

**CIH Cymru oral evidence submission**

**Scrutiny of:** Renting Homes Amendment (Wales) Bill

**For:** Equality, Local Government and Communities Committee

**Provided by:** Matt Dicks



**Responses**

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

As we've noted in our evidence:

- Increasing the security of tenure supports our call, alongside Tai Pawb and Shelter Cymru to see the right to adequate housing fully enshrined in Welsh legislation (We have included the executive summary of this research as a separate piece of evidence to the committee.)
- The private rented sector makes-up almost 17 per cent of the housing stock in Wales and houses a wide variety of people. For some specific groups such as families with children and older people, increasing security of tenure remains an issue of high importance.
- We believe this is a matter of increasing consistency in what people can expect from their experience of renting in Wales (regardless of tenure), increasing the attractiveness of renting for tenants and landlords alike and using this as an opportunity to increase the resources focussed at preventing eviction proceedings and potential homelessness in the first instance.

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

- We agree in principles with the approach taken by the Assembly.
- Our main concern that we've reflected on in our evidence is over the delay to implementing the provisions of the 2016 Act and the impact the amendments will have on those provisions, such as the standard contracts.
- One action that would aid implementation is a clear timetable for bringing the legislation online, with clear recognition of the need for landlords to digest the changes and prepare beforehand.

**3. What is the 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?**

- We are confident that most of our members have a good level of awareness relating to the Act – but note that there is a level of frustration and anxiety in the sector given the delay between passing and implementation.

- We are concerned however that some private landlords may not have sufficient awareness still of the Act and some of the measures it brings in – such as changes to contracts and the health and safety requirements.
- We did some research on Private Renting and Mental Health in early 2019 through our Tyfu Tai Cymru project. One of the findings suggested there was a wide variety of places a private landlord might go to find information about good practice/ policy changes. (Such as local government websites, Citizens Advice and Rent Smart Wales). The research suggested that there was no predominant form of information landlords regularly engage with. With this in mind, we believe its important to utilise a variety of channels served by different organisations to increase reach into the private landlord sector and raise general awareness and visibility of the changes.
- Both social and PRS landlords will need to continue to communicate proactively with tenants to inform on the wider changes of the Renting Homes Act in tandem with impact of this Amendment Bill.

**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 this Bill do anything to address the needs of the most vulnerable groups?**

- As mentioned previously there are specific groups who will benefit in particular from greater security of tenure. Namely, households with children and older people. For these groups’ security is important to maintain social links and access to community support and infrastructure.
- For some households who cannot afford to buy a home the private rented sector is the only viable option. Whilst it is important to continue with activity that increases people’s income helping to broaden the range of housing options available, the legislation in the interim will provide welcome security to those who cannot afford to buy a home or would prefer to rent.
- For some vulnerable people/households, security of tenure will be important in creating one less worry. The Bill understandably does not reflect on the role of housing-related support services, but we would like to highlight that without these services ensuring potentially vulnerable individuals can live independently the Bill’s purpose

**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?**

- We recognise that this needs to be a careful balancing act between the rights of individuals as property owners and doing what’s in the best interest of society as a whole in meeting the demand for housing.
- Whilst the Bill clearly brings forward powers to increase the security tenants experience whilst renting, this will need to be accompanied by greater support for

landlords to avoid evictions in the first place and when it is deemed necessary, access to efficient court proceedings that are transparent, well supported and easily engaged with by all parties involved.

- We believe that with the issues outlined addressed in our response that this legislation could pave the way to improving standards (both physical standards of homes and housing management) within the PRS, create a better environment for renting for tenants and landlords alike and improve people's overall experiences of renting in Wales.

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

- We believe that the Bill would offer a good balance, if other activity to improve support for landlords and tenants is effectively undertaken.

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

- As our report produced by Dr. Simon Hoffman outlines, a universal right to adequate housing needs to encompass both access to suitable homes and also the ability to feel secure and well within the home.
- Whilst the Bill certainly makes progress in this area, to be fully realised effectively in practice it must be accompanied by well-resourced services aimed at sustaining tenancies in addition to the broader and long-term resources needed to increase the supply of social and affordable housing, whilst in tandem increasing the quality of existing homes on a cross-tenure basis.
- However, a right to adequate housing will only truly be realised with the full incorporation of the right to adequate housing into Welsh law as defined by the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides for legal recourse to challenge against the delivery of this right.

**8. The committee has heard that some of the evidence 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?**

- There is a clear issue in that we do not have strong robust data in Wales about the impact of tenancy insecurity – we do not know the common things people feel apart from what the anecdotal data tells us around stress, anxiety (general impact on mental health) of being in a tenancy that lacks any real security. We do believe that given the impact of these factors on people's ability to prosper in their home and community that they should not be taken lightly – and alone merit a change in policy.
- Aside from this we believe that there is a need to increase equality between tenures, making sure that people who rent privately and landlords themselves can expect

sufficient levels of support, advice and info to maintain business/ quality of life respectively.

- Since the Housing (Wales) Act 2014 came into force local authorities in Wales partly rely on the PRS to discharge their homelessness duty. A vital part of housing people who may require additional support in the PRS has been providing high quality housing support services through Housing Support Grant. In playing this role in supporting more vulnerable households it seems natural to accompany this with more security for tenants.
- Lastly with such pressure on social housing supply, any measure that keeps people in their homes, potentially avoids evictions and increases the certainty under which people live in their homes is a positive step forward.

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

- Once again reflecting on the findings of our PRS and mental health research, we found that data about operating practice in the PRS was sparsely held, and often depended on the resources local authorities were able to offer at a local level to engage with landlords.
- At a Welsh Government level there is a need for greater leadership to ensure the issues specific to the PRS are sufficiently recognised and progressed. We welcomed the broadening out of a Welsh Government stakeholder group focussing on welfare benefit issues in the PRS, to consider issues much broader to the PRS than this. Civil servants have played a proactive and leading role in taking forward recommendations from our PRS and mental health work which we strongly welcome but note that the group as a whole does not meet regularly and that in-turn stifles overall progress in other areas.
- The onus on understanding the PRS is often left for local authorities to unpick at a local level, which given how different housing markets and housing demand can be is understandable. However, as we have alluded to previously local authorities have different levels of resources available to achieve this which can make approaches and engagement inconsistent – for example some authorities operate private landlord forums whilst others do not.

**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?**

- Meaningful tenant involvement is one of the most challenging aspects of delivering social and affordable housing. In the PRS where tenants may move-on quicker and landlords have less resources (no comms team etc) involving and engaging tenants can be difficult. But not addressing this issue fully creates its own problems.
- The lack of representation means that in practice we risk not knowing how widespread a particular issue is, how issues might impact different groups (such as those with protected characteristics) and miss opportunities to use feedback to

improve policy nationally. In addition, there's a possibility that tenants feel muted due to the lack of a way of speaking up – creating the perception of a power imbalance.

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

- Social landlords must provide a reason for eviction, due to the way organisations are regulated they do not operate in the same way as private landlords. The reasons largely being as a result of rent arrears or anti-social behaviour.
- Many social landlords are seeking to move towards a 'no evictions' policy, and many at least to a 'no evictions into homelessness' policy.

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

- As mentioned previously social landlords do have to always give a reason. And there will often be a number of trigger points where they'll seek to contact and make tenants aware of the possibility of eviction and of the issues they're seeking to engage them on, usually referred to as pre-eviction protocols. Many social landlords seek to add in additional points to those usually completed via the protocols to increase the likelihood of avoiding possession proceedings.
- When considering rent arrears organisations are increasingly developing approaches that consider Adverse Childhood Experiences (ACEs) – recognising that things like rent arrears and anti-social behaviour can be indicators of struggle in someone's life that require understanding and more flexible approaches.
- But as social landlords are often quite large-scale providers, they are in a better position to carry the risk that comes with rent arrears and ASB – that isn't to say it isn't an issue, but compared with smaller PRS landlords, the difference between viability and real risk to the business is much tighter meaning that there's more capacity for practices to be flexible.

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

- Prohibited standard contracts often provide an alternative to eviction proceedings and under the Bill the supported standard contract offers additional security for those living in supported accommodation – we support these being exempted.

**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?**

- Social landlords may use section 173 to gain possession of a home where there is a serious threat to an individual or community safety. As organisation who will have a role to play in managing large amounts of homes it is important that they retain an ability to have this kind of impact in response to the most serious circumstances. Not providing an exemption will potentially impact how social landlords quickly gain possession in these instances and despite there being other ground-related routes available the pressure on the court system means that swift repossession is not possible using these methods as the alternative.

**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 be in line with the policy intention of the Bill?**

- We do not believe this would be the case given the pre-eviction protocols social landlords must operate. Given that impact of the activities that might prompt a social landlord to seek to utilise section 173 on other households and the wider community we believe that inclusion in the list of exemptions would be a proportionate measure.

**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?**

- Linked to the point made previously – for social landlords a reason will always need to be provided, even when using a section 173. We believe there is some logic in extending this requirement across tenures to increase accountability and gain richer data on evictions.

**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?**

- This is where measures to make the system more efficient and find that balance where landlords can still legitimately get their properties back are important – but with the right support infrastructure we believe there will be less need for this, which in terms of people staying in homes longer should make the environment a more attractive one for landlords.
- Proactive and consistent communication will be important to address the concerns of landlords who may be concerned about the provisions in the Bill.

**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 high risk?**

- This is a problem at present, with or without this legislation. Private landlords need greater confidence over the levels of support tenants who may need it to live independently can expect in their homes. Without this we believe there is a real risk that this Bill may exacerbate this issue further.
- Our Tyfu Tai Cymu research on private renting and mental health found that:
  - One in three support organisations feel there is ‘never’ enough mental health support for tenants renting privately
  - 62 per cent of landlords have had, or currently have a tenant with a mental health problem
  - Almost half of private landlords felt they ‘never’ had enough support or information to support tenants living with mental health problems
  - There are suggestions that people with mental health problems sometimes face discrimination when trying to access private rented sector housing
  - Private landlords told us that the solution to the problems are straightforward; that there should be better advice available online for what landlords and tenants can do to access support.

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

- It seems reasonable to suggest that if private landlords were to leave the market in high volumes that pressure on social landlords would increase further, given the important role many private landlords currently play in supporting local authorities to discharge their homelessness duty.
- We note that the Welsh Government has maintained the same level of funding for Housing Support Grant for the forthcoming financial year, which whilst welcome in terms of maintaining the support on offer may mean that services are not able to accommodate the demand for support that will be needed to meaningfully reduce evictions.

**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 court system should the Welsh Government push for?**

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

- Like our evidence suggests it seems that without considerable reform of the court system measures are likely to be ineffective in meeting the stated policy intention.
- We support the call for a specialist resource for dealing with housing-related cases, such as a housing court. Having well-trained housing expertise could increase consistency with which decisions are made and increase fairness and transparency.
- In Scotland, instead of going through the Sheriff Court a dedicated tribunal has been established so that tenants in the private rented sector could have housing disputes dealt with in a more proportionate, efficient and cost-effective way.
- Experience from Scotland shows:
  - In Scotland initial feedback from our members suggests the new system was greatly under-resourced but activity is now aimed at increasing the availability of staff.
  - The underestimation of what resources were needed was partly due to an assumption that the caseload would largely reflect the caseload going through the courts previously. But a no-fault eviction wouldn't make it as far as that, meaning the real demand was much greater than at first anticipated.
  - Some cases were turned away due to paperwork being completed incorrectly – some tenants found the system difficult to navigate.
  - As this isn't the same as a court, there isn't legal representation. Therefore, consideration of how people's support needs for undertaking this process needs to be considered, in addition to the impact on third sector organisations who may be best placed to provide support.
  - Some social landlords in Scotland have suggested widening the remit of the tribunal to consider their cases as way of embedding fairness across the system.
  - The Nationwide Foundation have commissioned a project seeking to understand how some of the new measures, including the tribunal system, are working in Scotland – this isn't due to report formally for a couple of years but this may be an important report by which to understand the impact of these measures, and learn how best to monitor any new approach in Wales.

**22. The Minister has told the committee 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 spring 2021?**

- The process towards reducing evictions across the sector will take time, although a number of organisations are leading the way and demonstrating how this can be done through well-resourced housing management.
- Given the experience in Scotland where a large amount of demand was found once the Housing Tribunal was established we would urge caution in assuming that even with improvements in practice a reduction in evictions from social housing and elsewhere may not release substantial capacity in the court system. This will require ongoing monitoring.

**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 intentionally homeless?**

- We would re-emphasise the need to consider the provision in this legislation in tandem with the need for increasing the provision of prevention services that work with landlords and tenants to avoid evictions and ultimately reduce homelessness.
- We do not believe it is clear at present the impact on households being found intentionally homeless, but recognise the risk posed by any increase in possession claims on a ground or fault basis.
- For higher risk or groups deemed more vulnerable, local authorities do not have to consider intentionality when looking at their duty to find someone a home. And in some circumstances, there are protections for more at risk groups (such as households with children and pregnant women) where the local authority will still need to secure suitable accommodation even if intentionality is proven.
- Before a local authority can consider intentionality, all reasonable steps must have been taken to remove the threat of homelessness, which is where the prevention measures come in. To some extent with proper resourcing any increase in households being found intentionally homeless could be offset through increasing available resources for local authorities to undertake their prevention activity.

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

- It would be a significant burden on contract-holders should this be the case. We believe that there must be clear guidance provided to local authorities to work with households presenting as homeless and be accompanied by clear sign-posting to support services who may be able to help in terms of navigating the process.

**25. In light of the change 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 6 months to 12 months.**

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**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.**

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

- This point was much debated at the time of shaping the legislation in 2014. We believe that given that the new approach brought in by the legislation has had an opportunity to become more embedded it is the right time to consider extending what 'prevention' means in practice.
- Measuring progress in sustaining tenancies for longer periods of time seems more in sync with our desire to keep people from losing their homes and providing more preventative support to landlords and tenants.
- Any change to the statutory definition would need to be done in partnership with local authorities, seeking views on how this would be monitored effectively and resourced in practice.

**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 this be classed as successful prevention of homelessness?**

- Whilst there is a case on the one hand to class that activity as preventing homelessness – as for some households it may well achieve that in practice with greater time to identify alternative accommodation or potentially mitigate eviction proceedings we do not believe classing this as 'homelessness prevention' is truly in the spirit of the Housing (Wales) Act 2014.