



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

**Pwyllgor Deddfwriaeth Rhif 2
Legislation Committee No. 2**

**Dydd Mercher, 13 Ionawr 2010
Wednesday, 13 January 2010**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi 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

Gareth Jones	Plaid Cymru The Party of Wales
Val Lloyd	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Naomi Alleyne	Cyfarwyddwr Cydraddoldeb a Chyfiawnder Cymdeithasol, Cymdeithas Llywodraeth Leol Cymru Director of Equalities and Social Justice, Welsh Local Government Association
Sue Finch	Swyddog Polisiâu Tai, Cymdeithas Llywodraeth Leol Cymru Housing Policy Officer, Welsh Local Government Association
Joy Kent	Cyfarwyddwr, Cymorth Cymru Director, Cymorth Cymru
John Puzey	Cyfarwyddwr, Shelter Cymru Director, Shelter Cymru

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

Jonathan Baxter	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Sarah Beasley	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Sarah Sargent	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 9.40 a.m.
The meeting began at 9.40 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Val Lloyd:** Good morning, everybody, and welcome to this morning's meeting of Legislation Committee No. 2. We are going to take evidence this morning from the Welsh Local Government Association initially. I have a few housekeeping issues to mention before we move on to that.

[2] We have two new members of the committee. Jeff Cuthbert and Sandy Mewies have left us and we have two new members in Rhodri Morgan and Lynne Neagle. Lynne Neagle has sent her apologies and we do not have a substitute. We are expecting Rhodri Morgan, but I feel that the weather has probably held him up, like it has many people.

[3] In the event of a fire alarm, please exit by the marked fire exits. We are not expecting a test this morning, so if you hear it, it will be for real. Please turn off all mobile phones and such equipment because they interfere with the broadcasting system. I draw everybody's attention to the fact that the National Assembly for Wales operates both in English and Welsh. The translation is on channel 1 and the amplification on channel 0.

9.42 a.m.

Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Tai a Llywodraeth Leol) 2010: Sesiwn Dystiolaeth 2—Cymdeithas Llywodraeth Leol Cymru

Proposed National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010: Evidence Session 2—Welsh Local Government Association

[4] **Val Lloyd:** For the record, the committee is continuing with its scrutiny of the Proposed National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010. I would very much like to welcome Sue Finch and Naomi Alleyne to this morning's meeting. We will go straight to the business, unless you wish to make a statement before you start.

[5] Thank you very much for the paper that you have provided. I will start with the first question. Does the Welsh Local Government Authority support the general principle of the Assembly gaining the competence proposed? Why is the existing legislation and executive powers not adequate?

[6] **Ms Alleyne:** Good morning. The WLGA supports the principles of the proposed legislative competence Order. We think that it will be very useful for the National Assembly for Wales to gain the legislative competence in the housing policy areas identified within the LCO, which will enable the National Assembly to provide a comprehensive and joined-up approach to legislation in developing housing policy across Wales.

[7] It is important that the housing policy framework is seen as a whole system. At the moment, some of the executive powers are piecemeal and not comprehensive in that way. The proposed LCO will fill in those gaps and enable the National Assembly for Wales to legislate in the identified areas.

[8] We find that the LCO, as it is set up, will certainly ensure that the National Assembly can legislate in areas for the benefit of people in Wales, and obviously for vulnerable people in Wales as well. So, on that basis, we support the principles of the LCO.

[9] **Val Lloyd:** Thank you very much. Unless you ask to come in, Sue, I will just take whoever wishes to answer. Brynle, I believe you have some questions.

[10] **Brynle Williams:** Thank you, Chair. Good morning, ladies. Do you believe that the original affordable housing LCO has been adequately addressed by the new Order?

[11] **Ms Alleyne:** Do you mean the concerns that were raised about it?

[12] **Brynle Williams:** Yes.

[13] **Ms Alleyne:** Yes, certainly. It is much broader in scope because the first LCO on affordable housing was very limited in that it was looking for powers around the right to buy and the right to acquire. In the new LCO, a much broader range of powers are being sought,

which will ensure that the initial issue will be dealt with and will ensure that there is that holistic and joined-up approach to the development of housing legislation in Wales. The concerns relating to the first LCO have been addressed in the current LCO, but it is much broader and will be able to deliver better legislation around housing policy for Wales.

[14] **Brynle Williams:** So, you are happy that it is sufficiently broad as it is.

[15] **Ms Alleyne:** I think that it is sufficiently broad in terms of social housing. One of the issues that we raised within our paper to you is the possibility of extending the scope of the LCO to cover the private rented sector as well. In Wales, obviously the supply of social housing is an important contribution to the housing market but it is a very limited supply in that way. Therefore, if we were able to introduce more competency around the private rented sector, it would make it much easier to look at the housing market as a whole because, as time goes on, the view is that the private rented sector will probably play a more important role in meeting housing need across Wales. So, our view is that the private rented sector could be another area that the LCO could potentially cover.

[16] **Ms Finch:** Perhaps I could just add that we are aware that there have been discussions with the Deputy Minister for Housing about the potential of using the powers to allow local authorities to discharge their duty to people who are homeless by accessing the private rented sector. At the moment, authorities are obliged to provide access to social housing only and that is causing a number of problems in terms of meeting the scale of the homelessness problem.

[17] If it is a desire of the Assembly to extend the discharge of duty into the private rented sector, we are very concerned that the Assembly should have the powers to ensure that the private rented sector is of an adequate standard. I have no doubt that Members will be aware that the private rented sector, of all the sectors in the housing market, is the least secure, has the highest rents and is of the poorest quality. So, if we are going to use that to provide accommodation for vulnerable people, it is very important that that accommodation should be up to standard. That is why we are arguing that we feel the two powers should be brought down in parallel, rather than being tackled separately.

[18] **Val Lloyd:** I will pursue the question of the private rented sector. When the Deputy Minister gave evidence, her evidence was that, in her view, the lack of policy development in Wales in relation to the private rented sector means that there is not currently a sufficient evidence base for legislative competence over the private rented sector to be sought.

[19] I will run that in to another question because it is on the same topic. What are your views on what the Deputy Minister said and on the suggestion by Shelter Cymru that competence to legislate for the private rented sector should be pursued in a future Order?

[20] **Ms Finch:** I would acknowledge that the level of debate and discussion around the private rented sector is lagging behind the debates and discussion around the social housing sector. I am sure that the committee will be aware that over the last two years, primarily as a result of the Essex review, there has been a great deal of collaboration across the housing world to tackle the challenges that we face. That debate has covered a very wide-ranging area and we have made tremendous progress. In fact, over the last 18 months, we have developed a huge momentum around developing housing policy.

[21] I would not see it as a particular challenge to take merely that programme of work forward to incorporate the private rented sector. In fact, there is a task and finish group already in place that brings together the National Landlords Association and representatives of other housing sectors to look at how the private rented sector could better meet the needs of vulnerable people. We are in a position where we could start to tackle that area with relatively

few problems and certainly there is quite a wide commitment to addressing those problems.

[22] The second thing I would say is that if the Assembly is going to be looking at discharge of duty into the private rented sector as a potential new use of the legislative powers that you are seeking, I would see as a vital part of that debate a need to look at the ability of the private rented sector to meet those needs. So, I think that it would be a necessary policy debate in the context of the proposed changes or review of homelessness legislation.

[23] **Val Lloyd:** Thank you very much.

[24] **Ms Alleyne:** The point that we did not cover was the question around Shelter's proposal. Shelter's proposal is that the private rented sector could possibly be included in a later LCO. Our view would be that if we are going to go down the route of having a comprehensive LCO, now may be the best time to look at it.

9.50 a.m.

[25] However, if there is a concern around timing, and around making sure that it can go through within an appropriate time, then if it does not happen through this LCO we would certainly like to see it happen at a later stage. One difficulty is that there are approximately 80,000 people waiting on social housing registers across Wales, therefore there is an issue of supply and demand around social housing, and the private rented sector will play an increasing role in the future. Having competence to legislate, as Sue said, around the quality and the security of the private rented sector would therefore be beneficial for communities that are not able to achieve or gain social housing because of the time difference, but would still have more security of tenure within the private sector.

[26] **Val Lloyd:** Jenny, did you have a question?

[27] **Jenny Randerson:** I just wanted to give the witnesses the opportunity to refer to the Scottish experience, which you referred to in your evidence, and I think that it will be useful for the committee to hear that.

[28] **Ms Finch:** It has been very useful to look over the border into Scotland to see the impact of the changes that Scotland has been making around legislation in this area. For understandable reasons, the Scottish Government has sought to increase the rights of homeless households, so that all people who are homeless, irrespective of priority or the category of need that they fall into, have access to social housing. Looking at the impact of that change has been a salutary lesson. What has happened, inevitably, is that as the number of people who are homeless with a right to housing has increased, so the demand for social housing from that particular group has increased, which means that those who are on waiting lists have relatively little opportunity to access social housing.

[29] The inevitable result is that people on waiting lists have made themselves homeless in order to ensure that they get access to social housing. So homelessness has become the only route into social housing in Scotland, effectively. About 90 per cent of lettings in Edinburgh are to homeless households. That has led to an increase of people in bed-and-breakfast accommodation, and huge increases in the cost of funding that. What that tells me is that it is vital that any changes to legislation are fully assessed in terms of their likely impact across the whole housing system before they are made, because I believe that that change has not been in the interests of either homeless households or the wider range of households in housing need.

[30] **Val Lloyd:** In your submission you talk about the proposed Order providing the Assembly with powers in relation to financing arrangements for council housing in Wales.

Could you expand on that point please and, in particular, on why you consider it appropriate that the Assembly seeks competence in that area?

[31] **Ms Finch:** As the committee might be aware, there has been a review in England over the last seven years of council house financing and, as a result of that review, the United Kingdom Minister for housing has decided to dismantle the current system of financing council housing. Although the system in Wales is somewhat separate, it is linked through legislation, and, therefore, any changes proposed in England will have to be implemented through that legislation.

[32] The arrangements in Wales are somewhat different and so there is a review taking place here at the moment of council house financing arrangements, which gives the Assembly the opportunity to come up with a solution that meets the particular needs of Wales. However, if this legislative competence Order goes through in its current form the Assembly would not have the legislative powers to take forward any recommendations from that review. Therefore, although it is not clear at the moment what the recommendations of that review will be, our view is that it is important that the competence lies in Wales to address the problems in relation to council house financing in Wales.

[33] **Gareth Jones:** Trof at faterion 11.2 ac 11.3. Bydd y materion hynny'n rhoi cymhwysedd deddfwriaethol i'r Cynulliad i ddeddfu mewn perthynas â rheoleiddio darparwyr tai cymdeithasol, cyrff tai cymdeithasol perthnasol a'r dull o ddyrannu tai cymdeithasol hefyd. A yw CLILC yn teimlo bod y dull presennol o reoleiddio darparwyr tai cymdeithasol, gan gynnwys awdurdodau lleol, yn addas, ac a oes angen y cymhwysedd y ceisir amdano yn y Gorchymyn arfaethedig?

Gareth Jones: I turn to matters 11.2 and 11.3. These matters confer legislative competence on the Assembly to legislate in respect of the regulation of social housing providers, relevant social housing bodies and the allocation of social housing. Does the WLGA feel that the existing regulation of social housing providers, including local authorities, is appropriate, and is the competence sought in the proposed Order necessary?

[34] **Ms Finch:** We support the changes to regulation, which are currently being consulted upon, in relation in particular, at this point in time, to the registered social landlord sector. There has been broad agreement across the piece that the way in which housing associations in Wales have been regulated in the past has not been appropriate in that it tended to focus on the wrong things, and the RSL sector would be the first to recognise that and, in fact, has itself been pressing for a change in the regulatory framework. There are now proposals out for consultation to refocus and make that regulation more appropriate. That will move things forward considerably. However, I understand that the Assembly would still, without this Order, not have powers of intervention. Quite clearly, if we have a regulatory arrangement in which there is greater freedom for RSLs, and, ultimately, greater risk to consumers and potential consumers of social housing provided by RSLs, then it is appropriate that the Assembly has powers to intervene should those standards not be complied with. We would not expect that intervention power to be used to any great extent, but it is important that that power is in place as a safety net.

[35] The WLGA supports the idea of cross-domain regulation, which is in place in England and in Scotland. We have committed to work with the Assembly Government to discuss how that might, at a later stage, be considered in relation to the regulation of social landlords as in local authorities. What we are very clear on, though, is that it is important that the overall burden of regulation should not be increased, because that distracts from the focus on delivering services to citizens. The prospect of regulatory change, in terms of local authority and social landlords, would require an overall review of regulation as it currently affects local authorities that provide housing, alongside any introduction of cross-domain

regulation.

[36] **Ms Alleyne:** The other point there is that the Assembly Government has put out a policy statement on inspection and regulation, so we would want any revised regulatory framework to be proportionate, outcome focused and used to drive improvement within the delivery of social housing, so ensuring that the principles that would underpin that are also right.

[37] **Gareth Jones:** Diolch yn fawr am yr ateb trylwyr hwnnw. Trof at fater 11.4, sy'n anelu at roi cymhwysedd i ddeddfu ynghylch deiliadaeth tai cymdeithasol. Credaf fod hynny'n cael ei godi hefyd yng nghyd-destun y problemau sy'n bodoli pan fydd stoc yn cael ei drosglwyddo. Felly, mae'n ymwneud â hynny.

Gareth Jones: Thank you very much for that thorough response. I turn to matter 11.4, which aims to confer competence to legislate on the tenure of social housing. I believe that that is also raised in the context of the problems that occur when stock is transferred. So, it pertains to that.

10.00 a.m.

[38] A fedrwch chi, ar ran y gymdeithas, ehangu ar y pwyntiau yr ydych eisoes wedi'u gwneud yn eich tystiolaeth am bwysigrwydd galluogi'r Cynulliad i ddeddfu ym maes trefniadau daliadaeth tai cymdeithasol a rentir?

Can you, on behalf of the WLGA, expand on the points that you have already made in your evidence about the importance of the Assembly being able to legislate in relation to the tenure arrangements for rented social housing?

[39] **Ms Finch:** At the moment, we have a rather complex diversity of rights and obligations for landlords and tenants in the two social housing sectors, provided by housing associations and by local authorities, and that inevitably causes huge confusion for tenants who, if they are renting from a body that is a social landlord, quite understandably expect the landlord and themselves to have the same rights and obligations.

[40] A report has already been published by the Law Commission, in 2006, which proposes developing a single, consistent social housing tenancy, but, because of the queue of legislation in England, that really has not been progressed. However, with this proposed legislative competence Order, I think that we have the opportunity to take that important work forward in Wales ahead of England, given the problems that they are facing with legislation.

[41] I would see it as a logical conclusion to the focus that we have in Wales of putting the citizen at the centre of the services that we provide. If look at it from the point of view of a tenant, there should be uniform obligations and rights across the two sectors.

[42] **Gareth Jones:** That is clear enough. Let us move on now to the next question.

[43] Mae mater 11.5 ynghylch tai fforddiadwy ac yn ceisio'r cymhwysedd i alluogi Llywodraeth Cymru i atal, diwygio neu ddiddymu'r hawl i brynu sydd gan denantiaid awdurdodau lleol a'r hawl i gaffael sydd gan denantiaid cymdeithasau tai. Yn eich tystiolaeth, yr ydych yn dweud bod nifer y tai sy'n cael eu gwerthu drwy'r hawl i brynu, a'r hawl i gaffael bellach, yn isel drwy Gymru, a bod newidiadau i'r ddeddfwriaeth yn y maes hwn yn golygu ei bod yn

Matter 11.5 relates to affordable housing and seeks the competence to allow the Assembly Government to suspend, reform or abolish the right to buy of local authority tenants and the right to acquire of housing association tenants. In your evidence, you say that the number of houses that are sold through the right to buy, and the right to acquire by now, are quite low through Wales, and that changes to the legislation in this area mean that it is now highly unlikely that these rights

annhebygol iawn bod yr hawliau hyn yn cael effaith ar nifer y tai cymdeithasol sydd ar gael. A allwch chi ehangu ar y pwyntiau hynny ac yn benodol nodi pam eich bod yn dal i gredu y dylid trosglwyddo cymhwysedd yn y maes hwn?

will have a significant impact on the supply of social housing available. Could you expand on those points and specifically note why you still believe that there should be a transfer of competence in this area?

[44] **Ms Finch:** It is quite clear that the right to buy, which was introduced in 1980, has depleted the stock of social housing considerably in Wales. We have now got some 50 per cent of the stock that we had at that time, and that has inevitably had an impact on the ability of people who are in housing need to access appropriate housing.

[45] It is fair to say that the majority of the most desirable and best-located stock has now been sold into the market and has been lost. Much of what is left is sheltered housing, which has been protected from the right to buy. Having said that, scattered across Wales are a few pockets of crucial social housing, for instance in small rural settlements, where it might be the only social housing that exists for miles and where it represents a real resource for that community. Although we do not think the overall impact will be significant, it could have strategic significance in some parts of Wales, and we would therefore support the idea of local authorities having the power to suspend the right, to allow them to address specific issues and needs in their local community.

[46] **Jenny Randerson:** I will start with matter 11.6. Why do you consider the adoption of a commissioning framework to be the best way of achieving consistent standards in housing-related support services?

[47] **Ms Finch:** When looking at these proposals, we were a little perplexed about the proposal to gain legislative competence in this area because we were not aware of any areas where that could significantly improve the standard of provision across Wales. However, we agree that there is room for improving commissioning across Wales, and I am not sure that legislation will achieve a great deal in that respect.

[48] What could achieve a great deal is the adoption of a set of consistent standards across Wales, which would ensure that, where commissioning does take place, certain principles and standards are abided by. That could be done fairly simply, because there is a consultation out at the moment on a commissioning framework to take forward the 'Fulfilled Lives, Supportive Communities' strategy. It would be a small step for the Assembly Government to apply those commissioning standards to housing-related support as well as to social care. That would be a simple and straightforward way to achieve the objectives that we fully support, namely consistent and high standards of commissioning across Wales, without the need to resort to legislation.

[49] **Jenny Randerson:** Following on from those comments, do you support the request for legislation competence in this matter or not, and can you give your reasons for it?

[50] **Ms Finch:** Overall, we support the principle that the proposed legislative competence Order should be as broad as possible to allow Wales to respond to the complexity of the issues and to the whole system of housing. It would also allow the Assembly Government flexibility to respond to issues that we might not see as a challenge at the moment but which might well emerge in the future.

[51] Taking forward that principle, given that a review of housing-related support is about to start in Wales, it is not possible to predict the recommendations of that review. Therefore, as a fail-safe system, it might be appropriate to have these powers, even though we might not be clear at this point in time what those recommendations might be.

[52] **Val Lloyd:** Moving on to matter 11.7, which relates to Gypsies and Travellers, can you expand on your evidence relating to that aspect of the legislative competence being sought?

[53] **Ms Alleyn:** As Members will be aware, developing new sites for Gypsies and Traveller communities across Wales can be a very contentious local issue. It is a very difficult area for local authorities to address effectively in some instances, particularly through the planning process. Picking up on the point that was just made, there is not so much an issue but a difference between the National Assembly's gaining legal competence in those areas and the Measures that may come forward at a later stage.

[54] One of our concerns is that we appreciate that local authorities are making progress on this issue but it is slow, and further progress needs to be made. There are examples of local authorities trying to develop new sites, and it is the feedback and concerns raised by the local community that have prevented some of them from being developed. A recent example can be seen in Paris. In Paris, they have been trying hard to identify and gain planning permission for a new site for Gypsies and Travellers but, with all the negative responses from the public, it has been difficult to secure that agreement.

[55] The draft strategy recently published by the Assembly Government has some targets that will, hopefully, be achieved within the timescale identified. A key priority identified in the strategy is how Governments can influence and inform public opinion and views on the needs of Gypsy and Traveller communities. The point that we have made in the evidence is that the delivery of new sites for Gypsy and Traveller communities across Wales requires a partnership approach.

10.10 a.m.

[56] It will require leadership from the Assembly Government, local leadership from local authorities, and community leadership with local communities better understanding the needs and the responsibilities of local authorities. However, local authorities have been assessing the needs of Gypsies and Travellers under their local housing strategies and are identifying potential sites through their local development plans.

[57] Again, to pick up the point, we would support the Assembly gaining legislative competence in this area, but we are slightly more reticent about Measures and the example given in the explanatory memorandum about requiring local authorities to deliver sites, because I think that we still have to address a whole host of issues around the negative stereotypes that exist in relation to Gypsy/Traveller communities before we can get to a stage where we can deliver those new sites with the support of the community, in order to make sure that their needs are met. Members will be aware that, in some instances, Gypsy and Traveller sites are outside of general communities and way out of city centres, therefore there are issues of travel in terms of accessing public services, so we need to be sure that the sites are in the right place and of the right type for Gypsies and Travellers. That work will require a partnership approach, and it would definitely involve the Gypsy/Traveller communities.

[58] **Jenny Randerson:** On matter 11.8, would you expand on the points you make in relation to legislative competence over homelessness?

[59] **Ms Finch:** We support the idea of reviewing the application and the impact of current homelessness legislation in Wales, and see it as an appropriate role for the Assembly. We also support, in principle, the aspiration that anyone who is homeless should have access to good-quality and affordable housing. I think that the issue for the Welsh Local Government Association is that we are concerned, in the light of what has happened in Scotland, that any

proposals that are brought forward have a clear rationale behind them and require a full impact assessment to be carried out before changes are made so that we do not have the unintended consequences that we have seen in Scotland.

[60] Finally, and perhaps most importantly, an additional responsibility to provide housing should not be placed on local authorities at a time when we do not have a stock of social housing that will allow us to meet those needs. That responsibility could also place a financial burden on local authorities that they cannot simply carry. So, I am making a plea that any use of the legislative competence should be realistic and based on a clear rationale and the burdens, if there are additional burdens, being adequately resourced.

[61] **Jenny Randerson:** Turning to matter 12.8, if you consider the powers proposed under this matter in relation to dealing with empty properties and second homes via council tax, will this be sufficient to tackle the existing problems in this area, and do you think that the proposed powers are an appropriate way to tackle the problems?

[62] **Ms Finch:** Yes. We support the proposal for power to vary the level of council tax. There has been some discussion, particularly between the rural authorities in Wales, about tackling this difficult issue, and the feeling is that that would be a very appropriate way to take things forward, not only in terms of second homes but in terms of empty properties.

[63] We want to make sure that the way in which any legislation is formulated allows this power to be applied to empty homes. At the moment, it is tied to main residence, and it might be that that would mean that some empty properties would not be addressed by that issue. It is a fine point really, but we would want to make sure that both empty homes and second homes could be addressed by that new power.

[64] **Val Lloyd:** Brynle, did you want to comment?

[65] **Brynle Williams:** If I may, Chair, but I do not know if this is the right point at which to bring this up. As someone who represents a rural area I wanted to ask whether you think we can apply this rigorously enough to empty properties. We heard earlier about the need for homes, especially in rural areas, in order to keep communities together. There are quite a few empty properties, and it does not to me seem aggressive enough or that it has been applied enough to make these properties come onto the market, or into the lettings sector. Does that make sense? We have a lot of young people who want to stay in their communities, we have a chance to strengthen the position and take it even further.

[66] **Ms Finch:** The latest figures show that there are somewhere in the region of 18,000 empty homes across Wales and, obviously, that is a huge potential resource. When we think that we are trying to achieve 6,500 additional properties over three years, I would agree entirely that the prospect of bringing a significant number of empty homes back into use presents a potential resource.

[67] I think that the work of bringing those properties back into use is proving to be incredibly resource intensive because, in many cases, the owner has disappeared without trace or the deeds do not exist. A number of local authorities have employed empty homes officers to carry out that work, but bringing even a small number back into use is laborious.

[68] The power to vary council tax would have a double benefit. It would act as a positive incentive to encourage those who were perhaps inclined through inertia to leave a property empty to do something with it. Also, importantly, it would create a potential source of income to allow local authorities to better resource this area of activity which, given the current financial pressures and the future predicted pressures, is inevitably going to be an area, like many, that is going to be under pressure. So, we see that as an appropriate way forward for a

number of reasons.

[69] **Brynle Williams:** Thank you, Chair, and I am sorry for intervening.

[70] **Val Lloyd:** Not at all; it was a related question. Jenny has the next question.

[71] **Jenny Randerson:** Following on from your comments about empty homes, do you think that empty properties should be a specific matter on its own in the proposed Order, rather than being linked with main residence, and so on?

[72] **Ms Finch:** We would have to rely on legal advice on that one. Our principle would be that it is absolutely vital that empty homes are captured by the proposed Order, and to rely on legal advice as to the best way that that could be achieved.

[73] **Val Lloyd:** I now turn to field 11 and the interpretation of this field. The proposed Order provides definitions of a number of terms that would be inserted into field 11. In our meeting of 10 December, we heard that, if approved, the proposed Order would provide a definition of social housing, among other things, and we would have a definition of social housing for the first time in Wales. We would like to hear your comments and views on that, and does the WLGA consider all the terms within the proposed Order to be sufficiently clearly defined?

[74] **Ms Finch:** We are content with the definitions in the proposed Order. We are particularly pleased that the approach being taken is to have a flexible approach to the term 'social landlord', because we very much support the direction of travel of the national housing strategy. The strategy is signalling a move to a much more flexible housing market in Wales that does not have the two options of owner-occupation or social housing, but rather has a much more flexible range of options. It is important therefore that the definition in the proposed Order allows a range of vehicles for meeting the needs of vulnerable people, so we welcome its flexibility.

[75] **Val Lloyd:** Thank you very much. Could you expand on the following point that you make in your evidence:

[76] 'It is essential that any proposal to introduce new housing legislation...under a new competence order is founded on a well developed rationale, a detailed impact assessment and assurances that resources will be made available to address any additional burdens that are created.'?

10.20 a.m.

[77] **Ms Alleyne:** As we said at the beginning of our evidence, we certainly support the National Assembly for Wales gaining legislative competence in these areas. We also need to look at how we use existing powers and opportunities to drive forward some of the changes and some of the improvements that are required. New legislation obviously has its place, but it should not be resorted to automatically as the first port of call when the existing powers could be used in that instance.

[78] At the end of last year, the Welsh Local Government Association and the Welsh Assembly Government signed up to the new understanding of the relationship between central and local government in Wales. That document talks about the co-production of policies, so as the policies and strategies are developed, they will meet the needs of communities and will be deliverable and realistic.

[79] As has been highly evidenced in other submissions, the Essex review, and talking

about how we can take that forward, has been enormously beneficial when it comes to developing a partnership approach between local government, the Assembly Government, the tenants and the housing association sector. We certainly want that relationship and that partnership work to continue over the years and underpin any proposed Measures taken forward as a result of the new legislative competence. In the new understanding, it is agreed that any new burdens that are placed on local authorities will need to be assessed for their financial implications before they are implemented. I think that the example that we gave earlier from Scotland certainly highlights that the impact of any proposal needs to be assessed because what can sound like a good idea can lead to unintended consequences further down the line.

[80] We have had a similar discussion with the Deputy Minister for Housing. You need to make sure that, when new proposals are brought forward, there is an overview of what they will mean in practice and what they could lead to. We need to have those discussions around possible financial implications to ensure that the policies can be delivered effectively on the ground. The points that we made about burdens are just in line with the new understanding that has been signed.

[81] **Gareth Jones:** I may be about to offer the other side to the argument, if there is one. I can understand the association's concerns about extra burdens—any change could well lead to further expenditure and so on—however, is there another possibility in that the new legislation might lead to some kind of efficiency savings that could balance it out a little? You mentioned council tax earlier, Sue, and that could generate some income. I think that it is a very important message that we must look at all the possibilities. We are wary of a possible extra burden, but there may well be efficiency savings somewhere down the line that it might be worth pursuing.

[82] **Ms Alleyne:** Sorry, I fully accept that. One of the first points is to ensure that the resources that are currently available are used to best effect, so that they work in a partnership across different sectors and authorities. There has been some discussion around, for example, the regional delivery of Supporting People services so that you can meet the needs of the community in a much more cost efficient way and maintain those high standards. I should have highlighted that. I think that it is almost a given that, in the first instance, you would be looking at those efficiencies. An improvement has to drive the work as it is taken forward, so with any changes, you highlight opportunities to improve the quality of services that are provided within the existing resources. I fully accept that, but I think that we were talking about any new additional burdens.

[83] **Val Lloyd:** I do not see any other Members who have any further questions so we have now come to the end of our questioning. On behalf of the committee, I thank you, Naomi Alleyne and Sue Finch, for your evidence this morning. We appreciated the clear way in which you answered our questions. Thank you very much.

[84] The committee will take a short break now and we will resume after the break.

*Gohiriwyd y cyfarfod rhwng 10.25 a.m. a 10.36 a.m.
The meeting adjourned between 10.25 a.m. and 10.36 a.m.*

Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Tai a Llywodraeth Leol) 2010: Sesiwn Dystiolaeth 2—Shelter Cymru a Cymorth Cymru
Proposed National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010: Evidence Session 2—Cymorth Cymru and Shelter Cymru

[85] **Val Lloyd:** Good morning and welcome back to Legislation Committee No. 2. I hope that people are suitably refreshed after our break. We were waiting on Rhodri Morgan as a committee member this morning, but he has sent a message to say that he is snowed in, unfortunately, and is not able to join us today. People are very helpfully taking his questions on board.

[86] To the second part of today's evidence-taking session, I welcome Joy Kent, director of Cymorth Cymru, and John Puzey, director of Shelter Cymru. Do you wish to make any introductory remarks or shall we go straight into scrutiny?

[87] **Ms Kent:** Let us go straight in, shall we?

[88] **Mr Puzey:** Yes.

[89] **Val Lloyd:** Thank you. We are pleased by that. [*Laughter.*] I will start with the first question and it is a very general question to you both, really. Do you support the general principle of the Assembly gaining the legislative competence proposed? If so, why do you think that the existing legislation and powers are not adequate?

[90] **Mr Puzey:** Shall I start? There are two reasons why my organisation supports the proposed LCO. One is because there has been an awful lot of work over the last 18 months to two years, led by the Assembly with its partner organisations. That tremendous amount of work includes the Essex review, the development of the homelessness plan, and work on the national housing strategy. Coming out of that, there has been a broad consensus from all partners engaged in those areas that we should draw down those powers in Wales, as it is felt that we should have those powers in Wales. So, there is a huge consensus about how the new agenda should be taken forward in Wales, and that centres very much on that list of matters in the proposed LCO. So, there is that consensus.

10.40 a.m.

[91] Turning to another reason, the question for me is where else should these powers lie. Housing is a devolved function. Executive competence is already held by the Assembly Government, and it seems to us the potential to introduce Measures as well is a logical extension of that. It is a way in which more comprehensive approaches can be taken through policy development, so it just seems like the obvious logical extension of those powers.

[92] In terms of existing legislation, is that inadequate? There are some areas of existing legislation that need to be addressed, particularly homelessness legislation, and perhaps we will come on to that later. There are issues around existing homelessness legislation that no longer make it—I dread the term—fit for purpose. That is an issue, but, for us, there is also the ability to devise Measures around the matters listed, as that means that we can develop new ways of approaching things. So, it is less to do with existing legislation and more to do with what we can do creatively and innovatively through the legislative process that can actually take forward the policy agenda in Wales.

[93] **Ms Kent:** I agree with everything John has said; it makes total sense. The Assembly

has done a lot with the powers that it already has. There has been a strong focus across the Assembly on working with umbrella organisations like ours and with providers of services to make the best of what is available, and on working together to devise a made-in-Wales solution to the problems that we have here.

[94] If we look to the future, this is an opportunity to provide more freedom for us to take forward perhaps more radical responses, and, as John said, where else should those powers lie? To our minds they should lie here. Decisions that affect people in Wales are ones that should be made by us and made in Wales.

[95] Housing-related support is an unusual area in the sense that it has no specific legislation. The way in which housing-related support is being taken forward is differing now—the approaches across the UK are going in very different directions and, because we have the review in Wales, there is an opportunity for us again to do something that is very much a made-in-Wales solution. That means our working together to come up with the way in which we want to go forward, and I think that having the freedom that the LCO would provide to think as openly and as widely as we can about this is the right move.

[96] **Val Lloyd:** Thank you very much. Gareth, you have the next questions.

[97] **Gareth Jones:** Mae'r cwestiwn cyntaf yng nghyd-destun y ffaith mai dyma'r ail gynnyg ar ddeddfwriaeth o'r math hwn. A yw'r Gorchymyn arfaethedig newydd yn ddigonol, o ystyried y feirniadaeth a gafwyd fod y Gorchymyn gwreiddiol ar dai fforddiadwy yn rhy gul?

Gareth Jones: The first question is in the context of the fact that this is the second attempt to pass legislation in this area. Is the new proposed LCO adequate, given the criticisms that were aired that the original LCO on affordable housing was too narrow?

[98] **Ms Kent:** Cymorth Cymru did not give evidence on the first housing LCO basically because it was out of the area that we are most interested in. It was more appropriate for other organisations that are very much about housing—about bricks and mortar—and housing for people who do not have other issues, whereas our members work with people who have wider personal and emotional issues that exacerbate their housing need. So, from our perspective, we are very pleased that this is wider and that it is enabling much broader thinking about where we want to go in Wales, how we can meet the needs of the most vulnerable in our society and how we can ensure that they can remain in the community and build the lives that they aspire to within the community. We are very pleased to see that.

[99] **Mr Puzey:** Again, we are very pleased to see the broader scope of the current proposed LCO. Most of our evidence on the last one suggested that it should be broader. We did not really focus very much on the issue, but we thought that the opportunity should have been taken at that time. However, we certainly welcome the fact that it is here now. In terms of any other matters that might be included, we have suggested in our evidence—and there may be a question later about this—that the private rented sector might be considered.

[100] **Gareth Jones:** We will be coming to that.

[101] **Mr Puzey:** Okay, so I will not say any more about that. If I am allowed to sneak in something that we did not include in our evidence, the Assembly Government might want to look at something around community right to buy. This is something that has gone forward in Scotland, not entirely successfully, but there are things that we might learn from the Scottish experiment. Community right to buy works very well with, for example, the issue of community land trusts and in terms of providing more affordable and sustainable housing for people in need in local communities. So, that is something else that could be considered, but we understand the practicalities of the issue and we would not want to see this proposed LCO

being held up by issues around additional matters.

[102] **Gareth Jones:** Credaf eich bod chi wedi ateb fy nghwestiwn nesaf, ond fe'i gofynnaf rhag ofn fod rhywbeth ychwanegol yr hoffech chi gyfeirio ato. A ydych chi'n credu bod cwmpas y Gorchymyn arfaethedig yn ddigon eang?

Gareth Jones: I believe that you have already answered my next question. However, I will ask the question just in case you have something further to add. Do you believe that the scope of the proposed Order is sufficiently broad?

[103] **Mr Puzey:** You are right; I have probably answered that already. We are happy with the broader scope but, as I have already said, it might be useful if consideration were given to the private rented sector and community right to buy.

[104] **Gareth Jones:** Symudaf ymlaen at hynny yn awr. Atgoffaf Aelodau eich bod chi'n nodi yn eich tystiolaeth y dylid cynnwys y sector rhentu preifat mewn Gorchymyn yn y dyfodol, ac y dylid gwneud hynny er mwyn rhoi sylw i faterion fel diogelu deiliadaethau a'r hyn sy'n fforddiadwy. A allwch chi ehangu ar y pwynt hwnnw, John? Pam ddylid cynnwys y sector rhentu preifat mewn Gorchymyn yn y dyfodol yn hytrach na'r Gorchymyn arfaethedig y mae'r pwyllgor yn ei ystyried ar hyn o bryd?

Gareth Jones: I will move on to that now. I remind Members that you state in your evidence that the private rented sector should be included in a future Order to ensure the security of tenure and affordability. Could you expand on those comments, John? Why should the private rented sector be included in a future Order rather than in the proposed Order being scrutinised by committee at present?

[105] **Mr Puzey:** I think that we might have changed our minds. I think that we made the suggestion because we rather assumed that the practicality of introducing something at this point would be very difficult and, in a sense, we were saying, 'The next time around, perhaps, this important area should be included'. However, if it could come under this proposed LCO, then we would warmly welcome that, because the private rented sector is a key issue as far as addressing housing need in Wales is concerned.

[106] **Gareth Jones:** Joy, do you want to add anything?

[107] **Ms Kent:** I would say the same really. Most, if not all, organisations working in housing are really pleased about the proposed LCO and would want it to go ahead. I know from the conversations that we have had that if this meant holding things up, we would rather things went ahead now and were added to later. However, if it is feasible to extend the scope to include the private sector without holding things up, then we would probably be in agreement that that should happen. Basically, we are very much behind this and really want it to go ahead.

[108] **Gareth Jones:** Shelter Cymru, yn eich tystiolaeth i'r pwyllgor ar y Gorchymyn ar dai fforddiadwy yn 2008, fe fu ichi ddweud y byddech chi wedi hoffi gweld ymddiriedolaethau tir cymunedol yn cael eu cynnwys yng nghwmpas y Gorchymyn hwnnw. Mae'r ymddiriedolaethau hynny wedi'u cynnwys yn y Gorchymyn presennol. Cwestiwn i Shelter Cymru yw hwn, ond mae croeso i Cymorth Cymru wneud sylw hefyd. A ydych chi'n credu bod y Gorchymyn

Gareth Jones: Shelter Cymru, in your evidence to the committee on the affordable housing LCO in 2008, you stated that you would have liked to have seen community land trusts included within the scope of that original Order. CLTs are included in this proposed Order. This question is to Shelter Cymru, but I would welcome any comments from Cymorth Cymru on the subject. Do you believe that the proposed Order, as drafted, is adequate in order to press on with policies

arfaethedig, fel y'i drafftwyd, yn ddigonol er mwyn bwrw ymlaen â pholisïau sy'n ymwneud ag ymddiriedolaethau tir cymunedol? that involve community land trusts?

[109] **Mr Puzey:** To be absolutely honest, I am not sure. I understood that one of the matters—and I guess that it is matter 11.4, or it may be even 11.3—would allow some developments around community land trust, but I am not entirely sure about that and, unfortunately, I have been on holiday for a few weeks so I have not been able to check this with our senior solicitor. We certainly hope that there is scope to support the development of community land trusts, and our argument has always been that we should make it as easy as possible to develop community land trusts as long as, of course, communities actually want community land trust developments to go ahead. If there are ways in which that can be assisted through the legislative process, then we would welcome that. A definition of 'community land trust' is required; a Welsh definition of 'community land trust' that would make it easier to understand what it is, the regulations that support it, and how it would access funds, and so on. Attached to this, as I mentioned earlier, would be consideration of the possibility of introducing community right-to-buy measures as a part of this. That would also require the powers to be drawn down.

10.50 a.m.

[110] I am not entirely sure whether this allows a definition of community land trusts to be developed in Wales. I hope that it does but, if it does not, then maybe that needs to be addressed.

[111] **Gareth Jones:** That is a useful point. That needs to be followed up, obviously, but thank you very much for that.

[112] **Val Lloyd:** To return briefly to the subject of the private rented sector, I have a specific question. When we took evidence from the Minister she said that the lack of policy development in Wales in relation to the private rented sector means there is not a sufficient evidence base for legislative competence over the private rented sector to be sought. What are your views on that?

[113] **Mr Puzey:** There has been a lot of discussion and debate about the role of the private rented sector in Wales. It is certainly referenced in a whole range of existing Welsh Assembly Government policy documents as an important area that needs to be developed in terms of improving security, quality and access, and recognised as an important part of how we meet housing need during these very difficult times of a shortage of affordable homes. Local authorities have developed all kinds of partnerships, such as local landlord fora, so there has been a huge amount of debate. There is also a Welsh Assembly Government sponsored working group looking at the private rented sector—I think that it has been around for at least a year—which has produced a number of documents.

[114] It seems to us that there are plenty of discussions, debates, policies and ideas knocking around, if you like, about the private rented sector. Why not, therefore, draw down the powers? Certainly, by the time that we get to the point where there may be proposed Measures, there would be a lot more information and a lot more policy development around that area. So by the time that you get to the point where Measures might be possible, then I am sure that something around the private rented sector could be looked at. There are a number of ideas already knocking around about the private rented sector. There are some interesting models of developing the private rented sector in the Irish Republic, for example. There are things that we could do to improve the private rented sector, without creating a disincentive for private landlords, that would make it more accessible for people in housing

need.

[115] **Val Lloyd:** Joy, do you wish to add anything?

[116] **Ms Kent:** There are also, in terms of the private rented sector being used more to help people who are vulnerable and who have other issues, some interesting projects in north Wales, where support providers are working with private landlords to provide support within private accommodation, so opening up private accommodation to become a part of the support sector, in a sense, and used as supported accommodation.

[117] As John says, things have moved on a lot with regard to working with the private sector, both as a result of the enthusiasm of some private sector representatives, who now are fully involved in some of the policy forums, and as a result of organisations such as Shelter and ours trying to build relationships with the sector, recognising that this is an area of untapped resource, really. So, I do not know—I think, in the interest of having the powers here for the future, given that we cannot predict exactly what might happen in the future, it might be best to include it now, so that we can use those powers later.

[118] **Val Lloyd:** Thank you very much. I also want to backtrack a little bit. I am not terribly au fait with the community right to buy—John, I think that this question is probably for you, as you mentioned it in your answer to Gareth. Could you expand on that and on why you felt it was so important?

[119] **Mr Puzey:** Scotland introduced community right to buy four or five years ago, I think. It is at the opposite end of the spectrum to the right to buy, I suppose. Rather than an individual buying a home, it is about a community being able to have a first refusal, almost, on buying any land that might become available in its area. In Scotland, the criterion would be that the community wishes to use that land for community development, which could be for something that stimulates the economy, such as some kind of small industry, or for affordable housing.

[120] Some think that it has not worked terribly well in Scotland, but a fairly recent review suggests that, like all good law, in a sense, you do not have to use it all the time, you just need to know that it is there and that in itself facilitates discussion. What has happened in Scotland is that, outside of the community right to buy, there have been quite a lot of examples of landowners who have worked with the community and have made land available, knowing that there was a possibility that the community right to buy could have been used. There are very stringent requirements, quite rightly in my view, about the body that can represent a community. It could be a parish council, for example, but it has to be very clearly representative of the local community, and there are very clear ideas about the length of time that land can be available for that kind of acquisition.

[121] However, it seems to us that you could link the two ideas and have a Welsh community right to buy, which learns the lessons from the Scottish one, linked to the development of community land trusts. They seem to us to work very well together; the idea is that a community not only wants to have a community land trust, but has the ability, in certain circumstances, to acquire the land.

[122] **Val Lloyd:** Thank you very much. Gareth, do you want to come in here?

[123] **Gareth Jones:** On the community right to buy, you mentioned the Scottish experience and what the land would be used for. Would you consider that to be outside the scope of this particular proposed LCO, given its generic kind of approach? Community land could be used for local businesses or development or social enterprise, and that kind of thing, rather than specifically housing or affordable housing or whatever. I am just wondering about

that, Chair. I agree with the principle, but I am just seeking an opinion on where that should be pursued in terms of legislation. Is it within the scope of this proposed LCO? Could it be within the scope of this particular proposed LCO?

[124] **Mr Puzey:** That is an important point. The only way that you could bring it into this is to say that the community right to buy is only for affordable housing, but that would limit it, of course.

[125] **Gareth Jones:** Okay. Thank you.

[126] **Val Lloyd:** Sorry about that little diversion, but we thought it important to follow that up. I turn now to matters 11.2 and 11.3. These matters will confer legislative competence on the Assembly to legislate in respect of the regulation of social housing providers, relevant social housing bodies and also the allocation of social housing. Do you feel that the existing regulation of social housing providers, including local authorities, is insufficient and that the new powers sought through the proposed Order are necessary?

[127] **Mr Puzey:** Do you want to take that, Joy? Sorry, we have not rehearsed very well. *[Laughter.]*

[128] **Ms Kent:** Again, a lot of work has been done on this and, obviously, the Essex review has taken this forward quite quickly. I just have a brief comment. In providing evidence on this, we are trying to gaze into a crystal ball to see what the future might hold. Essentially, it comes back to that general principle of, 'Let us have as much freedom as we can at this level of government to enable us to do whatever it is that we want to do in the future'. Our interest is in supported accommodation, which is slightly different, or a subsection, in a sense, of social housing, and the regulation is also different. I am sure that CHC and other organisations will provide a fuller response, but, from our perspective, it is about having the freedom here so that we can work together to do what we want in the future. That is a very general response, but those are Cymorth Cymru's feelings on that issue.

[129] **Mr Puzey:** I do not think that I can add an awful lot to that. On some of the examples given in the memorandum associated with this, we would certainly agree that the current situation is that the executive functions exist here, but that there are sometimes issues around enforcement that cannot be carried through. So, it seems to us, again, sensible—this goes back to our reasons for our general support of this proposed LCO; I am echoing what Joy has said—that we draw the powers down, because it is the logical conclusion of the executive function in devolved areas.

[130] **Val Lloyd:** Do you have a view on the appropriateness of the allocation of social housing?

[131] **Ms Kent:** Again, it is right for those decisions to be made at this tier of government. Allocation is an incredibly powerful tool in terms of who accesses housing, how that housing fits within the community and contributes or otherwise towards community cohesion, and how it meets the needs of vulnerable people. We should be able to have those discussions at this level and local government should be able to be part of that debate. The proposed LCO would help us to achieve that.

11.00 a.m.

[132] **Val Lloyd:** Thank you. Are you in agreement with that, John?

[133] **Mr Puzey:** Yes. It is the issue of fragmented powers again. It seems to us that it is right that we, in Wales, have control over the entire social housing stock, and, as Joy says,

how we best prioritise that stock and allocations is a key element. We are looking at homelessness legislation later, and it is also important that you bring that alongside the allocations process and how that works. Those two are very closely related and to do something in the area of homelessness without having control over allocations simply will not work.

[134] **Brynle Williams:** I have a question for Joy now. Could you expand on the comments made in your written evidence about the introduction of a single tenure for social housing, please?

[135] **Ms Kent:** Yes. I am sure that you are fully aware of all this, but, going back about eight years, the Law Commission undertook a tenure review when we were first talking to it about this. Essentially, tenure law—and I am not a specialist, but I have a paper on this that I could circulate to the committee afterwards, if you would like—has evolved historically. Given that, there has never been a real focus on supported accommodation in tenure law. It has never been a factor influencing how tenure law has developed. The Law Commission undertook a whole review of all the different forms of tenure and licence, and all the different ways that you can occupy a property, and it came forward with proposals. Essentially, all Welsh housing organisations were in agreement with those proposals, with a bit of negotiation over some of the detail. The Law Commission was very much behind that as well and was keen to do that.

[136] The Law Commission's proposal presents real opportunities both for providers and for the people trying to access it. For the first time ever, we would have a formal tenure designed specifically for the needs of supported accommodation. So, at the moment, there are two ways in which people can occupy supported accommodation: by assured shorthold tenancy or by licence. Which one is offered depends on the type of project and how it is managed. If you have an assured shorthold tenancy, you have exclusive possession, but if you have a licence, the organisation has the right to enter the premises—for example, if you need care or support with taking medication, and things like that. People may need to enter because they are concerned about your safety or, if there are intensive housing management issues, they have the right to move people from one part of the building to another so that others can come in on the project.

[137] The difficulty with both those forms is that neither of them is really right for supported accommodation. The licence does not give as much security as we would like, and the tenancy has not been designed for people in supported accommodation, particularly temporary accommodation. I have to say that there are a lot of people who have good security of tenure in permanent accommodation. For example, if you have a learning disability, we would not be talking about you not having exclusive possession, as there is no need. We are talking about temporary accommodation, where people are very vulnerable and often have challenging behaviour. The reason people need access and providers need more rights, in a sense, is often because they need to protect their staff or other people in that temporary accommodation from dangerous behaviour. If you are talking about very temporary accommodation, people may have drug and alcohol misuse issues or mental health issues. There are lots of different issues that can make them incredibly vulnerable but can also result in very challenging behaviour, and so there are high risks for staff and other tenants. Of the two forms of tenure that we have at the moment, neither is really right for that kind of context.

[138] The Law Commission is proposing, for the first time ever, a particular form of tenure for supported accommodation. So, you would be able to take someone out of a project temporarily if their behaviour became dangerous, but there are very strict guidelines about the conditions under which you could remove someone, for instance, if they were a danger to themselves, to others, to staff or to other tenants, but you could remove them only

temporarily, so they could access support again. At the moment, if someone has to be removed from that supported accommodation, that is it. That is the end of the support and the end of that relationship. You are dealing with the courts and, potentially, with the police. That has a negative effect on the relationship between the support provider and the person receiving the support, so it is not helpful, because good support is based on a relationship of trust. If you could remove someone temporarily so that there was a calming-down period, you would be protecting the staff and service users but still able to support that person in another context, you could keep the door open for them to come back into that project and participate again, once their behaviour has been brought to a manageable level. So, that is why we are really 100 per cent behind the tenure proposals.

[139] At the moment, some projects have to exclude people from accessing the service in the first place because they have to undertake a risk assessment of their behaviour. That means that some of the most vulnerable people cannot access support, because the providers cannot take the risk with the form of tenure that they have to give. It would make services more accessible and it would make support more effective, because you would not be going down the legal route. You could keep that support going in a supportive way even if people's behaviour got too challenging.

[140] So, that is a really strong proposal from the Law Commission. As I said, it would be the first time ever for us to have anything designed specifically to meet the needs of supported accommodation.

[141] **Gareth Jones:** It was interesting listening to you refer to the vulnerable groups and so on. In that context, where would you place the refuge accommodation that Women's Aid seeks to supervise and enable? We talk about tenure and the issues around that, but would you include that kind of service or sector within the tenure?

[142] **Ms Kent:** That is an interesting example, because a lot of domestic abuse services do not support women who have drug, alcohol, substance misuse issues, because of how they are set up—and tenure is a factor in that. However, the women who have come through that kind of experience often have alcohol issues or issues that may, when they feel threatened, make their behaviour risky for staff or other people in the refuge. So, that is a perfect example of people who might get better access to services if this issue were to be better managed.

[143] **Gareth Jones:** So, the proposed LCO could pave the way for a far more efficient service.

[144] **Ms Kent:** Absolutely. It could also open that service out to people who have more challenging behaviour. If you have gone through something horrendous, you are not going to come out at the other end unscathed without support. Sometimes, the impact of your experiences results in behaviour that is a challenge for other people, and it is a question of how we support those people, because we want to support them.

[145] **Gareth Jones:** There may be children involved too. It is not only the partners; it is the children, and the family who need to be accommodated.

[146] **Ms Kent:** Absolutely.

[147] **Val Lloyd:** John, do you want to answer Brynle's question?

[148] **Mr Puzey:** No, I fully support Joy's position on that. We also support the Law Commission's proposals. The current situation that Joy so well described there, with the two extreme forms of tenancy, neither of which is right, has caused conflict. Shelter Cymru has a case-working service across Wales, and, in our evidence, we say that we have come across

examples of the providers of supported housing not getting it right in their dealings with their users.

11.10 a.m.

[149] We have come across a number of circumstances where the user is a licensee of the organisation and they have been politely thrown out within hours, sometimes. However, even if you are a licensee, there is still a due process to go through and we have had to challenge those circumstances and challenge those organisations that are doing that. There is still a 28-day period and there are certain requirements. There is confusion out there and a properly designed form of tenure that builds in that support and that service is absolutely the right way forward.

[150] **Brynle Williams:** John, I put the next question to you. Could you expand on the point made in your written evidence that, currently, providers of supported accommodation are not clear about their powers and responsibilities in the area of tenure law?

[151] **Mr Puzey:** I am sorry; I jumped the gun, did I not? [*Laughter.*]

[152] The example that I just gave was based on what we have discovered from case workers. I am not saying that poor practice is widespread or that there is poor practice all over the place, but it is clear that providers sometimes find it difficult to deal with difficult people—we understand the problems, of course—and will sometimes deal with those people in a way that is not lawful. Those people might come along to a service like ours and we have no choice but to take up their case because, if something unlawful has occurred, we will challenge those organisations. That does not really help anyone. It certainly does not help the people who are struggling or in difficulty, the vulnerable people who need support and help. If we could get to a situation where my organisation did not have to do that, where services have an appropriate form of tenure that works with that support and service, then everybody will benefit—most importantly, the vulnerable people who need those services.

[153] **Val Lloyd:** Are you in agreement on that as well, Joy?

[154] **Ms Kent:** Yes, totally.

[155] **Jenny Randerson:** Moving on to matter 11.5, which relates to the right to buy, do you believe that it is necessary and appropriate for the Assembly to gain competence to legislate on the right to buy and other disposals of land for housing purposes?

[156] **Ms Kent:** Again, we do not have an awful lot to say on this one other than, 'yes'. I do not know whether John is going to expand on that.

[157] **Mr Puzey:** I am in danger of repeating myself—people who know me would say, 'So, what is new?'. This goes back to a point that I was making earlier. It is really important that, in Wales, we are able to have powers—for want of a better word—and control over how we can best use the social housing stock. It seems to me that, rather like when we were talking about allocations, right to buy should be one of those areas where it is possible to deploy a suspension at times, if absolutely necessary. The issue that we had with the idea behind the last LCO—the idea of a period of suspension—was that there did not seem to be any particular requirement on local authorities to do anything during that suspension period. It was like just saying, 'Well, there is a huge amount of pressure, there is a shortage of affordable housing, we will suspend the right to buy'. If this goes ahead, any suspension should be accompanied by a plan. People need to consider what will be different at the end of the suspension and how they will ensure that more affordable housing will be made available during that period. That should be a condition of any suspension and that was missing last

time. However, we certainly support the current proposal.

[158] **Jenny Randerson:** Moving on to matter 11.6, which relates to housing-related support, do you believe there is a need for the Assembly to have legislative competence in this area? If the answer is 'yes', could you provide some reasons for that? That would be very helpful.

[159] **Ms Kent:** Yes. Essentially, I will expand on the opening comments. Housing-related support is primarily funded through the Supporting People programme. It has been in place since 2003, so, as a funding programme, it is still young. Even though those projects obviously pre-date the programme and were funded through different means, it was only Supporting People that brought them all together and created a sector. Before that, organisations would see themselves as mental health organisations that did housing, learning disability organisations that did housing or older people organisations that did housing; now, a sector has been created through the single funding stream and everyone is coming together. Obviously, Cymorth Cymru has helped with that, with the bringing together of people, bringing a cross-fertilisation of ideas and creating this entity of housing-related support, which has this identity and focus on helping people build the lives that they aspire to in the community and contributing positively to that community.

[160] That is fundamentally important to creating the Wales that we want. The way things are going in England and Scotland is a real shame, where Supporting People, as a funding stream, either does not exist any more or will soon not exist. Northern Ireland is still sticking with the programme. The way that policies are developing in different parts of the UK is diverging. In Wales, the Deputy Minister announced just before Christmas that we are going to have an independent review of housing-related support and where we want to go. We need to keep the good that has come about through the Supporting People programme, but that does not mean to say that it is perfect. We need to build on the positives and look to the future about how we are going to work on areas where it needs to be improved. I think that because it is going off in different directions—a lot of people share my view that it is a shame that it is going the way that it is in England and Scotland—it is right that we have these powers now because we have the review. No-one knows what recommendations are going to come out of that independent review, but, whatever recommendations come from it, we will need to have the powers to take them forward.

[161] That is another reason as to why it is important that the proposed LCO goes through and that it covers housing-related support. Obviously, my mission, in terms of representing the sector, is that I want housing-related support up there with education and health. I want people to get the general public to understand the importance of helping people to find a home, keeping that roof over their heads, helping them with their personal and emotional issues so that they can stay in that community and contribute positively to it, and so that they are not in prison, long-term hospital care, residential care or a nursing home and so that they are not on the streets. Until we get that to be up there, with the population understanding that it is as important as education and health, our job will not be complete. The proposed LCO gives us another opportunity to raise the profile of this issue and to get it to its rightful place in the public policy domain.

[162] **Mr Puzey:** I have nothing to add to that. I completely support Joy and it would be a waste of your time if I was to add anything to that; she covered it very well.

[163] **Jenny Randerson:** Okay. My next question goes back to what Joy was saying. In your evidence, you state that,

[164] 'This LCO would be an opportunity to strengthen links between the Housing and Social Care sectors.'

[165] How do you think the proposed Order will achieve this?

[166] **Ms Kent:** On housing-related support, what the support worker does, at the citizen level, is help the individuals, whatever their issues are, to overcome those issues and stay in the community. That often means that that support worker is working as an advocate for that individual. That individual may need to engage with probation, they often need to engage with social services and mental health teams. There are lots of other agencies and different types of support out there that that person needs to engage with to build the life that they want and to stay in that community.

[167] Powers are being drawn down to the Assembly in lots of different areas and, as someone famously said, devolution is a process rather than an event. As other areas develop—for example, we have the review into social services—I do not doubt that there will be other LCOs going ahead in other areas. What this does, again, is to put housing at the forefront and it will enable us to have the freedoms in the future so that when other powers are drawn down, housing is already there and can link up.

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[168] Housing-related support, as I said, provides that glue for that individual because the support worker's main job is to make sure that they can stay in the community. It is the support worker's job to engage with all these other areas, and doing that is difficult, and difficult for the citizen, and negotiating with social services is often a challenge, as I am sure you know from case work. That support worker is there to help. If we have the proposed LCO around housing-related support, it will give us the opportunity in the future, when other powers come into play, to link up housing, and housing-related support can strengthen that link between housing, social care, probation and all the other different parts of public policy that need to be linked up for the most vulnerable because they need to be able to access all those different types of support.

[169] **Val Lloyd:** Did you want to comment on that?

[170] **Mr Puzey:** No, thank you.

[171] **Jenny Randerson:** My final question is on matter 11.7, and this is specifically for John. It relates to Gypsies and Travellers. Do you believe that this new legislation is needed so that local authorities can meet the needs of Gypsies and Travellers and, specifically, the provision of appropriate sites? Do you believe that the proposed LCO is appropriate and sufficiently wide?

[172] **Mr Puzey:** Yes, I do. The reason for that—and you may or may not know this—is that the Caravan Sites Act 1968 used to have something called section 6, which placed a statutory duty on local authorities to provide, after assessment, sites for Gypsy and Travelling communities. That was repealed a few years ago and the expectation was that Gypsies and Travellers would combine and buy land themselves—that they would effectively set up private sites, buy land and clear planning permissions to provide those sites. Unsurprisingly, given the controversial nature of Gypsy and Traveller communities, very few of those sites have been set up; planning permissions seem to be denied left, right and centre. Certainly, the recent consultation exercise that has been undertaken by the Assembly Government suggests that we need at least two major new sites in Wales by 2013.

[173] The question is how we achieve that. The best way is working in partnership with local authorities and ensuring that their assessments are appropriate—in some areas there are good assessments and in other areas there is plenty of evidence that assessments are not being

done terribly well—and that appropriate, well-located, properly supported sites are provided for local Gypsy and Traveller communities. However, it seems appropriate that we should also have in Wales the powers to enforce that if necessary. I would hope that that would not be necessary but it is important to have the possibility of drawing down powers and developing a Measure that could create a situation where local authorities might have to provide those sites. I think that we can get provision of sites without that but it would be sensible to have that power.

[174] **Brynle Williams:** My question relates to matter 11.8. Could you please expand on the points in your evidence in relation to matter 11.8 on homelessness, and on whether the competence being sought under this matter will enable current weaknesses to be addressed?

[175] **Mr Puzey:** I think that it will. It is an important power to draw down. The current legislation is 33 years old—it was introduced in 1977. I am not saying that everything from 1977 is bad—I got married in 1977, so some things are very good, but others need to be addressed after a while [*Laughter*]. If you think about the housing environment in 1977, it was completely different; there was still major council-house building going on back in the early 1970s. In fact, strangely enough, it was only a couple of years after the legislation that the huge slow-down started. People's aspirations and expectations were completely different in the mid 1970s to what they are now. Clearly, the legislation has helped hundreds of thousands of people over those years and my organisation, and its sister organisation in England, were strongly associated with the introduction of that legislation. So it might seem odd that a representative of Shelter Cymru is now saying it is time to look at it, but that is what we think.

[176] There are key problems with the current legislation. First of all, it has in-built barriers so that, oddly enough, most homeless people are not assisted by the homeless persons' legislation. Indeed, today the Assembly Government issued its latest homelessness figures—I have not seen them yet—but, whatever they are, I would not take much notice of them, quite frankly, as they are not really telling you what is going on in terms of homelessness in Wales at the moment. We have seen a decline in the figures over the last year or two but every agency in the field is saying, 'There are more and more people facing or experiencing homelessness coming to us'. Local authorities will say the same thing, yet the figures continue to decline, so that is odd, is it not? That is because of the workings of the current legislation.

[177] On barriers, first of all, there is something called priority need, which means that you have to be in a certain category. Even if you are in desperate need and even if you are homeless, you would have to fit into a certain category in order to get full assistance. There is the concept of intentional homelessness; this is the idea that you might have made yourself homeless on purpose in order to benefit from the legislation. In fact, most households who are found to be intentionally homeless have not done that, they have simply done something which, on reflection, was daft or stupid, or something they should not have done. Therefore, the idea of denying them any other services, other than 28 days in temporary accommodation, does not seem to fit in with how we want to take forward social inclusion in Wales. It seems to me that it would be better to work with households in those circumstances rather than say, 'That is it, 28 days and you are out'. I am not saying that every local authority does that, but they can under current legislation. Do not forget that maybe one of the parents of a household has done something stupid and not paid the rent, not paid the mortgage, spent the money on something else and lost the home. The whole family suffers as a result of that, including children who will be a part of that household that is found intentionally homeless.

[178] That certainly does not help in terms of social inclusion and there is also a whole bunch of other issues around how it is administered. An awful lot of time and energy is spent by housing officers in local authorities policing this legislation, making sure that people are

eligible and in priority need, assessing whether they are intentionally homeless and whether it is the right local connection. A whole range of issues have to be policed, which, in our view, is a huge misuse of time and energy. It would be much better if we could simplify the current legislation and open it up to more people. That would also free up the capacity—and we need to free up capacity in these difficult times—of local housing officers and all the other agencies in the field, for example, the agencies that Joy represents and my organisation, to focus on the best solutions for people who are facing or experiencing homelessness.

[179] Another problem with the current legislation is that if you are accepted as homeless, you jump those barriers and there is only one answer: you have a tenancy for life. That is not always appropriate in all circumstances. If you are a vulnerable young person, do you want a tenancy for life or do you want appropriate support, links to education and training, maybe somewhere to live in town or a short let while you sort yourself out? There is a lack of flexibility in being able to come up with those kinds of solutions.

[180] The current legislation drives a cultural element, almost. It drives a kind of victim mentality feeling among many people—you have to show that you are really in desperate need in order to access services and resources. That does not help people, and it does not help services either because services sometimes take on a patronising approach because of that, or even a gatekeeping approach where people are denied services. That victim mentality is very much driven by this old style legislation that we have in place at the moment.

[181] Current legislation very much gets in the way of developing good practice—the idea that, for example, we work with people as equals and in partnership with them, rather than them coming to me, almost like Oliver Twist, with their begging bowl and I may or may not give them what they require. It gets in the way of being able to identify holistic answers to people's needs and it fits in with what Joy was saying earlier about the broader links that we need to develop with a whole range of other services and support. If we look at legislation, we have the opportunity to place a greater statutory responsibility on local authorities to prevent homelessness at an earlier point rather than dealing with it as an emergency. Local authorities are doing all of that work, but bringing it in to the statutory framework would be really helpful.

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[182] It provides, as I said, the opportunity to look at different forms of accommodation and support for people. Crucially, it is about opening the door, if you like, to everybody who needs assistance, not simply narrowing it and asking, 'Do you fit into this category?', so that, if you are facing homelessness, you can get support as soon as possible. Let us try to prevent homelessness. If you are experiencing homelessness, you need help now. It does not matter what category you are in, we need to find a solution to your homelessness. As I say, by simplifying the law and opening it up more, we can free up a lot of capacity that is currently spent on administration. This can contribute to the broader reform of how we approach homelessness and its prevention and perhaps change the culture in services for the better and make people feel less like victims and much more that they are working with a service or authority to identify a mutual way forward to meet their aspirations.

[183] **Val Lloyd:** Joy, did you want to come in?

[184] **Ms Kent:** I have a few points to reinforce, what John has said. I totally agree with his comments. Obviously, this not only applies to housing; with regard to access to welfare benefits and so on, people are put in a position where they have to show that they are vulnerable and a victim, and John is right in saying that the system reinforces that. With housing-related support, a lot of what support organisations do is to try to build people's confidence and sense of self worth and the system works against that and makes that harder.

If there is another part of people's lives in which they are having to show how needy they are, that works against building their confidence and sense of self worth, so I would definitely agree with everything that John has said.

[185] There is another point that I would like to reinforce in relation to the priority need way of working. A lot of third sector organisations are established to work with certain client groups, for example, rough sleepers, or people with drug and alcohol issues, who are often the most vulnerable people. Those people may well not be in priority need and many of those organisations are now under increasing pressure just to work with the statutory homeless, and those who are in priority need. So that focus on statutory need works against what those organisations were initially set up to do, and it also, as John says, means that it is getting harder and harder for some people who are very vulnerable to access services.

[186] **Brynle Williams:** Do you believe that local authorities need additional powers to deal with empty properties and second homes in addition to the ability to charge higher council tax?

[187] **Mr Puzey:** That is an interesting question, and I welcome it. Shelter Cymru operates an empty homes project, which is funded by the Welsh Assembly Government, and the idea is that we are supporting local authorities in developing, and, more importantly, implementing, their empty homes strategies, through sharing good practice and so on. The feedback that we have from almost every local authority is that they believe that the current range of powers that are available to them, for example, empty dwelling management orders, compulsory purchase orders, and other powers under environmental health Acts, are too complex, in a way. There is a complex set of powers that they might use and, because they are so complex, they do not use any of them, in some cases. In some areas there is a limited capacity in local authorities to do anything about empty homes; some local authorities have empty homes officers, some have no provision at all. So, certainly where there is a limited capacity, the idea of getting involved in something as complex as an empty dwelling management order is not even considered.

[188] There are plenty of powers out there; the issue is whether there is a way in which—and I have not thought too long about this—if the Assembly were to acquire powers over empty homes, it could simplify what is out there, and make it easier and more accessible for local authorities to use. That is my only thought on this issue. When I first knew that this question was coming, I thought, 'Well, no, there are plenty of powers out there', but it has occurred to me that there might be a need to take the opportunity to simplify those powers.

[189] **Brynle Williams:** Precisely. It is far too complicated at the moment.

[190] **Mr Puzey:** Absolutely.

[191] **Brynle Williams:** Joy, do you have anything to add?

[192] **Ms Kent:** I agree.

[193] **Brynle Williams:** Finally, should empty properties be a separate matter within the proposed Order?

[194] **Mr Puzey:** If the thinking is that the Assembly might want to acquire powers to simplify, then I think that it would have to be a separate matter under those circumstances. That is my only thought on that.

[195] **Ms Kent:** I will go along with that.

[196] **Val Lloyd:** I turn now to the interpretation of field 11, as a final question from this side of the table. The proposed Order provides definitions of a number of terms that would be inserted into field 11. Do you think that all the terms within the proposed Order are sufficiently clearly defined?

[197] **Mr Puzey:** Joy? *[Laughter.]*

[198] **Ms Kent:** Obviously, from my description of tenure law I am not a legal expert, but, from our reading of it, we could not see any problems; it appeared to be clear to us.

[199] **Mr Puzey:** Yes. It is the same for us.

[200] **Val Lloyd:** That brings our formal questioning to an end. Is there anything else that you would wish to put before us that we have not raised already?

[201] **Ms Kent:** I would just like to say that housing is an example of where the Assembly has worked collaboratively, since the first national housing strategy, with providers and umbrella organisations and this offers further opportunities for us to do more. There have been times in the past—even if I cannot think of any at this particular moment—where what we have wanted to achieve has not been possible because of legal constraints and I am sure that, without this proposed LCO, that would continue. I am grateful for the opportunity to do this and I am pleased that the proposed LCO is going ahead. We have good, firm foundations but there is a lot more that we can do together.

[202] **Mr Puzey:** I am also grateful for the opportunity to provide evidence and, as I said at the beginning, there is a great deal of consensus within the housing movement in Wales, for want of a better term, around this issue. You might tell me that people are coming here and saying something different, and that would prove me wrong, but, as far as I know, and certainly in all the various working groups and task groups that we have been involved in, there is tremendous consensus. It is really important when you are developing an LCO, and, eventually, Measures, that there is a consensus on the way forward. That is the great strength behind this.

[203] **Val Lloyd:** That is very encouraging. Thank you both for giving evidence today. As I am sure that you will know, a draft transcript will be sent to you before it is finally published, for you to make any corrections that you may have. Thank you again for your wisdom this morning.

[204] I remind the committee that our next meeting will be next Wednesday morning, when we will take further oral evidence from the Welsh Tenants Federation, the Chartered Institute of Housing Cymru and Community Housing Cymru. Thank you very much. I declare the meeting closed.

*Daeth y cyfarfod i ben am 11.43 a.m.
The meeting ended at 11.43 a.m.*