

HB 56
National Assembly for Wales
Communities, Equality and Local Government Committee
Housing (Wales) Bill: Stage 1
Response from: Wales Heads of Environmental Health Group - Housing
Technical Panel



Housing (Wales) Bill

Wales Heads of Environmental Health
Group - Housing Technical Panel

Evidence to the
Communities, Equality and Local
Government Committee

January 2014



Background Information about the Housing Technical Panel

The Wales Heads of Environmental Health Group comprises the Head of Environmental Health Services from the 22 local authorities in Wales. The Group established a number of expert panels to develop and improve environmental health services after local government reorganisation in Wales in 1996. One of those was the Housing Technical Panel.

The Housing Technical Panel is made up of managers and practitioners who work in local authorities and specialise in private sector housing matters. Key links and expertise have been provided by Panel members to a range of organisations on private sector housing issues. Some of these are:

- Welsh Government & Welsh Local Government Association in relation to strategy, training and developing good practise.
- Welsh Fire Authorities on fire safety measures in private sector housing
- Local Government Data Unit on performance measures

The Housing Technical Panel members have a broad range of responsibilities in their own local authorities in relation to private sector housing including housing renewal, empty properties and delivery of disabled facilities grants. However a significant focus involves improving and developing the private rented sector.

The response provided relates to the remit and expertise of the Wales Heads of Environmental Health Group and the Housing Technical Panel.

Part 1 – Compulsory registration and licensing of landlords

General Principle and need for legislation

The main proposals contained within Part 1 of the Bill are most welcomed by the Housing Technical Panel for a number of reasons; in particular:

- It is often difficult to locate landlords and agents of rental properties. This frustrates Council's ability to inform them of legal requirements, changes in the law, forums & training events etc.
- Due to the lack of security offered by short hold tenancies, tenants are often reluctant to complain to a Council. Without an alternative source of identification poor premises and management practices do go undetected.
- Council's do not have the resources to undertake proactive exercises to identify rented property, in a way which was possible some years ago. Notwithstanding this, that was an ineffective and resource intensive approach anyway which now needs replacing.

- Without having a strategic overview of rental properties in an area proactive work and project management becomes difficult and time consuming to plan and achieve.
- Conditions in the private rented sector are known to be significantly worse than any other sector.
- With the boom in the buy-to-let market over recent years and the difficulties in the housing market there are more landlords in the market who rent only one or two properties and often do not consider themselves to be a landlord. When they manage their own properties they often get it wrong, more often than not, because of lack of knowledge. The House of Commons Communities and Local Government Committee report on The Private Rented Sector from July 2013 reported that ‘accidental’ landlord groups are less likely than professional landlords to be aware of necessary compliance. Furthermore as they often did not consider themselves to be landlords, they were not as inclined to be part of voluntary accreditation scheme that could offer them support and advice.
- For landlords who decide to place the property with a management company they often do so not realising that such ‘agents’ are not regulated in any way and often are by no means experts in their field.
- The time has come for the sector to be professionalised and both landlords and agents made more accountable for the service they are offering.
- With the advent of a PRS register, local authorities, will be able to liaise with the sector far more easily in respect of discharging homelessness obligations into the PRS. This will benefit homeless service users; and landlords who wish to engage in local authority led schemes.
- The Scheme will provide a robust evidence base, which can inform local, regional and national housing policy and strategy, to the benefit of the Housing Sector in Wales and communities

We are of the view that there is a need to engage with all landlords in a Local Authority area in terms of providing support and advice. Currently there is not an easy means of accessing comprehensive contact information about landlord and managing agents. The Bill goes some ways to address these issues.

Within Wales, all local authorities contributed to the establishment and running of the Landlord Accreditation Wales scheme (which is centrally hosted in Cardiff Council); and the Technical Panel was key to the implementation of the scheme.

Since the Housing Act 2004 came into force in June 2006, half of the Local Authorities in Wales (see table below) have declared additional Houses in Multiple Occupation (HMO) licensing schemes. In most cases these licensing schemes tie up in some way to Landlord Accreditation Wales; either by giving a significant discount in fees to accredited landlords and/or making it a condition of an HMO licence that the licensee attends accreditation training at some point during the licence period.

LA Wide – all HMOs	LA Specific Areas – all HMOs	LA Wide – specific HMOs
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Anglesey	Cardiff	Rhondda Cynon Taf
Ceredigion	Conwy	
Gwynedd	Denbighshire	
Newport	Powys	
Wrexham	Swansea	

NB. Carmarthenshire had an additional licensing scheme for 5 years but it has not been re-declared.

Furthermore one local authority has a selective licensing scheme (with another one passed and ready to be implemented soon) designated in a distinct area in their locality. This is because they have been proved to be areas of low housing demand and/or with issues relating to anti-social behaviour.

From our experience of overseeing Landlord Accreditation Wales (which currently has 2600 accredited members renting out 11,450 properties in Wales) engaging with landlords (and agents) and providing them with training can have positive effects. For instance in a survey of members at least 50% had made some positive change to their rental business after going on a one day course and becoming part of the scheme.

However as the scheme is voluntary there are constraints to its size and take up and its continued funding is uncertain, particularly in times of financial pressure. Nonetheless we are proud to have built up the largest membership base of landlords in Wales having more members than all the Landlord Associations combined.

The Housing Technical Panel welcomes the fact that the proposals in Part 1 of the Bill will build on the voluntary accreditation scheme already in place in Wales. Through discussions at the Technical Panel, Cardiff Council has confirmed it will host and administer the new scheme on behalf of all Councils in Wales and The Wales Heads of Environmental Health Group endorses this collaborative model of delivery.

Potential Barriers to Implementation

We do not believe this scheme can be handled centrally in its entirety. We strongly believe Councils have a key role locally in promotion and enforcement. This will compliment their existing engagement activities along with enforcement powers and approaches. We are of the view that investigative work particularly around enforcement must be done locally. In many cases the investigation may involve interviewing landlords/tenants under caution.

It is pleasing to see the powers conferred in section 26 regarding documentation and information requests; however LAs must have clear investigatory powers, including Power of Entry to investigate non-compliance and also authorisations under the legislation. These are not included in the Bill as currently written. It would also be of benefit and in our view a proportionate sanction if fixed penalty powers were introduced for use in respect of provision of information requests.

If the LAW model is adopted, there is much work to be done to ensure a smooth transition from LAWs to the new scheme and its effective implementation. There will be a need to up-scale the capacity of the LAW database and resource for processing. Current systems and processes will

need to be revised and significantly enhanced to deliver future requirements. Local and national arrangements will need to be established to ensure effective enforcement. Marketing will be critical to its future success.

LAs already have a number of powers conferred to them in relation to standards and management practices in the PRS. It is clear that the new scheme will bring an increased number of poor quality properties to the attention of Councils in Wales. This will inevitably increase service pressures at a time when local authorities are facing significant resource challenges.

It is known that living in healthy housing brings wide ranging benefits to the people and communities in Wales (as evidenced recently in The Wales Health Impact Assessment Support Unit's (WHIASU) publication 'Housing and Health Evidence Review for Health Impact Assessment (HIA)'). To achieve this will require that the proposals are properly resourced both at a national and local level.

Unintended consequences arising from Part 1

The compulsory registration and licensing of landlords has received mixed responses from the landlord sector and we are aware of a minority who oppose the measures. The Panel is aware of this through the various Landlord Fora operated by Environmental Health Services across Wales. It is a matter for landlords and their organisations to respond on this aspect of the consultation. In terms of our evidence however, the Panel and LAW is clear that reputable landlords that have signed up to the voluntary scheme welcome the proposal while others have merely sought clarification of the business benefits. With the private rented sector increasingly becoming a tenure of choice in Wales for many and the only viable option available to many in housing need, it is important that the sector improves its image and the training and licensing of landlords will help achieve this in a proportionate way that will in our view offset any negative consequences that may arise. It will help to make landlords and agents more aware of their responsibilities and also easier to contact about initiatives, etc. Coupled with an on-line search it will also help tenants to more easily verify landlords and agents. All this should improve the image and condition of the PRS.

The proposed scheme will create a comprehensive register of landlords (and agents), which isn't currently possible. This will provide contact information and statistics on the PRS. Strategically this will assist LAs to plan their improvement activities by targeting education campaigns and proactive inspection activities as well as providing valuable additional information for Housing Need and housing Market Assessments. The Strengthening of the available market data will be of significant benefit to Strategic Housing Authorities in understanding and responding to their local housing markets more effectively and appropriately.

Currently due to the size and resourcing of LAW it cannot offer training courses for landlords and agents on-line. However the new licensing training must be able to be offered in a number ways (e.g. on-line, in classrooms both on week days and weekends). The intention of Welsh Local Authorities is to be able to offer these options however the development costs must be able to be covered by the Welsh Government. Having a selection of ways in which

landlords and agents can meet the licensing aspect of the legislation will mean it is easier and less cumbersome for people to access.

There is however a clear need for landlords (and agency staff) to be given information and training. Paragon Mortgages landlord panel showed 78% of those surveyed have a “significant” need for advice on landlord matters. Changes to legislation and tax have only fuelled landlords’ desire for more help and advice, with 46% saying they were finding it difficult to keep up with changes to legislation.

A Rent Stopping Order (s.21 of the Bill) is not a concept the Housing Technical Panel is comfortable with. We have concerns that a rent free period for a tenant may leave the tenant open to landlord intimidation and cause stress and vulnerability to them. In addition, when Universal Credit is introduced but not administered by Councils it is hard to anticipate how well such orders would dovetail with rent paid. However it is acknowledged that as a form of deterrent and incentive to comply with the legislation it could be a provision with weight.

The Housing Technical Panel would however like to see that a landlord could not serve a section 21 Housing Act 1988 notice for possession if not registered / licensed; as is the case with tenancy deposit protection and HMO licensing compliance.

Financial Implications of Part 1

We believe provision is being made to ensure that the registration and licensing arrangements will be self funding and this is welcomed. However, we do have concerns regarding the Case law (Hemming v Westminster) which suggests it might not be possible to use the landlord registration scheme fees to take enforcement action against non registered/licensed landlords and agents. This matter requires further clarification within the legislation.

Careful consideration will be required to ensure that resources are in place to deliver effective enforcement action. The definitions contained in section 2 must also be more robust to ensure that the complex nature of property ownership, landlord and tenant contractual arrangements and management relationships cannot be manipulated to avoid compliance. There will be a need to identify landlords who have not registered and to follow through on enforcement actions once offences have been established. Welsh Government have previously made provision, in similar circumstances, for adjustment to the revenue support grant e.g. to implement House in Multiple Occupation Licensing under the requirements of the Housing Act 2004. Alternatively, it may be possible to stipulate that fees could be used for these specific purposes or higher fees chargeable for non compliant landlords. This could prevent challenge of fees in future.

Part 1 requirements prescribe additional statutory powers and duties to be placed on Councils. This being the case, it is important to fully assess the additional burden that enforcing such a scheme would have and the best model for such enforcement. As this detail remains unclear, the assumptions contained within the financial impact assessment should be viewed with caution until the true financial implications for local authorities can be

adequately quantified. In our view the present conclusion that the new measures are “cost neutral” to local authorities on the basis of a self financing model is premature and misleading.

The proposals in our view will improve housing standards and perceptions of the sector. However this can only be achieved if the scheme is consistently and effectively enforced across Wales and this will require effective (and proportionate) penalties and resources.

Part 2 – reform of homelessness law to include use of suitable accommodation in the private sector

General Comments

The clear focus on prevention of homelessness and the adoption of a ‘housing options’ approach to meeting peoples’ housing needs is welcomed, in particular the ability of local authorities to make better use of suitable accommodation in the private rented sector. Environmental Health Services have a clear role in improving standards within the private rented sector and where necessary taking enforcement action to secure property and management improvements. Local authorities have been developing private sector access schemes and Environmental Health Services have had key roles in those proposals across Wales. The proposals to licence private landlords as set out in Part 1 will enable tenants and local authorities to have greater confidence in the sector and help drive up standards. The two measures should therefore be seen as complimentary.

Landlords are increasingly reporting difficulties in managing rent arrears arising from low local a housing allowance rates in certain areas and the failure of tenants to pay shortfalls in rent. This is already proving a barrier to the use of the private sector for certain groups and continued welfare reform may exacerbate this situation. It is also leading to increased workloads for local authorities in managing threats of eviction and failures of landlords to undertake repairs. The ability of the sector to meet affordable housing need, particularly in high demand housing areas, cannot therefore be assumed and further work on overcoming these barriers for landlords is required of both local authorities and Welsh Government if this measure is to meet expectations.

The private rented sector in Wales is projected to reach over 20% of the stock by 2020 and will soon be larger than the social housing sector. The burden on housing enforcement services of regulating this sector cannot be underestimated and the introduction of this power may lead to additional accommodation being provided and the increase potentially of shared housing in particular. At a time of local government budget cuts, creative approaches to ensuring suitable and safe housing offered as part of this measure are required. The licensing of landlords will help ensure that limited resources are focused on poor properties and landlords while ensuring standards and perceptions of the sector facilitate the increased use of the sector.

Part 7 – power to charge more than the standard rate of council tax homes empty for over a year.

General Comments

Tackling long term vacant properties is a key priority for local authorities and any measure that assists in this activity is welcomed. The introduction of a discretionary power will also compliment the strategic approaches adopted by local authorities to bringing about the re-occupation of long term empty properties in their areas, ensuing a tailored approach to local issues can be developed.

The definition of long term vacant property in the Bill refers to properties vacant for more than 12 months. This differs from the Strategic Policy Performance Indicator PSR/004- “*The percentage of private sector dwellings that had been vacant for more than 6 months at 1st April that were returned to occupation during the year through direct action of the local authority*”. Given the priority given by local authorities to bringing empty properties back into use and the monitoring of this activity via the Strategic Indicator, it is unclear why the definitions of long term vacant property are different and this, in our view, may be unhelpful and should be harmonised. Any additional income derived from the use of this discretionary power should be targeted at (ring-fenced) initiatives and action to tackle long term vacant properties.

There remains the issue of “second homes” in some part of Wales and there remains a need to consider the use of further discretionary powers for that type of accommodation to ensure vacant properties do not get re-described as second homes rather than vacant properties. This is a potential enforcement issues and will further hinder the efforts of many local authorities to ensure an adequate supply of housing for local people.

Contact for enquiries in respect of this response should be made to:

Mrs Louise Davies
Secretary of WWhoEHG Housing Technical Panel,
c/o Public Health and Protection Department,
Rhondda Cynon Taf CBC.
Ty Elai, Williamstown, CF40 1NY
Louise.M.Davies@rctcbc.gov.uk
Tel: 01443 425385