

RHA 01

Bil Rhentu Cartrefi (Diwygio) (Cymru)

Renting Homes (Amendment) (Wales) Bill

Ymateb gan: Dr Craig Gurney

Response from: Dr Craig Gurney

## Disclaimer

I would like to thank the Equality, Local Government and Communities Committee for inviting me to contribute to the inquiry on the general principles of the Renting Homes (Amendment) (Wales) Bill. I present evidence here in a personal capacity. My views do not necessarily represent the views of my current or previous employers. I was employed as a lecturer in housing at Cardiff University from 1996-2019 and was Chair of the Board of Management for Cynon Taf Community Housing Group from 2006-2001. There are no other relevant interests to declare.

## Executive summary

The well documented changes to the housing system in Wales have changed the way in which stakeholders experience, construct, deliver and regulate the housing system. New ways of working, including new forms of regulation are necessary to keep pace with the changing landscape in front of us. Based upon my experience of researching in the field of housing studies since the late 1980s, it is my opinion that the bill makes a sensible and appropriate set of amendments to an existing act and is entirely in step with recent innovative approaches to address the multi-faceted housing problems facing Wales.

I urge the committee to exercise caution in interpreting the results of a report published by the Residential Landlord's Association which is referenced extensively in the Exploratory Memorandum and relied upon heavily in the Regulatory Impact Assessment.

## **1 General principles**

1.1 The general principles of the bill are clearly stated, are well-intentioned and appear entirely proportionate to a changing housing landscape in Wales. They are ambitious but remain in step with a growing and well documented recognition across the devolved UK jurisdictions (Gibb et al 2019, Rugg and Rhodes 2018) that bold legislative change is needed to address a well-documented series of housing problems.

1.2 At the heart of this amendment is the introduction of a new 6 month minimum notice period which landlords can give to occupational contract holders. The stated intention of this amendment is to improve security of tenure for households living in the private rented sector (PRS) in Wales.

1.3 Based upon my reading of the extant legislation and published relevant housing research from across the UK and elsewhere I am in support of the general principles of this bill. The amendments have the potential to make good on the housing (and by implication) mental health priorities in Prosperity for All and to meet the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015. Committee members will, of course, appreciate this wider context when scrutinizing the bill but it is worth re-stating I think, that the implications of the amendment have consequences which extend far beyond specific questions of landlords' profitability and the operation of the private rented sector housing market. I would hope that discussion around the bill does not get bogged down in seeking to appease disgruntled landlords and that the experiences of tenants remains in the foreground.

1.4 Security (and in particular security *of tenure*) is an important concept within this bill (indeed it is mentioned 40 times in the main body of the exploratory memorandum). Research within the multi-disciplinary field of Housing Studies has much to offer in understanding the economic, social, cultural and psychological significance of home as a place to entrust one's sleep, a place of niche and belonging, a warehouse for memories and emotions and as a firewall against chaos (see Gurney 2019a for example).

1.5 In addition to security of tenure it is important to pause to reflect upon how other forms of security are entwined with this rather narrow legal definition. Thus, emotional security, spatial security, financial security and ontological security (a term closely associated with home which conveys a sense of robust mental health, resilience and confidence in the everyday) are all routinely bundled up with security of tenure in contemporary housing research. The association of housing with well-being, happiness and robust mental health has long been recognized but has undergone somewhat of a renaissance in recent years alongside a renewed focus upon the properties of housing tenure (Soatia and McKee 2019, Clapham 2010, Gurney 1991, 1999, 2019b, Gurney et al 2020).

Ontological (in)security can be found across housing tenures and home is not the only source of it (Ellaway et al. 2016, but significant research evidence on the subject of housing precarity now exists to suggest that insecurity may have had adverse effects upon mental health and well-being . In offering greater security of tenure for occupational contracts holders, the bill is likely to have significant impacts upon the health and well-being of a group of housing consumers who are currently experiencing the worst excesses of housing precarity. As with interventions to address other forms of market failure it is the poorest, youngest, and oldest and those groups of housing consumers with protected characteristics who stand to benefit most result from the introduction this bill.

## **2 Potential barriers to the implementation of the Bill's provisions.**

2.1 I do not anticipate any obvious potential barriers to the implementation of the bill.

2.2 It would however, be helpful to have more detailed research evidence on the capacity of the courts to deal with a possible increased number of Section 157 breach of contract grounds and of housing advice and homelessness prevention services to respond to changing demands.

## **3 The appropriateness of powers in the Bill for Welsh Ministers to make subordinate legislation.**

3.1 The summary of new powers as outlined in Table 5.1 of the Explanatory Memorandum seem appropriate and proportional.

## **4 Whether there are any unintended consequences arising from the bill**

4.1 There remain some uncertainties about how the market might react to the provisions of the bill. Whilst there is a need to undertake further research to monitor the effectiveness of the bill I do not believe that the risks of any unintended consequences outweigh the benefits being proposed.

4.2 I am not convinced that there is any convincing evidence that the bill will negatively affect either the quality or quantity of housing supply. I note that in the consultation responses reported in the Explanatory Memorandum, landlord organisations have claimed that there is a risk that landlords will exit the market. It is to be expected of course that any trade organization seeking to promote and protect members' interests will make this argument when faced with any proposal to regulate the market. Whilst it may be the case that the number of landlords in the sector might decrease I would expect the market to respond (existing landlords purchase that stock, or that stock goes into the owner occupied sector) so that dwellings do not remain vacant and there is no noticeable effect upon supply.

4.3 In seeking to offset the risks of housing assets becoming less liquid, landlords might seek to employ more detailed credit and lifestyle checks on potential tenants. This might conceivably lead to an increase in rental prices and deposits at the margins or of an increased use of guarantors. Further research is needed to assess the likelihood of this occurring and of the possible consequences for precarious households.

4.4 If ongoing reforms of private rental tenure in England go a different way to the direction of travel in Wales one might reasonably expect there to be some short term shocks and adjustments to local housing markets which straddle or are close the border.

4.5 I have some concerns about the extent to which the voices of tenants and contract holders has not been heard in the consultation around this bill and in the passage of the Renting Homes (Wales) Act. Landlord organisations are well organized and have, in recent years been able to mobilize effectively to defend their members' interests in ways that tenants have not. I note this particularly in relation to the recent use of the term "rogue tenant" which has emerged to counter the term "rogue landlord" which has been deployed since the days of "Rachmanism" in the 1960s. Myself and colleagues (Gurney and Manzi 2019, Gurney and Simcock 2020) have recently undertaken research on the way in which tenants have been characterized in the media narratives and we have identified the role of landlord organizations as central to the creation of a tenure prejudice (Gurney 1999). This bill aims to strike a balance between regulation and

support. Given that, it is important to ensure that the voices and experiences of tenants are not drowned out by those of landlords.

4.6 On balance, this bill will increase security of tenure and peace of mind for tenants, and will have negligible financial impacts upon most landlords.

## **5. Financial implications of the bill**

5.1 In relation to the financial implications set out in Part 2 of the Explanatory Memorandum I would offer one note of caution only.

5.2 My concern relates to the reliance placed upon a report published by the Residential Landlord's Association which is referenced extensively throughout the Exploratory Memorandum and in particular in the Regulatory Impact Assessment in Part 2. I note that the methodology and methods used to collect the data do not appear to have been subject to peer review, and as a result, I have concerns about the extent to which sampling bias may have been understated. This inevitably raises concerns about the validity and reliability of that research. This is particularly important given that the research was funded and commissioned by an organization with a clear stake in the outcome of this bill.

5.3 With this in mind I would urge the committee to balance the evidence from that report with evidence from sources which have been subject to a rigorous and transparent peer review.

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