

HSHAWB 41 Cyngor Gwynedd | Gwynedd Council

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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: Cyngor Gwynedd | Evidence from: Gwynedd Council

Bil Digartrefedd a Dyrannu Tai Cymdeithasol / *Homelessness and Social Housing Allocation Bill*

1. Beth yw eich barn ar egwyddorion cyffredinol y Bil, ac a oes angen deddfwriaeth i gyflawni'r bwriad polisi a nodwyd? / *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 are of the opinion that the general principles of the Bill are to be welcomed; however we have some concerns as we will highlight in these responses.

Gwynedd Council recognises the Welsh Government's ambition to tackle urgent challenges in the housing sector by introducing this Bill. We also agree with the Bill's aim to improve tenant safety, improve regulatory oversight, and to support vulnerable individuals. However, we have significant concerns as to whether the proposed changes have fully considered what the current situations are on the ground, and as a result, if they are likely to lead to achieving these objectives effectively.

First, the housing sector is facing significant pressure as a result of financial constraints, lack of staff, and increasing demand for housing services, especially emergency accommodation. The introduction of new statutory duties without confirmation of the additional resource in order to achieve the change will mean that it is not possible to plan with certainty for making the necessary changes. This can increase the risk that the content of the Bill will lead to undermining the effectiveness of housing services rather than strengthening them.

Secondly, some aspects of the Bill are unclear and do not necessarily address the complexity and diversity of housing needs across Wales. As a result, generalising the challenges to be uniform for all local authorities can lead to a strict framework that isn't sufficiently flexible to meet local issues.

There are already complications in the current housing system, with responsibilities shared between a number of different bodies. It must be ensured that the changes do not lead to more legal requirements, duplication of work, and inconsistent operations throughout Wales that can lead to a reduction in the quality of support available for tenants (including minority tenants). We therefore ask that clear guidance and specific training are provided before implementing the changes.

Although the Bill mentions a process of extensive engagement with a number of agencies before its implementation, we do not believe that the discussions so far have focused sufficiently on the views of local authorities and key stakeholders, who have essential knowledge in this area. A lack of consideration of practical issues on how this area operates day to day in drawing up the framework means that it does not reflect how it will affect frontline services.

Although we recognise the current crisis in the housing field, we believe the timing of the Bill's implementation, together with practical and financial considerations, are all important for the successful implementation of any change. As a result, we are calling for urgent clarity from the Welsh Government on these issues to enable authorities to begin the process of adapting their operational regimes.

2. *Beth yw eich barn ar y darpariaethau a nodir yn Rhan 1 o'r Bil - Digartrefedd (adran 1 hyd adran 34)? Yn benodol, a yw'r darpariaethau yn ymarferol ac a fyddant yn cyflawni'r bwriad polisi a nodwyd? / 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?*

Extending the homelessness notice period to six months

The principle of early action to prevent homelessness is to be welcomed, but there must be consideration as to how to achieve this without increasing the pressure on homelessness services, which are already under significant pressure. It is anticipated that the change will lead to an increase in cases that are eligible to receive support. Specific investment will be needed in the number of staff,

information systems and housing supply, in order to achieve the intention set out in the Bill.

Removing the principle of intentionality

Although the changes relating to 'intentional homelessness' reflect an intention to ensure more support for vulnerable individuals, the change in the implementation of the intentionality test can lead to an indirect outcome that goes against what was intended. The change will not improve access to housing, but rather may endanger the ability to weigh up irrational behaviour and needs arising from an individual's vulnerability.

Removing the intentionality test from the homelessness legislation presents significant legal risks for local authorities. Without a mechanism to distinguish between intentional homelessness and homelessness due to vulnerability, councils may face challenges to fulfil statutory duties.

There must be awareness of relevant implications relating to common law, health and safety duties, and the Human Rights Act—particularly when balancing rights under Article 3 and Article 8. In high risk cases involving violence or substance abuse, the inability to exclude individuals may undermine safeguarding arrangements, leading to cases of compensation, and giving the impression that there are no consequences arising from unacceptable behaviour. Clear statutory guidance and robust safeguarding frameworks will be required to mitigate these effects.

Local connection – national uniform approach

The proposal to create a uniform approach across Wales regarding local connection ignores the wide variety of local circumstances that exist across the country. In rural areas such as Gwynedd, where the pressure on social housing stock and the impact of second homes and internal migration are profound, the ability to prioritise to meet the needs of local people is essential to protect the authority's strategic objectives.

Legal precedent recognises the key role of local liaison in decisions around housing and homelessness. Legislation eg the Housing (Wales) Act 2014 gives power for local authorities to assess eligibility, prioritise applications, and allocate resources according to local circumstances. The courts have confirmed this principle in cases such as *R v Wandsworth LBC, ex p. Felix* (1995) and *R (Miranda) v Manchester City Council* (2015), recognising the demand for local bodies to balance various needs.

However, this must be implemented legally, fairly and reasonably, respecting aspects of human rights (especially Article 8 of the ECHR) and equality duties. The Supreme Court in *R (Southwark LBC) v Mills* (2017) emphasised this balance. Any effort to introduce a uniform national approach, such as strict local connection rules is open to legal challenge for preventing flexible and effective local decisions.

In short, legal precedent confirms that local authorities must maintain flexibility when responding to various local needs while complying with statutory duties and human rights.

Additional duties - without definite resources or accountability structures

The Bill imposes a wide range of new duties on authorities, but without offering a clear mechanism of funding, an accountability structure, or a specific timetable within which to implement these changes. The whole system is dependent on an already overburdened workforce and on a housing supply that does not meet the need

Securing suitable housing in an unfair market

No new support model can succeed without a foundation—specifically access to affordable and safe housing. The Bill sets expectations that authorities secure suitable housing, but without acknowledging that the private housing market is unaffordable in many areas and that there isn't enough social housing available. Failure to fulfill this provision is unavoidable if the Welsh Government does not continue to offer sufficient resources to meet targets that have been set for building, renovating and ensuring an adequate housing supply.

Lack of cooperation and personal accountability

Although it is essential that access to services is easy and focused on the needs of the individual, it must also be acknowledged that there are cases where individuals choose not to cooperate with the authority, despite reasonable proposals to support this. The threshold for determining a lack of cooperation needs to remain high, but it should be acknowledged that some individuals, for various reasons, refuse to cooperate with the local authority.

Statutory duty for multi-agency working

The general aim of strengthening multi-agency collaboration arrangements through a statutory duty is something that the authority supports. However, there is a potential risk involved with practicality aspects of doing this successfully and also that the responsibility is on housing services to lead the change. Duplication

of existing arrangements must be avoided, and further clarity is needed as to who will be accountable, and what the consequences will be if agencies do not comply. As well as introducing new legislation, there should be investment in a culture of collaboration through training, clear leadership and sharing good practice.

The role of supported housing

Although there is an emphasis on securing permanent housing to solve the challenges created by homelessness, it is also essential that the key role played by supported housing and transitional housing for individuals with complex needs isn't ignored. For some vulnerable groups, moving straight into permanent housing may not be a sustainable option due to their particular social, health or behavioural circumstances.

3. Beth yw eich barn ar y darpariaethau a nodir yn Rhan 2 o'r Bil - Dyrannu Tai Cymdeithasol (adran 35 hyd adran 38)? Yn benodol, a yw'r darpariaethau yn ymarferol ac a fyddant yn cyflawni'r bwriad polisi a nodwyd? / *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?*

Agree in principle with the idea of giving more discretion to local authorities as to which category of persons would qualify, or not qualify, to appear on the housing register. However, this is subject to the content of the code of guidance brought forward by the Government, and of course the timing of the introduction of that code so that local authorities can review their housing allocation plan. Using this new discretion will probably mean, although housing registers would be more accurate from the point of view of the real need for social property, that the numbers on the register will be lower than currently; it is essential that the narrative around that is clear and consistent.

We welcome more powers to give no priority to persons who misuse the housing system; however we will await with interest what the code of guidance will have to say as to the detail.

The intention to place young people who leave care and are subject to a s108A duty is also to be welcomed. We believe, however, that an opportunity has been missed to give greater statutory priority to persons who are homeless and live in temporary or emergency property. Stating this on a statutory basis, rather than

optional, would be far more powerful and a far more useful tool to reduce applicants' stay in properties that are unsuitable for them.

The Council welcomes what is stated in paragraph 162 of the Explanatory Memorandum (page 36): "*social landlords, including RSLs and registered providers of social housing can only offer their accommodation to persons on the CHR, meaning that to access any social housing stock an applicant must register on the CHR*" and notices a new section in the Bill (section 160B) which is to be included after the current section 160A. While welcoming what is intended in section 160B(1), we believe that section 160B(2) is not going to be of help to a local authority that does not have its own housing stock as it keeps the discretion given in section 159(5) of the Housing Act 1996 for a public landlord to administer a "transfer of control". How can a new section 160B(2) be implemented alongside section 159(5) as the two appear to contradict each other?

While we recognize the need for the Welsh Ministers to make changes through future regulations, we would state that full consultation with Local Authorities would be required before they are introduced.

We generally welcome the provisions around the introduction of an accessible housing register. We believe however that flexibility is needed for a local authority to include the accessible housing register within, and as part of the main common housing register, so that all possible options are considered for meeting specialist housing needs.

4. Beth yw eich barn ar y darpariaethau a nodir yn Rhan 3 o'r Bil - Dyrannu Tai Cymdeithasol (adran 39 hyd adran 43 ac Atodlen 1)? Yn benodol, a yw'r darpariaethau yn ymarferol ac a fyddant yn cyflawni'r bwriad polisi a nodwyd? / *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?*

While we recognise the need for Welsh Ministers to make changes through future regulations, we would state that full consultation with local authorities would be required before they are introduced.

5. Beth yw'r rhwystrau posibl i weithredu darpariaethau'r Bil, a sut mae'r Bil yn ystyried y rhwystrau hynny? / *What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?*

The introduction of a new Housing Bill in Wales offers an important opportunity to reform the housing sector and to strengthen tenants' rights and provision standards. However, there are a number of practical considerations for its effective and successful implementation.

One of the main likely obstacles is the financial constraints and available resources. Full implementation of the Bill will require significant funding and an increase in staffing numbers, especially within local authorities and regulatory bodies. Although the Bill expands the powers of the regulators, there is a lack of clarity about the provision of (permanent) resources, which raises concerns about long-term sustainability.

It must also be ensured that there is sufficient engagement with stakeholders, especially landlords in the private rental sector. A lack of support or opposition from key providers could undermine the successful implementation of the Bill. Clear guidance, appropriate training, and strong collaboration strategies will be needed to ensure commitment and general understanding of the proposed changes.

The legal complexity linked to certain provisions creates a risk that can lead to inconsistency in implementation, particularly among smaller landlords and tenants without access to legal advice. Relevant materials are required to explain the change in a clear and simple way, in order to ensure that rights and responsibilities are understood and implemented fairly.

Integrating the new policies within the context of existing legislation will be essential to avoid duplication, policy conflict and any confusion.

6. Pa mor briodol yw'r pwerau yn y Bil i Weinidogion Cymru wneud is-ddeddfwriaeth, fel y nodir ym Mhennod 5 o Ran 1 o'r Memorandwm Esboniadol? / *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 believe that the powers in the Bill for Welsh Ministers to make subordinate legislation are reasonable, measurable and necessary. We would state, however, that the Government has missed an opportunity to introduce completely new legislation on homelessness and social housing allocation, rather than introducing a Bill that revises two existing laws. If it's declared that what is proposed in the Bill is "far-reaching", then that needs to be reinforced with a completely new act.

I would also state clearly, should any further changes need to be made to the act following debate in the Senedd, that a full and thorough consultation is carried out with

local authorities in advance in order to fully understand what are the challenges, barriers and implications - includes operational, resource and funding implications.

7. A oes unrhyw ganlyniadau anfwriadol yn debygol o ddeillio o'r Bil? / *Are there any unintended consequences likely to arise from the Bill?*

A number of unintended consequences that may arise from the Bill have already been identified in previous questions, although some additional points are listed below.

Landlords in the private sector

The need to ensure compliance risks pushing a large number of private landlords, especially those with a low number of houses to let, out of the market. This could have an impact on the affordable rental housing supply, increase the level of rent in the private sector and put more pressure on local authorities.

Increase in legal cases and court charges

We anticipate that there will be an increase in the number of cases going before the Residential Property Tribunal, due to issues arising from the implementation of the changes brought about by the Bill. The capacity of the courts to be able to cope with the increase in cases must be considered.

8. Beth yw eich safbwyntiau ar asesiad Llywodraeth Cymru o effeithiau ariannol y Bil, fel y nodir yn Rhan 2 o'r Memorandwm Esboniadol? / 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?

Gwynedd Council acknowledges the Welsh Government's effort to outline the financial implications of the proposed Housing Bill in Part 2 of the Explanatory Memorandum. However, we have concerns as to whether the assessment that has been introduced is sufficient.

Firstly, there is not enough emphasis in the Memorandum about the complexity and the additional financial needs placed upon local authorities. The additional duties, including the expected increase in demand on homelessness services, will require adequate funding above what is currently provided.

Secondly, there is insufficient information about the need for specific training, the cost of upgrading systems, and the form of the arrangements for establishing a multi-agency collaborative relationship. The Memorandum's forecasts of a 30% increase in the number of people in emergency accommodation highlight the additional pressure that may be placed upon local authorities such as Gwynedd, who already spend over £5.5 million a year on emergency accommodation. Although the Welsh Government's financial assessment is to be welcomed, Gwynedd Council calls for a more detailed analysis of the financial impact.

9. A hoffech godi unrhyw faterion eraill o ran y Bil a'r Memorandwm Esboniadol neu unrhyw faterion cysylltiedig? / Are there any other issues you would like to raise about the Bill and the Explanatory Memorandum or any related matters?

The relevant issues to Gwynedd Council's position regarding the content of the Bill and the Explanatory Memorandum have already been noted in the answers to questions 1-8.
