

# Response to Welsh Government consultation: Review of affordable housing supply in Wales

6<sup>th</sup> September 2018

## **Our vision**

Everyone in Wales should have a decent and affordable home: it is the foundation for the health and well-being of people and communities.

## **Mission**

Shelter Cymru's mission is to improve people's lives through our advice and support services and through training, education and information work. Through our policy, research, campaigning and lobbying, we will help overcome the barriers that stand in the way of people in Wales having a decent affordable home.

## **Values**

- Be independent and not compromised in any aspect of our work with people in housing need.
- Work as equals with people in housing need, respect their needs, and help them to take control of their lives.
- Constructively challenge to ensure people are properly assisted and to improve good practice.

## **Introduction**

Shelter Cymru welcomes the opportunity to respond to this review. We recognise the vital benefits for households in Wales which come from having affordable, secure and good quality homes. In light of Wales' progressive approach with Housing (Wales) Act 2014, Social Services and Well-being Act 2015 and The Future Generations agenda there is a clear role for social housing. We encourage the increased supply of social housing in Wales but have grave concerns about the way in which affordability impacts upon people's ability to access and sustain social housing tenancies. We are deeply worried about exclusions and suspensions from social housing due to historic arrears and even arrears from the PRS. Many of our

concerns lead to the question: 'What happens when affordable housing is not affordable?'

We hope that this review not only identifies ways to increase supply of affordable housing in Wales, but highlights the ways to improve affordability for households in our existing stock.

## **Funding affordable housing**

Providing enough affordable rented homes in Wales is the biggest issue facing this and the next generation of people who cannot buy. If we cannot provide enough homes at a rent people can afford then many of the other progressive ambitions we have in Wales of improved health and wellbeing, a growing economy and prosperity and social cohesion, are fatally undermined.

We strongly support the ambition of the WG to provide 20,000 new affordable homes by 2021, but we all know we need more and that those homes need to be truly affordable.

Wales spends 2.2% of its budget on housing related capital and revenue compared to 3.6% in Scotland and 3.7% in Northern Ireland<sup>1</sup>. Only England is lower at 1.4%. This suggests that we are not prioritising housing, at least in budgetary terms, to the same degree as other UK nations.

But in our view simply increasing funding by 1 or 2% may not be enough anyway. We believe that the level of increased investment should be calculated from the perspective of current and projected housing need for rented accommodation and by assessing rent levels set to median income levels of social housing tenants.

We believe this will require, over time, a quantum increase in the overall social housing grant budget and an increase in the current 58% grant funding formulae. This is likely to be a significant increase in funding which will need to be phased over a number of years to address the backlog of housing need as well as future demand.

In order for this increased investment to be fully effective it will need to be done alongside:

- Skills development
- Ensuring land is made available and affordable
- Ensuring planning is sensitive local social housing provision

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<sup>1</sup> In 2015/16, the latest data available: <https://www.ukhousingreview.org.uk/ukhr18/tables-figures/pdf/18-056.pdf>

- The phasing out of homelessness legislation priority need groups

The rewards for this investment will be enormous, helping to regenerate local economies, developing new local supply chains improving health and well being and reducing health and absenteeism costs, reducing carbon emissions, to name just a few.

## **Accessing affordable housing**

Through our casework and our research we have identified a number of barriers which act to prevent or complicate the route into social housing. These hurdles are often unnecessary and unfair and undermine the effectiveness of Wales' homelessness prevention agenda by limiting households' ability to access affordable and secure housing.

### *Affordability assessments*

Our report [Accessing and sustaining social tenancies: exploring barriers to homelessness prevention](#) focussed on the use of financial assessments in the pre-tenancy stages and found evidence that some landlords were using these to deny people tenancies on affordability grounds, even when the rent would be fully covered by housing benefit.

Landlords themselves frequently state that these assessments are used to identify financial vulnerability and inform what level of support and assistance can be offered to resolve any issues. However, despite this we have seen evidence of people being refused social housing due to a number of reasons including:

- Previous/historic rent arrears
- Rent arrears from the PRS
- Financial difficulties related to a vulnerability or illness

### *Exclusions from social housing*

Previous rent arrears and other outstanding costs can lead to households being excluded from the housing register. This is particularly evident for households who have previously accrued rent arrears in a social housing tenancy; however, those with arrears from PRS tenancies are also excluded in some parts of Wales.

Our casework includes regular examples of people excluded from the register for arrears that are ten years old or even more. Arrears that are more than seven years old are statute barred and cannot be reclaimed in court, and yet they are still preventing people getting into affordable housing.

The scale of this issue is widespread. A recent study carried out on behalf of [Community Housing Cymru](#) found that exclusions are not monitored in most authority areas, but six authority areas reported that 993 applicants were subject to some type of exclusion or suspension. Accordingly, the figure for the whole of Wales is likely to be, in the words of the report, 'probably far larger than many have anticipated'.

The independent study concluded that 'We believe that on occasions many of the sanctions applied are overly harsh and potentially outside the Welsh Government's Code of Guidance three stage test. Payment arrangements to access common housing registers are often unrealistic and destined to fail. We found little evidence to suggest housing providers were offering incentives for full and final settlements to clear debts and so in many situations prospective tenants were being forced to look elsewhere.'

This reflects our casework experience. Since the report was published we've continued to monitor the situation, and in recent months we've noticed a trend towards harsher policies on former tenant arrears. In some cases these new policies are so strict that they are in effect barring large numbers of vulnerable households from the major social housing provider in their local area.

We have seen evidence of households being required to repay rent arrears before being eligible to be considered for social housing. These repayments are often at an unaffordable, unfair and unrealistic level, requiring regular instalments over an extended period of time. Frequently, if one instalment is missed the household has to go right back to the beginning. Our casework suggests there is little clarity or consistency about how repayment schedules are calculated and little consideration by landlords as to other financial factors that households have to contend with.

### *Rent in advance*

Once a household is eligible for social housing and an affordability assessment has been conducted they then often have to find a rent in advance payment. For some households this will not be an issue, however for others and particularly people in receipt of benefits this will be a significant challenge. We know that there is divided opinion within the sector about rent in advance, with many housing professionals recognising the difficulties experienced by households and its incompatibility with the welfare system which pays in arrears.

Where a household is unable to pay the rent in advance but are still granted the tenancy, they automatically begin their tenancy in arrears. This places an added pressure on to the household and may damage the ability of the landlord to establish and sustain a positive relationship with the tenant.

## **Sustaining tenancies**

We receive a huge amount of casework from people who are threatened with homelessness and eviction from social housing. The issues we encounter range from rent arrears, issue with transfers and other debts.

### *Rent arrears*

As previously discussed we have evidence of landlords requiring rent arrears repayments which are unaffordable and unreasonable for tenants to meet. This increased burden can lead to other issues such as accruing debts and arrears in other areas.

Our report also found landlords' approaches to addressing rent arrears varied drastically. Some landlords have taken a trauma-informed and person-centred approach to engage with tenants who are falling behind in their rent. However others are persisting in a harsher approach, characterised by frequent issuing of Notices Seeking Possession (sometimes automatically generated by IT systems). What we've seen in our research and casework is that such threats can often frighten tenants, causing stress, deterioration of mental health, and avoidance tactics. They also often result in more frequent court actions and higher levels of evictions. We are continually working to highlight best practice in this area. One important indicator is eviction numbers, which used to be monitored by Welsh Government prior to 2011 but are no longer collected. We have urged Welsh Government to re-commence this data collection so that information on social landlords' varying contributions to homelessness prevention can be publicly monitored.

We have also developed a proposal for the Welsh Government to revise the [Pre-Action Protocol](#) for rent arrears in social housing, in order to create more consistency among landlords. The current Protocol, which is part of Civil Procedure Rule 55 (CPR 55), is meant to form a minimum standard for interventions that landlords should undertake prior to issuing court proceedings – such as for example checking the household's eligibility for benefits, or helping the household apply for a DHP. However, what we find in practice is that adherence to the Protocol is by no means universal: but even if our solicitors are able to prove to the Court that the Protocol hasn't been followed, this does not prevent the eviction. Typically the Court will not award costs, but will still allow the eviction to proceed. In this way, people are

becoming homeless in Wales even when their landlord has not taken basic steps to support them to get their tenancy back on track.

The Civil Procedure Rules are not devolved but may be varied for Wales with the consent of the CPR sub-committee in the Ministry of Justice. In fact a new CPR 55 is currently being drawn up for Wales in order to comply with the Renting Homes Act. There is therefore potential for further reform to CPR 55 so that it meets Wales' overarching policy aims to prevent homelessness wherever possible.

Our proposal is to replace the current Protocol with pre-action *requirements* – similar to those in place in Scotland – which would be a stronger incentive for landlords to comply. Our briefing paper can be read [here](#). We would welcome further dialogue with the Welsh Government on this proposal.

### *Welfare reform*

Universal credit and welfare reform have presented very real challenges to both landlords and tenants. There has been much good practice among landlords providing financial help, support with income maximisation, food bank vouchers, fuel banks offering gas and electricity tokens, and digital education to help tenants get online. However we remained concerned about some transfer policies that continue to insist that tenants in arrears cannot downsize, even if they are only in arrears due to bedroom tax. Such situations are still arising in our casework. It's unfortunate that restrictive policies are still trapping tenants in unaffordable accommodation.

### *Rent setting*

The rent increases that took place in April 2018 resulted in a sharp increase in calls to our advice line from tenants who were worried about being able to afford their rent. We heard reports of tenants handing over their keys in the belief that their home was no longer affordable. It was disappointing and worrying to see many landlords opting to increase their rents to the maximum rate of 4.5% which was out of step with inflation, wages and the cost of living.

In some cases our clients were faced with an annual increase of £700 which was resulting in significant anxiety and stress. In a period of austerity and stagnation of wages and welfare we would have expected landlords to have been more considerate and responsible when planning increases in rent and other charges.

We would welcome reform of the Welsh rent setting policy to avoid this situation arising again. We feel it is worth exploring 'living rent' regimes which relate rent levels to local average incomes. However, it is critical to ensure that any changes in

rent setting are managed with the utmost sensitivity so that they don't result in sharply increased rents in areas of higher average wages. Failure to do so could lead to increased homelessness and reduced social mixing: gentrification as well as ghettoisation.

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