

1. Citizens Advice Cymru welcomes the Renting Homes (Wales) Bill which we believe will help improve the legal framework for renting homes in Wales. We support the proposed replacement of the current complex legal framework for renting homes with one that is much clearer, logical and more easily understood by landlords and tenants. The Bill offers the opportunity for Wales to lead the UK in reforming tenancy law by simplifying, clarifying and improving the legal framework and providing greater equity of rights across tenures, while retaining the balance of power between landlords and tenants.
 - 1.1. We support the proposed replacement of the current array of contracts with the requirement for a written occupation contract which includes explicit rights and responsibilities of the landlord and tenant. However, we believe the model contract would benefit from further direct work with tenants to ensure the meaning is clear and easily understandable to reflect ranges in reading ability, and that the length of the document does not stop people from knowing and exercising their rights. Please see 7.5 – 7.7, page 20 for further details.
 - 1.2. We believe care must be taken to ensure that the Bill is internally consistent and links clearly with the Housing (Wales) Act 2014¹, in particular Part 1 and 2 and their surrounding regulatory framework. We call on Welsh Government to improve the linkages with the Housing Act, and to ensure the new landlord and letting agent licensing, registration and enforcement regime is used to enable this Bill to achieve its aims.
 - 1.3. It will be essential that effective enforcement mechanisms are put in place to ensure that the legislation achieves its key objectives. We feel that improvements should be made in this area and have suggested additional enforcement options, to sit alongside the option of court action. Please see section 6, pages 18 and 19 for further details.
 - 1.4. We are pleased to see retaliatory eviction on the face of the Bill, however we believe this should be further strengthened to ensure that rogue landlords stop this practice and tenants are unable to manipulate it to the landlord's detriment. Further, we want to see the 6 month restricted period on issuing notices for landlords found in breach of an information requirement (s174) extended to cover all fundamental breaches of the occupation contract, strengthening the current protection offered to tenants to against retaliatory eviction. Please see 5.9 – 5.19 pages 15 and 16 for further details.
 - 1.5. We, alongside other information and advice providers across the third sector, have concerns regarding the removal of the 6 month moratorium on 'no fault' evictions, as we believe will decrease tenants' rights and security of tenure. We wish to see the Bill strengthen security of tenure for all and in particular, those within the Private Rented Sector (PRS). We consider this proposal to be inconsistent with the broader aim of making the PRS a sustainable and high quality sector of the housing market in Wales. In our view, the benefits of retaining the moratorium far outweigh any concerns that this will undermine the simplicity of the proposed legal framework. Please see section 4 pages 12 and 13 for further details.
 - 1.6. Further details.

- 1.7. We feel the increased clarity of the legal framework for renting homes in Wales could go further through simplifying the language used throughout to ensure its accessibility and give clear meaning. For example, we would like greater clarity on the face of the Bill regarding the extent to which the Minister will be able to use regulatory guidance to achieve the aims of the Bill. We are concerned that the *'Welsh Ministers may by regulations'* is applicable to the fundamental and supplementary terms, anti-social behaviour and prohibited conduct, abandonment, and the schedules.
- 1.8. We believe further work is needed in the Explanatory Memorandum (EM) that supports this Bill to outline how people in Wales will be informed about these changes and able to apply them in their lives. We therefore call on Welsh Government to clarify how tenants and landlords will be made aware of their rights and be enabled to use them following the Bill, with regards to public information, advice and guidance. Please see section 7 pages 19 – 21.
- 1.9. In a similar manner we believe the Regulatory Impact Assessment (RIA) underestimates the cost to Local Government and the third sector to understand the implications of the Bill. Familiarisation costs are included for legal professionals, private and community landlords but not for Local Government and third sector staff. Please see 7.2 page 20
- 1.10. Citizens Advice Cymru believes free appropriate and impartial advice makes society better and that organisations must be supported to continue to offer free advice, through a range of channels², so it is available to everyone who needs it, when they need it to help them make complex decisions about the problems they face and have the confidence and opportunity to act on the issues that concern them. We would welcome the opportunity to support the work we believe is still needed to make sure the tenants and landlords are clear in what this Bill means for them and how it will impact on their everyday lives. We want to ensure that people accessing our services can access clear information and make informed housing choices.

Citizens Advice Cymru calls on Welsh Government to

► Enhance tenant security by:

- Reinstating the 6 month moratorium
- Changing the default position at the end of a fixed term contract to another fixed term, NOT the periodic contract
- Stopping periodic contracts being used for indefinite periods and requiring landlords to offer fixed term contracts
- Making all possession orders for serious rent arrears discretionary
- Providing greater clarity on addressing retaliatory eviction (section 213) through:
 - Giving clear timescales
 - Eviction guidance for other grounds
- Applying the 6 month restricted period on a landlord serving a possession notice to breaches of ALL fundamental elements of the occupation contract
- Altering the Key Matters document to include:

² Channels refer to the method of delivering advice, e.g. face to face, telephone and online

- 'Fitness for human habitation' so that the state of the dwelling is listed
- Notice to quit information for both parties
- Providing clear guidance on the use of exclusions within supported contracts to promote the safety of all parties

▶ Ensure the Renting Homes Bill links to the Housing (Wales) Act 2014 by:

- Creating a range of enforcement and support options to enable effective implementation including:
 - Fixed penalty fines
 - Independent mediation services for landlord and tenants
- Ensuring landlord contract breaches are recorded against their licence, with serious or repeat offences leading to revocation of their licence

▶ Provide greater clarity on:

- How and where changes or additional terms are recorded within the contract
- Charging for the written statement and its reissue
- How the third sector will be informed and supported to ensure they are able to support tenants and landlords wanting to exercise their rights and understand their responsibilities
- How the model contract will be developed with tenants and landlords to ensure it is an accessible document
- The process and timescales for establishing abandonment
- The process for establishing proof of prohibited conduct

▶ Change the definition of a Carer to bring this in line with the Social Services and Well-Being Act

Housing in Wales

2. The pressures on our housing market are well documented, with community landlord dwelling numbers estimated to have dropped by 8 per cent since 2000/01 and owner occupier numbers have been falling since 2006/07³ resulting in the PRS being the only realistic housing option for increasing numbers of people. PRS renters are a diverse group, with growing numbers of families with children, young people and older people living in this sector⁴. We believe it is therefore paramount that this sector of the housing market is better regulated to ensure adequate consumer protections are in place.
 - 2.1. The PRS is the largest growing housing option for people in Wales⁵, having increased from 7 – 14 per cent of the housing stock between 1996 – 2012/13. This sector contains some of the worst housing stock in Wales, including some of the most energy inefficient properties⁶ and 40 per cent of properties contain at least one Category 1 hazard⁷ under the Housing Health and Safety Rating System (HHSRS)⁸. Previous research by Consumer Focus Wales also shows that while consumers generally felt well protected by regulation, this was with the exception of those living in PRS⁹.
 - 2.2. Many individuals and families chose to live in PRS, as do increasing numbers of vulnerable people and homeless households. Shelter Cymru's recent [Fit to Rent?](#) report noted, tenants living in PRS because they had no choice outnumbered through wanting to be there by 4 to 1¹⁰. This issue of the sector not being the first choice for people as a viable long term solution to meet their housing needs and aspirations was echoed in our recent online survey where 71 per cent of respondents aspired to own their own home in the future, compared to only 8 per cent aspiring to live in the PRS.
 - 2.3. The Housing Act recognises the value of a good quality PRS and the important role it can play in meeting housing need and preventing homelessness and this Bill will further support this aim. Consistency and alignment of this Bill with the Housing Act is very important and we include suggestions for improvements in alignment in relation to enforcement and the role of the PRS in homelessness prevention throughout.
 - 2.4. The Housing Act recognises that the PRS can play a vital role in addressing homelessness, and requires Local Authorities to ensure that any rented property used to prevent or alleviate homelessness is 'Available for at least 6 months'. We are very concerned that the proposed removal of the 6 month Moratorium on 'no fault evictions' will limit the role the PRS can play in homelessness prevention and the ability of Local Authorities to prevent homelessness. There is the danger that this change directly and indirectly lead to an increase in homelessness.
 - 2.5. The proposed Renting Homes Bill is a welcome move which will help clarify relationships between landlords and tenants; promote understanding and ensure consistency of practice. Consumer Focus Wales (from whom we have inherited responsibilities to represent consumers in Wales) called for and supported this within

³ Welsh Government, *Dwelling Stock Estimates* show that the Private Rented Sector doubled from 7 per cent in 1996 to 14 per cent in 2012/13 (April 2014)

⁴ Shelter Cymru, *Fit to rent?*, March 2014

⁵ Welsh Government, *Dwelling Stock Estimates* show that the Private Rented Sector doubled from 7 per cent in 1996 to 14 per cent in 2012/13 (April 2014)

⁶ Shelter Cymru

⁷ BRE and Shelter Cymru, *The Cost of Poor Housing in Wales* (April 2012)

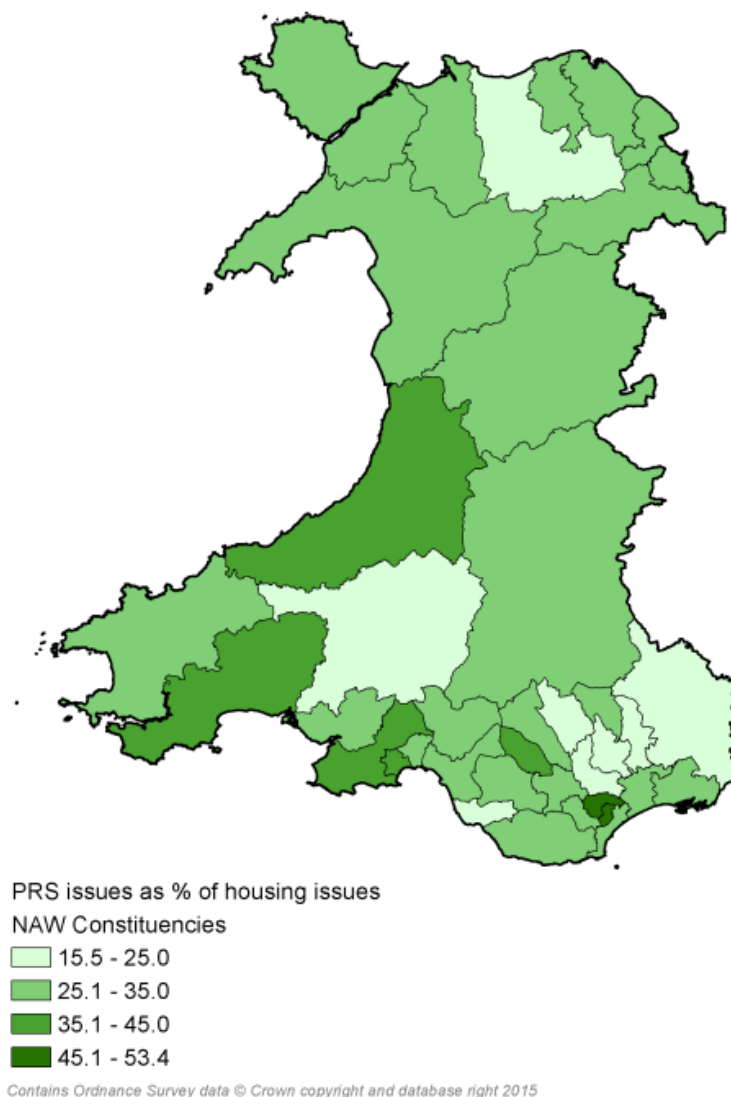
⁸ The Housing Health and Safety Rating System is a risk assessment tool used to determine whether residential premises are safe to live in, with Category 1 being the most serious type of hazard

⁹ Consumer Focus Wales research (2011) unpublished

¹⁰ Citizens Advice Cymru research (2015) unpublished

[‘Their house, your home’](#) whilst calling for additional work on the model contract to make it more accessible to tenants.

- 2.6. Housing issues make up on average 5 per cent of all enquiries made to Citizens Advice Bureaux in Wales every year. Over the past 12 months, this means of the 166,550 people we saw who reported 600,000 issues, nearly 19,000 people were experiencing housing problems with a reported 27,000 issues. The difference between the number of people and problems shows that one person is likely to have more than one issue with their housing that they are seeking help and advice with.
- 2.7. Between October and December 2014 nearly every area of advice saw increases when compared to the equivalent quarter of the previous year. Housing issues were no exception, up 18 per cent compared to last year with more than 2,700 seeking help, nearly a third of those with problems in the PRS. This follows the ongoing trend of the past three years where PRS tenants account for nearly a third of all housing issues. We consistently see double the amount of clients renting in PRS compared to those renting from community landlords, despite both now housing similar numbers in Wales¹¹.



¹¹ [Stats Wales estimates](#) Local Authority and Registered Social Landlord housing stock for 2012-13 is 16% of the market. The Private Rented Sector is estimated at 14%.

Figure 1: Map of Wales showing Private Rented Sector as a percentage of all housing issues seen across National Assembly of Wales constituencies for the previous 12 month period

- 2.8. In a similar manner, those accessing our online advice and information resources disproportionately look for advice relating to renting from a private landlord when compared to community landlords. Over the past 3 years the top five housing related pages viewed on [AdviceGuide](#) across England and Wales have been: help with rent (housing benefit); common problems with renting; tenancy agreements; buying a home and renting from a private landlord. Unique page views relating to renting from a private landlord were 377,178 where as over the same 3 year period for community landlords were just 24,826 showing the marked difference in the level of problems people are likely to be experiencing and seeking information, guidance and advice on.
- 2.9. Wales only data¹² shows the top 5 housing information pages have been: help with rent (housing benefit); buying a home; neighbour disputes; common problems with renting; and renting from a private landlord. Again, those seeking information about private renting (9,146) greatly outnumbered those in social housing (4,791).
- 2.10. In the last three quarters of this financial year we have seen over 3,500 clients seeking assistance with their PRS issues, compared to just under 2,000 from the social rental sector. The top 3 issues¹³ PRS tenants sought help with were: repairs and maintenance; rent and other charges and tenancy deposit protection.
- 2.11. For the same period 1,900 clients living in community landlord accommodation have sought information and advice across Wales with the top 3 issues¹⁴ being: the quality of service received; repairs and maintenance; and the suitability of accommodation.
- 2.12. Citizens Advice Cymru are particularly concerned about the additional cost of moving as our client records show that people are now increasingly struggling to manage their daily costs of living. With the decrease in security of tenure put forward by the Bill, tenants could be subject to the cost and disruption of more frequent moves as an unintended consequence of the Bill.
- 2.13. The face of debt is changing with increasing numbers of clients coming to us regarding arrears on household bills, as they struggle to make ends meet. Consistently over the past couple of years the most common debt problems in Wales have related to consumer debt such as credit/store cards and personal loans. During the last six months this has been overtaken by people seeking help with Council Tax debt, which now makes up 12% of all debt-related enquiries. Similarly, we are seeing increasing numbers of people seeking help with rent arrears across the social rental sector and PRS, accounting for 5% of all debt enquiries in Wales. Comparing the third quarter of this year (Oct – Dec 2014) to the equivalent quarter the previous year, rent arrears problems have risen by 23 per cent.
- 2.14. People are now increasingly struggling to cover their everyday costs, therefore any additional costs such as moving, paying for a new bond (while waiting for the return of the existing one), letting agent's fees and so forth, could push people into, or further into debt. Having a financial safety net, such as savings or insurance protection products, can help people cope with such unforeseen expenses, but during such difficult economic times it can be especially hard for people to save for something which may or may not happen. From previous research¹⁵ we know that people are ill equipped to do

¹² These numbers can be collated separately where Google has been able to identify that the pageviews below came from a Welsh IP ISP or Address, or was routed through Wales

¹³ Excluding those without categorisation or classed as 'other'

¹⁴ Excluding those without categorisation or classed as 'other'

¹⁵ Citizens Advice Cymru and Shelter Cymru, [Meeting Housing Costs in Wales](#), 2014

this, with nearly half (49 per cent) of Welsh adults who pay for their housing struggle at least some of the time to keep up with payments and 12 per cent struggle constantly.

- 2.15. Similarly, our research found 28 per cent of working adults in Wales do not have sufficient savings or insurance protection products to enable them to continue to make housing payments for more than **1 month** if they were to lose their source of income. One in six (17 per cent) would not be able to afford their rent or mortgage at all. These findings echo with the Legal and General report¹⁶ which found across the UK 37 per cent of all households have no savings. The report also showed that people in Wales have the lowest level of savings across the regions with a median of only £520, and are on average only 15 days away from the breadline.
- 2.16. In order to understand the impact of moving on PRS tenants better, we conducted both in-depth interviews¹⁷ as well as an online snapshot survey¹⁸. This is considered throughout the following evidence.

Occupation Contracts

3. We support the requirement for a written occupation contract which includes explicit rights and responsibilities of the landlord and tenant. We are pleased to see on the face of the Bill the proposals for the contracts, including:
- The explicit inclusion of domestic abuse as a ground for possession, enabling the removal of one party from a joint tenancy and Welsh Government's ongoing commitment to tackling gender violence and abuse.
 - The introduction and principle of the Secure Contract, equalising the rights for those living in housing provided by community landlords. The opportunity for Private Rented Sector (PRS) landlords to take-on these contracts under 17(2) is also a welcomed addition.
 - The positive assumption of consent where landlords' fail to provide written consent for changes requested in line with a tenants' contract.
 - The 6 month limitations on the use landlords can make of possession notices and believe this will help eradicate bad practice by some landlords of issuing notices alongside contracts as a means of shortening the court process for eviction if required later in a tenancy.
 - The extension of the right to hold an occupation contract to 16 – 17 year olds and the improvements to the arrangements for joint tenants.
 - The strengthening and clarity of succession rights and in particular, the inclusion of Carers within this. We believe this is a progressive step and supportive of the wider Welsh Government agenda to support Carers, however in order to bring this in line with the [Social Services and Wellbeing \(Wales\) Act 2014](#) definition of a Carer, we wish to see the following on the face of the bill:

¹⁶ <http://www.legalandgeneral.com/library/protection/sales-aid/W13612.pdf>

¹⁷ Citizens Advice Cymru research (2015) unpublished

¹⁸ We ran a short online survey for 4 weeks with questions focused on the PRS. This was publicised by our bureaux network and partners from across the third sector. 304 responses were received in English and Welsh. Citizens Advice Cymru research (2015) unpublished

*A ‘carer’ means a person who provides or intends to provide care for an adult or disabled child which is not provided under or by virtue of a contract, nor is voluntary work.*¹⁹

This would remove the requirement that carers must be providing “a *substantial amount of care on a regular basis*”, matching the Housing Act and ensuring the same approach to identifying and supporting carers is used throughout Welsh Government policy and legislation.

3.2. We would welcome greater clarity on the face of the Bill on the following sections:

- Chapter 5, how and where changes or additional terms are recorded within the contract. This is to ensure that both parties are clear on any deviation from the fundamental or supplementary provisions for a given contract. Please see section 7 on pages 19 – 21 for further comment.
- Charging for the written contract (s31). To ensure that neither letting agents nor landlords can charge for providing the written statement, we wish to see letting agents included within 31(2). Similarly, we seek clarity on charging for reissuing contracts at the end of a fixed term contract, or when moving from one contract type to another, such as from a periodic or introductory contract to a fixed term or secure contract. Our advisers report current practice of charging for reissuing contracts can vary from £35 - £150²⁰, sometimes a cost many low income households can ill afford to meet, therefore we seek clarity on the face of the Bill to ensure costs are minimised and reflect the cost of issuing and processing.
- Prohibited conduct (s183) and the landlord’s responsibilities for establishing breaches. We believe the current wording enables landlords to use witness testament or cautions that a breach is, or may occur, as opposed to current practice which requires a higher degree of proof (convictions)²¹. We want to see the requirement to produce evidence of a conviction on the face of the Bill.
- Abandonment (s66). Current proposals enable landlords to provide a written notice they believe a property has been abandoned and make inquiries over a 4 week notice period before taking possession without a Court order. We believe the timescales are too short to establish abandonment, particularly for those paying by calendar month rather than weekly. We seek greater clarity on the steps to be taken by landlords and an extension to a 8 week period

3.3. Consumer Focus Wales²² research on contracts found that some tenants struggle to understand them and do not feel that they have enough time to read them before being asked to sign agreeing to the terms and conditions. Similarly, the research noted tenants often are not aware of their rights or what to do when there was a problem. We therefore welcome the Bill and indications of the guidance to be issued as a result of it by the Minister’s officials with regards to ensuring tenants have sight of the contract prior to being asked to sign it, as well as the contract to include clearer rights, responsibilities and information on the state of the property, its fixtures and fittings.

Standard Model Contract

¹⁹ This combines the relevant wording of the Act’s definition of a carer.

²⁰ Letting agent fees as reported during consultation with advisers. English bureaux participated in [Still let down](#), research into letting agents this year which found renewal fees in England varying from £15 - £300

²¹ Ground 2(b) of Schedule 2 Housing Act 1985 (Grounds for possession let under secure tenancies) requires evidence of a conviction

²² Consumer Focus Wales, [Their house, your home](#), 2012

- 3.4. We want to see the Bill strengthen security of tenure for all tenants and in particular those within PRS. The standard model contract offers this opportunity. Our online survey found that 80 per cent of respondents wanted tenancies for 6 months or more. 31 per cent wanted contracts for a year or more, showing that many people want longer term security of tenure. Issues on the length of contracts available were a common theme in the comments given within the survey, such as:

“You can’t call a house your home looking at a life through a 6 month window (contract). Our last home was sold TWICE whilst we were tenants”

“I think the biggest drawback is the lack of long-term private rentals available. Often landlords will say it is a long-term let to secure what they consider a ‘decent’ tenant. Security is important with regards to schools, Drs etc.”

“I hope to never live in the private sector again. We need to increase the minimum tenancy period.”

- 3.5. This echoes our interview findings from research conducted by Pembrokeshire and Conwy bureaux where people interviewed identified a minimum tenancy of 6 months was not long enough, and they would be happier to have the security of a tenancy for two or three years²³. This was particularly the case for clients approaching retirement and those with young families.
- 3.6. We want to see that the default position at the end of a fixed term contract is for another fixed term to be offered, not the periodic which brings the possibility of a 2 month no fault eviction notice applicable at any time. We want the Bill to increase security of tenure, not decrease it, or reaffirm current practice. Promoting fixed terms as the default will change practice overtime to offer the best security of tenure available, reaffirming the need for both parties to discuss changing contract types and what this means for them. This has been discussed within the housing sector and has some landlord support²⁴ as a means of reflecting the change in PRS tenants and their aspirations.
- 3.7. We propose that the opportunity would always remain for tenants to give notice, extending this to a 2 month notice period once into the first renewal of the fixed term. Landlords would only be able to give ‘no fault’ eviction notices when at an agreed break clause or end of a renewal period. This reflects the proposed model put forward by the Scottish government on reforming private sector rental contracts²⁵, where the period of notice by both parties is dependent on the length of time the contract has been in place.
- 3.8. Both parties would also be able to move to a periodic contract at the end of a given fixed-term period (or at agreed break clauses) to ensure that any unintended consequences of making private renting less flexible are avoided. Flexibility is a key component of this market and has been cited as a key reason why some tenants live in the sector, such as seasonal and migrant workers. Flexibility for both parties should remain, while still providing the most secure tenancy available to the individuals’ circumstances.

Periodic Model Contracts

²³ Flintshire and Pembrokeshire bureaux conducted small scale research into renting within their Local Authorities. Their work included a telephone survey with 49 current and previous clients with housing issues, as well as 18 in-depth interviews regarding people’s experience of renting.

²⁴ http://www.rla.org.uk/landlord/lobbying/docs/Longer_Tenancies_Consultation.pdf

²⁵ Please see the Scottish Government’s recent consultation document which proposes a model contract <http://www.gov.scot/Publications/2014/10/9702>

- 3.9. We advocate that no fixed term should run indefinitely as is contained within the proposed Bill. Periodic contracts offer the least secure form of tenancy, yet are advocated within the Bill as the default following a fixed term, as well as an option open from the beginning for the life time of the contractual relationship.
- 3.10. In order to offer the greatest security of tenure to tenants, we would like to see the Bill restrict periodic contracts by only allowing their use in the following circumstances:
- As an introductory contract for PRS landlords, reflecting their use by community landlords for the initial 6 month period
 - For up to a 12 month period, followed by the requirement to discuss moving to a fixed term contract and/or agree whether a periodic contract remains the best contract for the tenant.
- Or
- When used after a fixed term contract, the time a tenant can remain on a periodic contract should not exceed the length of their initial fixed term contract
- 3.11. Limiting the time tenants can remain on a periodic contract limits their vulnerability to short eviction notice timescales. As noted in 3.8 to ensure that any unintended consequences of making private renting less flexible are avoided, tenants and landlords should be able to retain their right to opt-out of moving to a fixed term contract through negotiation and agreement. Removing the default of periodic contracts continuing indefinitely without discussion would help maximise the security of tenure available.
- 3.12. We strongly believe tenants should have a right to request fixed term contracts in order to maximise the security of tenure and want to see this on the face of the Bill. Landlords should only be able to refuse this providing there had been logged issues with tenancy, such as or minor breaches of their contract.

Supported Model Contracts

- 3.13. We have concerns that the 48 hour exclusion could result in putting very vulnerable people into the street, making them temporarily homeless. As exclusions would only be used in extreme cases, we are also concerned that the risk from within the supported accommodation would be moved out into the local community. We would like to see further work by Welsh Government to ensure that those excluded are not made street homeless, but are supported appropriately in alternative accommodation.
- 3.14. We are also very concerned that the current proposal enables up to 3 exclusions to be run concurrently within a 6 month period, which if used, could leave very vulnerable people without support, as well as without access to their belongings, accommodation, the ability to store and cook food for 6 days. While this may be necessary in very rare and extreme cases, without further guidance to support the excluded individual, this could currently result in leaving vulnerable people who have been assessed as needing support as street homeless.
- 3.15. We believe excluded tenants meet the definition of homeless eligible for temporary accommodation under section 55 of the Housing Act and therefore call on Welsh Government to amend the Bill to require providers to assist their excluded tenants in presenting as homeless and accessing temporary accommodation.

Key Matters

- 3.16. We are pleased to see on the face of the Bill the Key Matters document which we believe will be central to improving tenant and landlord understanding of their contractual relationship and should clearly outline the expected behaviours of both parties. We welcome the inclusion of the rental amount and periods but call for the following to also be included on the face of the Bill:
- Notice period and procedure to be followed by the landlord and tenant
 - Condition of the dwelling with regards to fitness for human habitation
- 3.17. We want to see the specific inclusion of details on how both parties can terminate the rental agreement within the key matters document to ensure that tenants are clearly informed of the change to the previous six month moratorium, should this remain on the face of the Bill. This will make clear to tenants that should the landlord want them to leave at any time, they can do so by giving the appropriate notice. We believe that tenants must be made aware of this change to avoid confusion regarding the change in practice and to empower tenants to request and negotiate terms which provide them with greater security of tenure, should they wish to do so.
- 3.18. With our proposals outlined above, tenants will also need to be aware of their rights and responsibilities with regards to giving notice. Should a tenant be in an extended fixed term contract, they would have to give 2 month notice and therefore would need to have this information up-front to ensure compliance.
- 3.19. Previous consultation with advisers and our online survey has told us that people want to have clear details upfront about the condition of the property. 62 per cent of our survey respondents indicated they wanted clear details about the condition of the property, fixtures, fittings and garden. The issues we see, particularly for PRS renters, are most commonly connected to repairs and maintenance. We believe ensuring clarity at the outset of a let on the condition of the property and that the landlord and tenant agree it is fit for human habitation would help provide greater clarity should disputes on repairs later arise. Please see 5.14 – 5.19 for further detail regarding strengthening the fitness for human habitation clauses within the Bill.
- 3.20. In line with our comments with regards to ensuring the Bill ties clearly to the Housing Act we would also advocate that the landlords licensing and registration details should be provided in a prominent position within the contract. We would suggest consideration is given to it being placed within the key matters document.

► **We call on Welsh Government to:**

- Enhance tenant security by:
 - Changing the default position at the end of a fixed term contract to another fixed term, NOT the periodic contract
 - Stopping periodic contracts being used for indefinite periods and requiring landlords to offer fixed term contracts
- Change the key matters document to include:
 - Notice period and procedure
 - Condition of the dwelling with regards to fitness to human habitation
- Provide greater clarity within the contracts on:
 - How and where changes or additional terms are recorded within the contract
 - Charging for the written statement and its reissue
 - The process and timescales for establishing abandonment
 - The process for establishing proof of prohibited conduct

- Amend the definition of Carer in line with the Social Services and Well-Being Act
- Provide clear guidance regarding the use and practice of exclusions that promotes the safety of all parties
 - Consider placing duties on support providers to assist excluded tenants in presenting as homeless in order to access temporary accommodation

Security of Tenure – *Removing the 6 month moratorium*

4. Citizens Advice Cymru alongside many other information and advice providers in Wales²⁶ have deep concerns about the proposal to remove the 6 month moratorium on ‘no fault’ eviction and the initial security this provides tenants. We consider this proposal undermines the key principles of the Bill and Housing Act.
- 4.1. The lack of long term security in the private rented sector is one of the key concerns of households, particularly those with children. Households currently have reassurance that they will not be required to leave for the first six months on a standard assured short-hold contract, but the Bill is seeking to remove this very minimal level of security. We strongly believe that removing the moratorium will lead to a two-tier PRS and fundamentally decrease tenants’ rights and security of tenure.
- 4.2. While better-off renters will be able to negotiate fixed-term tenancies the change will leave tenants on low incomes with little choice but to accept monthly periodic contracts, leaving them liable to eviction within two months at any time. Landlords already hold the balance of power due to the shortage of properties within the sector, and this change puts renters in an even weaker bargaining position regarding the security of their tenure and meeting their housing aspirations, exposing them to the continual risk of homelessness. The weak position of low income tenants where there is limited PRS stock is clearly illustrated in our client’s story below:

Client’s Story: Feeling Trapped

Clara (not her real name) is 44 years old, single and living in Llandudno. She works part-time, earning an estimated £495 a month, but pays monthly rent of £620, leaving her in ever increasing debt, even before considering essentials such as food. She struggles with asthma that is being made worse by her current stone home as it has large amounts of damp and she is unable to afford to heat it. She is desperate to move to a home she can afford to heat as well as pay for, but says she cannot even afford the cost of looking for a new home as this means paying for internet access and every local newspaper available. She told us she cannot afford essentials such as food and clothes, and that she ***‘has to take left-over food from work’*** and how this is ***‘just what you have to do to survive’***.

In order to move into her current home, she paid a £700 security deposit and 6 months’ rent in advance on top of administration fees, making the total cost of securing her home over £4,000. Clara could only afford this as she had sold her previous home after going through a divorce. To move out she needs to give a months’ notice, pay for the new home’s security deposit and rent in advance, plus any additional costs associated with setting up her new home. This means paying for two homes simultaneously which she said means it is impossible for her to move. She described her situation as ***‘being held hostage’*** in a home that negatively affects her mental and physical wellbeing.

²⁶ Please see the [Renting Homes Bill and the Private Rented Sector: Myths and Facts](#) for the full list of signatories.

- 4.3. Outlined in the Explanatory Memorandum (EM) are the Welsh Governments' arguments for removing the moratorium, inclusive of whether *'what real security is provided solely through imposing an initial six month 'ban' on "no-fault" evictions, since evictions on other grounds can still proceed'*. While it is certainly true that six months does not represent a great deal of security for tenants, it does offer a minimal level of security, whereas the proposed changes would eradicate that completely.
 - 4.4. Similarly, the EM says that landlords state the moratorium creates *'an inflexible barrier to some types of renting'*. The Bill, like the Housing Act 1996 already allows fixed term contracts to be for any length, including less than 6 months. The standard contract enables tenants and landlords to mutually agree a length of tenancy, meeting their needs and circumstances as required. In this manner, we believe the Bill refutes this argument and provides flexibility of renting options.
 - 4.5. We have serious concerns that ending the moratorium will also undermine the Welsh Government's efforts to improve the quality and perceptions of the PRS, and expand the role the sector plays in preventing homelessness. The Housing Act encourages Local Authorities to use PRS to prevent and alleviate homelessness, but only if there is a reasonable expectation that the property is available for at least 6 months. Removing the moratorium will remove most PRS properties from the market to help prevent homelessness without specific negotiation with landlords to issue fixed term contracts.
- ▶ We call on Welsh Government to:
- Reinstate the 6 month moratorium

Notice and Eviction Practices

5. We broadly welcome the clarity around the notice and eviction processes outlined within the Bill. However, should the 6 month moratorium be removed, we call for extension to the 6 month restricted period to provide greater tenant security.
- 5.1. We suggest that the proposed penalty of a 6 month restricted period on a landlord serving a possession notice is applied to ALL breaches of the fundamental elements of the occupation contract, e.g. providing a written contract, providing information on deposit schemes and ensuring the property is fit for human habitation. This would extend (s174) *Restrictions on landlords 172: breach of information requirements* to offer some protection to tenants who identify a landlord breach of contract, thereby enhancing the commitment to end retaliatory eviction.

Serious Rent Arrears

- 5.2. We welcome the removal of ground 8 which brings parity for tenants living in properties provided by community landlords. However, we are concerned that this is effectively being reinstated by the mandatory ground for rent arrears within the periodic and standard model contract. This could result in tenants becoming victims of consequence outside of their control and finding themselves evicted without the opportunity for mitigating circumstance being taken into account. For example, a delay in a welfare

benefit as a result of a DWP processing issue could cause a tenant to fall into rent arrears which would count as a breach of tenancy, liable for mandatory eviction.

Client Story: Serious rent arrears caused by Universal Credit

John (not his real name) lives in a housing association property in a Universal Credit (UC) roll-out area. He applied for UC in September 2014 and received a Short Term Advance payment of £157. Due to ill-health, John had to then make a claim for Employment Support Allowance (ESA) in December 2014, which he was told to make over the phone as his UC claim had ended. With his local bureau supporting him to make the phone application he then sent off his fit notes to ESA as instructed. By late January 2015 he had heard nothing and received no money. By now John was falling into serious rent arrears.

Returning to his local bureau for support, the DWP department running ESA initially informed them no such application had been made, followed by the fact that John shouldn't have made a phone application as his UC was still open. The bureau worked to support John through the new processes associated with UC and the ongoing issues with its administration. John was repeatedly told that his UC payments had been made, but they were not. No housing payments were made from October 2014 onwards.

John was issued with an eviction notice by the Housing Association, with the Court date for possession on 13 February. With bureau support this date was postponed until 25 February. After 11 phone calls from the bureau, local Job Centre manager and Local Authority housing benefit manager, John was finally awarded back payment on 20 February 2015 £1,100 and his landlord £1,675 avoiding his eviction by a narrow margin.

- 5.3. We call on Welsh Government to make all possession orders for serious rent arrears discretionary, so that there is always some discretion used when granting possession.
- 5.4. We would also like to see that rent arrears practice includes early warning identification and offers of support across all tenures. Rent arrears arising through a missed monthly payment, series of weekly payments or continual underpayment should be identifiable by the landlord. We advocate that all landlords should take steps to engage tenants in dialogue about why they are falling into arrears and to offer information and signposting.
- 5.5. Current pre-court action protocols used by Community Landlords ensure communication with tenants, and the provision of information and signposting as a preventative approach to help mitigate against eviction due to serious rent arrears. We suggest that the supporting framework to the Bill obligates landlords to signpost their tenants to their Housing Options service as they are likely to be within the 56 day period of being at risk of homelessness if they do not address their rent arrears.
- 5.6. We would also advocate that tenants are signposted to appropriate money management and debt support information and advice agencies to help ensure any underlying money related issues are identified and plans are put in place to address them. This should be written in to the Code of Practice and training requirements created under Part 1 of the Housing Act.
- 5.7. This would reflect the [Code of Guidance for Local Authorities on Homelessness](#) recently consulted on by Welsh Government which advocates working with landlords to maintain tenancies where appropriate, including advocating with PRS landlords to consider affordability and creating rent debt schedules.

5.8. Where tenants fail to engage with the landlord or do not pursue available support from Housing Options or information and advice agencies, this should be noted and considered within the Court process. Similarly, where the landlord fails to engage in the process or offer signposting, this should also be considered within the Court process.

Retaliatory eviction

- 5.9. Our [Tenant's Dilemma report](#) exposed the scandal of retaliatory evictions in 2007. In 2013 in [Making Rights Real](#) we called with Shelter Cymru for Welsh Government to include protection from retaliatory eviction in the Renting Homes Bill. We strongly support the proposed introduction of legislation to address this poor and aggressive practice. We believe this will provide better protection for tenants, help address poor practice by rogue landlords and help to improve property standards in the PRS. It is essential that it remains on the face of the Bill.
- 5.10. It is difficult to identify the number of retaliatory evictions undertaken across Wales, as much of this practice may never come to light and it is not recorded via the courts system. From looking at our statistics, we have seen a marked increase in PRS tenants with non-arrears related eviction issues over the past year. Non-arrears related eviction issues for 2012-14 represented only 1 per cent of the total housing issues seen across Wales, however for the first 3 quarters of 2014/15 this rose to 4 per cent, with 146 people seeking advice on this issue.
- 5.11. With the UK government recently passing laws to stop retaliatory eviction under the Deregulation Bill, we believe that to improve the proposals and ensure they are effective, the Bill must provide clarity on:
- The timescales of when an eviction notice is to be considered retaliatory for requesting repairs, e.g. within a 6 month period
 - Where the court is satisfied that the landlord has made the possession claim to avoid complying with s 91 and 92, the landlord is referred to the licensing authority
 - Retaliatory eviction guidance for other grounds to provide protection for tenants who seek to enforce their contract, for example by enacting their right to a written contract, or changing energy suppliers
- 5.12. Clear timescales will help ensure tenants do not misuse the legislation to avoid eviction by requesting repairs maliciously. While we do not believe that this practice is likely to occur, it may be raised by other organisations presenting evidence to the Committee. We advocate that a 6 month timescale is applied between when an issue is notified and when an eviction notice is being sort.
- 5.13. We believe that for s213 to be effective it must clearly tie to the Housing Act requirements surrounding licensing and the 'fit and proper' person test. We want to see landlords who are found to be applying for possession as a retaliatory eviction identified and their actions recorded against their registration and licensing details. The licensing authority must be notified of this practice, and where it is repeated, due consideration given to whether the landlord can be considered 'fit and proper'. Revocation of their license should be considered where appropriate, which would mean rent repayment and rent rebate orders would apply to any properties owned by the landlord in question.

Client Story: Retaliatory Eviction

Delyth (not her real name) sought help from Caerphilly bureau after being served with an eviction notice by her PRS landlord. Delyth had complained to her landlord about damp in the property which was affecting her young baby's breathing. The landlord refused to address the damp, and instead chose to serve Delyth with her eviction notice. When she came into bureau she was living on her Mother's sofa and seeking help to apply for homelessness support with the local Council.

Mary (not her real name), a single mother living in Barry chose to look for new accommodation rather than stay in substandard accommodation or face eviction. Mary believed the property was unsafe as there was no flooring in the utility room, and unsafe electrical wiring which repeatedly blew a number of appliances.

Despite repeatedly reporting the issue to the landlord and letting agent no action was taken. Similarly, after contacting her local authority Environmental Health inspected the property and ordered improvements to be made but no action was taken to make good the state of the property. Instead, the letting agent verbally threatened her with eviction if she continued to make complaints. After her initial 6 month fixed term contract ended with no repairs being made and a poor relationship with the letting agent, Mary chose to move out.

Fitness for human habitation

- 5.14. As identified in [Their house, your home](#) research by Consumer Focus Wales found tenants wanted to see minimum standards introduced to improve the quality of homes that are available to them. The fitness for human habitation sections are therefore a welcomed means of addressing this. We believe in order for this to be effective enforcement will be required (please see section 6 for further details) alongside increasing the support available to PRS landlords through mechanisms such as recyclable loans.
- 5.15. To ensure the subsidiary regulations specify clear standards that would help address some of the more common issues of repair and maintenance we see, we believe the following should be included in addition to the proposed content:
- Periodic electricity safety checks
 - Energy efficiency rating of E or above on their property
- 5.16. To further support fitness for human habitation (s91 and s92) and retaliatory eviction (s213) we ask Welsh Government to include on the face of the Bill that the Key Matters (s26) includes the state of the dwelling and directly references fitness for human habitation. We advocate the key matters includes the current state of repair of the property at the beginning of the tenancy. By ensuring this is issued by the landlords and counter-signed as correct by the tenants at the start of the tenancy we suggest that this will make identifying any subsequent repair issues and determining whether the tenants bear any liability (s96) easier. This approach would be consistent with the policy objectives of promoting clarity for both parties, reinforce existing duties and support Local Authorities ability to ensure suitability of properties when discharging their duty to the PRS under the Housing Act.
- 5.17. The top issue we see clients living in PRS is repairs and maintenance. Over the last three quarters we have already seen nearly 500 issues representing 15 per cent of all

PRS issues. This continues the steady increase of these issues of 3% year on year since 2012. Our online survey results reflect similar problems with 11 per cent of respondents²⁷ rating their current or last privately rented home as being as bad (6 per cent) or very bad (5 per cent), with 25 per cent saying they needed improvement. We believe the fitness for human habitation test and its links to retaliatory eviction are therefore key to addressing the issues we help our clients with regarding the state of repair within the PRS.

- 5.18. We believe that for the fitness for human habitation to be effective it must clearly tie to the Housing Act requirements surrounding licensing and the 'fit and proper' person test. As in 5.13 we want to see recorded against the landlords licence failures to maintain a fit property, e.g. by linking Local Authority identification of Category 1 and 2 hazards. Revocation of licenses should also be considered where appropriate.
- 5.19. Similarly, to support these sections, greater clarity is needed with regards to landlords' responsibility to make repairs where they are necessary due to the action, inaction or lack of care of the tenant (s96). In our view it is essential that the landlord has a fundamental obligation to ensure the property meets the fitness standard, excepting where the cost is considered to be unreasonable. We believe this proposal is inconsistent with other legislation regarding the duty of a landlord to undertake repairs and carry out maintenance and could cause confusion about landlords' responsibilities. Currently where repairs are necessary because of tenants inaction, landlords can seek deductions from the tenants' deposit. Landlords are not excused from their duty to make repairs as is proposed in the current wording.

Other Estate Management Reasons

- 5.20. We would like to see the wording of Schedule 8, Ground I (other estate management reasons) further clarified as we have concerns that it is currently too open to interpretation. Further guidance and regulations is required to make explicit what 'desirable for some other substantial estate management reason' exists beyond those already outlined within the schedule.

► We call on Welsh Government to:

- Make all possession orders for serious rent arrears discretionary
- Apply the 6 month restricted period on landlords to stop them serving possession notices where they have breached ANY of the fundamental elements of the occupation contract
- Enhance s213 retaliatory eviction by including:
 - clear timescales
 - links to enforcement of the Housing Act Part 1 regulations of PRS (adherence to the Code of Practice and fit and proper person test)
 - eviction guidance for other grounds
- Enhance s91 and s92 fitness for human habitation by including:
 - It as a Key Matter (s26)
 - links to enforcement of the Housing Act Part 1 regulations of PRS (adherence to the Code of Practice and fit and proper person test)
 - Ensuring electrical safety checks and energy efficiency rating is included within the subsidiary regulations

²⁷ Of the 304 total respondents, 270 answered questions asking them to rate the state of repair of their current or last privately rented home.

Enforcement

6. We believe that clarity of the Bill will be enhanced if the framework for Renting Homes is internally consistent and clearly linked to the Housing Act and its subordinate regulation. Clear, effective, accessible and deliverable enforcement of the proposed legislation is fundamental to achieving the Bill's aim of improving the quality and sustainability of the rented sector in Wales.
- 6.1. Currently redress for tenant disputes regarding the breaches of contract are proposed within the Bill via the Courts. The EM confirms that landlords and tenants are widely dissatisfied with the court process as a way of resolving disputes due to the delays, inconsistency, cost and worry. Therefore it is important the Bill includes other options for resolving disputes and for enforcing the legislation.
- 6.2. As outlined in 5.13 and 5.18 we want to see issues of non-compliance being lodged with the licensing authority and this information being shared with the authority administering the individual's fit and proper person test. Repeat offenders or those found guilty of serious breaches such as a series of Category 1 HHSRS hazards not being addressed should have their licenses revoked. This would then make them liable to rent rebate and rent repayment orders until they were deemed fit and proper once more.
- 6.3. The Housing Act uses fixed penalty fines for landlords who fail to register. We suggest this approach is used to enforce the Renting Homes legislation where a landlord fails to:
 - provide a written occupation contract,
 - provide information on deposit schemes
 - ensure the property's fitness for human habitation.
- 6.4. Fixed penalty fines could be the responsibility of the Landlord Licencing Authority, (which is responsible for fixed penalty fines for the licencing scheme) and/or Local Authorities, with the income used to offset enforcement costs. This link with the licencing scheme and/or Local Authorities can also help Local Authorities to target support for landlords, for example where they require information and advice on their responsibilities, or access to financial support to undertake repairs or improvements.
- 6.5. We believe enforcement, particularly of fitness for human habitation, would help support the policy intent behind the Housing Act and Renting Homes Bill of improving the rented sector. It would complement the new duties on Local Authorities to ensure they discharge their homelessness duties into suitable PRS housing, helping Housing Options fulfil their expanded remit of working with landlords to ensure the suitability of properties.
- 6.6. To further support Local Authorities achieve their new duties to prevent homelessness, we believe that Housing Options services could consider the role of mediation to resolve tenant and landlord issues. Mediation services are listed in the Code of Practice as a means of helping prevent homelessness arising from family breakdown, however we would like to see consideration given to expanding mediation to include landlord and tenant dispute. Access to a free, impartial and independent service that can help identify solutions suitable to both parties quickly could prevent problems from escalating. This could prevent Court or enforcement action, as well as homelessness, reducing costs to all parties involved (including the public purse) by intervening earlier.
- 6.7. To further support the Bill's effectiveness, we believe consideration should also be given by Welsh Government to the role of the property tribunal as a means of resolving

disputes. This could be an alternative to the above proposed mediation service run by the Local Authority.

► **We call on Welsh Government to:**

- Creating a range of enforcement and support options to enable effective implementation including:
 - Fixed penalty fines
 - Independent mediation services for landlord and tenants
- Ensure that breaches of the contract by landlords are recorded against their licence, with serious or repeat offences leading to revocation of their licence

Information and Awareness Raising

Resource Implications

- 7 In order for tenants and landlords to be able to make informed decisions, we believe further additional funding will be required on top of the allocated to communication £160,000 over the four year period outlined in the Regulatory Impact Assessment (RIA).
- 7.1 For both parties to be able to have informed discussion and negotiate terms that can be removed, replaced or amended will require considerable knowledge and understanding of the full rights and responsibilities detailed within the model contract. Knowledge and experience will be needed to understand how supplementary terms can be altered to the benefit of one or more party, as well as understand if changing them impacts on a fundamental term. While many people may be able to access the model contract online and any supporting guidance to their circumstances in order to make informed decisions about their rental agreement, some will require support to do this.
- 7.2 As previously noted, the RIA does not quantify the cost of familiarisation to local authorities staff or third sector information and advice provider. Using the [WCVA's Third sector statistical resource](#) it can be estimated that there are approximately²⁸ 2,100 paid staff working in advice, advocacy and housing third sector organisations. Additionally many thousands of volunteers also provide information, advice and guidance who will need to give up their time to familiarise themselves with the substantial changes. We would like Welsh Government to acknowledge the costs to the third sector reflecting the regulatory impact's assessment of the costs to PRS landlords, applying the £103 (Office for National Statistics national earning average daily rate²⁹ to relevant employees and frontline volunteers. We believe it will be necessary for frontline information and advice staff to attend 2 days training to fully understand the implications of the Bill and be able to offer appropriate advice and guidance, and a separate half day course for a lower level of familiarisation to ensure accurate information and signposting.
- 7.3 This is in addition to the £23,000 allocated to the training and development costs listed in the regulatory impact assessment, which we provided as an estimate for our service

²⁸ This calculation represents the percentage of third sector organisations listed activity area as 'Advice and Advocacy' (3.25) or 'Housing' (3.03) as a percentage of the total estimated number of people employed in the sector of 33,496 in 2013.

²⁹ Office for National Statistics, [Annual Survey of Hours and Earnings, 2014 provisional results](#), Nov 2014

only and therefore does not provide a costing for the sector as a whole. To ensure third sector organisations are:

- informed about the changes
- supported to cascade this information to the frontline
- able to work with tenants and landlords to better enact their rights and responsibilities

And therefore able to support tenants and landlords understand and apply their rights and responsibilities, we call on Welsh Government to allocate appropriate resources.

- 7.4 While not part of this Bill, we welcome the Welsh Government's [Housing \(Wales\) Act FAQ](#) which outlines the intention for a Tenant Information Pack to be produced. We seek reassurance from Welsh Government that this will be tied effectively to the Bill through the secondary legislation and supporting guidance around issuing contracts and good practice. We call on Welsh Government to ensure that the proposed pack is made with the active participation of tenants, their representative organisations and information and advice providers to ensure it is effective, and user friendly. We would welcome the opportunity to support Welsh Government in achieving this work.

Consultation

- 7.5 To further support this, going forwards we would like to see effective engagement with tenants to ensure the model contract is written in accessible language while meeting legal requirements. The [example of an easy read contract](#) which formed part of the consultation by Welsh Government on the model contract shows how a contract can be modified to suit a specific readership. We would like to see a similar approach applied to the model contract, ensuring tenants and landlords are truly involved in creating an accessible model contract.
- 7.6 We call for further work to be carried out on the model contract to enable a codesign approach to be taken that enables knowledgeable participation and takes account of the literacy rate of Wales. As previously reported³⁰, we want Welsh Government to take into account the issue raised by tenants about the length of the model contract, echoing concerns raised by our advisers through in-house consultation. We believe consumer engagement and testing is vital to ensure the majority of readers will not only be able to understand their rights and responsibilities as outlined within the contract, but also read the contract and not find its length a barrier.
- 7.7 Within the Bill, we want to see that it is not a requirement placed on tenants to request information about their community landlords' consultation arrangements as is proposed in s232, but a requirement on landlords to provide them. This ensures that the information is made readily available, thus enabling tenants to be informed and engaged in relevant processes that may affect their tenancy.

³⁰ Consumer Focus Wales, [Their house, your home](#), 2012

About Citizens Advice Cymru

Citizens Advice is an independent charity covering England and Wales operating as Citizens Advice Cymru in Wales with offices in Cardiff and Rhyl. There are 20 Citizen Advice Bureaux in Wales who are members of Citizens Advice Cymru, delivering services from over 375 locations.

The twin aims of the Citizens Advice service are:

- to provide the advice people need for the problems they face
- to improve the policies and practices that affect people's lives.

The advice provided by the Citizens Advice service is free, independent, confidential and impartial, and available to everyone.

The majority of Citizens Advice bureaux staff are trained volunteers. All advice staff, whether paid or volunteer, are trained in advice giving skills and have regular updates on topic-specific training and access to topic-based specialist support.

Local bureaux, under the terms of membership of Citizens Advice provide core advice based on a certificate of quality standards on welfare benefits/tax credits, debt, housing, financial products and services, consumer issues, employment, health, immigration and asylum, legal issues, and relationships and family matters.

The Citizens Advice service now has responsibilities for consumer representation in Wales as a result of the UK Government's changes to the consumer landscape³¹. From 1 April 2014 this includes statutory functions and responsibilities to represent post and energy consumers.

We are happy for our evidence to be made available to the public.

³¹ On 1st April 2013 responsibility for consumer representation was transferred from Consumer Focus to the Citizens Advice Service (including Citizens Advice Cymru) following the UK Government's review of the consumer landscape.