

## **HSHAWB 08 The Wallich**

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Senedd Cymru | Welsh Parliament

Y Pwyllgor Llywodraeth Leol a Thai | Local Government and Housing Committee

### **Bil Digartrefedd a Dyrannu Tai Cymdeithasol (Cymru) | Homelessness and Social Housing Allocation (Wales) Bill**

Ymateb gan: The Wallich | Evidence from: The Wallich

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#### **1. What are your views on the general principles of the Bill, and whether there is a need for legislation to deliver the stated policy intention?**

We strongly support the general principles of the draft Bill, to enhance systems for the prevention and relief of homelessness in Wales. We believe that new legislation is urgently needed, because the current system based upon existing provisions in the Housing (Wales) Act 2014 and the Housing Act 1996 has significant shortcomings, meaning support can be withdrawn or denied altogether, and many people are falling through the gaps, leading to prolonged traumatic experiences of housing instability.

The Government sets out in the Explanatory Memorandum that the Bill is intended to;

Expand access to homelessness services and provide additional support to those who need it most;

Widen responsibility to certain specified public authorities to identify individuals who are homeless or at risk of homelessness and respond effectively, and;

Prioritise allocation of social housing to those most in need.

We strongly support these three aims and are broadly confident that the provisions within this draft bill are realistic and consistent with their intentions. The Bill is the culmination of many years of work, including the Expert Review Panel of representatives from local authorities, Registered Social Landlords, the third sector and others. The Panel's report included a range of carefully-negotiated policy recommendations, balancing these competing perspectives, and the Bill replicates these compromise positions in a way that means all parties should be able to support it, to work towards the shared vision of a Wales where homelessness is rare, brief and unrepeatable.

**2. What are your views on the provisions set out in Part 1 of the Bill - Homelessness (sections 1 -34)? In particular, are the provisions workable and will they deliver the stated policy intention?**

Sections 1 and 2 – Help to prevent homelessness.

We believe that this will be a very welcome change, extending the prevention window from just 56 days to six months, allowing housing services to get appropriate support in place sooner, and manage caseloads more effectively. The six-month window also brings the prevention duty in line with the notice period that must be provided to tenants if issued with a ‘no-fault’ eviction under the Renting Homes (Wales) Act 2016. This means as soon as an individual is served notice, they are eligible for support to ensure they are not evicted into homelessness.

Sections 3 to 5 – Assessment of needs and plans for securing accommodation and support, and reviews.

These provisions include useful reforms to the 2014 act to ensure services remain accessible for people with a range of different support needs, and that they receive timely communications in a format that can be more easily understood. The initial needs assessment is a vital step in the homelessness support process, and experts by experience tell us that this can be incredibly stressful and retraumatising if not managed sensitively. Service users tell us that the assessment process can feel like something ‘being done to them’ rather than ‘with them,’ and these reforms ought to make it easier to deliver more inclusive, trauma-informed processes.

Section 4 creates a new duty on local housing authorities to prepare a person-centred Prevention, Support and Accommodation Plan (PSAP) for each applicant owed a duty. We are pleased to see that this acknowledges that suitable accommodation is only a part of the solution for ending homelessness; wrap-around support must also be provided at an appropriate level. Finally, the Bill clarifies the process by which an applicant can request a review if they feel their needs assessment was not carried out appropriately.

Sections 6 to 8 – Reform of duties to secure accommodation.

These sections provide some welcome updates to the main homelessness duty to ensure applicants can access appropriate interim and permanent accommodation, however it also introduces a new concept of ‘a local connection to Wales.’ Whilst we note that there is an exemption to this test if the applicant or a member of their household are at risk of abuse, we remain somewhat sceptical

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about the need for a new eligibility test. The Wallich has a longstanding position that local connection tests exist only to exclude people from much-needed support, and whilst we support the negotiated compromise position agreed by the Expert Review Panel, ultimately, we would prefer to see local connection tests scrapped altogether. This is based upon the testimony of countless people we have supported over many years who have been excluded from support services and left with nowhere else to turn.

Sections 9 and 10 – Abolishing entitlement by reference to priority needs and intentional homelessness.

The Wallich fully supports these two key measures and believe that scrapping these two outdated exclusionary tests will be a major achievement for this piece of legislation. We do however note that many local authorities are expressing concerns that scrapping these tests will lead to increased presentations when they are already experiencing record levels of demand, and perhaps as a consequence of this concern, the Welsh Government suggests in its Regulatory Impact Assessment that Sections 9 and 10 are likely to be implemented only by 2030-31 at the earliest. We consider this to be an unreasonably long delay.

The Welsh Government has been discouraging the use of both tests since the 2014 Act and effectively suspended them through the ‘no-one left out’ policy implemented at the start of the Coronavirus Pandemic in 2020. The most recent data suggests fourteen of the twenty-two local authorities no longer apply the priority need test, and eleven of the twenty-two no longer apply the intentionality test. In this context, we believe that both priority need and intentionality could be ended immediately with limited impact on local authorities.

Sections 11 to 17 – Local connection referrals.

As mentioned above, The Wallich would prefer to see local connection abolished altogether, however we are content to accept the pragmatic compromise position agreed by the Expert Review Panel, to retain local connection albeit with additional safeguards to protect people experiencing or at risk of abuse. A longstanding complaint about priority need and intentionality tests is that they have been inconsistently applied across different areas of Wales, so our main hope for the reformed local connection rules are that they can be easily understood and applied consistently and fairly. We hope that the Welsh Government will monitor this closely, and uphold the exemptions set out in Section 13 of the Bill, adding additional categories for exemption if necessary.

Sections 18 and 19 – Further homelessness prevention duties.

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These provisions create an important new duty on local authorities to stay connected with people even after resolving their homelessness, to ensure they are supported to retain their accommodation long-term. This will be a valuable tool to ensure homelessness is non-repeated, recognising that some people will need ongoing support in order to maintain their tenancy. We also appreciate the provision that authorities must take reasonable steps to contact applicants, even if they are in alternative housing outside of the private or social rented housing sectors.

Section 20 - Unacceptable behaviour that brings duties to an end.

We are pleased that the Bill proposes to scrap the 'unreasonable failure to cooperate' test, which has often been used as an excuse to end a duty without investigating why someone may be having difficulties engaging in support. People who have experienced significant trauma are more likely to have difficulty trusting others, may be using drugs or alcohol to self-medicate, or may simply be unready to engage. It is vital that support staff take the time to understand their clients' unique circumstances and build trusting relationships. There may be numerous missed appointments and false starts, but a truly trauma-informed service must be patient and available on the client's terms.

We acknowledge the new circumstances in which duties may be ended are designed to protect frontline staff; everyone working in homelessness services deserve to be safe at work, protected from violent or threatening behaviour. Nonetheless, ending a duty under this section must be seen as an absolute last resort, only considered after all other avenues have been exhausted. There may be more proportionate steps which could be taken to promote positive behaviour changes, in recognition that violence and aggression is often a trauma-response to someone feeling unsafe. The exact wording of Guidance on the use of this section will be vital in order to ensure people are not excluded from services and left to face homelessness and ongoing trauma without support.

Sections 21 and 22 - Duty to ask and act

The Wallich considered the proposals to create new duties on other public bodies to identify, refer and cooperate as some of the most radical and important in the White Paper. This is a significant departure from the system as established in the 2014 Act, finally recognising that it will take all public services working together to end homelessness in Wales. We acknowledge that the changed language of 'ask and act' will bring this duty into line with similar duties such as the identification of violence against women, domestic abuse, and sexual violence (VAWDASV). We do however hope that there will continue to be an emphasis on ongoing

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cooperation within the duty, as it is not enough for public services to simply make a referral to the housing department and take no further actions. They need to remain engaged and cooperate until all support needs have been identified and a PSAP is in place.

Whilst we are glad to see the eighteen specified public authorities in the draft bill, there are some significant gaps where we believe further bodies should be included. Specifically, we believe that primary care services (including GPs and community mental health services), education providers (including universities and colleges, as well as special needs schools and pupil referral units), private landlords, and all police forces should be subject to this new duty. There is widespread support across these sectors to take a more active role in homelessness prevention, and indeed a recent survey run by Public Health Wales found that 80 per cent of people in Wales believe primary care services have a role in supporting people with non-medical issues.

Whilst the Bill provides for the Welsh Ministers to amend this list and the Explanatory Memorandum states that it expects the list to grow over time, we would urge the Government to include the widest possible range of public bodies upon commencement.

Sections 23 to 28 – Provision for vulnerable people.

These sections provide some additional targeted prevention measures, in recognition that some people are at greater risk of homelessness, and less likely to be able to engage with mainstream support services. We agree that people leaving care, leaving prison, or otherwise leaving the care of the state must not be discharged into homelessness, and these provisions are sensible tools to ensure different agencies are working together to prevent this from happening. We understand that Section 25 provides a legal basis for a case-coordination model where clients are in touch with multiple different agencies, and we hope that this change will be enough to create a presumption in favour of multi-agency working. At present, people are falling through the gaps, particularly when they present with co-occurring mental health and substance use issues, as neither service can be compelled to accept lead responsibility.

Section 29 – Seeking the views of homeless persons.

We were delighted to see this proposal included in the bill, creating a new duty on local authorities to consult with and co-produce services with people who have lived experience of homelessness. The Wallich strongly believes in the power of genuine co-production, as people who have gone through the homelessness

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system are best placed to identify its shortcomings and suggest alternative approaches. This duty is also a welcome recognition of the work of over 350 experts by experience whose testimony helped shape the work of the Expert Review Panel, the White Paper, and ultimately the proposals throughout this draft Bill.

#### Sections 30 and 31 – Condition of accommodation

We welcome these sections bringing temporary accommodation standards into line with the more widely recognised housing standards in the Renting Homes (Wales) Act 2016. Many of the properties currently used as TA fall well below acceptable standards, including fitness for human habitation standards, so we hope this change will drive up quality. We accept the Government's intention to report on use and condition of interim accommodation every five years, although we would prefer this to be reported more frequently, at least every three years with annual progress updates.

#### Sections 32 and 33 – Co-operation.

We welcome any and all measures to improve cooperation between public bodies and particularly welcome this change to ensure that all Registered Social Landlords (RSLs) comply with requests from local housing authorities. This should not pose a problem to the vast majority of RSLs who already work well with authorities, however this should improve the practices of the small minority who do not.

#### Section 34 – Viewing accommodation

Finally, this is an entirely sensible proposal to allow applicants to view properties on offer and make an informed choice whether or not to accept, even if they are currently in prison or hospital and unable to visit the property in person. People who have made an active choice about their housing are more likely to be able to maintain that home for the longer term

### **3. What are your views on the provisions set out in Part 2 of the Bill – Social Housing Allocation (sections 35 – 38)? In particular, are the provisions workable and will they deliver the stated policy intention?**

#### Section 35 – Qualifying persons for allocation of social housing.

The Wallich is broadly content with the amendments to the Housing Act 1996 giving greater discretion to local authorities to manage their own social housing allocations, although the draft Bill could be stronger in emphasising that social

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housing ought to be prioritised towards those currently experiencing or at risk of homelessness. We worry that allowing authorities to exclude people guilty of ‘unacceptable behaviour’ will be open to interpretation and could be used to penalise people who have experienced trauma and/or are not receiving appropriate support.

Sections 36 and 37 – Preference for persons in allocations system.

We strongly support the reasonable preference category for young people leaving care, as this will be a powerful safeguard against homelessness for care-leavers.

On the other hand, we do not support the introduction of a new ‘deliberate manipulation test,’ as we are concerned that it may in fact be re-introducing the intentionality test albeit for social housing allocations. We accept that there may be some perverse incentives in the current system, and households in suitable accommodation must be provided with the right support to allow them to stay in that accommodation. However, we do not believe that local housing authorities should have the discretion to unilaterally decide that somebody intentionally abandoned a tenancy in order to ‘deliberately manipulate’ the social housing waiting list. In such instances there are likely to be complicating factors unique to their circumstances, and household ought to be supported rather than punished.

Section 38 – Registers.

Finally, we support the proposal in this Section to create common housing registers for the whole local housing authority area. This significantly simplifies the process of applying for social housing, and we understand from the Explanatory Memorandum that common housing registers are already in place in nineteen of the twenty-two local areas. This Section will simply bring the final three areas up to this common standard. We do however expect that there must be protections put in place whilst those three areas transition to a common register, and where possible households should not be made to reapply if they are already on a waiting list.

**4. What are your views on the provisions set out in Part 3 of the Bill – Social Housing Allocation (sections 39 – 43 and Schedule 1)? In particular, are the provisions workable and will they deliver the stated policy intention?**

We have no particular views on the provisions set out in Part 3 or in Schedule 1 of the Bill.

**5. What are the potential barriers to the implementation of the Bill’s provisions and how does the Bill take account of them?**

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We believe that the two major potential barriers to successful implementation of the measures set out in this Bill are a lack of long-term sustainable funding, and the difficulties in effecting cultural change across all local authorities and other public bodies.

Firstly, we recognise that the Welsh Government has estimated the costs of implementation for the Bill at £325.8 million over a ten-year period. These costs will fall not only on Welsh Government, but also on local authorities, RSLs, and other public services. That means the success of these reforms will be dependent upon enduring political and financial commitment to invest and realise these changes. Not only will the current Welsh Government need to secure cross-party support from Members of the Sixth Senedd in order to pass the Bill, but future Governments will also need to maintain a leadership role to ensure Welsh public services remain committed to ending homelessness for as long as is necessary.

This leads on to the second challenge of overturning the long legacy of services treating homelessness as simply a lack of housing. The Welsh Government has set out a detailed plan for upskilling staff across a wide range of public bodies to meet the new Ask and Act duty, and hopefully it has learned lessons from the rollout of similar duties around safeguarding and VAWDASV to ensure that public service workers are able to buy-in to the Wales-wide mission of ending homelessness. The Wallich will play its part in helping to foster an environment of determined collaboration

**6. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation, as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?**

We have no particular views on the powers to make subordinate legislation as set out in Chapter 5 of Part 1 of the Explanatory Memorandum

**7. Are there any unintended consequences likely to arise from the Bill?**

As mentioned above, we are worried about the introduction of ‘unacceptable behaviour’ and ‘deliberate manipulation’ tests, which could be used in a comparable way as the current intentionality test, albeit for social housing allocations rather than homelessness support. We understand the Government’s reasoning for introducing them, however they must provide really clear guidance to local authorities about when and how they can be used, ensuring that they are only ever considered as a last resort.

As we have tried to repeatedly highlight, people experiencing or at risk of homelessness are disproportionately more likely to have experienced significant

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trauma, and therefore more likely to engage in problematic safety behaviours. Genuinely trauma-informed services must recognise this reality, and instead of seeking the first available opportunity to discharge their duty, take the time to build a trusting relationship, to understand the underlying causes of these safety behaviours, and work together to address them. Without a patient, compassionate approach, these tests could unintentionally become new forms of punishment, abandoning people in a crisis with no hope of support.

Finally, we note that the success or otherwise of this legislation will be largely dependent upon future Welsh Government's ability to significantly increase the supply of affordable accessible housing. Without enough appropriate homes support services will continue to struggle when moving people on from temporary accommodation, and prevention efforts will be significantly hamstrung

**8. What are your views on the Welsh Government's assessment of the financial implications of the Bill, as set out in Part 2 of the Explanatory Memorandum?**

We are content with the detailed financial modelling that the Welsh Government has conducted and detailed within the Explanatory Memorandum and note that the estimated cost of £325.8 million over ten years should be offset by the estimated £1.195 billion of financial benefits, thanks to a shift towards preventative spending. Of course, these numbers are likely to vary depending upon the successes and challenges of implementation, but the underlying principle, that investing in prevention yields significant savings to all parts of the system, is sound. We also note that the Welsh Government estimates that just a 6.1 per cent improvement to the prevention rate and no change to the relief rate would by itself break even with the proposed costs of implementation in the Bill. This powerfully makes the case for investment, which ought to guide the budget strategy of future Governments for many years to come.

**9. Are there any other issues you would like to raise about the Bill and the Explanatory Memorandum or any related matters?**

We have highlighted our ongoing concerns about the continuation of the local connection tests (both for the main homelessness duty, and the allocation of social housing), as well as the introduction of 'unreasonable behaviour' and 'deliberate manipulation' tests. We hope that if these provisions do remain in the final draft of the Bill that Welsh Government will publish robust guidance for local authorities about how and when those tests can be used in a way that minimises potential harms.

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We would like to see the Welsh Government go further on creating specific prevention powers to stop people being discharged from hospitals into homelessness. There are welcome proposals around young people leaving care, as well as for people leaving prison, so we see no reason equivalent powers could not be created for people leaving hospital, particularly since health (unlike the criminal justice system) is entirely devolved.

As mentioned above, we see no reason priority need and intentionality could not be abolished much sooner than the proposed 2030-31 timescale. Both tests were effectively ended instantly at the outset of the coronavirus pandemic, and the majority of local authorities are not actively using those tests in 2025, so it would seem a missed opportunity to let the commencement of these Sections of the Bill drag on for years.

Finally, we would like to highlight that the case co-ordination approach recommended in the White Paper has been considerably watered down in this draft Bill. The White Paper proposed “a compulsory case co-ordination approach including the identification of a lead professional (which would not be expected to be the local housing authority in all cases) alongside a means for overseeing this case co-ordination to identify and address gaps in service provision for such individuals, as well as to manage and prevent escalation of risk”. In contrast, Section 25 of the draft Bill proposes only that “A local housing authority in Wales must make arrangements to promote co-operation between itself and such persons mentioned in subsection (1D) that exercise functions in the authority’s area as it considers appropriate”. We believe that case co-ordination is a vital part of the solution where people are engaged with multiple agencies, and risk falling through the gaps if those agencies fail to communicate and support rather than unintentionally undermine one another

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