

HSHAWB 14 Cartrefi Cymunedol | Cymru Community Housing Cymru

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: Cartrefi Cymunedol Cymru | Evidence from: Community Housing Cymru

About CHC

Community Housing Cymru (CHC) is the voice of housing associations (HAs) in Wales. We represent 30 not-for-profit housing associations that provide almost 165,000 homes to 10% of the Welsh population. These homes include housing with care, support and/or supervision, supporting tenants with diverse needs to live well in their communities.

Summary

We share the Welsh Government's commitment to end homelessness, and we support the principles underpinning the legislation. We stand ready as a sector to play our role. This reflects the social purpose that is at the heart of HAs in Wales and builds on commitments the sector is already delivering on, such as ending evictions into homelessness.

Legislation alone can't end homelessness - we all know we need more homes, especially affordable homes. We need to make quick progress in parallel to this legislation on taking forward recommendations from the recent affordable Housing Taskforce report, as well as tackling wider, systemic barriers to supply. The recent boost in funding for Wales in the UK government's Spending Review offers an opportunity for a step change in the delivery of social homes in Wales. Along with a sufficiently long-term rent settlement for the sector, there is a cause for optimism that we can finally tackle the housing crisis blighting communities in Wales.

In terms of optimising the current homelessness 'system', the Bill has the potential to go a long way towards modernising the process and centring people - if the details are right and implementation is successful. There's concern that the accelerated timetable for the legislation increases the risk of unintended

consequences, similar to issues seen with the Renting Homes Wales Act. The sector stresses that accuracy is more important than speed and urges Members of the Senedd to ensure they have sufficient time for scrutiny.

It is reassuring to see some of the concerns we raised during the White Paper consultation reflected in the position reached in the draft legislation. There has been extensive consultation and engagement to get us to this stage. Our response recognises this and focuses on how we make sure the legislation works as best as it can.

With this in mind, these are the high-level changes and assurances we want to see to enable Registered Social Landlords (RSLs) to deliver the ambitions of this legislation for the benefit of people and communities across the country:

- Redrafting of section 38 so that it is fit for purpose: Whilst we support the principle of Common Housing Registers (CHRs), we cannot support this section as it is currently drafted. We have had constructive conversations with Welsh Government Officials around redrafting this so that it only covers social housing, not other types of affordable accommodation offered by HAs, e.g. market rent. In addition, the legislation must be remedied to allow for vital and urgent transfers to continue, for example, to move a domestic abuse survivor urgently away from a perpetrator.
 - A more balanced approach to the duties in section 33: Matching the duty on RSLs to comply with a housing referral with a commensurate duty on LAs to make relevant information on housing and support needs available to HAs so they can take an informed view on whether they can reasonably comply. We know that people thrive when they are placed in a home suitable for them and with the right support in place. RSLs need to be able to share sensitive information safely to achieve this. We also think it would be beneficial to specify a non-exhaustive list of areas that guidance produced under this section should cover, and assurance that such guidance must be in place before this provision is enacted.
 - Clarity on the role of RSLs: there are various areas of the Bill which we think would benefit from explicitly outlining the way that RSLs should be engaged or able to request certain approaches, especially around section 18 (help to retain) and 25 (multi-agency working). This would help to set the tone for partnership working.
 - Bolstering data sharing: There are no specific data sharing provisions made in the Bill - this seems like a missed opportunity to streamline processes and ensure everyone has the confidence they need to share relevant data confidently. We
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would welcome more information on how the public bodies and partners included in the Bill could otherwise safely share relevant data to enable a successful multi-agency, partnership working approach to flourish. We should learn from other legislation that has included data legislation to ensure we set up all partners for success.

- Wider consideration of costs: It is clear that the wide-scale system change that is envisioned through the legislation must be matched by adequate funding for all the elements contained within it. We are concerned that the Regulatory Impact Assessment (RIA) as drafted does not account adequately for the scale of increased demand on services and the knock-on impacts to other bodies, including RSLs. The very welcome move to supporting more people to stay in their homes will necessitate a real step change in the funding of programmes such as the Housing Support Grant (HSG).
- Finally, we remain very concerned that the measures outlined in this Bill constitute increased control by the Welsh Government and local authorities (LAs) over the operation of RSLs, which brings the risk of reclassification. RSLs are and should remain independent organisations guided by a social purpose. This is one of their unique characteristics, allowing the sector to leverage private investment - currently this private finance totals £3.5bn, rising to £4.5bn by 2027. Increased intervention by national and local government could give rise to the ONS reviewing the classification of RSLs and deciding that their debt should sit on the public balance sheet. This could lead to the UK Treasury placing borrowing limits on HAs, which would impact their ability to deliver new social homes at scale.

Detailed response

Overall - implementation

- We fully support the proposed transitional and phased approach, with reviews at each stage. It is important that this is implemented well, iteratively learning and reflecting lessons learnt from other legislation and other parts of the UK.
 - This will be important to ensure that the necessary groundwork is in place to make the legislation a success. We would welcome engagement with the Welsh Government in the coming months on an indicative timeline for the changes, so that various sectors can gear up appropriately. For example, the expanded duties imply significant increases in coordination, administration, and reporting. RSLs and LAs alike face ongoing staffing challenges, and the Bill's success is contingent on realistic workforce planning and support
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- In particular for RSLs, the timing of implementation and guidance of Sections 33 and Section 38 will be really important.

Overall - funding and impact

CHC view: As a headline, it is vital that LAs have sufficient funding to gear up for these changes. Furthermore, the proposed new system inherently requires more support funding to be available at the prevention stage, during the time someone is owed a duty, and once they transition to sustainable housing. The future budget for the Housing Support Grant must reflect this, and this should be multi-year to give certainty to services.

The Bill's RIA states that analysis is based on authoritative research and primary data led by Alma Economics, including engagement with LAs, RSLs, and the wider public sector in Wales.

Our members were engaged in one exercise through the Welsh Government/Alma Economics, which CHC coordinated. This is referenced in the RIA as a costing template, which summarised the estimated costs associated with the key proposals set out in the 2023 White Paper. Housing associations collectively found this a difficult exercise to undertake due to the lack of detail at that stage on how policy proposals would work in practice, as well as the assumptions presented to HAs, which many found too conservative.

We welcomed the initial exercise as a first step in the Welsh Government's engagement with RSLs on associated costs with the legislation on the proviso that this was an iterative exercise and that RSLs would not be held to assumptions. RSLs have not been engaged with any further before the publication of the draft Bill, as policy proposals were developed and, in some cases, deviated from the original White Paper proposals.

The RIA and Finance Committee scrutiny session of the Bill with the Cabinet Secretary discussed the lack of data available and the time taken to make accurate cost assumptions. Given the enormity of the proposed legislation, the consensus is that this has felt very rushed and leaves gaps in understanding, particularly across the following areas:

- **Transitional and recurrent administration costs for RSLs:** These have been collated together with the wider public sector, making it difficult to estimate the individual breakdown of costs to RSLs on the face of the Bill.
 - **Section 18 - The duty to retain suitable accommodation that has been secured under homelessness functions:** The level of support and complexity faced by
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those in homelessness accommodation is a crucial element which will drive the costs. The RIA estimates that 10% of those owed a homelessness duty would require additional support to retain their home. However, some of our members believe that this could be as much as 50% in their areas. Quarterly [statistics](#) in England show that over 50% of all households in each quarter owed either a prevention or relief duty, identified as having one or more support needs. 10% is likely, therefore, to be far too conservative an estimate for LAs and any support requested from other public authorities under the duty to cooperate.

Whilst there are some indicative data from Rapid Rehousing plans, work needs to be done to better understand the level of need to accurately establish a new base level of funding that effectively reflects the support services required. The Expert Review Panel was also unequivocal in its final report that the success of legislative reform relies on a properly funded Housing Support Grant. As part of this, it will be useful to differentiate between varying levels of support, including 'low level' tenancy sustainment support, and more intensive or multi-agency support. Both will be crucial. Whilst we appreciate that the government will not be in a position to confirm funding now, the Senedd committee should rigorously stress test the assumptions in the RIA. In addition, we believe that Senedd approval to enact the elements of this Bill in the future through secondary legislation must be conditional upon the assurance that adequate funding and training have been put in place to make it a success.

- **Section 38 - Common Housing Registers (CHRs):** Many RSLs contribute thousands of pounds each year to LAs CHRs, not including their own dedicated staff costs of accessing and working in CHR systems. This is not currently reflected in estimated ongoing costs, nor does it reflect CHR IT system changes or additional LA staff costs to enable them to operate to the new requirements in which RSL partners will be required to contribute.
 - **Section 38 - Accessible Housing Registers:** No specific figures have been estimated for this, but our members have identified that this will require both set up and administration.
 - **Section 21 - Ask and act:** The opportunity cost for all RSLs to access training is estimated at £5,531,500. Going forward, the total cost for RSLs across Wales for the estimated number of referrals per year is £3,000 and is based on 217 referrals. Originally, Identify, Act and Refer in the White Paper, this was never tested with RSLs as part of the costing template provided by the Welsh Government/Alma Economics. We will be undertaking further consultation with our members on this, which should be taken into account.
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● **Section 33 - Co-operation between social landlords and local housing**

authorities: The costs for this are reflected in section 18. However, section 320 of the RIA states that 'There is no additional cost of accommodating a homeless applicant over a non-homeless applicant, unless they have specific or unique support needs.' We agree that there is evidence that demonstrates that homeless individuals grapple with a significantly higher burden of physical and mental health issues, substance misuse, and complex social needs compared to the general population. However, as noted in section 18, we believe that the support needs in the homeless population are far greater than what the Welsh Government perceives and so the 'true cost' of accommodating a homeless applicant based on the appropriate level of support remain unknown and an area of concern depending on how this duty is exercised.

What would help: Further work on costs must be undertaken ahead of implementation. CHC is happy to support in gathering updated assumptions and information from its members to aid this. We would also welcome a wider consideration of outcomes that we hope this legislation would deliver - such as educational attainment for children and young people; improved health; employment etc. This will be powerful alongside the headline metric already included in the RIA on the number of homeless households.

Overall - data and information sharing

CHC view: While local agreements are vital for the practical implementation of data sharing, statutory provisions elevate data sharing from a series of ad-hoc arrangements to a fundamental, legally sanctioned operational principle. Including provision for data sharing specifically in this legislation is important to give everyone confidence in sharing information about housing and support needs. Without this, fear and risk aversion can creep into practice and prevent partnership working from thriving. Including provisions for data sharing in the legislation will allow for a national framework, avoiding the need for detailed work at a local or regional level, instead supporting standardisation through things like a code of practice. Data sharing provisions in the Bill may also allow software and services to be designed early with interoperability included, meaning systems can speak to each other and allow for efficiencies.

What would help: Data sharing provisions should be specifically included within the Bill.

Section 1 - Meaning of 'threatened with homelessness'

CHC view: This duty would kick in if someone were issued a written notice or notice of possession, Some members have indicated that this would increase the number of people owed the duty, as many more notices are issued than evictions take place in RSL homes. When all other measures have failed and arrears or issues are significant, an RSL may sometimes use the issuing of a notice as a means to engage tenants, with the hope of engaging them in accessing support, budget advice, repayment agreements etc. There will be many cases where the LA duty will be really beneficial in enabling tenants to access support and services they require to remain in their homes. However, LA engagement may not be required on all cases - but the duty will still apply.

What would help: We'd suggest exploring the benefits and drawbacks of amending this section to require that a notice be served and you consider that the person is at risk of homelessness in order to trigger the duty on LAs. This could avoid additional unnecessary burdens on LAs whilst supporting those tenants that would benefit from additional intervention beyond what the HA can deliver by itself.

Section 7 - Circumstances in which the duty to secure accommodation for applicants comes to an end

CHC Views: In practice, LAs should check with RSLs, where they are the landlord, to confirm that the accommodation is suitable and sustainable before ending this duty.

What would help: An addition to the Bill to make this clear would be beneficial in setting the tone for balanced partnership working from the outset. As a minimum, a commitment from the government that this will be included in statutory guidance is needed.

Section 18 - Help to retain suitable accommodation secured in exercise of homelessness functions

CHC views: We fully support this proposal and think it could, if funded properly, be a real step change that prevents repeat homelessness. In making a judgement on whether the duty is owed to someone, LAs will need input from partners including RSLs where they are the landlord.

What would help: Amending the legislation to include further details on how LAs might make this judgement, including cooperation with RSL and other relevant partners, would make this section more effective. At the very least, clear statutory

guidance should be produced on the factors to be included in making this judgment, including the view of the landlord. Long term commitments to funding the Housing Support Grant at adequate levels are needed to ensure that LAs will be able to meet the demand flowing from this new duty. More details on our position on this were included in our recent response to the committee inquiry on housing support.

Section 20 - Further circumstances in which the duties to help applicants end

CHC View: We support this more trauma-informed approach to when duties ought to end, but think it may be worth considering violence in a slightly broader way to ensure it captures violence towards those other than staff.

What would help: it would be worth testing the idea of expanding the new subsection (5) so that it encompasses violence towards other members of the household or neighbours, especially where it puts community cohesion at risk.

21 - Duty of a public authority to ask and act

CHC views: We are supportive of this element of the draft legislation. RSLs already play a vital role in signposting information to their tenants and taking action to prevent evictions, as demonstrated by the very low numbers of evictions every year in Wales. The change here will be that this duty is owed to everyone, not just their tenants, with potential for increased costs for landlords. This is perhaps more so the case for RSLs than the other organisations listed, given the nature of RSLs business is in providing accommodation. Some further engagement with the sector on potential costs is necessary.

We are also concerned about being listed on the face of the legislation as a 'public authority'. This is inaccurate given RSLs are independent organisations. We believe this unnecessarily increases the classification risk. It may also potentially open RSLs up to the risk of judicial review under this section by suggesting that they are exercising a public function.

What would help: The Bill should be amended to remove the term 'public authorities'. An alternative could be 'specified bodies', 'specified authorities', or 'listed authorities'. The latter would mirror the language used in the Public Services Ombudsman (Wales) Act 2019, which RSLs are listed on, although 'bodies' would be a more accurate term for the organisations included on the list in this draft legislation. Clear guidance should be provided on what would be required of RSLs to reasonably comply with their duties in relation to the wider public as opposed to their existing tenants. Further engagement with RSLs on potential costs should be undertaken.

Section 25 - Protocol for handling cases involving persons in particular need of support

CHC Views: We are strongly in support of this proposal. We think it is crucial for ensuring that those with multiple complex needs can access a holistic, joined up approach from the organisations and agencies involved in their care and support. This needs to be adequately funded for LAs to ensure it is a success and avoid costs being shunted onto other bodies involved. It is clear from the current drafting that RSLs must be included in such a case coordination approach, but does not explicitly cover how an RSL or another organisation/person could request that such an approach be taken.

What would help:

1. We assume the details would be covered in the protocol required under the proposed new clause (1E). It may be additionally beneficial to make it clear in the Bill itself that such a protocol must allow for partners to initiate a case coordination approach and not just participate in it.
2. Welsh Government guidance should set out principles that should be followed in regards to case coordination.

Section 33 - Co-operation between social landlords and local housing authorities

CHC views: RSLs work successfully in partnership with LAs across Wales to address a range of housing challenges, including serving the needs of homeless communities. This legislation provides an opportunity to bolster that partnership working and bring in other relevant partners who can together make a meaningful difference to people's lives. The focus on prevention, support and co-operation in the legislation, if sufficiently funded, with enough lead in time and appropriate guidance/support on best practice should really make a difference. With that in mind, we would hope that there would not be a need for the powers and duties in this section to materialise. Where it is used, we envisage it should be infrequent, offering a last resort when partnership working has broken down. As drafted, we are concerned that there is not enough emphasis on LA's role in making this section work successfully, and too much importance is resting on undefined guidance. Limiting housing associations' ability to manage their homes would undermine the power of the partnership and ultimately, undermine their ability to work with LA to ensure a good match between a person, the type of home, and the community.

Whilst no single change is enough alone to prompt the ONS to review classification, we should be aware of the cumulative and incremental shift that is

happening over time towards more control of the sector. We believe that with intervention across a range of areas in recent years, we are approaching a tipping point. We suggest that the committee carefully consider this during the passage of the Bill, including the impact of any amendments proposed on the classification risk. We do not think this is the policy intention here, and believe our suggestions below will safeguard against these risks.

It is also important to consider the views of funders towards the Welsh legislative and policy environment, and guard against actions which may adversely affect HS ability to leverage private finance, and meet the costs of debt, that contribute valuable funding towards building new homes.

What would help:

1. An additional duty should be added to this section to require that LAs provide relevant information to an RSL on a tenant's housing and support needs when making a request. This is vital to ensure balance, given RSLs have a duty to comply with such a request unless there is a 'good reason' not to. They can only adequately make this judgement with the correct information.
2. The legislation should include a non-exhaustive list of areas that the statutory guidance should cover to ensure that it considers a wide enough range of issues on what constitutes a 'good reason', factoring in the nuances inherent in the allocation of homes. An example of what this might look like is included below.
3. In addition, whilst we understand that it is the Welsh Government's clear intention to produce guidance ahead of enacting this provision, we think this should be clear in the Bill itself. This could be as simple as amending the wording to make clear that the Welsh Ministers 'must' give guidance rather than 'may'.
4. We think that this element of the legislation would benefit from being subject to a specific review, set out on the face of the Bill, to ensure that it is delivering on the policy intention of promoting partnership working and allocating homes to those who need them. We are open to a discussion on the timing of such a review and do not think
5. Finally, Welsh Government officials should engage with lenders to reassure them of the direction of travel on this now and before this measure is introduced.

Example new section on guidance:

(9) Guidance under this section must include:

(a) Availability of suitable accommodation;

- (b) Social cohesion;
- (c) Safeguarding;
- (d) Safety;
- (e) Tenancy sustainability;
- (f) The registered social landlord's rules;
- (g) Support requirements;
- (h) Impact on neighbours;

Section 35 - Allocation of housing accommodation under Part 6 of the Housing Act 1996

CHC views: We understand the reasons for including this and the burdens that LAs can face in maintaining the register. As per our white paper response, we remain concerned that there is a risk in taking this approach that it could lead to negative perceptions of social housing and contribute to the existing stigma that can be attached to living in social housing.

What would help: Guidance should be provided to ensure that the approach taken is relatively consistent and that issues around perception and stigma are not exacerbated. RSLs should be involved in discussions and decisions on what should constitute a 'qualifying criteria'.

Section 36 - No preference for persons who try to manipulate the housing system **CHC views:**

We understand why this element has been tightened compared to the existing intentionality test, and why it has been moved to the allocations stage. Further details will need to be included in guidance to ensure it works operationally and reflects the wider ethos of being trauma-informed.

What would help: Guidance on operationalising this element must very clearly outline when the test is to be performed, within LA processes, in order to avoid someone being allocated a home before it is undertaken. We would welcome the views of those working with applicants on whether the term 'manipulate' is the right term that would encourage an open discussion.

Section 38 - Housing registers

CHC views: We agree with the principle of common housing registers, but cannot support this section as currently drafted. It operationally does not work and will not be deliverable as it has not been scoped appropriately and does not include necessary exclusions. We do not believe this is the policy intention of the government, and are hopeful that alternative drafting can be identified.

What would help:

1. Subsection 160B needs to be reworded to narrow the scope of homes that are included to include only social homes. The following types of properties owned by RSLs should clearly be excluded and/or not fall within the definition used in this subsection:

- Market rent
- Shared ownership
- Intermediate housing
- Student accommodation
- Extra care accommodation
- Other specialised accommodation that is already not currently let through housing registers
- Properties being used for temporary accommodation
- Non-residential properties, such as business properties and garages.

2. In addition, we are concerned that as currently drafted, the requirement to only offer housing to those on the Common Housing Register would preclude the following types of transfers that RSLs must be able to undertake:

- Urgent transfers as a matter of safety, security and safeguarding, for example in the case of flooding, loss of electricity, damage to property, domestic abuse, violence/ASB, victim of a serious crime, witness to a crime, urgent medical need, etc. These must be able to take place quickly without a need to place someone on the register first, both for safety reasons and so landlords are in line with wider legal obligations.
 - Management transfers (such as for those whose properties are no longer suitable, over or under occupying, ASB etc), mutual exchange, and transfers relating to succession (where the Renting Homes Wales Act 2016 gave stronger
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contractual rights). These must continue to be able to operate fluidly. If these were to go through the CHR, there must be absolute clarity that they would not be subject to local allocations policies and banded. Instead, the purpose of being on the register in such cases would be for transparency. The process for getting put on the register for such a purpose in the local area must also be simple to avoid undue burdens for both RSLs and LAs. The Housing Act 1996 Part 6 already makes clear that these types of transfers are not to be subject to allocations. It is vital that the changes proposed under this new draft legislation would not change this. Moving people into suitable accommodation allows the whole system to function and can help to avoid eviction.

3. In terms of thinking about implementation, we would highlight that additional funding and support will be needed for the three areas that do not currently have a CHR in place. Our members have highlighted that funding of software, and the potential for joint/sub-regional procurement, as well as participation with RSLs, will be important. The SARTH partnership is the only sub-regional model operating in Wales at present and there is the opportunity to build on this best practice and learn from what works.

4. The proposals for accessible housing registers should learn from best practice currently happening in Wales already, for example, the 'Adapt' scheme in Swansea. We would suggest the Committee consider the definition of 'disabled' and whether this will cover non-physical disabilities, which might require physical changes to the home. For example, children with particular learning needs may need additional space available above and beyond what you'd normally offer to a family of the same size.

5. We support the proposal outlined in the explanatory memorandum to produce guidance and best practice on Common Allocation Policies to underpin these registers. Our members have suggested that key principles could be set out in such guidance to aid consistency across areas whilst allowing for necessary divergence to meet local needs.

Contact

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