RHA 07
Bil Rhentu Cartrefi (Diwygio) (Cymru)
Renting Homes (Amendment) (Wales) Bill
Ymateb gan: Cytun
Response from: Cytun

4ydd Mawrth 2020.

Annwyl gyfeillion / Dear friends

Renting Homes (Amendment) (Wales) Bill – consultation response

Cytûn is the umbrella body for the main Christian denominations of Wales and a number of other Christian organisations. A full membership list can be found at http://www.cytun.co.uk/hafan/en/who-we-are/

Most of our member churches are served by paid clergy and other church workers - defined as a "minister of religion" in the Housing Act 1988 - who live in tied accommodation (known variously as manses, presbyteries, parsonages, etc). This accommodation is provided for the use of the minister and his/her family rent-free, and is usually regarded as his/her principal workplace and recognised as such by HMRC. In most cases, HMRC regards the *whole* property as a workplace. Ministers of religion usually have no set working hours and members of the public may attend the property to seek assistance at any time of day or night.

This response is presented following extensive consultation amongst the property and legal officers of our member churches.

General principles of the Bill

In the commercial private rented sector where houses are let as an investment, we believe that longer notice periods are reasonable and fairer to tenants. This includes properties held by our member churches as investment properties. As explained below, six months is too long in the case of housing for ministers of religion. Churches need possession of properties sooner to house a minister of religion.

Unintended consequences of the Bill

The principal purpose of this response is to draw attention to an unintended consequence for churches who hold property on trust for the occupation of ministers of religion, but who during periods of vacancy let these properties on the private rented market. We detailed this consequence in our response to the Welsh Government consultation in 2019. Although our response (together with a similar response from others relating to agricultural tenancies) is referenced on page 41 in the summary of responses, no mitigation is offered in the legislation as tabled.

The disappointingly brief Equality Impact Assessment on page 60 of the Explanatory Memorandum also fails to address the issue, which relates to properties owned and occupied by adherents of a particular religion, a protected characteristic under the Equality Act 2010.

The majority of houses let by member churches are awaiting occupation by a minister of religion. When one minister leaves a post (and the associated church-owned house), it can often be several months before a new minister is appointed (the vacancy period). It is the practice of most member churches to let houses where possible during this period.

The longer notice period is likely to mean that trustees of church residential property will not let houses during vacancy periods and the properties are likely to be retained as empty properties pending occupation by a minister of religion.

Furthermore, for houses intended primarily for the occupation by a minister of religion, the effective 12 month minimum tenancy period in this Bill (caused by the changes proposed to Section 173 of the Renting Homes (Wales) Act 2016) is too long and would prevent churches from letting such

properties given that churches need to readily regain possession in order to house ministers of religion serving in the community.

The Methodist Church is in a particularly difficult position. It carries out an annual 'stationing' process across Great Britain, and ministers move each August to take up a new appointment on September 1st. This requires that manses (housing for ministers of religion) be available for occupation at the same time across England, Scotland and Wales. The maximum feasible letting period for a Methodist manse is therefore 11 months, and any delay in vacating a property in one part of Britain can have severe knock-on effects across the Church. In practice, therefore, Methodist manses in Wales not needed for a particular year would be left vacant for that year as vacant possession in August could not otherwise be guaranteed.

Leaving a property vacant inevitably increases the risk of vandalism or illegal occupation. From the perspective of the duties of responsible charity trustees, it also reduces income being generated from an asset held on charitable trusts. This income is essential to assist in the proper care and maintenance of the property and/or the general charitable purposes of the church in its local community.

Crucially, the changes proposed would mean both:

a. **fewer houses available in the PRS**

b. **those who currently find church short-term lets useful** (e.g. those in the process of seeking a house having moved to a new area with their work, or those needing temporary accommodation while renovating a newly purchased property) **will be pushed into the main PRS, reducing the supply of housing for those in long-term housing need.**

Some church properties are governed by model trusts which require the trustees to ensure that the property is readily available for its intended purpose of housing a minister of religion. As charity and trust law is not devolved, Welsh legislation cannot alter that obligation which will continue to bind trustees even should they be willing to offer a longer contract in some circumstances.

Proposed solution

We therefore believe a procedure should be introduced to allow shorter notice (perhaps 3 months) by prior notice at the start of an agreement along the lines of the Housing Act 1988 Schedule 2 Part 1 Ground 5 (Mandatory Grounds). This is reproduced below:

The dwelling-house is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office and—

(a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and

(b)the court is satisfied that the dwelling-house is required for occupation by a minister of religion as such a residence.'

The Private Housing (Tenancies) (Scotland) Act 2016, which removed a landlord's automatic right to terminate a residential lease, as a matter of contract, when the lease term came to an end, allowed religious bodies to retain the right to recover possession of let houses if they were required for use by a "religious worker". However, the law as passed restricted the ability to trigger the religious use provision to those properties which had previously been occupied for that purpose. This meant that possession could be regained of a property which had previously been occupied by a religious worker, but a newly acquired property which had not been so occupied could not be re-acquired. We would oppose any such qualification being introduced in Wales, not least because it would inhibit churches from 'downsizing' from large houses to smaller ones – releasing larger properties onto the

market – and from changing from less energy efficient to more energy efficient properties in accord with responding to the climate emergency.

A second unintended consequence

Many ministers of religion living in church-owned houses will let their own homes in the meantime. A six month notice period to terminate such agreements may mean that ministers of religion whose appointment is terminated at six months or less notice (perhaps due to ill-health) may have to leave their 'tied' houses before their tenants' notice expires. This could mean ministers are temporarily homeless and thus need to call on statutory assistance at public expense.

Proposed solution

We therefore think it is vital that a provision for shorter notice where a house is needed for owner occupation should be included. This could be via prior notice at the start of an agreement as in the Housing Act 1988 Schedule 2 Part 1 Ground 1 (Mandatory Grounds). This is reproduced below:

Not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground or the court is of the opinion that it is just and equitable to dispense with the requirement of notice and (in either case)—

(a) at some time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the dwelling-house as his only or principal home; or

(b)the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the dwellinghouse as his, his spouse's or his civil partner's only or principal home and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title under the landlord who gave the notice mentioned above acquired the reversion on the tenancy for money or money's worth.

A third unintended consequence – use of break clauses

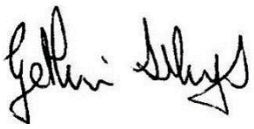
The Welsh Government proposes that, where a court has deemed a notice under section 173 of the 2016 Act to have been issued in a retaliatory fashion (e.g. to avoid undertaking repairs reported by the contract-holder) a landlord will be prevented from issuing a further notice under section 173 for six months.

We understand the motivation behind this proposal, but believe that each case should be considered on its merits. A finding against a landlord in one case should not prevent the landlord taking action in a genuine case. This is especially true if the initial finding against the landlord is based on legal technicality rather than on a retaliatory motivation.

If churches feared that they would not have redress in genuine cases to serve a section 173 notice, it is likely to prevent them from offering the property to let in the first instance. In the case of property owned for the use of ministers of religion or church workers, this is likely to conflict with the trustees' property under charity law, as explained on page 2 above. But a reluctance to let in the light of the proposed change would extend to all church-let property, not only housing normally primarily made available to ministers of religion. **This could also increase anti-social behaviour and the policing and social cohesion consequences** of that, as one current effective means of redress for wider society would be removed.

We would be pleased to offer the Committee any further information that it requires on these matters, or to offer oral evidence.

Yr eiddoch yn gywir / Yours faithfully



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