Agenda – Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau

Lleoliad:

Ystafell Bwyllgora 3 – Y Senedd

Dyddiad: Dydd Iau, 12 Mawrth 2020

Amser: 09.20

I gael rhagor o wybodaeth cysylltwch a:

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Rhag-gyfarfod (09.20 – 09.30)

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

2 Bil Rhentu Cartrefi (Diwygio) (Cymru): sesiwn dystiolaeth 3

(09.30 – 10.30) (Tudalennau 1 – 36)

Douglas Haig, Is-gadeirydd a Chyfarwyddwr Cymru, Cymdeithas Landlordiaid Preswyl

David Cox, Prif Weithredwr, ARLA | Propertymark

Egwyl (10.30–10.40)

3 Bil Rhentu Cartrefi (Diwygio) (Cymru): sesiwn dystiolaeth 4

(10.40 – 11.40) (Tudalennau 37 – 38)

Rob Simkins, Llywydd Undeb Cenedlaethol y Myfyrwyr, Cymru

Dan Wilson Craw, Cyfarwyddwr, Generation Rent

4 Bil Rhentu Cartrefi (Diwygio) (Cymru): sesiwn dystiolaeth 5

(11.40 – 12.40) (Tudalennau 39 – 60)

Alun Evans, Uwch-swyddog Ymgyrchoedd ac Eiriolaeth, Cyngor ar Bopeth

Jennie Bibbings, Rheolwr Ymgyrchoedd, Shelter Cymru

Nick Morris, Rheolwr Polisi a Chyfathrebu (Cymru), Crisis

5 Papurau i'w nodi

(Tudalen 61)

5.1 Llythyr gan y Gweinidog Tai a Llywodraeth Leol mewn perthynas â Bil Llywodraeth Leol ac Etholiadau (Cymru)

(Tudalennau 62 - 89)

5.2 Gwybodaeth ychwanegol gan y Gweinidog Tai a Llywodraeth Leol mewn perthynas â Bil Llywodraeth Leol ac Etholiadau (Cymru)

(Tudalennau 90 - 92)

5.3 Llythyr gan y Gweinidog Tai a Llywodraeth Leol mewn perthynas â chyllideb ddrafft Llywodraeth Cymru 2020-21

(Tudalennau 93 - 95)

5.4 Llythyr gan y Llywydd ynghylch y Bil Rhentu Cartrefi (Diwygio) (Cymru)

(Tudalen 96)

6 Cynnig o dan Reol Sefydlog 17.42 (vi) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

7 Bil Rhentu Cartrefi (Diwygio) (Cymru) - trafod y dystiolaeth a ddaeth i law

(12.40 - 12.50)

8 Ystyried yr ymateb i'r llythyr gan y Gweinidog Tai a Llywodraeth Leol ynghylch y Bil Llywodraeth Leol ac Etholiadau (Cymru)

(12.50 - 12.55) (Tudalennau 97 - 99)

Mae cyfyngiadau ar y ddogfen hon

National Assembly for Wales Equality, Local Government and Communities Committee consultation on the Renting Homes (Amendment) (Wales) Bill
Response from ARLA Propertymark - March 2020

Background

1. ARLA Propertymark is the UK's foremost professional and regulatory body for letting agents; representing over 9,500 members. ARLA Propertymark agents are professionals working at all levels of letting agency, from business owners to office employees.

General Principles

Extension of the minimum notice period

2. ARLA Propertymark does not agree with the proposal to amend the Renting Homes (Wales) Act 2016 to extend the minimum notice period of a Section 173 notice from two months to six, and to restrict the issuing of such a notice until six months after the occupation date of the contract. By changing the notice and issuing period there will be six main consequences. Firstly, it will give all tenants, including those who flout the law, a minimum of 12 months security in the tenancy by default. Secondly, the proposal ignores issues with problem tenants and the impact on surrounding properties and the landlord or letting agent. This will effectively reward these tenants for their poor behaviour. Thirdly, adding further time will not only impact the timescale of proceedings but will also make the process more expensive for the landlord. Fourthly, landlords will sell up due to the perceived risk, resulting in a reduction of the sector and contributing to landlords being more selective about who they let their property to. Fifthly, this will mean that the private rented sector won't be accessible to the most vulnerable tenants and rents will increase. Finally, this will create pressure on the Welsh Government to ensure displaced tenants are housed in the social rented sector. Taking the above into consideration, we do not agree with this proposal and would urge Members of the Welsh Parliament to reconsider extending the minimum notice period of a Section 173 notice and restrictions on issuing such a notice.

Changes to fixed term standard contracts

3. ARLA Propertymark does not agree with the proposal to remove a landlord's ability to end a fixed term standard contract under Section 186 of the Renting Homes (Wales) Act 2016. This is because landlords using fixed term contracts will be left with little option to regain possession of their property at the end of the term unless the court decides that the tenant has breached terms of their contract. This change will unfairly balance power towards tenants, meaning that landlords will have little protection should they need to regain their property. This will have serious consequences on the private rented sector in Wales, as it will essentially make the use of fixed term contracts obsolete. Landlords will choose to issue Periodic contracts by default because there are greater protections attached should the landlord wish to regain the property. Consequently, tenants will have less security in their length of tenure beyond the initial 12 months.

Placing a six-month restriction on issuing a notice following the expiry of a previous notice

4. ARLA Propertymark does not agree with the proposal for landlords having to wait six months before re-issuing a Section 173 notice following expiry of a previous notice. This proposal ignores emergency situations where the landlord may be required to regain possession of their property at short notice and places further restriction on the already limited Section 173 procedure. For instance, the original notice may have timed out due to the landlord no longer

needing possession of the property, or genuine change of character for the tenant where the landlord had issued the notice for this reason. An example of this could be the tenant was in rent arrears, so the landlord issued the tenant with a Section 21 notice. However, this was the first instance and the tenant paid back the money owed and consequently the landlord did not go forward with the eviction process. The landlord then needs to move into the property a couple of months later but cannot evict the tenant as there is no ground of eviction to do so. In this circumstance the landlord would need to wait a further six months after the expiry of the first notice, which does not account for an emergency. Landlords need to be able to regain their property suddenly or unexpectedly, and therefore if this proposal is to be introduced, further mandatory grounds for possession must be added to the Renting Homes (Wales) Act 2016.

The use of break clauses in fixed term contracts

5. We are concerned that ensuring a break clause cannot be used in contracts of duration of less than 24 months, and cannot be activated until month 18, as well as landlords being required to serve a six month notice in relation to a break clause will create less flexibility and provide less protection for landlords. Taking into consideration the proposed removal of the Section 186 notice for eviction, the continued use of break clauses will be increasingly useful for both landlords or agents and tenants. By removing this added level of flexibility, tenants may feel stuck in a fixed term tenancy that may limit where they work, where they want to live and where their children go to school. For this reason, we would expect many tenants who want flexibility to be hesitant to sign up to extended fixed terms without the option for a break clause. This in turn, will provide landlords with less security against void periods as tenants who want flexibility would likely prefer short fixed terms of six months or to sign a Periodic tenancy, which can be ended any time at the tenant's request. Limiting the use of break clauses will provide landlords with less protection against rogue tenants, and will therefore, negatively impact landlord confidence in the private rented sector. Landlords need protections in place to ensure that they can regain possession of their properties when and if needed and to also limit any damage caused by replacing problem tenants. Instead of limiting the use of break clauses the Welsh Government must provide clear guidance to landlords and letting agents on drafting correct break clause wording. Currently, the use of a break clause relies heavily on the specific wording. If a break clause contains complicated wording that is difficult to interpret, either party may face issues when trying to exercise their right to terminate the fixed term early.

Potential barriers to implementation

6. Without reform to the existing courts system for housing cases, including making the eviction process simpler, quicker and more cost-effective, we do not believe that the proposals within the Renting Homes (Amendment) (Wales) Bill will achieve a better eviction process. To ensure that the proposals in the Bill are operable in working practice, ARLA Propertymark believes that there are two things that must be done to amend court procedures. Firstly, the Renting Homes (Wales) Act must be amended to include additional mandatory grounds for possession in place of the restricted Section 173 and removed Section 186 notices. Secondly, to rectify timing and consistency issues currently faced in the court system, we believe that a specialist Housing Tribunal needs to be introduced.

Reforming Grounds for eviction

7. For the proposed changes to the eviction process to work, additional mandatory grounds for eviction must be included in the Renting Homes (Wales) Act 2016. Should the Bill be

implemented, a landlord issuing a fixed term standard occupation contract would have no means to repossess their property if they needed to move themselves or their family into the property, or if they wanted to sell the property. The landlord would only be able to regain possession of a property under a fixed term contract due to tenant's breach of contract (pre-contract and throughout the duration of the contract) and under estate management grounds (including building works to the property). In these instances, the granting of possession is at the discretion of the court. Consequently, we believe that Bill must be amended to include four mandatory grounds for possession in order to make the proposed changes to the legislation workable. Firstly, landlord intends to sell the property, Secondly, landlord intends to move into the property. Thirdly, landlord intends to move a family member into the property. Fourthly, mortgage lender needs to regain the property.

8. We also believe that existing grounds for possession under the Act need strengthening. For example, under the rent arrears ground, tenants can pay off arrears on the day of the hearing which therefore makes the ground for eviction discretionary. Whilst we appreciate that some tenants would not do this maliciously, others may be inclined to continually play the system. Landlords should not be treated as an interest free lender by tenants who actively flout the responsibilities of their agreement. Thus, where a tenant has been in serious rent arrears of over three months, and has not paid this back consistently, the ground for possession should be absolute.

Considering the case for a Housing Court

9. Without effective court processes, the proposed changes to the eviction process will not be workable. The current court processes are slow and inconsistent. ARLA Propertymark is advocating for the creation of a specialist Housing Tribunal for England and Wales. The Housing Tribunal should be given the existing powers of both the County Court (claims for possession and disrepair in respect of rented dwellings) and First-tier Tribunal (Property Chamber) to ensure that wherever possible persons bringing proceedings before the Tribunal should be able to have their matters dealt with in a single process. The creation of a Housing Tribunal would make longer contracts by default workable for landlords. The Bill will make contracts a minimum of 12 months in length by default. Without a Housing Tribunal and enhanced grounds for eviction, landlords will be reluctant to offer longer terms where they are faced with the threat of needing to reclaim their properties. For many landlords, long-term contracts do not prove viable due to current procedures. Letting agents want well-maintained tenancies as void periods and renewals reduce agent's fees. Where landlords use a letting agent, landlords will either pay a flat-fee upfront or a percentage of the rent each month for the agent to manage the tenancy. Where a flat fee is paid upfront it is in the letting agents' interest to ensure the contract is well maintained over a long period time because they are not receiving a monthly income from managing the property. For this reason, we would advocate that a Housing Tribunal is essential in making longer-term contracts by default workable. This would benefit landlords as they would have fewer void periods, letting agents for the reasons stated above and ultimately tenants who have a secure home. Without a specialist Housing Tribunal to deal effectively with evictions, it is highly unlikely that landlords will feel able to offer long-term contracts.

Appropriateness of the powers in the Bill

10. A longer notice period for a Section 173 notice will negatively impact the private rented sector in two ways. Firstly, it will extend the time taken during the eviction process, which is already a slow procedure. Secondly, extended timescales will increase the associated costs for

landlords going through the eviction process. Consequently, we believe that the perceived risks of an increased notice period could result in less homes available for private rent.

Time

11. Extending the minimum notice period will cause further delays in the eviction process. The eviction procedure, even under the Accelerated Possession route, is already a lengthy process. Via Accelerated Possession, after issuing a Section 21 notice, landlords are generally not required to have a court hearing meaning the process should be less susceptible to delays. Despite this, ARLA Propertymark members cite delays at every stage of the possession action process in the County Court, beginning from the initial claim up to the eventual possession by instruction of a County Court Bailiff. Shelter reports that the full eviction process for a private tenant takes on average seven to eight months or 28-32 weeks including the two-month notice period.[1] In addition, statistics from the Ministry of Justice from December 2019 show that from claim to repossession by county court bailiff, the median average time taken to progress to possession for all tenure types was 21.0 weeks.[2] If the proposals in the Renting Homes (Amendment) (Wales) Bill are implemented, and court processes remain the same, the full eviction process will take approximately 12 months from the date the notice is issued.

Cost

12. A longer notice period will result in further loss of income for landlords through the length of court proceedings and accruing rent arrears. Despite the tenant still having a legal requirement to pay their rent once they have been issued a notice for eviction, many choose not to and the likelihood of this increases when the eviction has arisen from rent arrears. All time associated with eviction proceedings often results in further loss of rental income for the landlord, and the timing associated with each stage adds further frustration. Research conducted by StudentTenant.com in 2017, showed that when using High Court Enforcement Officers (known to execute a Possession Order notably quicker than through County Court Bailiffs) landlords pay around £1,981 and wait around nine months to evict a tenant.[3] This waiting time would be increased should a longer notice period be introduced. Average rent across Wales currently stands at £650 a month[4], if a landlord was hypothetically losing this amount of rent for 12 months, as a consequence of this proposal, this would be £8,450 (650 x (6 + 7)) not including added interest in arrears – totalling £10,431 including court costs. This figure does not include associated cost where a problem tenant has left the property in poor condition, meaning that the landlord would also have to fund repairs in order to let the property again. Furthermore, via Accelerated Possession, landlords cannot recoup lost rent. To do this landlord must submit a separate claim for monies owed which if the order is granted there is no guarantee that they will receive this money back.

Potential barriers to implementation

13. We are concerned that by introducing the proposals contained within the Bill, landlords will have no viable option of evicting problem tenants quickly and efficiently due to current court procedures. Although the Renting Homes (Wales) Act 2016 contains grounds for eviction based on a breach of contract and for serious rent arrears, both can be at the discretion of the Judge. Where a ground for eviction has been used, and it goes to a court hearing this stage can be extended through delays, adjournments, and through the actions of the tenant. This is

[1] https://england.shelter.org.uk/housing_advice/eviction/section_21_eviction/how_long_a_section_21_eviction_takes

[2] https://www.gov.uk/government/statistics/mortgage-and-landlord-possession-statistics-october-to-december-2019

[3] https://www.studenttenant.com/news/tenant-evictions-2000-eviction-fees

[4] https://homelet.co.uk/homelet-rental-index/wales

either by making vexatious claims or through playing the court system by making payments at the court in order to remove the mandatory ground for possession for rent arrears, currently via Ground 8 of Schedule 2 of the Housing Act 1988. Most often, landlords make use of a Section 21 notice as they are guaranteed to get possession. For instance, a recent survey shows that 57% of ARLA Propertymark members have issued less than ten Section 21 notices in the past two years and 39% haven't issued any Section 8 notices in the past two years. Further, where possession has been sought on discretionary grounds, the Judge may adjourn the application for possession where the tenant claims hardship. This can last for either a fixed period of time or indefinitely, providing that the defendant pays their rent and makes regular contribution towards existing arrears, if the tenant defaults again, the landlord or agent will have to wait more time to go to court and request another Possession Order.

14. Furthermore, landlords report difficulty in proving the anti-social behaviour of a tenant in order for them to be evicted. We have heard reports of Police giving evidence on behalf of a landlord, and the court would still not grant possession. The courts consider genuine remorse for actions and previous good character, the result of this being that only a Suspension Order is granted. We believe that without robust reform to the court system, these existing issues will worsen should these proposals be introduced as a standalone modification.

Unintended consequences

15. The Renting Homes (Amendment) (Wales) Bill will not improve security of tenure for those who rent their home in Wales. The proposals are overly biased towards the tenant and as such letting property becomes less of a viable business asset for landlords. This is because there is an increased risk in protecting assets (property) where there isn't straightforward means to regain the property quickly when things go wrong. With less landlords there will be less privately rented homes which will ultimately leave tenants with less choice of where to live. A decrease in private rented homes will create two unintended consequences. Firstly, remaining private rents will increase. Secondly, landlords will become more risk averse and will only choose to house the best tenants.

Financial implications

16. The private rented sector will shrink because of the Renting Homes (Amendment) (Wales) Bill. This will have two significant financial implications. Firstly, it will mean increased pressure on the social rented sector to provide more housing for displaced tenants. Secondly, it will cost the Welsh Government money to invest in additional property to be socially rented. The private rented sector has grown as social stock has depleted, and although previously saturated with working professionals and students, is now increasingly housing families and older people. If the private rented sector decreases, it will be the responsibility of local authorities to house those without access to the private rented sector. This will come at a significant cost to the Welsh Government as more will need to be invested in building and acquiring homes to be socially rented to make up for the shortfall in privately rented housing. Furthermore, it is likely that with less homes available to privately rent and social stock isn't increased to accommodate for this, the public sector will need to increase expenditure on temporary housing. In 2017, a Freedom of Information request found that the Welsh government had spent £8.6 million housing homeless individuals and families in temporary accommodation.[5] Should the proposals of this consultation be introduced without assessing issues with court procedures, we would expect this figure to increase dramatically.

[5] https://www.walesonline.co.uk/news/wales-news/wales-housing-crisis-leaves-councils-14370392

The Clerk,

Equality, Local Government and Communities Committee,

National Assembly for Wales,

Cardiff.

2 March 2020

Subject: Written Evidence for the Equality, Local Government, and Communities Committee inquiry into the Renting Homes (Amendment) (Wales) Bill

To the Clerk,

1. Firstly, I would like to thank the Chair for asking the Residential Landlords Association (RLA) Wales to submit written evidence to the Committee's inquiry into the general principles of the Renting Homes (Amendment) Wales Bill. We are approaching this legislation in good faith with a view to improve it so that it may work in the best possible way with as few negative implications as possible.

2. About the RLA

2.1 The RLA represents the interests of landlords in the private rented sector (PRS) across England and Wales. With over 40,000 subscribing members - managing over a quarter of a million properties - and an additional 20,000 registered guests who engage regularly with us, the RLA is the leading voice of PRS landlords. We support and advise members, seeking to raise standards in the PRS through our code of conduct, training, and accreditation. Many of our resources are freely available to non-member landlords and tenants. We campaign to improve the PRS for both landlords and tenants, engaging with policymakers at all levels of government to make renting better. It will soon merge with the National Landlord Association to create the National Residential Landlords Association, pooling our resources together to provide stronger representation for landlords.

3. General principles of the Bill & need for legislation to deliver stated policy intention

3.1 The RLA strongly believes in both a landlord's ability to take possession of their own property and in providing security of tenure for a tenant. Therefore, we welcome the Welsh Government's retention of Section 173. However, there are significant issues with the proposals as they stand. Landlords do not go to court without good reason and prefer to keep good tenants in their homes. Indeed, landlords would like to have a tenant in their property for an extended period. The issue with the proposal is the ability of a landlord to efficiently take possession from a bad tenant or ensure they can take possession of the property in exceptional circumstances, such as needing to move in themselves in a timely manner to avoid becoming homeless. Contrary to the myths around 'no fault evictions', landlords usually only use a S21 notice (soon to be S173) where the tenant is at fault.

3.2 Currently under S21, landlords can take possession from bad tenants with two months' notice and no large legal bill (unless the tenant outstays the notice period). This Bill, by extending the S173 notice period to six months, means a landlord could suffer half a year of arrears or the tenant's neighbours half a year of anti-social behaviour (ASB), before the property is returned to the owner. The RLA understands the Welsh Government has provided what is terms a more "appropriate" route that is S157 and would like landlords who have problem tenants to use this and that the notice period here is one month.

3.3 However, this forces a landlord to go to court and build up substantial sums of legal bills. This would be particularly aggravating in cases of arrears. This also ignores the fact that the courts are already overburdened, and the Bill will only increase that workload. As a result, not only will landlords have to wait longer to take back possession from bad tenants, but serious criminal cases will be delayed as the volume of casework rises.

3.4 The largest survey the RLA ever carried out found 83% of landlords who used S21 had done so because of rent arrears.[1] Over half of all S21 users had experienced anti-social tenants. However, they were five times more likely to use S21 over the S8 notice designed for these situations. This is due to lack of trust in the court system to deliver swift justice and inadequacies in the S8 route. While there will still be an equivalent grounds-based possession route, there are no improvements to this process mentioned in the proposals that would assist landlords suffering with poor tenants.

3.5 Landlords face significant delays in regaining possession of their property once the notice period has ended. Recent statistics show it takes landlords over 22 weeks to regain possession of their property after applying to court. It is little surprise then that 78% of respondents were dissatisfied with the courts. However, there is no mention of improving the court process. It is why we were disappointed to see the Welsh Government in the explanatory memorandum reject advocating for a dedicated housing court. The RLA still maintains a housing court is essential if possession reform is being designed to push more landlords to use legal procedures to regain their property. We were encouraged to see the majority of respondents to the Government's consultation agree with that very sentiment.

3.6 The proposals as they stand could increase the risk of homelessness to armed forces personnel. When working away from home, such personnel may be provided with Service Family Accommodation. As licensees under a Crown Letting, these personnel and their families, may be served a 93-day notice by the MoD. Under the present regime, where two months' notice is required to regain possession, this type of landlord would have adequate time to inform their tenants so that they could move back into their own home. Under the new proposals these members of the armed services may have to find alternative accommodation. This may place a further strain on local authorities as they have a statutory duty to consider whether former armed forces personnel are vulnerable and entitled to homelessness support.

3.7 Another group who stand to have their arrangements further complicated by the Bill are students and young professionals. Under the new rules, to maintain the annual cycle necessary to operate in the student and young professional letting market, the landlord must serve a S173 notice on the first day they are able following the six-month period. Any earlier is not allowed under the legislation, and any later means the tenancy is longer than a year. Students search for 12-month fixed term tenancies for security for a whole academic year and do not wish for longer. Therefore, the change to fixed term tenancies are problematic for landlords and young people who need somewhere to live short-term as the manner in which tenancies are presented and advertised become overly complex.

3.8 This complication will have other impacts if the Bill is not amended: if a landlord does miss the very narrow window to maintain the annual cycle then the tenant can live in the property a few weeks or months longer. The landlord is left with a choice where they have to keep an empty property until the annual cycle begins again – bearing the loss of rent on

[1] Nick Clay, 'Possession Reform in the Private Rented Sector: Ensuring Landlord Confidence', *RLA PEARL*, July 2019, https://research.rla.org.uk/wp-content/uploads/Possession-Reform-in-the-PRS-July-2019-1.pdf

council tax premiums on an empty home – or be forced to change their entire business structure in a very short time to ensure that they are not inflicted with those premiums or loss of rent. Leaving the student lets market to avoid this will mean a change-of-use for the property, creating an administration burden for councils to process this.

3.9 To overcome this, the RLA has two alternative proposals, both of which should be adopted, that still maintain the objective of creating 12-months' security of tenure:

- Allow for a six-month S173 notice to be served after four months but not to take effect until immediately after the six-month moratorium ends, giving tenants more notice but the landlord flexibility to preserve the annual business cycle and reducing the chance of administrative errors.
- Allow for a S173 notice to be given within the initial period of a fixed term standard contract, but amending the minimum contract length to 12 months but allowing a six-month tenant-only break if landlord and tenant agree at the outset of the contract, allowing tenants to still have 6 month tenancy agreements if both sides are happy with this.

3.10 We also believe tenants should have to give one month's notice for the tenancy to end on the fixed term. Otherwise, a rolling contract is entered into (unless the landlord has given notice). Without this, the landlord has no guarantee their property will be filled.

3.11 The proposal to prohibit on serving a second S173 notice after 14 days means that in a worst-case scenario, where a landlord has made a slight error on the notice form, rendering it invalid, they could have to wait two years for a repossession claim to process (6 months for the notice to expire; 2 months for the court to identify the notice is invalid and needs to be withdrawn; 6 months prohibition on service; 6 months for the second notice and 5 months (22 weeks) for court and bailiff enforcement). This is particularly important as the 2016 Act does little to tackle ASB. This demonstrates a problem with the legislation in its current form.

3.12 We argue 14 days is not enough time for a landlord to ensure correction of a notice. An example to illustrate this is when notice is sent to the tenant via recorded delivery in the post, as it could take two weeks for them to discover the tenant has not signed for it or delays have mean the tenant has had to pick it up from the depot, etc. We recommend that a S173 notice can be issued as soon as the court identifies the notice is invalid. Indeed, if the notice is invalid, it has not been served. Therefore, a landlord cannot be prohibited from serving another valid notice immediately. This is a proportional response balancing a landlord's mistake, their property rights (afforded under the Human Rights Act 1998), and a tenant's security of tenure, while avoiding the worst-case scenario above.

3.13 Although the Welsh Government is maintaining mandatory grounds to repossess regarding rent arrears, the RLA believes it is vital to give more prominence to a persistent pattern of arrears. It is also essential that, if the six-month notice period were to become law, more mandatory grounds for possession must be created, especially one for ASB.

3.14 RLA Wales argues this because the remaining mandatory ground in the 2016 Act is open to abuse by tenants in the same way the current ground for rent arrears is under S8. As tenants need to be in two months' arrears at the time the notice is served and at the point of the hearing, many tenants pay just £1 off their arrears just before the date of the hearing. This £1 removes the mandatory ground, leaving the landlord with virtually two months of arrears, £355 in court costs, and a tenant who is likely to continue to build up further arrears in the future. If S173 is extended without revising the ground so that

persistent rent arrears becomes a mandatory ground, then it risks clogging up an overstretched court system with many more of these cases.

3.15 The result is bad tenants will remain in properties for longer, risking a landlord's mortgage in the case of arrears, or blighting a community where the tenant is anti-social. If the proposals are implemented, there must be a significant strengthening of possession rights in the event that serious anti-social or illegal behaviour is occurring. Incorporating something similar to Ground 7a of S8 (introduced in the Anti-social Behaviour, Crime, and Policing Act 2014) with a reduced notice period would allow landlords to have some confidence that the worst tenant behaviour could be ameliorated.

3.16 It is important to add that the standard occupation contracts that will replace Assured Shorthold Tenancies when the 2016 Act is commenced are still being drafted by the Welsh Government when it essential to see them to scrutinise this Bill. This is because the way they are drafted could seriously affect the notice period itself if uncertainty surrounds certain definitions. We urge that these contracts are released and finalised before any further action on this Bill. We also believe that the regulations concerning Fitness for Human Habitation (FFHH) standards are released as soon as possible too given the work many landlords could have to ensure their properties are up to standard.

3.17 Finally, it must be noted the Bill's general principles were overwhelmingly opposed in the Welsh Government's consultation and several of the reasons for that opposition have not been addressed: 88% disagreed with extending the minimum notice period to six months; 78% opposed extending the period to serve notice to six months into the tenancy; 73% disagreed with restricting re-issuing a notice for six months after the previous' expiry; and 80% opposed removing a landlord's ability to give notice to end a fixed-term contract.

4. Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them

4.1 The RLA's response to these issues can be found elsewhere in this document.

5. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation.

5.1 Given how impactful these regulations made under the Bill should it become an Act are, the RLA agrees with the decision to designate all those sections to go through the affirmative procedure as such. It does not object to S17(2) undergoing no procedure.

6. Whether there are any unintended consequences arising from the Bill, and – the financial implications of the Bill.

6.1 Landlords will leave the market altogether as they have less confidence in the system and their ability to protect their investment. This is shown in the RLA survey previously mentioned, where despite rarely having cause to use it, 96% of those who supply homes to PRS tenants feel very strongly that S21/S173 is important to their business. Over 40% of landlords feel so strongly about it that they cannot envisage supplying homes to tenants if it is removed, regardless of any compensatory reforms. It could be made even harder as landlords choose to invest outside Wales, especially those near the border as they could be less likely to secure buy-to-let mortgages.

6.2 This, in turn, leads to less private rented housing, rent increases in the PRS, and more pressure on social housing waiting lists. It would make landlords more selective about to whom they rent as they need guaranteed rental income. The RLA survey showed 84% of landlords would likely become more restrictive to whom they rent. This is reflected in stakeholder responses to

the Government's consultation. Therefore, the end result of this attempt to create security of tenure is increasing the likelihood of homelessness as housing becomes limited and rents too high.

6.3 Regarding the Bill's financial implications as set out in the Explanatory Memorandum's Regulatory Impact Assessment (RIA), we have the following comments to make:

- The RIA says costs to landlords will not exceed that associated with compliance, estimated between £9.5m-£12.4m (calculated on paid time for all landlords and agents to familiarise themselves with the new regime). However, it is obvious that the price landlords must pay does not end there.
- The RIA states: "*There may be circumstances where landlords opt to use S157 or S181 of the 2016 Act instead of S173. The cost of these alternative processes is approximately £30 lower than S173 per occurrence*." However, this does not consider the costs associated with the use of legal services necessary.
- The RIA states "*we do anticipate administrative cost savings to landlords*" but also "*we have not sought to identify landlords savings*". Given how impactful this will be on landlords, not seeking to identify savings to them is neglectful. We believe that if cost savings are anticipated, then they should be clearly set out.

6.4 In paragraph 8.32 of the Explanatory Memorandum, the Welsh Government gives a scenario to show the cost to landlords if they were to take possession from a tenant in arrears if they were to follow one of three potential possession routes – S173, S181, or S157 – to demonstrate why landlords should not use S173. Using S173 would cost £11,305, S181 £3,949.50, and S157 £4,298. However, none of these substantial costings include legal fees. The S173 route costs so much because the landlord has to absorb the arrears exacerbated by the lengthier notice period. These are clearly costs to the landlord and should be included as such. The Welsh Government, if it judges these to be acceptable costs for those compliant landlords who have acquired non-rent paying tenants, must justify itself as the changes are a result of legislation it will have brought forward itself.

6.5 Other unintended consequences have been outlined in part three of this response.

7. Final Comments

7.1 This Bill further represents further neglect of the reasonable arguments of conscientious, compliant, and responsible PRS landlords. Not only are the effects of the proposals more far-reaching than suggested in the consultation, they completely ignore the overwhelming opposition to the them and the explanations. It is telling that 70%-90% of respondents opposed them. However, the Bill can be made to work for PRS landlords, as long as our recommendations are adopted and our critiques recognised.

7.2 The RLA's mission statement is to make renting better not just for landlords, but tenants too. Therefore, we approached the proposals with this in mind in a constructive manner, and to ensure the Bill accommodates the needs of both landlords and tenants. We urge the Welsh Government to consider our proposals as they maintain the spirit of the Bill and the objective of the Minister in providing longer term security while allowing landlords to operate an efficient business that will encourage them to stay in the PRS and continue to rent to the wide variety of tenants they currently do. The 2016 Act and this Bill will greatly affect how landlords operate and, therefore, the Government have a responsibility to ensure landlords are helped to achieve Ministers' objectives and their business needs.

Mae cyfyngiadau ar y ddogfen hon

Ynglŷn ag UCM Cymru

Undeb Cenedlaethol Myfyrwyr Cymru (UCM Cymru) yw'r corff sy'n cynrychioli mwy na 250,000 o fyfyrwyr yng Nghymru. Rydym yn gweithio ar ran 20 o undebau fyfyriwr sy'n aelodau ar y materion sy'n effeithio ar fyfyrwyr mewn addysg uwch ac addysg bellach.

Ymateb

(1) Mae UCM Cymru yn credu bod y Bil Rhentu Cartrefi (Diwygio) (Cymru) yn mynd i'r cyfeiriad cywir ar y cyfan, yn enwedig o ran cryfhau hawliau tenantiaid ynghylch cael eu troi allan 'heb fod bai'. Mae UCM wedi dadlau'n gyson dros ddileu hawl landlordiaid ledled y DU i droi tenantiaid allan 'heb fod bai' arnynt. Ein hegwyddor sylfaenol yw, os oes gan landlordiaid reswm dilys i feddiannu eu heiddo, ni ddylent fod yn defnyddio'r hawl i droi tenantiaid allan 'heb fod bai'. Fodd bynnag, mae yna elfennau o'r Bil y teimlwn nad ydyn nhw'n mynd yn ddigon pell i gryfhau hawliau a phrofiadau myfyrwyr sy'n denantiaid yng Nghymru.

(2) Credwn y byddai'r Bil yn sicrhau deilliannau cadarnhaol i fyfyrwyr yn y Sector Rhentu Preifat (SRhP). Byddai'r cynigion yn rhoi mwy o hawliau a sicrwydd i fyfyrwyr o ran ble maen nhw'n dewis byw, gweithio ac astudio. Mewn ymateb i awgrymiadau o gynnig eithriad i fyfyrwyr o fewn y Bil, byddem yn gwrthwynebu'r dull hwn yn llwyr ac yn credu y byddai'n creu system dwy haen. Gallai sefydlu rhaniad cyfreithiol rhwng myfyrwyr sy'n rhentu a thenantiaid sydd ddim yn fyfyrwyr o fewn y Bil hwn arwain at wahaniaethau pellach yn y gyfraith yn nes ymlaen, a hynny er anfantais i fyfyrwyr. Credwn hefyd y gallai'r dull hwn adael myfyrwyr sy'n rhentu yn agored i gael eu hecsbloetio gan landlordiaid.

(3) Yn yr Alban, roedd landlordiaid yn gwrthwynebu cyflwyno tenantiaethau amhenodol yn Neddf Tai Preifat (Tenantiaethau) (Yr Alban) 2016. Roedd landlordiaid yn dadlau na fyddent ond yn gwybod am fwriad tenant i symud allan - ac felly yn gallu rhoi eu heiddo ar y farchnad ar gyfer carfan myfyrwyr y flwyddyn nesaf - fis ymlaen llaw. Yn ôl y landlordiaid, byddai hyn yn achosi prinder tai ac anawsterau i garfannau myfyrwyr newydd a'r rhai fyddai'n dychwelyd. Nid yw UCM wedi gweld unrhyw dystiolaeth o'r duedd hon yn dod i'r amlwg ers cyflwyno'r ddeddfwriaeth yn yr Alban.

(4) Yn ôl adroddiad gan UCM yn 2019 *Homes Fit for Study*[1], a seiliwyd ar holi dros 2,000 o fyfyrwyr ar eu profiad o'r SRhP: "yn achos myfyrwyr sy'n byw yn y sector […], roedd 57 y cant ohonynt eisoes wedi dechrau chwilio am eu cartref newydd, i symud iddo yn nhymor yr haf/hydref 2018, erbyn mis Rhagfyr y flwyddyn flaenorol (2017)". Canfu'r adroddiad hefyd fod "y profiad o chwilio am rywle i fyw yn cael ei ystyried yn rhywbeth negyddol gan fyfyrwyr; y

1 https://www.nusconnect.org.uk/resources/homes-fit-for-study-document

prif heriau oedd teimladau o straen a phwysedd yn sgil gorfod rhuthro i benderfynu ble i fyw".

(5) Credwn fod y farchnad ar gyfer Llety Myfyrwyr a Adeiladwyd at y Pwrpas (LlMAP) wedi cael ei hanwybyddu yn y Bil Rhentu Cartrefi (Diwygio) (Cymru). Mae'n hanfodol bod y sector hwn yn cael ei ystyried yn y Bil yn ogystal. Fel mae memorandwm esboniadol y Bil yn nodi, ar un adeg roedd y SRhP yn cael ei ddominyddu gan bobl ifanc a myfyrwyr. Er bod myfyrwyr yn bodoli yn y SRhP o hyd, mae nifer cynyddol bellach yn dewis rhentu yn y farchnad LlMAP. Rydym o blaid eithrio contractau safonol ar gyfer llety myfyrwyr yn y Bil, a byddem hefyd yn gefnogol i'r bwriad o eithrio'r farchnad LlMAP.

(6) Mae ymchwil penodol am lety myfyrwyr yn datgelu pryderon difrifol. Mae adroddiad *Homes Fit for Study* ac arolygon *Save the Student* UCM/Unipol[2] yn dangos sawl tueddiad sy'n peri pryder. Credwn y dylai'r Pwyllgor a Llywodraeth Cymru roi ystyriaeth ddyledus i'r adroddiadau hyn wrth fynd ati i ddatblygu'r Bil. Rydym yn bryderus o hyd, er gwaethaf y ffaith bod deddfau ar waith ynghylch amddiffyn blaendal ers dros ddegawd, nad yw mwy na thraean y myfyrwyr yn derbyn unrhyw dystiolaeth bod eu blaendaliadau yn cael ei gadw mewn cynllun amddiffyn.

(7) Yn y pen draw, mae UCM Cymru yn cefnogi'r Bil ac yn credu y byddai'n darparu amddiffyniadau pwysig i rentwyr - gan gynnwys myfyrwyr. Rydym yn gwrthwynebu unrhyw welliannau a fyddai'n gwahaniaethu rhwng myfyrwyr a rhentwyr eraill yn y sector rhentu preifat, ond credwn y dylid rhoi sylw penodol i'r sector LlMAP. Credwn fod yr adroddiadau y cyfeirir atynt yn yr ymateb hwn yn tynnu sylw at nifer o faterion a heriau difrifol iawn y mae myfyrwyr yn eu hwynebu wrth rentu, a byddem yn annog Llywodraeth Cymru i weithredu arnynt.

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2 https://www.savethestudent.org/accommodation/national-student-accommodation-survey-2020.html

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Response to Equality, Local Government and Communities Committee call for evidence in relation to the Renting Homes (Amendment)(Wales) Bill

About Citizens Advice Cymru

Citizens Advice is a charity founded in 1939. Since then, we've given advice, information and support on a range of everyday issues to anyone who needs it, from debt, money and welfare benefits to housing, employment and relationships.

In Wales we have a network of 19 local Citizens Advice - all individual charities, staffed by nearly 800 dedicated volunteers and paid staff. We remove the arriers to advice by going to places where people need us most, delivering advice from over 375 community locations in Wales, as well as offering services over the phone and online.

Every year across England and Wales millions of people turn to us. This gives us a unique insight into their needs and concerns. We use this knowledge to campaign on big issues, both locally and nationally. So one way or another, we're helping everyone – not just those we support directly.

In 2018/19 we saw **7381 people** with **17,041 housing issues**. Of these **3229** issues **specifically related to** problems in the **Private Rented Sector** including problems with letting agents, landlords and fees. Around **a fifth** (557 issues) of all the issues clients came to us about the Private rented sector related to **security of tenure, notice and possession actions** (not including rent arrears).

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General principles of the bill

In unpublished research[1] commissioned by Citizens Advice 10% of respondents took more than 3 months to find their last property to rent in the private rented sector. Considering this independent research and our client data it's clear that the longer the notice period requirements for tenants the more chance there is of the tenant being able to save, plan and prepare for alternative property that is sustainable and suitable for their circumstances. We therefore welcome the Welsh Government's commitment to providing more security for tenants in the Private Rented Sector.

Our client data and research indicates that tenants in the private rented sector want to know that they can make their house their home and have control to truly choose when to leave the property. Ideally, it would be preferable for tenants not to be forced to leave their home if they have done nothing wrong but in the absence of the abolition of no fault notices the minimum requirement should be for a notice period of at least 6 months.

Client has rented a property for 4 years, paid a bond which is protected in her partners name, client has been issued with a Section 21 Notice. Client has discovered that her landlady is not registered with Rent Smart Wales and that the Section 21 notice is invalid. However, knowing that the landlord can just register and then issue a no fault eviction has left the client uncertain about the sustainability of her home. Client has 2 children aged 4 and 8 who attend a school very nearby. Client is distraught at the thought that she has to vacate her property, has to take her children from school and possibly find alternative schooling in a new area. Client is worried about finding the financial backing to move to another rented property.

Tenants may not fully understand all of their rights when entering into a contract and anything that simplifies the process for tenants, landlords and those supporting them is to be welcomed. Being served a notice whilst lawfully in occupation of a property, even if that notice is valid and doesn't change the actual length of occupation, may cause confusion for tenants in occupation about their security and may contribute to a more negative attitude to remaining in the Private Rented Sector.

[1] Unpublished research carried out by COMRES of 400 tenants in the Private Rental Sector in Wales, polling took place March 7th -19th 2019

Around 1 in 6 (16%) adults in Wales have no savings at all. 1 in 7 (14%) would struggle to make ends meet if their housing costs increased by £50 a month.[2]

56% of people in the Private Rented Sector in the UK said they were **not prepared** for unexpected bills or unplanned expenses[3]

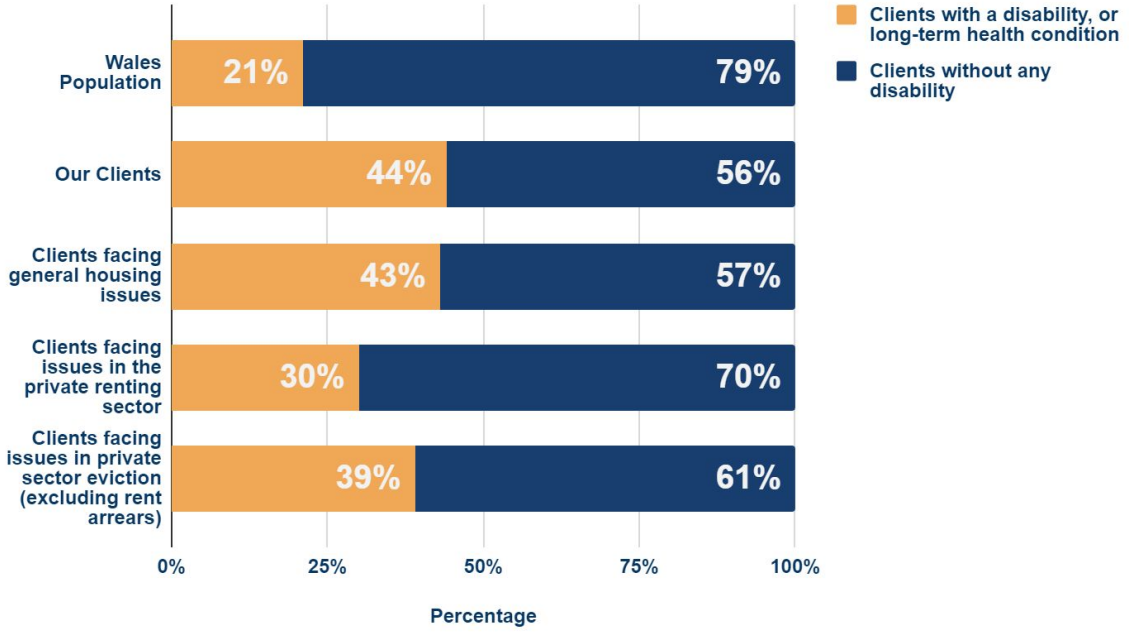
35% of Private Rented Sector clients who came to us for debt advice also operated on a **negative budget**[4]. When an adviser does a Single Financial Statement with someone in debt and they have £0 or less after living costs - but before any unsecured debt repayments are considered - this is called a deficit, or a negative budget. Having a negative budget means people aren't able to make any debt repayments. Often it means they will have to go without essentials, for example cutting back on spending on food and utilities, and are far more likely to fall into arrears with essential payments such as rent and council tax.[5]

We know that it can cost people more than £300[6] to move (excluding fees and deposits) and we also know that there is little financial resilience in terms of savings and disposable income for our clients. We therefore support provision for as much notice as possible for people who have to find a new home.

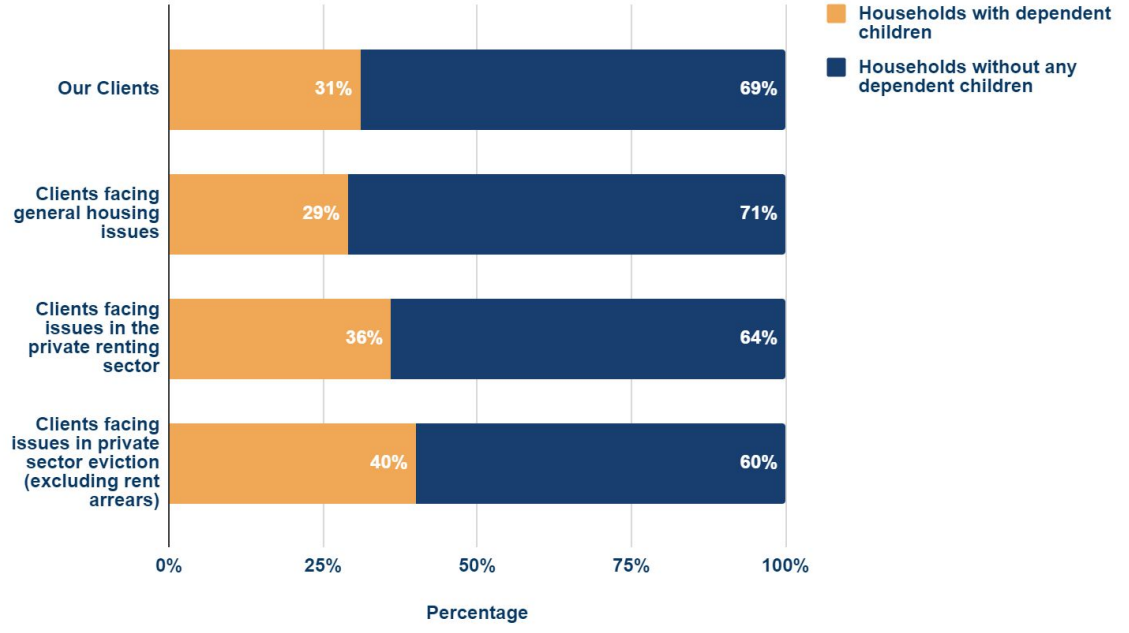
[2] Financial Conduct Authority (2017) Financial Lives Survey
[3]https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Walking%20on%20thin%20ice%20-%20full%20report.pdf
[4] Source: Money Advice Recording Tool, November 2018 - November 2019
[5]https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Negative%20budgets%20report%20-%20phase%201%20(1).pdf
[6] Unpublished research carried out by COMRES of 400 tenants in the Private Rental Sector in Wales, polling took place March 7th -19th 2019 - 11% of respondents said more than £300 when asked "Thinking about the last time you started a tenancy, approximately how much did it cost for you to move house excluding your deposit (e.g. time off work, petrol or public transport costs to attend viewings or sign documents, hiring removal specialists)?

Some key demographics of our housing clients

Disability and Long Term Health



Households with dependent children



Papur 5 – Shelter Cymru
Paper 5 – Shelter Cymru

2nd March 2020

Our vision

Everyone in Wales should have a decent and affordable home: it is the foundation for the health and well-being of people and communities.

Mission

Shelter Cymru's mission is to improve people's lives through our advice and support services and through training, education and information work. Through our policy, research, campaigning and lobbying, we will help overcome the barriers that stand in the way of people in Wales having a decent affordable home.

Values

- Be independent and not compromised in any aspect of our work with people in housing need.
- Work as equals with people in housing need, respect their needs, and help them to take control of their lives.
- Constructively challenge to ensure people are properly assisted and to improve good practice.

Our response

Shelter Cymru welcomes the opportunity to respond to this call for evidence. We are in favour of the Bill. We believe it will make renting a home in Wales fairer and more transparent for all parties. It will help to prevent avoidable homelessness and it will give people who rent a greater sense of security in their home.

Through our campaigning and our lobbying we have consistently called for a complete end to no-fault evictions, including during the development of the Renting Homes (Wales) Act 2016. We still believe that a complete end to the no-fault route to possession, together with an end to fixed terms, is necessary to deliver tenants the legal certainty that they can stay in their home for as long as they need.

Ideally we would aim to end the use of mandatory possession altogether, so that every eviction is treated as discretionary and therefore has independent oversight to ensure that it is justified and that steps have been taken to avoid eviction into homelessness. However there are distinct benefits to the model proposed in the Bill,

notably that there will be no new grounds created that could be used inappropriately to form new *de facto* no-fault routes, a trend that appears to be emerging in Scotland.

The Bill will make the Renting Homes (Wales) Act more effective by helping to ensure that grounds are used as they are designed to be used. If there has genuinely been no fault on the part of the contract-holder then it is right to recognise the difficulty that having to move home inevitably causes: one way of doing that is by allowing a more realistic notice period of six months to help people to forward-plan and budget.

We have identified a number of potential unintended consequences, particularly in relation to local authority homelessness services, which must be addressed so that people facing or experiencing homelessness are not excluded from the help they need to find and keep a good home.

We have structured our response below according to the inquiry's terms of reference.

The general principles of the Renting Homes (Amendment) (Wales) Bill and the need for legislation to deliver the stated policy intention

Section 1 – Increasing the landlord's notice under a periodic standard contract from two months to six

During the summer of 2019 we ran an online consultation in which 114 people participated: these included 62 private tenants, 24 former private tenants, 13 social tenants, and seven landlords (see appendix 1 for full breakdown). We found that 85 per cent of people supported the Bill's primary aim to increase the notice period to six months: this includes five of the seven landlords who took part.

Evidence emerged that two months is inadequate to find a good home, placing people under a great deal of stress. We asked whether people had been evicted in the last two years: 14 per cent said that they had. The main reason given was that the landlord wanted to sell. The impacts of eviction at short notice were described as 'devastating' and 'very stressful':

> 'I now feel very insecure and wonder, constantly, when it will re-occur.'
>
> 'It came at a critical time when my twins were about to sit A-level exams. Pressure to find somewhere to move to was immense, and I faced blatant discrimination as a single parent. One twin worked all through his exams instead of focusing on revision as he wanted to support me. As a result he missed the grades he needs to go to

medical school. His whole future put in jeopardy because a greedy landlord didn't want to make repairs to the property to resolve issues with damp.'

'This has been very stressful for both myself and my 15-year-old daughter who is at the most important part of the school year. I am in remission and this is making me feel exhausted both physically and mentally. I do not have family I could stay with. It has made me feel ashamed that I am in this position and I feel totally helpless for the first time in my life, as it is out of my control when the council are not keeping you informed of the process of your application.'

'Devastating. Our mental health all suffered badly. My son attempted suicide and got arrested. My daughter ended up also suicidal. We had to live in a wet, not damp, cold house which was £900 per month and we had no choice but to live there in a dangerous area where the neighbours harassed us because they knew we were homeless. We were stuck there for ten months and it was a miserable existence. My son failed his college and I had to cut back my studies and work due to the pressure. I got pneumonia and ended up in hospital but the council said "tough, you have temporary housing, you have to live in it until you're given somewhere."'

'I was evicted four years ago after being in a property that was trashed and derelict. I worked hard on it and did it, and my two teenage sons were then living at home with me. Then the owner decided they wanted to sell. It was a horrendous nightmare and being retired and only on pension credit it was such a horrid experience trying to find somewhere with only two months to do so. It's a miracle I came through it all.'

'I was in private rented accommodation with my husband who at the time suffered strokes and cancer. We were told in the beginning it was hoped we would make it our family home, but when the landlady died and all was passed to her grandson, we were told to leave as he wanted to raise game birds on the land around the property for their annual shoot. It was hell for us, my husband being so ill, and he suffered a few falls whilst I tried to move us out. He was trying to help but couldn't. The agents for the landlord are a well-known firm in <local authority> but they and their "client" couldn't have cared less about us, even resorting to the courts to get us out. We weren't refusing, we were devastated and struggling having had our home there for 11 and a half years. My husband has since died.'

> ‘We had been living there for five years, and were very surprised that we had to leave. Owing to the shortage of suitable accommodation, we ended up living in a guest room in a retirement complex. We have now found accommodation, but it is a small flat, so most of our furniture and all my tools are in storage, which is an extra expense. The stress levels have been unbelievable.’

> ‘We were served with a section 21 notice for alleged rent arrears. In fact, the agent had changed their bank details but omitted to tell us. Fortunately, we were able to prove that we’d paid and she agreed not to enforce the notice – but didn’t rescind it, either. A six-month notice period would not have had anything like such a disastrous effect on our health.’

A total of 13 respondents (11 per cent) were opposed to the proposal, of whom five respondents were opposed because they felt it should go further.

> ‘It may make it easier to find somewhere else to live, but would not lessen the impact of moving from my family home involuntarily. It would disrupt family life and may affect my children's schooling. They may even have to move school. It is not fair to have to go through this simply because I can't afford to buy a house.’

Our position is that although six months is a more realistic length of time to find alternative accommodation, a no-fault eviction is still an inherently unfair concept. A number of respondents said they would still be at risk of no-fault eviction and that fear of no-fault would hold back their sense of security and ability to feel at home.

A truly fair system would not permit landlords to evict someone from their home without having to justify why. However, even though we will still be calling for an eventual end to fixed terms, we do recognise the advantages that a longer notice period will bring. These include:

- An increase in judicial oversight of evictions, bringing greater fairness and peace of mind to contract-holders in the knowledge that if they pay the rent and look after the property, they will have longer to find a new home if their landlord decides to evict;

- A relatively clear system with a limited number of grounds, which will be less complicated for both parties, and which doesn’t unwittingly create multiple new no-fault routes by establishing additional mandatory grounds for possession that might be open to manipulation. Anecdotally we are hearing that in

Scotland, the ground allowing landlords to evict in order to sell has been open to abuse;

- A strong deterrent to revenge eviction, which frequently features in Shelter Cymru casework – putting contract-holders in a better position to enforce their right to live in a home fit for habitation;

- An effective end to the use of no-fault by housing associations, which we agree with – housing associations are keen to ensure that nobody is evicted from social housing without a good reason, meaning that judicial oversight should not be an unwelcome prospect;

- Potentially, better use of homelessness resources: if the rent arrears ground is relied on more often there may be increased scope for raising counterclaims for disrepair or other landlord faults such as failure to protect the deposit. Where this happens currently, we find it increases the possibility of tenancies being saved through negotiation with the landlord. For example, a landlord who is at fault through failure to carry out repairs may agree to clear a tenant's arrears and issue a new tenancy, rather than face the expense of the counterclaim. There is potential for this type of negotiation to take place more regularly, preventing homelessness and incentivising investment in addressing disrepair.

We do not believe that these benefits can be realised without legislative change. Voluntary approaches to increasing security of tenure have not had widespread success, mainly because long fixed term tenancies typically tie tenants into unrealistic financial commitments for years into the future.

Schedule 1 – standard occupation contracts to which two months' notice will apply rather than six months

The new Schedule allows a wide variety of tenancy contracts to be excluded from the requirement to give six months' notice. While we understand the rationale in most cases, we do not agree with the inclusion of prohibited conduct standard contracts. These contracts allow social landlords easy access to the no-fault 'landlord's notice' ground – but if there has been evidence of prohibited conduct, there are already appropriate grounds that should be used so that the facts can be ascertained and the contract-holder has a right to defend their home.

Our casework includes instances of social landlords using section 21 when we know that the tenant is not in fact at fault and would have been likely to keep their home should the landlord have relied on a discretionary ground. Allowing social landlords continued access to an easy no-fault route will undermine the purpose of the Act as well as the Welsh Government's policy commitment to ending evictions that lead to

homelessness. The Bill could have the unintended consequence of encouraging landlords to seek higher numbers of prohibited conduct standard contracts, which would undermine security in the social sector and take up court time. Allowing social landlords to retain the ability to use 'no fault' where there has been alleged fault, is not consistent with the policy intention of this Bill.

Section 8 – withdrawal of landlord's notice under section 173 by the landlord

We feel it is reasonable to allow landlords to withdraw a defective section 173 notice and re-issue it in correct form, with the proviso that the notice period begins from the date of re-issuing. We sometimes defend possessions on the basis that the notice is defective and this can be a valuable way of gaining some extra time for tenants, particularly as there is so little scope for defending a section 21. However, we recognise that a longer notice period will make it more important that landlords are given the opportunity of correcting defects.

We would recommend that the Bill is amended so that landlords are required to explicitly give notice to the contract-holder that the first notice is withdrawn. This will avoid confusion for either party. For example, a contract-holder might not understand which notice is the correct one; or a landlord might seek to rely on either/or if one has a defect. Clarity in these circumstances will be beneficial for both parties.

Section 9 – restriction on giving notice following a retaliatory possession claim

The vast majority of people who took part in our consultation exercise felt that nobody should have to live in substandard accommodation, and that landlords should honour their responsibilities to keep properties in a good state of repair. There were 16 spontaneous mentions of direct experiences of revenge eviction, or the fear of eviction deterring people from asking for repairs:

> 'Because I live in an old house and it would be nice to ask for some upgrades without feeling vulnerable.'
>
> 'I was in a situation where this very nearly happened, but I decided not to push the landlord as my flatmate was incredibly vulnerable and couldn't cope with the stress and anxiety. This protection would enable tenants to have stronger and more protected voices.'
>
> 'I have in my work through my environmental health team taken landlords on for the protection of tenants and they have subsequently evicted these tenants because they complained to me about the dangerous state of the property so this proposal… is very much needed.'

> ‘I myself have been through an issue with a landlord renting me a property that was in disrepair and I ended up leaving after six months. He continuously has people in the property for six months and then gets new tenants in to avoid repairs.’

> ‘Our current property has damp, exposed electrics, failing guttering. This has been the case from almost the moment we arrived but we didn’t want to say anything because the price was good. No way we’re going to push about these things because we don’t want to be punished. We don’t want to piss off the landlord. We were told right from the start – he doesn’t like spending money.’

Although the 2016 Act had already made welcome provisions to deter landlords from retaliatory eviction, this Bill will strengthen those provisions by ensuring that the no-fault route to possession is no longer a quick fix. The notice period, together with the defence to a retaliatory action outlined in section 9, will put contract-holders in a stronger position to ask for repairs and maintenance.

> ‘Might be more likely to push to have something done about the damp etc.’

> ‘I would feel I could report/ask for repairs to be done without feeling if I complain I will be at risk of being evicted.’

For those people whose landlords have attempted a retaliatory eviction, the Bill will mean more time for the repairs to be carried out and more time to make a compensation claim if needed. However, it’s important to ensure that there aren’t negative consequences for tenants whose landlords refuse point blank to carry out repairs. In this situation, with a six-month ban on a further section 173 notice being served, contract-holders could potentially be left in substandard or dangerous accommodation for months on end, if they were unable to find anywhere suitable and affordable to move to.

> ‘This would offer more security to all tenants, but needs to be paired with proper enforcement and action on repairs.’

Our casework suggests that some local authority environmental health services may be struggling to meet demand for disrepair enforcement: improvement notices are not always followed up on, leaving some tenants with little recourse to help.

When landlords persistently refuse to undertake repairs, it would be desirable for the Welsh Government to issue guidance to local authorities that contract-holders ought to be deemed homeless, in that their accommodation is not reasonable to occupy.

We do recognise that in the most serious cases where a home is deemed not fit for human habitation under the Act, landlords would have a strong incentive to invest in repairs since otherwise contract-holders are no longer obliged to pay rent. This does depend however on access to environmental health services, and on the disrepair being sufficiently serious to be classed as unfit.

Section 12 – landlord's request to vary periodic standard contract terms

We welcome the removal of the provision in the 2016 Act to allow a landlord to treat a notice to vary the terms in the contract as a section 173 notice. We have previously pointed out how this ability undermined the consumer contract intent of the Act by allowing landlords unilateral power to vary the contract, threatening eviction if the contract-holder does not consent. The amended Act will help to rebalance negotiations over contract variations.

Section 13 – Power to restrict right to exclude contract-holder from dwelling for specified periods

We understand that the intention of this is to allow contracts to be designed that fit the requirements of the student sector. It is welcome that the Welsh Government is proposing to make regulations, to give more time to engage with students and landlords. We would recommend that the legislation gives contract-holders the ability to challenge exclusions, to avoid the provision being misused by landlords.

Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them

Court time

We know that other stakeholders are citing pressures on court time as a potential barrier. Although these pressures are real we do not see this problem as insurmountable, for a number of reasons.

This Bill will be implemented at a time when there is considerable reform taking place in the social sector, thanks to our work and the Welsh Government's commitment to eliminate evictions from social housing that lead to homelessness. As social landlords account for around two-thirds of possession cases, we agree with the Welsh Government's impact assessment that the zero evictions movement is likely to free up considerable court time.

Over and above this important work, there are a number of options for increasing the courts' capacity to cope with higher numbers of possession hearings. While the idea of a Welsh specialist housing tribunal is attractive, this does carry significant costs

and there would need to be Legal Aid available to ensure tenants had advocacy (which is not currently the case for tribunals).

It may be more practical to focus on improving current systems. Our court duty caseworkers find that there is already good practice in Wales in the management of housing lists: for example, Swansea and Newport are felt to have well-organised approaches. There is also potential to require housing cases to be heard by specialist judges, thereby increasing efficiency and consistency.

Contract-holders' awareness of their rights

Anecdotally, tenants' lack of awareness of their rights has been an issue in Scotland despite the Scottish Government investing considerable funds in a comms strategy. Non-attendance at the recently established tribunal is a problem, as we currently find for possession hearings in courts in Wales.

The fact that Scotland has had challenges raising awareness is not a reason to neglect investment in communications in Wales. We should engage with the Scottish Government to learn what has been most effective and any lessons for our approach. We also have some advantages in Wales: the Renting Homes Act's emphasis on accessible written contracts should help contract-holders have access to clear information; Rent Smart Wales' database of properties also has great potential to reach people in their homes.

We find, however, that awareness in itself is not always enough: some tenants are still unwilling to stand up for their rights, either because they are afraid of their landlord or the formality of the court, or because they are unwilling to put themselves and their family through the stress of a dispute. Although we work with thousands of tenants every year to help them defend their homes, we are only too aware that there are many more who do not seek advice. In reality, some will always seek to move once notice is served, regardless of the justice of the situation. It is important to help persuade contract-holders to exercise their rights by reassuring them through the provision of clear and non-threatening information, and by ensuring that independent advice services continue to be accessible in every part of Wales.

Harassment and illegal evictions

During 2019 we helped 292 people in Wales who had been illegally evicted by a private landlord. In our experience it is extremely rare for landlords to face any consequences for this course of action: while a tenant may be able to get an injunction to get back into the property, we find that police and local authorities rarely take any enforcement action. We believe that this reluctance to enforce has

emboldened some landlords to attempt illegal eviction in order to avoid the court process.

There is a likelihood that increasing the notice period to six months will lead to a rise in illegal evictions, which will undermine implementation by creating an alternative route to possession operating outside the protections of the law. There may also be a rise in harassment, with some landlords attempting to force contract-holders out by taking measures such as cutting off utilities. To mitigate against this, the Welsh Government should:

- engage with police and local authorities to understand the practical issues they face in enforcing the law around harassment and illegal eviction
- provide training to the police in tenant rights on eviction
- engage with Rent Smart Wales and ensure that they are able to monitor harassment and illegal eviction and hold landlords to account
- prioritise work that helps contract-holders be aware of their rights.

Inducements to leave early

A further possible effect of the Bill could be an increase in landlords offering inducements to contract-holders to leave the property early. Mutually beneficial arrangements should not be discouraged, as negotiation and an earlier departure may be beneficial to the contract-holder. However, if contract-holders are vulnerable they may end up feeling pressured to leave early. Again, people's awareness of their rights is very important.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation

We believe the powers are appropriate.

Whether there are any unintended consequences arising from the Bill

Impacts on homelessness

The two month notice period puts great stress on families using local authority homelessness services who are often told that they must remain in the property, sometimes even until the warrant is executed, because this is less difficult than placing them in temporary accommodation. As well as creating stress and uncertainty

this can also lead to court costs (although homelessness services will sometimes pay these out of spend-to-save funds) and increasing rent arrears.

Extending the notice period is an opportunity to prevent homelessness at an earlier stage, allowing more time to find alternative accommodation, access support services, and maximise positions on social housing waiting lists, thereby relieving pressure on temporary accommodation and on family stress. However, we will need to make some changes to homelessness policy and practice otherwise we may not see these positive benefits and may in fact see current problems worsen. Specifically:

- Some of the homelessness duties in Part 2 of the Housing (Wales) Act 2014 are a poor fit for a six month notice period. For example, the definition of 'threatened with homelessness' has a timeframe of 'within 56 days'. Under this definition, contract-holders who have received a no-fault notice would be deemed not threatened with homelessness, and would be told to come back when the notice has almost expired. There would be no legal duty to intervene earlier, but failure to do so may lead to much higher rent arrears, deteriorating mental health, and a worsening relationship with the landlord. Our recommendation is that the Housing (Wales) Act is amended to extend this definition to 'within six months'. Without statutory backing it may be difficult for the Welsh Government to persuade local authorities to carry out early prevention. Additional resources would help to an extent, but local authorities are under great pressure and because of this, we are finding that a culture of minimal statutory compliance is an issue in some areas.

- Similarly, the statutory definition of successful prevention and relief of homelessness is that 'suitable accommodation is likely to be available for occupation by the applicant for a period of at least six months'. This definition was originally developed with reference to the standard minimum length of a private tenancy. We are therefore recommending that this be increased from six months to twelve.

Increased fault-based possessions

We are supportive of the principle that any alleged fault on the part of the contract-holder should be decided via independent judicial oversight. This is a crucial part of a fair housing system. However, a rise in fault-based possessions will have a number of effects that need to be addressed. Currently the section 21 route does give people an opportunity to move on from previous bad experiences without necessarily having a poor reference for future housing. However this may not be so easy if there are rises in fault-based possessions and use of money judgments, which would have a visible effect on people's housing histories and their affordability profile.

This is not a reason to hold back security of tenure for the majority of contract-holders, but it does mean we must look at other aspects of the Welsh housing system to ensure that we don't end up worsening some people's access to the housing they need and increasing the likelihood that they will experience prolonged episodes of homelessness:

- Allocations policies will need to be revised to ensure that a thorough assessment is done before people's housing applications are penalised. Currently there are at least two local authorities in Wales where people are banned from the waiting list if they have former tenant arrears from privately rented housing – absurdly barring people from affordable housing because they can't afford market rents. This really needs to be addressed in revised guidance from the Welsh Government.

- There are consequences for intentionality. Thanks to the Welsh Government, use of intentional homelessness has effectively been ended for households with children. However there is still a steady stream of intentionality cases for all households (with 201 cases in 2018/19) and it is also used as an informal threat to encourage applicants' compliance. Previous research has shown the extremely damaging impacts of intentional homelessness decisions on people's lives. We are in favour of ending intentionality completely: however, as a short-term measure we would suggest issuing statutory guidance to avoid a spike in intentionality (as well as in 'unreasonable failure to cooperate'). For example, the guidance could stress the need for a very thorough affordability assessment in arrears cases (some criteria would be useful, perhaps based on the recent case of *Samuels v Birmingham City Council*).

- The Welsh Government should issue guidance to local authority homelessness services so that they don't insist on people going to court to defend possession if their case is weak or if they aren't represented or have Legal Aid. This could lead to contract-holders having to pay considerable court costs: these can easily spiral into thousands of pounds for section 8 cases currently. Whether or not a case has merit is not always apparent to people without specialist legal knowledge. The Welsh Government will need to ensure that there is access to legal advice for contract-holders and local authority homelessness services – embedded legal advisors may be useful here.

Prohibited conduct standard contracts

As outlined above, we caution against incentivising social landlords to seek higher numbers of prohibited conduct standard contracts. It would not be desirable to reduce social tenants' security unnecessarily, or to take up court time to do so.

The financial implications of the Bill

We are actively considering the financial implications of the Bill for our services, which already experience a high level of demand. We are optimistic that we will see a reduction in casework from the social sector in future (although it is too soon for this to have materialised as yet). The Bill will create a need for more litigation in the private rented sector. The more effectively the Welsh Government can achieve the aim of eliminating social evictions into homelessness, the better able we will be to meet the increased demand for advice from people who rent privately.

Appendix 1: Survey demographics

Housing status	Private tenant	62	54%
	Previous private tenant	24	21%
	Social tenant	13	11%
	Landlord	7	6%
	Owner-occupier	4	4%
	Homeless	1	1%
	Other	3	3%
Gender	Female	69	61%
	Male	42	37%
	Non-binary	3	3%
Ethnicity	White	113	99%
	Mixed	1	1%
Age	18-24	9	8%
	25-34	18	16%
	35-44	18	16%
	45-54	21	18%
	55-64	22	19%
	65+	26	23%
Children	Dependent children	37	32%
	Non dependent children	2	2%
	No	10	9%
Claiming housing benefit / UC	Yes	38	33%
	No	76	67%

Total sample size was 114 adults. Fieldwork was undertaken between 9th and 27th August 2019. The survey was carried out online.

Papur 6 – Crisis
Paper 6 – Crisis

March 2020

About Crisis

Crisis is the national charity for people experiencing homelessness. We help people directly out of homelessness, and campaign for the changes needed to solve it altogether. We know that together we can end homelessness.

Crisis' view on homelessness and the private rented sector

1. **Having a home is a basic human need but we are not currently meeting that need for everyone in Wales**. On any given night in 2017, around 5,200 households across Wales were homeless, including people rough sleeping; in unsuitable/dangerous accommodation; or in hostels and bed and breakfasts with no plan to move on.[1]

2. **Evidence shows that new social homes are a large part of the housing solution for people who have experienced homelessness or who are on low incomes.**[2] Increasing the supply of social rented housing should be part of any strategy to end homelessness. However, housing needs assessments should be informed by the scale of homelessness and provide for a choice for tenants, including accommodation in the private rented sector, social rent, intermediate rent, shared housing etc.

3. **The private rented sector in Wales has grown and can meet some people's housing need**. While it currently does play a role in ending homelessness for some people, it can also be a source of poor housing and/or housing instability. People can struggle to get through barriers to the PRS, including not being able to afford accommodation or being pushed back into different forms of homelessness due to the pressures they experience in their tenancies.

Crisis' view on the Bill

4. From both the evidence and our work to support people directly into housing, Crisis recommends increasing the security of tenure for contract holders in the private rented sector. **We welcome the Renting Homes 2016 Act and the proposed amendments in this Bill. However, the amendments fall short** of open-ended tenancies that we would like to see offered to contract holders.

[1] Crisis blog (2018) 'What is the scale of homelessness on any given night?'. Accessed 16 January 2020 on https://www.crisis.org.uk/about-us/the-crisis-blog/what-is-the-scale-of-homelessness-on-any-given-night/
[2] Bramley, G. (2018) *Housing supply requirements across Great Britain: for low-income households and homeless people*. London: Crisis and National Housing Federation

Evidence from Scotland, where this is the case, suggests fewer contract holders worry about becoming homeless as a result.[3]

5. Crisis agrees with the premise of the Bill and **our comments focus on how the Welsh Government and its partners should remove barriers to implementation**, discussed in the paragraphs below.

Improving homelessness prevention in the PRS

6. **People are still being pushed out of the private rented sector and into homelessness due to the pressures they are facing**. The loss of rented accommodation has become a leading cause of homelessness in Wales, covering just under a third of all recorded cases where households were threatened with homelessness in 2018-19.[4]

7. The duties on local councils to prevent and relieve homelessness have successfully prevented many households from becoming homeless at the 56-day crisis point. However, **to mirror this Bill's extension of the notice period to 6 months the existing prevention duty should also be extended**. It should also apply to public bodies and not just housing services.

8. **Any threat of eviction should lead to homelessness prevention support – and if someone has already lost their home then rapid rehousing support is needed to help them into new accommodation with support**. This could happen voluntarily in the same way social landlords are currently trying to end evictions from social housing into homelessness. There is potential to learn from Scotland, where since 2009 there has been a duty on housing associations, private landlords and mortgage lenders to notify the relevant local authority when they begin possession proceedings (with the tenants' consent).[5] Other European countries operate similar measures.[6]

Covering the cost of private rents

9. **Local Housing Allowance rates, which are not devolved, are not covering the cost of private rents**. Cuts to the rates have left many households across Wales locked in a struggle to pay their rent, on top of trying to cover the cost of food and bills. For many, the constant pressure is too much and people lose their home. 4 in every 5 private rented properties in

[3] Shelter (2019) *The new private rental tenancies: evaluating changes to rental agreements in Scotland*
[4] StatsWales (2019), Households found to be threatened with homelessness during the year. Main reason for being threatened with homelessness by type of household (Section 66), 25 July 2019
[5] Homelessness etc (Scotland) Act 2003, Section 11
[6] Gerull, S. *Evictions Due to Rent Arrears: A comparative analysis of evictions in fourteen countries.* Alice Salomon Hochschule Berlin, Germany. Published in European Journal of Homelessness Volume 8, No 2, December 2014

Wales (82%) were unaffordable to single people or couples or small families who needed LHA in 2018-19, according to analysis for Crisis and the Chartered Institute of Housing by Alma Economics.[7]

10. In the meantime, pending any change in approach from the UK Government the **Welsh Government should use its limited welfare powers to help relieve some of the pressure on households**, including promoting take up of the council tax reduction scheme and making maximum use of discretionary funds.

11. In Scotland there have been moves to cap rent costs and control rents locally. But the proposals have been unworkable in practice, largely because of the shortage of data to enable local authorities to demonstrate (as required) that rents are rising excessively in a given area, causing undue hardship to existing tenants and having a detrimental effect on the authorities' broader housing services.[8] There are also mechanisms for tenants to have rent increases reviewed if they are dissatisfied and for both parties to access a tribunal for 'appeals'.[9] **We need to understand private rent levels more in Wales, so should use Rent Smart Wales to collect annual data on private rent levels, and look at ways to put reasonable limits on in-tenancy rent increases**.

12. Crisis' research in England and our experiences supporting people directly out of homelessness show that **investment in effective tenancy sustainment support ensures more landlords can be helped to house people moving on from homelessness**.[10] Crisis recommends all local authorities across Wales should provide a tenancy relations service and tenancy sustainment as part of delivering their duties against the Housing (Wales) Act 2014.

<u>Access and sustainment support needed</u>

13. To ensure the private rented sector helps us to end homelessness in Wales, **we cannot only focus on the crisis point of eviction but also on helping people get into and sustain tenancies in the PRS**. Evidence from England suggests tenancy creation can be more difficult than sustainment.[11]

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[7] Basran, J. (2019) *Cover the Cost: How gaps in Local Housing Allowance are impacting homelessness*. London: Crisis

[8] Robertson, D. & Young, G. (2018) *An evaluation of Rent Regulation Measures within Scotland's Private Rent Sector. A report to Shelter Scotland.* Scotland: Shelter

[9] Fitzpatrick,S., Pawson, H., Bramley, G., Wilcox, S., Watts, B., Wood, J., Stephens, M. & Blenkinsopp, J. (2019) *The Homelessness Monitor: Scotland 2019*, London: Crisis.

[10] Reeve, K et al (2016) *Home: No Less will do – Homeless people's access to the Private Rented Sector*. London: Crisis

[11] Rugg, J. (2014) *Crisis Private Rented Sector Access Development Programme: Year Two to April 2013*. York: University of York.

14. The new Housing Support Grant[12] that includes homelessness prevention and Rent Smart Wales is the best vehicle to ensure we provide support to create and support tenancies but the **HSG needs more financial investment, as recommended by this committee in recent Budget scrutiny**.[13]

15. **Each area needs to provide a local tenancy relations service for both landlords and tenants.** Crisis has worked in Denbighshire with local partners to deliver the Renting Ready training. This aims to help people who have had or might have difficulties in a tenancy, and includes a wide group of people who have experienced different forms of homelessness. The course looks at housing options; tenancy rights; landlords' responsibilities; money management; and managing issues with flatmates/neighbours. It is also offered to Housing Support Grant/Supporting people providers. Other measures needed include **national provision of a bond scheme to ensure Wales-wide access to support for tenancy deposits**.

16. **Crisis would also like to see local authorities using best practice to prevent and end homelessness**. The Welsh Government is clear that it expects the Housing (Wales) Act 2014 duties to be the "last line of defence"[14] and make sure there is best practice around rent in advance/fees, rent arrears support, help to move between tenancies when there is a risk of eviction etc. Crisis agrees with the Homelessness Action Group's recommendation last year that Wales needs to ensure that people who are homeless can "access the support they need, by addressing barriers and misunderstandings that currently prevent this happening", including priority need, local connection, and intentionality tests.[15]

[12] Welsh Government (2020) *Housing Support Grant Guidance – Practice Guidance for Local Authorities* https://gov.wales/sites/default/files/publications/2020-02/housing-support-grant-practice-guidance.pdf
[13] National Assembly for Wales (2020) Equality, Local Government and Communities Committee - Welsh Government draft budget 2020-21, p.15. Accessed on https://www.assembly.wales/laid%20documents/cr-ld12990/cr-ld12990%20-e.pdf
[14] Welsh Government (2019) *Strategy for Preventing and Ending Homelessness*
[15] Homelessness Action Group (2019) *Preventing rough sleeping in Wales and reducing it in the short-term*. Accessed on 20 February 2020 on https://gov.wales/sites/default/files/publications/2019-10/homelessness-action-group-report-october-2019.pdf

Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau

12 Mawrth 2020 – tudalen flaen papurau i'w nodi

Rhif y papur:	Mater o dan sylw	Oddi wrth	Cam gweithredu
ELGC(5)-09-20 Papur 7	Bil Llywodraeth Leol ac Etholiadau (Cymru)	Llywodraeth Cymru	I'w nodi
ELGC(5)-09-20 Papur 8	Bil Llywodraeth Leol ac Etholiadau (Cymru)	Llywodraeth Cymru	I'w nodi
ELGC(5)-09-20 Papur 9	Cyllideb Ddrafft Llywodraeth Cymru 2020-21	Llywodraeth Cymru	I'w nodi
ELGC(5)-09-20 Papur 10	Bil Rhentu Cartrefi (Diwygio) (Cymru)	Llywydd	I'w nodi

Eitem 5.1

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Llywodraeth Cymru
Welsh Government

John Griffiths, AC
Cadeirydd
Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Cynulliad Cenedlaethol Cymru
Tŷ Hywel
Bae Caerdydd
CF99 1NA

29 Ionawr 2020

Dear John,

Bil Llywodraeth Leol ac Etholiadau (Cymru) – Gwybodaeth bellach yn dilyn y cyfarfod a gynhaliwyd ar 27 Tachwedd 2019

Ymddangosais gerbron y Pwyllgor ar 27 Tachwedd, ac yn dilyn hynny amgaeaf ddogfennau drafft yn nodi'r diwygiadau arfaethedig i cyfnod 2 sy'n ymwneud ag ymestyn yr etholfraint ar gyfer etholiadau llywodraeth leol i rai carcharorion penodol a phobl ifanc o Gymru sydd yn y ddalfa.

Mae'r dogfennau drafft wedi cael eu datblygu'n sylweddol, ac yn mynd i'r afael â'r materion allweddol ynghylch rhyddfreinio, preswyliaeth a chofrestru sy'n cael eu cynnig; byddwn yn rhannu'r dogfennau drafft gyda phobl eraill sydd â diddordeb yn ogystal. Bydd cyfle gennym i fireinio'r dogfennau drafft yng ngoleuni unrhyw sylwadau a geir gan y Pwyllgor ac eraill, cyn cyflwyno'r diwygiadau i cyfnod 2.

Edrychaf ymlaen at groesawu unrhyw safbwyntiau neu sylwadau sydd gan y Pwyllgor ar y darpariaethau drafft hyn.

Yn gywir,

Julie James

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

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RHESTR O WELLIANNAU DRAFFT
LIST OF DRAFT AMENDMENTS

Bil Llywodraeth Leol ac Etholiadau (Cymru)
Local Government and Elections (Wales) Bill
Gwelliannau drafft estyn y bleidlais i garcharorion
Draft prisoner voting amendments
27 Ionawr 2020
27 January 2020

Julie James **1**

Section 2, page 2, line 11, leave out subsection (2).

Adran 2, tudalen 2, llinell 11, hepgorer is-adran (2).

Julie James **2**

Section 2, page 2, after line 15, insert—

'(3) In section 3 of the 1983 Act (disenfranchisement offenders in prison etc.)—

(a) in subsection (1), after "election" insert ", unless subsection (1A) applies to that person";

(b) after subsection (1) insert—

"(1A) A convicted person is not legally incapable of voting at a local government election in Wales by virtue of subsection (1) during the time that the person is detained in a penal institution in pursuance of a sentence imposed for a term of less than 4 years.

(1B) But subsection (1A) does not apply if the convicted person is incapable of voting in a local government election by virtue of section 173 (persons convicted of corrupt or illegal practice).

(1C) In calculating the term of a sentence of a convicted person for the purpose of subsection (1A), terms that are consecutive or concurrent to any extent are to be treated as a single term if the sentences were imposed on the person—

(a) on the same occasion, or

(b) on different occasions but the person was not released (other than on temporary release) at any time during the period beginning with the first occasion and ending with the last."

(c) In subsection (2), for "this purpose"substitute "the purposes of this section".'.

Adran 2, tudalen 2, ar ôl llinell 15, mewnosoder—

'(3) Yn adran 3 o Ddeddf 1983 (difreinio troseddwyr sydd yn y carchar etc.)—

(a) yn is-adran (1), ar ôl "election" mewnosoder ", unless subsection (1A) applies to that person";

(b) ar ôl is-adran (1) mewnosoder—

"(1A) A convicted person is not legally incapable of voting at a local government election in Wales by virtue of subsection (1) during the time that the person is detained in a penal institution in pursuance of a sentence imposed for a term of less than 4 years.

(1B) But subsection (1A) does not apply if the convicted person is incapable of voting in a local government election by virtue of section 173 (persons convicted of corrupt or illegal practice).

(1C) In calculating the term of a sentence of a convicted person for the purpose of subsection (1A), terms that are consecutive or concurrent to any extent are to be treated as a single term if the sentences were imposed on the person—

(a) on the same occasion, or

(b) on different occasions but the person was not released (other than on temporary release) at any time during the period beginning with the first occasion and ending with the last."

(c) Yn is-adran (2), yn lle "this purpose" rhodder "the purposes of this section".'.

Julie James **3**

Page 2, after line 24, insert a new section—

'3 Consequential amendments to retain existing franchise for Senedd Cymru elections

In section 12 of the Government of Wales Act 2006 (c. 32) (entitlement to vote in Senedd elections)—

(a) in subsection (1)(a), for "or fall within the extended franchise for Senedd elections as described in this section" substitute ", except those entitled to vote in such an election by virtue of section 3(1A) of the Representation of the People Act 1983 (c. 2)";

(b) omit subsection (1A);

(c) omit subsection (1B).'.

Tudalen 2, ar ôl llinell 25, mewnosoder adran newydd—

'3 Diwygiadau canlyniadol i barhau'r etholfraint bresennol yn etholiadau Senedd Cymru

Yn adran 12 o Ddeddf Llywodraeth Cymru 2006 (p. 32) (hawlogaeth i bleidleisio yn etholiadau'r Senedd)—

(a) yn is-adran (1)(a), yn lle "or fall within the extended franchise for Senedd elections as described in this section" rhodder ", except those entitled to vote in such an election by virtue of section 3(1A) of the Representation of the People Act 1983 (c. 2)";

(b) hepgorer is-adran 1A);

(c) hepgorer is-adran (1B).'.

Julie James **4**

Section 3, page 2, after line 33, insert—

'(3) Despite the coming into force of the amendments made by the provisions mentioned in subsection (4) by virtue of section 171(3), they only have effect for the purposes of an election for membership of Senedd Cymru at which the poll is held on or after 5 April 2021.

(4) The provisions are—

(a) section 2, so far as it has consequential effects on section 12 of the Government of Wales Act 2006 (c. 32);

(b) section *[inserted by amendment 3*];

(c) paragraph 8(3)(b) of Schedule 2.'.

Adran 3, tudalen 2, ar ôl llinell 36, mewnosoder—

'(3) Er gwaethaf y ffaith bod y diwygiadau a wneir gan y darpariaethau a grybwyllir yn is-adran (4) yn dod i rym yn rhinwedd adran 171(3), nid ydynt ond yn cael effaith at ddibenion etholiad ar gyfer aelodaeth o Senedd Cymru pan gynhelir y bleidlais ar 5 Ebrill 2021 neu ar ôl hynny.

(4) Y darpariaethau yw—

(a) adran 2, i'r graddau y mae ganddi effeithiau canlyniadol ar adran 12 o Ddeddf Llywodraeth Cymru 2006 (p. 32);

(b) adran [*a fewnosodir gan welliant 3*];

(c) paragraff 8(3)(b) o Atodlen 2.'.

Julie James **5**

Section 171, page 108, line 18, after '2', insert 'and [*section inserted by amendment 3*]'.

Adran 171, tudalen 108, llinell 18, ar ôl '2', mewnosoder 'a [*adran a fewnosodir gan welliant 3*]'.

Julie James **6**

Schedule 2, page 119, after line 10, insert—

'(2) In section 7A (residence: persons remanded in custody etc.)—

(a) after subsection (1) insert—

"(1A) But this section does not apply to the registration of local government electors in Wales.";

(b) in subsection (6), after "In this section" insert "and section 7AA".

(3) After section 7A insert—

"7AA Residence of persons in custody for registration of local government electors in Wales

(1) This section applies to the registration of local government electors in Wales.

(2) Subsection (3) applies to—

(a) a person to whom section 3(1A) applies (convicted person detained and sentenced to a term of less than 4 years), and

(b) a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after—

(i) being convicted of any offence, or

(ii) a finding in criminal proceedings that the person did the act or made the omission charged.

(3) In determining whether the person is resident in a dwelling on the relevant date for the purpose of section 4(3)(a), the person's residence is not to be taken to have been interrupted by reason of the person's detention if—

(a) the person—

(i) intends to resume actual residence there when released from detention (other than on temporary release), and

(ii) will not be prevented from doing so by an order of any court, or

(b) the dwelling serves as a permanent place of residence (whether for the person alone or with other persons) and the person would be in actual residence there but for the convicted person's detention.

(4) In determining whether the person is resident in a place on the relevant date for the purposes of section 4(3)(a), the person's residence is not to be taken to have been interrupted by the person's detention if-

(a) a declaration of local connection is in force in respect of the person, and

(b) the declaration was made by virtue of the person falling within section 7B(2)(c)."

(4) In section 7B (notional residence: declarations of local connection)—

(a) in subsection (2A)—

(i) omit paragraph (a);

(ii) in paragraph (b), for "paragraphs (a) to (c)" substitute "paragraphs (a) or (c)";

(iii) in paragraph (c), after "(2B)" insert "or (2E)";

(b) for subsection (2B) substitute—

"(2B) The requirements are that the person—

(a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or

(b) is being kept in secure accommodation.";

(c) omit subsection (2C);

(d) after subsection (2D) insert—

"(2E) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1), is a person—

(a) to whom section 7AA applies (persons in custody), and

(b) who would not be entitled to be registered as resident at the place in which the person is in legal custody by virtue of section 5(6) or any other place by virtue of section 7AA.";

(e) in subsection (4), after paragraph (c) insert—

"(d) in the case of a person falling within subsection (2E)—

(i) the address in Wales where the person would be residing but for the person's detention,

(ii) if the person cannot give an address under sub-paragraph (i), the address in Wales at which the person was resident immediately before the person's detention (but not the address of a penal institution), or if the person was homeless at that time, the address of, or which is nearest to, a place in Wales where the person commonly spent a substantial part of the person's time (whether during the day or night), or

(iii) if the person can only give an address under paragraph (i) or (ii) at which the person would be prevented from residing because of an order of any court ("the prohibited address"), an address used by a council of a county or county borough in Wales in whose area the prohibited address is located.";

(f) in subsection (7B)(a), after "(2A)" insert "or (2E)";

(g) after subsection (7C), insert—

"(7D) In a relevant declaration, a person may not give an address under subsection (3)(a)(i) or subsection (4)(d)(i) or (ii) at which the person would be prevented from residing because of an order of a court."'.

Atodlen 2, tudalen 119, ar ôl llinell 11, mewnosoder—

'(2) Yn adran 7A (preswylfa: personau sydd wedi eu remandio yn y ddalfa etc.)—

(a) ar ôl is-adran (1) mewnosoder—

"(1A) But this section does not apply to the registration of local government electors in Wales.";

(b) yn is-adran (6), ar ôl "In this section" mewnosoder "and section 7AA".

(3) Ar ôl is-adran 7A mewnosoder—

"7AA Residence of persons in custody for registration of local government electors in Wales

(1) This section applies to the registration of local government electors in Wales.

(2) Subsection (3) applies to—

(a) a person to whom section 3(1A) applies (convicted person detained and sentenced to a term of less than 4 years), and

(b) a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after—

(i) being convicted of any offence, or

(ii) a finding in criminal proceedings that the person did the act or made the omission charged.

(3) In determining whether the person is resident in a dwelling on the relevant date for the purpose of section 4(3)(a), the person's residence is not to be taken to have been interrupted by reason of the person's detention if—

(a) the person—

(i) intends to resume actual residence there when released from detention (other than on temporary release), and

(ii) will not be prevented from doing so by an order of any court, or

(b) the dwelling serves as a permanent place of residence (whether for the person alone or with other persons) and the person would be in actual residence there but for the convicted person's detention.

(4) In determining whether the person is resident in a place on the relevant date for the purposes of section 4(3)(a), the person's residence is not to be taken to have been interrupted by the person's detention if-

(a) a declaration of local connection is in force in respect of the person, and

(b) the declaration was made by virtue of the person falling within section 7B(2)(c)."

(4) Yn adran 7B (preswylfa dybiannol: datganiadau o gysylltiad lleol)—

(a) yn is-adran (2A)—

(i) hepgorer paragraff (a);

(ii) ym mharagraff (b), yn lle "paragraphs (a) to (c)" rhodder "paragraphs (a) or (c)";

(iii) ym mharagraff (c), ar ôl "(2B)" mewnosoder "or (2E)";

(b) yn lle is-adran (2B) rhodder—

"(2B) The requirements are that the person—

(a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or

(b) is being kept in secure accommodation.";

(c) hepgorer is-adran (2C);

(d) ar ôl is-adran (2D) mewnosoder—

"(2E) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1), is a person—

(a) to whom section 7AA applies (persons in custody), and

(b) who would not be entitled to be registered as resident at the place in which the person is in legal custody by virtue of section 5(6) or any other place by virtue of section 7AA.";

(e) yn is-adran (4), ar ôl paragraff (c) mewnosoder—

"(d) in the case of a person falling within subsection (2E)—

(i) the address in Wales where the person would be residing but for the person's detention,

(ii) if the person cannot give an address under sub-paragraph (i), the address in Wales at which the person was resident immediately before the person's detention (but not the address of a penal institution), or if the person was homeless at that time, the address of, or which is nearest to, a place in Wales where the person commonly spent a substantial part of the person's time (whether during the day or night), or

(iii) if the person can only give an address under paragraph (i) or (ii) at which the person would be prevented from residing because of an order of any court ("the prohibited address"), an address used by a council of a county or county borough in Wales in whose area the prohibited address is located.";

(f) yn is-adran (7B)(a), ar ôl "(2A)" mewnosoder "or (2E)";

(g) ar ôl is-adran (7C), mewnosoder—

"(7D) In a relevant declaration, a person may not give an address under subsection (3)(a)(i) or subsection (4)(d)(i) or (ii) at which the person would be prevented from residing because of an order of a court."'.

Julie James **7**

Schedule 2, page 123, after line 7, insert—

'(b) in paragraph 2 (manner of voting), after sub-paragraph (6) insert—

"(6ZA) In relation to a local government election in Wales, nothing in the preceding provisions of this paragraph applies to a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies; and such a person may only vote by post or by proxy (where the person is entitled as an elector to vote by post or, as the case may be, by proxy at the election).";

(c) in paragraph 3(3) (absent vote at elections for definite or indefinite period)—

(i) in paragraph (c) omit the "or" at the end of the paragraph;

(ii) at the end of paragraph (d) insert ", or";

(iii) after paragraph (d) insert—

"(e) in the case of local government elections in Wales, if the person is a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies,".'.

Atodlen 2, tudalen 123, ar ôl llinell 7, mewnosoder—

'(b) ym mharagraff 2 (y modd o bleidleisio), ar ôl is-baragraff (6) mewnosoder—

"(6ZA) In relation to a local government election in Wales, nothing in the preceding provisions of this paragraph applies to a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies; and such a person may only vote by post or by proxy (where the person is entitled as an elector to vote by post or, as the case may be, by proxy at the election).";

(c) ym mharagraff 3(3) (pleidlais absennol mewn etholiadau am gyfnod penodol neu amhenodol)—

(i) ym mharagraff (c) hepgorer yr "or" ar ddiwedd y paragraff;

(ii) ar ddiwedd paragraff (d) mewnosoder ", or";

(iii) ar ôl paragraff (d) mewnosoder—

"(e) in the case of local government elections in Wales, if the person is a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies,".'.

Julie James **8**

Schedule 2, page 123, after line 14, insert—

'(5B) A person is not capable of voting as proxy at a local government election in Wales if on the date of the election section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies to the person."'.

Atodlen 2, tudalen 123, ar ôl llinell 14, mewnosoder—

'(5B) A person is not capable of voting as proxy at a local government election in Wales if on the date of the election section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies to the person."'.

Julie James **9**

Schedule 2, page 124, after line 18, insert—

'(2) Omit sections 10 and 11.'.

Atodlen 2, tudalen 124, ar ôl llinell 19, mewnosoder—

'(2) Hepgorer adrannau 10 ac 11.'.

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Llywodraeth Cymru
Welsh Government

John Griffiths, AC
Cadeirydd
Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Cynulliad Cenedlaethol Cymru
Tŷ Hywel
Bae Caerdydd
CF99 1NA

2 Mawrth 2020

Annwyl John,

Bil Llywodraeth Leol ac Etholiadau (Cymru) - gwybodaeth bellach am welliannau arfaethedig drafft ar gyfer Pleidleisio gan Garcharorion

Yn fy llythyr ar 29 Ionawr amgaeais ddrafftiau o'r gwelliannau cyfnod 2 arfaethedig yn ymwneud ag ehangu'r etholfraint ar gyfer etholiadau llywodraeth leol i rai carcharorion a phobl ifanc yn y ddalfa o Gymru. Rwyf yn falch o anfon drafft o'r tabl diben ac effaith i gyd-fynd â'r gwelliannau a nodyn polisi.

Hefyd, pan ddes i i'r Pwyllgor Cyllid ar 6 Chwefror dywedais y byddwn yn sicrhau bod gwybodaeth ar gael ynglŷn â'r costau a amcangyfrifir. Nid yw'r costau sy'n gysylltiedig â gwelliannau cyfnod 2 fel arfer yn cael eu darparu tan ar ôl pasio'r gwelliant, ond dan amodau eithriadol a heb osod unrhyw gynsail, mae'r wybodaeth ar gael isod.

- Bydd etholfraint arfaethedig rhai carcharorion a phobl ifanc yn y ddalfa yn ychwanegu tua 1,900 o bleidleiswyr at y gofrestr etholwyr. Bydd cofrestru 1,900 o bleidleiswyr newydd yn costio cyfanswm o oddeutu £2,300 yng Nghymru (sef £1.22 am bob etholwr); bydd y gost yn ailadrodd yn flynyddol o 2021-22. Costau gweinyddol sicrhau bod carcharorion a phobl ifanc cymwys yn cael pleidleisio yn yr etholiadau llywodraeth leol ym mis Mai 2022 fyddai cyfanswm o oddeutu £4,300 ar draws Cymru (sef £2.23 am bob etholwr). Bydd y gost hon yn berthnasol pob pum mlynedd. Yr awdurdodau lleol fydd yn gyfrifol am gostau cofrestru a gweinyddu etholiadau.

- Efallai y bydd rhai gofynion ychwanegol o ran llif gwaith cyfathrebu a gwaith addysgu pleidleiswyr sydd eisoes wedi'i gynllunio ar gyfer unigolion 16/17 oed a dinasyddion tramor cymwys. Mae nifer y pleidleiswyr ychwanegol yn y carchar mor fach, pe byddai angen addasu unrhyw ddeunyddiau cyfathrebu ac addysgu mewn unrhyw ffordd ar gyfer y pleidleiswyr hyn, gellir talu'r gost o'r gyllideb gyffredinol ar gyfer yr eitemau hynny fel y nodwyd yn yr Asesiad Effaith Rheoleiddiol.

- Bydd costau hefyd yn gysylltiedig â diweddaru'r systemau rheoli etholiadol a ddefnyddir gan awdurdodau lleol i lunio'r gofrestr etholiadol. Mae gwasanaethau sy'n gysylltiedig â chofrestrau'r 22 prif gyngor yn cael eu darparu gan dri chwmni meddalwedd, a byddai'n rhaid i bob un o'r cwmnïau hyn wneud newidiadau i'w meddalwedd er mwyn i swyddogion cofrestru ddiwallu'r gofynion ychwanegol i'r gwelliannau arfaethedig ar gyfer

pleidleisio gan garcharorion. Eir i'r costau hyn yn 2021-22. Rydym yn y broses o amcangyfrif y costau hyn ac os bydd y gwelliant hwn yn cael ei basio yng Nghyfnod 2, bydd y costau'n cael eu cynnwys yn yr Asesiad Effaith Rheoleiddiol diweddaraf a gyhoeddir cyn Cyfnod 3.

Os bydd gwelliant i'r Bil yng Nghyfnod 2, bydd y Memorandwm Esboniadol, gan gynnwys yr Asesiad Effaith Rheoleiddiol yn cael ei ddiweddaru a bydd y Pwyllgor yn cael gwybod am y newidiadau yn y modd arferol.

Rwyf yn edrych ymlaen at gael safbwyntiau neu sylwadau'r Pwyllgor cyn inni gyflwyno'r gwelliannau yn ffurfiol yng Nghyfnod 2.

Rwyf hefyd yn rhannu'r wybodaeth hon gyda'r Pwyllgor Cyllid a'r Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad.

Yn Gywir,

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

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BIL LLYWODRAETH LEOL AC ETHOLIADAU (CYMRU) – DRAFFTIAU O WELLIANNAU ARFAETHEDIG CYFNOD 2 Y LLYWODRAETH AR GYFER ETHOLFREINIO CARCHARORION A PHOBL IFANC SYDD YN Y DDALFA

Mae'r tabl hwn yn rhoi gwybodaeth am ddrafftiau o welliannau Cyfnod 2 arfaethedig y Llywodraeth sy'n darparu i rai carcharorion a phobl ifanc o Gymru allu pleidleisio mewn etholiadau llywodraeth leol (mae hyn yn gysylltiedig â'r drafftiau a anfonwyd at y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau gan y Gweinidog Tai a Llywodraeth Leol ar 29 Ionawr 2020).

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
1.	Adran 2, tudalen 2, llinell 11, hepgorer is-adran (2).	Mae'r gwelliant yn hepgor adran 2(2) o Fil Llywodraeth Leol ac Etholiadau (Cymru) ("y Bil hwn") fel y'i cyflwynwyd, a fyddai'n diwygio adran 12 o Ddeddf Llywodraeth Cymru 2006 (fel y'i diwygiwyd gan adrannau 10 ac 11 o Ddeddf Senedd ac Etholiadau (Cymru) 2020 ("Deddf 2020")). Mae hyn yn paratoi'r ffordd ar gyfer gwelliannau 2 a 3 isod. Roedd adrannau 10 ac 11 o Ddeddf 2020 yn diwygio adran 12 o Ddeddf 2006, etholfreinio ar gyfer etholiadau'r Senedd bobl 16 a 17 oed (adran 10) a dinasyddion tramor cymwys (adran 11). Roedd adran 12 o Ddeddf 2020 yn rhoi'r hawl i bobl ifanc 16 a 17 oed a dinasyddion tramor cymwys gael eu cofrestru ar gofrestr o etholwyr llywodraeth leol yng Nghymru, er bod adrannau 10(4) ac 11(2) yn nodi mai dim ond mewn etholiadau i Senedd Cymru (a gynhelir ar 5 Ebrill 2021 neu wedi hynny) y mae gan y pleidleiswyr hyn yr hawl i bleidleisio. Mae adran 2(1) o'r Bil hwn yn diwygio adran 2 o Ddeddf Cynrychiolaeth y Bobl 1983 ("Deddf 1983") fel bod pobl 16 a 17 oed a dinasyddion tramor cymhwysol yn cael eu hetholfreinio i bleidleisio mewn etholiadau llywodraeth leol yng Nghymru hefyd. Byddai adran 2(2) o'r Bil hwn fel y'i cyflwynwyd yn diwygio Deddf Llywodraeth Cymru 2006 fel bod y darpariaethau a fewnosodwyd gan Ddeddf y Senedd (adrannau 10 ac 11)

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
		sy'n cyflwyno'r etholfraint estynedig ar gyfer etholiadau'r Senedd yn cael eu dileu – gan nad oes unrhyw wahaniaethau bellach rhwng yr etholfraint ar gyfer etholiadau'r Senedd ac etholiadau llywodraeth leol mewn perthynas â phobl ifanc 16 ac 17 oed a dinasyddion tramor cymhwysol. Fodd bynnag, mae etholfreinio rhai carcharorion a phobl ifanc o Gymru sydd yn y ddalfa (yn rhinwedd gwelliant 2) ar gyfer etholiadau llywodraeth leol yn unig yn golygu bod angen darpariaeth newydd, felly nid yw'r newid a gyflawnir gan welliant 2 yn berthnasol i etholiadau'r Senedd – dyna'r rheswm dros welliant 3.
2	Adran 2, tudalen 2, ar ôl llinell 15, mewnosoder— '(3) Yn adran 3 o Ddeddf 1983 (difreinio troseddwyr sydd yn y carchar etc.)— (a) yn is-adran (1), ar ôl "election" mewnosoder ", unless subsection (1A) applies to that person"; (b) ar ôl is-adran (1) mewnosoder— "(1A) A convicted person is not legally incapable of voting at a local government election in Wales by virtue of subsection (1) during the time that the person is detained in a penal institution in pursuance of a sentence imposed for a term of less than 4 years.	Mae Gwelliant 2 yn diwygio adran 2 o'r Bil hwn i fewnosod is-adran (3) newydd sy'n diwygio adran 3 o Ddeddf 1983 (sy'n ymwneud â difreinio troseddwyr a gollfarnwyd sydd yn y carchar). Mae rhan gyntaf y gwelliant (yr is-adran (3)(a) newydd yn y Bil hwn) yn diwygio adran 3(1) o Ddeddf 1983 i greu eithriad i ddifreinio'n gyffredinol droseddwyr a gollfarnwyd. Mynegir yr eithriad yn yr is-adran 1A newydd sydd i'w mewnosod yn adran 3(1) o Ddeddf 1983, sef na chaiff carcharorion a gollfarnwyd eu difreinio rhag pleidleisio mewn etholiadau llywodraeth leol yng Nghymru os ydynt o dan ddedfryd o lai na 4 blynedd mewn sefydliad cosbi. Mae'r is-adran 1B newydd, a fewnosodwyd yn adran 3 o Ddeddf 1983, yn darparu na fydd yr etholfreinio y darperir ar ei gyfer gan is-adran 1A yn gymwys os yw'r carcharor wedi ei euogfarnu o arfer llwgr neu anghyfreithlon o dan adran 173 o Ddeddf 1983. Mae euogfarnau o'r fath yn ymwneud ag arferion llwgr neu anghyfreithlon mewn perthynas ag etholiadau ac mae'r ddedfryd yn cynnwys gwahardd y person a

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	(1B) But subsection (1A) does not apply if the convicted person is incapable of voting in a local government election by virtue of section 173 (persons convicted of corrupt or illegal practice). (1C) In calculating the term of a sentence of a convicted person for the purpose of subsection (1A), terms that are consecutive or concurrent to any extent are to be treated as a single term if the sentences were imposed on the person— (a) on the same occasion, or (b) on different occasions but the person was not released (other than on temporary release) at any time during the period beginning with the first occasion and ending with the last." (c) Yn is-adran (2), yn lle "this purpose" rhodder "the purposes of this section".'.	euogfarnwyd rhag cofrestru fel etholwr am gyfnod penodol o 3 neu 5 mlynedd. Mae'r is-adran 1C newydd, a fewnosodwyd yn adran 3 o Ddeddf 1983 yn darparu, wrth gyfrifo dedfryd person a euogfarnwyd, fod dedfrydau sy'n olynol neu'n gydamserol yn cael eu trin fel un tymor, p'un a gânt eu gosod ar yr un achlysur (is-adran (1C(a)) neu ar wahanol achlysuron, yn ystod cyfnod dedfryd sydd eisoes wedi'i gosod (is-adran (1C)(c)). Os caiff person ei ddedfrydu ar yr un achlysur i ddau gyfnod o 2 flynedd, a fydd yn digwydd yn olynol, bydd wedi torri'r trothwy 4 blynedd ac ni fydd yn cael ei etholfreinio. Bydd person a ddedfrydwyd i 3 blynedd yn y ddalfa ac sydd wrthi'n treulio'r ddedfryd honno ac sydd, o fewn 1 flwyddyn i'r ddedfryd honno, yn cael ei euogfarnu o drosedd arall a'i ddedfrydu i gyfnod arall o 2 flynedd, sydd i ddigwydd yn olynol, yn colli ei hawl i bleidleisio ar yr adeg y caiff yr ail ddedfryd ei gosod. Diwygir is-adran 3(2) o Ddeddf 1983 gan yr adran 2(3)(c) newydd yn y Bil hwn, felly mae'n cyfeirio at "at ddibenion yr adran hon" yn hytrach nag "at y diben hwn", i gydnabod, yn rhinwedd y newidiadau a wneir gan y gwelliant hwn, fod adran 3 o Ddeddf 1983 yn ymdrin â mwy nag un diben.
3	Tudalen 2, ar ôl llinell 25, mewnosoder adran newydd— '**3 Diwygiadau canlyniadol i barhau'r etholfraint bresennol yn etholiadau Senedd Cymru**	Mae Gwelliant 3 yn mewnosod adran newydd yn y Bil hwn sy'n diwygio adran 12 o Ddeddf Llywodraeth Cymru 2006 (hawl i bleidleisio yn etholiadau'r Senedd).

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	Yn adran 12 o Ddeddf Llywodraeth Cymru 2006 (p. 32) (hawlogaeth i bleidleisio yn etholiadau'r Senedd)— (a) yn is-adran (1)(a), yn lle "or fall within the extended franchise for Senedd elections as described in this section" rhodder ", except those entitled to vote in such an election by virtue of section 3(1A) of the Representation of the People Act 1983 (c.2)"; (b) hepgorer is-adran 1A); (c) hepgorer is-adran (1B).'.	Bydd adran newydd 3(1A) o Ddeddf 1983, sydd i'w mewnosod gan Welliant 2 uchod, yn galluogi rhai carcharorion a phobl ifanc sydd yn y ddalfa i gael eu cofrestru fel etholwyr llywodraeth leol yng Nghymru. Effaith yr adran 3(1)(a) newydd yn y Bil hwn, a fewnosodir gan y gwelliant hwn, yw diwygio adran 12(1)(a) o Ddeddf Llywodraeth Cymru 2006 fel bod y rhai sydd â'r hawl i bleidleisio mewn etholiad i'r Senedd yn rhai sydd wedi'u cofrestru fel etholwyr llywodraeth leol yng Nghymru , ac eithrio'r rhai a gaiff eu hetholfreinio ar gyfer etholiadau llywodraeth leol gan adran 3(1A) newydd Deddf 1983 (h.y. unrhyw garcharorion neu bobl ifanc sydd yn y ddalfa). Mae'r adrannau newydd 3(1)(b) ac (c) yn y Bil hwn, a fewnosodir gan y gwelliant hwn, yn hepgor is-adrannau (1A) a (1B) o adran 12 o Ddeddf Llywodraeth Cymru 2006 fel y'i diwygiwyd gan adrannau 10 ac 11 o Ddeddf 2020. Nid yw adrannau 10 ac 11 o Ddeddf 2020 bellach yn angenrheidiol; roeddent yn darparu y dylai estyn yr etholfraint llywodraeth leol i bobl 16 ac 17 oed a dinasyddion tramor cymhwysol fod yn gymwys i etholiadau'r Senedd yn unig (adran 10) ac (adran 11) yn y drefn honno.
4	Adran 3, tudalen 2, ar ôl llinell 36, mewnosoder— '(3) Er gwaethaf y ffaith bod y diwygiadau a wneir gan y darpariaethau a grybwyllir yn is-adran (4) yn dod i rym yn rhinwedd adran 171(3), nid ydynt ond yn cael effaith at ddibenion etholiad ar gyfer aelodaeth o	Mae Gwelliant 4 yn mewnosod is-adrannau (3) a (4) newydd yn adran 3 o'r Bil hwn, fel y'i cyflwynwyd, fel bod y darpariaethau a bennir yn yr is-adran (4) newydd, er eu bod yn dod i rym ddeufis ar ôl i'r Bil hwn dderbyn y Cydsyniad Brenhinol (yn rhinwedd adran 171(3) o'r Bil hwn, fel y'i cyflwynwyd), yn cael effaith dim ond at ddibenion etholiad i'r Senedd a gynhelir ar 5 Ebrill 2021 neu wedi hynny. Y darpariaethau a restrir yn is-adran (4)(a) a (b) yw'r rhai sy'n gwneud newidiadau canlyniadol (drwy'r gwelliannau a restrir uchod) i adran 12 o Ddeddf Llywodraeth Cymru 2006 i sicrhau nad yw etholfeinio rhai

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	Senedd Cymru pan gynhelir y bleidlais ar 5 Ebrill 2021 neu ar ôl hynny. (4) Y darpariaethau yw— (a) adran 2, i'r graddau y mae ganddi effeithiau canlyniadol ar adran 12 o Ddeddf Llywodraeth Cymru 2006 (p. 32); (b) adran [a fewnosodir gan welliant 3]; (c) paragraff 8(3)(b) o Atodlen 2.'.	carcharorion a phobl ifanc sydd yn y ddalfa yn gymwys i etholiadau'r Senedd.
5	Adran 171, tudalen 108, llinell 18, ar ôl '2', mewnosoder 'a [adran a fewnosodir gan welliant 3]'.	Mae Gwelliant 5 yn mewnosod cyfeiriad at yr adran newydd a fewnosodwyd yn y Bil hwn gan Welliant 3 uchod yn adran 171(3)(b) o'r Bil hwn (Dod i rym). Bydd yr adran newydd yn dod i rym ddeufis ar ôl i'r Bil hwn dderbyn y Cydsyniad Brenhinol, ond mae hyn yn ddarostyngedig i adran 3 o'r Bil (fel y'i cyflwynwyd), fel y'i diwygiwyd gan Welliant 4 uchod. Yn unol â hynny, dim ond at ddibenion etholiad i Senedd Cymru, a gynhelir ar 5 Ebrill 2021 neu ar ôl hynny, y bydd yr adran newydd (sy'n ymwneud â diwygiadau canlyniadol i gadw'r etholfraint bresennol ar gyfer etholiadau'r Senedd) yn effeithiol.
6	Atodlen 2, tudalen 119, ar ôl llinell 11, mewnosoder— '(2) Yn adran 7A (preswylfa: personau sydd wedi eu remandio yn y ddalfa etc.)—	Mae Gwelliant 6 yn mewnosod darpariaeth newydd ar ôl paragraff (1) yn Atodlen 2 i'r Bil hwn i wneud amryw o ddiwygiadau (fel a ganlyn) i ran I o Ddeddf 1983 (Hawl i gofrestru). Mae'r paragraff 2(2) newydd yn Atodlen 2 i'r Bil hwn yn mewnosod is-adran (1A) newydd yn adran 7A o Ddeddf 1983 (Preswylfa: personau

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	(a) ar ôl is-adran (1) mewnosoder— "(1A) But this section does not apply to the registration of local government electors in Wales."; (b) yn is-adran (6), ar ôl "In this section" mewnosoder "and section 7AA". (3) Ar ôl is-adran 7A mewnosoder— "**7AA Residence of persons in custody for registration of local government electors in Wales** (1) This section applies to the registration of local government electors in Wales. (2) Subsection (3) applies to— (a) a person to whom section 3(1A) applies (convicted person detained and sentenced to a term of less than 4 years), and (b) a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after— (i) being convicted of any offence, or	sydd wedi eu remandio yn y ddalfa), gan gael yr effaith o ddatgymhwyso adran 7A o Ddeddf 1983 at ddibenion cofrestru carcharorion sydd ar remánd fel etholwyr llywodraeth leol. Mae'r diwygiad i is-adran (6) o adran 7A o Ddeddf 1983 yn darparu y bydd carcharorion sydd ar remánd yn cael eu cofrestru fel etholwyr llywodraeth leol ar yr un sail â charcharorion eraill a gaiff eu hetholfreinio gan y ddeddfwriaeth hon, y bydd yr adran 7AA newydd a fewnosodwyd yn Neddf 1983 gan y Gwelliant hwn yn gymwys iddynt. Mae is-adran (3) o'r Gwelliant hwn yn mewnosod adran 7AA newydd yn Neddf 1983; mae'r adran newydd yn gwneud darpariaeth ynghylch preswylfa personau sydd yn y ddalfa (oedolion a phobl ifanc) at ddibenion eu cofrestru fel etholwyr llywodraeth leol. Mae is-adran (3) o'r adran 7AA newydd yn darparu y bernir nad oes bwlch ym mhreswylfa person sydd yn y ddalfa (at ddibenion ei gofrestru fel etholwr llywodraeth leol) (i) os yw'n bwriadu ailddechrau preswylio mewn annedd lle'r oedd yn byw cyn mynd i'r ddalfa (ar yr amod nad yw wedi'i atal rhag gwneud hynny gan orchymyn llys); neu (ii) y byddai'n preswylio mewn annedd ar sail barhaol pe na bai yn y ddalfa. Mae is-adran (4) o'r adran 7AA newydd yn darparu y bernir nad oes bwlch ym mhreswylfa person sydd yn y ddalfa os oes datganiad o gysylltiad lleol mewn grym ar gyfer y person hwnnw, yn rhinwedd y ffaith ei fod yn ddigartref (sy'n golygu ei fod yn berson a gwmpesir gan adran 7B(2)(c) o Ddeddf 1983). Mae'r is-baragraff (4) newydd, a fewnosodir yn Atodlen 2 i'r Bil hwn gan y Gwelliant hwn, yn gwneud nifer o ddiwygiadau i adran 7B (preswylfa

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	(ii) a finding in criminal proceedings that the person did the act or made the omission charged. (3) In determining whether the person is resident in a dwelling on the relevant date for the purpose of section 4(3)(a), the person's residence is not to be taken to have been interrupted by reason of the person's detention if— (a) the person— (i) intends to resume actual residence there when released from detention (other than on temporary release), and (ii) will not be prevented from doing so by an order of any court, or (b) the dwelling serves as a permanent place of residence (whether for the person alone or with other persons) and the person would be in actual residence there but for the convicted person's detention. (4) In determining whether the person is resident in a place on the relevant date for the purposes of section 4(3)(a), the person's residence is not to be taken to have been interrupted by the person's detention if-	dybiannol: datganiadau o gysylltiad lleol) o Ddeddf 1983, fel y'i diwygiwyd gan adran 19 o Ddeddf 2020. Mae'r diwygiadau yn is-baragraff (4)(a) yn diwygio is-adran (2A) (fel y'i mewnosodwyd gan adran 19 o Ddeddf 2020) i baratoi'r ffordd ar gyfer mewnosod trefniadau newydd mewn perthynas â rhai datganiadau o gysylltiad lleol gan is-baragraffau (4)(b) i (4)(g). Mae is-baragraff (4)(a)(i) o'r Gwelliant hwn yn hepgor is-adran (2A)(a) o adran 7B o Ddeddf 1983 (fel y'i mewnosodwyd gan adran 19 o Ddeddf 2020); roedd is-adran (2A)(a) yn darparu bod yn rhaid i berson sydd â hawl i wneud datganiad o gysylltiad lleol yn rhinwedd bod yn berson a alluogwyd i wneud datganiad o'r fath yn rhinwedd is-adran (2B) o adran 7B (fel y'i mewnosodwyd gan adran 19 o Ddeddf 2020) fod o dan 18 oed. Diwygir is-adran (2B) gan y Gwelliant hwn (gweler isod) ac nid yw'r trothwy bellach yn briodol ar gyfer pob categori a gynhwysir yn yr is-adran (2B) newydd. Mae is-baragraff (4)(a)(ii) o'r Gwelliant hwn yn diwygio is-adran (2) o adran 7B o Ddeddf 1983 i hepgor y cyfeiriad at adran 7A o'r Ddeddf 1983, sydd wedi ei datgymhwyso at ddibenion cofrestru fel etholwr llywodraeth leol gan yr is-baragraff (2) newydd yn Atodlen 2 i'r Bil hwn, fel y'i mewnosodwyd gan y Gwelliant hwn (gweler uchod). Mae is-baragraff (4)(a)(iii) o'r Gwelliant hwn yn diwygio is-adran (2A)(c) o Ddeddf 1983 (fel y'i mewnosodir gan adran 19 o Ddeddf 2020) i fewnosod cyfeiriad at yr is-adran (2E) newydd sydd i'w mewnosod yn adran 7B o Ddeddf 1983 gan y Gwelliant hwn (gweler isod).

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	(a) a declaration of local connection is in force in respect of the person, and (b) the declaration was made by virtue of the person falling within section 7B(2)(c).” (4) Yn adran 7B (preswylfa dybiannol: datganiadau o gysylltiad lleol)— (a) yn is-adran (2A)— (i) hepgorer paragraff (a); (ii) ym mharagraff (b), yn lle “paragraphs (a) to (c)” rhodder “paragraphs (a) or (c)”; (iii) ym mharagraff (c), ar ôl “(2B)” mewnosoder “or (2E)”; (b) yn lle is-adran (2B) rhodder— “(2B) The requirements are that the person— (a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or (b) is being kept in secure accommodation.”; (c) hepgorer is-adran (2C);	Mae is-baragraff (4)(b) o'r Gwelliant hwn yn amnewid is-adran (2B) newydd yn adran 7B o Ddeddf 1983, fel y caiff y personau a bennir yn yr is-adran (2B) newydd gofrestru fel etholwyr llywodraeth leol drwy wneud datganiad o gysylltiad lleol; sef (i) person sydd o dan 18 oed ac sy'n blentyn sy'n derbyn gofal gan awdurdod lleol; neu (ii) yn berson sy'n cael ei gadw mewn llety diogel. Mae'r gofyniad bod rhaid i berson mewn llety diogel fod o dan 18 oed yn cael ei ddileu drwy hynny. Diffinnir llety diogel yn is-adran (2D)(b) o adran 7B o Ddeddf 1983 fel y'i mewnosodwyd gan adran 19 o Ddeddf 2020. Mae is-baragraff 4(c) o'r Gwelliant hwn yn hepgor is-adran (2C) o adran 7B o Ddeddf 1983 ac felly nid oes unrhyw ofyniad bellach bod Gweinidogion Cymru yn pennu'n gyntaf, mewn rheoliadau, amgylchiadau llety diogel lle cedwir personau. Mae is-baragraff (4)(d) o'r Gwelliant hwn yn mewnosod is-adran (2E) newydd yn adran 7B o Ddeddf 1983 (fel y'i diwygiwyd gan Ddeddf 2020). Mae'r is-adran (2E) newydd yn galluogi person sydd yn y ddalfa i wneud datganiad o gysylltiad lleol os yw'n berson a gwmpesir gan yr adran 7AA newydd o Ddeddf 1983 (gweler uchod) ac y’i rhwystrir rhag cofrestru fel etholwr llywodraeth leol gan adran 5(6) o Ddeddf 1983 neu nad yw eisoes wedi'i galluogi i gofrestru fel etholwr llywodraeth leol yn rhinwedd y darpariaethau yn yr adran 7AA newydd o Ddeddf 1983. Mae is-baragraff (4)(e) o'r Gwelliant hwn yn mewnosod is-adran (d) newydd yn is-adran (4) o adran 7B o Ddeddf 1983, felly mae’r "cyfeiriad gofynnol” (sef y cyfeiriad sy'n golygu bod gan y person gysylltiad â'r ardal lle mae’n ceisio cael eu cofrestru fel etholwr llywodraeth leol) i berson sy'n dod o fewn yr is-adran (2E) newydd fel y'i pennir yn is-adran (4)(d) (i) i (iii) newydd fel y'i mewnosodir gan y gwelliant hwn. Rhaid i berson o'r fath

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	(d) ar ôl is-adran (2D) mewnosoder— “(2E) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1), is a person— (a) to whom section 7AA applies (persons in custody), and (b) who would not be entitled to be registered as resident at the place in which the person is in legal custody by virtue of section 5(6) or any other place by virtue of section 7AA.”; (e) yn is-adran (4), ar ôl paragraff (c) mewnosoder— “(d) in the case of a person falling within subsection (2E)— (i) the address in Wales where the person would be residing but for the person’s detention, (ii) if the person cannot give an address under subparagraph (i), the address in Wales at	ddarparu'r cyfeiriad y byddai'n preswylio ynddo pe na bai'n cael ei gadw; Os nad yw’n gallu rhoi cyfeiriad o'r fath, mae'n rhaid iddo roi'r cyfeiriad lle'r oedd yn preswylio yn union cyn iddo gael ei gadw (ond ni ddylai hyn fod yn sefydliad cosbi) neu, os yw'n ddigartref, y cyfeiriad lle y treuliodd ran sylweddol o'i amser. Os nad yw ond yn gallu rhoi cyfeiriad sy'n un lle y byddai’n cael ei atal rhag preswylio ynddo drwy orchymyn llys, rhaid iddo roi cyfeiriad yn ardal y prif gyngor lle mae’r cyfeiriad wedi’i leoli. Mae is-baragraff (4)(f) o'r Gwelliant hwn yn diwygio is-adran (7B)(a) o adran 7B o Ddeddf 1983 (fel y'i mewnosodir gan adran 19 o Ddeddf 2020) felly mae'r diffiniad o "datganiad perthnasol" yn cynnwys un a wnaed o dan is-adran (2E) newydd Deddf 1983 fel y’i mewnosodwyd gan y gwelliant hwn ac felly yn cael effaith dim ond ar gyfer cofrestriad y person fel etholwr llywodraeth leol. Mae is-baragraff (4)(g) o'r gwelliant hwn yn mewnosod is-adran (7D) newydd yn adran 7B o Ddeddf 1983 (fel y'i diwygiwyd gan adran 19 o Ddeddf 2020) felly ni chaiff person sydd yn y ddalfa, wrth wneud datganiad o gysylltiad lleol, roi cyfeiriad naill ai (i) ar gyfer derbyn gohebiaeth gan y swyddog cofrestru etholiadol neu'r swyddog canlyniadau, neu (ii) fel yr annedd sy'n cyfateb i gysylltiad y person â'r ardal, os yw’n gyfeiriad y byddai’n cael ei atal rhag preswylio ynddo oherwydd gorchymyn llys.

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	which the person was resident immediately before the person's detention (but not the address of a penal institution), or if the person was homeless at that time, the address of, or which is nearest to, a place in Wales where the person commonly spent a substantial part of the person's time (whether during the day or night), or (iii) if the person can only give an address under paragraph (i) or (ii) at which the person would be prevented from residing because of an order of any court ("the prohibited address"), an address used by a council of a county or county borough in Wales in whose area the prohibited address is located."; (f) yn is-adran (7B)(a), ar ôl "(2A)" mewnosoder "or (2E)"; (g) ar ôl is-adran (7C), mewnosoder— "(7D) In a relevant declaration, a person may not give an address under subsection (3)(a)(i) or subsection (4)(d)(i) or (ii) at which the person would be prevented from residing because of an order of a court."'.	
7	Atodlen 2, tudalen 123, ar ôl llinell 7, mewnosoder—	Mae Gwelliant 7 yn diwygio paragraff 8(3)(b) o Atodlen 2 i'r Bil hwn i fewnosod is-baragraff (6ZA) newydd ym mharagraff 2 o Atodlen 4 i

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	‘(b) ym mharagraff 2 (y modd o bleidleisio), ar ôl is-baragraff (6) mewnosoder— “(6ZA) In relation to a local government election in Wales, nothing in the preceding provisions of this paragraph applies to a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies; and such a person may only vote by post or by proxy (where the person is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”; (c) ym mharagraff 3(3) (pleidlais absennol mewn etholiadau am gyfnod penodol neu amhenodol)— (i) ym mharagraff (c) hepgorer yr “or” ar ddiwedd y paragraff; (ii) ar ddiwedd paragraff (d) mewnosoder “, or”; (iii) ar ôl paragraff (d) mewnosoder—	Ddeddf Cynrychiolaeth y Bobl 2000 (Deddf 2000). Effaith y paragraff newydd (6ZA) yw y caiff person sydd yn y ddalfa, a freinir ar gyfer etholiadau llywodraeth leol yn rhinwedd adran 3(1A) o Ddeddf 1983 a fewnosodir gan welliant 2 uchod, bleidleisio mewn etholiad llywodraeth leol drwy'r post neu drwy ddirprwy yn unig. Mae Gwelliant 7 hefyd yn diwygio paragraff 8(3)(b) o Atodlen 2 i'r Bil hwn i fewnosod paragraff (e) newydd ym mharagraff 3(3) o Atodlen 4 i Ddeddf 2000, felly ystyrir bod person sydd yn y ddalfa ac sydd wedi'i etholfreinio ar gyfer etholiadau llywodraeth leol yn rhinwedd adran 3(1A) o Ddeddf 1983 sydd i'w mewnosod gan Welliant 2 uchod, yn gymwys i bleidleisio drwy ddirprwy (mewn etholiadau llywodraeth leol yn unig).

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
	“(e) in the case of local government elections in Wales, if the person is a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies,”.’.	
8	Atodlen 2, tudalen 123, ar ôl llinell 14, mewnosoder— ‘(5B) A person is not capable of voting as proxy at a local government election in Wales if on the date of the election section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies to the person.”’.	Mae Gwelliant 8 yn diwygio paragraff 8(3)(b) o Atodlen 2 i'r Bil hwn i fewnosod is-baragraff (5B) newydd ym mharagraff 6 o Atodlen 4 i Ddeddf 2000 (Dirprwyon mewn etholiadau), felly nid oes gan berson sydd yn y ddalfa, sydd wedi'i etholfreinio ar gyfer etholiadau llywodraeth leol yn rhinwedd adran 3(1A) o Ddeddf 1983 (sydd i'w mewnosod gan welliant 2 uchod), yr hawl i fod yn ddirprwy i bleidleisiwr arall mewn etholiad llywodraeth leol.
9	Atodlen 2, tudalen 124, ar ôl llinell 19, mewnosoder— ‘(2) Hepgorer adrannau 10 ac 11.’.	Mae Gwelliant 9 yn diwygio Paragraff 16 o Atodlen 2 i'r Bil hwn, i fewnosod is-baragraff newydd 2. Y diben yw diwygio Deddf 2020 i hepgor adrannau 10 ac 11 o Ddeddf 2020. Roedd adrannau 10 ac 11 o Ddeddf 2020 yn darparu ar gyfer etholfreinio pobl 16 ac 17 oed a dinasyddion tramor cymwys, ac er mwyn i'r estyniadau hyn fod yn gymwys ar gyfer etholiadau'r Senedd yn unig. Mae adran 2 o'r Bil hwn yn darparu y caiff pobl ifanc 16 ac 17 oed a dinasyddion tramor cymhwysol bleidleisio mewn

Rhif	GWELLIANT Y LLYWODRAETH	DIBEN AC EFFAITH
		etholiadau llywodraeth leol hefyd, felly nid oes angen adrannau 10 ac 11 o Ddeddf 2020 bellach.

Pleidleisio gan garcharorion yn etholiadau Llywodraeth Leol yng Nghymru

Bwriad y polisi

Bydd y gwelliannau arfaethedig yn etholfreinio carcharorion a phobl ifanc[1] yn y ddalfa o Gymru sy'n gwasanaethu dedfryd o garchar o lai na phedair blynedd ar gyfer etholiadau Llywodraeth Leol yng Nghymru. Bydd hyn yn rhoi'r hawl i ryw 1,900 o oedolion sy'n garcharorion a rhyw 20 o bobl ifanc yn y ddalfa bleidleisio yn yr etholiadau llywodraeth leol cyffredin nesaf (ar draws yr holl brif gynghorau a chynghorau cymuned) a gynhelir ym mis Mai 2022.

Byddai carcharorion cymwys yn cofrestru i bleidleisio ar sail cyfeiriad yng Nghymru y mae ganddynt gysylltiad ag ef; gallai hwn fod eu cartref teuluol, eu preswylfa flaenorol neu, os ydynt yn ddigartref, gyfeiriad y gallant ddangos cysylltiad ag ef. Ni fyddai carcharor yn gallu cofrestru ar sail cartref teuluol neu breswylfa arall y'i gwaherddir rhag dychwelyd iddi ar ôl cael ei ryddhau yn rhinwedd gorchymyn llys ("cyfeiriad a waherddir"); byddai carcharorion o'r fath yn gallu rhoi cyfeiriad y sir neu'r fwrdeistref sirol yng Nghymru y lleolir y cyfeiriad a waherddir ynddi. Ni fyddai carcharorion yn gallu cofrestru i bleidleisio ar sail cyfeiriad y carchar.

Byddai carcharorion yn gallu pleidleisio trwy'r post neu drwy ddirprwy yn unig (ni fyddai unrhyw orsafoedd pleidleisio mewn carchardai. Ni fyddai carcharorion o Loegr neu mewn man arall mewn carchardai yng Nghymru'n gallu cofrestru i bleidleisio yn etholiadau llywodraeth leol Cymru gan ddefnyddio cyfeiriad y carchar ei hun. Ni fyddent yn gallu cofrestru i bleidleisio ond os gallent ddarparu cyfeiriad arall yng Nghymru y gallent dangos cysylltiad ag ef.

Bydd y Bil yn etholfreinio pobl ifanc 16 a 17 oed i bleidleisio mewn etholiadau llywodraeth leol yng Nghymru; caiff pobl ifanc yn y ddalfa o Gymru eu hetholfreinio ar yr un telerau â charcharorion sy'n oedolion. Bydd y Bil hefyd yn darparu i bobl ifanc 14 a 15 oed gael eu cofrestru fel "pobl ifanc sy'n cofrestru ymlaen llaw" yn barod iddynt ddod yn bleidleiswyr yn 16 oed. Bydd unrhyw bobl ifanc 14 a 15 oed sy'n gwasanaethu dedfryd o lai na phedair blynedd hefyd yn cael eu cofrestru fel "pobl ifanc sy'n cofrestru ymlaen llaw".

[1]Mae cyfeiriadau at "carcharorion" yn cynnwys "pobl ifanc yn y ddalfa" oni nodir yn wahanol.

Bydd y Bil yn etholfreinio dinasyddion tramor sy'n preswylio yng Nghymru yn gyfreithlon; câi unrhyw garcharorion sy'n bodloni'r amodau hyn eu hetholfreinio.

Os bydd carcharorion yn penderfynu arfer eu hawl i bleidleisio, bydd arnynt angen mynediad i ymgeiswyr, y cyfryngau yng Nghymru a deunydd ysgrifenedig am yr etholiad er mwyn nodi'r materion a gwneud dewisiadau doeth. Bydd ymgeiswyr hefyd yn dymuno cael mynediad hefyd i'r categori newydd o bleidleiswyr. Yn unol ag argymhellion y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau, bydd Llywodraeth Cymru'n ceisio dod i gytundeb â Llywodraeth y DU i alluogi carcharorion o Gymru ar draws yr ystad carchardai i gael mynediad i wybodaeth berthnasol a chadw unrhyw rwystrau posibl i gofrestru a bwrw eu pleidlais i'r lleiaf posibl.

Cefndir y gwelliant

Er bod y rhannau o Fil Llywodraeth Leol ac Etholiadau (Cymru) wedi bod yn cael eu datblygu ers chwe blynedd ni chafodd yr elfennau mewn perthynas ag Etholiadau eu datganoli'n llawn i Weinidogion Cymru tan Ebrill 2018, a hynny trwy Ddeddf Cymru 2017. Yn barod ar gyfer hyn, ymgynghorodd Llywodraeth Cymru ar ddiwygio etholiadol yn haf 2017. Roedd yr ymateb i'r cwestiwn ar etholfreinio carcharorion yn gadarnhaol gyda 50% o ymatebwyr yn cefnogi'r cynnig o'i gymharu â 48% yn ei wrthwynebu gyda 2% ddim yn mynegi barn. Crybwyllodd yr ymatebwyr hawliau dynol a dinasyddiaeth carcharorion, ochr yn ochr â manteision etholfreinio o safbwynt adsefydlu.

Adeg cyflwyno Bil y Senedd ac Etholiadau (Cymru) yn Ionawr 2019 gofynnodd y Llywydd i'r Pwyllgor Cydraddoldeb a Llywodraeth Leol gynnal ymchwiliad i bleidleisio gan garcharorion. Byddai wedi bod yn amhriodol cynnwys y darpariaethau hyn adeg cyflwyno'r Bil cyn i adroddiad ac argymhellion y Pwyllgor gael eu cyhoeddi.

Cyflwynodd y Pwyllgor adroddiad ym Mehefin 2019 yn argymell etholfreinio carcharorion o Gymru sy'n gwasanaethu dedfryd o lai na phedair blynedd ac i bobl ifanc 16-17 oed sy'n cael eu cadw yn y ddalfa gael eu hetholfreinio ar yr un telerau. Cafodd y rhain eu cefnogi gan nifer o argymhellion yn cefnogi'r broses megis pleidleisio trwy'r post a phleidleisio trwy ddirprwy ar gyfer carcharorion.

Derbyniodd Llywodraeth Cymru argymhellion y Pwyllgor y dylai carcharorion a phobl ifanc yn y ddalfa o Gymru sy'n gwasanaethu dedfryd o lai na phedair blynedd gael eu hetholfreinio.

Eitem 5.2

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Llywodraeth Cymru
Welsh Government

John Griffiths, AC
Cadeirydd
Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau
Cynulliad Cenedlaethol Cymru
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2 Mawrth 2020

Annwyl John,

Y Bil Llywodraeth Leol ac Etholiadau (Cymru) – Gwybodaeth bellach yn dilyn y cyfarfod a gynhaliwyd ar 29 Ionawr 2020

Yn dilyn fy mhresenoldeb yng nghyfarfod y Pwyllgor ar 29 Ionawr, rwyf wedi nodi isod fân newidiadau yr wyf yn bwriadu eu cyflwyno ar ôl ystyried tystiolaeth rhanddeiliaid a sylwadau'r Pwyllgor.

Adran 46 – 48: Y ddyletswydd i annog cyfranogiad

Ar ôl gwrando ar y dystiolaeth a ddarparwyd i'r Pwyllgor, rwyf wedi ailystyried y darpariaethau hyn ac rwy'n cytuno na ddylai'r ddyletswydd ar brif gyngor i annog cyfranogiad mewn penderfyniadau ymestyn i gyrff cysylltiedig. Cytunaf fod y rhain yn annibynnol ac y dylent barhau'n gyfrifol am eu materion eu hunain.

Felly, rwy'n bwriadu cyflwyno gwelliant sy'n dileu'r cyfeiriadau at awdurdodau cysylltiedig. Rwyf wedi ystyried yn ofalus a ddylid gwneud yr awdurdodau eraill, gan gynnwys awdurdodau tân ac achub, yn ddarostyngedig i'r ddyletswydd hon yn unigol, ond rwy'n ystyried y byddai hynny'n anghymesur.

Adran 56 ac Atodlen 4 – Hysbysiadau ynglŷn â chyfarfodydd

Ar ôl ystyried y dystiolaeth a ddarparwyd gan Awdurdod Tân ac Achub De Cymru ac Awdurdod Tân ac Achub Canolbarth a Gorllewin Cymru, rwy'n ystyried cyflwyno gwelliant i wneud y darpariaethau newydd ynghylch hysbysiadau electronig ynglŷn â chyfarfodydd yn

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gymwys i awdurdodau tân ac achub ac awdurdodau Parciau Cenedlaethol. Os na chyflwynir gwelliant, byddaf yn ceisio defnyddio'r pŵer i wneud rheoliadau o dan baragraff 6 o Atodlen 4 i'r Bil i wneud y gofynion newydd yn gymwys i awdurdodau tân ac achub ac awdurdodau Parciau Cenedlaethol.

Er na wnaeth awdurdodau Parciau Cenedlaethol godi cwestiwn ynghylch eu hepgor, nid wyf yn credu bod gwerth mewn gadael un grŵp o gyrff yn ddarostyngedig i ofyniad gwahanol i gyrff eraill o fewn teulu llywodraeth leol.

Adran 60 – Rheoli perfformiad prif weithredwyr

Byddaf yn cyflwyno gwelliant i ddileu'r manylder sydd ar wyneb y Bil ar hyn o bryd. Bydd y ddarpariaeth yn cael ei symleiddio fel na fydd ond yn rhagnodi bod rhaid i brif gyngor wneud a chyhoeddi trefniadau ar gyfer rheoli perfformiad eu prif weithredwr. Bydd canllawiau priodol, cymesur i gefnogi hyn. Mae fy swyddogion wedi holi SOLACE ac ALACE wrth ddatblygu'r gwelliant hwn.

Adran 54 – Amodau o ran mynychu o bell

Mae fy swyddogion wrthi'n ystyried sut y gellid gwneud darpariaeth i fynd i'r afael â'r materion a godwyd gan randdeiliaid mewn perthynas â dilysrwydd trafodion a chworwm pe ceid trafferthion technegol mewn cyfarfod sy'n cynnwys aelodau sy'n mynychu o bell. Fy mwriad, os oes angen, yw cyflwyno gwelliant a gweithio gyda llywodraeth leol i sicrhau bod y materion hyn yn cael eu datrys.

Adran 90 – Dyletswydd ar brif gyngor i adrodd ar ei berfformiad

Rwy'n bwriadu cyflwyno gwelliant i gynnwys darpariaeth yn y Bil sy'n egluro amseriad adroddiad hunanasesu. Y nod yw gwneud darpariaeth debyg i'r un sydd yn Neddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 mewn perthynas ag adroddiad cyngor ar y cynnydd y mae wedi'i wneud tuag at gyflawni ei amcanion llesiant. Ar ôl y gwelliant, byddai'n ofynnol i brif gyngor lunio (ond nid "cyhoeddi") adroddiad hunanasesu cyn gynted ag y bo'n rhesymol ymarferol ar ôl diwedd y flwyddyn ariannol y mae'r adroddiad yn perthyn iddi.

Fel y soniais yng nghyfarfod y Pwyllgor, rwyf hefyd yn bwriadu diwygio Gorchymyn Awdurdodau Lleol (Cod Ymddygiad Enghreifftiol) (Cymru) 2008 i roi sylw i'r gofynion sy'n arwain at gyhoeddi cyfeiriad cartref cynghorydd. Rydym wrthi'n ystyried y ffordd fwyaf priodol o wneud y diwygiad hwn; naill ai drwy'r Bil neu drwy is-ddeddfwriaeth.

Hoffwn hefyd egluro fy safbwynt o ran dyletswyddau arweinwyr grwpiau gwleidyddol mewn perthynas â safonau ymddygiad, adran 67 o'r Bil, sy'n gymwys i brif gynghorau yn unig. Mewn tystiolaeth a roddwyd i'r Pwyllgor, awgrymwyd ymestyn y ddyletswydd hon i awdurdodau tân ac achub a chynghorau cymuned.

Ar ôl ystyried hyn ymhellach, nid wyf yn bwriadu cyflwyno gwelliannau i ymestyn y ddyletswydd hon fel hyn. Dyma'r rhesymau dros hynny:

> *Awdurdodau tân ac achub*
>
> Mae pob aelod o awdurdod tân ac achub hefyd yn aelod o brif gyngor. Bydd y ddyletswydd ar arweinydd grŵp gwleidyddol mewn prif gyngor mewn perthynas ag ymddygiad aelodau o'r grŵp yn cynnwys camau i gynnal ymddygiad y rhai sy'n aelodau o awdurdodau tân ac achub.

Cynghorau tref a chymuned

Y sail ddeddfwriaethol bresennol ar gyfer grwpiau gwleidyddol yw Rheoliadau Llywodraeth Leol (Pwyllgorau a Grwpiau Gwleidyddol) 1990 (a wnaed o dan adran 9(10) o Ddeddf Llywodraeth Leol a Thai 1989 ac Atodlen 1 iddi). Nid yw'r rheoliadau hyn yn cynnwys cynghorau tref a chymuned.

Mae adran 67 yn mewnosod pŵer newydd i wneud rheoliadau yn Neddf Llywodraeth Leol 2000 i ddiffinio grŵp gwleidyddol a allai sefydlu sail gyfreithiol ar gyfer grwpiau gwleidyddol o fewn cynghorau cymuned. Serch hynny, byddai hyn ar unwaith yn rhoi dyletswyddau newydd ar arweinwyr y grwpiau hynny. Byddwn yn gyndyn o wneud hynny heb sicrhau amser digonol i ystyried yn llawn unrhyw ganlyniadau anfwriadol yn sgil darpariaethau newydd o'r fath a chynnal ymgynghoriad priodol.

Awdurdodau Parciau Cenedlaethol

Er nad yw awdurdodau Parciau Cenedlaethol wedi'u crybwyll yn benodol, mae'r materion a amlinellir uchod yn berthnasol iddynt hwy hefyd.

Edrychaf ymlaen at gael adroddiad y Pwyllgor ar ôl ichi gwblhau'ch gwaith craffu.

Yn Gywir,

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Llywodraeth Cymru
Welsh Government

John Griffiths AC
Cadeirydd, y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau
Lynne Neagle AC
Cadeirydd - Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru
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2 Mawrth 2020

Annwyl John a Lynne,

Rwyf yn ysgrifennu i roi manylion pellach i'r Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau a'r Pwyllgor Plant, Pobl Ifanc ac Addysg am y trefniadau technegol ar gyfer blaenoriaethu cyllid ar gyfer tâl a phensiynau athrawon mewn ysgolion a gynhelir o'r dosbarth meithrin hyd at flwyddyn 11 a gynhwyswyd yn setliad llywodraeth leol dros dro, ar gyfer 2020-21. Gwn fod hyn yn rhywbeth a godwyd â'r Gweinidog Addysg yn y Pwyllgor Plant, Pobl Ifanc ac Addysg ar 8 Ionawr.

Fel y byddwch yn gwybod, mae setliad llywodraeth leol yn darparu grant heb ei neilltuo sy'n golygu bod yr awdurdodau lleol yn gallu gwneud eu penderfyniadau gwario eu hunain yn ôl eu hanghenion a'u blaenoriaethu eu hunain. Mae'r fformiwla sy'n sail i'r setliad yn defnyddio ystod o ddata am wario, rhagolygon data a dangosyddion ystadegol i benderfynu ar y dosbarthiad rhwng awdurdodau ar sail angen cymharol. Mae'r setliad hefyd yn cymryd i ystyriaeth beth y gall awdurdodau lleol ddisgwyl ei godi yn lleol trwy'r dreth gyngor, gan gymryd i ystyriaeth dosbarthiad eiddo ar draws bandiau'r dreth gyngor ym mhob awdurdod.

Gellir ychwanegu cyllid at gyfrifiad y setliad ar wahanol lefelau. Os caiff cyllid ei ychwanegu ar y lefel uchaf mae'n cael ei rannu rhwng gwasanaethau yn ôl gwariant ac wedyn yn cael ei ddosbarthu rhwng yr awdurdodau yn ôl pob un o'r 'Asesiadau a seilir ar Ddangosyddion' cysylltiedig. Gellir ychwanegu cyllid hefyd ar lefel maes gwasanaeth penodol fel bod y dosbarthiad rhwng awdurdodau yn seiliedig ar ddata a dangosyddion sy'n benodol i'r gwasanaeth hwnnw. Er enghraifft, bydd £100m a ychwanegir ar lefel y sector gwasanaethau cymdeithasol personol yn rhoi dosbarthiad gwahanol i £100m a ychwanegir at y sector trafnidiaeth, gan fod angen cymharol gwahanol rhwng awdurdodau. Er bod yr 'Asesiadau a seilir ar Ddangosyddion' hyn yn sail i gyfrifiadau'r dosbarthiad, nid ydynt yn dargedau gwario ar gyfer pob gwasanaeth y mae awdurdod lleol yn ei ddarparu.

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Ar gyfer setliad 2020-21 cyfanswm y cyllid ychwanegol ar sail tebyg at ei debyg yw £184 miliwn. Mae Llywodraeth Cymru wedi amcangyfrif y costau ychwanegol sy'n deillio o newidiadau Llywodraeth y DU i gyfraniadau pensiwn cyflogwr perthnasol; costau ychwanegol cytundeb cyflog athrawon 2019/20 ar gyfer y flwyddyn ariannol 2020-21 lawn; ac effaith bosibl dyfarniad cyflog 2020/21 a ddaw i rym o Fedi 2020. Amcangyfrifir bod y gost yn gyfanswm o £122.5 miliwn. Mae hynny wedi'i ddarparu a'i ddosbarthu yn ôl y dangosyddion sy'n gymwys i'r sector gwasanaethu ysgolion.

Amgaeaf nodyn technegol yn yr atodiad, sy'n esbonio sut y mae hyn wedi cael ei wneud, i unrhyw un a hoffai weld y lefel hon o fanylder.

Gwneuthum y penderfyniad i sicrhau bod cyllid digonol i dalu'r costau ychwanegol mewn ysgolion yn cael ei dosbarthu yn ôl angen cymharol awdurdodau ar gyfer ardal gwasanaethu ysgolion. Bydd yr Awdurdodau Lleol yn barnu a ddylid rhoi mwy neu lai o gyllid i gyllidebau ysgolion fel rhan o'u penderfyniadau ar gyfanswm eu setliad heb ei neilltuo. Hoffwn nodi, drwy gydol y degawd diwethaf o doriadau gwirioneddol mewn gwariant lleol, fod awdurdodau lleol Cymru wedi rhoi amddiffyniad cymharol i gyllidebau ysgolion. Nodaf hefyd ddatganiad Llefarydd Cyllid CLlLC, y Cyng Anthony Hunt, sydd wedi cadarnhau:

“Mae llywodraeth leol yn rhannu'r un blaenoriaethau â Llywodraeth Cymru. Bydd Arweinwyr ledled Cymru'n Gwneud eu gorau glas i sicrhau bod cyllid yn cael ei gyfeirio at ysgolion i wella canlyniadau addysg, a thuag at ofal cymdeithasol i sicrhau bod y rhai mwyaf agored i niwed yn ein cymunedau'n cael y gofal y maent yn ei haeddu.”

Bydd aelodau'r Pwyllgor wedi nodi bod y setliad yn rhoi i wahanol awdurdodau lleol wahanol gyfraddau o gynnydd mewn cymorth refeniw, gan amrywio o 3% i 5.3%. Mae hyn yn adlewyrchu'r newidiadau cymharol mewn ystod eang o ffactorau. Mae'r effaith fwyaf yn deillio o'r newid cymharol yn y boblogaeth gyffredinol a'r boblogaeth oedran ysgol ar draws ardal pob awdurdod lleol. Bydd yr awdurdodau lleol yn parhau i adlewyrchu'r newidiadau hynny ym mhoblogaeth ysgolion fel rhan o'u dyraniadau.

Yn gywir

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Cc. Kirsty Williams AC, y Gweinidog Addysg

Oherwydd y ffordd y mae'r fformiwla yn gweithio, gan gymryd i ystyriaeth data gwario a rhagolygon gwario'r awdurdodau lleol, mae rhan o'r £122.5 miliwn eisoes yn syrthio i'r sector gwasanaethu addysg o ddata sylfaenol. Er mwyn sicrhau nad oes unrhyw gyfrifo dwbl na chyllid ar goll oherwydd bod awdurdodau'n cofnodi'r cyllid a ddisgwylir ar gyfer pensiynau yn eu ffurflenni gwariant sydd wedi'i gyllidebu mae nifer o addasiadau wedi'u gwneud, sy'n dod i ostyngiad o £43 miliwn. Mae hyn yn rhoi swm gweddilliol o £79.3 i'w neilltuo i'r sector gwasanaethau ysgolion fel bod cyllid ychwanegol o £122.5m at ei gilydd yn cael ei ddosbarthu rhwng awdurdodau yn seiliedig ar eu hangen cymharol am gyllid ysgolion. Rwyf yn hyderus bod y driniaeth hon yn adlewyrchu'n llawn y pwysau gwariant ychwanegol sy'n syrthio ar ysgolion yn ystod y flwyddyn nesaf.

Er tryloywder llwyr, mae elfennau'r addasiad o £43 miliwn fel a ganlyn:

- Gostyngiad o £39.1, cost amcangyfrifedig codiad pensiynau athrawon 2019-20, gan y dylai hyn eisoes fod wedi'i gynnwys gan yr awdurdodau ar eu ffurflenni gwariant a gyllidebwyd ac fe fyddai'n cael ei dosbarthu'n awtomatig trwy elfen sector ysgolion y fformiwla.

- Cynnydd o £10.4 miliwn, swm yr incwm grant penodol a gynhwyswyd trwy gamgymeriad yn ffurflenni cyllidebu'r awdurdodau lleol. Mae incwm grant yn wariant wedi'i ddebydu fel rhan o gyfrifiad y setliad a chan fod y cyllid pensiynau'n cael ei dalu trwy'r setliad ddim fel grant penodol yn 2020-21 byddai hyn yn lleihau lefel y cyllid yn y sector gwasanaethau addysg.

- Gostyngiad o £14.5 miliwn sy'n amcangyfrif o gost codiad cyflog o 2% a gynhwysir gan yr awdurdodau lleol o gytundeb cyflog athrawon 2019/20 a syrthiodd i mewn i'r flwyddyn ariannol 2029-20 (gwariant saith mis). Dylai hyn fod wedi cael ei gynnwys yn ffurflenni gwariant a gyllidebwyd yr awdurdodau lleol a'i ddosbarthu felly trwy'r sector ysgolion yn awtomatig. Cadarnhaodd CLILC fod 20 o'r 22 awdurdod lleol wedi cyllidebu ar gyfer codiad o 2% sy'n gyfwerth â £14.5m. Rhoes Llywodraeth Cymru grant tuag at y codiad cyflog yn 2019-20 ond fe gyhoeddwyd hwn yn rhy hwyr iddo gael ei gynnwys ar ffurflenni gwariant a gyllidebwyd yr awdurdodau lleol.

Eitem 5.4

Elin Jones AC, Llywydd
Cynulliad Cenedlaethol Cymru
Elin Jones AM, Presiding Officer
National Assembly for Wales

John Griffiths AC
Cadeirydd y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau
Cynulliad Cenedlaethol Cymru
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Ein cyf: LS253/EJ/NS

4 Mawrth 2020

Annwyl John,

Bil Rhentu Cartrefi (Diwygio) (Cymru)

Ar 10 Chwefror 2020 ysgrifennais at Brif Weinidog Cymru i gadarnhau fy marn – yn unol ag adran 110(3) o Ddeddf Llywodraeth Cymru 2006 – y byddai Bil Rhentu Cartrefi (Diwygio) (Cymru) yn dod o fewn cymhwysedd deddfwriaethol y Cynulliad.

Fodd bynnag, mae'r casgliad hwnnw yn amodol ar y sail bod y Bil yn ymgysylltu ag Erthygl 1 o Brotocol 1 (Gwarchod Eiddo) y Confensiwn Ewropeaidd ar Hawliau Dynol. Wrth ystyried cymhwysedd deddfwriaethol y Bil, deuthum i'r casgliad, er ei fod yn ymgysylltu ag Erthygl 1 o Brotocol 1, nad yw'n ei dorri.

Teimlaf ei bod yn briodol rhannu'r cyngor hwn â chi, er mwyn cydnabod a hwyluso rôl Aelodau'r Cynulliad ar eich Pwyllgor wrth graffu ar y Bil hwn.

Bydd y cyfreithiwr a'r Clerc sy'n cefnogi'r Pwyllgor gyda'r gwaith craffu hwnnw yn gallu rhoi gwybodaeth fanylach am y materion. Rwy'n ysgrifennu llythyr tebyg at Mick Antoniw, Cadeirydd y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad.

Yn gywir,

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Mae cyfyngiadau ar y ddogfen hon