for these contract types in the Renting Homes (Amendment) (Wales) Bill, alongside other minority contract types outside of the social rented sector.
21. However, the notice period for S.173 under the Introductory Standard Contract is set to extend to six months under the Bill, despite the specific impacts on this contract type.

### **Adverse Implications of Extending Section 173 Notice Period under the Introductory Standard Contract**

22. Under the current tenancy regime, housing associations utilise Section 21 to end starter and demoted tenancies where seriously dangerous or criminal behaviour has been perpetrated by the tenant and is having an impact on the safety of the surrounding community.
23. In the current regime, the pre-action protocol, regulation of the use of Section 21, and appeals processes put in place by housing associations ensure that tenants are robustly protected from being unjustly evicted using the Section 21 process. Furthermore, the court must be satisfied that the housing association is acting reasonably when applying for a possession order under Section 21.



24. The alternative repossession route to Section 21 Assured Shorthold tenancies is laid out under Section 8 of the Housing Act 1988. Section 8 is also the sole repossession route for Assured Tenancies. Under section 8, there are a range of grounds for recovering possession, including serious rent arrears and anti-social behaviour. Some grounds are mandatory, where possession should be granted if the ground is satisfied. These include, for example, Ground 8: serious rent arrears and Ground 7A: serious anti-social behaviour. Other grounds are discretionary, leaving the decision over whether to award possession to the court where the ground has been proven.
25. In theory, the Section 8 process is designed to provide a balance between the right of the landlord to recover possession following breach of tenancy and the right of the tenant to remain in their home unless they are at sufficient fault. However, the serious under resourcing of HM Courts and Tribunals Service and the under provision of quality housing advice and representation has led to significantly drawn out repossession processes in some cases, regardless of the strength of the case. This has led to, in some cases, at fault tenants remaining in their current home for over a year following serious offences against their neighbours including assault and arson. These cases inevitably end in eviction and the tenant moving into more suitable accommodation, but at the detriment of the surrounding community during the long and drawn out court process. In these minority instances, Section 21 currently provides a much more balanced solution.
26. Additionally, under the Renting Homes (Wales) Act 2016, only serious rent arrears remains as a mandatory ground, where a court must award possession if the case is proven. The discretionary nature of other breaches of contract is likely to place increased pressure on the courts system, leading to cases taking longer to be heard and decisions delayed.
27. Where seriously dangerous behaviour is threatening neighbouring tenants and all support services have failed to resolve the issue, the discretionary nature of repossession in these cases is likely to cause serious damage to community cohesion, as vulnerable witnesses are required to attend court and could be more likely to see the dangerous behaviour continue. Under the S.173 process, there is no need for witnesses to attend court.
28. CHC believes the Section 8 system is not currently fit for purpose, with the resourcing of HM Courts and Tribunal Service and the current range of mandatory and discretionary grounds leading to long and drawn out hearings. This causes unnecessary trauma for tenants, negative impacts on the surrounding community in cases of dangerous behaviour and increased resource burden on housing associations. As the court system remains mostly unaltered under the Renting Homes (Wales) Act, we assume this situation will remain under the new regime.

## **29. Community Safety**



30. Housing associations and CHC are committed to reducing evictions and ending evictions into homelessness. We are working closely with Welsh Government and public sector partners to make this a reality. However, to maintain safe communities and keep rent affordable, this cannot equate to zero consequences for dangerous behaviour or serious non-payment of rent.
31. In cases of seriously dangerous behaviour, the use of Section 21, and in future the use of Section 173 of the RHWA with a two month notice period, remain a necessity for ensuring the safety of communities, due to the more definite process compared to Section 8 and its RHWA equivalent. Recent situations of dangerous behaviour include serious assaults with weapons against housing association staff, and attempted arson in a block of flats, threatening the lives of the surrounding community. In these situations, Section 21 provides the ability to make the community safe, whilst ensuring the evicted tenant can be rehoused rapidly.

**32. Impact on Tenants**

33. When a tenancy is ended through Section 21, and the tenant becomes homeless despite the best efforts of the housing association and local authority, there are few barriers to the tenant being rehoused. However, where a tenant is evicted through Section 8 proceedings, particularly due to high levels of rent arrears, rehousing can be more difficult. Reasons for this include; the tenant being found intentionally homeless through non-payment of rent, and some PRS landlords refusing a tenancy on the grounds of a previous eviction for rent arrears.
34. We urge the Committee to consider the impact on the wider systems of homelessness prevention of a change to S.173, particularly with regards to the Standard Contract in the PRS.
35. Where seriously dangerous behaviour has been perpetrated on the community, it is highly likely that a court would award possession through Section 8. However, the process remains less definitive than through Section 21. In these cases, Section 21 provides a more definitive conclusion to the situation for the tenant.

**36. Conclusion**

37. The Introductory Standard Contract exists to widen access to social housing, through ensuring that landlords have the tools to let to tenants with significant prior rent arrears or issues with anti-social behaviour (ASB), alongside provision of tenancy support and a trauma informed approach to housing management.
38. We are pleased that Welsh Government have acknowledged the specific roles of the Prohibited Conduct Standard Contract and Standard Supported Contract in the provision of social and supported housing. The retention of the notice period of two months under S.173 for these contract types will protect the efficacy of these contract types in providing medium term supported housing for those in need and preventing evictions.



39. Section 173 provides a backstop for social landlords to protect communities in the rare circumstances where the alternative repossession process can lead to increased impact on tenant and their neighbours.
40. As a priority, the resourcing and processes of HM Courts and Tribunal Service should be improved, to ensure that all repossession processes are fair to tenants and landlords. However, we understand that this is mostly out of the purview of Welsh Government. It is vital, therefore, that the backstop of Section 173 continues to exist.
41. To retain the efficacy of the Introductory Standard Contract in widening access to social housing, the notice period for Section 173 should be retained at two months, in line with the Standard Supported and Prohibited Conduct Standard Contract.

For further information, please contact:

Will Henson  
Policy & External Affairs Manager

**Chartered Institute of Housing Cymru**  
4 Purbeck House, Lambourne Crescent  
Cardiff Business Park, Llanishen  
Cardiff  
CF14 5GJ

Tel: (029) 2076 5760



**Chartered  
Institute of  
Housing**  
Cymru

# Renting homes (Amendment) (Wales) Bill

CIH Cymru consultation response

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: [www.cih.org](http://www.cih.org)

In Wales, we aim to provide a professional and impartial voice for housing across all sectors to emphasise the particular context of housing in Wales and to work with organisations to identify housing solutions.

## General Comments

CIH Cymru welcomes the opportunity to provide evidence on the Renting Homes (Amendment) (Wales) Bill.

Our response is informed by feedback from our members, our knowledge of the housing industry and expertise from our policy and practice teams.

CIH Cymru supports the development of Welsh policies, practices and legislation that aim to address the key housing challenges we face, to improve standards and supply, promote community cohesion, tackle poverty and promote equality. We promote a *one housing system* approach that:

- places the delivery of additional affordable housing at the top of national, regional and local strategies as a primary method of tackling the housing crisis;
- secures investment to ensure the high and sustainable quality of all homes in a sustainable framework;
- improves standards and develops the consumer voice within the private rented sector
- promotes the concept of housing led regeneration to capture the added value that housing brings in terms of economic, social and environmental outcomes;
- recognises that meeting the housing needs of our communities is a key aspect of tackling inequality and poverty;
- ensures that that there are properly resourced support services in place to prevent homelessness and protect the most vulnerable;
- uses current and potential legislative and financial powers to intervene in housing markets and benefit schemes;
- promotes consumer rights & tenant involvement;
- and supports the continued professional development of housing practitioners.

## **1. Introduction**

- 1.1 Whether renting a home in the social or private sector we believe that people in Wales should expect consistency, fairness and equality in accessing and living in rented accommodation. We welcome this opportunity to provide evidence to the committee as it considers the Renting Homes (Amendment) (Wales) Bill which places a minimum notice period before which landlords can issue a notice of possession under section 173 from two to six months and in effect provides up to 12 months of security for new tenants entering into standard occupation contracts.
- 1.2 Increasing the security of tenure also supports our own call, alongside Tai Pawb and Shelter Cymru to see the right to adequate housing fully enshrined in Welsh legislation. We have included the executive summary of this research as a separate piece of evidence to the committee.

## **2. Purpose of the legislation**

- 2.1 Renting a home in Wales is a vital part of the housing ecosystem and increasingly is the tenure of choice for a wide range of people. The nature of the housing market is changing rapidly as house prices increase and intergenerational equity deteriorates with homeownership becoming increasingly difficult for younger people. The private rented sector houses a wide variety of people and for some specific groups such as families with children and older people, increasing tenancy security remains an issue of high importance.
- 2.2 Looking further afield, the shape of renting across Europe varies significantly and we believe it is important to recognise what the right investment in renting can achieve in terms of both the standard of homes and the experiences of tenants. In both Switzerland and Germany tenant households are more common than owner occupier households. This has led to a much greater quality of housing stock and stability across the entire market in these countries. The latest OECD figures reflect that the share of people in the bottom quintile of income distribution spending more than 40% of their disposable income on rent stood at 13 per cent and 29.1 per cent for Germany and Switzerland respectively, whilst for the United Kingdom, the same figure stood at 59.2 per cent.<sup>1</sup>
- 2.3 Whilst there are other factors involved we believe that the prominence of the rental market as part of the overall spectrum of housing options is at a point where increasing the security of tenure is timely and the right thing to do.

## **3. General principles**

### *Extending the minimum notice period for a s.173*

- 3.1 We agree with the logic that providing all tenants with a virtual minimum one-year occupation period would be a step in the right direction to increase security of tenure. This measure is more compatible with our desire to see greater security of tenure

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<sup>1</sup> <http://www.oecd.org/social/affordable-housing-database.htm> (Accessed 02/09/2018).



across the housing sector. As an organisation we advocate for a one housing system approach to developing, delivering and managing homes in Wales. In practice, we believe this means that whether renting or buying everyone should have the right to access a safe, affordable, suitable place to call home.

- 3.2 We would not however wish to see any unintended consequences that undermine the ability of landlords to act swiftly in cases of domestic abuse/violence, community safety and anti-social behaviour and careful monitoring would need to be established to glean the experience of both tenants and landlords. And there are clear systemic issues, such as the judicial process, that we go on to highlight that often make s.173 the preferred method of gaining possession of a property – it is vital these are addressed in full to ensure the legislation works as intended without severely impeding the viability of landlords to operate.

#### *Time restrictions on issuing a s.173*

- 3.3 Scenarios where tenants feel they always have an eviction notice active is clearly undesirable. Further to this, it would clearly be poor housing management practice to re-issue a section 173 every six months and would undoubtedly further harm relations between landlords and tenants alike.
- 3.4 We believe that whilst the six-month notice provides greater security for tenants there should be clear trigger points that prompt opportunities to provide support/advice and information to tenants and landlords that could prevent the need for the tenancy to end. It is telling from the Welsh Government's summary of responses to its own consultation on this topic that one of the primary reasons for using s.173 was due to rent arrears. We are concerned that opportunities to prevent tenancies ending and providing timely support to both tenants and landlords are being missed.
- 3.5 Rent arrears can be an indicator of a wide variety of issues, including domestic abuse/coercive control, financial difficulty and problems accessing welfare benefits. For example, research by Citizens Advice suggested Universal Credit claimants are six times more likely to fall into rent arrears. Combined with the challenges private landlords have in engaging with the Universal Credit system, these combine to nurture circumstances where rent arrears are increasingly likely, placing strain on tenants and placing private landlords in difficult situations. The ongoing difficulty linked to welfare reform increases the risk of tenancies continuing to fail as a result of unaffordability regardless of the existence of the proposed measures.
- 3.6 There are numerous examples across Wales from both the social housing sector and the PRS sector alike where landlords have developed approaches to housing management that seek to greatly reduce or negate the need for eviction all together. This has included measures such as:
- Pre-tenancy assessments and links to support where need is identified.
  - Regular engagement with tenants to strengthen relationships with landlords.
  - Exploring the causes behind rent arrears and working with tenants to provide support/advice.
  - Sign-posting tenants to supporting people services for ongoing support, advice and information.

- 3.7 We believe there is a strong case for sharing practice between landlords working in the social housing sector and the PRS as the principles underpinning some of the most successful approaches are universally applicable. There is additional information linked to this in section 4.5 of this response.

#### *Use of break clauses*

- 3.8 We recognise that while many tenants need more security, landlords do have concerns that longer tenancies could expose them to a greater level of risk around rent arrears. It is essential that government seeks to strike a reasonable balance between these two needs.
- 3.9 As noted elsewhere in our response, landlords' concerns could be mitigated to some extent by making improvements to the system for considering possession cases (this needs to operate much more quickly and efficiently than is currently the case) and by reconsidering a number of welfare cuts which greatly affect tenants' ability to pay their rent.
- 3.10 We are aware of little evidence at present that the use of break clauses is a widespread practice by landlords across Wales, but in light of the purpose of this legislation we recognise the need to consider the knock-on impact on their potential use in the future. We are in favour of seeing these specified or limited in their number through the legislation in order to strike a balance between offering choice and flexibility to tenants and landlords whilst ensuring their use does not undermine the main purpose of the legislation. This should be accompanied by robust monitoring mechanisms to grow a picture of their use.

#### *Retaliatory evictions*

- 3.11 We recognise that the majority of landlords are proactive and responsible in their efforts to improve the quality of their home(s) and respond to the request of tenants for repairs and ongoing maintenance. In circumstances where a court believes that a s.173 has been issued in order to avoid a landlord's usual obligations to managing a home to an acceptable standard, we believe there should be implications for that landlord's licence and fitness to practice. The impact of such practices has a negative effect on the reputation on those landlords operating in an ethical and responsible fashion.
- 3.12 It is important that ongoing evidence gathering builds a clearer picture of the extent of this issue. It seems that with the threshold for considering evidence for an eviction being retaliatory in its nature sitting at the county court level, there is a risk that the legitimate concerns of tenants that go unattended remain invisible.

## 4. Potential barriers

### *Addressing capacity in the court system*

- 4.1 The consultation rightly raises legitimate concerns over the use of section 173 notices, highlighting that their use is sometimes the result of landlords being aware that this can often be the quickest route to possession. We share the view that this is in part driven by a lack of capacity in the county court system, which in Wales has seen considerable cuts in terms of resources in recent years.
- 4.2 In a UK-wide consultation from the UK Government seeking views on developing a housing court we highlighted the following points that we believe remain relevant to the discussion in a Wales context. It is clear that users of the current county court system, both social and private landlords alike, experience a number of difficulties including:
- the time taken for cases to be resolved, with landlords particularly telling us about lengthy delays at various stages of the possession process
  - significant inconsistencies in both processes and timescales between different county courts. These inconsistencies can create difficulties for larger landlords who operate across many different areas
  - a lack of understanding about court processes and procedures.
- 4.3 While most social landlords are experienced users of the legal system this is not necessarily the case for private landlords, for whom being a landlord is often a small scale, part time exercise. Navigating the legal system can be complex and this is exacerbated by inconsistencies between courts in different areas.
- 4.4 Furthermore, feedback from our members also suggests that tenants often do not know what to expect from the court system and we are concerned that a lack of understanding of processes and procedures may sometimes inhibit their ability to exercise their rights effectively.

### *Increasing support for tenants and landlords in the PRS*

- 4.5 We share the belief that eviction should be treated as an absolute last resort for landlords and wherever possible action should be taken to negate the need to pursue possession action. In research conducted through our Tyfu Tai Cymru project and in partnership with Tai Pawb we explored the situation facing people living with mental health issues in the private rented sector.

The report found that:

- One in three support organisations feel there is ‘never’ enough mental health support for tenants renting privately
- 62 per cent of landlords have had, or currently have a tenant with a mental health problem

- Almost half of private landlords felt they ‘never’ had enough support or information to support tenants living with mental health problems
- There are suggestions that people with mental health problems sometimes face discrimination when trying to access private rented sector housing
- Private landlords told us that the solution to the problems are straightforward; that there should be better advice available online for what landlords and tenants can do to access support.

4.6 CIH Cymru makes the following recommendations:

- Welsh Government to provide comprehensive information for private rented sector landlords and letting agents regarding local and national mental health support
- Relicensing through Rent Smart Wales should require all private sector landlords to complete a module on mental health to improve their knowledge of how to access support for tenants with mental health problems.
- Local authorities should develop crisis/emergency housing-related support services for people with mental health problems in the private rented sector to support tenants to stay in their own homes
- Services should be shaped and delivered with the expertise and insights of tenants living with mental health problems in the private rented sector

4.7 Worryingly, the research found that those landlords who had had a negative experience when a tenant had a mental health issue did not feel confident in renting to tenants with mental health issues in the future. We welcomed Welsh Government’s acceptance of these findings and the report’s recommendations but note that the need to continually monitor support in this framing is of utmost importance.

### *Communication and readiness*

4.8 As a piece of legislation which will primarily impact the private rented sector it is important to consider full awareness raising activity of any changes as well as fair lead-in times to address concerns and undertake any mitigating action.

4.9 As the private rented sector continues its evolution in Wales underpinned by both the licencing scheme as well as changes to legislation and policy further changes may not be met with enthusiasm unless the right infrastructure of support is in place, and that resource promoted to landlords effectively.

# The right to adequate housing in Wales: Feasibility Report Executive Summary

**“If there had been a right to adequate housing in the United Kingdom, the government and the local authority would have had a legal duty to consider seriously, and in a timely manner, the safety concerns raised by the Grenfell Tower residents, before the conditions became life-threatening” - Geraldine Van Bueren QC, Professor of International Human Rights Law in Queen Mary, University of London and Visiting Fellow, Kellogg College, Oxford.**

**“The law failed to protect the residents of Grenfell Tower. Even if legal aid had been available, the fact is that there was no legislation that would have given the court the power to intervene and stop the process that ultimately led to such dreadful loss of life. Only an enforceable right to adequate housing would have guaranteed the residents the ability to take their concerns to court, have their questions answered and the dangerous cladding removed before it was too late. It is time that the right to housing, long recognised in international law, is protected in law” – Jamie Burton, Doughty Street Chambers lawyer who acted for various bereaved, survivors and residents in Phase 1 of the Grenfell Tower Inquiry.**

**Authored by: Dr Simon Hoffman (Swansea University) for Tai Pawb, the Chartered Institute of Housing Cymru and Shelter Cymru**

**Published June 2019**

# Context

In the early hours of 14 June, 2017, a fire engulfed the 24-storey Grenfell Tower block of flats in North Kensington, West London.

It claimed the lives of 72 people.

**Grenfell came to represent how we have failed those in most need in our society – those in need of that most basic of human requirements: that of access to shelter, a place where they feel safe, a place to call home.**

**Wales, as the rest of the UK, is in the midst of one of the deepest and far-reaching housing crises that we have seen in modern times: a crisis which is having a profound impact on the very fabric of our society.**

**As a society, therefore, how much of a priority do we want to place on housing in order to ensure universal access to that most basic of human rights - a safe, secure and affordable place that we can call home.**

**We believe that at the core of any solution to the housing crisis must be**

**a national commitment to the fundamental principle that every one of us should have a human right, underpinned by law, to access adequate and sustainable housing. We need a vision and a legal framework that would help us shift the paradigm of the way housing is understood – namely as being central to the dignity of every person.**

**A big part of that process should be, in our view, embedding into Welsh legislation, the Right to Adequate Housing as outlined in ICESCR (International Covenant on Economic, Social and Cultural Rights).**

**We believe that the report makes for a compelling case for the incorporation of the Right to Adequate Housing into Welsh law, whilst also clearly setting out the route map for how we get there.**

**We believe that the dual approach option set out in Section C is the best way forward but it's now over to you, our representatives in Wales' Parliament. Only you can deliver on that promise to ensure that all of us in Wales, no matter what our background or our personal and financial circumstance, have a legal right to a place to call home.**

# The Housing Crisis in Wales



**60,589**  
households on social  
housing waiting list  
(Shelter Cymru - March 2018)

Over

**21,000**  
households faced  
or experienced  
homelessness in 2018  
(Statistics Wales)

**1 out of 22**

local authorities has accessible  
housing building target  
(Statistics Wales)



**2,139**

households in temporary  
accommodation - of  
which 837 are families  
with children.  
(Statistics Wales - March 2019)

**347**

people sleeping rough  
on our streets  
(Statistics Wales - Feb 2019)



**42%**

**1/3**

Only one third of us  
happy living near social  
housing  
(Tyfu Tai Public Perceptions  
Survey April 2018)

of private tenants do  
not have a fixed term  
tenancy in Wales  
(Shelter Cymru - Feb 2018)



# Key points from the Report

## Human rights, incorporation and enforcement

**Human rights protect individuals and social groups from unjustifiable interference from the state and guarantee everyone a basic level of entitlement in vital areas of public service provision – including housing.**

**The United Kingdom (UK) is party to seven United Nations (UN) human rights treaties.<sup>1</sup> These include the Covenant on Economic, Social and Cultural Rights (CESCR)<sup>2</sup> which guarantees rights to social conditions such as employment and decent working conditions, health and social care, social insurance, education, and an adequate standard of living. The CESCR also guarantees the right to adequate housing.**

**A number of UN-established treaty monitoring bodies, which monitor international compliance with human rights treaties, made recommendations to incorporate human rights treaties in national laws.<sup>3</sup>**

**Incorporation can be direct, indirect or sectoral.**

**Direct incorporation means transforming the human rights treaty into domestic law, as in the case of the**

**Human Rights Act. Direct incorporation usually means that individuals can use human rights to seek justice in a British court.**

**Indirect incorporation usually means that governments and authorities have to take some account of human rights treaties but are not fully bound by them. An example of indirect incorporation in the UK is the Rights of Children and Young Persons (Wales) Measure 2011 (the Child Rights Measure) where Welsh ministers have to pay due regard to an international treaty. Governments can still be challenged in court, but the remedies will not be as strong as in the case of direct incorporation.**

**Sectoral incorporation usually means that rights set out in the human rights treaty are referred to and encapsulated in legislation in a specific policy area, e.g. education, or housing. The courts may be given a role to enforce the right(s) concerned. An example of such incorporation is the Social Services (Wales) Act 2013 which requires ministers and authorities to pay due regard to specific human rights.**

**Incorporation matters because without it, human rights treaties which the state has ratified are no more than aspirational standards or ‘dead letters’. Incorporation brings human rights into a national legal framework,**

1. For a list of treaties signed and ratified by the UK see: <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties>  
2. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

3. For example: Committee on Economic, Social and Cultural Rights, General Comment No.9, 1998, The Domestic Application of the Covenant. Both are available from the treaty body section of the website of the office of the High Commissioner for Human Rights: <https://www.ohchr.org/EN/HRBodies/CESCR/pages/cescrindex.aspx>



insulating them from a political whim and embedding them into policy and law-making. Incorporation helps address the accountability gap between a government's human rights commitments and its actions. For example, although the UK government is considered to be breaching people's right to adequate housing (according to the UN), the UN has no power to enforce action.

Incorporation means governments and public authorities can be held accountable for their actions through a number of mechanisms including informal ones: public debate, complaints, human rights institutions, commissions and commissioners, National Assembly for Wales; and formal mechanisms: court-based accountability and judicial enforcement.

Incorporation may need to strike a balance between the role of the courts to protect rights, and the democratic mandate of politicians to make law and policy.

Judicial remedies are usually more accessible and likely to be more effective for individuals where there is direct incorporation, but it can have its limitations. Where there is indirect incorporation there is also scope for court-based accountability and judicial oversight, usually in the form of judicial review albeit that this is unlikely to be as strong as under direct incorporation.

## The right to adequate housing

The right to adequate housing is an international human right. It is set out in Article 11(1) of the ICESCR which reads as follows:

**'The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. (Emphasis added.)'**

The right to housing is accompanied by a general obligation to respect, protect and fulfil the right.

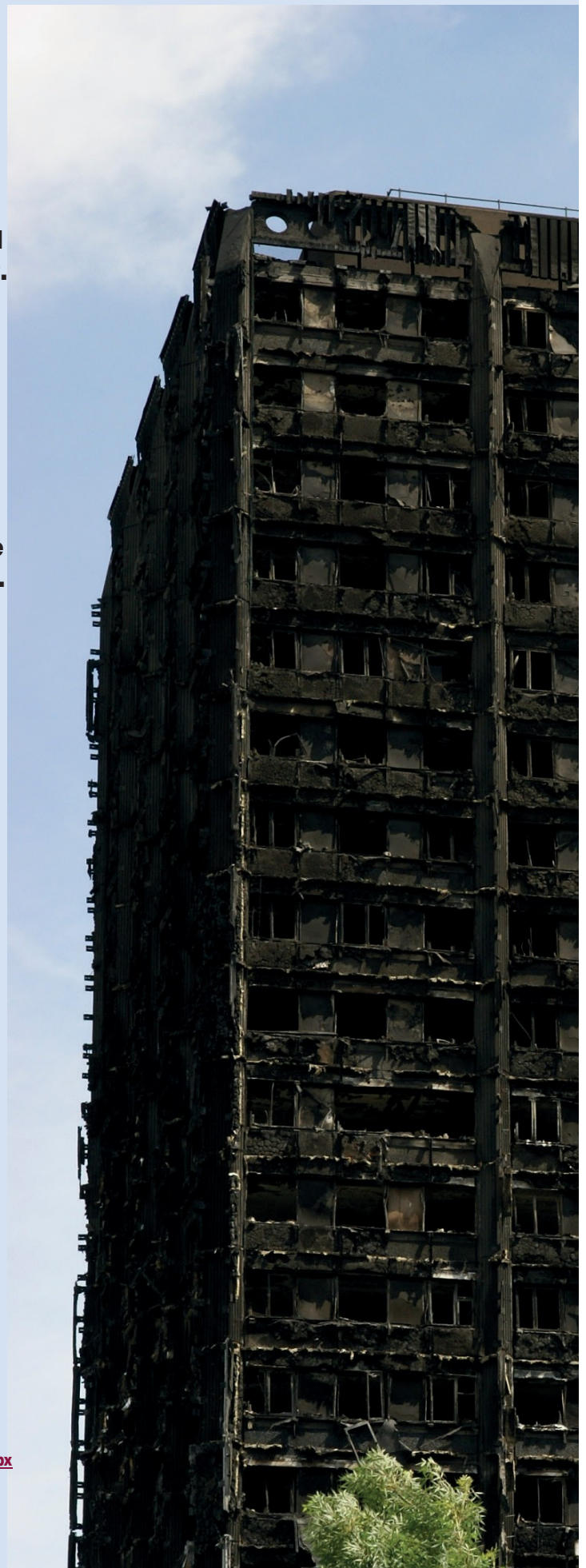
The right to housing may be fulfilled progressively, over time. This means that the government is required to make progress towards the fullest possible realisation of the right through the application of maximum available resources. This is called progressive realisation. ICESCR also immediately prohibits discrimination and requires the provision of at least a minimum core level of enjoyment of the right to housing, avoiding homelessness, destitution and degrading treatment via provision of shelter.

**The UN committee further defines the right to adequate housing as a right to live in 'peace, security and dignity'. It recognises housing as going beyond a provision of shelter, often viewed as a commodity. It sees housing as being of fundamental importance to humanity.**

**There is a separate UN appointed Special Rapporteur on the Right to Adequate Housing<sup>4</sup>.**

**The UN Committee has identified several aspects of the right to adequate housing which ought to be addressed by law and policy, including: *legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy.* The committee further requires focus on those living in the most unfavourable conditions. It also requires that governments develop a rights based national housing strategy. Guidance on all of the above, based on international good practice, has been issued by the UN Committee and Special Rapporteur. The right to adequate housing does not require government to provide housing for all. Instead, housing policy should pursue 'enabling strategies' to help realise the right to adequate housing for everyone through a range of housing options.**

4. <https://www.ohchr.org/en/issues/housing/pages/housingindex.aspx>



## Why and how should Wales incorporate the right to adequate housing

The UN Committee on Economic Social and Cultural Rights, responsible for monitoring the right to housing internationally, commented on the 'persistent critical situation' of housing in the UK and consistently recommended incorporation of international social rights including housing.<sup>5</sup>

Wales, as other devolved nations, is experiencing high levels of homelessness, an increase in rough sleeping, a shortage of affordable housing, severe lack of suitably adapted and accessible accommodation for disabled people, lack of security of tenure and issues with substandard accommodation.

UK government welfare policy, which is non-devolved, will have a direct impact on how people experience the right to adequate housing in Wales. However, housing is a devolved matter and Welsh Government has a crucial role to ensure (as far as possible) that the right to adequate housing is respected, protected and fulfilled in Wales. Welsh Government has already taken action that is consistent with the right to adequate housing, for example, through increased homelessness prevention duties, duties to provide Gypsy and Traveller accommodation and promotion of Housing First approaches to tackle homelessness. Our report demonstrates that this is not sufficient however to meet the

standards required by the right to adequate housing.

The loss of rights guaranteed by the Charter of Fundamental Rights of the European Union following Brexit has given new impetus to calls for further incorporation of human rights in Wales.

Social rights are the human rights that relate most closely to the competences of the NAW and the Welsh Government, with potential to provide a guiding framework for the conduct of policy and legislation in devolved areas.

Importantly, although the National Assembly for Wales doesn't have competency to enter international human rights treaties (this is done at a UK level), it DOES have the power to observe and implement them, including the ICESCR and the right to adequate housing. It is an option available to Ministers to introduce legislation for enactment by the NAW for the purpose of giving effect to (observing and implementing) human rights treaties to which the UK is already a State party, to include the ICESCR or the right to adequate housing as a distinct right.

When considering how best to implement human rights in Wales, the report considers three options of incorporation – indirect (Option A), direct (Option B) or the adoption of a dual approach. Option A and B both offer distinct advantages but also challenges. Combining both into a dual approach would offer both advantages – a strong proactive framework for policy making and strong enforcement if the right to

5. Concluding Observations on the UK State Party, 2016, para. 49

6. For discussion see of the impact of Brexit on human rights see: Liberty UK, Bring Rights Home, What's at Stake for Human Rights in the Incorporation of EU Law After Brexit, available here: <https://www.libertyhumanrights.org.uk/sites/default/files/Bringing%20human%20rights%20home%20-%20Jan%202018.pdf>

**housing is breached. Model A can promote a proactive approach to the right to adequate housing in policy development (including legislation). Where this is insufficient to ensure right-compliant implementation of housing policy Model B could be deployed to provide redress for individuals or groups adversely affected.**

**It's also important to recognise that any future legislation on the right to housing wouldn't sit in isolation from other policy platforms. Indeed, it would serve to enhance and widen existing provisions under, for example, the Human Rights Act 1998 and legislation such as the Rights of Children and Young Persons (Wales) Measure, Equality Act 2010, Social Services and Well-being Act and the Well-being of Future Generations Act.**

**Internationally, there is evidence as to the impact of incorporation of social and housing rights, although it is difficult to source evidence of direct impact. This is because the extent to which the right is realised depends on numerous factors, including the resources available to government, social attitudes, historical disadvantage, political prioritisation etc.**

**International and Wales-based evidence quoted by this report however, concludes that incorporation is accompanied by significant benefits. These include: opportunities for strategic and structural litigation to ensure better compliance with rights, as well as increase in the status of rights and subsequent recognition of rights in policy and legislation. In Finland, where housing is a human right guaranteed in constitution, homelessness is defined and perceived as a violation of a fundamental right. This led to the development of highly successful 'housing first' model (and significant reduction in homelessness).**

**To further support the principle of incorporating the right to housing into Welsh law, this report also analyses the potential positive impact that incorporating the right to adequate housing could have on some of the key housing issues of the day. Apart from greater consideration of housing at a cross-policy level, incorporation could help us tackle issues such as homelessness, increasing the security of tenure, increasing the provision of accessible housing, enabling young people to access affordable housing and ensuring tenants' voices are heard.**

7. The Children and Young Persons Commissioner for Scotland and Together for Children in Scotland have proposed a draft Children's Rights Bill to the Scottish Government adopting the dual approach. Information about the Bill is available here: <https://www.togetherscotland.org.uk/about-childrens-rights/monitoring-the-uncrc/incorporation-of-the-un-convention-on-the-rights-of-the-child/>



promoting equality in housing  
hybu cydraddoldeb ym maes tai

## ***Tai Pawb***

### ***Short Paper: Renting Homes (Amendment) (Wales) Act 2020***

#### ***Equality, Local Government and Communities Committee, National Assembly for Wales***

*March 2019*

#### **Summary**

We welcome the proposals outlined in the Renting Homes (Amendment) (Wales) Act 2020

In our view, the longer notice period goes some way towards further fulfilling and progressing tenants' right to adequate housing, contained in the International Covenant on Social, Economic and Cultural Rights, which has been ratified by the UK government and is binding on the Welsh Government. One of the crucial elements of adequate housing, as defined by the UN, is security of tenure. In our view, current arrangements under section 21 as well as forthcoming section 173 and 186 are not consistent with the right to housing.

Indeed, this proposal supports greater security of tenure (although the next step, if the right was to be more fully realised, would be abolishing no fault evictions altogether, whilst extending, proportionally, the grounds for eviction, in a way which can be verified in a court or a tribunal).

#### **The extension to six months**

In our view, the proposal will have a significantly positive impact on PRS tenants with a particularly positive impact on those tenants where lack of security of tenure and the resulting threat of homelessness can have a significant and disruptive effect on their lives. In particular, there is significant disruption for those people with families; those with a disability; or those with mental health problems.



Some 16% of households threatened with homelessness last year were households with dependent children who faced homelessness due to loss of rented or tied accommodation (Stats Wales 2018). This statistic is particularly worrying in light of the rights of children espoused by Welsh legislation, in particular the Wales Children and Young People measure. According to Article 27 of the UNCRC, as incorporated by the measure, children have the right to a good standard of living, including housing.

It is not difficult to imagine the difficulty of finding a new home within a 2 month period, especially when that home has to be safe and secure, of appropriate size, in close proximity to schools, especially when the child is disabled and attends specialist school or needs specialist support and advice within that area.

Tyfu Tai research conducted by Tai Pawb in 2019, *Private Renting and PRS, a Way Forward (CIH Cymru 2019)*, also demonstrates issues experienced by tenants with mental health problems who are trying to access PRS accommodation. For example, the research shows 90 per cent of the people who responded from support organisations thought that people with mental health problems trying to access accommodation in the private rented sector face discrimination from letting agents or landlords always, most of the time or sometimes. Over a third (37.4 per cent) of people from support organisations felt this was the case always or most times. Consequently, people with mental health problems who are given 2 months' notice to leave their home face not only the likelihood of their mental health worsening due to the anxiety each of us would experience in this situation, but they also face enormous barriers when trying to access new accommodation in that period. The research also shows that the support available for tenants is insufficient, especially in terms of early intervention.

We would support the evidence contained in Shelter Cymru's briefing (2018) which is based on their 2017 PRS tenants research, describing the changing nature of PRS and the impact no fault evictions have on tenants, in particular families <https://sheltercymru.org.uk/wp-content/uploads/2018/02/End-s21-policy-briefing-Nov-17-FINAL-1.pdf>.

Noting the changing of PRS tenants and renting, there are more vulnerable people and families now occupying PRS for longer periods of time. No longer is the PRS associated only with mobile young professionals and students but is now home to tenants from a wide variety of backgrounds, ethnicities and household compositions, (Census, 2011). For instance, we know that there are:

- Much higher numbers of younger people than older people living in the PRS: 60% of those aged 24 and under live in the sector compared to 6% of those aged 64-74. However more older and middle aged people now live in the sector. (Census 2011)
- High numbers of migrants, particularly new migrants (those that have been in the UK for five years or less) living in the PRS. 38% of those born outside of the UK live within the sector compared to 15% of those who born in the UK. This figure rises to 61% when considering migrants to have arrived in the UK since 2001. (Census 2011).

- Every BAME group is more than White British people to live in the PRS in Wales, (35.6% BAME vs. 14.9% White). (Census, 2011).
- 
- The PRS in Wales, now represents a lifetime tenure for 40% of its tenants (Dawson, 2017).

We have received some evidence from one local authority who reported an exponential rise in EU migrant families presenting to homelessness service following a Section 21 notice by their private landlord “due to Brexit”. We haven’t got evidence of this treatment of EU migrants being a trend across Wales in any way and it is impossible to tell whether the reason was linked to a perception of EU migrants now being higher risk or simply prejudice or any other factors. It is clear however that they are at a higher risk of evictions in this area and a longer notice period will go some way towards alleviating the impact on EU tenants and families.

During the second half of the 20th century the PRS became the sector of flexibility for young single professionals or childless couples (Lund 2006). As such, the sector is now also being accessed by tenants with needs that would have traditionally been met by social landlords. The PRS is in a critical position where diverse ranges of people are accessing the sector; some of whom with vulnerabilities which the sector needs to be able to meet the needs of.

### **Awareness**

If the proposed changes to legislation are brought in, it is vitally important that resources are committed to raising tenants’ awareness of the new legislation and their rights. We would note, that whilst Rent Smart Wales is a fantastic mechanism to engage with landlords, the mechanisms to engage with PRS tenants in Wales are lacking or are underfunded. Even Generation Rent, a relatively high profile campaign, has only five staff<sup>1</sup>, of which none are based in Wales (as of October 2019).

Although organisations like ‘Let Down Wales’ or Shelter Cymru make a valued and positive contribution to policy, there is no appropriately resourced organisation or group which would allow for continuous engagement with private tenants, who constitute a group of ca 200,000 people in Wales. Until 2019, Tai Pawb in partnership with Residential Landlords Association ran a PRS project, Open Doors, which engaged with both PRS landlords and PRS tenants. The project, amongst others, helped Senedd engage with PRS tenants. Unfortunately the funding for this project has now ended.

Whilst Rent Smart Wales has been a welcome intervention in improving the standards in the PRS, independent evaluation has evidenced that the majority of tenants surveyed are still unaware of Rent Smart Wales and how the scheme is of any direct benefit to them, (RSM, 2018). This is particularly worrying for the sector as any positive intervention made is limited if tenants are not aware of how the changes impact them. One of the ways in ensuring that tenants are aware of changes and how they affect them, would be to ensure that debates around legislative changes

include PRS tenants as key stakeholders. The findings from the independent review of Rent Smart Wales suggests that there is still significant progress to be made in engaging PRS tenants in Wales.

Having spoken to a group of PRS or former PRS tenants, it is also crucial that, when announcing any of the changes under this Bill, Welsh government re-emphasizes the rights of tenants to give notice. The current conversation on these principles only describes the rights and responsibilities of landlords to give notice and it could be misconstrued by many tenants as changing the minimum notice period for tenants to 6 months.

In addition to the above, we are also aware of the confusion as to whether currently tenants have to give notice to end a fixed term contract. This could be addressed in the forthcoming communication.

### **Impact on landlords**

Whilst Tai Pawb strongly supports the proposal, great care needs to be taken when considering the impact on landlords and the broader housing market, including availability of PRS accommodation. PRS tenancies fill a widening gap in the supply of housing in general, but more specifically social housing, and any unintended consequences of the legislation, especially any potential decrease in availability needs to be balanced against the much needed increase in social housing supply. This would ensure that the Welsh Government puts measures in place to prevent any regression in the right to adequate housing in Wales as a result of this measure.

For commonly known reasons, no fault evictions are often used by PRS landlords as the relatively easy means of dealing with evictions of tenants who might have committed ASB or who are in rent arrears. Although we understand that court processes, including those pertaining to other possession grounds, are not a devolved area, it is important to take into account some of the difficulties that landlords might experience in relation to possession proceedings relating to those grounds, in particular timescales, IT systems and shortage of administrative resources leading to prolonged processes. RLA's possession reform survey found that in the majority of court cases it took landlords more than 15 weeks to regain possession of their property after applying to court.

It is important that Welsh Government takes landlords views and experiences into account and works closely with the UK government on improving court possession proceedings.

The same pertains to analysing the response of buy-to-let lenders. We know that some lenders required landlords not to rent to tenants in receipt of benefits. It is absolutely crucial to monitor the effect of the above proposals on lender behaviour, mortgage prices and, going forward impact on the size of the PRS, especially in areas where it is desperately needed due to other housing shortages. It is difficult to predict this effect, for example we previously had forecasts of Rent Smart Wales leading to shrinkage in the PRS in Wales due to an increased licensing burden but we are not aware of any evidence that this has actually taken place. Learning from other nations which introduced similar measures is therefore important.



Going forward, in our view, Welsh Government should consider establishing a housing ombudsman office as well as a separate housing tribunal system – both of which would go a long way to speeding up possession and other processes for both tenants and landlords alike. A Welsh housing tribunal would certainly make housing fairer for all in Wales and would enable both groups a better access to execution of their rights

### **Local authorities**

An important point to consider is the impact of the proposed changes on the duties and behaviour of local authority homelessness departments. The change does not constitute a change in the statutory homelessness prevention period of 56 days. There is a question as to what extent and in what way a local authority would use evidence of tenants' actions in terms of finding new accommodation before the 56 days period is reached (i.e. in the first 4 months of the notice period). That in turn could potentially lead to using intentionality clauses more frequently. Moreover, there are queries as to how this would affect the consideration of tenants' circumstances and what assistance could and would be provided to those who have been given 6 months' notice, at the beginning of this period.