

## **HSHAWB 22 Mike Norman, Solicitor**

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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: Mike Norman | Evidence from: Mike Norman

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### **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 would be grateful if you could keep your answer to around 500 words).

There is a very significant need for legislation in this area.

Wales has of course already made huge progress since it started its journey in April 2015, reducing the legislative barriers to those being able to access support in alleviating or relieving homelessness.

The legacy tests from the 1996 Act hark to a time where aspects of homelessness were seen as undeserving (priority need) or indeed even actively blameworthy (intentional homelessness).

Perhaps the only positive thing which can be said about the expansion of the housing crisis, which now touches every part of society, is that the case is now clear for consigning such laws to the history books.

Having already crossed the rubicon into accepting rough sleepers as a priority need category in 2022, I'd very much welcome the proposal to finish the job of ending of any requirement of priority need outright.

In respect of intentional homelessness's removal. I can understand this is a more contentious issue for Local Authorities, compared to the support for ending the priority need test.

However, it's important to remember that the intentionality test is not only an overhang from the Housing Act 1996, it also pre-dates the ability of Welsh Local

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Authorities to use the private rented sector to discharge homeless duties (introduced in April 2015). #

The suggested removal of 'intentional homelessness' as a barrier to accessing full housing duty matches the current legislative reality i.e. that a homelessness application (even a successful one) no longer necessarily equates to social housing.

The intentional homelessness test in it's current form, in my view, has therefore become outdated from it's original purpose of discouraging particular behaviours from accessing social housing.

In terms of the 'deliberate manipulation' test, I will express my concerns below but this seems at least placed more appropriately placed in the homelessness journey i.e. at the back-end following acceptance of a full duty, rather near the front end of the application in a way which might threaten access to a resolution.

**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?**

(We would be grateful if you could keep your answer to around 500 words).

Priority and intentionality - view above.

Emergency accommodation

I think it is hugely significant that the draft bill provides anyone with the appearance of being homeless and eligible, should be entitled to interim accommodation under s68, without requiring an appearance of 'priority need' as well.

I recall a version of this was present in initial discussions about the Housing (Wales) Act -i.e. the right to a 'safe place to stay' for anyone seeking support who was already homeless. I was sorry when that got pulled, but demonstrates that this ambition is a long time coming.

In terms of it's workability; clearly, sufficient time and money will need to be provided, especially in respect of realising the ambition to have universal provision of emergency accommodation. I note the LGHC meeting of 4th June suggests this won't come in until 2030-1.

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From the point of view of those applying for services, the changes can't come in soon enough. At the same time, there is much to be done, working in particular to expand the availability of single-room temporary and permanent accommodation. If this can be got right, then there is huge potential in the draft legislation.

#### Statutory reviews

I was interested to see that there will be an increase in the points at which Applicants will be able to seek statutory reviews of decisions made against their interests, e.g. decisions to not take homelessness applications – s5(3)(a)(ii)(aa), amongst other new review rights within that section.

Given the residual mechanism for challenge in absence of statutory review is Judicial Review; given that launching such a challenge is almost impossible without legal representation; finally, given that there has been a significant reduction in the number of housing legal aid providers in Wales over the last 15 years, anything which makes challenge slightly easier or more user-friendly is to be encouraged.

Careful attention will need to be given in the regulations, to matters such as the time limits for concluding such reviews, especially where they concern urgent matters such as not taking an application. Otherwise, the right risks becoming ineffective such that JR becomes necessary anyway; presumably that would negate the policy intention.

At present, the lowest amount of time for a statutory review for Welsh challenges are 8 weeks. In the English regulations, some of the review timescales (which don't have an equivalent in Wales) are 3 weeks.

### **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?**

(We would be grateful if you could keep your answer to around 500 words).

I refer at 10 above, to my view that placing of some sort of test after acceptance of the 'full duty' but before consideration of social housing, better reflects the reality that a homelessness application no longer necessarily equates to social housing.

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The test as drafted I think needs a very close eye kept on it, including if necessary by guidance, if the Welsh Government want to avoid unintended consequences.

I'd say it is not surprising to see, as came up in the LGHC meeting, that analogies will be drawn here with intentional homelessness, because of the similar wording of the tests.

I'd wondered whether Welsh Government considered reserving the power to make regulations to exempt specified categories of people from the 'deliberate manipulation' test, if it so chose.

It had previously exempted certain groups from the consequences of being found 'intentionally homeless' under the current legislation. Not doing this might mean some groups in practice would be worse off, under the current legislation.

I recognise this might be a deliberate decision, i.e. given the playing field is being 'levelled-out' and blind to priority.

**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 would be grateful if you could keep your answer to around 500 words).

I have no strong views views on the minor and consequential provisions.

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

(We would be grateful if you could keep your answer to around 500 words).

I've done my best to identify my biggest concerns above.

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**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 would be grateful if you could keep your answer to around 500 words).

As above, I'd wondered if the Government might want to reserve powers to add classes of persons who it could exempt from the 'deliberate manipulation' test (s36).

Welsh Government might not want to use it straightaway, but I think could be sensible if it starts being used routinely in respect of groups who would struggle to resolve their situation without social housing, e.g. people requiring mobility-adapted accommodation.

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

(We would be grateful if you could keep your answer to around 500 words).

Probably. I've done my best above to identify things where I'm not sure if they're deliberate or not.

**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 would be grateful if you could keep your answer to around 500 words).

I'm afraid I'm not able to give a full answer on this.

I saw the claim that there'd only need to be a 3% year-on-year increase in prevention, in order to break even on the legislation. I'd envisaged this isn't accounting for the increase in temporary accommodation costs.

As we know, spending money on housing saves it elsewhere.

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

(We would be grateful if you could keep your answer to around 500 words).

Housing;Justice

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