



Cynulliad Cenedlaethol Cymru The National Assembly for Wales

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol The Communities, Equality and Local Government Committee

**Dydd Mercher, 29 Ionawr 2014
Wednesday, 29 January 2014**

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Leighton Andrews	Llafur Labour
Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Jocelyn Davies	Plaid Cymru The Party of Wales
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Gwyn R. Price	Llafur Labour
Jenny Rathbone	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Steve Clarke	Rheolwr Gyfarwyddwr, Tenantiaid Cymru Managing Director, Welsh Tenants
Dr Simon Hoffman	Prifysgol Abertawe Swansea University
Victoria Hiscocks	Prifysgol Fetropolitan Caerdydd Cardiff Metropolitan University
Dr Bob Smith	Prifysgol Caerdydd Cardiff University
Alicja Zalesinska	Cyfarwyddwr, Tai Pawb Director, Tai Pawb

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Jonathan Baxter	Y Gwasanaeth Ymchwil Research Service
Sarah Beasley	Clerc Clerk
Leanne Hatcher	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 09:16.
The meeting began at 09:16.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Christine Chapman:** Good morning, and welcome to the Assembly's Communities, Equality and Local Government Committee. I remind Members that if they have any mobile phones, they should be switched off, as they affect the transmission. We have not received any apologies this morning. I also remind Members that they do not need to touch the microphones; they will come on automatically.

Bil Tai (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 7: Tenantiaid Cymru Housing (Wales) Bill: Stage 1—Evidence Session 7: Welsh Tenants

[2] **Christine Chapman:** Our first witness today is from Welsh Tenants, and I would like to warmly welcome Steve Clarke, its managing director. So, welcome, Mr Clarke. You have sent a paper in advance of the meeting, and Members will have read it, so if you are happy, we will go straight into questions.

[3] The Bill is in eight parts. We are trying to concentrate on each section in turn. I want to start off with Part 1, which is about the private rented sector. I know that you support the principle of a registration and licensing scheme for the private rented sector, but could you outline whether you believe that there are any potential difficulties or challenges that the scheme could face and whether the Bill adequately addresses those issues?

[4] **Mr Clarke:** Thank you for the invitation, Chair. We are fully behind the principles of the Bill. Our members have been working on the Bill with the Welsh Government and other officials for the past two-odd years, so we are very much behind it. There are significant challenges, as outlined, in the voluntary approach, but we feel that a registration scheme would be a significant enhancement, because there would be a duty to do that. As with any schemes of this nature—Wales-wide schemes—there will be a significant challenge to be able to communicate the need to register within the time frame. That is a challenge in itself. In respect of that, we would like to see a better consumer approach, encouraging tenants to get their landlords to register. So, access to information, advice and support in relation to how tenants could get their landlords to register would be really useful, and we see ourselves playing a part in that, along with other organisations.

[5] In terms of specific elements of the Bill, generally speaking, in the private rented sector, there is some opposition to the registration scheme and the phasing approach. We do not support the phasing approach; we would prefer to see a whole-system approach developed straight off, with landlords and letting agents both registered and licensed together. The reason is that we have other Bills due to come in, the rented homes Bill, for instance, and we see this Bill as critically linked to it, because this part of the Bill will be about getting information to landlords about the changes due in the rented homes Bill as well—especially the need to have, in some cases, a tenancy agreement; that is not always the case.

[6] **Christine Chapman:** Do you think that tenants are generally aware of their rights and responsibilities, and do you think that the Bill would address that issue?

[7] **Mr Clarke:** I think that it varies across Wales and in terms of segmentation of the market. If you are with a letting agent, then I think that the information is reasonably good in terms of rights and obligations. However, it can sometimes be more in favour of the landlord than the tenant.

[8] **Christine Chapman:** Do you think that there is a risk that the registration licensing requirements would actually put people off letting property, and could affect the supply?

[9] **Mr Clarke:** I suppose that there is always a danger of that. However, this is a friendly scheme—it is not a very harsh regime; it is simple registration, and licensing within a given time period. As I said, I think that there will be challenges to that, but I do feel that it is not a harsh regime, so I do not envisage masses of private landlords saying, ‘This is too onerous and I’m going to sell my property and get my tenants evicted’. I do think that there will be a shift in balance, perhaps with smaller landlords with one or two properties, towards letting agents, because they may find that the training requirements may be too onerous for them. However, that will benefit, obviously, local authorities, because the problem at the moment is that you have a very diverse sector, and they are not clear about how many private landlords there are, and letting agents vary in degrees of competency across the area. Therefore, what you could see is larger letting agents developing in local authority areas. That would make it much easier for the local authorities to work with the partners in the sector, to be able to improve standards.

[10] **Christine Chapman:** Okay. I know that I have some specific questions on that issue. Leighton, did you want to ask some questions?

[11] **Leighton Andrews:** Cardiff Council is meant to be administering the scheme on behalf of all local authorities. Are you happy with that?

[12] **Mr Clarke:** Yes, I think that it is a sensible approach to have one central administrator. What happened in Scotland, I think, is that you had a range of local authorities providing a range of functions. I think that the voluntary scheme in Cardiff was a good scheme, but this scheme enables all the local authorities, across Wales, to go to one agency for administration. I think that that will have some savings and cost benefits in the longer term. Also, as I said, there will be consistency about the administration of the scheme, and the registration process. Therefore, yes, I think that that is a very good idea.

[13] **Leighton Andrews:** Do you believe that the fit-and-proper-person test requires a criminal records check?

[14] **Mr Clarke:** The approach to the fit-and-proper person is varied. It is not just a Criminal Records Bureau check—it is more varied: are they competent to manage, do they have the skills, do they have prior convictions that will interfere with their responsibilities in relation to management? Therefore, I do not think that it is just about a Criminal Records Bureau check; I think that the checks are wider than that. I think that perhaps having a criminal conviction may not deter a landlord from registering. It depends on how old the conviction is, what the conviction was, and what are the issues there. Therefore, I think that the fit-and-proper-person test is wider than that. There is a very good guide by Shelter Cymru in terms of what was expected in Scotland in relation to the fit-and-proper-person test. I think that it is wider than just a Criminal Records Bureau check.

[15] **Leighton Andrews:** You said that you thought that smaller landlords would probably gravitate towards letting agents. Are you satisfied that the training requirements that are set out in the Bill are appropriate for each category?

[16] **Mr Clarke:** Yes. I think that letting agencies, as an industry, have good training requirements for their staff. Therefore, I think that there is robust, continuing professional development within the letting agencies. I think that any landlord needs to know their obligations. In my paper, I have outlined the fact that I compare it to having a driving licence, and a vehicle with MOT and insurance, and being competent to drive. Therefore, I think that it is really important that landlords have the basic knowledge about their rights and obligations. Time and again, we come across landlords in Wales, especially small private landlords, who do not know their rights and obligations in relation to their duties. Therefore, I

think that, first, it is about understanding those obligations, and then it is about whether you want to continue in the market, and grow in the market, to develop continuing professional development within the market.

[17] **Leighton Andrews:** Would you favour a two-stage registration process, whereby letting agents are registered first, and then landlords?

[18] **Mr Clarke:** I would not. The reason being that, first, you are duplicating the marketing of the scheme, so there will be twice the cost, if you like. So, you will be dealing with letting agents first and then you will have to do the same again for landlords later. So, there is an efficiency issue and a cost issue there. Plus, as I said, it is very much linked to the rented homes Bill and that is going to come in fairly quickly as well. So, I think that we need to have landlords registered so that the communication of the issues around rented homes can be more effectively delivered when the rented homes Bill comes into play.

[19] **Leighton Andrews:** What is your experience of social letting agencies?

[20] **Mr Clarke:** Some are very good. I very much welcome the development of social letting agencies because they are a bridge between the social housing management model and the letting agents. There are varying degrees of expertise and professionalism within letting agencies. As you are probably aware, you can set up a letting agency in a backstreet corner without any licence or any skills at all, and there are far too many of those in Wales at the moment. The social letting agency as a group is a very good idea. It brings in the expertise, knowledge, information and resourcing of the social landlord who is partnering to deliver that. So, it is a bridge between the outright letting model in the private rented sector and the social housing model, so I think that it is a very good idea.

[21] **Leighton Andrews:** Finally, do you think that the Bill is clear enough in terms of the impact of revocation of registration or a licence on a tenant's security of tenure?

[22] **Mr Clarke:** Can you rephrase that slightly? Sorry.

[23] **Leighton Andrews:** The Bill makes it clear that there are certain circumstances in which a licence could be revoked or registration could be revoked. How do you see that having an impact on tenants specifically?

[24] **Mr Clarke:** There are provisions within the licensing scheme under the 2004 Act to fine landlords for non-compliance with registration. So, there are mechanisms, if you like, to address landlords who are not registered. In terms of revoking licences, again, I think that there is an issue about appeals, and taking it to the property residential tribunal for appeals, so that a landlord has access to the appeals process. I think that landlords should be aware of that process. The issue, I suppose, would be that if a landlord is denied access to registration, what happens to the tenancy agreement. Does the local authority have the power to introduce a management agent, such as a social letting agent, to manage the property in the interim while that issue is being resolved? So, I think that the process needs to be firmed up in relation to that.

[25] **Leighton Andrews:** Do you think that it needs to be firmed up on the face of the Bill?

[26] **Mr Clarke:** I believe that guidance will be issued in relation to how these matters will be delivered, so, again, the guidance needs to be developed and then be clear about how that process works.

[27] **Christine Chapman:** I have a supplementary question from Jocelyn.

[28] **Jocelyn Davies:** Going back to the letting agents, because you were saying that you think that some people will just hand it over to a social letting agent, is that going to drive up rents? Obviously, the letting agents do not do it for the benefit of their health—they do it for a fee— and the landlord will still expect the rent, so, who is going to pay for the letting agent?

[29] **Mr Clarke:** Letting agencies' fees, as you know, is an issue in Wales. There is a range of fees, from renewing tenancy agreements to search fees et cetera; there is a whole range of fees and there is a concern. As I said, I think that the social landlord model—that interim model—is the better model. So, what we need to do is advertise the fact that these are here and that it is a bridge between the two models, but also be very clear about how we control those charges via the letting agencies. There are some Office of Fair Trading studies going on in relation to fees et cetera. I suppose that there is a danger that rents could increase as a consequence of that because landlords will look to recover that. However, the landlords need to balance and offset the costs of doing it themselves and letting agents undertaking it. On whether the fees will be transferred to tenants, yes, I think that they will be, if I am brutally honest. I think that it will be incumbent on local authorities and agencies to promote schemes whereby there are proper transitions, and for there to be support for landlords who have a problem and want to do that, and, as I said, to steer them to social letting agencies.

09:30

[30] **Jocelyn Davies:** Yes, because some of those fees are payable annually—inspections are done annually, and so on. I suppose that these things were brought in for good reason, but some of those fees, certainly in the cases that I have dealt with and those that I have heard and read about, have been considerable.

[31] **Mr Clarke:** Yes. That is the nature of the market, irrespective of what happens in the market. I think that they are the consequences of how the market is structured. As I said, I think that there is a role to promote social letting agencies and to try to get a fairer deal for landlords wishing to transfer to a letting agent. There is a role there for the local authority to give information, advice and support to those landlords who want to make that transition to a letting agent proper.

[32] **Jenny Rathbone:** You have made various remarks about people who are committing housing benefit fraud, people getting large amounts of tax relief and people who may be providing accommodation with work in circumstances that are illegal. I wonder if you think that the legislation is sufficiently tight to capture as many of those people who are operating on the margins of the law as possible.

[33] **Mr Clarke:** I think that the local authority has a challenge in relation to investigation and enforcement, as well as the environmental health department and trading standards. However, as I said, what I would like to see is better information being made available for tenants, so that they can trigger that process, as well. We would very much like to see a Wales governing body overseeing this process with tenants on board, such as happens in the registered social landlords sector, and engaging tenants in that process. I think that local authorities will need to look at engaging with tenant fora at a local level, and, where necessary, recruit volunteers to be able to communicate messages and engage communities in the issues. So, yes, these do exist and I think that the environmental health department is aware and it knows where the clusters are. What we need to do is encourage tenants to be able to go to the local authority, register through a scheme, or inform the local authority of what is happening on that premises.

[34] **Jenny Rathbone:** So, as far as you are concerned, the penalties around not registering are sufficiently robust to deter people from doing that.

[35] **Mr Clarke:** On the penalties for not registering, personally, I would have liked to have seen a higher penalty of say, £100, for not registering and then a 50% discount if you register within a certain period of time, so that you encourage people to register early. That would encourage early registration. If you have a flat £50 fee for registration, I think that you would need to think about the marketing of that and how more effectively that could be introduced to encourage people to register via those incentives. Such schemes would have a positive benefit, I think.

[36] In terms of registering properties and the £10 per annum, we are talking about less than 25p a week for that. So, I do not think that the registration fees are onerous. In fact, as I said, most tenants welcome it, because they are paying the fees of the landlord at the moment for the letting agents and the professional bodies of which they are members, but there is nothing that actually benefits the tenant as a consequence of that. So, they see it as a positive issue.

[37] **Christine Chapman:** I have a couple of supplementary questions, first from Peter, then Mark.

[38] **Peter Black:** Going back to the issue of the revocation of registration or the revocation of a licence, as I see it, there is nothing in the Bill that relates to management orders. So, there is nothing in there that gives the local authority the opportunity to put in an additional manager to take over a property. My recollection from the Housing Act 2004 is that when a HMO licence is revoked, effectively they end up selling the property, or selling it on to somebody else, so that the tenant's position is very much in limbo. Are you concerned that the Bill does not have much clarity in relation to what happens to a tenant if that revocation takes place? Do you think that it is necessary to put something on the face of the Bill to provide some safety net for tenants in those situations?

[39] **Mr Clarke:** Yes, I do. As I said, it is a problem whereby, if a landlord is not registering, or if an agent is not appropriately managed, there needs to be a time frame in terms of agents being put in place. Whether the local authority appoints an agent, or whether there is some sort of management order in place, I think needs to be clarified.

[40] **Christine Chapman:** Mark is next.

[41] **Mark Isherwood:** It is nice to see you outside the question panels. Good morning. Going back to your reference to social letting agencies, do you think we should be clear about differentiating between commercial letting agencies—I think the WLGA in its evidence two or three weeks ago said it had identified some examples of bad practice—and the sort of social letting agency this committee considered when you gave evidence to the inquiry in the last Assembly about the private rented sector, that is, the Cefni model, the social enterprise model, or the private rented sector access agencies now established by a number of housing associations and local authorities in Wales, and how could those be better co-ordinated? Secondly, and related to that, you will also know that many local authorities and housing associations, in addition to running private rented sector access agencies, are operating a management service for landlords, which some have been quite successful in getting landlords to sign up to. What role do you think that could play?

[42] **Mr Clarke:** If I could address the latter issue first, I think most local authorities have private rented sector landlord fora. They vary by degree in terms of attendance; you tend to get the good landlords attending, but the poor ones not. That is a challenge in itself. I think there should be private tenant fora, based on much the same principles as developed over the past 25 years for tenant participation in the social housing sectors. There needs to be that drive in terms of the private rented sector so that the local authority understands the issues

from the consumer perspective, as well as the landlord perspective. We would like to see that developed more in Wales. My chair sits on the review of the strategy in Wrexham, and we are also developing better tenant engagement in the private rented sector in Merthyr Tydfil, with a view to setting up a tenant forum for Merthyr Tydfil as a pilot. So, I would like to see more engagement from a consumer perspective. As the Consumer Focus Wales report suggested, there are issues that I think local authorities need to deal with, as well as trading standards, in relation to the service provided by the local authority in terms of environmental health inspections, et cetera, and the way that the housing health-and-safety rating system works. So, I would very much welcome the setting up of private tenant fora across the local authority areas, and then co-ordinating that across Wales in terms of regional and national bodies, feeding in issues at a more strategic level.

[43] In terms of the social letting model, and the commercial model, as I said, there are letting agents of varying degrees of competence, if you like. That is the target area that I am concerned with. The professional commercial sector has a number of professional bodies, and they tend to be fairly robust in terms of their knowledge and understanding of their rights and obligations. There are issues, but there are usually complaint systems to address those. My concern is about the army of smaller, non-commercial letting agents at the local level that do not seem to have the expertise to fulfil their obligations. In fact, most of the cases I have dealt with are in relation to those smaller letting agents, as opposed to the larger ones, although not exclusively. I do think, as I said, that there is a challenge on both sides to improve professional development among the sector generally. I think it is absolutely vital that, if you do let properties, if you do provide shelter, then, as a landlord, you should understand, or have an agent who understands, the considerable obligations in relation to the management of that property. I fear that there needs to be a lot of information, advice, support and training for the sector in order to bridge that competency gap, if you like, between the commercial landlords and letting agents, and the non-commercial ones.

[44] **Mark Isherwood:** Should we—as our report, I think, covered, three years or so ago now—be looking to develop more of a Wales-wide network of agencies, co-ordinating social enterprise with the public sector and local housing associations to facilitate that?

[45] **Mr Clarke:** Yes, and, as I said, there are economic reasons for that as well. There is jobs growth in these areas that will emerge from this, I think. So, people will need to be supported in that process. So, yes, I fully support that.

[46] **Mark Isherwood:** There is then the secondary role that many local authorities are fulfilling, whereby, even if they do not have relationships through the letting agency, they are nonetheless managing increasing numbers of properties by agreement with individual landlords. How do you feel that that could contribute?

[47] **Mr Clarke:** As I said, I would think that that should be channelled through the social letting agents. If they are managing properties through that process, then—

[48] **Mark Isherwood:** They have chosen to do this. Cadwyn Housing Association in Cardiff, for example, has its social letting agency, but it also has a separate arm that manages properties on behalf of landlords, all under an umbrella department. It calls it ‘CanDo’, I think.

[49] **Mr Clarke:** Yes, CanDo Lettings. I think those models are terrific. They are very good and they should be encouraged.

[50] **Christine Chapman:** We have a few more questions on this section and then we need to move on. Janet, you have some questions, do you not?

[51] **Janet Finch-Saunders:** Yes, although we have covered the first one. What role do you see that tenants can have in bringing forward this new scheme?

[52] **Mr Clarke:** As I said, I think it is vital that information is provided to tenants on this scheme and the issue of competence for their landlords, and in terms of redress and a whole range of issues. So, I see the tenant's role as critically being informed about the scheme and being informed about how the scheme should work and what should happen if their landlord's registration is revoked in some way. They need to understand that. There is also a role in terms of the voluntary promotion of the scheme. We have heard that local authorities are strapped for resources, and there is a big job to be done to get this scheme out there in the community so that people are aware of how it operates, the timescales involved, and the overall objectives. So, there is a role for tenants to play in promoting that scheme.

[53] **Janet Finch-Saunders:** Do you think there a lack of, and also a need for, education as regards tenants so that they fully understand? I know that we do have people in very vulnerable circumstances, but I think that relationships are better if both sides are informed. Do you think that there is a need, and do you think that this Bill or the forthcoming renting homes Bill cover that? Is that covered in either of those, or in the Bill that we are discussing at the moment?

[54] **Mr Clarke:** There is absolutely a need, and I think the history in the social housing sector shows how tenants can make a valuable contribution to the management of properties. So, I do fundamentally believe that as a principle. If you understand the consumers' needs, wants and aspirations—. They are at the sharp end of delivery, so they understand what issues need to be addressed. As I said, the history in the social housing sector, both local authorities and housing associations, over the past 25 to 30 years, shows that they have made a valuable contribution. So, I would hope that there are resources to enable tenants to be engaged in that process in a similar way, through local authorities, as I said, establishing tenant fora whereby tenants could come along to open events to understand their rights and obligations, as well as those of the landlords, and also for them to be able to constructively input to the strategic modelling for the local authority across the area.

[55] **Janet Finch-Saunders:** So, you see the work that you do helping to ensure that tenants are fully aware of their need to comply, do you?

[56] **Mr Clarke:** Yes, certainly. It is a very big task. In terms of the background, I welcome the review by the Welsh Government looking into having a single tenant support body for Wales to ensure that there are sufficient resources there to be able to support tenants to access the right information and advice going forward. I understand that the Welsh Government is looking at that at the moment. It is a considerable task, but it is significantly aided by voluntary effort. So, it is about ensuring that tenants have access to that support, information and advice. One of the barriers, I think, is resourcing to get to conferences or events and so on. That will be an issue in the private rented sector, because you do not have a single landlord to sponsor that. So, it is vital that there are resources to be able to promote information and advice to tenants, and I do agree that there is a lack of understanding among private rented sector tenants in terms of their rights and obligations. It is a continual challenge.

09:45

[57] **Christine Chapman:** I remind Members that we have only another half an hour to cover this session, so I ask Members for concise questions. I think that Jocelyn wanted to come in.

[58] **Jocelyn Davies:** Yes. It was just on the resources, really, following on from that. You

have mentioned that it is a big task, awareness, training, forums and resources. I think that you probably do have concerns about the ability of councils to implement the legislation within limited resources, and this is supposed to be self-financing. So, do you think that it is possible within the regime system that we can see laid out in this Bill that it is going to be self-financing and effective? It seems from what you have said to us today that there is a 'big job' to do here; I think that is how you described it.

[59] **Mr Clarke:** There is a big job to be done, and, as I said, it can be done cost-effectively through the use of volunteers. There are considerable networks across Wales via charities and Communities First; there are various networks to get the information out there. So, I think that there is a big job to be done, but it requires overseeing. The problem, I think, in terms of the regime in Scotland, is that you had different local authorities doing different things at various different speeds. The challenge will be to make sure that there is co-ordination, there is monitoring and there is evaluation, and that resources are put in to be able to deliver on this.

[60] I cannot emphasise enough the need to get tenants engaged in this process, and for them to play a considerable part in delivering on this. They could be the key to be able to get more landlords registered, along with marketing issues, as I said, about—

[61] **Jocelyn Davies:** That does not come free, though, does it?

[62] **Mr Clarke:** I agree. As I said, one of the issues in terms of how you engender that is to use the existing networks that are there. There is also the review of Welsh Tenants, TPAS Cymru and the tenant empowerment programme by the Welsh Government, and I think that, with a single tenant support body, it will be better resourced to support that process, which is also critical.

[63] **Christine Chapman:** Gwyn, you have some questions.

[64] **Gwyn R. Price:** Yes. Good morning. Could you give me a view on whether rent stopping orders may cause difficulties for tenants in terms of harassment or illegal evictions?

[65] **Mr Clarke:** The rent stopping orders exist under the current licensing scheme for HMOs. I would like to see the emphasis put on prevention of eviction, given that Part 2 of the Bill is about the prevention of homelessness. I would like to see the emphasis placed on the prevention of eviction, which is the more critical issue, I think, and having an appropriate agent in place to manage the property effectively. That is where the emphasis should be. I am not clear about whether or not, under universal credit, there will be any benefit to the tenant, because, obviously, in terms of universal credit, you are claiming rent due through the housing benefit system through the universal credit system, so will that go back to the tenant or will it be recovered by the Department for Work and Pensions? So, I do not know whether or not that is going to be an effective resource for the tenant.

[66] **Gwyn R. Price:** Thank you. What is your view on whether a sanction preventing eviction where a landlord is not registered or licensed would be effective?

[67] **Mr Clarke:** I think that it would, providing, as I said, if the letting agent or landlord is not able to continue managing for whatever reason, that an appropriate agent is put in place. So, you are preventing the eviction and you are putting someone as an agent in place to manage the property properly. That, for me, is the critical issue.

[68] **Gwyn R. Price:** Thank you very much for that. Going on to the code of practice and fees, what is your opinion on whether the role of tenants in developing a code of practice is clear enough in the Bill?

[69] **Mr Clarke:** The Minister has committed to adopting a code of practice, and we have been engaged in various parts of the Bill as it has been developed. I would hope that tenants are continually involved in the development of a code of practice as we move forward. I have no reason to doubt that that will continue to be the case.

[70] **Gwyn R. Price:** Thank you very much.

[71] **Christine Chapman:** I have one supplementary question from Peter. We do need to move on to the homelessness section.

[72] **Peter Black:** I have a question on the code of practice. The Minister has said that he has not decided yet whether he will include the standards on the property in that code of practice. Is it your view that the code of practice should set out basic minimum standards and statutory standards that a property needs to meet before it can be licensed?

[73] **Mr Clarke:** There are various key issues that we would like to see in a code of practice. Electrical safety, for instance, is a big issue that we wanted to support. In HMOs, you have a responsibility to renew the licence every five years, and we do not see that it should be any different should you have five people living in a house in multiple occupation or a property with five or seven children living in it. If a code of practice is being developed, then we would like to see issues such as that addressed. Whether it should be in the code of practice, or be developed through other areas, is to be decided, I think. As a tenant advocate organisation, we would like to see better standards in the private rented sector and landlords made more accountable for standards, but whether it is in the code of practice or in other areas of activity is still to be considered.

[74] **Peter Black:** As the Bill stands, I think that it has to be either in the code of practice or on the face of the Bill. The code of practice is the only avenue that I can see to put that in. Presumably, you would support one of those two options.

[75] **Mr Clarke:** I would, yes.

[76] **Peter Black:** Okay, thank you.

[77] **Christine Chapman:** We need to move on now to Part 2, on homelessness. I think that Peter wanted to start on this one.

[78] **Peter Black:** Yes, I have a general question on homelessness. Do you support the approach taken by the Welsh Government in Part 2 of the Bill?

[79] **Mr Clarke:** Yes, we do. Obviously the emphasis on prevention is really important. It is more about prevention than reaction. We feel that the emphasis on prevention is really key. We certainly welcome the extension from 28 to 56 days, where there is more time for the local authority to work with the impacted tenants and to be able to resolve their particular issues. We very much welcome that approach.

[80] **Peter Black:** Do you think that there are going to be resource issues for local authorities that are not already operating a housing options approach?

[81] **Mr Clarke:** Local authorities do have responsibility in relation to homelessness and they need to resource it accordingly.

[82] **Peter Black:** Okay.

- [83] **Christine Chapman:** We have another question, which is from Jenny.
- [84] **Jenny Rathbone:** In your paper, you talk about the need for a better definition of ‘vulnerability’ in section 55. In what way is it not clear who will have priority need for accommodation? It seems pretty straightforward.
- [85] **Mr Clarke:** Yes, mental health is an issue that is not made clear, as far as I recollect. We wanted to see something more in terms of mental health as well. There are considerable issues of mental health in the sector that need to be addressed, I think. That is one of the issues that we need to strengthen, I think.
- [86] **Jenny Rathbone:** Yes, I think that it is difficult for a housing officer to make that assessment; obviously making that definition is a role for the health service. There certainly is a clause in there about old age, illness or disability that would capture those concerns. Your members discussed the decision to allow only those prisoners deemed vulnerable to be considered for accommodation as opposed to all prisoners, and they supported that. Is that right?
- [87] **Mr Clarke:** Yes they did, tentatively. I think that there were some mixed views in relation to that. They could understand the rationale for that and, generally, they supported it. As I said, that was with the proviso that there is some discretion in relation to that.
- [88] **Jenny Rathbone:** So, is that around mental health?
- [89] **Mr Clarke:** I think primarily, yes.
- [90] **Jenny Rathbone:** Okay. Thank you.
- [91] **Christine Chapman:** Thank you. Mark, did you want to come in?
- [92] **Mark Isherwood:** What standards do you believe that landlords used by local authorities to house homeless families should have to meet? Should there be higher minimum standards?
- [93] **Mr Clarke:** Yes. In terms of blanket allocation in the private rented sector, we did have some concerns. As I said, there needs to be a registration scheme for landlords et cetera, and competencies. We very much support that there needs to be a higher test, if you like, of competence to be able to manage in order for local authorities to divest their responsibilities to the private rented sector.
- [94] **Mark Isherwood:** If we link that to accreditation in social letting or social access agencies, should local authorities be prevented from housing certain vulnerable tenants in the private rented sector or, as we have seen again with the Cefni model, could that—properly managed and linked to proper accreditation—be part of the answer?
- [95] **Mr Clarke:** I think it is part of the answer. There may be some specific groups—higher risk groups perhaps—that it would not be appropriate to signpost to the private rented sector. I believe that the Minister is looking at some exemptions in guidance. So, yes, I think that, No.1, there needs to be a higher test and that, as I said, our preferred model is to utilise the existing social letting models, where there is that track record, experience, networking for support et cetera. Llamau and others deliver some really good extended support—floating support. So, we need to look at a higher test for divesting their responsibility to the private rented sector.
- [96] **Mark Isherwood:** Could that be accreditation, so that you cannot be one unless you

are the other?

[97] **Mr Clarke:** Yes, it could be, and it could be about existing competencies. As I said, some of the social letting agencies are very competent and professionally trained to a very high standard—not just to the level of understanding rights and obligations that is proposed in the general principle of competency—to manage properties. So, yes, I think that there should be a higher test.

[98] **Mark Isherwood:** We also have to sell the benefits to the landlords themselves. If we just say, ‘You can’t do it unless...’, we know that they will vote with their feet, but if you sell the benefits to them of belonging to these schemes, reducing their risk and increasing the likelihood of their rent being paid and arrears being avoided, there may be a better way of—

[99] **Mr Clarke:** Yes.

[100] **Mark Isherwood:** Finally, you mentioned housing, health-and-safety rating system, linked to discharging the homelessness duty into the PRS and the repairing standard. The Minister, in a letter to us two weeks ago, indicated that he did not favour the Scottish model of having a repairing standard because he still wished to rely on the HHSRS. However, we know that it has been rarely enforced in Wales and that, even when it has been enforced, it has perhaps not always been enforced in the most efficacious way. Again, how should we be linking HHSRS standards to this and ensuring compliance with them?

[101] **Mr Clarke:** My experience as well is that there are varying degrees of enforcement across Wales, and the emphasis is on the higher risk areas—the category 1 hazards that will seriously injure or harm someone. There are category 2 hazards as well, where there is discretion with the local authority on how it addresses those. So, I would like to see, ideally, a higher test in terms of the fitness standards of a property in order to divest to the private rented sector. So, whether that is addressed in the code of practice or through other means, it is something we would welcome.

[102] **Christine Chapman:** Mike has a supplementary question.

[103] **Mike Hedges:** One of the big changes proposed is a duty to rehouse people who are intentionally homeless with children. I can understand that, but would you support using a probationary tenancy where people are rehoused after being deemed intentionally homeless so that there would be greater ease of evicting them again if the circumstances relating to their previous reason for being intentionally homeless reoccurred?

[104] **Mr Clarke:** We support the view that the tenancy should be for 12 months because we think that six months under an assured shorthold tenancy is too short a period to address, sometimes, the complex issues that related to the homelessness in the first instance. We would like to see a longer tenancy of perhaps 12 months in relation to that. So, I would say that we would very much support that, but that we would like to see a longer tenancy of 12 months as a minimum.

[105] **Mike Hedges:** I was thinking more specifically of someone who perhaps lives in a housing association property, is evicted for something like non-payment of rent or anti-social behaviour and has three or four children, and who is then rehoused by the local authority. Would you support the local authority giving them a probationary tenancy in order that it would be easier to evict them if the previous reason for them becoming intentionally homeless reoccurred?

10:00

[106] **Mr Clarke:** That is currently the case, in terms of offering at first probationary tenancy for six months and then having the ability to extend that if there is non-compliance.

[107] **Christine Chapman:** We will now move on to Part 4, which is on standards for social housing. Rhodri Glyn has some questions.

[108] **Rhodri Glyn Thomas:** A ydych chi'n credu bod y Bil hwn yn ddigon uchelgeisiol? A ydych chi'n credu y bydd yn codi safonau i raddau helaeth, neu a fydd tenantiaid fwy neu lai yn yr un sefyllfa ag y maent ynddo nawr? **Rhodri Glyn Thomas:** Do you believe that the Bill is ambitious enough? Do you think that it will raise standards to a large extent, or will tenants find themselves in the same position that they are in now?

[109] **Mr Clarke:** The standards side, for me, is about information, and there is an absolute dire need for landlords to get access to better information. Better informed landlords lead to better standards. So, there is an issue about access to information so that people understand their rights and obligations as landlords. Better understanding of their obligations leads to better standards.

[110] Most landlords look after their property and want to take care of their investment, and they want to be able to manage the tenancy well because that has impacts on that investment. So, generally speaking, landlords welcome the information, and, as I said, the landlords that I have dealt with, certainly in the private rented sector, who have one or two properties that they have inherited or are using as a pension pot or whatever, would welcome the information.

[111] Gradual increases in competency are to be welcomed. As I said, that element needs to be phased and encouraged. So, if there was to be phasing, we would probably need to give people a longer time to develop those competencies, but I have no doubt that better information, better access to support and better advice generally leads to better standards, and I think that that has been proven in relation to other sectors.

[112] **Rhodri Glyn Thomas:** O ran gwybodaeth, a ydych chi'n credu y dylai fod mwy o fanylion am y safonau ar wyneb y Bil hwn? **Rhodri Glyn Thomas:** In terms of information, do you believe that there should be more details regarding standards on the face of the Bill?

[113] **Mr Clarke:** We need to be clear about what the competencies are, in terms of the code of practice and the competencies for a landlord or an agent. Competency models already exist in the sector, and I think that they can be flexible, because it depends on how in-depth you want to go. The basic understanding of rights and obligations, in relation to gas safety checks, electrical safety and health and safety generally, and in terms of tenancy agreements—fair terms and things like that—is an important issue, and that alone will improve the sector. So, information alone will improve the sector. On the question of whether it should be in the Bill, I believe that we need to respond to what people want in relation to information needs. So, I would not suggest being too prescriptive about what should be in the Bill, but I feel that information will improve the standard of accommodation.

[114] **Jocelyn Davies:** I think that there was a misunderstanding. Rhodri's question was about the WHQS and social housing, but I think your answer was about the private rented sector. However, on the private rented sector, that health-and-safety rating replaced the fit-for-human-habitation test that used to be a statutory requirement. This is a very low standard, and this Bill will put a statutory basis for the private rented sector at, I think you would have to admit, at a very low standard—just about fit for human habitation. Although, I think that the point that you were making is that the focus is on hazards that would harm you if you

went inside. I think that you would agree that that is still a pretty low standard.

[115] **Mr Clarke:** I do agree, yes, in relation to the housing association standards.

[116] On the other parts of the Bill, in relation to standards in terms of rents, service charges and the Welsh housing quality standard, we very much welcome putting that on a statutory footing, but the local authorities are behind, because of older properties in this sector, in terms of delivery, with about 39%, I think, of the local authority sector meeting WHQS. So, we certainly welcome putting the delivery of the WHQS by 2020 on a statutory footing. It is to be welcomed.

[117] **Rhodri Glyn Thomas:** Mae gennyf un cwestiwn penodol i orffennu ynglŷn â'r cyfnod rhybudd cyn y gellir archwilio cartref tenant. A oes gennyhych bryderon ynglŷn â'r cyfnod rhybudd hwnnw?
Rhodri Glyn Thomas: I have one final specific question regarding the warning period required for inspecting a tenant's home. Do you have concerns about that period?

[118] **Mr Clarke:** Yes, seven days does seem to be short notice. I think that it needs to be about mutual availability with the tenant, because of holiday periods, sickness et cetera—there is a whole range of issues. It is 28 days' notice, I think, for the local authority, but seven days' notice does seem to be a bit short for the tenant. Also, in terms of access to a property, the tenant can deny access. So, they do have the right to refuse entry if necessary. I am just wondering how that will work, if the tenant does not want there to be inspection of the property. However, seven days does seem to be a short period, and I would like to see more flexibility in terms of how that time period should fit in with the needs and aspirations of the tenant.

[119] **Christine Chapman:** Mark, you have a supplementary question.

[120] **Mark Isherwood:** Again, it is related to WHQS. I am conscious that the evidence in our paper refers to the local authorities' business plans, and we know that there were three that were named that were originally deemed to fall short. I notice that the Minister has now accepted their business plans. What is your view on the fact that the sums of money that those business plans have for borrowing purposes—these are business plans on which local authorities have sought consent from Ministers to proceed—are significantly lower than the sums that were used at the time of the tenant ballots on transfer? What scrutiny can you have or are you having to ensure that corners are not being cut—

[121] **Christine Chapman:** Mark, may I just ask that—[*Inaudible.*]—the housing Bill, so we need to—

[122] **Mark Isherwood:** It is because we are on the WHQS section and this refers to the business plans and how we expect to ensure that those plans are of a proper standard.

[123] **Christine Chapman:** Mr Clarke, do you want to answer that?

[124] **Mr Clarke:** We have been working on the Welsh housing quality charter with some landlords and what we would like to see is greater transparency in terms of how they are delivering on the promise made either in the transfer documents or in any addendums or on promises made to tenants in terms of retention. So, we would like to see, in the first instance, greater transparency, tenant engagement in terms of the delivery of that business plan and also monitoring and evaluation of progress by tenants across the local authorities. I cannot give you an answer in terms of every one of the 11 local authorities as to whether they have sufficient resources to deliver, but I welcome the fact that they are putting it on a statutory footing that you have to deliver by 2020. What we would like to see is, as I said, greater

monitoring, evaluation and accountability in terms of how that process is being met with tenants.

[125] **Mark Isherwood:** One local authority told me that it was going to ask tenants whether they wanted new bathrooms, kitchens and so on, and if they said ‘no’, they would not get them. That might please the tenant, but the property would not meet WHQS. Which should be the priority?

[126] **Mr Clarke:** There are various reasons why there are disregards in relation to the WHQS delivery: whether the tenant wants it done, or whether they feel that it is inappropriate at that particular time. That choice should remain with the tenant, I think. Is that what you—

[127] **Mark Isherwood:** I am afraid that we would have to redefine WHQS to allow that, because it is based on the standards in the property, and that would suggest that a number of properties would not reach the standard, although they might be tenant friendly.

[128] **Mr Clarke:** Yes. Some tenants have not agreed to WHQS programmes for various reasons. When the tenant moves on, there is an opportunity, during that void period, for the landlord to bring the property up to WHQS. You must accept that tenants have the right to refuse access to the property if they do not want those disruptions, for whatever reason. We need to be careful about how that is being monitored and the reasons behind that—whether it is related to personal issues or as a result of their having seen things happening elsewhere, and that they do not want that disruption to their properties. So I think that we need to monitor it very carefully.

[129] **Christine Chapman:** Do Members have any other questions before we finish on Mr Clarke’s views on the Bill? No. Thank you, Mr Clarke, for attending this morning. It has been a very useful session, and it has helped us as Members in our scrutiny. We will send you a transcript of the meeting, so that you can check it for factual accuracy. Thank you, once again, for attending.

[130] **Mr Clarke:** Thank you for the invitation.

10:11

**Bil Tai (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 8: Tai Pawb
Housing (Wales) Bill: Stage 1—Evidence Session 8: Tai Pawb**

[131] **Christine Chapman:** Could I ask you to introduce yourself for the record, please?

[132] **Ms Zalesinska:** My name is Alicja Zalesinska, director of Tai Pawb, which is an organisation that promotes equality in housing in Wales.

[133] **Christine Chapman:** Okay. A warm welcome to you, Alicja. You have sent us a paper in advance of this meeting, which Members will have read. I know that your evidence focused on three parts of the Bill, which are the most relevant ones to your organisation, namely Part 1, on the private rented sector, Part 2, on homelessness, and Part 3, on Gypsies and Travellers. I know that Members will have questions particularly on those issues, but they may ask you about other aspects as well. I will start off on some general areas. Can you elaborate on your concerns about the content of the equality impact assessments?

[134] **Ms Zalesinska:** The equality impact assessments have been published on the Welsh Government website, and we all know that the Welsh Government made a very specific commitment to carrying out the so-called EIAs, as opposed to the UK Government. It is also a specific duty under the Equality Act 2010. We do not think that there is sufficient data in

some—not all—of the EIAs on the possible impact of some of the changes, or the proposed sections of the Bill, on certain groups. Therefore, I think that the detail of the data is one of the issues. There are a couple of concerns, perhaps, around the understanding of the requirements of the Equality Act 2010, in terms of mitigating some impact, because some parts of the EIAs actually identify a potential negative impact on certain groups. I will mention, for example, the ex-prisoners' provisions, and the potential disproportionate impact on black and minority ethnic people, people with disabilities, those with mental health problems and so on. However, the role of the EIAs is to think of ways to mitigate the impact, or to justify it in some way, if it is considered as indirect discrimination, and the responses in the EIAs do not do that—they tend to say that the service will be equal for everyone. So, there are elements of the EIAs that are really good, but I think that some of them lack robustness, let us say.

[135] **Christine Chapman:** Some Members have specific questions on the particular areas that you have started to outline. I will bring Leighton Andrews in first.

[136] **Leighton Andrews:** From your perspective, are the Government's intentions on the face of the Bill clear?

[137] **Ms Zalesinska:** I am sorry, could you repeat that—I could not hear you very well.

[138] **Leighton Andrews:** From your perspective, are the Government's intentions on the face of the Bill clear?

[139] **Ms Zalesinska:** Yes, I think that they are. I suppose that one element, or issue, that we have noticed is that the White Paper made a very specific commitment to social justice and equality, and it was specifically referred to as being at the core of the White Paper. We did not see that much commitment in writing in, let us say, the explanatory memorandum, or in the 'Homes for Wales' bulletin that was issued later on. However, I think that, in general, we support a lot of the provisions of the Bill and we think that they are going to improve equality and human rights for a lot of groups in Wales.

10:15

[140] **Leighton Andrews:** What else would you have expected to see in the explanatory memorandum or elsewhere?

[141] **Ms Zalesinska:** What I am referring to is a specific written commitment to equality and social justice, so I am only referring to words basically. It was quite clearly stated in the White Paper, where reference was made to equality objectives of the Welsh Government and so on; we could not see that in the memorandum.

[142] **Leighton Andrews:** Are there any specific issues relating to black and minority ethnic people that you feel need to be further reflected in the Bill?

[143] **Ms Zalesinska:** In terms of the private rented sector provisions, again looking at the equality impact assessments, we think that the provisions and the proposals are going to be quite positive for a lot of groups. BME groups, in general, are over-represented in the private rented sector due to migration and poverty. A lot of people experience a so-called new migrant penalty. Sometimes, because they do not know much about their rights and their choices are limited, the evidence suggests that they tend to live in poorer quality accommodation. So, we think that introducing licensing and registration for private sector landlords will hopefully drive up the standards and quality of accommodation, as well as management of those premises in terms of tenancy rights and what tenants are entitled to.

[144] In terms of homelessness provisions, there are specific things that we mentioned in the evidence again—

[145] **Christine Chapman:** Can we come on to the part on homelessness later on? We will come on to that, Alicja, but we will just look at Part 1 for the moment.

[146] **Leighton Andrews:** Do you think that there are specific training needs for landlords or agents around equality issues? Do you think that the proposed code of practice will effectively address those issues?

[147] **Ms Zalesinska:** Training on the basics of the Equality Act 2010, especially the non-discrimination provisions for service providers, should be part of any sort of accreditation. There is a specific commitment from the Welsh Government to tackling hate crime and a new framework has been issued this year. We do not know that much about what happens in the private rented sector, but we know that a lot of hate crime happens around housing and around people's houses. That could be tackled in relation to anti-social behaviour provisions; hate crime comes under that as well. Mainly, it is non-discrimination. We referred to some anecdotal evidence from television programmes around letting agents discriminating against BME people when they were being asked to do so—the programme was working with 10 letting agents and they were specifically asked to not provide accommodation for black African people, I think. They did that, which was quite shocking. There is evidence from the Joseph Rowntree Foundation of this happening, although we do not really know the extent of it. There are a lot of good landlords out there, but training and a code of practice that specifically mentions what is legal and what is not and how you can support people would be great.

[148] **Christine Chapman:** I have a supplementary question from Peter, but I know that some other Members may want to come in.

[149] **Peter Black:** In terms of vulnerable tenants, Shelter has expressed concern about rent stopping orders and how they could put tenants in a particularly difficult situation. Do you think that there is a case, as part of the code of practice, for licensing officers and enforcement officers to be aware of the vulnerability of tenants before they start using that particular mechanism and to take account of that as part of that process?

[150] **Ms Zalesinska:** Yes, I would say that. I am not sure whether—. It could have a negative effect, not only on vulnerable tenants, but on any tenants. It would put them in a particularly vulnerable position, whether they were vulnerable people or not. So, definitely, something like that would help. Perhaps non-eviction orders would be more appropriate in this case. There is some evidence that tenants could be put in a very vulnerable position by being asked not to pay rent. How do we know whether they are still paying or not? There is quite a lot of work involved in that. So, I would agree with that.

[151] **Peter Black:** It would be particularly acute when the tenant has protected characteristics.

[152] **Ms Zalesinska:** Yes, with some of the groups, definitely. For example, people with learning disabilities or mental health issues.

[153] **Christine Chapman:** Are there any other questions from Members? Mike, did you want to ask a question?

[154] **Mike Hedges:** You speak very favourably about Part 1 of the Bill, but what one addition would you make to it if you could?

[155] **Ms Zalesinska:** On the private rented sector provisions?

[156] **Mike Hedges:** Yes.

[157] **Ms Zalesinska:** I am not sure that I would add anything. However, I think that the things that I have already mentioned to be included in the code of practice and training are quite important. I am not sure whether this is a provision or a policy matter, but it is important to consider the role of the private rented sector in providing accessible accommodation for disabled people and older people with accessibility needs. At the moment, disabled people are overrepresented in the social housing sector and their choices are very limited in private rented accommodation. I think that the registration and the new relationship, perhaps, between private sector landlords and local authorities could mean that we could explore, let us say, disabled groups or accessible housing in the private sector as new markets in the private sector. So, I would suggest something along those lines.

[158] **Christine Chapman:** Mike has asked you whether you would like to see any additions made to Part 1 of the Bill, but do you have any further concerns about Part 1 that you would like to flag up with us, before we move on to Part 2 on homelessness?

[159] **Ms Zalesinska:** Not really. I suppose that it is important to link the accreditation and licensing to the discharge of the homelessness duty, and we think that it is going to. I know that other organisations have said that as well. That will make it easier and provide more choice for people who are potentially vulnerable, and hopefully drive up standards. However, I do not think that there are any other concerns.

[160] **Christine Chapman:** We will move on to Part 2 on homelessness, and I think that Gwyn has some questions to start off with.

[161] **Gwyn R. Price:** Yes, good morning. What are your views on the general principles of Part 2 of the Bill? You welcomed the proposals in Part 2, but you go on to say that, perhaps, in terms of the original proposals in the White Paper, some things have been left out.

[162] **Ms Zalesinska:** Yes. Thank you for the question. The proposals, we all know, were a bit more far-reaching in the White Paper. If we had stayed with those proposals, perhaps it would be more difficult to make them into a reality, but in time, with an incremental change, they would, again, provide for greater equality of opportunity for different groups and greater protection of human rights as well. So, we are talking about the intentionality, for example, in terms of families. We welcome that there is some provision around not considering intentionality in terms of families that have been found intentionally homeless in the last five years. We think that that is positive. We should, perhaps, be thinking about a plan for the future—what is going to happen after that and whether we are going to have enough support structures in place to widen that to other groups and, perhaps, get rid of intentionality altogether in the future. That is one thing. Obviously, the safe place to stay provision was reduced. However, we welcome the fact that there is greater protection and greater support in terms of prevention, and support for groups before they actually become homeless. That is particularly welcome for groups like asylum seekers and refugees who have just got their refugee status, and other groups as well.

[163] **Gwyn R. Price:** Thank you for that. Could you go on to your views on the drafting of section 55 relating to priority need groups and the omission of any specific mention of mental health in that section?

[164] **Ms Zalesinska:** I know that the Minister provided further information and clarification on that, but I still think that that needs to be mentioned because it would provide for greater clarity and greater consistency for homelessness practitioners in local authorities.

As we know, those provisions are not always applied in the same way, and it is sometimes very difficult to assess someone, especially when they have complex, or less complex, disabilities, when medical evidence is needed and so on. I know that mental health can be included as a special reason, but one of the concerns, I suppose, is that we are perhaps not ready to skip using the words ‘mental health’ in legislation, or to get rid of them completely, because society—employers and the people around us, really—still have problems with considering mental health issues as illnesses. So, perhaps specific mention would make it easier for people to apply it consistently.

[165] **Christine Chapman:** Jocelyn, did you want to come in on this point?

[166] **Jocelyn Davies:** Yes, on this specific point. This is something that we have asked other witnesses: would you welcome the accreditation of practitioners who actually deal with people with housing issues? That is, those who are working within local authorities. Would you welcome special training for them in relation to equality issues and implementing the Bill? I guess that, for you, one of the issues is the inconsistency across a number of local authorities.

[167] **Ms Zalesinska:** Definitely, yes. I am not sure whether it can be implemented when the Bill is implemented or not, but in time, it would be very welcome. The equality issues for specific groups would be a priority in that, because they do sometimes require very specialist knowledge. Increasing that knowledge among homelessness practitioners and also the links with organisations that provide support could be part of that training as well—for example, knowing where to look for those links, knowing who to speak to and knowing what you need to look out for. We know that, within the housing options teams, for example, people who deal with accessible housing applications are considered to be specialists, and they need specialist knowledge. We have done a lot of work around that. People think, ‘I’ll learn things about disability and I’ll know what to do’, but quite specialist knowledge is required, and sometimes very close links with occupational therapists and so on. In terms of prevention of homelessness, there is a parallel there—for various groups, really.

[168] **Christine Chapman:** I will go back to Gwyn who has some other questions.

[169] **Gwyn R. Price:** Could you elaborate on your concerns about the change to the priority need status of prisoners and on your specific concerns about how the proposed changes will affect women and older prisoners?

[170] **Ms Zalesinska:** I found the research, when I actually looked at it, interesting—probably not shocking, but interesting—for example that older prisoners are the fastest-growing group of prisoners, having trebled in the last 20 years in the UK. We do not have Wales data. There are specific resettlement programmes for that group of prisoners, so, obviously, there are specific issues linked to vulnerability and the accessibility of accommodation. In terms of women, the very fact that there is no women’s prison in Wales means that relocation is difficult for women. There are additional concerns in relation to families and children, and perhaps additional vulnerability as a result of that. I know that the Welsh Government is working with stakeholder groups as well to address that specific issue, and we welcome that.

10:30

[171] **Christine Chapman:** Peter, you have a supplementary question.

[172] **Peter Black:** Yes. In relation to ex-prisoners, some concern has been expressed by previous witnesses about the definition of ‘vulnerability’, specifically in relation to ex-prisoners. I know that the Minister has issued a fairly technical legal note on this, but in terms

of housing practitioners implementing the Bill, do you believe that it is clear enough on the face of the Bill how they would determine whether a prisoner is vulnerable or not, or whether they would believe that it says that all prisoners are vulnerable?

[173] **Ms Zalesinska:** I am not sure whether the Bill can be clear enough here. As we know, we often depend on precedents and case law to determine what constitutes vulnerability. However, at the moment, as it stands, it is as clear as it can be. There is a role here for the code of practice, really, or guidance.

[174] **Peter Black:** I am not trying to get down to what the definition of vulnerability is, but the Bill says

[175] ‘a person ... who is vulnerable as a result of ... having served a custodial sentence’.

[176] So, the implication is that, if you have served a custodial sentence, you are vulnerable. However, the Minister says that that is not the case.

[177] **Jocelyn Davies:** No, I do not believe that that is the case.

[178] **Peter Black:** Is it clear enough on the face of the Bill?

[179] **Jocelyn Davies:** We are having a disagreement now, you see.

[180] **Ms Zalesinska:** We could argue about the question of whether someone is vulnerable anyway as a result of serving a custodial sentence and they are homeless. That was probably why that priority need was introduced in the beginning, and there was research to support it. We could not find research to support the other view or to support the proposal that priority need does not contribute to reoffending. We could find nothing to support that point. It would be very difficult to prove what constitutes ‘as a result of’. Probably, you would have to depend on case law in a lot of cases.

[181] **Peter Black:** Is there any case law arising from this Bill?

[182] **Ms Zalesinska:** Yes, probably.

[183] **Christine Chapman:** I know that Mark wants to come in, as does Jocelyn.

[184] **Jocelyn Davies:** My point has been covered by Peter’s question. It is just the wording ‘as a result of’ and that it is because of being in prison that you have this vulnerability. That is what it says to me.

[185] **Mark Isherwood:** I have a question about complex needs—ex-offenders linked to substance misuse, addiction, mental health issues, learning difficulties, and so on. Is that need not better met through supported housing, rather than simply moving someone into general social housing? Should this not better address that need, if we are talking about complex vulnerabilities? Also, how should this address the fact that many local authorities, in Wales and between Wales and England, have reciprocal schemes in order to resettle ex-offenders away from the peers and pressure groups that have led to their offending habits in the first place?

[186] **Ms Zalesinska:** Specific schemes are an idea; I do not believe that they should be the only result for those groups, because it could lead to the ghettoization of groups and, perhaps, a lack of integration into wider society. There are other housing support schemes that could support ex-prisoners. We all know that, in practice, it is very difficult. There are landlords who are not very willing to accept ex-prisoners, for example. We know that they are

overrepresented in social housing. Specific schemes could be a part of the solution, but not all of it. Does that answer your question?

[187] **Mark Isherwood:** Yes, to an extent. This committee, in its previous forms, has debated at length in various inquiries different levels of need. So, intermediate need, emergency need and supported housing need, whether that is in a mainstream combination with additional support provided. However, simply taking somebody with problems from one environment and putting them into another is not going to address anybody's problems. I wonder whether we need to address that here.

[188] The second point was about the reciprocal relationships that exist between a number of local authorities, where people are being swapped, to their mutual benefit, so that people are resettling away from the places where their original offending behaviour began in order to get them away from their peers and other pressures.

[189] **Ms Zalesinska:** I am afraid that I probably do not know enough about the second part of your question, but in relation to the first part, anything that would increase support and make it more targeted for specific groups would be welcome, purely because we are getting rid of a provision that is a safety net for those groups. So, we need to make up for it, in a way.

[190] **Christine Chapman:** I need to move on now. Jenny, did you have some questions?

[191] **Jenny Rathbone:** Looking at section 51 and the duty to help somebody to secure accommodation if they are at risk of becoming homeless, demand far outstrips supply for local authority or housing association housing. What do you think could be different in that context about this section to satisfy your anxieties over particular people with protected characteristics?

[192] **Ms Zalesinska:** We covered part of that when discussing the training, and perhaps some form of accreditation, professional training for the sector and better links with support organisations. For groups with communication issues, we need to make sure that the information or advice provided is accessible, that the language line is being used despite budgetary cuts and that there is not over-reliance on children for people who perhaps do not have sufficient command of English, so that they are not being used to deal with complex problems. There were specific questions in relation to local connection as well here. We quite often get asked for advice on that, namely whether it is legal and compliant with the Equality Act 2010. We understand that, in some rural communities or where demand outstrips supply, it needs to be used to a certain extent. We would just urge local authorities not to make it too restrictive and to have flexibility for people who might be vulnerable, such as, for example—

[193] **Jenny Rathbone:** The greater the demand, the more restrictions there need to be. Where local authorities have an obligation to help to secure accommodation for vulnerable and protected groups, would you want a higher standard to be clear in the type of accommodation offered? It says in section 53 that the authority has to be satisfied that it is suitable for the applicant; if they are in a wheelchair, it has to be accessible.

[194] **Ms Zalesinska:** Absolutely, and it needs to be made clear that certain standards are required. Some local authorities discharge the duty to the private rented sector to a certain extent, and they often have links and lists of landlords who provide a good standard and good quality of accommodation. A specific mention of protected groups would be welcome, because it requires certain specialism as well. Standards that might be different than for—

[195] **Jenny Rathbone:** You do not think that that is captured in the words

[196] 'the authority is satisfied is suitable for the applicant'?

[197] **Ms Zalesinska:** It does not expressly capture it at the moment. It falls under the provisions of the Equality Act 2010, so perhaps, in any code of guidance, it should be expressly stated. I am not sure whether it should be in the legislation.

[198] **Jenny Rathbone:** Thank you for those comments.

[199] **Jocelyn Davies:** Would you be surprised if some local authorities, under the help to secure, just gave people a list of private sector landlords registered within their local authority area, and said 'Here's a list of people that you can ring', although they might not even have a phone? Would you be surprised if some authorities did that?

[200] **Ms Zalesinska:** I probably would not be surprised—

[201] **Jocelyn Davies:** You would be disappointed.

[202] **Ms Zalesinska:** I would be disappointed. I know that the Welsh Government is working closely with stakeholders to define or to provide examples of what 'help to secure' might mean. We would expect that people would abide by those standards, rather than just giving a list of properties. It certainly is not sufficient for anyone who is vulnerable anyway, because they are homeless, not to mention specific groups that might be even more affected in this situation. We would support those provisions being strongly expressed.

[203] **Christine Chapman:** Rhodri, did you have a question?

[204] **Rhodri Glyn Thomas:** O ran y categori digartrefedd bwriadol, yn eich tystiolaeth ysgrifenedig ac yn eich tystiolaeth lafar y bore yma, rydych wedi dweud eich bod, yn gyffredinol, yn croesawu'r cynigion, ond bod gennych rai pryderon. Os deallais yn iawn yn gynharach, roeddech yn awgrymu mai'r unig ateb mewn gwirionedd yw cael gwared ar y categori hwn yn gyfan gwbl o ran digartrefedd, neu efallai fy mod wedi camddeall beth a ddywedoch. Beth yn union yw eich pryderon am y cynigion hyn? Beth yn ychwanegol ydych chi'n credu y gellid ei wneud?

Rhodri Glyn Thomas: In terms of the intentional homelessness category, in your written evidence and in your oral evidence this morning, you have said that, in general, you welcome the proposals, but that you do have some concerns. If I understood you correctly earlier on, you suggested that the only answer, really, is to get rid of this category entirely in terms of homelessness, or perhaps I might have misunderstood what you said. What are your concerns about these proposals? What additional steps could be taken, do you think?

[205] **Ms Zalesinska:** I think that there is evidence of great inconsistency in how it is applied. Sometimes, local authorities go above and beyond what is required of them; sometimes, they do not meet the basic standards and definition of intentionality. In terms of what I mentioned before, I think that it would be great if we could get rid of it altogether now, but if we are not to do so—the Bill proposes that we do not—perhaps it should be made clear that we are thinking about it and gave a specific timescale to get rid of it altogether in the future. If there is going to be a major shift in how local authorities work, prevention of homelessness is going to be greater and fewer people are going to be made homeless, then perhaps intentionality is not the first and the most important thing to look at. If we have the appropriate support in place for people—families, for example, in the beginning—then why look at people who are only going to be shifted to another place?

[206] **Christine Chapman:** The final section that I know that Members wanted to ask about was Part 3, Gypsies and Travellers. Mark, did you have questions on that?

[207] **Mark Isherwood:** This is just a general question. What need do you believe exists for further legislative changes to address the lack of sites—both fixed and transit—for Gypsies and Travellers?

[208] **Ms Zalesinska:** Do you mean ‘further’ as in outside of what is proposed in this Bill?

[209] **Mark Isherwood:** I am not clear on that actually; further to what we have now, I think.

[210] **Ms Zalesinska:** Right, there is a need, because there is evidence that we have not really addressed it. There are people who are homeless. Two thirds of Gypsies and Travellers live in settled accommodation and a large number of those communities would prefer to live on sites. There are local authorities where there is good practice around the provision of sites, but there are areas—we know about those—where people do not really have anywhere to live and they resort to unauthorised encampments. There is a great need for it, I think. Perhaps we need to make stronger the provisions around enforcement of the new duty. We all know about the political aspects of the public engagement parts of proposed sites. We need stronger political leadership, I think, but also quite clear leadership. I would be for financial penalties for local authorities that identify the need but do not provide the site, for whatever reason. I think that it would help.

10:45

[211] **Mark Isherwood:** Gypsies and Travellers comprise many different and separate communities and travel over many different areas and different border areas. Concerns have been raised with me by Gypsies and Travellers locally in my area that local authorities are already producing figures for current supply, which certainly do not reflect their own experiences. So, to what extent should there be a specific duty on the face of the Bill for local authorities to consult Gypsy and Traveller communities, and by ‘consult’ I do not mean after they have designed the strategy or assessed the need but beforehand, so that they are then going out to design a strategy and assess the need, working with the communities themselves?

[212] **Ms Zalesinska:** I am not sure whether we mentioned that in our evidence, but I would absolutely agree with that proposal. I think that it is crucial. Public engagement so far has tended to focus on engaging with, I would say, the majority population, and engagement periods have been very prolonged, sometimes supported by unfortunate political campaigning. I think that there is a bit of an imbalance with regard to who is actually engaged in the process. I think that there is a specific need to engage with Gypsies and Travellers. Under the Equality Act 2010, that is covered to a certain extent, but I think that it needs to be expressly stated, and it needs to be a duty; I would agree with that.

[213] **Mark Isherwood:** We need to clarify what ‘engagement’ means. It should not be that people with little direct experience of the communities affected have made the decision.

[214] **Ms Zalesinska:** It needs to be meaningful and people need to be trained in how to engage. Appropriate organisations need to be used; and, yes, consultation after the fact is not very helpful. We know from anecdotal evidence that some of the Gypsy and Traveller families providing evidence or being interviewed as part of public consultation felt that they were being treated like a group that is not welcome in the local community. Sometimes, I would say that the way that the engagement was structured, due to political campaigning, looked like racial harassment to me. It definitely should not be like that in modern society, so we would welcome an express statement of engagement. Also, there should be quite clear provisions in terms of what is suitable accommodation for Gypsies and Travellers and an understanding of why some of those groups need specific accommodation and of the fact that they do not have to live in bricks and mortar. Private sites or unauthorised encampments

should never be treated as proof that there is enough accommodation in a given area. I know that that has happened in one or two areas. So clear standards on how to conduct those needs assessments are needed.

[215] **Mark Isherwood:** That last comment is highly topical at the moment. In terms of regional co-operation, I know that you believe that that should be addressed on the face of the Bill. That reflects, perhaps, the findings of the Niner report a few years ago. However, for the benefit of the committee, could you explain why you believe that that needs to be on the face of the Bill?

[216] **Ms Zalesinska:** We know that some families travel and that transit sites are needed. Some prefer to travel throughout the year and some travel within given periods in the year, and transit sites are needed. People come up from England for festivals and so on and to visit families. So, transit sites are definitely needed. You need to speak to each other. I think that we need to be careful so that it does not lead to blaming the other authority for non-provision of a permanent site. The need for transit sites and permanent sites should be assessed differently and that needs to be understood by the people who carry out those assessments.

[217] **Mark Isherwood:** It should be a cross-county and across UK national borders.

[218] **Ms Zalesinska:** So, there should be regional co-operation, yes, but without trying to shift the responsibility onto another local authority and without treating transit sites as, let us say, suitable accommodation for those who want to live in an area permanently or throughout the majority of the year.

[219] **Mark Isherwood:** A perfect model for collaboration.

[220] **Ms Zalesinska:** Yes.

[221] **Mark Isherwood:** Finally, given the reference to community opposition, how could we better engage local communities in advance, rather than for red flags to be triggered when they hear things that are, perhaps, controversial?

[222] **Ms Zalesinska:** We know that, sometimes, it was not really led by your lay community people; some of these campaigns were started or fuelled by local councillors, unfortunately, and I think that that, perhaps, needs to be addressed. We had a wonderful initiative some years ago before local elections where parties were asked by the commission for racial equality to make a pledge not to use gypsies and travellers as an election issue, and I think that that helped. We know that this is the only issue on the basis of which some councillors were elected. So, that is quite important, and the media—

[223] **Christine Chapman:** Going back to opportunities in the Bill, would you see that, potentially, as an idea for guidance—the issue that Mark has raised with you?

[224] **Ms Zalesinska:** Practical examples of guidance and examples of how these issues are tackled across the border would be helpful. There are specific organisations, such as ours, that provide sites in England. So, learning from each other would be good. I know that the Welsh Government is working on the guidance, but practical examples of how it could be done would be helpful.

[225] **Christine Chapman:** Okay, thank you. Members, do you have any other questions for Alicja from Tai Pawb? Is there anything else that you want to ask? I see that there is not. Alicja, is there anything else that you wanted to raise in terms of the Bill that we have not covered?

[226] **Ms Zalesinska:** I think that most of the issues that we wanted to raise have been covered. So, thank you very much for this opportunity.

[227] **Christine Chapman:** Thank you for attending. We will send you the transcript of the meeting so that you can check it for factual accuracy.

[228] The committee will break now until 11.05 a.m., and then we will take evidence from the next witnesses.

*Gohiriwyd y cyfarfod rhwng 10:52 a 11:07.
The meeting adjourned between 10:52 and 11:07.*

**Bil Tai (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 9: Academyddion
Housing (Wales) Bill: Stage 1—Evidence Session 9: Academics**

[229] **Christine Chapman:** I now reconvene the committee. We are now on evidence session 9 and we have a panel of academics. I invite you all to introduce yourselves for the record.

[230] **Dr Hoffman:** I am Simon Hoffman, and I am from Swansea University.

[231] **Ms Hiscocks:** I am Vicky Hiscocks, and I am from Cardiff Metropolitan University.

[232] **Dr Smith:** I am Bob Smith, and I am from Cardiff University.

[233] **Christine Chapman:** A warm welcome to you all. I know that you have sent evidence in advance, and that the Members will have read it. If you are happy, we will go straight into questions.

[234] As you know, the housing Bill is in eight Parts. We want to talk about each section in turn. I will start off with Part 1, which deals with the private rented sector. I read your evidence, but could you outline the potential challenges that the scheme could face and state whether the Bill addresses these issues adequately? Who would like to start?

[235] **Dr Smith:** Shall I kick off? My view is broadly supportive of what the Bill is seeking to do in terms of raising standards in the private rented sector. Clearly, the sector is growing in importance and is expanding in terms of the range of people whose needs it is seeking to cater for. Clearly, some of the challenges are around the dynamism of the sector. Some of the investors and landlords may not be long-term investors; likewise, many of the tenants may not stay in the sector for long periods of time. Clearly, there are issues in terms of the relationship between the private rented sector and the housing market generally, and the impact that an upturn in the housing market might have upon private renting. So, one has to see it in that context, to some extent.

[236] In terms of the key challenges, I suppose that there are issues around the resources and the capacity to roll out a programme of registration and licensing. That is going to be an ongoing and gradual process. There are clearly issues around enforcement and making sure that the legislation has teeth and is implemented. I guess that many academics have made a career of looking at issues of policy implementation failure rather than the intentions in an Act. So, there are some issues around the way that it is implemented. I think that the other key challenge if Wales is to go down the route of having a mandatory system of registering private landlords, which I think is right, is making sure that there is an effective monitoring system in place fairly early on, at the outset, to allow progress to be monitored and reviewed, to look at where it is and is not working, and then to think about how it might need to be

changed over the five-year period.

[237] **Christine Chapman:** Do you have anything to add about the potential challenges, Victoria or Simon?

[238] **Ms Hiscocks:** I probably support most of what Bob said in terms of the fact that there is slight uncertainty on how the market will react to these changes. I think that we have stated in our evidence paper that the requirements on landlords, the fee structure and everything are not so onerous as to actually overtake the effect of the market on the willingness of private landlords to enter this sector. I see that risk as being fairly minimal.

[239] I suppose that the other challenge that we have picked up is the implementation, particularly whether you go for a big-bang approach or whether you need some sort of phased or incremental approach. So, rather than going for the big-bang approach, with its associated risks, going for a more phased introduction, allowing time for assessing impact, evaluating how the scheme works et cetera, might be a way of mitigating some concerns.

[240] **Christine Chapman:** Do you have anything to add, Simon?

[241] **Dr Hoffman:** No, I do not have anything to add to that.

[242] **Christine Chapman:** I would like to move on now to another section. Mike has some questions.

[243] **Mike Hedges:** Part of my question has just been answered, but I will ask the first part. Do you believe that the requirements for landlords and agents to pass a fit-and-proper-person test and undertake training prior to becoming licensed is appropriate, or do you think that they are hurdles that will cause problems? Also, do you think that that should apply to in-family renting, where people rent to daughters, sons, brothers, sisters, grandparents or parents—those sorts of linear family relationships, where siblings are thrown in to this?

[244] **Ms Hiscocks:** My view is that the fit-and-proper-person test and training certainly is appropriate, and should be applied to all landlords. I do not think that it is necessarily any more of a hurdle than what already exists for landlords who are entering the sector. So, if you think about requirements for gas safety certificates and deposit protection schemes, you will find that there is a lot already out there that landlords have to conform to. I just see this as being another thing that they have to do, not something that will necessarily be insurmountable. So, I certainly think that the training and fit-and-proper-person test should apply to all landlords. I appreciate that there will be individual cases of existing family rentals, or other scenarios, and that this process might seem overly onerous to go through when renting to family members. However, I think that we have to design a system that applies to the majority. I do not think that you can start to put in exceptions based on individual cases and small numbers of situations. That is my view.

[245] **Dr Smith:** I very much support what Vicky has said. This has to be a comprehensive system in terms of being fair to all landlords and all tenants. I think that the training is appropriate. There are issues about having a system of regulating the private rented sector that is not too onerous, and I do not think that what is proposed is too onerous. Likewise, as Vicky says, there are a number of checks that are already carried out. I suppose that the other thing that I would be concerned about is that the fit-and-proper-person test is not just a tick-box exercise. If there is evidence from different sources of landlords who have, perhaps, been discriminatory, for example, in the way that they have dealt with tenants in the past, I would be concerned that that was picked up and that they were not automatically licensed.

[246] **Christine Chapman:** Have you finished that part of the question, Mike, because

Jocelyn wanted to come in on this as well?

[247] **Mike Hedges:** Yes.

[248] **Jocelyn Davies:** Going on from what Mike said, is it a danger that some families would move to a system where no rent was paid, where no rent was changing hands, and that someone just stayed under licence? Then, of course, that person has virtually no rights at all. Could we end up in a system where someone who would have had protection as a tenant ends up with nothing? They would have no protection and, under licence, could be told to leave the following week. There is a possible danger, but it might not apply to many people.

11:15

[249] **Dr Smith:** Yes, I guess so. I do not know, in terms of the rent Acts and whatever, what the difference is in terms of the security that licensees would have compared with tenants. I do not know, Simon, whether, as a lawyer, you are familiar with that.

[250] **Dr Hoffman:** No. It is not my area.

[251] **Jocelyn Davies:** Okay. All right.

[252] **Christine Chapman:** Do you want to come back in, Mike?

[253] **Mike Hedges:** Most of the other bits of questions that I was going to ask have been covered. However, the last bit is: there will be an awful lot of registration and training needing to take place when this comes in. Should the focus initially be on agents rather than on both landlords and agents?

[254] **Ms Hiscocks:** I would suggest that that would be a sensible approach to take. I would strongly argue that all landlords need to be registered and licensed at some point, but, based on what I said about an incremental approach, I think that starting with letting agents is very sensible. They are much more visible than landlords. It would allow time to kind of test the process, just to iron out some of those administrative or IT issues to get it up and running, if you like. I think that it would also be an easy way of tackling a large proportion of the sector in quite an easy and straightforward way.

[255] **Mike Hedges:** Thank you for that. I have read the Williams report; there should not be any IT problems. [*Laughter.*]

[256] **Christine Chapman:** Mark, you also had a question.

[257] **Mark Isherwood:** I did. Without a selective approach, why would a fit-and-proper-person test and one-day training address the issue? I am thinking, for example, of the mortgage market, where, from the 1990s, we did not just have the fit-and-proper-person test and one-day training, but we had three tiers of examinations and continuing professional development for everyone in the sector giving advice, or supervising people giving advice, and we still got toxic lending and the credit crunch because of a failure of regulatory action. So, why should ticking a couple of boxes, going on a course and smiling nicely ensure that we have dealt with the real problem?

[258] **Ms Hiscocks:** Well, my view is that, at the moment, we have nothing. There is nothing in place for landlords to be able to evidence any ability, knowledge or understanding of the sector. So, we have to start somewhere, and I think that this is a reasonable place to start, recognising that actually improving standards and conditions and addressing some of these issues is very much a long-term process. We are not going to bring every landlord up to

the standard that we might like to see immediately, but we certainly have to have something in place to try to move that agenda on, and I think that this is a sensible and reasonable way of starting to tackle that. Do you have anything to add, Bob?

[259] **Dr Smith:** I think that it does need to be linked to existing requirements, and, obviously, the requirements under the existing legislation such as on the housing, health-and-safety rating system. I think that it is a case of building something from the bottom up. I think that it is also about something that is seen as helpful to landlords and not just a duty upon them. So, I am thinking about training that will perhaps also help them in terms of how they might deal with disputes between landlord and tenant, or how they might deal with issues around anti-social behaviour in the private rented sector. There has to be some sort of quid pro quo, if you like, and benefits. I suppose that the other thing is the role that landlord organisations themselves might play in the delivery of that training, because there are a lot of demands upon landlords. I think that Vicky is right; probably many small landlords, in particular, may not be aware of the full range of demands that are placed upon them.

[260] **Mark Isherwood:** Is it not most likely that those who have the least problem in understanding requirements and acting morally and ethically will be the ones who are most likely to participate, and the ones that are highest risk will be the ones least likely to participate constructively?

[261] **Dr Smith:** I think that there is probably some truth in that. As I said, that is why I think that it does have to be a gradual process, thinking that you will get the good landlords and the good agents probably coming forward voluntarily first, but then it will be a case, I suppose, of identifying and taking action against those that do not register to make sure that they do follow the requirements of the legislation.

[262] **Mark Isherwood:** I will leave it there, as we are moving into the next set of questions there.

[263] **Christine Chapman:** Jocelyn, you have some questions.

[264] **Jocelyn Davies:** It is just a general question, really. We do not know what size the sector is, and many thousands of people in Wales rent a property without any problem at all. In fact, if they do not like it, they can move on; if the landlord does not like the tenant, they do not have to renew the tenancy. The free market actually works for the majority of those people, so why is the state interfering when there is a tiny problem in relation to the overall size of the sector?

[265] **Dr Smith:** Well, I am not certain that we know how big the problem is, to be honest. We do not know how big the sector is, which is one of the problems to begin with. So, in some senses, having this system, which I know the Minister has referred to as fairly light touch, is, in some senses, a way of building better information about landlords and tenants within the sector, who is out there and how it is changing.

[266] **Jocelyn Davies:** There have been references here on a number of occasions to it being a good start. It is light touch. I do not think that the little bit of training that has been mentioned and the tiny registration fee, actually, because, even if this is a hobby for you, it is not much that you would have to pay—. So, can we expect legislation following on from that that goes further than this? If it is light touch and it does not cost much, can we expect something then that goes further?

[267] **Ms Hiscocks:** I think that it depends on what policy you are trying to achieve, really. This scheme will certainly open the doors and expose the sector in a way that it has not been exposed before—certainly as academics, we have a vested interest in this, in that the

information and the statistics are not there; it is kind of a closed sector, really, in terms of what we know about it and how we can research it and get a real grip on what the problems are, what the experiences of people living in the sector are and how the market as a whole is functioning well in Wales. It may be that, further down the line, when the system has been operating for a period of time, we recognise that further changes might need to be made, and that is why it is really important that robust monitoring, evaluation and impact assessments are built into it. I think that the doors are open on that, really.

[268] **Dr Smith:** I think that, because the sector has grown rapidly in the last 10 years and is now catering for a much wider cross-section and a considerable number of vulnerable people, who might, in the past, have expected to have been housed in more secure social rented accommodation, and it has long been recognised that, despite there being lots of good landlords, the sector does have significant problems in terms of poor quality housing, poor management practices and some distrust of agents, it is entirely right and proper that Wales is looking to ensure that there is some level of regulation of this sector and then to see how that works in practice and to enforce the statute in terms of those who do not comply with the new laws.

[269] **Ms Hiscocks:** I think that Bob is right. The whole rationale for this scheme has been based on the fact that we have seen this shift in tenure in the country and the sector is increasingly picking up households that would never have lived there in the past: families with children and increasingly vulnerable households. We have to remember the rationale and where we have come from in terms of why we are even thinking about this scheme in the first place, in response to your point about why the state would intervene.

[270] **Christine Chapman:** Jocelyn, do you have any further questions?

[271] **Jocelyn Davies:** I have one or two questions. Do you want me to go on to the next set of questions?

[272] **Christine Chapman:** Yes.

[273] **Jocelyn Davies:** You talked about academics making a career of studying these matters—I can tell you that lawyers make careers from housing cases, or that is how it seems to me. Do you think that local authorities are going to have enough resources to carry out the enforcement action that is laid out here?

[274] **Dr Smith:** I think that it will be a challenge. I agree with the view that the administration of the scheme should be centralised in terms of getting a degree of consistency and making sure that we are collecting standard information across all the 22 authorities, if that is what it is, in light of the Williams commission report or whatever. However, in terms of the ability then of individual authorities to take the appropriate enforcement action, I think that there are going to be issues about resources. I think that I said earlier that, down the line, if the legislation is not seen to have teeth and enforcement action is not taken, there is a real danger that this will be seen as pointless legislation. I did pick up from *Inside Housing*—I think that it was last week or the week before—that the London borough of Newham, I think, is the first authority to introduce a mandatory scheme in England, bringing forward 120 prosecutions or something like that. It was headline news. So, I think that there will be issues about whether individual authorities will have the resources, but also, I suppose, about how they might work with other organisations—advice agencies, Shelter Cymru, or whatever—to make sure that they can take enforcement action.

[275] **Jocelyn Davies:** On the bit in the Bill on the rent stopping orders, do you think that that will cause difficulties for tenants, in that there may be considerable harassment or illegal evictions? We have had Shelter and the WLGA saying that there should perhaps be a

prohibition on courts granting evictions to any unlicensed landlord, so that you could not go to court to get an eviction order unless you were licensed, and at that point then, rather than asking the tenant to pay the rent.

[276] **Ms Hiscocks:** I read Shelter's evidence on that, and I have noticed that a few other people have supported that suggestion as well, about linking it to section 21 eviction notices. That seems to be a sensible proposal; I can see the rationale around the evictions and things. I would be interested in evidence from Scotland on the extent to which that has happened.

[277] **Jocelyn Davies:** I guess that you would all, as witnesses, agree with that broadly. On the issue of the code of practice, under section 28, do you think that more detail should be in the Bill about what is going to be included in the code? I know that it mentions standards relating to managing rental properties. Of course, something that we are concerned about is the standards of properties themselves. I noticed that you mentioned earlier on the health-and-safety rating, which is a pretty low standard—that is just the legal standard, is it not?

[278] **Dr Smith:** Yes, sure.

[279] **Jocelyn Davies:** You could not have a hazard like that in your own home, if you owned it, for instance. Therefore, do you think that maybe standards of accommodation should be included, and is there anything else that you would like to see on the face of the Bill that would relate to the code?

[280] **Dr Smith:** Personally, I would not expect to see more in relation to the code of practice on the face of the Bill, because I am firmly of the view that the code of practice needs to be developed in consultation with landlords, and, critically, with tenants. So, I think that it is something that will follow on from the Bill. I do think that the code of practice needs to look at the quality of property; okay, we are not talking about the private rented sector being brought up to the Welsh housing quality standard, but I think that we are talking about setting some standards in terms of a minimum quality of property, and not just gas and electricity safety checks.

[281] **Jocelyn Davies:** You will notice that a number of witnesses have mentioned that this is the beginning of something, and that it will, hopefully, raise standards in the private rented sector. However, it is always 'hopefully', and, in itself, it would not raise standards above the minimum legal limit in terms of the standard of the accommodation.

[282] **Dr Smith:** That is right.

[283] **Jocelyn Davies:** Okay.

[284] **Ms Hiscocks:** Just picking up on your point, we need to think about how we futureproof this Bill and ensure that we can respond to future challenges, essentially. So, I agree with Bob's point about not necessarily having more detail on the face of the Bill, but I think that we need to ensure that we have that flexibility to maybe address condition-of-property standards through a code of practice. That might mean putting a reference to that on the face of the Bill, or maybe something like that.

[285] **Christine Chapman:** I want to move on to Part 2 now, on homelessness. If there are any additional questions, perhaps we can pick those up at the end, if we have time, because we have a lot of ground to cover here. I think that Leighton has the first question on Part 2.

[286] **Leighton Andrews:** What is your view of what the Bill says about the strategic role of local authorities in relation to homelessness?

[287] **Christine Chapman:** I will take Simon to start with. Do you want to come in first on that, Simon?

[288] **Dr Hoffman:** Yes. If I may just start by speaking generally about the Bill itself, and Part 2, I generally welcome the preventative approach that is set out in the Bill. Of course, local authorities will now have a key strategic role in that, so I welcome the prioritising, if you like, of prevention, and the role that the homelessness strategy and local authorities will play in that. However, I have a number of concerns about the legislation, and, I suppose, about the way that the legislation goes about setting strategic priorities for local government. I do not think that the Bill is radical enough; it is a step forward, but it is certainly not a leap forward.

11:30

[289] It reflects, for understandable reasons in terms of legal drafting, the current structure of homelessness legislation and it maintains a duty-based system, which is a system of compliance and exclusion rather than one of inclusion and promoting rights. As I say in my evidence, I think that the Bill could have gone further forward in terms of setting strategic priorities for local government, including setting certain objectives that should be taken account of in terms of strategic planning and homelessness strategies. I have given evidence to this committee previously that I think that there is a real opportunity in Wales to take a different approach to how we do legislation in Wales. There is an example of that with the due regard duty that is currently in the Rights of Children and Young Persons (Wales) Measure 2011. My view is that we missed an opportunity, or an opportunity has potentially been missed with this Bill, to introduce an element of rights-based strategic thinking to the thinking of local authorities when it comes to homelessness, by failing to incorporate a clear prioritisation of local authority thinking around the prevention of homelessness and the need for suitable accommodation to be available. That, in fact, came across in the White Paper, but it is far less obvious in the Bill.

[290] **Leighton Andrews:** What does that mean in practice?

[291] **Dr Hoffman:** In practice, that would mean the insertion of a duty into the legislation, specifically into Part 2, for local authorities to have due regard to the need to prevent homelessness and the need for suitable accommodation and support to be available for people who are, or may become, homeless.

[292] **Leighton Andrews:** What do you think the impact is going to be?

[293] **Dr Hoffman:** Well, in the same way that there is an intended impact with the rights of children and young persons Measure to introduce a culture of thinking about preventing homelessness, how to provide for people's housing needs and how to provide support to people who may be homeless or threatened with homelessness, to introduce thinking about that as a priority for local government. So, it is about culture change in terms of impact.

[294] **Leighton Andrews:** Could we not achieve that culture change, say, through ensuring that those requirements were within the guidance governing the drafting of the authority's single integrated plan?

[295] **Dr Hoffman:** There are potentially several ways of achieving it. It is about whether you are successful, I suppose, or how successful you are. At the moment, within the homelessness strategy, they are required to think about certain objectives, which I have just mentioned, namely the need to prevent homelessness and the suitability of accommodation. However, those objectives are prioritised alongside a whole host of other priorities. My feeling is, and my view is, that the right to housing is fundamental. If we start with it at an

international level—the right to housing as we find it in the international covenant on economic, social and cultural rights—it is a fundamental human right. Therefore, I think that it should be elevated above other priorities and stronger strategic direction should be given in legislation. If you like, a stronger lead should be given by legislation to local government, by Ministers through legislation.

[296] **Leighton Andrews:** Should Ministers sign off on local authorities' homelessness strategies?

[297] **Dr Hoffman:** I have to say that I have thought about this, but my answer is that I am not sure. I am not sufficiently expert on local authority planning and the impact of consolidation, for example, of local authority planning within single plans or within strategic homelessness plans, and I am not sure what the relationship is between strategic planning and what Ministers think about when they sign off plans. It really depends, I suppose, on what the priorities of Ministers are when they sign those plans off. If the priorities are to achieve certain outcomes in terms of rights, there may be something to be gained by having Ministers sign off on strategic plans. However, my feeling is that if there is going to be strategic direction given, it should be given through legislation as opposed to Ministers questioning strategic direction when it comes to thinking about whether or not they should sign off strategic plans.

[298] **Leighton Andrews:** However, surely, Ministers have to assess often whether or not a local authority plan is actually fulfilling the objective in the legislation; that happens in other areas.

[299] **Dr Hoffman:** As I say, I am not sufficiently expert in how these things work to know whether or not the rights element would be sufficiently safeguarded by having Ministers sign off on local authority strategic plans. My feeling would be that it would be better to have clearer direction, if you like, around the corporate duty to have due regard to particular objectives when the planning takes place, rather than to think about that as an element of signing off a plan.

[300] **Christine Chapman:** Is there anything from Bob or Victoria?

[301] **Dr Smith:** I think that the only thing that I would add is that the legislative proposals reinforce the importance of the strategic role of local authorities in relation to homelessness and housing assessments generally. I think that they also emphasise that local authorities need to continue to work with housing associations and the private rented sector. Whether there is a sign-off or not by Ministers, I am not too sure, but there is, probably, a need for more of an overview of homelessness strategies and a sort of strategic approach within local government to homelessness, so that there are opportunities to identify positive practice that could be shared across the sector, because I suspect—I have not looked at this for a while—that there are some very good examples of local authority homelessness strategies in Wales, but there are some that are less good. I think that it is a case of trying to raise the strategic standard overall.

[302] **Peter Black:** Moving on to the duty to secure, and sections 58 and 59, do you agree that landlords used by local authorities to accommodate homeless households should have to meet higher standards than the minimum legal requirements—more than is currently set out?

[303] **Ms Hiscocks:** I think that it is really positive the way that the legislation broadens the range of options available to local authorities in discharging their homeless duties through the use of the private rented sector. We have to recognise that not all homeless people are necessarily vulnerable. For some, a standard six-month tenancy in the private rented sector will be perfectly adequate and sufficient to get them through that period of homelessness and

to resolve any other problems that they might be experiencing at that time.

[304] However, a proportion of people who will be going through that process will be particularly vulnerable and will have a range of other support needs that will need to be addressed. Some people will have more difficulty sustaining tenancies in the private rented sector. I think that there should be some additional regard given to the overall sustainability of that tenancy. Within that, I think that quality, security and affordability are probably the three things that you need to consider. I think that there is a role for social letting agencies, and those kinds of partnerships, in addressing that. So, I suppose that the short answer to your question is, probably, 'yes', and I think that security, affordability and quality probably make up some of the criteria that we need to be thinking about in terms of what those standards are.

[305] **Peter Black:** Specifically in relation to those more vulnerable tenants, would you think that the local authorities should be prevented from using the private rented sector for them, or would you expect to see a requirement on them to put in additional support for their needs? Would that need to be reflected on the face of the Bill or through guidance?

[306] **Ms Hiscocks:** I do not necessarily think that the use of the private rented sector should be prevented, because I think that that is a kind of blanket approach that then automatically excludes a whole range of options to meet those needs. I think that something around having regard to the sustainability of the tenancy that they are discharging into would be an appropriate caveat to what I have just discussed.

[307] **Peter Black:** Do you expect that to be done through guidance, rather than being on the face of the Bill?

[308] **Ms Hiscocks:** I am not sure about that, really. I think that you could have some reference to it on the face of the Bill and then unpick that, in terms of what that actually looks like, in guidance. I do not know whether anyone else has any views on that.

[309] **Dr Smith:** I think that it comes down to local authorities making careful use of private tenancies and judging individual cases according to particular circumstances, particularly around the vulnerability of tenants.

[310] **Peter Black:** Moving on to section 55 and the priority need groups, I am interested in what your views are generally on the way that section has been drafted.

[311] **Dr Hoffman:** I would adopt and support the evidence submitted by Pete Mackie from Cardiff University. It seems to me that what we need is a gradual move towards the abolition of the priority need categories in order to encourage local authorities to think more about prevention. Adopting a rights-based approach to this, I would be reluctant to accept a need for prioritisation in any event, because, by definition, someone who is homeless is a priority need for accommodation, but I can see the current need for the priority need categorisation.

[312] I think that there are problems with the terminology of 'vulnerability' within section 55. I have given some thought to whether that should be further clarified and, of course, this has been an ongoing debate for quite some time. It seems to me that if by 'clarified' we mean adding further examples, I would be reluctant to endorse that, because the tendency of lawyers, when you draw up a list, effectively, is to confine you to that list or something similar to the list, and that would encourage a less expansive view of vulnerability. It might be appropriate to indicate somewhere that 'vulnerability' might include circumstances when a person's health or wellbeing is at risk as a result of homelessness: a more general elaboration of 'vulnerability', rather than a narrowing of 'vulnerability'.

[313] **Peter Black:** The original plans in the White Paper were to provide temporary

accommodation for all households with nowhere safe to stay. Should that be reinstated in the Bill?

[314] **Dr Hoffman:** In my view, yes.

[315] **Dr Smith:** Like Simon, I have had the opportunity to talk to my colleague Pete Mackie. So, my views are probably, to some extent, coloured by that, but I certainly think that it should be reinstated.

[316] **Peter Black:** That would be part of the widening out of this—

[317] **Dr Smith:** Yes. My view of this Part of the Bill is that it is taking steps in the right direction, but I am concerned that the way that it is currently drafted might be a missed opportunity. There are questions about whether the Welsh Government and the National Assembly will come back to further legislate on homelessness within a relatively short period of time.

[318] **Jocelyn Davies:** There is no doubt that when the homelessness legislation came into force 30 years ago people thought, ‘This is a first step and we can move towards doing away with intentionality and priority needs’, and it is now 30 years on. Sometimes, legislation lasts for a very long time, even in institutions that are desperate to legislate. That was not really a question, but I never said that it was. [*Laughter.*]

[319] **Peter Black:** Clearly, the 1996 Act was based on that concept as well.

[320] Moving on to priority need status for prisoners, I am interested in you expanding on your views on that.

[321] **Dr Hoffman:** Taking an expansive view, offending behaviour is obviously a detriment to society, but, also, offending behaviour often has its roots in structural factors, such as social status, education, unemployment and homelessness. It seems to me that if we take an expansive view, as Pete Mackie said in his evidence, the long-term benefit to society in Wales is to make sure that homelessness is not an issue faced by prisoners on their release, because if it faced by prisoners on their release, it makes it more likely that they will re-offend, and that is a detriment to society. If we take an expansive view, we should not be thinking about removing the priority need status of prisoners.

11:45

[322] **Peter Black:** There is a study on behalf of Government looking at this particular issue, which identified accommodation as one factor in terms of whether ex-prisoners are likely to reoffend, but it also raised a number of other factors around support and early intervention. Do you think that the Bill needs to address those other issues if we are going to get to the root of this problem in terms of ex-offenders reoffending?

[323] **Dr Hoffman:** The simple answer is ‘yes’. I have not really given a great deal of thought as to how you might address it through the legislation. One issue that might be thought about is when preventative work starts with prisoners. At the moment, the Bill proposes, I think, 56 days. I do not see any reason as to why it should be 56 days, however, but whether it should be something that is disappplied in relation to prisoners is an issue that might be worth thinking about.

[324] **Peter Black:** In terms of the issue of how the Bill is phrased, for an ex-prisoner to be rehoused they would have to be classed as having a local connection and also classed as vulnerable. In terms of your knowledge of this particular area, what proportion of ex-

prisoners would you expect to be caught by that definition?

[325] **Dr Hoffman:** I am sorry, but I cannot help with that.

[326] **Dr Smith:** I would suspect that a high proportion would be considered to be vulnerable because of past problems of substance abuse, mental health issues or whatever. However, I am not aware of—

[327] **Peter Black:** Is there not a danger that that definition might be applied differently in different parts of Wales?

[328] **Dr Smith:** Yes.

[329] **Peter Black:** Finally, I think that Dr Hoffman has already mentioned the need to abolish that test for intentionality. I wonder whether you could expand on that. My view is that, in a sense, housing is a scarce resource, and the Bill is trying to allocate that scarce resource by applying various priority tests, particularly that one. How would abolishing the test for intentionality assist in that process other than by massively increasing the supply?

[330] **Dr Hoffman:** My starting point is that if the preventive elements of the Bill work, and that allied to the fact that local authorities can make considerable use of the private rented sector, those arguments about limiting access to a limited resource carry less weight than perhaps they did a few years ago. My starting point on intentionality is to think about what the obligation is on a government when it comes to housing. When I talk about government, I talk about the UK Government, the Welsh Government, and government in all its emanations, including local authorities. You might well imagine that I, as a human rights lawyer, start with the right to housing, which effectively comes from the right to an adequate standard of living in international law and includes the right to a roof over one's head. That is a fundamental human right. To provide that right is an obligation that is placed on government. I can understand that there is a need for an element of responsibility on the part of the individual, which is often inherent in many human rights, but the primary obligation to provide rests with government.

[331] My difficulty with the test of intentionality is that it is a crude method of discharging a governmental obligation at local authority level. In effect, it puts all of the risk and all of the burden onto the individual, whereas the primary obligation to provide accommodation and housing in international law and in human rights law in obligations that the UK Government, and, by default, the Welsh Government and local authorities, have signed up to, is on government. The intentionality provision shifts all of the risk onto the individual. Once triggered, that is it; it brings all obligations to an end, in effect, and it discharges a fundamental obligation on government too quickly. That is my primary objection. I also have an objection based upon the fact that it overlooks structural factors. It makes a crude relationship between cause and effect—you do something that leads to homelessness. Actions that lead to homelessness may be a result of poor decision making, lack of financial control, lack of capacity for self-control or a lack of awareness of risk. These are all capacities that we possess or do not possess to different degrees. My feeling about the intentionality test is that it provides too crude a relationship between cause and effect. It does not take into account structural factors.

[332] **Peter Black:** So, is the provision in the Bill that local authorities can disregard intentionality a step forward or just a sop, if you like, to that particular agenda?

[333] **Dr Hoffman:** I would adopt your wording—I think that 'a sop to that agenda' is probably correct. My view is that what you will end up with will be a degree of consistency because all 22 local authorities will choose not to disregard intentionality. If Ministers want to

go so far as to say that there is a category of persons that you can disregard intentionality in relation to, they should push that. They should say, 'We've made a decision; we're taking the lead on this; you will disregard intentionality in relation to that group'. That is my feeling. If there needs to be some element of discretion on the part of local authorities, my feeling is that the discretion should be with regard to being able to choose not to disregard intentionality and then being required to justify that. So, rather than the way it is at the moment, as is suggested in the Bill, where the Minister specifies a category and local authorities can choose to disregard this intentionality in relation to that category, the Minister should specify the category, take the lead, and local authorities must follow that lead unless they choose to actively not follow that lead and then they should have to justify that.

[334] **Peter Black:** They have effectively done that with families with children, have they not?

[335] **Dr Hoffman:** I am not sure. I do not know. I am not an expert in that area.

[336] **Christine Chapman:** I am going to move on now because we have a short time left. I am going to move on to Part 2 of the Bill and to Jenny.

[337] **Jenny Rathbone:** Both Victoria and Bob gave a cautious welcome to the proposals to ensure that local authorities have a statutory obligation to provide Gypsy and Traveller sites, but both of you seem hesitant as to whether it is actually going to make any difference. Are we actually going to see new Gypsy sites being provided, which have not been provided since 1997?

[338] **Dr Smith:** Well, I think the fact that there is a statutory duty increases the pressure on local authorities. I think it will be a case of local authorities having to work together in some places. Again, it is about collaborative approaches and, potentially, working with housing associations on the provision of appropriate sites as well. However, we appreciate that, in some areas, there is significant local opposition to the provision of sites for Travellers and Gypsies. Placing the obligation upon local authorities is a useful step, but a lot will then depend upon the actions that local authorities take to taking a strategic approach to meeting those needs. There is no doubt that there are needs out there, and there have been for a long while, which are not being met.

[339] **Jenny Rathbone:** We are not living in Hong Kong. Why is it not possible to make some progress? Do we need compulsory purchase orders? Do we need to fine some local authorities for not fulfilling their statutory duty once this becomes law? What do we need to do to ensure that there is progress on this? It should be a virtuous circle, because the previous witness told us that there are lots of Gypsies who are living in bricks and mortar and who would prefer to be living on Traveller sites but that there are not any available, so if those people moved to Traveller sites, it would obviously liberate some of the existing housing stock for other people.

[340] **Dr Smith:** Yes; I know that work has been done on this. Pat Niner did some work for the Welsh Government a while ago. Partly, it will be about using legislation to bear down on local government and their partners to deliver on this and not simply to let this drift.

[341] **Christine Chapman:** Are you able to address the point that Jenny is making about whether it will make a difference?

[342] **Dr Smith:** It will provide more of a lever to the Welsh Government to put pressure on local authorities, either individually or acting in partnership with others, to meet these needs where there are identifiable needs in local housing needs assessments, and clearly there are such needs.

[343] **Jenny Rathbone:** However, there is not a sufficient stick to make them do anything

[344] **Dr Smith:** Time will tell, I guess.

[345] **Jenny Rathbone:** No, we are looking at legislation and we want that legislation to be effective. The intention of the Bill is to ensure that there is a statutory duty to provide these sites, so what do we need to put into the Bill to make that happen? That is what I am exploring.

[346] **Ms Hiscocks:** We have to be realistic on this issue and acknowledge that the biggest barrier to the delivery of sites is public opposition to those sites. To a certain extent, you cannot legislate for that in terms of getting communities on board and supporting the delivery of sites in these areas. There is a limit to what legislation can do. The Bill will give some political cover to local authorities in that where, for example, local authority members might acknowledge the need for sites and recognise the evidence that sites are needed, but the electorate may be less convinced of that need, or less willing to support it, having statutory duties gives some political cover to local authority members. However, that is no replacement for working jointly with communities—both settled communities and Gypsy and Traveller communities. It has to be something that works for everybody, and when it comes to getting all parties on board with the delivery of new sites, I do not know the extent to which you can legislate for those views.

[347] **Jenny Rathbone:** Financial penalties could give some backbone to them.

[348] **Jocelyn Davies:** We have been told that, since devolution, not a single new site has been created, despite the fact that money has been made available from the Welsh Government for local authorities to do that. It seems that if you leave it to local authorities, even though they know that there is a need and you offer them money, that is not enough. Not a single new site since devolution—that is not a very good record, is it?

[349] **Dr Hoffman:** It seems to me that, where there is no legal obligation, it is much easier to give in to public pressure. Where there is a legal obligation, it provides a certain backbone and the issue has to be considered, at least, and the obligation has to be met. How you enforce that is a different matter.

[350] **Mike Hedges:** The courts often decide.

[351] **Dr Hoffman:** Yes.

[352] **Rhodri Glyn Thomas:** Wrth edrych ar ran 4, sy'n ymwneud yn bennaf ag awdurdodau lleol a safonau yn y fan honno, a ydych yn credu bod y rhan hon o'r Bil yn ddigon uchelgeisiol? A fydd yn cyflawni unrhyw beth mewn gwirionedd o ran gwella safonau? A yw'n mynd i'r afael â phroblemau sy'n ymwneud â rhenti a thaliadau?

Rhodri Glyn Thomas: As regards part 4, which mainly relates to local authorities and standards in that area, do you believe that this part of the Bill is sufficiently ambitious? Will it really achieve anything in terms of improving standards? Does it deal with problems relating to rents and charges?

[353] **Dr Smith:** As far as this part of the Bill is concerned, in the paper that I submitted I referred to two issues. One was the issue of the Welsh housing quality standard, which I think is critical, and I am very supportive of that being underpinned by a statutory requirement. If we have learned anything over the last 12 years since the standard was introduced, it is that having something that has a statutory background will put pressure on local authorities and

housing associations to ensure that the standard is met and sustained. There are also issues about the standard needing to be clarified, though I am not saying that that needs to be done in the Bill. As regards what the Bill has to say about rents and service charges, as I understand it, it is attempting to make clear a separation of rents and service charges for local authority tenants, and I think that that is entirely appropriate. It will be important that these are comparable with rents and service charges in the housing association sector, and it will also be important as to how the new rents policy for Welsh local authorities is introduced in April 2015, I think. I am still trying to get my head around the rents policy for housing associations coming in in April 2014. However, it is appropriate that there are standards established under the legislation.

12:00

[354] **Christine Chapman:** Does anybody else wish to speak?

[355] **Rhodri Glyn Thomas:** Mae gennyf un cwestiwn olaf ynglŷn â rôl y Cynulliad yn hyn o beth. A ydych chi'n meddwl y bydd yn briodol i ddarparu ar gyfer nodi safonau mewn rheoliadau, fel bod rôl *scrutiny* gan y Cynulliad, fel y digwyddodd gyda Mesur yr iaith Gymraeg?

Rhodri Glyn Thomas: I have one final question about the role of the Assembly in this regard. Do you think that it would be appropriate to provide for standards to be specified in regulations so that there is a scrutiny role for the Assembly, as happened with the Welsh language Measure?

[356] **Dr Smith:** [*Inaudible.*—we take to carry on. However, if I take WHQS as a case in point, I am not certain that I would expect to see the standards specified in the Bill. I am aware that the predecessor of this committee looked at the Welsh housing quality standard in the past, so there clearly is a role around scrutiny and accountability for the National Assembly for Wales. However, there is also a role for the regulator. Recently, colleagues and I have done some work on the housing regulator in relation to housing associations. It is entirely appropriate that the housing regulator and, indeed, the Wales Audit Office, are playing roles in relation to standards established and are making sure that they are adhered to.

[357] **Ms Hiscocks:** On the point about standards for social housing, generally, I support Bob's point about the requirement for statutory duties. There is recognition that, two years after the standards were meant to be achieved, there are still a number of local authorities that have not yet achieved it and a revised deadline of 2020 is being established. It is important that that is a non-negotiable standard.

[358] My other point about standards would be around not tying them into the WHQS as fixed standards, because I am not exactly sure about the extent to which regulations underpinning the Bill might do that. However, by the time we have reached 2020, when the WHQS will be met, that standard will be 20 years old, and we might be thinking about what else we need to be doing around social housing standards at that point. So, whatever we do around that, I think that keeping that flexibility to be able to amend—. I am not saying that it is about moving the goalposts, necessarily, at this point. However, if we are thinking about the length of time that legislation lasts, building that degree of flexibility in is quite important.

[359] **Christine Chapman:** Is there anything else? Simon, did you want to come in there?

[360] **Dr Hoffman:** Yes. I just wanted to mention one thing in relation to intentionality. I probably went on a bit about human rights, generally. However, in paragraphs 23 to 25 of my evidence, I talk about intentionality provisions in this regard in relation to children and families with children. To my mind, that does not go far enough and it is only partially compliant with children's rights. It is a poorly worded section and I think that it is poorly thought out. That is all that I would like to say.

[361] **Christine Chapman:** We will move on now to Part 5. Gwyn has a question on this.

[362] **Gwyn R. Price:** Yes, good afternoon—it is past 12.00 p.m. so it is all right to say that. [*Laughter.*] What are your views on the proposals that local authorities with housing stock should exit the housing revenue account subsidy system? Do you agree with that?

[363] **Ms Hiscocks:** Absolutely. It is an incredibly positive move for local authority financial arrangements in Wales. We are very aware that it is a position that successive housing Ministers have been moving towards achieving. It is really positive that we are finally in a position to exit the housing revenue accounts system. I understand that this Part of the Bill just provides the kind of legislative provision to enable us to do that, so I do not have any specific comments on that. I suppose the general point that I would make is that a lot of the detail around this is still being decided and the success and impact of exiting the HRAS will very much depend on the devil of that detail. There are probably lessons that we can learn from England, being a few years on from self-financing, so it would be interesting to see what we can learn from how experiences there have panned out. Hopefully, it will just lead to more certainty for local authorities in terms of their business planning, and certainly more transparency for tenants in the way that they receive services.

[364] **Dr Smith:** I would just reinforce that positive message. Vicky and I have had difficulty for many years in trying to explain the old system of local authority housing finance to students, so this has to be an improvement on that. For those 11 local authorities that still have council stock, it certainly is going to give them more freedom to achieve the WHQS by 2020 and achieve and sustain it beyond. I suppose that my only reservation would be about the balance that individual local authorities may have in terms of investing in their existing stock and investing in the provision of new, affordable housing. While there is clearly a need for new, affordable housing, I have some reservations about how that is best delivered and, I suppose, the capacity of local authorities to use the investment in collaboration with housing associations. Investment will be off the public sector balance sheet.

[365] **Christine Chapman:** Peter has a supplementary question.

[366] **Peter Black:** On what you were saying about the workings of the housing revenue account subsidy system, a lot of us would want to sign up to that. As I understand it, the system is effectively used by the Welsh Government to regulate rents in local authorities as well. Is there a need to replace that mechanism once that system is abolished, or are you happy with local authorities setting rents in accordance with their own policies?

[367] **Dr Smith:** My understanding is that a system of local authority rents will be introduced with effect from April 2015. I am not yet up to speed on what that is going to mean for individual local authorities and their ability then to support their business plan.

[368] **Peter Black:** I do not think that we have seen that detail either, so maybe we will ask the Minister about that next week.

[369] **Christine Chapman:** We will move on if you are happy. We are running very short of time, but we have two other areas that I want to cover this morning. First, we will turn to Part 6 on co-operative housing, and Mike wants to come in on this.

[370] **Mike Hedges:** Wales has not been very successful in developing co-operative housing compared with Canada and the Nordic countries. Do you think this Bill will help to generate more co-operative housing in Wales?

[371] **Ms Hiscocks:** If we think about what the common obstacles or barriers are to the

delivery of co-operative housing, we will know that this Bill aims to address some of those barriers in terms of the legal status of co-operatives and the ability to raise private finance. They are two quite specific issues that the Bill will deal with. So, yes, the Bill will help in that sense, but we have to acknowledge that there are other barriers and constraints on the development of co-operative housing—the main ones being the appetite and market demand for that type of housing, the financial support for that type of housing, and also the support in terms of the management and administration of those types of housing projects. I understand that there is a lot of work going on at the moment—working groups et cetera—and Government support to address the things that are outside the legislative requirements, such as the support that housing associations might be able to give to the management and administration of co-operatives, the finding of suitable land and other challenges. So, I suppose my response is that this bit of legislation has to go hand in hand with all that other stuff, if we are going to look at co-operatives as a realistic model of providing new housing.

[372] **Christine Chapman:** Are there any other comments from the panel? I see that there are not. We will move on to the final Part of the Bill that we want to cover today, which is Part 7 on empty homes. Mark, do you have a question on this?

[373] **Mark Isherwood:** What are your views on the proposal in the Bill regarding the discretionary power for local authorities to charge 150% of a property's council tax after it has been empty for 12 months? Is the trigger point of 12 months appropriate? I know that Cardiff Metropolitan University said that there may well be good reasons why a property has been empty for longer than a year; I think that England has a two-year limit rather than a one-year limit for that reason. Is the 150% figure appropriate, and is there a risk that a local authority, if it exercises that discretionary power, will go after everyone rather than take a proportionate approach, recognising the individual circumstances that are best worked with?

[374] **Ms Hiscocks:** A year is probably an appropriate figure. I say that with the caveat that this needs guidance underpinning it that might set out some of the circumstances under which it might be acceptable for properties to be empty for more than a year. In our evidence, we highlighted the example of an older person who may be in hospital or who has a long-term care arrangement but might hope, at some point, to return to their home. There might be certain circumstances that we would want to see as exceptions. That should be set out in guidance. However, a term of a year would kick-start that process and is probably appropriate.

[375] In terms of the 150% figure, again, that seems to be appropriate. I am aware that other witnesses have suggested more of a staircase approach, where there might be potential to increase that figure with time as properties become empty. That would be a sensible approach as well. I do not really have any more comments to make on that.

[376] **Christine Chapman:** Simon and Bob, do you have anything to add?

[377] **Dr Smith:** I would just like to add very briefly that the principle is right, which is that there should be an opportunity for a punitive levy, if you like, on long-term vacant properties, and 12 months is broadly what I would see as the start of a long-term vacancy. There are issues about how you define empty housing, as Vicky implied. The principle of local discretion is right as well. The only other point that I would add is that local authorities have a range of other powers in relation to empty housing and, at some point, there may be a case for reinforcing the availability of existing powers under other legislation. For example, empty dwelling management orders spring to mind. Again, it is all part of a strategy to make the best use of the existing stock and to discourage unnecessarily empty housing in the private sector as a contribution to meeting local needs. However, as I said, I believe that the principle is the right one.

[378] **Mark Isherwood:** Should the Bill better recognise that those local authorities that have been most successful in bringing empty properties back on to the market have been those that have worked deliberately with empty homes officers and have identified and worked with the owners to help them to tackle the problems, only using the big stick as a last resort?

[379] **Dr Smith:** I am not certain that it needs to be in the Bill, but I certainly think that this is one measure for tackling empty properties, but it does have to be seen in that broader context of the importance of a strategic approach to empty housing and working with the owners of empty houses. It comes back full circle to working with private owners and private landlords. So, all of that is, in some senses, related.

[380] **Mark Isherwood:** Should this also apply to second homes? If so, should that be proportionate according to circumstances—that is, that there are second homes and second homes, according to usage and means?

[381] **Dr Smith:** Personally, I am not sure about the issue of second homes. Again, it is partly an issue of definition and it is partly about the question of whether a second home, if it is used occasionally, is a long-term empty property. It is an issue that needs probably a lot more investigation before I would be committed to going down that route.

[382] **Ms Hiscocks:** There is probably a case for it applying to second homes. We know that the impact of second homes on certain communities in certain parts of Wales is incredibly significant in terms of the way in which they impact local housing markets. So, in particular localities that are seeing that kind of impact, there could be a case for doing that, but the onus should potentially be on local authorities to demonstrate the impact on the market and the acute housing need that is arising as a result of those second homes in a particular locality. It will not necessarily be local authority-wide, but in a specific area.

[383] **Christine Chapman:** Jocelyn, do you have a question?

[384] **Jocelyn Davies:** Should people who can afford two homes not make a bit more of a contribution to the taxes collected in their area to help those who do not have one home—never mind the impact on the community? Should the better off not—

[385] **Ms Hiscocks:** I suppose the only issue is where the money raised will go. I understand that it will not be ring-fenced.

[386] **Jocelyn Davies:** It cannot be ring-fenced, but it can be identified.

[387] **Ms Hiscocks:** That is very important; money raised by this should go towards meeting housing need.

[388] **Mark Isherwood:** Is the issue not that those with the deepest pockets will just shrug it off and pay it, but those who have put their life savings into it and have forgone foreign holidays, second cars and luxuries to pay for the second home will be the ones who are impacted the worst?

[389] **Jocelyn Davies:** That is their choice.

12:15

[390] **Christine Chapman:** We are running very short of time. Do you have any other responses, Simon or Victoria?

[391] **Dr Hoffman:** I defer to my colleagues on this issue, because they are the experts, but in terms of using regulation to achieve certain objectives, if you have a certain threat—such as a 150% levy—and a landlord or property owner decides that they can accept that, unless that threat is somehow ratcheted up, they will continue to accept that. If regulation is going to work, there has to be a carrot and a stick, yes, but the stick has to be effective. If that means ratcheting up the levy, well, that is what is required.

[392] **Ms Hiscocks:** Or you could use some other intervention measure, such as an empty dwelling management order or one of the other tools that is available. That financial penalty may never be enough to deter someone, in which case there is a suite of other measures that can be used.

[393] **Christine Chapman:** Do Members have any other very brief questions on any parts of the Bill that they may feel we have not covered?

[394] **Mark Isherwood:** Going back to the important issue, the WLGA told us that even when landlords register, they will not inspect the properties, unlike in Scotland, because of the resource issue. We know that a precedent in casework suggested that local authorities will not be able to use the receipts from regulation to take enforcement action against landlords who do not register. We had effective confirmation from the WLGA two weeks ago that there has been little use of enforcement powers that it has under the 2004 Act since they were enacted here. So, why is this Bill going to have any impact on enforcement?

[395] **Dr Smith:** I must admit that I am stumped by that question. I have not looked in detail at the evidence that the WLGA presented. I referred to the enforcement actions of the one London borough that has introduced this. It has to be something that we see over time. I still think that the principle of having the powers of enforcement is the right one.

[396] **Ms Hiscocks:** I suppose that there are two issues. The first thing is compliance with this scheme, namely forcing landlords to register and be licensed. Then there is enforcing compliance with the standards or against bad practice, such as a health-and-safety rating system or other failures in other legislation. They are linked, but they are two different things. I suppose that what the scheme does is to open the door to further investigation of those landlords who are not compliant and are not doing the stuff that they are supposed to do. It flags it as an issue that potentially allows local authorities to target resources in a more effective way.

[397] **Jocelyn Davies:** Most of the time it will not be a problem.

[398] **Christine Chapman:** Are there any other comments? Mike, are you okay with that? I see that you are. Before we finish, I want to give the panel a final opportunity if there is anything that they would like to add or if they have any concerns about the Bill that we would be interested in hearing or are important. Is there anything that we have missed?

[399] **Ms Hiscocks:** I do not think that there is anything from me.

[400] **Dr Hoffman:** I would re-emphasise what I intervened with earlier on about the Bill's provisions in relation to intentionality and households with children. I really do not think that it goes far enough on that.

[401] **Christine Chapman:** On that note, thank you very much. It has been a very comprehensive evidence session this morning. We will send you a transcript of the meeting so that you can check it for factual accuracy. Thank you very much.

12:19

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
Motion Under Standing Order 17.42 to Resolve to Exclude the Public

[402] **Christine Chapman:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42.

[403] I see that Members are in agreement.

[404] The next public meeting will be on 6 February when the committee will conclude its evidence taking on the Housing (Wales) Bill by taking evidence from the Minister for Housing and Regeneration.

Derbyniwyd y cynnig.
Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 12:19.
The public part of the meeting ended at 12:19.