

HSRAWB 19 National Residential Landlords Association

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: National Residential Landlords Association | Evidence from: National Residential Landlords Association

The Homelessness and Social Housing Allocation (Wales) Bill: Call for Evidence Response from the National Residential Landlords Association

1.0 About the NRLA

1.1 The National Residential Landlords Association (NRLA) is the leading voice in England and Wales for private sector residential landlords. It has over 110,000 members, making it by far the largest organisation in the sector. The membership owns and manages around 10% of private rented housing in England and Wales, equating to approximately one million private rented homes.

1.2 The NRLA provides training and support for landlords to ensure they fully understand their responsibilities and are equipped to provide good quality housing for their tenants. We currently offer a qualification in managing property and residential lettings, which is a qualification recognised by the Office of Qualifications and Examinations Regulation (Ofqual).

1.3 The NRLA also works with other stakeholders and campaigns for policies that seek to improve the sector for the benefit of tenants and responsible landlords. This includes being involved with the working group that prepared the Regulation of Property Agents Report in 2019.

2.0 Executive summary

2.1 The NRLA welcomes the Welsh Government's ambition to strengthen homelessness prevention. However, the success of the Homelessness and Social Housing Allocation (Wales) Bill will ultimately depend on how effectively its provisions are resourced, implemented, and guided at the local level. To protect tenants and support responsible landlords, greater clarity is urgently needed on key areas including the definition of "robust supply" of housing and the application of the deliberate manipulation test.

2.2 Wales is facing a chronic housing shortage. Housing supply has failed to keep pace with demand and need, and overall construction levels have declined significantly over the past three decades. Within this context, we are concerned about how the removal of the intentionality test will work in practice. The Bill allows for secondary legislation to apply a "robust supply" test in conjunction with the removal of the intentionally homeless test. However, concerning, there is no clear definition of what constitutes a "robust supply".

2.3 There is a pressing need to address the intentionality test in Wales. Landlords in Wales serve proportionately fewer possession notices than their English counterparts¹. But, since the implementation of the Renting Homes (Wales) regime, significantly more accelerated evictions are private landlord claims, indicating landlords are using the fault-based possession route when they do. This is reflected by the fact that, of the 222 private landlord possession claims in Wales in Q4 2024, 151 of these were done under the accelerated route².

As a result, many more tenants are likely to be found to be intentionally homeless when they present to their local authority.

2.4 We are also concerned about how the deliberate manipulation test will interact with the Renting Homes (Wales) Act (RHW), particularly in relation to provisions that allow tenants to withhold rent where a property is deemed unfit for human habitation. Safeguards must be established

¹ In 2024, 3.1% of all possession claims were brought by landlords in Wales. Wales makes up an estimated 4.4% of the total privately rented housing stock.

² Mortgage and Landlord Possession Statistics, 2025: <https://mlp-app.apps.live.cloudplatform.service.justice.gov.uk/>

that mitigate the risk of a tenant becoming deliberately homeless where a court determines rent has been unlawfully withheld.

2.5 Without sufficient investment, capacity and statutory guidance, the Bill risks undermining its own objectives by increasing uncertainty and pressure on local authorities and the housing system as a whole. We therefore urge the Welsh Government to take forward our recommendations to ensure the legislation delivers in practice for the people and communities it seeks to support.

3.0 Possession claims

3.1 Landlords in Wales are generally less likely to seek possession than their counterparts in England, with 1,443 possession claims in Wales and 44,578 in England in 2024³. Although Wales accounts for 4.4% of the private rented housing stock across England and Wales, it represents only 3.1% of the total possession claims.⁴

3.2 However, where landlords do seek possession, they are far more likely to rely on breach of contract grounds, rather than use a Section 173 notice (the so called ‘no-fault possession route’). In 2024, 35% of private landlord claims were accelerated claims in Wales, with 65% applying to court for a hearing instead. In contrast, in England, 54% of private landlord applications in 2024 used the accelerated route.

3.3 Accelerated possession claims are only available after serving a notice that does not state that the tenant is at fault. Calls to our Landlord Support team suggests that private landlord claims, on the other hand, are virtually always brought after using a notice that states the tenant is in breach of contract – typically rent arrears of two months or more.

3.4 This isn’t necessarily evidence that tenants are more likely to be in breach of contract in Wales, but a reflection that the much longer Section 173 notice period has incentivised landlords to start using the fault-based possession route to enable them to regain possession more quickly where a problem arises with the tenant.

³ NRLA, 2025, *Possession Statistics*: <https://www.nrla.org.uk/research/possession-statistics> ⁴ Mortgage and Landlord Possession Statistics, 2025: <https://mlp-app.apps.live.cloudplatform.service.justice.gov.uk/>

3.5 Surveys of NRLA membership have consistently found that landlords in England and Wales do not serve notice to end a tenancy without good reason, but they have tended to use Section 21 notices to manage a tenant's breach of contract. For example, a 2019 survey of over 5,000 landlords found that 83% of those who used Section 21 notices exclusively had done so because of rent arrears⁴.

3.6 As a result, prior to the implementation of the RHW, landlords in Wales were more likely to use a Section 21 notice to address the tenant's breach of contract, likely because they were willing to accept the trade-off of a two-month notice period for the certainty and ease of the accelerated process.

3.7 This appears to have changed since the RHW was implemented. Calls to our Landlord Support team indicate that Section 173 notice claims are now largely reserved for cases where the landlord intends to sell or has been asked to help a tenant move into social housing, while rent arrears claims are significantly more likely to use the breach of contract notice (Forms RHW 20 and 23). This is likely due to the enhanced risk from the longer sixmonth notice period of Section 173 and the potential costs of using the estate management grounds. This is also reflected in the higher proportion of private landlord claims compared to accelerated ones post-December 2022.

3.8 As a consequence of this greater use of fault-based notices, tenants evicted in Wales who seek assistance from the local authority are now much more likely than their English counterparts to be seen as intentionally homeless due to rent arrears, even though there is likely to be little difference in the actual number of tenants falling into arrears. With that in mind, removing the intentionality test so that tenants in breach of contract can be supported is a welcome one and should be brought in as soon as possible.

3.9 Similarly, the extension of the definition of "threatened with homelessness" to six months will mean those that are served with a S173

⁴ NRLA, 2019, *Possession Reform in the PRS*: <https://www.nrla.org.uk/research/special-reports/possessionreform-in-the-prs>

possession order (with a minimum of six months' notice⁵) will immediately become “threatened with homelessness”, making them eligible for an application for homelessness support.

3.10 However, the NRLA remains concerned that there are insufficient homes available for all the tenants who wish to rent, increasing the strain on local authority resources. This threatens to incentivise decisions that label tenants who build up rent arrears as deliberately manipulating the system. Local authorities also lack the resources and powers to determine whether a property is unfit for human habitation, which may lead to an increase in the number of tenants told to “wait for a bailiff” before presenting as threatened with homelessness.

3.11 Neither of these outcomes would align with the spirit of this legislation or improve outcomes for tenants in Wales. As a result, we would like to see robust guidance to ensure that tenants and landlords are encouraged to work together to find a sensible outcome, and to ensure that the deliberate manipulation test is not applied widely to possession claims in Wales. This is particularly critical in cases where the tenant and landlord are in dispute over any money owed.

3.12 This guidance should make clear that:

- Tenants should continue paying their rent on time and in full, even if they suspect that they may be able to raise a successful counterclaim.
 - Tenants should continue to grant access for repairs, ensure the property is fit for human habitation and facilitate safety certificate inspections during a possession claim.
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- Where a breach of contract is due to anti-social behaviour, the local authority should assess whether a tenant should be rehoused at an early stage to protect neighbours and other tenants.
 - Local authorities should not tell tenants to wait until a possession order has been issued to begin supporting the tenant.
 - Local authorities must robustly investigate whether the fault was deliberate manipulation or not (see section 4.2).

⁵ Welsh Government, 2024: https://www.gov.wales/sites/default/files/publications/2024-02/issuing-validlandlord-notice-flowchart_0.pdf

4.0 Guidance and resources for local authorities

4.1 The NRLA welcomes the aims of the Bill and supports the increase of the prevention period to six months to align with RHW legislation. While this change should enable households to seek support as soon as a Section 173 notice is received, we remain concerned that local authorities will continue to advise tenants to “stay put”, despite the Bill’s intent.

4.2 We particularly believe this will be the case where the private rented sector stock continues to shrink and local authorities face resource constraints. Financial pressures coupled with the proportionally larger number of fault-based claims mean that local authorities are unlikely to be able to fully assess applications.

4.3 The latter of these is primarily because of the RHW, specifically:

- **The legislation does not permit local authorities to determine whether a landlord may owe the tenant financial compensation.** This will typically be a matter for the courts to decide as part of any possession counterclaim. Consequently, any serious rent arrears claim has the potential to require the court to determine that a possession claim can be issued.⁶
- **The only mandatory possession ground is for serious rent arrears cases.** For other breach of tenancy claims, the possession ground is discretionary, and local authorities cannot judge whether a tenant is genuinely owed a housing duty as a result. Again, this will lead to advice to “stay put” until a possession order has been decided on.

4.4 This uncertainty is compounded by the mechanism for rent repayment in Wales. Virtually all offences in Wales that could lead to compensation to the tenant must be assessed and decided on by the court rather than the local authority. However, a supplementary term in the standard occupation contract encourages tenants to withhold rent payments where they believe the property is unfit for human habitation or that the written statement requirements have not been met.

4.5 This has the potential to create a situation where a tenant believes they can withhold rent in a dispute, but if the court disagrees with their assessment of the property's condition or the written statement, they will immediately owe whatever rent has been withheld.

⁶ Welsh Government, 2023, *Tenants; housing law has changed (Renting Homes)*:

<https://www.gov.wales/tenants-housing-law-has-changed-renting-homes#:~:text=everything%20it%20says.,Fitness%20for%20human%20habitation,pay%20back%20any%20rent%20owed.>

- 4.6 Local authorities will have to walk a fine line when supporting tenants in these cases, as they will be unable to state definitively that rent is or is not owed on property conditions cases. They will also need to put significant resources into written statement checks if they are to establish whether rent is due.
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- 4.7 With that in mind, we believe that local authorities will need to err on the side of caution and advise tenants to continue to pay rent until a possession claim hearing, so they avoid the build-up of potential arrears. This would help to lessen the frequency of serious rent arrears claims, reduce homelessness and help tenants to access the courts where they can receive a definitive answer on their rent repayment claim. As a result, we would recommend that local authorities be given robust guidance that sets this out, as well as outlining a requirement to support tenants in raising a claim and/or signposting tenants to support in making a claim themselves.
- 4.8 The financial pressures of this legislation should also not be underestimated. The Regulatory Impact Assessment estimates that £247 million in additional costs will be required due to the legislative change over a 10-year implementation period, most of which will fall on local authorities⁷.
- 4.9 The NRLA is concerned that already over-stretched local authorities will not have the financial resources to implement the reforms, particularly given the reduction in rental stock evidenced across most of Wales (see Section 5). Regulatory compliance requires enforcement, and it would be reasonable to expect knock-on effects to private rented sector enforcement efficiency in local authorities' cooperation with Rent Smart Wales.
- 4.10 Finally, we are concerned that the removal of the intentionality test is based upon local authorities having an undefined "robust supply of housing" leaves it unclear as to when exactly local authorities should start supporting tenant in rent arrears to find a new home. Given the majority of possession claims in Wales are fault-based, this will need to be defined and delivered quickly to ensure that anyone in need of support is provided with it.
- 4.11 This includes clarity around whether the definition includes solely the volume of available units, or whether it will also encompass factors such as housing quality and suitability, potentially drawing on the

⁷ *Homeless and Social Allocation (Wales) Bill: integrated impact assessment, 2025:*

<https://www.gov.wales/homelessness-and-social-housing-allocation-wales-bill-integrated-impactassessment-html>

definition of “housing adequacy” outlined in the Welsh Government’s recent White Paper.⁸

- 4.12 It should also include whether considerations such as location, affordability, and accessibility will form part of this assessment, particularly in the context of ensuring that homelessness duties can be effectively discharged across diverse communities.
- 4.13 The Welsh Government should additionally confirm whether any requirement to demonstrate a robust housing supply will apply nationally, uniformly across all local authorities, or if a more targeted approach will be taken. Ahead of the introduction of any secondary legislation, it is essential that clear, measurable indicators are established to support consistent evaluation and implementation. This will not only help local authorities prepare effectively but also ensure that expectations are transparent and achievable within the constraints of local housing markets.

5.0 Housing supply

5.1 While some areas of Wales (notably Cardiff and Swansea) have added private rented properties to the sector, the overall picture is one of contraction. Rent Smart Wales registration data shows that across Wales the supply of rental homes is decreasing. Since June 2021, 7,552 properties net have been added to the sector, including 7,658 properties in Cardiff and Swansea. Outside of major cities and counties such as Cardiff, Swansea and

Rhondda Cynon Taf, most areas saw a loss of properties in the sector. For example, in net, Gwynedd lost 462 properties and Conwy lost 358.⁹

5.2 Our analysis of Rent Smart Wales registration data suggests that overall, the private rented sector in Wales will grow 0.1% between January 2025 and 2027. However, most local authorities (excluding Cardiff, Swansea, Blaenau Gwent, Rhondda Cynon Taf, and Merthyr Tydfil) will see a fall in their overall supply. Excluding the above local authorities, the private rented sector is set to contract by 1.6% between 2025 and 2027, amounting to a loss of 2,778 private rented homes. This includes sharp

⁸ Welsh Government, 2025, *White Paper on securing a path towards adequate housing, including fair rents and affordability*: <https://www.gov.wales/white-paper-securing-path-towards-adequate-housing-including-fairrents-and-affordability>

⁹ Figure 1: Net private rental properties added 2021-2025 (includes Purpose Built Student Accommodation) ¹¹ Lichfields, 2024, *Planning Matters*: <https://lichfields.uk/blog/2024/august/08/a-crisis-in-welsh-housingdelivery>

contractions in authorities such as Gwynedd (-4.4%), Wrexham (-4.1%) and Pembrokeshire (-4.2%) between 2025-2027.

5.3 Welsh housebuilding has declined dramatically since the 1990s, with average output falling 45%.¹¹ Of the 6,045 affordable homes added between 2021 and 2023, only 3,825 were new builds (the remainder being existing stock purchases). There is an overreliance in Wales on both the private sector and existing stock purchases to meet the affordable homes target set by the Welsh Government, with 45% of the new build affordable homes delivered via S106 agreements.¹⁰

5.4 The overreliance on existing stock purchases and S106 homes by local authorities and/or registered social landlords (RSLs) not only reduces availability in the private rented sector but creates competition in the open market with first-time buyers, further intensifying market pressures.

5.5 Given these challenges, it is unclear when, or if, there will be a “robust supply of housing” available in many areas of Wales over the next decade. The Welsh Government must therefore define it swiftly and require local authorities to report progress.

5.6 We also believe the Welsh Government should work alongside stakeholders and partners in the housing, planning, and finance sectors to develop a national housing target (separate to the existing affordable homes target). This should be underpinned by a plan for delivery and supported by sector-wide collaboration.

6.0 Manipulation of the system

6.1 The Bill proposes amending Part 6 of the Housing Act 1996 in relation to the allocation of social housing in order to give no preference for those attempting to “manipulate the housing system” with subsections two and four of section 167A defining this as those who

deliberately make themselves homeless and those who enter into arrangements to give up their home.¹¹

¹⁰ *Ibid*

¹¹ *Homelessness and Social Housing Allocation (Wales) Bill, 2025, s167A:*
<https://laiddocuments.senedd.wales/prild17178-en.pdf>

6.2 We have concerns that the broad scope of what is defined as a tenant deliberately making themselves homeless could incorporate those tenants exercising their rights to withhold rent under Section 91 of the RHW Act for accommodation they deem to be “unfit for human habitation.”¹² Should a tenant be unable to repay withheld rent following a determination that a property is fit for habitation, they could find themselves being evicted due to arrears. This could see them categorised as having deliberately manipulated the system.

6.3 The situation is compounded by the fact that it is for the court to determine whether a property is fit for human habitation or not. Should a tenant approach the local authority for advice on withholding rent under section 91 of the RHW Act, the local authority will not be in a position to advise the tenant on the validity of their claim and could be left unsure as to their duty to support the individual.

6.3 Without the ability of local authorities to check written statements and inspect properties the authority will be unsure if a tenant has manipulated the system or not. Such uncertainty could lead to tenants subject to fault-based claims for possession, which make up just over two thirds of claims for possession in Wales¹³, being issued “stay put” advice while the local authority is unclear on a potential duty to support.

6.4 The broad scope of subsection two could also include those tenants made unintentionally homeless, through the serving of a Section 173 under the RHW Act, who then breach their contract during the possession phase, such as by withholding rent during the six-month notice period. Under the current provisions tenants could find themselves going passing the deliberate manipulation test initially, but failing it when from unintentionally homeless to intentionally homeless and consequently not being prioritised for social housing.

6.5 Subsection three attempts to mitigate this risk by omitting those tenants who act in good faith from the provisions of subsection two. However, it is not clear how any act or omission could be defined as being in “good faith”.¹⁴

¹² *The Renting (Fitness for Human Habitation) (Wales) Regulations 2022:*

<https://www.legislation.gov.uk/wsi/2022/6>

¹³ *Mortgage and Landlord Possession Statistics, 2025:* <https://mlp-app.apps.live.cloudplatform.service.justice.gov.uk/>

¹⁴ *Homelessness and Social Housing Allocation (Wales) Bill, 2025, s167A:* <https://laiddocuments.senedd.wales/prild17178-en.pdf>

6.6 Tenants who are struggling financially and subsequently agree to a mutual surrender in order to avoid eviction proceedings could find themselves being classed having attempted to manipulate the system, as per subsection four.¹⁵ Such a classification would disincentivise tenants from engaging with landlords when facing difficulties, eroding trust and leading to increased risk of formal eviction notices being used.

Appendix

Figure 1:

Local Authority	Properties	Property change	Landlord change*
▲			
Blaenau Gwent	4,443	381	93
Bridgend	8,670	76	-293
Caerphilly	8,878	97	-150
Cardiff	43,038	4999	842
Carmarthenshire	10,517	-305	-481
Ceredigion	5,752	-32	-161
Conwy	8,792	-358	-338
Denbighshire	7,728	-63	-227
Flintshire	7,896	265	-195
Gwynedd	7,597	-462	-254
Isle Of Anglesey	3,731	-153	-155
Merthyr Tydfil	3,597	95	24
Monmouthshire	4,883	60	-137
Neath Port Talbot	7,674	-288	-114
Newport	10,884	235	-265
Pembrokeshire	7,284	-173	-174
Powys	8,612	-91	-214
Rhondda Cynon Taf	16,320	693	186
Swansea	20,980	2659	128
Torfaen	3,813	-89	-170
Vale Of Glamorgan	8,004	109	-86
Wrexham	8,196	-103	-255
Total	217,289	7552	287

¹⁵ *Ibid*