

Consultation on the Housing (Wales) Bill

Cymorth Cymru evidence to the Communities, Equality and Local Government Committee

Background

Cymorth Cymru is the umbrella body for organisations working with vulnerable people in Wales. Our members work to assist people who are vulnerable, isolated or experiencing housing crisis, including:

- people who are homeless, or at risk of homelessness
- families fleeing domestic abuse
- people dealing with mental or physical health problems, or learning disabilities
- people with alcohol or drug problems
- refugees and people seeking asylum
- care leavers and other vulnerable young people
- older people in need of support and care
- offenders and those at risk of offending

This list is not exhaustive, and individuals may often face a range of challenges that make it difficult for them to find or maintain a stable home and build the sort of lives we all aspire to.

Cymorth Cymru's members help people address these issues, supporting them to fulfil their potential and build happy and fulfilling lives. Our members work across policy areas – including Community Justice, Social Services and Health – with the shared recognition of the key role that housing plays in promoting wellbeing.

We have three overarching objectives:

- To improve the links between policy and practice by ensuring that those working in frontline service delivery understand and are influenced by the wider policy context, and those working in policy development understand and are influenced by the experiences and knowledge of those working on the ground.
- To ensure that the sector maximises its contribution to the lives of citizens and the communities in which they live by helping to build and develop the sector's capacity and professionalism.
- To increase public understanding and support for the sector and the work it does in helping people build the lives they aspire to within the community.

Members of Cymorth Cymru

Adref	Bron Afon Community	Cartrefi Cymru
Aelwyd HA	Housing	Church Army Cardiff
Agorfa	Cadarn Housing Group	CIH Cymru (Chartered
Aids Trust Cymru	Cadwyn Housing	Institute of Housing)
Alcohol Concern Cymru	Association	Clwyd Alyn HA
Alzheimer's Society	Caer Las Cymru	Coastal Housing
Wales	Caerphilly Council	Collage
Anheddau Cyf	Caerphilly Women's Aid	Community Housing
ARCH Initiatives	Calan DVS	Cymru (CHC)
Barnardo's Compass	Cardiff Community	Community Lives
Partnership	Housing Association	Consortium
Barnardo's Cymru	Cardiff Council	Compass Community
BAWSO	Cardiff Gypsy and	Care Ltd
Beaufort House Move	Traveller Project	Connect Assist
on Scheme	Cardiff Women's Aid	Cymdeithas Gofal / The
British Red Cross	Cardiff YMCA Housing	Care Society
Bro Myrddin Housing	Association	Cymdeithas Tai Cantref
Association	Care Management	Cyf
	Group	Cymdeithas Tai Clwyd

Cymdeithas Tai Eryri
Cymorth Cymru
Cynon Taf Community
Housing Group
Cyrenians Cymru
De Gwynedd Domestic
Abuse Service
Denbighshire CC
Dewis Ltd
Digartref Ynys Mon Ltd
Dimensions
Diocese of Llandaff
Board for Social
Responsibility
Diverse Cymru
Domestic Abuse Safety
Unit (DASU)
Drive
Esgyn
Family Awareness
Drugs Support
Family Housing
Association Wales Ltd
First Choice Housing
Association
GISDA
Glyndwr Women's Aid
Gofal
Gwalia Care & Support
Gwynedd County
Borough Council
Hafal
Hafan Cymru
Hafod Care Association
Haven Trust
Home Access
Homeless Link

Huggard
Ihsaan Social Support
Association (ISSA)
Wales
Larch
Learning Disability
Wales
Linc Cymru
Llamau Ltd
Melin Homes
Mendola Associates
Mental Health Advocacy
Scheme
Merthyr Valley Homes
Merthyr Women's Aid
Mind Monmouthshire
Monmouthshire CC
Neath Women's Aid
Newport Housing Trust
Newport Mind
Newport WA
Newydd Housing
Association
North Denbighshire
Domestic Services
North Wales Housing
Association
Pembrokeshire Care
Society
Pembrokeshire Housing
Pennaf Housing Group
Pen-yr-Enfys
Perthyn
Practice Solutions
RCT Homes
Reach Supported Living

Rhondda Housing
Association
RNIB
Salvation Army
Save The Family Ltd
Scope
Seren Group
Shelter Cymru
Sitra
Solas Cymru
St Giles Trust
Sttaps
Swansea County
Council
Swansea Young Single
Homeless Project
(SYSHP)
Taff Housing
Association
Tai Calon
Tai Pawb
Temp2Perm
The Wallich
Torfaen and Blaenau
Gwent Mind
Torfaen County Council
Torfaen Mind
Torfaen Women's Aid
United Welsh Housing
Association Ltd
Us UnLTD
UWIC
Vale of Glamorgan
County Council
Valleys To Coast
Wales & West Housing
Association

Welsh Women's Aid
Welsh Women's Aid
Colwyn
Women's Aid in
Rhondda Cynon Taff
Wrexham County
Council
Wrexham Women's Aid

Overview of evidence

As the umbrella body for organisations working with vulnerable people, our consultation response is focussed specifically on those issues of relevance to vulnerable people. The Welsh Government recognised in its Housing White Paper that *‘the need for safe, warm, comfortable shelter is one of the most fundamental human instincts’*¹ and that it is Welsh Government’s responsibility *‘to ensure that every citizen in Wales has the opportunity to live in a good quality, energy efficient home which is affordable’*². We share this view that a decent home plays a vital role in a person’s ability to build a successful life.

We fully support the Bill’s drive to put a greater emphasis on prevention and relief of homelessness and we are currently engaged in the ongoing dialogue around the extension of priority need to rough sleepers. Cymorth Cymru is also part of discussions around priority need in relation of ex-offenders and we are grateful for the opportunity to help shape this specific piece of legislation as it develops.

We have also liaised with partner organisations and would like to take this opportunity to endorse the evidence provided by Shelter Cymru.

Our evidence is presented in the following format:

- General comments
- Responses to the consultation’s specific points

We look forward to exploring some of the points made in our response further when we give oral evidence to the Communities, Equality and Local Government Committee.

General comments

This Housing Bill signifies the Welsh Government’s direction of travel in terms of tackling homelessness. Whilst there have been concessions made that arguably have made this Bill less progressive in terms of policy making than originally set out in the White Paper, we recognise the need to be pragmatic and take account of the current economic and political landscape.

¹ *Homes for Wales: A White Paper for Better Lives and Communities, Welsh Government, 2012*

² *Homes for Wales: A White Paper for Better Lives and Communities, Welsh Government, 2012*

We remain committed to supporting the Welsh Government to work towards the future phasing out of certain elements of homelessness legislation which our members – organisations that support some of the most vulnerable people in Wales – tell us is counter-productive to their work.

We would like to also use this opportunity to highlight the key role that the Supporting People Programme plays in ensuring individuals are able to maintain their tenancies as independently as possible. In Cymorth Cymru's view, the duties that this Bill will place on local authorities to ensure the relevant services are in place to support vulnerable individuals and to help prevent homelessness mean that we should now take a more strategic approach to funding the Supporting People Programme.

While the Programme enjoyed relative protection from budget cuts in Financial Year 2013-14, the year-on-year struggle to protect this budget and its outcomes could be avoided were a more strategic approach taken. The Supporting People Programme assists around 76,000 vulnerable people across Wales and delivers real cost savings to other areas of public spending. Cymorth Cymru is keen to work with Government and partners to ensure that the true value of the Programme is understood across all sectors engaged in supporting vulnerable people to ensure better services for homeless individuals and those threatened with homelessness.

Our main points are:

- The regulation of housing in the Private Rented Sector (PRS) is the cornerstone of the successful use of the PRS when discharging a local authority's homelessness duty. Attempts to remove this element of the Bill need to factor in the interconnected element of Parts 1 and Parts 2 of the Bill. Without appropriate regulation of landlords, greater use of the PRS as a means of accommodating vulnerable individuals is reckless and may lead to the exploitation of some of Wales' most vulnerable citizens and further exacerbate homelessness in Wales.
- Greater use of the PRS to alleviate demand on social housing is welcomed. This new ability for local authorities to accommodate vulnerable people in the PRS when discharging their homelessness duty must be coupled with the appropriate level of support to ensure vulnerable people are not set up to fail, and fall into possibly cyclical homelessness.

- Placing prevention and support at the heart of legislation to tackle homelessness will enable better consistency across Wales and drive up the quality of services. This needs to be in conjunction with the appropriate resources to ensure preventative services are available.
- Elements of the homelessness legislation raise concerns in terms of the consistency of application across Wales and the impact on actually tackling homelessness.
- Coproduction and co-design need to be a key feature when implementing the Bill to ensure maximum positive effect on reducing homelessness. Learning from the work undertaken by the Supporting People Programme in this area needs to be captured and built on.

Responses to the Consultation's specific terms of reference

1. The general principles of the Housing (Wales) Bill and the need for legislation in the following areas:

- ***a compulsory registration and licensing scheme for all private rented sector landlords and letting and management agents;***

We are in favour of regulating private sector landlords and letting agencies. It is important to view this new regulatory system together with Part 2 of this Bill as it has relevance to the new powers to be placed on local authorities to be able to discharge their homelessness duty through the use of the PRS. Whilst there has been much debate around the introduction of regulation of the PRS, we are concerned that discussions so far have not given consideration to its connection with the new reality of accommodating some of Wales' most vulnerable citizens in private rented housing.

We support the move to reduce the pressure on social housing through allowing local authorities to discharge their duty through use of the PRS, however it is vital that individuals are given the correct support to help them to maintain their tenancy – otherwise we will be simply setting people up to fail. We view regulation as the cornerstone to ensuring that the PRS delivers on expectations. Without such regulation, there are real concerns that vulnerable people could be negatively impacted by landlords who do not offer a high level of service, whether through ignorance or purposefully. Shelter Cymru report an overrepresentation of PRS tenants among the

clients that they work with and the main problems that are reported include harassment and illegal eviction. These issues are often caused by lack of understanding of their rights and responsibilities by both landlords and tenants, with tenants often reluctant to exercise their rights for fear of retaliation³.

Given that this Bill will affect more people who are vulnerable and may mean that those who may have more complex needs may be accommodated in private rented housing, it is important that tenants of the PRS are afforded the same rights of protection and standards as tenants in social housing. We acknowledge that many PRS landlords and agents act responsibly, however we support an approach based on an appropriate balance of sanctions and incentives, supported by appropriate resources for those undertaking the implementation of the scheme. This will raise standards in the PRS where required.

We also need to ensure that regulation does not result in any unintended consequences – one of which being the potential to make individuals homeless if landlords feel that it is not ‘worth the hassle’ when mandatory registration comes into force. As such, we endorse an approach of working with landlords – especially those who may have become ‘accidental’ landlords – to support them to take on these duties.

To fully capitalise on this opportunity, it is vital that regulation is extended to all private landlords irrespective of whether they have one property or many properties like some of the larger or professional landlords. The positive impact that regulation will have on standards in the PRS should be equally enjoyed by tenants, regardless of whether they are vulnerable or not, and regardless of how large a portfolio of properties their landlord may own.

We also endorse proposals made by CIH Cymru to implement changes on a roll-out basis, to manage resources and capacity.

- *reform of homelessness law, including placing a stronger duty on local authorities to prevent homelessness and allowing them to use suitable accommodation in the private sector;*

Duty to prevent homelessness

³ Shelter Cymru, *Response to Homes for Wales: A White Paper for Better Lives and Communities*, August 2012

Putting prevention and support at the heart of responding to homelessness is an ethos that Cymorth Cymru has promoted since its formation. We know that preventing a housing crisis before it arises is the best option both in terms of the individual's experience as well as in financial terms for themselves and for the state. In a time of economic uncertainty it is more important than ever to ensure that public spending deliver value for money and it is our firm view that a focus on early intervention will help deliver this for Wales.

The new duty on local authorities to actively prevent homelessness will also create a more consistent approach throughout Wales towards tackling homelessness. Whilst there are example of good practice that currently exist, a more consistent approach is to be welcomed to ensure all vulnerable people throughout Wales get a high standard of service, and to ensure that these standards continue to rise.

A move toward a preventative approach will require a significant cultural shift for many local authority staff and for this shift to be effective, these changes need to be properly resourced and those involved in their implementation need to be adequately supported. We continue to develop our services to help staff in the sector to make these changes and are keen to work alongside Government and others to use our networks and influence to enable this shift.

Homelessness Reviews and Strategies

We support the Bill's duty to require local authorities to create more robust homelessness reviews and strategies. This opportunity to ensure 'buy in' from other areas of local government and promote the message that 'homelessness is not just a housing issue' should be maximised. Part of Cymorth Cymru's workplan is to strengthen links between the housing and health sectors and we are currently exploring how we can enable even greater join up between different sectors to ensure that vulnerable people are part of discussions and their voices, opinions and life experiences shape how support is provided.

It is important for collaboration and coproduction to be a key driver when taking this forward. Requiring local authorities to simply *consult* with key stakeholders will not deliver the same results as requiring them to *embed coproduction* at the heart of strategy and the design of services. We advise that learning should be taken from the Supporting People Programme and the way in which coproduction is enabling greater ownership and is allowing the Third Sector to become equal partners in discussions

influencing decision-making. We recognise that different areas are at different stages of this journey, and would welcome the opportunity to facilitate the sharing of good practice. This is an important element if an authority requires not-for-profit organisations to contribute to objectives within their homelessness strategy.

Given Cymorth Cymru's involvement in the development and implementation of the governance structure for the Supporting People Programme, we would be keen to facilitate any learning exchange.

Greater use of private renting housing

We support the move to make better use of the PRS by local authorities to reduce the pressure on social housing. There are concerns that the PRS can be seen as a panacea for Wales' housing situation and further investment might be needed to ensure that the PRS delivers on expectations. It is vital, therefore, that vulnerable individuals are given the correct support to help them to maintain their tenancy in the PRS in order to maximise the outcomes and avoid setting vulnerable people up to fail. For example, ensuring that vulnerable people are supported to gain and exercise the skills that are needed to independently maintain a tenancy as well as supporting people to achieve personal outcomes such as securing training or employment will deliver a more sustainable homeless service.

In order to make best use of the PRS, we support the introduction of a regulatory system and, as previously mentioned, we view this as an essential requirement of successful use of the PRS in terms of local authorities discharging their homelessness duty. We also suggest that the relationship between the Third Sector and the PRS is strengthened, allowing more initiatives like social lettings schemes to be implemented across Wales. It is essential that this relationship is forged to avoid vulnerable people being 'dumped' in the PRS without the support that they need. Such instances will simply lead to a revolving door of homelessness. Through the development of social letting agencies and other such initiatives that involve the third sector, we can ensure that access to the PRS is fair and open to all to combat the kind of discrimination that is currently faced by some groups.

Priority need

As a point of principle, Cymorth Cymru advocates for the removal of the priority need system in favour of an approach similar to the Scottish approach where all citizens who are homeless are accommodated. Given the success of this approach in Scotland, we

would like to see the Welsh Government adhere to its long-term aim of removing 'priority need' altogether. We however recognise that until we are able to reach this point, 'priority need' will remain a feature of the Housing (Wales) Bill.

Given the importance of a home and the aim of moving towards a Wales where we have a duty to house every homeless citizen, tightening the eligibility criteria for ex-offenders in priority need status is an area of concern for the organisation that we represent.

It is clear from the conversations that we have had with our members that simply putting a roof over someone's head is not enough. This is as true for those leaving prison as it is for many others. Given the high prevalence of unmet support needs among prison leavers, with many having mental health problems and substance misuse issues, there is currently not sufficient priority given to meeting the needs of this client group and addressing the root causes of reoffending. We are strongly of the opinion that the introduction of the additional barrier of a 'vulnerability test' will further exacerbate this.

It is estimated that more than 90 per cent of prisoners⁴ have a mental health problem of some kind and that more than 70 per cent⁵ of both male and female sentenced prisoners have at least two mental disorders. In addition, many are from disadvantaged backgrounds, have substance misuse issues and poor literacy rates. Given this, the prison population is regarded by many working in this area as vulnerable by definition.

We are concerned with the changes that have been made to priority need status for ex-offenders and the definition given in the Housing (Wales) Bill stating a need for both a local connection and vulnerability. As a national representative body, our members (who work across all 22 local authorities) regularly report a lack of consistency in the interpretation of homeless legislation. The inconsistency in the application of current priority need status for ex-offenders – with some local authorities using the 'intentionality judgement' as a way of denying accommodation – raises real concerns around the implementation of an additional 'vulnerability judgement' which could subsequently deny even more individuals access to accommodation.

A decision on whether or not someone is 'vulnerable' is in its nature subjective. When coupled with the divisive nature of this client group given the misplaced 'deserving' and

⁴ (Social Exclusion Unit, 2004, quoting Psychiatric Morbidity Among Prisoners In England And Wales, 1998)

⁵ (Social Exclusion Unit, 2004, quoting Psychiatric Morbidity Among Prisoners In England And Wales, 1998)

‘undeserving’ argument that is often applied to entitlement to accommodation, we foresee issues around the robustness of individual decisions made.

As called for in our response to the recent consultation on this specific issue, we would again emphasise the importance of taking an evidence-based approach towards policy making – especially in policy areas that are potentially divisive in the local community such as this. It is vital that we understand the current situation and evaluate what does and does not work for this group before major changes are rolled out. We would therefore advocate for a pilot with an open review and evaluation before priority need be removed.

Intentionality

Although we support the Bill’s plan to remove ‘intentionality’ for homeless families with children experiencing homelessness, Cymorth Cymru advocates for the removal of ‘intentionality’ entirely. Intentionality rulings are currently inconsistently applied across Wales, which is understandable as decisions are open to interpretation. We consider its current inclusion in this Bill as a missed opportunity and an area where a significant and positive impact could have been made to the experiences of homeless people and the organisations that work to support them.

We have received a clear message from our members who work with people with multiple needs that if intentionality is to remain for households without children, a duty to assess support needs becomes even more essential. Often, individuals who are found ‘intentionally homeless’ will more than likely be in need of some form of support to help them retain their tenancy.

If ‘intentionality’ remains in the Bill in its current form, it is important for the accompanying Guidance to include a clear time limit on intentionality rulings to ensure that vulnerable people are not barred from services for life.

Local connection

Local connection, like that of ‘intentionality’, is a component that ideally would not feature in any progressive homelessness legislation. Homeless people have the same right to decide where they wish to live as everyone else. Whilst we envisage this Housing Bill to be a catalyst for future change, it is important to not lose sight of the need to treat all citizens equally – regardless of whether they may be in housing crisis and despite the economic climate in which this Bill has been developed.

- **a duty on local authorities to provide sites for Gypsies and Travellers where a need has been identified;**

We welcome the proposal to place a duty on local authorities to provide sites for Gypsy and Traveller communities where need has been identified. We endorse the response by Tai Pawb in this area and would welcome meaningful consultation with Gypsies and Travellers in relation to identifying needs and the provision of services. It is also vital that the settled community and elected officials are brought on board with plans so that they can also take ownership of any plans as one of the key barriers to the implementation of this proposal is the opposition to the development of new sites from elected members and the settled community.

As previously stated, the benefits of using a process that embeds coproduction and co-design is required. Local authorities need to do more than simply *consult* with key stakeholders when producing their report on identified need and merely to include *‘the responses (if any) it received to that consultation’* as stated in this section is wholly unacceptable. Ensuring that all stakeholders have an equal role in discussions and decisions will deliver much better mutually agreed and lasting solutions.

2. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.

The current economic and political landscape in Wales and across the UK cannot be underestimated. The worst effects of the welfare reform agenda are still to be fully felt by people in Wales and coupled with rising demand for services and the increasing levels of cuts in funding, this Housing Bill alone will not have the scope to protect vulnerable people from these outside factors. We know that preventative services have a cost saving element⁶ when compared to the cost of intervention at crisis point, yet services for those in crisis will still be needed, and especially so in the current context. Given this, one of the major barriers to implementation is resources.

It is vital for the prevention agenda to be properly resourced to ensure that the necessary services are available. Those at the frontline of implementing this agenda need to also be adequately supported through this ‘culture change’ to ensure that the Bill’s aims are fully realised.

⁶ *How The Supporting People Programme In Carmarthenshire Saves Money For Other Areas Of The Public Purse, September 2010*

We need to use this opportunity of Wales' first Housing Bill to enable better links between policy areas. At a time when public spending needs to deliver as significant and positive an impact as possible, ensuring that all areas of Government understand their contribution to ensuring better services for vulnerable people and the resulting benefits in doing so is becoming ever more vital.

3. Whether there are any unintended consequences arising from the Bill.

As addressed in question 1, the areas of concern remain:

- Local authorities discharging their homelessness duty by placing vulnerable people in the PRS without adequate support to ensure tenancy sustainment
- Use of an unregulated PRS to accommodate vulnerable people and the potential for exploitation
- Substandard PRS accommodation used to house vulnerable people
- Areas of homelessness legislation such as priority need for ex-offenders, intentionality rulings and local connection preventing individuals from securing a decent home.

4. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill),

Additional costs are to be expected with the introduction of any new legislation and there will be a period where additional funding is likely to be required to enable implementation. It is important to take account of the potential cost savings to be gained through a focus on prevention and enabling new approaches and that this should be weighed against any implementation costs incurred.

In order to measure the effectiveness of the Bill and ensure value for money, the costs of implementation and the impact of changes to legislation need to be continuously and openly reviewed and communicated.

5. The appropriateness of 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, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

We accept what is set out in Chapter 5 of Part 1 of the Explanatory Memorandum in relation to the Welsh Ministers remit to make subordinate legislation.

Nicola Evans – Policy & Information Manager

Cymorth Cymru

Norbury House, Norbury Road, Cardiff CF5 3AS

Tel (029) 2055 3687

nicolaevans@cymorthcymru.org.uk

10/01/2014