



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).
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- 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.