

RHA 22

Bil Rhentu Cartrefi (Diwygio) (Cymru)

Renting Homes (Amendment) (Wales) Bill

Ymateb gan: Bevan Foundation

Response from: Bevan Foundation

Introduction

The Bevan Foundation is Wales' most influential think-tank. We aim to end poverty and inequality by working with people to find effective solutions and by inspiring governments, organisations and communities to take action. We are grateful for the opportunity to respond to the Equality, Local Government and Communities Committee's call for evidence to support its inquiry into the Renting Homes (Amendment) (Wales) Bill. Our extensive work on poverty and inequality provides us with some insights into the difficulties faced by those living in low income households, and the impact it has on their housing situation. Our response draws on this experience, and is divided into three sections reflecting three of the Committee's main areas of interest:

- the general principles of the Renting Homes (Amendment) (Wales) Bill and the need for legislation to deliver the stated policy intention. In coming to a view on this you may wish to consider addressing the individual sections of the Bill;
- any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,
- whether there are any unintended consequences arising from the Bill,

The general principles of the Renting Homes (Amendment) (Wales) Bill

The Bevan Foundation supports the general principles that underpin the Renting Homes (Amendment) (Wales) Bill and believes that there is a need to for legislation to deliver the Welsh Government's stated policy intention.

The Private Rental Sector (PRS) is playing an increasingly prominent role in housing people in Wales. As of March 31 2019 the PRS accounted for approximately 15% of all dwelling stock in Wales, a similar proportion of stock as the social rented sector.¹ Children and working age adults living in the PRS are nearly four times more likely to be in poverty than owner-occupiers, with around 200,000 low income people living in the PRS.²

The proportion of households that are within the PRS is even greater in some local authority areas with approximately 20% of households in Cardiff being within the PRS.³ With the proportion of people living within the PRS increasing,⁴ the need to address concerns around affordability and

¹ Renting Homes (Wales) Bill, 'Explanatory Memorandum', (February 2020) available at - <https://www.assembly.wales/laid%20documents/pri-ld12310-em/pri-ld12310-em%20-e.pdf>

² Stats Wales, 'People in relative income poverty by tenure type', available at - <https://statswales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Poverty/peopleinrelativeincomepoverty-by-tenuretype>; Stats Wales, 'Working age adults in relative income poverty by tenure type', available at - <https://statswales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Poverty/workingageadultsinrelativeincomepoverty-bytenuretype>; Stats Wales, 'Children in relative poverty by tenure type', available at - <https://statswales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Poverty/childreninrelativepoverty-by-tenuretype>

³ Stats Wales, 'Dwelling stock estimates by local authority and tenure', available at - <https://statswales.gov.wales/Catalogue/Housing/Dwelling-Stock-Estimates/dwellingstockestimates-by-localauthority-tenure>

⁴ Explanatory Memorandum n(1)

security within the sector has also increased, with the need especially pressing for tenants trapped in poverty.

As set out in the Welsh Government's explanatory memorandum the lack of security of tenure within the PRS causes a number of problems.

The lack of security within the PRS can have a significant impact on a tenant's mental health and wellbeing. There is academic work that suggests that many tenants within the PRS feel powerless about their housing situation, faced with uncertainty about how long they'll be permitted to remain in their home.⁵ This can lead to a sense of alienation from their community, making it harder for tenants to set down roots, with this sense being especially pronounced amongst those in precarious work and those living on low incomes.⁶ The changing demographic of the PRS risks exacerbating this problem.⁷ With an increasing number of children now living within the PRS, parents who have been issued with a no fault eviction notice have a very short time period to find a new property, leading to difficult decisions about whether they prioritise finding a new home that's within their child's school catchment area or whether they seek to find a home that fits their needs.

A lack of security within the PRS also makes it more difficult for tenants to enforce their legal rights.⁸ Tenants, concerned about the possibility of eviction may be unwilling to report maintenance issues with their property, leading to the deterioration of the quality of the housing stock within the PRS and increasing the risk that there are some tenants living in unsafe housing. Whilst the prohibiting of retaliatory evictions through the Renting Homes (Wales) Act 2016, may go some way to mitigate this, we believe that increasing the security afforded to tenants, as set out in the Bill would make these provisions more effective.

There are also financial implications for tenants who have to move at short notice. Many tenants find it difficult to find enough money to put down a deposit on a new home in such tight time frames, increasing their risk of homelessness.⁹

The provisions within the Bill to extend the minimum notice period for a notice served under section 173 of the Renting Homes (Wales) Act 2016 to 6 months goes some way towards addressing these issues. Providing tenants with 6 months to find a new home provides tenants with a greater opportunity to save money to cover a deposit on a new property. It also provides tenants with more time to find a new home reducing the amount of stress placed on individuals and empowers tenants to challenge their landlords to enforce their legal rights.

In addition to welcoming the amendments made to section 173, we welcome the attempts made by the Bill to close some of the loopholes that some landlords may have sought to exploit. In particular we are supportive of the proposed amendments to fixed term standard contracts which would remove a landlord's ability to issue a notice to end the contract at the expiry of the fixed term.

We also support the provisions within the Bill that will further restrict the ability of landlords to issue section 173 notices under certain circumstances. In particular we support the restriction set out in

⁵ For example; Kim McKee, Adriana Mihaela Soaita & Jennifer Hoolachan, "Generation rent' and the emotions of private renting: self-worth, status and insecurity amongst low-income renters" in Housing Studies, published online - 05 Nov 2019 – <<https://www.tandfonline.com/doi/pdf/10.1080/02673037.2019.1676400?needAccess=true>>

⁶ *ibid*

⁷ Explanatory Memorandum n(1)

⁸ *ibid*

⁹ *ibid*

section 7 of the Bill which would prevent a landlord from being able to reissue a section 173 within 6 months of issuing a previous notice, and the restriction set out in section 9 which prohibits a landlord from issuing a section 173 notice within 6 months of having a notice rejected by the court for being retaliatory in nature. These two sections would help reduce the precarity of tenants within the PRS whilst also providing them with greater certainty to enforce their legal rights.

We believe that the proposals put out in the Bill are proportionate and warrant legislation. Good landlords who comply with the law and who wish to work with their tenants will have little to fear from the legislation. Landlords will still be provided with legal avenues to seek possession if tenants are not acting in compliance with the terms of their tenancy under section 157 of the Renting Homes (Wales) Act 2016. Putting these protections in law, however, will ensure that tenants whose landlords are not operating fairly will have recourse to legal action to enforce their rights.

Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them

Whilst we welcome the proposed changes set out in the Bill we are concerned that some low income tenants will need further assistance to ensure that the Bill is effectively implemented. Extending the minimum notice period for a no fault eviction to 6 months will provide thousands of tenants with additional time to save money to put down as a deposit on a new rental property. For tenants trapped in poverty, however, even 6 months is unlikely to be a sufficient time period to enable them to save the significant amount of money required for a deposit. This would mean that some of the most vulnerable tenants would be amongst those that benefited the least from the proposed legislative change.

To ensure that low income tenants are able to benefit from the provisions set out in the Bill we believe that it is important that support services proactively work with tenants to provide assistance at the earliest possible opportunity. One way in which this could be done is to tighten the guidance provided to local authorities as to how they should comply with their duties to prevent homelessness under the Housing (Wales) Act 2014. We have heard some anecdotal evidence from organisations such as Shelter Cymru that many local authorities are not currently discharging their duty under the Act with regards to tenants who have been issued with a section 21 notice until the day they are evicted from their property, as opposed to the day that a tenant receives their notice. This leaves tenants in limbo, placing them under significant stress. If local authorities are going to continue to operate in this way, the changes proposed by the Bill could exacerbate some of the mental health pressures faced by tenants living in poverty, with tenants facing 6 months of uncertainty and worry.

In addition to increasing the support available for low income tenants there is a need to educate tenants as to their new legal rights. Increasing the rights to tenants is to be welcomed, but if tenants are unaware of their new rights, there is a risk that some rogue landlords could take advantage. An example of where there is a risk that this might take place is that under the proposals set out under the Bill, a tenant who wishes to leave the property before the end of their 6 month notice period is permitted to do so. There are good reasons why the Bill allows for this. If a tenant finds a suitable replacement property after 3 months, moving at that time will allow them to secure a property that may no longer be on the market in a further 3 months, reducing stress and concern. A disreputable landlord, however, could try and take advantage of this and place pressure on a tenant to move out before the end of the 6 month notice period. Whilst this would not be permissible under the Bill,

tenants who were not aware of their legal rights could be taken advantage of, undermining its aims. Boosting knowledge of the Bill and of where tenants can receive legal support will therefore be vital if the Bill is to be implemented effectively.

In addition to the above concerns, a further potential barrier is the length of time it has already taken to get the Renting Homes (Wales) Act 2016 implemented. The 2016 Act includes several excellent provisions that will increase the protections offered to tenants within the PRS, not least the prohibiting of retaliatory evictions. Yet over 3 years on from the Act receiving Royal Assent it is still not in force. With every day that passes tenants are missing out on the legal protections that the Assembly has deemed they should be afforded. It is therefore crucial that the 2016 Act and the amendments that would be made to it through this Bill are implemented as a matter of urgency.

Whether there are any unintended consequences arising from the Bill

One concern we have heard through our networks about a potential unintended consequence arising from the Bill is the impact it may have on the supported housing sector. We have heard that many supported housing providers use section 21 notices to manage properties where there are tenants with significant additional needs. It is suggested that the swiftness of the section 21 system allows supported housing providers to let properties to tenants that would otherwise be considered too high risk, and that the proposed amendments to section 173 of the Renting Homes (Wales) Act 2016 may discourage some providers from taking on such tenants in future. We believe that tenants, whatever their level of needs should be afforded the same protections. This is something that we believe that the Committee should explore further, however, to ensure that the Bill does not lead to people missing out on the support they desperately need.

We have also heard some concern that the amendments could lead to some landlords leaving the PRS. Evidence on this is not clear, but, we believe that the changes proposed are proportionate in providing tenants with security, whilst also providing landlords with the flexibility to take back possession of their property in a timely manner if they wish to sell it, or move in themselves, or if a tenant has acted in breach of contract.