



A response from Tai Pawb in lieu of oral evidence July 2020

Equalities, Local Government and Communities Committee: RENTING HOMES (AMENDMENT) (WALES) BILL

GENERAL QUESTIONS

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

Tai Pawb believes there is a need for this Bill and welcomes the proposals outlined in it. In our view, the longer notice period goes some way to further fulfilling and progressing tenants' rights to adequate housing as per the International Covenant on Social, Economic and Cultural Rights. That has been ratified by the UK government and is therefore binding on the Welsh Government. One of the crucial elements of adequate housing, as defined by the UN, is security of tenure. In our view, current arrangements under section 21 as well as forthcoming section 173 and 186 are not consistent with the right to housing.

In light of our equality remit, data from the 2011 Census shows that BAME and migrant populations are much more likely to live in the Private Rented Sector than other groups (while just over 15% of people in Wales live in the PRS, the number goes up to over 40% for Indian, 47% for African and over 50% for Arab populations and 61% for.) The Bill therefore provides additional security for groups of people who have suffered disproportionately.

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?

Tai Pawb agrees with this sensible approach which ensures that the Act, when introduced, includes the Amendment.

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?

While we have no specific evidence to measure how robust awareness is among landlords, tenants and professionals, Tai Pawb is clear that resources must be committed to get the message out about the changes in legislation; in particular for tenants and their rights. We noted in our original written response the sterling work of Rent Smart Wales in engaging with landlords. However, the mechanisms to engage with PRS tenants in Wales are lacking or are underfunded. Even Generation Rent, a relatively high profile campaign, has only five staff, of which none are based in Wales (as of October 2019).

Organisations such as 'Let Down Wales' or Shelter Cymru make a valued and positive contribution to policy. There is however, there is no appropriately resourced organisation or group which would allow for continuous engagement with private tenants, who constitute a group of ca 200,000 people in Wales. Until 2019, Tai Pawb in partnership with Residential Landlords Association ran a PRS project, Open Doors, which engaged with both PRS landlords and PRS tenants. The project, amongst others, helped Senedd engage with PRS tenants. Unfortunately the funding for this project has now ended.

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?

In our original response, we highlighted that, in our view, the proposal will have a significantly positive impact on PRS tenants. This is more especially the case where lack of security of tenure and the resulting threat of homelessness can and does have a disruptive effect on tenants' lives. In particular, there is substantial disruption for those people with families; those with a disability; or those with mental health problems.

Some 16% of households threatened with homelessness last year were households with dependent children who faced homelessness due to loss of rented or tied accommodation (Stats Wales 2018). This statistic is particularly worrying in light of the rights of children espoused by Welsh legislation, in particular the Wales Children and Young People measure. According to Article 27 of the UNCRC, as incorporated by the measure, children have the right to a good standard of living, including housing.

It is not difficult to imagine the difficulty of finding a new home within a 2 month period, especially when that home has to be safe and secure, of appropriate size, in close proximity to schools, especially when the child is disabled and attends specialist school or needs specialist support and advice within that area.

Tyfu Tai research conducted by Tai Pawb in 2019, Private Renting and PRS, a Way Forward (CIH Cymru 2019), also demonstrates issues experienced by tenants with mental health problems who are trying to access PRS accommodation. For example, the research shows 90 per cent of the people who responded from support organisations thought that people with mental health problems trying to access accommodation in the private rented sector face discrimination from letting agents or landlords always, most of the time or sometimes. Over a third (37.4 per cent) of people from support organisations felt this was the case always or most times. Consequently, people with mental health problems who are given 2 months' notice to leave their home face not only the likelihood of their mental health worsening due to the anxiety each of us would experience in this situation, but they also face enormous barriers when trying to access new accommodation in that period. The research also shows that the support available for tenants is insufficient, especially in terms of early intervention.

We would support the evidence contained in Shelter Cymru's briefing (2018) which is based on their 2017 PRS tenants research, describing the changing nature of PRS and the impact no fault evictions have on tenants, in particular families <https://sheltercymru.org.uk/wp-content/uploads/2018/02/End-s21-policy-briefing-Nov-17-FINAL-1.pdf>.

Noting the changing of PRS tenants and renting, there are more vulnerable people and families now occupying PRS for longer periods of time. No longer is the PRS associated only with mobile young professionals and students but is now home to tenants from a wide variety of backgrounds, ethnicities and household compositions, (Census, 2011). For instance, we know that there are:

- *Much higher numbers of younger people than older people living in the PRS: 60% of those aged 24 and under live in the sector compared to 6% of those aged 64-74. However more older and middle aged people now live in the sector. (Census 2011)*
- *High numbers of migrants, particularly new migrants (those that have been in the UK for five years or less) living in the PRS. 38% of those born outside of the UK live within the sector compared to 15% of those who born in the UK. This figure rises to 61% when considering migrants to have arrived in the UK since 2001. (Census 2011).*
- *Every BAME group is more than White British people to live in the PRS in Wales, (35.6% BAME vs. 14.9% White). (Census, 2011).*
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- *The PRS in Wales, now represents a lifetime tenure for 40% of its tenants (Dawson, 2017).*

We have received some evidence from one local authority who reported an exponential rise in EU migrant families presenting to homelessness service following a Section 21 notice by their private landlord "due to Brexit". We haven't got evidence of this treatment of EU migrants being a trend across Wales in any way and it is impossible to tell whether the reason was linked to a perception of EU migrants now being higher risk or simply prejudice or any other factors. It is clear however that they are at a higher risk of evictions in this area and a longer notice period will go some way towards alleviating the impact on EU tenants and families.

During the second half of the 20th century the PRS became the sector of flexibility for young single professionals or childless couples (Lund 2006). As such, the sector is now also being accessed by tenants with needs that would have traditionally been met by social landlords. The PRS is in a critical position where diverse ranges of people are accessing the sector; some of whom with vulnerabilities which the sector needs to be able to meet the needs of.

Moreover, recent reports as part of Welsh Government's COVID-19 BAME Advisory Group have highlighted the use of the private rented sector by BAME people in particular, with "half the BAME population in Wales living in a rented property (compared to a third of the white population); and BAME people being more likely to live in a private rented property than social". The report also highlights that BAME people are more likely to live in an overcrowded conditions and a correlation between BAME residents and the likelihood of poor quality housing.(<https://gov.wales/sites/default/files/statistics-and-research/2020-06/coronavirus-covid-19-and-the-black-asian-and-minority-ethnic-population-154.pdf>)

Indeed, in light of the COVID-19 pandemic, the importance of security of tenure is abundantly clear, particularly given long-standing government and public health regulations around staying at home and self-isolation over the past few months. The commitment by both the Welsh and UK Governments to emergency COVID regulations around evictions (at least for a period of time) has already paved the way and created an underpinning element of security for tenants fearful of losing their homes during an international health crisis (through, for example, loss of employment or being placed on a furlough scheme).

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?

N/A

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

While recognising the impact on the private sector and landlords in particular (encouraging Welsh Government to take into account their views and experiences), Tai Pawb believes that the amendment strikes a far more effective balance between the rights of landlords and tenants than is currently the case.

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

Combining questions 6 and 7: Tai Pawb believes that the amendment is a positive step forward on the journey to abolishing no-fault evictions altogether and in progress to the right to housing.

We believe passionately in recognising the right to adequate housing in Wales through legislative means – a Bill - and have been working with partners in the housing sector over the past 12 months, engaging in conversation with tenants, professionals and stakeholders to bring it forward.

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?

We agree with the principle that strong evidence should be the basis of policy changes. However, as mentioned in this response, there has been a longstanding lack of engagement with PRS tenants which has perhaps hampered (formal) evidence gathering. Tai Pawb believes that where anecdotal evidence exists, it is robust. We welcome the amendment as it provides additional security and stability for PRS tenants Wales-over, creating safer and more cohesive communities.

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

(See our more substantive responses to Q3 on awareness and Q10 on engaging with PRS tenants).

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?

(Please also see our response to Q3).

Whilst Rent Smart Wales has been a welcome intervention in improving the standards in the PRS, independent evaluation has evidenced that the majority of tenants surveyed are still unaware of Rent Smart Wales and how the scheme is of any direct benefit to them, (RSM, 2018). This is particularly worrying for the sector as any positive intervention made is limited if tenants are not aware of how the changes impact them. One of the ways in ensuring that tenants are aware of changes and how they affect them, would be to ensure that debates around legislative changes include PRS tenants as key stakeholders. The findings from the independent review of Rent Smart Wales suggests that there is still significant progress to be made in engaging PRS tenants in Wales.

Having spoken to a group of PRS or former PRS tenants, it is also crucial that, when announcing any of the changes under this Bill, Welsh government re-emphasizes the rights of tenants to give notice. The current conversation on these principles only describes the rights and responsibilities of landlords to give notice and it could be misconstrued by many tenants as changing the minimum notice period for tenants to 6 months. In addition to the above, we are also aware of the confusion as to whether currently tenants have to give notice to end a fixed term contract. This could be addressed in the forthcoming communication.

Tai Pawb again calls for there to be a commitment of resources to ensure that (a) the voices of PRS tenants are heard and considered and (b) there is the raising of awareness of changes that impact them directly.

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?

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

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?

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?

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?

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?

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?

Combining questions 17, 18 and 19: Anecdotally, Tai Pawb believes there are concerns about the prospect of private landlords leaving the PRS as a direct result of the amendments. While we strongly support the proposal, we are also mindful of the care that will be needed in considering the impact on private landlords.

There may also be a knock-on effect on the broader housing market, including availability of PRS accommodation. PRS tenancies fill a widening gap in the supply of housing in general, but more specifically social housing, and any unintended consequences of the legislation, especially any potential decrease in availability, must to be balanced against the much needed increase in social housing supply. This would ensure that the Welsh Government puts measures in place to prevent any regression in the right to adequate housing in Wales as a result of this measure.

For commonly known reasons, no fault evictions are often used by PRS landlords as the relatively easy means of dealing with evictions of tenants who might have committed ASB or who are in rent arrears. Although we understand that court processes, including those pertaining to other possession grounds, are not a devolved area, it is important to take into account some of the difficulties that landlords might experience in relation to possession proceedings relating to those grounds, in particular timescales, IT systems and shortage of administrative resources leading to prolonged processes. RLA's possession reform survey found that in the majority of court cases it took landlords more than 15 weeks to regain possession of their property after applying to court.

It is important that Welsh Government takes landlords views and experiences into account and works closely with the UK government on improving court possession proceedings. The same pertains to analysing the response of buy-to-let lenders. We know that some lenders required landlords not to rent to tenants in receipt of benefits. It is absolutely crucial to monitor the effect of the above proposals on lender behaviour, mortgage prices and, going forward impact on the size of the PRS, especially in areas where it is desperately needed due

to other housing shortages. It is difficult to predict this effect, for example we previously had forecasts of Rent Smart Wales leading to shrinkage in the PRS in Wales due to an increased licensing burden but we are not aware of any evidence that this has actually taken place. Learning from other nations which introduced similar measures is therefore important.

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?

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

Combining questions 20 and 21: As above, we have highlighted that there are particular difficulties in court proceedings for private landlords which centre around the lengthy timescales and shortage of administrative resources.

Going forward, in our view, Welsh Government should consider establishing a housing ombudsman office as well as a separate housing tribunal system – both of which would go a long way to speeding up possession and other processes for both tenants and landlords alike. A Welsh housing tribunal would certainly make housing fairer for all in Wales and would enable both groups a better access to execution of their rights.

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?

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?

In our original response to the committee's evidence call, we raised the need to consider the impact of the changes on local authority homelessness teams. The change does not constitute a change in the statutory homelessness prevention period of 56 days. There is a question as to what extent and in what way a local authority would use evidence of tenants' actions in terms of finding new accommodation before the 56 days period is reached (i.e. in the first 4 months of the notice period). That in turn could potentially lead to using intentionality clauses more frequently. Moreover, there are queries as to how this would affect the consideration of tenants' circumstances and what assistance could and would be provided to those who have been given 6 months' notice, at the beginning of this period.

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

N/A

25. 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.

Tai Pawb would support this call as a further means of protection.

26. 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.

See above.

27. 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?

See above.

28. 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?