Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
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Cymorth Cymru: Evidence for the Communities, Equality and Local Government Committee on the Renting Homes Bill

Questions on areas not already consulted:

You asked us questions for our members that we had not yet consulted on directly. These were as follows:

1. The provisions in the Bill relating to the need for the condition of the dwelling to be fit for human habitation.
2. What could be included in an equivalent to the Welsh housing quality standard for the private rented sector?
3. 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?
4. In addition, do you have a view of whether it is right that enforcement of these conditions is effectively left to contract-holders taking the matter to court?

We have not yet received detailed responses from our members on these points, and as a membership organisation it would not be appropriate to comment without having received this detailed input. We can provide input further in the process if needed, but until we have had a longer opportunity to engage with our members on the above points we will have to leave these questions unanswered.

Questions on areas already consulted:

You also asked additional questions that drew on areas we had already engaged with our members, and so we have outlined our responses to the questions below.

Question:

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 the breach of contract ground. In your written submission you stated that you had particular concerns that domestic abuse is not mentioned specifically in section 55 of the Bill. You also noted your concerns that some behaviour might present as anti-social but in reality the contract holder may need support, for example, with a mental health condition. Do you have a suggestion as to how the definition of 'anti-social behaviour' could be improved? Do you believe that there should be an explicit reference to 'domestic abuse' within section 55? 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?

Answer:

We would encourage reference to the response in this matter by Tai Pawb, namely that the definition should be amended to reflect 'harm', which narrows the definition slightly and reduces the opportunity for abuse or misinterpretation.

In addition, we would want there to be a requirement added to pursue 'reasonable steps' in the legislation, and reflect the requirements of the Equality Act 2010, to ensure that support has been sought to resolve issues without the need for punitive procedures, to ascertain that anti-social behaviour caused by a mental health condition is picked up by services and that those affected by the condition are given every opportunity to engage before action is taken.

These reasonable steps could be developed further in the guidance, but could include the landlord contacting local services to request support on their tenant's behalf (for example, with floating support, people with mental health problems might be able to change behaviour and sustain tenancies for longer periods of time). If these reasonable steps have been taken and no change has been noted then the 'normal' procedure can be followed. We think this would provide that extra safety net for those with mental health problems, without adversely affecting the comfort / health / safety of others in the community. This approach would also fit in with the Housing Act's duty to discharge into the PRS - where tenants with 'chaotic lives' will become more common.

With regards to domestic abuse being added to the legislation itself, we would support Welsh Women's Aid in this point. We believe that whilst in effect, domestic abuse would be included in the current definition by default, if we are to ensure it is treated with the importance it deserves, and if we want to make sure that landlords understand with

simple clarity that this is a clear change, adding domestic abuse to what is considered prohibited conduct would send a clear message *and* remove any ambiguity on this point for all involved.

Regarding the need for a criminal conviction for anti-social behaviour, with the exception of domestic abuse (where we are satisfied there would need to be a civil burden of proof – on the balance of probabilities), we do not take a direct view on this. As long as efforts have been made to engage with those causing anti-social behaviour (as per the 'reasonable steps' suggested above), and that there has been a prolonged period of antisocial behaviour, we are in broad agreement that it is reasonable for landlords to take steps to resolve the situation via eviction. Our concern on this point is that there are sufficient services in place to better work with landlords and tenants to resolve anti social behaviour earlier, and that those who are evicted are caught by preventative services early so that their problems do not become embedded, and that they do not get passed from pillar to post, from landlord to landlord.

Question:

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 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?

Answer:

We are in agreement with the points and safeguards raised by Tai Pawb.

Question:

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.

Answer:

We would also agree with our third sector colleagues in this area, both in terms of costs, but also in terms of accessibility. Many vulnerable individuals would find a county court intimidating and potentially exclusionary. A mediation service and other bodies as first steps would be more inclusive, and could still be passed up to the county court if necessary for appeal.

If you require any additional comment or input from Cymorth Cymru, please contact olivertownsend@cymorthcymru.org.uk.