



HB 9

National Assembly for Wales

Communities, Equality and Local Government Committee

Housing (Wales) Bill: Stage 1

Response from: Association of Residential Lettings Agents

Dear Sir

**Consultation on the Housing (Wales) Bill**

I would thank you for the opportunity to respond to the above. I note the wide ranging content of the Bill some of which is not our area of expertise and accordingly I will respond to the issues of the Private Rented Sector where ARLA is strongly represented, particularly amongst the larger agencies operating in Wales thus dealing with a large part of the tenancies created for landlords who choose to use an agency. As an organisation ARLA deals across all jurisdictions within the UK and is well placed to see what works and does not work and have long lobbied for some of the concepts contained within the Welsh Bill.

I would initially endeavour to explain some of the requirement to join ARLA as I feel this will help explain some of our responses to the more specific questions raised in the consultation document. At present we have individuals as members and since 2008 membership has required to be by qualification to an agreed minimum standard. Currently for a Principal, Partner or Director (PPDs) that is NVQ Level 3 through a recognised regulated qualification. This requires approximately 120 hours of study. For an employee member it has been the same although we have now introduced a Level 2 which is 90 hours of study. These are modular, with 4 units in each qualification and can be taken at the same time or individually. PPDs are also required to hold Professional Indemnity Insurance for their business, belong to a Consumer Redress Scheme (one of those recognised under Consumer and Estate Agency Redress Act 2007) and will also be flexible to recognise others appointed under The Enterprise and Regulatory Reform Act of 2013. It is also a requirement that clients funds are held in a correctly designated client bank account, ring fenced from the business, and this is subject to an annual audit by an independent accountant. The PPD is also required to belong to a Client Money Protection Scheme, which protects the consumer should the member agent mis-appropriate clients funds. There are certain scheme limits to this. Consumer redress does not cover this aspect and only offers financial protection for a service failure or breach.

When looking at the options under the Regulatory Impact Assessment we would fully support the recommendation of option 7.3.3. It is important however that the body responsible for the policing of this is proactive rather than reactive. It was seen in Scotland when landlord registration was introduced that some local authorities were much more vigorous and as a result appear to have avoided the problems of non-registration in a more robust manner than those who "waited on the voluntary uptake". This does not necessarily require prosecution; however when a





landlord is advised of the error of their ways there does require to be follow up if ignored. A register in itself does not improve the standard of the property and thus does not always mean a better experience for the consumer. The current regime under HHSRS is felt by many to be too cumbersome and it is noted that DCLG are currently reviewing this piece of legislation. Wales will require addressing this issue also.

Any register must allow all local authority areas to be updated from a single point on the website and thus a landlord covering several local authority areas will be able to make all the necessary data entry at a single point of contact with the register. This has been a frustration of the Scottish Scheme. There was even a case where a local authority took legal agent against an HMO landlord whilst at the same time a different authority was granting further licenses for new HMO's. The problems complained about were not of the landlord's making or within his control but a co-ordinated approach would have prevent a very frustrated judicial hearing.

### 7.13

There is mention of requirement to provide information on the changes being introduced; however the challenge of this requires to be fully recognised. It is noted that the intention is to use existing local authority information and that is to be welcomed. Benefit claims are a huge source of such data as are council tax records. However when speaking with officials from Newham Council in London, who introduced a compulsory licensing scheme for landlords in January 2013, they discovered a more fragmented sector than they had previously envisaged. It is to be hoped that Wales will recognise the fact that any individual acting on behalf of the owner is an agent. There is much anecdotal evidence that the experience of a tenant renting a property managed by one individual on behalf of another is subject to some of the poorest practices, not necessarily through deliberate ploy, but through ignorance of a very complex legal structure and process. It is noted that The Welsh Government are proposing to make amendments in the future to the tenancy regime, and whilst laudable it has to be queried whether all the proposal could or should be made at the same time. There could be major cost savings for the landlords and agents in the training requirements.

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Organisations such as ours can benefit from assisting with the marketing and promotion of the option to agents. We see this as an opportunity to develop in Wales and as such will want to communicate the benefit and support we can provide to agents and the consumer. We have always believed that there is only so much that can be achieved on a voluntary basis, and whilst we continue to grow our numbers from just over 5000 in the UK in 2010 to just under 7000 at the end of 2013 we acknowledge that a mandatory regulatory requirement for agents is the ultimate option.

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We note the comments on the size of the market and have no better guesstimate however we would advise that the costs to an agent are greater than stated. Typically our members, either employers or employees pay £200 membership on an annual basis. Client Money Protection costs the business £297 regardless of the number of offices, and Consumer Redress does vary but typically £100 per branch office. Accountant's reports for the business vary between £750 for a single well managed client account to several thousands of pounds for multi office practices. Professional Indemnity Insurance is typically starting at £300 per annum and will depend on turnover of business and claims record. We note that many business owner (PPD) members applying to join are actually requiring to take out a new policy.





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The impact will depend on the veracity of enforcement. Scotland has introduced quite a cumbersome system for dealing with property standards and repairs through The Private Rented Housing Panel who were initially dealing with complaints concerning maintenance by carrying out site visits where desk based adjudication should have been possible, or an officer reporting to the Panel rather than the whole tribunal making a several hour round trip to investigate.

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We agree this is the best option and gives the system the robustness required. Whilst there will be noises about landlords leaving the sector many will find alternative routes and there is strong evidence of landlords looking to expand portfolios. The benefit could be the desired outcome of a better educated and practiced sector for the benefit of all. Much has been made about the increasing complaints to Ombudsman Schemes but it has to be recognised that they are filling a role which did not exist 10 years ago and the consumer is only now starting to realise that they have an option other than the court system.

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We agree in essence with all points except vi) where in most cases the tenant should have had a cost free access through the local authority regarding poor property standards and vii) where we query whether the PRS is always the guilty party in a mixed community, which we believe is the assumption being made.

Co-operative Housing.

As with any new source of housing it is imperative that the potential for impact on other forms of tenure are recognised. There is a distinct possibility that this proposal could impact on the first time buyer and the investor landlord. There is much evidence of shared equity schemes causing problems further down the line as the circumstances of those who were the original occupiers changes. Single people becoming young families who are unable to gain access to the correct housing for their changed circumstances require to be acknowledged and the problem addressed.

There is a need in certain areas for an increase in stock and it is important that new build is in the areas of demand and future economic strength.

Council tax on empty homes is a very emotive subject for the Private Rented Sector and any scheme requires to take notice of the degree of effort being made to bring the property into use. A perfectly adequate property can be unoccupied due to the lack of demand and not the lack of effort. Care needs to be taken to ensure there is no double jeopardy of a person being unable to sell or rent due to lack of demand.

It is noted that in section 28 (p155) a proposal for a code of practice. At present there is a Code of Practice operated by The Property Ombudsman and it is recommended that this form the basis of any agent Code. Notice requires to be taken of Guidance Provided by OFT under the Consumer Protection from Unfair trading Regulations 2008 and the Unfair Terms in Consumer Contract Regulations 1999.

Yours faithfully





Ian C. Potter FARLA FRICS  
Managing Director  
Association of Residential Lettings Agents

