

Directors of Public Protection in Wales
ENVIRONMENTAL HEALTH WALES - Housing Expert Panel

Consultation response to Senedd Cymru's Local Government and Housing Committee's inquiry into the [private rented sector](#)

Thank you for the opportunity to contribute to the debate about whether the private rented sector is fit for purpose given the housing challenges faced in Wales at the current time. Our response is structured around the questions you have raised but please contact us if further information or clarification is required.

1. The supply, quality and affordability of accommodation in the private rented sector

- Insufficient supply across all tenures – pressures regularly highlighted by key stakeholders and directly impacts the market e.g. increased rents and less time to undertake comprehensive repairs leading to decline in standards.
- Quality is mixed - a higher proportion of the PRS is older stock. This presents an additional challenge in funding and securing improvements. However, much of the sector is of good quality and managed well. Latest HCS does not identify significant difference in standards between owner occupied and PRS properties. However, damp and condensation are a significant issue- 13% of all PRS dwelling have damp/condensation in 1 or more rooms. (HCS 2017-18).
- There is a growing divide between social and private rented properties from an energy efficiency point of view (WHQS 2 v MEES requirements etc). This is compounded by the many retrofit challenges i.e. finding appropriate build solutions at an appropriate cost, funding/grant aid for remedial works, supply of builders and materials.
- There is a small core of landlords/agents who do the minimum they can get away with to maximise their return. These tend to have a significant portfolio.
- Some landlords have tenants who are tricky to deal with – may have dependency issues and be the cause of antisocial activity. It is often difficult to find appropriate solutions as responsibilities for damage and repairs become confused.
- Management of the tenancies i.e. Antisocial activity is a significant complaint type from neighbours of PRS properties. There is no legal obligation placed on the landlord to effectively manage/report anti-social behaviour in property. Also limited support for landlords/agents to assist them to manage the situation.
- Long term contribution of the PRS to meeting housing need, needs to be agreed with strategy to support the position i.e. is the policy to improve it or reduce reliance on it?

2. The challenges currently facing private sector landlords.

- Affordability of the PRS is a significant barrier. Local Housing allowance is well below average rents. For example, recent research by the Bevan Foundation identified that there is a severe shortage of properties on the private rental market available at LHA rates. Their research found that of properties advertised in the private rental sector in Wales in February 2023, only 32 (1.2%) were available at LHA rates, and in Swansea, of 556 properties surveyed none were fully covered by LHA. <https://www.bevanfoundation.org/resources/housing-winter-2023/>
- Most landlords have one property, and the average age of a landlord is over 55 years. (Rent Smart Wales (RSW) data 2023). A possible conclusion from this is that landlords

with only 1-2 properties are not heavily invested in the sector. As such, if it becomes too difficult or the risk is too high, their decision to leave the sector can be quick and relatively easy.

- Changes in the responsibilities and obligations on landlords have an impact on their decisions to stay in the market. As a result, they may sell - sometimes to the owner-occupied sector or to another landlord. RSW data indicates that the average portfolio size is increasing indicating that some landlords are selling to other portfolio landlords.
- Feedback from landlords indicate that a combination of factors impacts their decision to leave the sector:
 - Mortgage increases
 - Tenants not being able to afford the rent
 - Tax changes
 - Implementation of Renting Homes legislation
 - The prospect of higher EPC requirements being imminent
 - A concern about the inability to gain possession
 - A feeling that policy makers at WG and LA are against landlords
 - LAs advising tenants to stay put after the landlord has issued a re-possession notice.
 - More profitable /less regulation in the holiday market.
 - Own personal circumstances and/or ability to deal with changes.
 - Feel exhausted by new laws/ changes putting business/livelihood at risk

3. The opportunities for greater partnership working between social and private landlords.

Since 2020, the dialogue between the PRS and its representative bodies with Welsh Government policy officials, Rent Smart Wales and local authorities is much improved, facilitated by the need to work collaboratively to manage the COVID crisis. The challenge now is to harness the gains already made and ensure that the approaches are consistent across Wales. Some suggestions for best practice have been captured in the list below. This list has been developed using landlord/agent feedback.....

- Need to recognise and promote the value of the PRS and the positive stories about private landlords providing good homes for many; work towards correcting the balance to avoid landlord being portrayed negatively
- Build positive relationships with landlords possibly through landlord forum meetings, engagement sessions, and provide help when issues arise with tenants.
- Extend the support services which are available to social landlords to the PRS – landlords and tenants.
- Increase the Local Housing Allowance
- Move away from advising tenants to ‘stay put’ until a bailiff arrives.
- Extend the leasing scheme projects – make available to landlords across Wales and all local authority areas with a view to facilitating increased numbers.
- Deliver landlord forum meetings across all LA areas if possible, in partnership with landlord representative bodies.

4. Barriers to accessing the private rented sector including challenges facing young people and people with pets.

- The PRS needs to be the tenure of choice for the individual/family concerned. So, the more appropriate question may be what are the barriers to accessing alternative sectors? The size of a deposit needed for a mortgage? Accessing a mortgage. Lack of social housing supply in the right areas etc.
- Tenant Fee and Renting Homes legislation has removed many of the barriers which previously made accessing the PRS difficult. However, the following matters remain problematic:
 - Not being able to transfer the security deposit from one PRS property to another whilst disputes are ongoing
 - Credit checks, proof of income and job security
 - References from previous landlords and/or availability of guarantors
 - The speed of turnover of available property/competing demand for the same property
 - Lack of support or failure to recognise tenant support requirements / additional needs
 - Holding deposit and/or security deposit and/or rent level
 - Available accommodation not meeting the individual's needs

5. How effectively the private rented sector is regulated.

- Local authority resources are limited, and enforcement action is resource intensive and time consuming. Welsh local authorities and RSW have adopted enforcement policies which are based on good enforcement principles promoted in the Regulators Code. This generally relies on provision of advice and assistance in the early stages of dealing with a complaint or project implementation. Evidence has shown that this approach can be extremely effective with most landlords/agents wanting to do the right thing.
- Where hard enforcement is needed there are opportunities for improvement in the tools available e.g. more use of civil sanctions, allowing tenants to take action for Rent stopping or repayment orders without a conviction (where offence is provable), reviewing the illegal eviction and harassment legislation, introducing Agent Audits onto the statute book (akin to Food Hygiene Rating Scheme) etc
- Some local authorities are concerned about the impact of their enforcement activity on the loss of accommodation for housing homeless people. Often staff have to balance maintaining tenancies with the standards at a property. The Housing Act 2004 make provision to take over management of Houses in Multiple Occupation on an interim or longer-term basis (as well as empty properties) but there are no similar provisions available for singly occupied dwellings. Introducing this additional power will provide another route to protect tenants in situ and to retain a property, in a better condition for the longer term.
- Any opportunity for improving the enforcement tools available should seek to address the challenge of dealing with rogue landlords who deliberately flout the law on a number of fronts. As an example, a case study shared for this response describes a landlord who
 - Completed a flat conversion described by Building Control as a death trap.
 - No planning permission.
 - Prosecuted by Fire Service - serious fine.
 - Many Prohibition Orders served which is a big drain on local authority Rehousing Service.
 - Requested work was not completed - Orders ignored.
 - Landlord continued to place tenants in flats even though he has received notification of prosecution.

None of the measures currently on the statute books are sufficient to drive a rogue landlord from the market. Withdrawal of a HMO or RSW licence will only be a temporary solution while convictions are unspent, and in the meantime that landlord may continue to influence the ongoing poor management of that property. Any agent appointed to act in place of the landlord could be acting at the behest of the owner and will be reliant on the supply of funding from that landlord. There is no incentive for a reputable agent to act on behalf of a bad landlord.

England has introduced a series of Civil Penalties for rogue landlords that can be levied by Councils according to a charging policy, in lieu of prosecution. Courts in Wales often do not treat these cases with the gravity it deserves, and fines are often derisory; they can be treated as an occupational hazard by the landlord. Introducing a series of Civil Penalties could enable local authorities to better target financial penalties, which may act as a more effective deterrent. It would likely receive support from compliant landlords who wish to see a level playing field with rogue landlords punished and driven out of the market. Appeals against the Civil Penalty would be to Residential Property Tribunal.

Along side, civil penalties an effective solution could be a Banning Order which permanently removes that rogue landlord from involvement in the market and winds up their property portfolio. Without such a measure, there is no doubt that the problems associated with rogue landlords will persist.

6. The availability of data on the private rented sector and how it can be improved.

- More data is now available than has ever previously been the case (RSW registration data). This includes a database of landlord and agent contact details including email addresses, rental property addresses and features of the rental properties e.g. no. of storeys, CO and fire alarms, water supply etc. This data is being cross matched with other data sources e.g. EPC data to inform trading standards enforcement programmes.
- However, much more could be available to provide confidence in the sector e.g.
 - gas, electrical fire alarm, property condition certification and
 - More detailed house condition survey information

To conclude, whilst there are issues that need to be addressed in the PRS, it provides a tenure of choice for many and the only option for a home for others, at the current time. The PRS offers a wide range of options in type of accommodation, size, price, location, and facilities and is an essential component of meeting housing need in Wales particularly as it can offer the flexibility that home ownership cannot, allowing people to move easily as their personal circumstances change. It is also worth noting that most landlord/properties are not the subject of complaint/dispute or if they are, can be encouraged to comply. The emphasis therefore needs to be on measures that will continue to influence compliance through provision of information, landlord training and behaviour change strategies and more draconian powers targeted to deal with those who will only comply if forced to do so.

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Housing Expert Panel

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