Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
CELG(4)-14-15 Papur 7 / Paper 7

Tai Pawb

Supplementary Written Information Part One – Communities, Equalities and Local Government Committee held on 6th May 2015

14th Many 2015

For further information about this paper please contact:
Emma Reeves-McAll
Policy and External Affairs Officer
emma@taipawb.org
029 2053 7634

Who we are

Tai Pawb (housing for all) is a registered charity and a company limited by guarantee. The organisation's mission is, "To promote equality and social justice in housing in Wales". It operates a membership system which is open to local authorities, registered social landlords, third (voluntary) sector organisations, other housing interests and individuals.

What we do

Tai Pawb works closely with the Welsh Assembly Government and other key partners on national housing strategies and key working groups, to ensure that equality is an inherent consideration in national strategic development and implementation. The organisation also provides practical advice and assistance to its members on a range of equality and diversity issues in housing and related services.

Tai Pawb's vision is to be:

The primary driver in the promotion of equality and diversity in housing, leading to the reduction of prejudice and disadvantage, as well as changing lives for the better.

A valued partner who supports housing providers and services to recognise, respect and respond appropriately to the diversity of housing needs and characteristics of people living in Wales, including those who are vulnerable and marginalised.

For further information visit: www.taipawb.org

Charity registration no. 1110078
Company No. 5282554

We would like to thank the committee for inviting us to provide oral evidence on 6th May 2015, and the opportunity to submit further written information on areas of interest to the committee which we were unable to cover at the hearing due to time constraints.

In addition to this submission to this Tai Pawb has agreed to approach our members in relation to their views 'on what could be included in an equivalent to the Welsh housing quality standard for the private rented sector'. With the agreement of the Committee clerk this will be submitted separately on 18th May 2015 to allow time for adequate consultation.

Question One:

"You will know that the Bill requires landlords to keep their property in good repair and ensure it is fit for human habitation. Do you have a view on whether the Bill will improve the condition of dwellings in the private rented sector and, if it won't, how the Bill could be amended?"

Our Response:

1.1 Tai Pawb welcomes the proposals in the Bill as we recognise that poor quality housing conditions in the private sector can have a serious impact on a tenant and their household's physical and mental health. A Race Equality Foundation report notes that "a Shelter survey of 4,300 people living in the private rented sector found that 10 per cent of tenants state that their health has been affected by the failure of their landlord to deal with repairs and poor conditions (Gousy, 2014).[1] Properties where there are damp and mould issues or health and safety hazards that have not been dealt with will increase the chance of tenants getting ill both physically and mentally, exacerbating existing conditions and may contribute to accidents. This is highlighted in a case study from the Consumer Wales Focus Report:

> One participant at the Families with Children group in Llandrindod Wells had serious problems with their eldest son's bedroom, which is cold and damp because of excess condensation. This has caused water to collect, ruining the carpet and leaking through the floors, and is also making her son's health problems worse.[2]

1.2 In relation to poor conditions research shows that private renters are reluctant to ask and challenge their landlord in order to rectify the situation, and that in some cases landlords continuously ignore requests. Shelter research into private renters noted that:

- 7% did nothing at all because they were scared of the consequences
- 41% spoke to their landlord who took no action
- 12% ignored the problem as they did not think anything would happen
- 13% left the property and did nothing.[3]

Research into the experiences of migrants housed in HMO accommodation note issues with housing conditions including health and fire risks also[i] The research explains that this may be due to a reluctance to complain due to low or uncertain expectations, dependency on the employer or agent for accommodation (and hence concern about the possible outcome of a complaint), intimidation (especially if the landlord or agent is from the same migrant community) and wanting to avoid spending more money on better accommodation because of low wages and/or the imperative to send or take money home.[4]

There has also been concern at a UK national level with the accommodation standards and conditions in relation to NASS accommodation. Contracts have been

[1] Megan McFarlene, Ethnicity, health and the private rented sector, Race Equality Foundation, 2014: http://www.better-housing.org.uk/sites/default/files/briefings/downloads/Housing%20Briefing%2025.pdf

[2] Consumer Focus Wales, 2012, p34

[3] Shelter, *Homes fit for families? The case for stable private renting*, 2012, p10

[4] John Perry, Joseph Rowntree Foundation, 2012, p18

in the past primarily awarded on price [5] and this means that NASS accommodation at a local level is likely to be at the lower end of the private rented sector, where generally property conditions are worse. Barnardos when giving evidence to the Home Affairs Committee noted that

> Our practitioners support asylum seekers who are provided with NASS accommodation and advocate on their behalf. They report that many housing providers do not maintain their properties appropriately and that good conditions are the exception rather than the rule. The houses are often damp, small and have a range of issues from pest infestation to poor heating. These conditions are not in the best interests of children and do not promote their welfare. Worse still, we know of examples of accommodation with broken windows, broken heating or water systems, and broken locks.[6]

1.3 The above examples show that for a certain sector of the Private Rented Sector, in particular, there are currently concerns regarding standards. Therefore the proposals set out within the Bill are welcomed, in particular the removal of the potential for a landlord to retaliatory evict a tenant for requesting repairs. However as we noted within both our written submission and our oral evidence on the 6th May Tai Pawb has concerns around the potential for retaliatory evictions 'by the back door' through the use of rent rises to offset the cost of repairs. Please see our response to question four below in relation to how this potential negative behaviour from landlords could be addressed.

1.4 Tai Pawb does have concerns with the power currently conferred in the Bill which gives a landlord the right not comply with the obligations outlined in relation to both the fitness for human habitation and in connection with undertaking repairs. As the Bill is currently written there is no obligation for the landlord to take into consideration the needs of the tenant in relation to access to the property, specifically in relation to non-urgent / non-emergency repairs. We note the landlord must give a 24hr notice period only – we would like to see this strengthened to reflect that reasonable consideration should be given to the needs of the contract-holder and their families when arrangements are made for repairs. This is of particular importance for those who may need a chaperone or advocate present, and those who have caring responsibilities (typically women). We feel the Bill would be strengthened in relation to reflecting the Equality Act in connection to 'reasonable adjustments'. It is our concern that as the Bill currently stands disabled people, those from particular religious backgrounds, women, older and younger people, in particular could be disproportionately adversely affected by some landlords providing appointment times which aren't suitable. We are particularly concerned =such behaviour could be intentional on the part of the landlord to avoid work being carried

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[5] Joseph Rowntree Foundation, *Home Affairs Committee Inquiry into Asylum, Evidence from the Joseph Rowntree Foundation and the Housing Migration Network*, April 2013, p5-4: http://www.jrf.org.uk/sites/files/jrf/consultation-home-affairs-cmttee-asyluml.pdf

[6] Barnardos, *Report of the Parliamentary inquiry into asylum support for children and young people* (2013), Home Affairs Committee: http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/71/71vw32008_HC71_01_VIRT_HomeAffairs_ASY-67.htm

out. Leading to contract-holders feeling forced to either live in poor conditions or terminate their contract with the landlord.

1.5 It is our understanding that, in particular circumstances, the Bill allows for a landlord to evict a tenant when they are unable to gain access in relation to repairs. We feel that the Bill would be strengthened by referencing the Equality Act. We feel that further guidance in relation to the notion of 'matters arising from disability' would be of particular use for both landlords and contract holders in relation to helping them understand, and in protecting their, rights and responsibilities in relation to this matter. If this area of work is taken forward Tai Pawb would be happy to assist with this.

1.6 In addition to strengthening the Bill by reflecting the Equality Act there is also the potential to look at mediation or tribunal services when disputes occur – this will be addressed in more detail in our answer to question four below.

Question Two:

"As you will know all contracts resulting from the Bill will contain a term prohibiting anti-social behaviour, and if a contract-holder breaches this term they could be evicted under breach of contract ground.[...] Do you have a suggestion as to how the definition of 'anti-social behaviour' could be improved? In addition, do you have a view on whether there should be evidence of a criminal conviction before someone is evicted on the basis of anti-social behaviour?"

2.1 Tai Pawb is fully supportive of the inclusion of the Bill in relation to the protection of those who may be victims of hate crime / incidents, Anti-social behaviour, and domestic abuse. We believe this Bill has the potential to, in particular, make improvements for those living in shared accommodation.

2.2 Our concerns lie not with the intention of the Bill rather the way these are phrased. The term currently suggested in the Bill 'prohibitive conduct' is not one that either tenants or landlords are likely to be familiar with. This could lead to confusion in relation to what is covered by this. The current definition used to explain the terms is "conduct capable of causing a nuisance or annoyance". We feel does not help clear the confusion. In fact we have concerns that such a vague definition had the potential to be applied in very different ways by different landlords and could lead to instances of unconscious bias and discrimination. We feel amending the current definition to read "conduct capable of causing harm or having a substantial negative effect on the wellbeing of another person" would be an improvement on the current definition. While we realise that it may not be appropriate to place, in statute, a list of behaviours which are covered by this term we would also like to ensure that explicit reference is made to Domestic Abuse within this section. Further we would strongly suggest that this section of the Bill has reference to the Equality Act, The Human Rights Act, and in particular matters arising from disability.

2.3 In relation to the above proposed amendments we think that detailed guidance on this area would greatly benefit both contract-holders and landlords in understanding their rights and responsibilities. This will be particularly key in relation to the Equality Act and 'matters arising from disability', especially as we expect to see a rise in the number of more vulnerable people using the private rented sector and this is likely to provide some landlords with new challenges.

2.4 People from some protected characteristics have significant difficulties accessing justice, while others maybe more disadvantaged within the justice system in relation to conviction rates. Given this we do not feel that there should be a criminal conviction present to evict somebody due to anti-social behaviour. In relation to evictions in connection to domestic abuse we feel it is vitally important that the bar is not set too high as many victims feel unable to go to the police in relation to these matters. By insisting on a burden of proof which is set too high (i.e. criminal conviction) the Bill might, unintentionally, place victims of domestic abuse and gender based violence in significant danger. We would fully support a robust and appropriate level set for burden of proof which is not reliant on criminal conviction. This could be fully explored in statutory guidance, if this is felt where it is best placed to be by the legislators, Tai Pawb would be happy to support any work around this area given if it is felt our expertise on equality issues and our recent work in relation to hate crime could be of benefit.

Question Three:

"The Bill proposes a procedure that will allow a landlord to recover possession of a property without the need to obtain a possession order from the court. [...] Do you have any additional views on whether the proposals in the Bill relating to abandonment could be improved, including in relation to ensuring that vulnerable people are not exploited?"

3.1 Tai Pawb has a number of concerns in relation to how this proposal might adversely affect those who are more vulnerable. This section would be strengthened by referencing the Equality Act, the Human Rights Act, and also specifically matters arising from disability. Our key concern with the current formation is those people who may be isolated from the communities where they live and do not have any support networks could be evicted if they were to be admitted to hospital if they are unable to contact their landlord to inform them. This is likely to have a significant negative impact on delaying discharge if a patient has lost their (potentially adapted) home whilst in hospital care. Potentially there is a body of work to be undertaken with health care professionals to ensure they are aware of the changes to renting homes in Wales and their role in helping remove the potential for unnecessary and unfair evictions for those who are in hospital for a significant period of time.

3.2 Currently the Bill suggests that the landlord needs to make reasonable enquiries that a contract-holder has abandoned the property. There is no reference to rent having been missed. It is possible that, if a landlord chooses to, they could

evict a contract-holder who had taken a long holiday or has had significant caring responsibilities away from home, even though the rent is still being paid. While we agree this is unlikely it does allow a landlord to gain possession of the property when a contract-holder has been away from the property for over four weeks this could potentially negatively impact on those from BME backgrounds, those who have disabilities, those who may undertake pilgrimages in connection to their beliefs, and those who have caring responsibilities. We feel this should be made explicitly clear by landlords when an individual signs a contract to help ensure that both unintentional mistakes and deliberate discriminatory behaviour is minimised.

3.3 We feel some of these concerns could be addressed in Statutory Guidance – for example the need for notices to be issued in a format and language preferred by the contract-holder, where this is known to the landlord. This would be further strengthened by ensuring that landlords make enquiries regarding the needs of their tenants in relation when contracts are drawn up / signed. We would strongly recommend that the reference to informing the landlord in writing is also addressed to ensure it does not exclude those who may be unable to do this.

Question Four:

"... you will have noted that the Bill uses the county court or (High Court) for a number of purposes. In your written submission you state that "recourse to the county court is not the most beneficial way to enter into dispute resolution". We would be grateful if you could expand on this point and let us know if whether you have a view whether the Bill presents an opportunity to expand the role of the Residential Property Tribunal or other mediation services?"

4.1 As we have referenced in our written submission Tai Pawb feels that there may be a more appropriate way for contract holders and landlords to resolve their disputes. While we feel it may be possible to extend the role of the Residential Property Tribunal, or existing mediation services, what is imperative is the solution best meets the needs of all contract-holders and landlords. Careful consideration should be given to specific needs or difficulties accessing justice people from protected characteristics may face. We would recommend that all options are fully explored and those with expert knowledge of equality, diversity, access to justice, housing, and contract-holders themselves, are fully consulted with.

4.2 As part of these considerations it would be beneficial to consider the remit of these services and in what circumstances they could be accessed. The areas of attention could include; rent disputes, repairs, ASB / prohibitive conduct, abandonment, amongst others