



Renting Homes (Amendment) (Wales) Bill

Submission to Equality, Local Government and Communities Committee

The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities are associate members.

The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA also appoints senior members as Spokespersons and Deputy Spokespersons to provide a national lead on policy matters on behalf of local government.

The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.

This submission is framed around the questions set out in the Committee Chair's letter of 17th March 2020: -

General questions

1. Is there a need for this Bill and, if so, why?

WLGA is supportive of the general principles of the Bill, and agree that legislation is required to deliver the policy objectives.

2. The Welsh Government has decided to amend the Renting Homes (Wales) Act 2016 before it has been commenced. Do you agree with that approach or not? If not, why not?

WLGA supports the amendment of the Renting Homes (Wales) Act 2016.

3. What level of awareness is there amongst landlords, tenants and professionals working in the sector that the 2016 Act is coming? What, if anything, can be done to raise levels of awareness?

Local authorities are aware that the 2016 Act is coming, however, the continued uncertainty around the implementation timetable has inevitably meant that the attention of landlords may have been taken up by more current and pressing issues. It would be helpful if, when the implementation timetable is clear, Welsh Government could organise a number of engagement opportunities for landlords and others to refresh their understanding of the changes being introduced by the Act's implementation, and the necessary changes required in relation to policy and practice.

4. The Committee has heard evidence about the impact security of tenure can have on people's health, wellbeing and family life. What groups of tenants/contract-holders might benefit the most from this Bill? Does the Bill do anything to address the needs of the most vulnerable groups?

The provisions within the Bill will make the Private Rented Sector (PRS) a more attractive option for prospective tenants, some of whom would previously have seen the relative lack of security within the sector as a particular barrier, and will make it easier for local authority Housing Options teams to promote the PRS as a sustainable and secure option, and as a viable and genuine alternative to social housing. Households with children of school age, which are currently unable to access social housing because of a lack of supply in some areas, are likely to benefit because of increased certainty over proximity to schools and other services.

5. Do you have any views on the potential impact of the Bill on a landlord's right to peaceful enjoyment of property under Article 1 Protocol 1 of the European Convention of Human Rights, and a contract holder's Article 8 right to private and family life?

WLGA has no position on this.

6. How effectively does the Bill balance the rights of landlords and contract holders?

Generally, the provisions within the Bill will have the effect of providing greater security for contract holders in the PRS sector. This will make the PRS sector more attractive to many of the prospective customers on which landlords depend.

7. To what extent do you consider that this Bill makes progress towards a legislative universal right to adequate housing?

By providing greater security for contract holders, the Bill makes some limited progress towards a legislative universal right to adequate housing.

Consultation and evidence base

8. The Committee has heard that some of the evidence base for this Bill is anecdotal.

How strong is the evidence base for changing the current approach to no-fault evictions? Is anecdotal evidence sufficient to change the law in this area?

The WLGA has the view that there is sufficient evidence to support the proposed changes to the current approach to no-fault evictions.

9. Should the Welsh Government be doing more to understand how the sector operates, and how could it do this?

Welsh Government should continue to engage with the representative bodies of landlords, tenants and professional engaged in the sector, with a particular focus on developing a full understanding of the different components of the PRS and their inter-relationships and key differences and challenges.

10. Tai Pawb's evidence notes that the mechanisms to engage with private rented sector tenants are lacking or underfunded. What challenges does the lack of tenant representation, particularly in the private rented sector, present to policymakers?

The PRS is a very diverse sector, which provides homes for households from a wide variety of backgrounds and with a broad range of needs. This diversity presents a challenge to policymakers as the lack of representation makes this a particularly difficult sector to consult with and therefore to effectively develop policies which entirely avoid any unintended consequences in at least some part of the sector.

Changes to no fault evictions

11. To what extent are social landlords able to use no-fault evictions at present and why do they use them?

Local authority landlords in Wales do not currently use no-fault evictions.

12. Where no fault evictions are used by social landlords, what measures are in place to protect tenants from any misuse?

Local authority landlords in Wales do not currently use no-fault evictions.

13. The Bill exempts prohibited conduct standard contracts and supported standard contracts from the new extended no fault notice requirements. Do you support this provision, and why?

Yes, the WLGA supports this provision which reflects the specialist nature of supported accommodation and services, and the management challenges posed by embracing the need to provide homes for individuals and households with sometimes challenging behaviours.

14. Introductory standard contracts are not given any exemption by the Bill and will be subject to the new arrangements for no fault notices. What impact might this have on social landlords?

The impact on the use of Introductory Tenancies by Community Landlords is rightly identified within the Explanatory Memorandum and this will have an impact on local authorities by reducing the perceived effectiveness of Introductory Tenancies, however, we are in agreement with the overall principle that social housing settings should be no less secure than those in the private rented sector. It is not the current practice of Local Authority landlords to utilise Section 21.

15. Would including introductory standard contracts in the list of exemptions mean that social landlords would retain an additional mechanism to evict tenants in a way that private landlords would not? Do you think this would be in line with the policy intention of the Bill?

Yes it would. WLGA are in agreement with the overall principle that social housing settings should be no less secure than those in the private rented sector.

16. Given there is work underway to eliminate evictions into homelessness from social housing, is there a case, as some stakeholders have claimed, for removing the ability to issue a no fault notice entirely so landlords always have to give a reason for eviction?

Local authority landlords in Wales do not currently use no-fault eviction processes, therefore, removing the ability to issue a no-fault notice entirely would not have a meaningful detrimental effect.

Impact on the private sector

17. Are there concerns that private landlords will leave the sector as a result of the amendments in this Bill? Does the Bill in any way risk reducing the supply of private rented accommodation and putting additional pressure on social housing providers?

18. Are there concerns that the changes to no fault evictions in this Bill might make private sector landlords less likely to let their properties to more vulnerable tenants who may be seen as higher risk?

19. Could this further increase demand for social housing? What wider implications might this have for social landlords given some vulnerable contract-holders may have high support needs?

The provisions within the Bill will make the PRS a more attractive option for prospective tenants, and will make it easier for local authority Housing Options teams to promote the PRS as a sustainable and secure option, and as a viable and genuine alternative to social housing.

However, it is possible that some PRS landlords may be more reluctant to rent their properties to vulnerable people who are on low incomes, therefore reducing housing options in some areas.

In addition if, as a consequence of the provisions of the Bill, some PRS landlords chose to leave the market, or not enter it in the first place, this could have the unintended effect of reducing the overall stock of housing available to vulnerable households in some areas. However, this possibility needs to be viewed against the significant growth in the PRS as a proportion of the overall housing market in Wales over recent years.

Demand for social housing is very high in most parts of Wales, and considerable efforts are being made by local authorities and their partners to increase the supply of social housing to better meet that demand. Support services for vulnerable contract holders should be designed in a way that they can be delivered for vulnerable people irrespective of the tenure of their housing.

Impact of the Bill on the courts

20. Many stakeholders have expressed concerns about how the courts deal with possession claims. How effective will this Bill be without reforms of the court system, and what measures to reform the system should the Welsh Government push for?

WLGA has no position on this.

21. Should there be a dedicated housing court or tribunal that deals with possession claims and other housing disputes?

WLGA has no position on this.

22. The Minister told the Committee that she expects a reduction in the number of social housing possession claims, and that this will free up court time. When is this reduction in possession claims by social landlords likely to happen? Is it likely to happen before the 2016 Act is commenced – expected to be in spring 2021?

While we are in agreement with the overall principle of avoiding the situation where social landlords have no option but to take action which results in a household becoming homeless, the detailed implementation of such an approach is not yet finalised. It may take some time for this to be successfully implemented, and discussions about the additional resources required to support success, e.g. through additional services commissioned via Housing Support Grant, have yet to be successfully concluded.

Impact of the Bill on homelessness

23. A number of stakeholders have raised concerns with the Committee about the potential impacts on homelessness. Given there could be more use of ground/fault based possession claims, particularly in the private rented sector, is it likely that more households will be found to be intentionally homeless?

Local authorities would consider all of the information relevant to each individual case on its merits. This does not necessarily suggest a direct relationship with the proportion of households found to be intentionally homeless, which is currently a very small proportion of all households being assisted by local authorities.

24. Will there be an expectation that contract-holders should challenge ground based possession claims in the courts if they present as homeless?

Local authorities would consider all of the information relevant to each individual case on its merits. There should not be a blanket presumption that if a grounds-based possession case is not challenged by the tenant that the grounds are agreed.

25. The Minister told this Committee that homeless applicants should expect a service from local authorities at the point they are served with notice, even if that is six months before their notice expires.

26. Will this happen in practice, or will local authorities wait until it is 56 days until the applicant is threatened with homelessness?

27. If local authorities wait until contract-holders are 56 days from their notice expiring, will the six month notice period make any difference to those facing homelessness? Is this a matter that could be clarified in guidance or does there need to be legislative change?

Local authorities will always pay due regard to statutory guidance as well as the relevant legislation. This has been illustrated by the response of local authorities to the Minister's letter clarifying the position with regard to vulnerability and priority need during the current pandemic emergency. On that basis, the matter could be clarified in guidance without the need for legislative change.

28. In light of the changes in the Bill, Shelter Cymru have called for the statutory definition of successful prevention and relief of homelessness to be increased from having suitable accommodation likely to be available for six months to 12 months.

29. The Minister has said that there is no need to do this, as a notice cannot be issued within the first six months of an occupation contract, so in practice there is a minimum 12 month contract once the six month notice is taken into account.

30. Do you think the justification the Minister has given is sufficient, or do you consider that a change to the statutory definition in the 2014 Act is needed?

The justification given by the Minister is sufficient, and no change to the statutory definition in the 2014 Act is required.

31. Shelter Cymru said that if a local authority was able to persuade a landlord to serve a 6 month no fault notice rather than a 28 day ground based notice that would count as preventing homelessness. Should a scenario like that be classed as

successful prevention of homelessness?

Yes. In this scenario, the intervention by the local authority secures the tenant an additional period of time during which alternative accommodation arrangements can be explored and put in place.