



HB 66
National Assembly for Wales
Communities, Equality and Local Government Committee
Housing (Wales) Bill : Stage 1
Response from : Wales Audit Office

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Sarah Beasley

CONSULTATION ON THE HOUSING (WALES) BILL

I am writing in response to the Committee's consultation on the Housing (Wales) Bill. In general terms, I am supportive of the principles underpinning the Bill but I thought that it would be helpful to set out in more detail some observations based on the Wales Audit Office's audit intelligence.

Before addressing some of the key areas covered by the Bill, I should note that the Bill raises some, as yet, unanswered questions about regulatory responsibilities with regard to the new statutory duties that it would place on local government in Wales. While there are not any new audit powers or duties assigned to me in the Bill, there are likely to be instances where work carried out in relation to my existing audit powers and functions, in particular work undertaken under the Local Government (Wales) Measure 2009, will touch upon requirements that the Bill may introduce, such as in relation to homelessness reviews and strategies. It would be helpful to clarify regulatory responsibilities as the Bill progresses and I shall be seeking further dialogue with the Welsh Government in that regard.

Compulsory registration and licensing scheme for private rented sector landlords and letting and management agents

The increasing importance of the private rented sector within Wales and the UK as a whole is undeniable. The private rented sector is rapidly growing as a proportion of the housing market and understandably the Welsh Government wants to ensure that tenants are protected. Undoubtedly there are stories of properties in poor condition, bad management and sometimes illegal eviction. On this basis I believe the focus on raising standards in the private rented sector is essential.

My January 2012 report on *Progress in Delivering the Welsh Housing Quality Standard* noted that, in 2001, the Welsh Government's *Better Homes* strategy aspired to all people in Wales being able to live in good quality homes, based on the general principles that now underpin the Welsh Housing Quality Standard (WHQS). And the original guidance on the WHQS for local authorities in 2002 emphasised that it had been developed to provide a common target standard for the physical condition of all housing in Wales. While the original 2012 target date related specifically to social housing, the guidance for local authorities indicated that separate guidance would be issued to deal with privately owned housing. However, in the 2010 strategy, *Improving Lives and Communities*, the Welsh Government stated that the WHQS does not apply to the private sector, though the need for improvement is similar. In contrast, the National Audit Office reported in January 2010 that good progress had been made towards achieving the 'Decent Homes' standard across private sector housing in England.

From the work of the Wales Audit Office, it is clear that many local authorities struggle in identifying and working with private landlords who operate in their area and that this limits their ability to take a strategic lead on this core sector of the housing market. The proposed registration and licensing scheme has therefore some merit in enabling authorities to deliver better their strategic housing responsibilities. However, the scheme's development and implementation must be carefully managed to ensure the approach does not become too over-ambitious, especially as past changes have not delivered what was expected. For example, 'houses in multiple occupation' licensing has been in force for some time but improvements have been limited to date despite authorities having the powers to comprehensively regulate these properties and their landlords.

The Bill also proposes a number of civil and criminal penalties to encourage landlords to register their properties with local authorities. The sanction of 'rent stopping' - which would result in rent or service charges not being payable by the tenant if a landlord and the property is not licensed - may have unintended consequences and needs to be managed carefully and applied sensitively. I am concerned that application of the rent stopping sanction may result in tenants being subject to intimidation, harassment or illegal eviction by landlords who have seen their income reduced. This would be counter to the spirit of the legislation.

Homelessness

In September 2013, I published my report on *Local Improvement Planning and Reporting in Wales*. The report included information on how well local authorities are managing their homelessness prevention services. My report concluded that the success of homelessness prevention services in Wales cannot be properly evaluated because current measures are inadequate and there are weaknesses in data collection, interpretation and guidance. With the Bill proposing to strengthen the duty on local authorities to prevent homelessness, it is important that effective and accurate systems are put in place to measure and evaluate. These are the fundamental principles of good governance and accountability and need to be carefully considered in drafting the bill. The regulatory impact assessment appears to major on the costs of generally

administering homelessness cases, and is light on strengthening these wider systems and their costs.

The Committee may also wish to scrutinise further the impact of the Welsh Government's plans to amend the priority need status of former prisoners. The potential financial savings for local authorities that the Welsh Government has identified are understandably attractive in the current financial climate and I recognise that the current system has created certain difficulties. However, the Welsh Government's regulatory impact assessment does not appear to address the question of whether the proposed changes may drive up costs elsewhere across public services, taking into account evidence about the relationship between access to housing and re-offending.

The Bill also recognises the private rented sector's important role in preventing and addressing homelessness through a new power which will allow local authorities to discharge the statutory homelessness duty in the private rented sector. While I welcome this proposal, I do have some concerns that it may not have the desired impact sought, and I question the viability of the private rented sector as an alternative when these changes are considered alongside the proposals for licensing private landlords and the rent stopping order. The impact of licensing and the proposals for rent stopping may discourage landlords to let housing and could result in a reduction in the supply of homes to support local authorities to tackle homelessness. The application of these three policies will need to be carefully managed to ensure they do not result in adverse consequences for local authorities and vulnerable homeless people seeking accommodation.

I have some reservations about the proposal to allow authorities the option of applying the intentionality 'test' and allowing them to use their discretion for some or all of the 'priority need' groups. The risk is that people with similar needs across Wales will receive different standards of service. While I acknowledge the importance of applicants taking responsibility for their behaviour, intentionality needs to be applied consistently to ensure vulnerable homeless people secure a sustainable housing solution and are not disadvantaged.

Finally, I welcome the Bill's proposal to strengthen the legal duty on Registered Social Landlords (RSLs) to co-operate with local authorities. My November 2010 report on *Housing Services for Adults with Mental Health Needs* found that in many parts of Wales, some people with low-level mental health needs continued to face difficulties in accessing suitable housing and related services. The report made a series of recommendations to the Welsh Government including the need to ensure RSLs limited the use of restrictions to services and worked more effectively in partnership with local authorities. However, the Committee may wish to consider whether the current wording needs to be strengthened further to ensure Registered Social Landlords do not exercise their options not to co-operate if it is considered incompatible with their duties or will have an adverse effect on their functions. Without these matters being addressed this duty may not go far enough to provide the assurance that RSLs are doing all they can to assist local authorities to tackle homelessness in Wales.

Gypsy and Traveller communities

Gypsies and Travellers are one of the most disenfranchised groups in society. The Gypsy and Traveller culture has unique characteristics that are often not properly understood by local government, practitioners or the settled community, and this can lead to a high level of exclusion in society, particularly when attempting to access services. The proposal in the Bill to require local authorities to provide suitable and sufficient sites where the need for sites has been identified is to be welcomed.

I am currently consulting on my forward work programme of local government studies for 2014-15 and I am considering whether to undertake a review to assess how well local authority services plan for and meet the needs of Gypsies and Travellers and how well they are progressing delivery of the 'Travelling to a Better Future' policy framework. This would be a cross cutting review of local authority services and would touch upon for example education, social care, housing, planning, access to benefits and waste services. The study would also look at the role of planning within National Parks. I expect to confirm my 2014-15 programme of local government studies within the next two months.

Welsh Housing Quality Standard (WHQS)

In the explanatory memorandum to the Bill, the Welsh Government refers to my January 2012 report on *Progress in Delivering the Welsh Housing Quality Standard*. That report found that while many tenants have seen substantial improvements in the quality of their housing, the original aim that all social housing would achieve the WHQS by 2012 will not be met for some considerable time. My report noted that, despite substantial investment, progress towards the WHQS had been affected by the slower than expected development of landlords' work plans and timescales for local-authority stock transfer. However, my report also concluded that the Welsh Government had not, itself, acted swiftly enough to support and monitor progress and had not put an effective framework in place to demonstrate value for money from the significant investment in work to achieve the WHQS.

I am aware that, since publication of my report, there has been a strong focus on improving the monitoring of compliance with the WHQS and in seeking to address through the Ministerial Taskforce the particular challenges facing certain local authorities. The Public Accounts Committee has also taken evidence and reported on this issue. As part of its response to the Committee's recommendations, the Welsh Government had initially indicated that it would undertake some random sampling of properties as part of a planned evaluation exercise in relation to the WHQS. However, the Committee was concerned to learn that the Welsh Government later stepped back from this commitment. Instead, the Welsh Government indicated that its focus in the short-term was to use the evaluation work to consider the general effectiveness of landlords' own approaches to monitoring their properties' compliance with the WHQS. One of the areas of concern relates to the interpretation of the 'acceptable fail' criteria.

I am not, as yet, aware of the findings of the Welsh Government's evaluation work. However, the Committee may wish to seek further evidence in this regard and to explore how, in practice, the application of the acceptable fail criteria would need to be evidenced in order for local authorities to avoid sanctions for non-compliance.

The Welsh Government has indicated that the costs involved in monitoring compliance with the Bill's requirements in respect of the WHQS would be no different to the costs incurred under the current monitoring regime. However, the Committee may wish to consider whether there is a need to strengthen further the current monitoring regime in light of any emerging evidence about the robustness of landlords' own arrangements for self-reporting.

Housing Finance

Abolition of the Housing Revenue Account (HRA) Subsidy system in Wales will bring Welsh local authorities into line with those in England. I am aware that following the abolition of HRA subsidy, some authorities in England are anticipating financial affordability issues arising from the impact of depreciation and impairment charges.

Under the self-financing model, authorities need to continue to recognise depreciation and impairment charges in the HRA. Under the current arrangements these charges are 'reversed out' of the HRA and replaced by a statutory requirement to make a minimum revenue provision for the redemption of debt. Depreciation and impairment are likely to be significantly higher than the minimum revenue provision. The 'reversal' arrangement does not apply under the self-financing model.

Local authorities are required to carry housing assets at existing use value rather than cost. Most, if not all, capital expenditure incurred on housing stock is therefore unlikely to result in an increase in the carrying value of the stock. Any expenditure that does not increase carrying value is treated as an impairment in the value of the stock and written off to the HRA insofar as it cannot be offset against earlier revaluation gains reflected in the Revaluation Reserve.

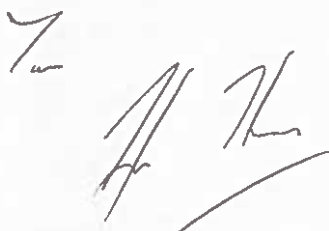
As at 1 April 2007, the cost of local authority assets was deemed to be their carrying value at that time. The Revaluation Reserve established on 1 April 2007 only reflects revaluation gains since April 2007. Therefore, while the value of the housing stock almost certainly exceeds the costs by a significant margin, this is not reflected in the balance on the Revaluation Reserve. While impairment is normally set against previous revaluation gains, the scope for that is likely to be limited in the HRA. Impairment therefore needs to be recognised in the HRA income and expenditure account. I would be happy to work with the Welsh Government and CIPFA to ensure that this issue is given appropriate consideration in Wales.

Abolition of the HRA Subsidy system would also mean that the 11 remaining Welsh housing authorities would need to complete final HRA Subsidy returns. It will be important to ensure that the timescale for abolition of HRA Subsidy is sufficient to allow for the completion of the final subsidy claims.

Council Tax for Empty Dwellings

I welcome the proposal to provide local authorities with the discretionary power to increase council tax on “dwellings that have been both unoccupied and substantially unfurnished for a continuous period of at least one year”. With high level of housing need and limited resources available to enable new housing development it is important that all avenues to increase the supply of housing and make better use of assets are to be encouraged.

I hope that this response is helpful to the Committee.

A handwritten signature in black ink, appearing to read 'Huw Vaughan Thomas', written in a cursive style.

HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES