

**Grŵp
Cartrefi
Cymunedol
Cymru**



**Community
Housing
Cymru
Group**

Christine Chapman AC/AM
Chair
Communities Equality Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

12 May 2015

Dear Christine

Thank you for your letter and request for additional information following the evidence session on the Renting Homes Bill on 6 May 2015. The specific information the Committee requires is detailed below.

- ***Numbers of 16-17 year olds entering into Occupational Contracts***

Occupational contracts do not exist in the social housing sector and will be created by the Renting Homes Bill. 16-17 year olds are currently only able to hold a license.

- ***The impact of welfare reform on serious rent arrears and the implications of removing Ground 8 for housing associations.***

The Welfare Reform Act 2012 brought changes to benefit entitlement which has coincided with an increase in rent arrears.

Statistics for Walesⁱ show that RSL arrears now stand at 32.4%, an increase from 31.8% prior to the bedroom tax / Removal of the Spare Room Subsidy. Those in arrears of 13 weeks or more (serious rent arrears) increased from 1.6% to 2.2%.

According to the Wales Audit Officeⁱⁱ current housing association tenant arrears increased from £12.406 million to £15.643 million between April and October 2013.

Early evidence from work conducted by CHC Your Benefits Are Changing team shows that Universal Credit claimants are on average £607 in rent arrears, which is 8 weeks

of rent payments (this is categorised as serious and is the point at which direct payments are switched to the landlord).

Removal of Ground 8

Ground 8 is only ever used as a last resort and its use has been very limited across the sector in the last 2 years- ranging from no use at all by some Associations to a maximum of four times per annum (CHC, 2015) However, more RSLs have said that they will look to use Ground 8 to deal with serious arrears.

RSLs are rarely awarded full possession orders even in serious arrears cases. This means that tenants can request suspension of any evictions which are always granted. This will result in difficulty evicting, increased rent loss and increased court costs through potentially applying for multiple warrants. Ground 8 helps overcome this . Ground 8 also serves as an important reminder for tenants about the importance of paying rent. If tenants know that there is always going to be discretion from the judge they may start to take the court process less seriously as they will nearly always get a suspended order. Word usually gets around and solicitors also know this. The removal of Ground 8 will also more time is spent chasing arrears which leaves less time to spend on other tenants who need help.

Increases in rent arrears and continued increases in court costs pose a real challenge for RSLs. Lenders have been clear that if rent arrears continue to rise then they may increase borrowing costs to reflect higher levels of risk. Increased borrowing costs and higher levels of arrears will be unsustainable for some RSLs long-term, which puts all tenants at risk of facing homelessness. The proposal to remove Ground 8 is therefore of much concern to CHC and we strongly propose Ground 8 should be retained as an option for serious cases of arrears.

- **Should there be evidence of a criminal conviction before someone is evicted on the basis of anti-social behaviour (ASB) ?**

Anti-social behaviour is defined in the new Anti-Social Behaviour Crime and Policing Act 2014 as:

- conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
- conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- conduct capable of causing housing-related nuisance or annoyance to any person.

Often this behaviour is not of a criminal nature and cannot be proven beyond reasonable doubt. Examples of anti-social behaviour that would not lead to a criminal conviction are numerous and include visitors back and forth to the property, causing a nuisance in the early of the morning to neighbours, drinking alcohol etc. If

Housing Associations are only able to evict on anti-social behaviour grounds where there is evidence of a criminal conviction they would be reliant on police involvement before any action could be undertaken. This is of much concern given reductions in police resources.

CHC does not believe evidence of a criminal conviction should be required prior to eviction for anti-social behaviour. Anti-social behaviour can fall under the civil law and often the issues are low level but are regular issues that impact significantly on residents within the facility of the occurring anti-social behaviour. Often there are no criminal proceedings for anti-social behaviour and the civil proceedings allow for appropriate action to be taken.

Example of recent cases are:-.

- *An injunction and a Notice Seeking Possession was served on X for noise nuisance (loud music and abusive language when arguing with partner). This in turn encouraged social services to take action and the children were removed from the property. During the time this case was open it was believed that there were drugs at the property. The police conducted a number of raids on the property, drugs were found each time but did not result in any custodial sentences. X breached the injunction on 8 occasions and was arrested on 3 occasions, with the last resulting in a 1 year sentence for breach of the injunction. Alongside the final arrest she was also arrested for a Public Order offence for which she only received a fixed penalty notice.*
- *In another case X who was a starter tenant was allowing her children to act in an anti-social manner within the locality of her home, the police were regularly called to incidents of fighting in the home and on the street outside, drug use and noise nuisance. Again there was little evidence that this was resulting in convictions. A section 8 notice was served on X and an injunction was also taken out against X. X was arrested for breaching the injunction on 2 separate occasions. She could have potentially served a month's sentence for the breaches but the order was used to our advantage to encourage X to surrender the tenancy before the section 8 notice expired. This again alleviated the worry of the local residents.*
- *In another case X was causing significant anti-social behaviour to his neighbours but was claiming to have mental health issues. The police had arrested him on a number of occasions and submitted him for assessment but was released without further action each time. The injunction was also unenforced for breaches early on because X seemed to have a fit/seizure in court each time, eventually his mental health assessment showed he was able to understand the consequence of his actions and he was sentenced to a month in prison following a subsequent breach of the injunction for noise nuisance. The breach (ASB action) leading to the sentencing would unlikely have had any custodial sentence if the injunction was not in place.*

In all three examples not needing a criminal conviction led to a better outcome for all involved and the community.

In addition to the issue around having a criminal conviction CHC is also concerned that the new Mandatory Ground for possession given to landlords as part of the ASB, Crime and Policing Act 2014 is looking to be withdrawn by the Renting Homes Bill. The withdrawal of the absolute ground would impact significantly on victims and witnesses. The key benefit of the absolute ground for witnesses is that they do not have to attend Court and give evidence. Victims and witnesses find attending Court and giving evidence a traumatic experience, even where intense support is put in place for them, and may refuse to support a case. This is increasingly likely in matters relevant to the absolute ground, where cases are likely to relate to serious criminal/anti social behaviour and/or issues that have been on-going for some time.

Where the circumstances for the absolute ground would otherwise be made, the victim may already have given evidence in the original hearing (e.g. the criminal conviction or breach of injunction hearing) and may find the prospect of having to do so again in a possession hearing too difficult to consider. There have been cases where the witness has refused to support the second hearing after their experiences of the first.

- **Whether the proposed changes to joint contracts will help deal with situations involving domestic abuse.**

We welcome the broad approach the Bill takes to joint contract holders ie allowing each of the parties, wherever possible, to be treated as an individual - this allows a joint contract-holder to end their interest in an occupation contract, without ending the whole contract. However, the proposed changes still rely on victims giving evidence to the landlord in order to obtain a possession order and remove the one contract holder from the tenancy. Without that evidence the court will be unlikely to find that it is reasonable to make a possession order. We know all too well that victims are not prepared to give evidence against their abusers and put themselves in the vulnerable position that it attracts. CHC therefore believes the new legislation should go further in helping landlords to deal with domestic abuse.

- **Do you have evidence explaining how serious a problem abandonment is for community landlords, and how they deal with it at present? Do you have a view on whether the proposals in the Bill relating to abandonment could be improved, including in relation to ensuring that vulnerable people are not exploited?**

Abandoned properties cost social landlords a significant amount of time and money they tying up a scarce resource in social housing and recover possession is a difficult task. It is often difficult to prove an abandonment and hard to gain evidence from other agencies such as utility companies and other service providers. Since the removal of the spare room subsidy vacancies in the RSL sector have been rising steadily year on year and are more of a problem for RSLs operating in low value areas where the Local Housing Allowance can be the same for a bigger property.

The proposals on abandonment are very helpful, in particular, the enablement of the landlord to repossess the property without a court. Abandonment frequently leads to the landlord having to seek approval of the court to repossess the property which takes time, is costly and adds to supply pressures.

However, the legislation should place a duty on those agencies to provide this information so landlords can more easily satisfy themselves of abandonment.

There is provision in the Renting Homes Bill for vulnerable tenants to be able to challenge possession and be rehoused if necessary.

- **Does the Bill present an opportunity to expand the role of the Residential Property Tribunal or other mediation services?**

One of the main reasons for introducing new legislation is the complex nature of housing law. This is exacerbated by inconsistent court decisions by non-specialist judges that lead to applications to the higher courts and appeals. A dedicated housing court, dealing with only housing cases, where judges are trained and knowledgeable in this area of law would benefit both landlords and tenants to get consistent decisions across the board and a more clearer understanding of how the law will be applied.

The Residential Property Tribunal Wales is an independent tribunal that has been set up to resolve disputes relating to private rented and leasehold property. Not many housing Associations have used the service as it is aimed at private landlords, however, some have been involved in a Leasehold valuation tribunals. The advantage of the Residential Services Tribunal is that you can represent yourself which saves costs, however, some Associations already do this in Court.

Mediation can definitely help. It is a very useful way of dealing with ASB and enables early intervention, is impartial and it helps tenants get to the root of the problem (preventing escalation) and helps them reach compromises and solutions. Some members have used Cognitive Behaviour Therapy and report a good success rate (one Association estimated that they saved around £50k using this approach in 2014).

One member reported that two thirds of mediation cases lead to positive improvements. A recent case proved very successful involving two single females who were having a negative impact on their community. The situation was fully resolved through mediation.

Weighted against court fees, eviction and void costs/rental loss and staff time, mediation is also a cheaper way of dealing with tenancy management. For 2014, mediation services cost £4,208.47 for 14 cases (just over £300.00 on average). Void cost, for repairs alone, can be around £2000.00.

We trust this additional information is helpful. If, however, you have further queries or require more information please do not hesitate to contact me.

Kind regards

A handwritten signature in black ink, appearing to read 'Stuart Ropke', with a horizontal line extending from the end of the signature.

Stuart Ropke
Chief Executive

ⁱSocial housing vacancies, lettings and rent arrears, 2013-14

ⁱⁱManaging the Impact of Welfare Reform Changes On Social Housing Tenants in Wales