Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

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Dear Christine

Renting Homes (Wales) Bill: request for additional information following the evidence session on 6th May 2015

Thank you for your letter dated 6th May 2015 regarding the above; I am able to respond to your specific queries as follows:

1. **The provision of a statutory needs assessment for all 16/17 year olds before entering into an occupation contract**

   The current position with regards to 16 / 17 years is that following the "Southwark" judgement, all persons of this age approaching the Council as homeless should initially receive an assessment under the relevant section of the Children's Act to determine whether they are a "child in need" and if so whether it is appropriate for them to receive relevant services.

   The reality is that often these pre-assessments do not take place either due to the immediacy of the presenting situation, availability of Children's Services staff or, most regularly, the reluctance / refusal of the individual to cooperate in terms of having the assessment; they do not see themselves as needing it. This results in the needs of the individual not fully being explored by relevant professionals and potentially someone being placed in accommodation without the required support and assistance being made available; not all 16 / 17 year olds of course require support – a point made during the evidence session.

   In terms of the proposed position in the new Bill in relation to 16/17 year olds, the above arrangements would not change, the question to be considered is whether provision should be made within the new legislation that before entering into an occupation contract a 16/17 year old should be <u>required</u> to undergo some form of statutory assessment.

Fundamentally, this takes away the underlying principle that a 16/17 year old should be allowed to enter into a contract a position which the WLGA has previously indicated support for.

Key issues to be considered would be:

- What type of assessment would be required – would it be about general suitability to be a tenant or capacity to be a tenant with or without support?
- Who would undertake the assessment and would there be sufficient resources available to fulfil this role
- What would happen if the individual refused an assessment?
- If as part of the assessment support is identified as a need – what resources would there be to fulfil the identified need?
- The introduction of a requirement to have an assessment is likely to deter private sector landlords from considering 16/17 year olds due to the additional bureaucracy and time spent in getting an assessment done.

As suggested at the evidence session, an alternative to this would be a negotiated position whereby the landlord could choose to put in additional term/s in the contract to cover the acceptance of support; this would enable a case by case basis to be established.

2. **A) As you will know all contracts resulting from the Bill will contain a term prohibiting antisocial behaviour and if a contract-holder breaches this term they could be evicted under the breach of contract ground. 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?**

   It is the view of the WLGA that there should <u>not</u> be a requirement to evidence a criminal conviction before someone is evicted on the basis of ASB.

   Securing a criminal conviction can be a lengthy process and often requires the assistance of witnesses. During the period of awaiting trial, the victim or victims are likely to continue to experience ASB which is unacceptable.

   Notwithstanding this position, there needs to be some mechanism of ensuring that action is being taken appropriately and on a reasonably sound evidence base to avoid retaliatory or spurious claims.

   B) In addition we would be interested to hear your views on the fact that anti-social behaviour is a discretionary ground for possession rather than an absolute ground.

In considering this matter, it is appropriate to understand that there are many types and causes of ASB and the ability of the courts to consider whether it is reasonable or not to grant possession on the grounds of ASB, it is important to ensure that vulnerable members of society are not unduly affected by the imposition of an absolute ground for ASB.

As an example, some people with a Learning Disability are prone to noise or other forms of behaviour which may not be acceptable to the general population; such situations would be better addressed by the input of support to the individual to try to resolve behavioural difficulties. The option of a discretionary ground would enable the court to direct agencies to work together to resolve a situation rather than an absolute ground which would not necessarily allow for this resolution.

C) We would also be keen to hear your view on whether the proposed changes to joint contracts will help deal with situations involving domestic abuse?

It is our view that the ability of one contract-holder to terminate their contract without impacting upon the rights of another contract-holder at the same address is welcomed. This is an area which for many years has caused difficulties for landlords.

The proposal will protect the rights of all parties and not lead to the rendering of domestic abuse victims as homeless, thus providing stability for the victim and their children.

3. **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. In your written submission you state that the WLGA welcomes the provisions relating to abandonment; 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?**

The reality of recovering possession of a property because it is deemed that the tenant has abandoned it is that the property is then reallocated to another person in housing need. Once this has happened, there is no turning back; the former tenant cannot regain possession of that same property.

A suggestion has been made that perhaps the “outgoing” tenant should have the right of appeal against the actions of the landlord, however again this will not reinstate the status quo, the only benefit that there could be is that the individual could prove a case that they were “legitimately” not in occupation at the time and

have an entitlement to the tenancy of another property, notwithstanding that this new property may not meet all the needs of an individual.

Our previous submission suggested that a thorough approach is taken in terms of undertaking investigations as to why the property is not apparently being occupied to avoid the inappropriate regaining of possession; this is still our view.

4. **Finally, you will have noted that the Bill uses the county court (or High Court) for a number of purposes. A number of responses to the public consultation proposed alternative bodies and processes to settle disputes that arise under the Bill. Do you have a view on whether the Bill presents an opportunity to expand the role of the Residential Property Tribunal or other mediation services?**

   The RPT exists to resolve leaseholder and private rented sector disputes; it does not appear to have a role to play in terms of resolving disputes between social housing landlords and tenants.

   Subject to the RPT being appropriately resourced to take on the role, it may be that there could be a role for it in the private sector and this would be helpful in terms of the advice role of Local Authorities in terms of signposting to an independent organisation to seek to resolve disputes brought to our attention.

I trust this additional evidence is useful.

Yours sincerely

Lyn Hambidge
For and on Behalf of WLGA