



**Cynulliad Cenedlaethol Cymru  
The National Assembly for Wales**

**Y Pwyllgor ar y Gorchymyn Arfaethedig ynghylch  
Tai Fforddiadwy  
The Proposed Affordable Housing LCO Committee**

**Dydd Mawrth, 19 Chwefror 2008  
Tuesday, 19 February 2008**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,  
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.  
In addition, an English translation of Welsh speeches is included.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Alun Davies	Llafur Labour
Lesley Griffiths	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood (Chair)	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

**Eraill yn bresennol**  
**Others in attendance**

John Drysdale	Cyfarwyddwr, TPAS Cymru Director, TPAS Cymru
Amanda Oliver	Swyddog Gwybodaeth a Pholisi, TPAS Cymru Information and Policy Officer, TPAS Cymru

**Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol**  
**Assembly Parliamentary Service officials in attendance**

Ruth Hatton	Dirprwy Glerc Deputy Clerk
Gareth Williams	Clerc Clerk
Gwyn Griffiths	Cynghorydd Cyfreithiol Legal Adviser

*Dechreuodd y cyfarfod am 9.45 a.m.*  
*The meeting began at 9.45 a.m.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon**  
**Introduction, Apologies and Substitutions**

[1] **Leanne Wood:** I welcome Members and members of the public to the Proposed Affordable Housing LCO Committee. No apologies have been received to date. In the event of a fire alarm, everyone should leave the room by the marked fire exits and follow the instructions of ushers and staff. There is no test scheduled for today. All mobile phones, pagers and BlackBerrys should be switched off as they interfere with the broadcasting equipment. The National Assembly for Wales operates through the medium of both the Welsh and English languages, so headphones are provided through which instantaneous translation may be received. For anyone who is hard of hearing, these may also be used to amplify sound. Interpretation is available on channel 1 and the verbatim feed is available on channel 0. Please do not touch any of the buttons on the microphones as this can disable the system, and you should ensure that the red light appears before you speak. Now that I have read the rules, we can get on with the meeting.

9.46 a.m.

**Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol)**  
**(Rhif 5) 2008**  
**The National Assembly for Wales (Legislative Competence) (No. 5) Order 2008**

[2] **Leanne Wood:** The purpose of today's meeting is to take further oral evidence in connection with the Assembly Government's proposed legislative competence Order on affordable housing. I welcome John Drysdale and Amanda Oliver from the Tenant Participation Advisory Service Cymru to the meeting, and I ask you to introduce yourselves for the record.

[3] **Mr Drysdale:** I am John Drysdale, director of Tenant Participation Advisory Service Cymru.

[4] **Ms Oliver:** I am Amanda Oliver, information and policy officer for Tenant Participation Advisory Service Cymru.

[5] **Leanne Wood:** Thank you very much. Members have some questions that they would like to ask you, and the first question comes from Mark Isherwood.

[6] **Mark Isherwood:** Good morning. In your written evidence, you state that the introduction of the right to buy, coupled with inadequate replacement, has led to a significant decrease in the availability of new social housing for rent, and especially in Wales. To what extent do the powers proposed in this legislative competence Order will address the issue of affordable housing in Wales?

[7] **Mr Drysdale:** It will be very marginal, to be honest. The right to buy has obviously reduced the stock of social housing very considerably, but the current level of right-to-buy sales is much lower and the discount is much lower, so the effect of suspending the right to buy would be fairly marginal. I have seen the transcript of the discussion that you had with Professor Wilcox about his 50-year replacement idea.

[8] **Mark Isherwood:** In the view of TPAS Cymru, has the Assembly Government used the existing powers available to it, in terms of reducing the right-to-buy discount and putting restrictions on the right to buy and right to acquire in rural areas, to good effect?

[9] **Mr Drysdale:** I think that it has been the right direction to take in trying to restrict the right to buy in areas of pressure. Encouraging the use of section 106 agreements to generate development of affordable housing and a number of other measures are to be welcomed.

[10] **Peter Black:** If the Assembly gains legislative competence in this area and a Measure is passed which suspends the right-to-buy scheme in certain areas, some social housing tenants may no longer be able to exercise the right to buy in relation to their own home. In your opinion, is there evidence that existing social housing tenants support this?

[11] **Mr Drysdale:** It is not on tenants' radars very much. We had a conference last weekend, at which I took the opportunity to talk to a few tenants. The issue is not on the radar because this LCO is not generally out there. It is much less of an issue because the discounts are less and fewer people are applying under the right-to-buy scheme. Most of the tenants that we deal with are inevitably tenants who are relatively active and well informed, and they are fully aware of the damaging effect that the right to buy has had. So, many of those tenants would not be concerned about it, but, inevitably, some tenants will have an aspiration at some point to buy and they will feel that there is a kind of loss. So, there may be opposition from that direction.

9.50 a.m.

[12] **Peter Black:** But you are not aware of any existing opposition from individual tenants or tenants' groups to this LCO?

[13] **Mr Drysdale:** No.

[14] **Leanne Wood:** I will ask a further supplementary to that. Do you have any plans to inform your membership of proceedings here?

[15] **Mr Drysdale:** Yes, we do. Andrew and I were discussing yesterday our next tenant newsletter and including an article on promoting affordable housing for rent and the different things that we have been doing. We were thinking of mentioning this development and what was going on. We would generally keep our membership informed of developments like this.

[16] **Mark Isherwood:** As you inform your tenants of this and they become more aware, is there likely to be a rush of applications to beat the legislation?

[17] **Mr Drysdale:** Going on past experience, I am sure that there will be a mini rush, but the discounts are less and there are concerns currently about the sub-prime market and so on, and one of the questions that Amanda sent over to me in a note is on the fact that there is also the lenders' side of this. Are they going to be that keen to lend in this arena? There will probably be some small rise in the rate of applications.

[18] **Mark Isherwood:** I have been involved in this field for 20 years and my organisation and mainstream organisations never lent money for right to buy on a sub-prime basis.

[19] **Leanne Wood:** Do Members have any further questions on that point? I see that there are none. Therefore, I call Lesley Griffiths.

[20] **Lesley Griffiths:** You state in your paper that you believe that the powers that we are seeking are too narrowly defined to solve all the issues relating to having a supply of affordable social housing. How would you like to see the scope of the legislative competence Order widened?

[21] **Mr Drysdale:** It is very difficult, because of its technical, legal nature, to suggest that you should do x, y and z. I can deal with this better in broader policy terms—this measure would suspend the right to buy. Although it would have a marginal effect, when you are haemorrhaging, it is a good idea to stop the flow of blood at some point, so it would be worth while suspending the right to buy from that point of view. Clearly, the problems that you are trying to address with this LCO are too wide to be tackled by suspending the right to buy. You are talking about the fundamental problems of providing social housing: where you get the capital from in the first place, and how you retain that public subsidy in the system. There is a whole series of issues around that. It is facile to say, 'Let's put more public money in'. Having seen the transcripts of your previous meetings, one area worries me from a tenant perspective. Professor Wilcox's evidence, in particular, treated social housing as a generalised public asset, so that, for example, housing benefit considerations could be offset with housing revenue account considerations and so on, when there is a sense that, actually, tenants' rents have paid for these homes and they are a community and tenant asset that should not be put into the mix of general public funding.

[22] Following that line—and I know that the housing associations have been talking about increasing their debt-to-equity ratio in order to get funding to build more housing—perhaps council housing, viewed as a tenant and community asset, could also be viewed as a

potential source against which you could raise loans in order to do more in terms of building. That would obviously not be within the council framework, but Wales could perhaps consider arm's-length management organisations. Perhaps those would be more acceptable to councils, and you could then have a community asset against which to raise funding in order to do more.

[23] Issues such as section 106 agreements, building more housing, and increasing the social housing grant all need to be considered. At the moment, I do not feel that we have even a sense of the need for social housing, given that many people who would like a council house or a housing-association home do not bother to put their name on the waiting list as they know that they do not have a chance. That is coupled with the issue of the stigma attached to such housing, and its being seen as second-class provision, and so many people just do not want to go there. We need a sense of how much supply we need to generate, when we have been dealing with what is possible within legislation and the financial constraints, and we have been working at the margins, in a sense, without a vision of an end point of how much we need to supply. Sorry, that was a long and complicated answer.

[24] **Lesley Griffiths:** No, that is okay. Thank you very much.

[25] **Alun Davies:** It was an interesting answer actually, which made me think of other things that are not on our agenda this morning. To explore further the scope of this LCO, I accept what you say about the issues that you have already addressed, but if we could make one legislative change that would increase the flow of affordable housing to rent or to buy, what do you think it would be?

[26] **Mr Drysdale:** I guess that the most immediate change would be what housing associations are asking for, namely to be allowed to borrow more, because the assets and structures are in place and we know that they have the capability to deliver. From a tenant's and TPAS Cymru's point of view, our note of warning would be to remind you that these are the tenants' homes and not Monopoly homes; they will not be placed at greater risk because of borrowing, but will tenants be asked about what degree of risk they are comfortable with? So, although I would support it, I want a debate about what ratio that would move up to.

[27] **Alun Davies:** You have said in your written evidence that you would like to see the legislative competence for housing policy passed to Cardiff in its entirety, because the issues in Wales are different from those in England and Scotland. Can you substantiate those comments, please?

[28] **Mr Drysdale:** I doubt whether I can prove that point, but I can expand on it. A key issue in this area is that, while we have a two-tenure system—and let us ignore the private rental sector for now—whereby you can either own a home and accumulate huge financial equity benefits from it, or rent and accumulate no benefits, we will have a system that is flawed and will inevitably generate demand for people to own their own homes. That leads to labelling the social rental sector as being very much a second-class choice. It does not have to be that way, and I know that you have heard evidence on this as well. There needs to be a much more ramped possibility, whereby you can say, 'Well, I am not earning much now so I will rent for the time being, but I am capable enough to do my own repairs and so I do not need to pay for a repairs service, thank you very much, and so my rent will be that much less because I am taking on some of the responsibilities myself'. In five years' time, you may then say, 'I have had a promotion and I am earning more, and I would like to begin some element of equity accumulation'. Perhaps for an older person, the reality would be that they would like someone to take over the responsibility of managing their home, as they cannot carry the maintenance responsibilities and they are earning less, but perhaps they would pay a certain amount of rent to off-set the cost. It needs to be much more flexible, and that is the real key to this.

[29] In the evidence, we mentioned the problem of residualisation and increasing the concentration of more vulnerable people and people who are referred to as troublesome, whether fairly or not. Something needs to be done about the allocation system. I was one of the people who fought in the 1970s and 1980s for a needs and priority-based housing allocation system. What we have now, with an inadequate supply, is in direct conflict with the objectives of building sustainable communities, and something has got to give.

10.00 a.m.

[30] Interestingly, in my debates with partner organisations in Wales, I have found that even Shelter Cymru is willing to come to the table to discuss the question of allocation and priority need versus local connection. That is the other key element that would need to be tackled in a much wider package of Measures if the Assembly gained wide legal competence over the social housing framework.

[31] **Alun Davies:** One of your criticisms, if you like, of the Assembly Government's existing policy approach is that it is too focused on the right to buy as opposed to providing affordable housing. Do you think that the legislative competence Order, as currently drafted, will address your concerns and enable the Assembly Government to change the emphasis of its affordable housing policy?

[32] **Mr Drysdale:** Probably not, as they are somewhat different. Affordable housing is a term that is used for low-cost home ownership and social renting, and therein lies the problem. Everyone can say, 'Let us have more affordable housing', but I think that some people mean different things when making a commitment to that. I want to see them separated and the argument being made for social rental housing as a crucial requirement underpinning our society. The Victorians discovered that decent housing for all was necessary for a public health reason; we are discovering that decent housing for all is necessary from a healthy community perspective. Unless people are in decent homes and in a balanced community, you do not get healthy communities; instead, you get disruption, residualisation and a no-work culture building up in pockets. None of that will be addressed by what is a fairly limited Measure.

[33] **Peter Black:** You state in your written evidence that you support the community land trust model as a vehicle for providing affordable housing. How do you envisage that model making such a contribution?

[34] **Mr Drysdale:** I would not claim huge benefits for it, but it has the opportunity for land to be given to the community land trust from a number of different sources. Land for People Ltd, which is based in Welshpool, is looking at getting land donated by some private individuals at a cost that is below the market value, because it is a community venture. Some health trusts have given land to community land trusts. It widens the pool from which you can pull. Given that it has a community base and a community allocation focus, there is likely to be less Nimbyism about the development of social housing, which is a plus. Having said that, I get the feeling that community land trusts are mostly oriented at low-cost home ownership, rather than rental housing, and so perhaps some discussion is needed about that. However, it offers some opportunities. The real benefit is that, because the land is owned by the trust and so what is built on the land is let or sold at a lower cost, that public subsidy community asset is retained in the community, and you can recycle that low-cost housing in a number of ways as people sell and move on, or move out and move on.

[35] **Peter Black:** I know that the community infrastructure levy in the Planning Bill, for example, may give the Assembly additional powers that may assist us in that respect, but should the Government be seeking any additional powers under LCOs such as this, which

might assist in the development of community land trusts?

[36] **Mr Drysdale:** I will have to pass on that, I am afraid, as I do not feel competent to answer it.

[37] **Peter Black:** That is fine. I just wondered whether you had any views on that.

[38] **Leanne Wood:** Apart from the emphasis on home ownership, are there any other disadvantages to community land trusts?

[39] **Mr Drysdale:** In the debate and discussion that I had with it, it said that community land trusts could perhaps bid for social housing grant. Housing associations would not like that. As an organisation, Land for People has said that it does not particularly want to follow that route, but would want to work in partnership with housing associations. There is possibly a risk of there being too many models in the kitchen, with the potential for a bit of conflict. However, if decent partnerships are built up, I think that can be overcome.

[40] I know that you have a section for comments at the end, so it might be appropriate to say there that perhaps there is convergence—a line of development. We have a range of housing associations and local authority housing, some of which is transferring, so there may be rationalisation somewhere down the line that might produce a community housing body of some description per district, rather than the range of things that we have now, which involves community land trusts, which deals with low-cost housing, social renting and so on. It is a longer term for policy-making. I am sure that housing associations will not like it, and perhaps neither will the local authorities. However, it seems to be on the horizon.

[41] **Lesley Griffiths:** You note in your paper that, at present, the Welsh Assembly Government is reviewing and developing a new national housing strategy and a 10-year homelessness strategy. Obviously, there will be discussions about and consultations on these. Do you feel that we should delay this legislative competence Order and await the review and development of these strategies?

[42] **Mr Drysdale:** No, I do not. I made a comment about haemorrhaging earlier; the other element is that I get the sense that the Assembly, yourselves, and certainly we, as an organisation, are really struggling with this process. We are saying that we do not quite have the competence for this or that, or that we do not quite understand the legalities, and that perhaps there is an argument for saying that we should do something limited to get it on the books and get the experience under our belts and then, when the housing strategy comes along, we will look at something more comprehensive with the benefit of the experience that we have gained from doing a limited LCO. It might be a point of contention with Westminster colleagues if the early attempts are to get it all—to get full responsibility for social housing—whereas taking it in stages might build up some trust and credibility on both sides.

[43] **Lesley Griffiths:** That is a very interesting point.

[44] **Mark Isherwood:** In one of your earlier answers, you suggested that allocation and new-build policies should be reviewed. To what extent do the existing powers available to the Assembly Government allow it to address affordable housing concerns through allocation and new-build policies?

[45] **Mr Drysdale:** If there was a great deal of scope with regard to the new-build policies, I would have hoped that the Assembly would have used that before. Therefore, I suspect that the reality is that there is not a great deal of scope, and that the Assembly is doing what it can to promote that. On housing allocations, I suspect that the reality is that the basis of the policy is defined by Acts of Parliament, which apply to England as well as Wales, and



that the Assembly does not currently have the power to vary that. Legally, I do not know whether that is the case; I do not know how much scope the Assembly has.

[46] **Mark Isherwood:** Am I correct in thinking that those powers were varied in Wales during the first Assembly? I think that they are slightly different from those in England.

[47] **Mr Griffiths:** Yes, that is correct.

[48] **Mr Drysdale:** Therefore, if there is scope, it is an area that must be looked at. However, it is a hugely contentious area. Perhaps one of the advantages of community land trusts is that there is a little area of experience there on allocation that involves community connection, but which nevertheless aims to be fair and transparent and which could perhaps be looked at if we were looking at changing the allocation basis for social housing.

10.10 a.m.

[49] **Mark Isherwood:** I have a question that follows on from that, linked to your response but referring to an earlier answer. You talked about arm's-length management organisations as a possible avenue. I presume that you are aware that the Treasury has said 'no' to that. England is rolling out a version of arm's-length management organisations, but, in Wales, the Assembly Government does not consider it to be value for money. What is your view on that?

[50] Secondly, you mentioned the advantage of retaining housing stock as something to secure borrowing against. Are you also aware that the revenue stream from the right to buy scheme is part of the formula for prudential borrowing for those councils that wish to retain rather than transfer housing stock and seek the quality standard independently? The loss of that revenue stream could adversely impact their ability to deliver on that prudential borrowing.

[51] **Mr Drysdale:** Yes, I am aware that that is the case. However, only 25 per cent of those receipts go into that. I do not know what the figures are, but my suspicion is that, with the low level of right to buy, it is probably quite a small proportion, so it might not have a huge impact.

[52] With regard to the Government saying 'no' to arm's-length management organisations, I know that it is complicated and I do not understand all of the financial consequences, but it seems that there is a capital asset in council housing that could be utilised. We see it in terms of stock transfer: lo and behold, this mickey mouse public sector borrowing requirement artificial financial restriction disappears and suddenly you can borrow money and do useful things with it. I know that that is partly because central Government is writing off historical debt and so on. However, it seems that if it is council owned, it is wrong to do something, but if it is not council owned, then suddenly it is okay. I have always had problems with that. If stock transfer enables the transfer bodies to do more with their communities and housing, perhaps it is something that we can try a little bit more for with regard to council housing.

[53] **Alun Davies:** Do you wish to make any comments on the Housing and Regeneration Bill that is currently making its way through Parliament and how that legislation will impact upon the supply or provision of affordable housing in Wales?

[54] **Mr Drysdale:** We have looked at it over the last few days. I will hand over to Amanda to answer that question, because she did more work on that than I did. I think that our response is that we do not see that it will have much of an effect on right-to-buy issues, but I will hand over to Amanda.

[55] **Ms Oliver:** There are several measures in the Bill that will have an impact on Welsh housing policy. For example, there are issues surrounding tenant empowerment. However, this relates to proposals to increase the say of local authority tenants on the future of their homes. The Bill relates to the tightening up of the terms of the disposal, rather than increased measures for tenant involvement or areas around funding for tenant involvement, particularly with regard to tenant management organisations and stock transfer. This was consulted upon through the tenant empowerment consultation, which was held last year. There will be additional powers for social landlords to tackle antisocial behaviour. Last year, the Welsh Assembly Government consulted upon the housing management respect standard. However, we have not yet heard anything about the results of this consultation exercise. There will be mandatory sustainability ratings for all new homes. This provision will clearly have an impact on Wales given the other issues around sustainability that are currently on the agenda. This will also have an effect on the future of social housing. There are also issues around the provision for Gypsies and Travellers, to ensure that they have the same security of tenure.

[56] It is generally difficult to cite areas of legislation in the Housing and Regeneration Bill currently going through Parliament that would have a direct effect on increasing the supply of affordable housing. It is to do with how the regulations are framed within Wales rather than the primary legislation, which will have an impact on the supply. John has already mentioned the regulation of registered social landlords and how they are able to develop through social enterprise. I believe that that was included in evidence that Community Housing Cymru gave in an earlier session.

[57] **Alun Davies:** Do you welcome those provisions?

[58] **Ms Oliver:** Certainly.

[59] **Alun Davies:** I am interested in the relationship between this LCO and the affordable housing legislation from Westminster. I find it peculiar that both legislatures are discussing the same issue separately, but that is another issue. What impact will the LCO that we are discussing this morning have on the empowerment of tenants in affordable housing in Wales?

[60] **Mr Drysdale:** I do not think that it will have an impact in that sense. However, what worries me about it is that the right to buy is seen as a tenant's right and as part of the tenancy agreement. If it were whipped away suddenly and what was considered to be fairly rock steady was seen to be shifting sand that could be changed, that could make tenants nervous. I listened to a debate between Swansea tenants and officers a month or two ago in which the tenants said that what cost the stock transfer ballot was the change in the rent guarantee from a year to five years to long term. Even though it was a better deal for tenants, it said to tenants that they could not trust what they were being told, because it could shift. In tenant empowerment terms, there is a risk around right to buy in that tenants feel that what is written in the tenancy agreement is not worth the paper that it is written on, because it can be taken away. That could have some detrimental effects on how tenants feel about being involved and participating.

[61] **Peter Black:** I am still trying to digest the rather perverse reasons for voting 'no' in Swansea.

[62] On the definitions—and this is a bit legalistic, but we are trying to focus on the whole thing—we have had some discussion on the term 'disposal'. Do you have any views on how that would be interpreted in the LCO and if you believe that we need a clearer definition?

[63] **Mr Drysdale:** We had a look at the transcripts, in order to get our heads around this question. It seems that 'disposal', in general terms, could include disposal in stock transfer

terms. That would seem not to be useful in terms of the LCO's intent. Perhaps that suggests that some effort should be made to provide a definition that excludes it. I know that there has been debate, in other evidence sessions, on which terms to use—do you use the terms that are in the parliamentary Act, but what happens if some future Act changes them? I had a feeling, reading that, that it would be better to use the same terms as the parliamentary Act and to define any variations from those terms rather than to introduce new terms and have something of a confusing arena, with a whole set of different terms that overlap. On disposal, specifically, it seems that it could cover stock transfer in terms of how it is stated now and perhaps that needs clarifying.

[64] **Peter Black:** A stock transfer disposal requires ministerial consent at the moment, so, in one sense, the Government is fully involved in that process.

[65] **Mr Drysdale:** Yes.

[66] **Leanne Wood:** Thank you. We have all asked our questions. Would you like to make any further comments?

[67] **Mr Drysdale:** I do not think that I have any further comments; I think that I have managed to squeeze them in under other headings. I do not know whether Amanda has anything that she would like to add to what I have said.

10.20 a.m.

[68] **Ms Oliver:** I would like to add something on a subject that John mentioned earlier—about tenants being aware of the loss of the right to buy, and the way that that can cause a sudden rush of applications before the right to buy ends. As anecdotal evidence from the time when I worked in local authority housing, there was quite a rush of applications when the discount was reduced to £16,000. We saw sub-prime lenders out on the social housing estates, effectively door-knocking and, not forcing, but encouraging additional right-to-buy applications where the tenants did not necessarily have the means to go through with it. So, there are issues around that that the committee should be aware of.

[69] **Leanne Wood:** Thank you for that, and for your wider contributions. There will be a draft transcript of this morning's committee proceedings, which the clerk will send you for clarification.

10.21 a.m.

### **Cynnig Trefniadol Procedural Motion**

[70] **Leanne Wood:** I propose that

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 10.37(vi).*

[71] I see that the committee is in agreement.

*Derbyniwyd y cynnig.  
Motion carried.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.21 a.m.  
The public part of the meeting ended at 10.21 a.m.*