

HB 50

National Assembly for Wales

Communities, Equality and Local Government Committee

Housing (Wales) Bill: Stage 1

Response from: Isle of Anglesey County Council

17 January 2014



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

[...].

INTRODUCTION

The overall provisions of the Bill are welcomed by Isle of Anglesey County Council. The Bill will help with improving the housing conditions of people on the island and assist the Council to help those who may currently suffer housing disadvantage.

A more detailed response to some parts of the Bill is provided below including comments on the resource implications to the Council of Part 1: Registration and Licencing Scheme for Private Landlords and Letting and Managing Agents and Part 2: Homelessness Legislation

(1) Registration and Licencing Scheme for Private Landlords and Letting and Managing Agents

The importance of the Private Rented sector in providing housing for households in Anglesey has grown significantly over the last 10 years. It particularly provides homes for younger newly forming households and increasingly has become a long term tenure and not just a stepping stone to another tenure. For this reason we support measures which offer greater protection to households living in the sector. It has previously been a barrier to councils working effectively with private landlords that it has been difficult to identify and establish contact with all the landlords operating in a diverse sector ranging from “accidental landlords” with single properties to career landlords looking for opportunities to increase their portfolios. Registration will provide this information base. The Council would look to use this better knowledge to continue to build a positive working relationship with local landlords. Licencing will help prevent landlords working in the sector who either wilfully exploit tenants or are ignorant of their responsibilities. The proposals are proportionate to the duties which landlords have towards their tenants.

The full resource implications to the Council are currently hard to fully quantify but it is reasonable to assume that it will result in increased enforcement work as homes in poor repair are more likely to come to the attention of the Authority. Equally, to fully take advantage of the new opportunities that the Bill provides to improve this sector there will continue to be a need for officer time to be available to develop the existing Landlord

Forum and work in partnership with landlords.

(2) *Reform of homelessness law, including placing a stronger duty on local authorities to prevent homelessness, and allowing them to use suitable accommodation in the private sector.*

We agree with the central contention that the legislation concerning homelessness needs updating, so as to provide a greater emphasis on prevention (as opposed to administering applications for assistance).

We also agree with the specific proposals to:

- give housing authorities the power to consider whether an applicant is intentionally homeless (in place of the current *duty* to consider intentionality). We consider this additional flexibility to be eminently sensible, as authorities will only be required to consider intentionality in cases where it is deemed necessary;
- remove the remaining automatic link between the discharge of the substantive homelessness duty and an allocation of a long term social housing tenancy, by providing authorities an ability to discharge duties by securing suitable accommodation via a six month assured shorthold tenancy in the private sector. We consider this provision to be essential, as it will enable housing to be provided for priority need households within a reasonable time. The current ability of main duty households to refuse a six month assured shorthold tenancy in the private sector (under Section 193 of the Housing Act 1996) is no longer viable, given the shortage of social housing. Also relevant here is the need to meet the housing needs of non-homeless households from the Council's waiting list; lengthen the period in which a person is 'threatened with homelessness' from 28 to 56 days. We agree that this is likely to facilitate early engagement and more effective prevention outcome
- amend the existing priority need category for former prisoners, by requiring a homeless former prisoner to be vulnerable to obtain priority need status. Our views on this issue was set out in our response to the Welsh Government's consultation on former prisoner priority need status (dated 28 October 2013), a copy of which is attached to this document. Vulnerable former prisoners shall continue to remain eligible for substantive assistance, if the 'Stage 1' advice and assistance is unsuccessful in avoiding or resolving their homelessness.

We welcome the Government's intention to abandon the blanket duty to secure "a safe place to stay" for all homeless households during the advice and assistance process (under "Option 3", detailed at paras 7.62 to 7.64 of the Explanatory Memorandum). A universal safety net via the securing of accommodation *by authorities* would be unworkable, prohibitively expensive, and militate against the prioritisation of effective advice and assistance, which takes full advantage of the privately let accommodation.

We consider that the duty “to take reasonable steps to help” (Clause 51) has some potential to drive up standards and uniformity of housing advice and homeless prevention activity. However, of possibly greater importance in our experience are factors such as effective partnerships with external agencies (including private landlords), a focus on prevention by skilled and experienced advisors, and detailed knowledge of the local housing market. Further, in our experience a small but significant proportion of service users do not act in their own best interests, for a variety of reasons. Valid advice and assistance may, for example, be disregarded or refused by individuals for a variety of reasons.

We consider it is crucial that the duty “to take reasonable steps” is defined in such a way that it is not so onerous as to be impractical or unachievable for the Council to deliver. For this reason, we welcome the provision in Clause 51 that the local authority may have “regard (among other things) to the need to make best use of the authority’s resources”. We suggest that the statutory guidance should provide specific practical examples of circumstances in which an authority may legitimately consider that the duty has been discharged, notwithstanding the absence of accommodation so that the Council’s limited resources can be effectively targeted on the most vulnerable households, and those willing to accept the help on offer [...]

Homelessness – effective targeting of limited resources

We have concerns that the widening of the statutory safety net might result in the Council’s resources for tackling homelessness in practice being less targeted on the most needy and vulnerable persons, particularly if the reforms result in a large increase in the numbers requesting assistance from the authority, at a time when the available resources will be under severe pressure.

Homelessness – applicants who do not act upon advice

The Council’s Housing Options Team often have to deal with ‘revolving cases’, for example applicants who are repeatedly threatened with homelessness due to their own actions, and who do not act upon advice and assistance offered to them. We are concerned that the authority might become repeatedly subject to the duty to take reasonable steps to prevent homelessness in such cases. However, we welcome the provision in Clause 62(4), that the authority may treat the “duty to help” as having ended where it is satisfied that he or she is unreasonably failing to co-operate with the authority.

Proposed removal of power to find applicants intentionally homeless

We consider that the proposal to remove the power to find households containing children intentionally homeless from 2019 may have the

unintended consequence of weakening the disincentives to poor behaviour for persons who rely on social housing. While we recognise the Government's wish to provide greater security for children in vulnerable households, we consider the 'intentional homelessness' sanction strikes the right balance between rights and responsibilities. Our experience is that the availability of this sanction currently acts as a significant deterrent to behaviour causing the loss of accommodation, including when providing initial advice and assistance to a person who has not yet become homeless.

Homelessness – improving advice and assistance

We recognise the Government's wish to improve the standard and uniformity of homelessness prevention activity. Clearly, significant changes in a statutory regime always results in considerable time and resources being diverted to effecting the required changes.

We wonder whether legislative change is the most effective agent of change, particularly where the factors most likely to improve services go far beyond the precise details of the statutory safety net, to include such matters as the training and skills of housing advisors, ensuring accessibility, and partnerships with external agencies. Given the significant progress already made by Welsh housing authorities in adopting a housing options approach and in focusing on homelessness prevention, we wonder whether the proposal to establish monitoring and inspection of homelessness services (see paras 7.65 to 7.66 of the Explanatory Memorandum) might be a more effective tool for achieving service improvements than the proposed reforms.

Homelessness – protection of belongings (Clauses 76-77)

We are concerned that the Council may not be able to lawfully discharge the duty to protect an applicant's belongings in circumstances where the applicant:

- fails to adhere to the terms of any contractual agreement entered into (under Clause 76(4)(a)); or
- fails to notify the authority of any change to his principal address, such that the authority is unaware of his or her whereabouts (but continues to protect his or her possessions).

We note that Clauses 76 and 77 are largely based on sections 211 and 212 of the Housing Act 1996. We draw your attention to the commentary on these provisions at paragraphs 8.12 to 8.17 of Andrew Arden QC et al's *Homelessness and Allocations* (9 ed, 2012, Chapter 8) which highlights present uncertainties regarding the precise circumstances in which an authority may legitimately treat the duty as having ended. Indeed, this is a difficulty our Housing Options Team has itself recently encountered.

We respectfully suggest that the Bill be amended so as to specifically provide that:

- section 41 of the Local Government (Miscellaneous Provisions) Act 1982 applies wherever property is deposited with or otherwise protected by an authority under Part 2 of the Housing (Wales) Bill;
- the duty ends where the applicant unreasonably fails to adhere to the conditions imposed under Clause 76(4), providing the authority has served notice on the applicant requesting the breach to be remedied within a specified period, and warned him or her of the consequences of not remedying the breach;
- the duty shall end after a specified period where the applicant fails to notify the authority of his whereabouts, and as a result the authority is unable to trace the applicant;
- notices provided for the above purposes may be treated as served if made available at the authority's office for collection, in the event that the applicant's address cannot be ascertained.

While it is clearly desirable for the personal belongings of homeless persons to be protected in circumstances where he or she is unable to make appropriate arrangements, it is wholly undesirable for public expense to be incurred where the applicant has unreasonably failed to comply with the protection conditions, or has failed to keep the authority informed of his whereabouts and wishes as regards the possessions.

A duty on local authorities to provide sites for Gypsies and Traveller where a need has been identified.

We have begun working towards identifying suitable sites for need identified in our recent Gypsy and Traveller Needs assessment and therefore agree with this measure along the support the Welsh Government is offering in terms of grants for existing and new sites.

Reform the Housing Revenue Account Subsidy system.

We welcome this provision and the prospect of becoming a self-financing authority able to develop housing. Clearly the extent of the development will be dependent on our ability to borrow awaiting negotiation with the Welsh Government.

The power for local authorities to charge more than the standard rate of council tax on homes empty for over a year.

We welcome this power as another instrument to support our existing successful work to bring back empty homes into use.

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