



CARTREF YW POPETH HOME IS EVERYTHING

Shelter Cymru's response to the Local Government and Housing Committee inquiry into the private rented sector

May 2023

About Shelter Cymru

Shelter Cymru exists to defend the right to a safe home, because **home is everything**. We help thousands of people across all of Wales every year who have been affected by the housing emergency by offering free, confidential and independent advice. When necessary, we constructively challenge on behalf of people to ensure that they are properly assisted, and to improve practice and learning. We work with people who use our services as equals. We provide information, advice and support to help people identify the best options to prevent homelessness, to find and keep a home and to help them take back control of their own lives. We fight the devastating impact the housing emergency has on our people and communities with campaigning, advice and support – and we never give up.

Introduction

Shelter Cymru welcomes the opportunity to provide evidence to this inquiry into the private rented sector in Wales. Our thoughts have been shaped by our extensive housing advice casework across Wales and first-hand experience of working with households living in privately rented accommodation. We have also met with our Back the Bill¹ partners, CIH Cymru and Tai Pawb, to share thoughts on our responses and to provide support to our submissions. Generation Rent have also shared their submission with us.

Giving advice to private sector tenants accounts for a significant proportion of Shelter Cymru's case work. During the first three months of 2023 alone we gave advice to 1133 households living in the private rented sector, accounting for 35% of our total caseload. This doesn't include the many more who seek support from us after finding themselves in the homelessness system due to the loss of a private rented sector tenancy.

¹ <https://www.taipawb.org/policy-influencing/backthebill/>

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A note on the role of privately rented accommodation in our housing market

Before we turn to the terms of reference for this inquiry, we wanted to take the opportunity to reflect on the role of the private rented sector and how it is currently positioned in our pressurised housing market.

The 2021 census revealed a 155% increase in the number of households renting privately in Wales over the last 20 years, accounting for an extra 139,000 households. This sits in stark contrast to an increase of only 2% in owner occupation and the 3% increase in households living in social housing.

The option to rent privately may have previously been taken by those making an active choice for short-term flexibility, or to enable residence in a particular area for lifestyle or convenience. It was the tenure of conscious choice for people looking to establish themselves in a new area before committing to a property purchase, or for someone relocating for a short term job opportunity.

We now regularly hear reference to the private rented sector as the tenure of last resort for those unable to afford home ownership due to rising house prices and households who would have some priority for social housing if only there was sufficient supply.

The private rented sector has grown to fill the gaps elsewhere and respond to demand whilst also representing a sound business decision for investing landlords. Meanwhile, households in need of long term, secure accommodation in their local community are in a position of constant worry about whether their tenancy will be brought to an end and when they will need to pack up and move on again.

The recent trend of landlords looking to leave the sector due to greater regulation has brought into focus our reliance on this accommodation option to fill the gaps which have developed elsewhere in the housing market.

We need strategic direction from Welsh Government about the role of the private rented sector in our housing market, who it is for and who should be providing it.

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The supply, quality and affordability of accommodation in the private rented sector

We talk a lot about the Welsh housing emergency at Shelter Cymru and can't do so without highlighting the difficulties being faced by households living in, or looking to secure accommodation in the private rented sector. Together with the shortage of social housing, supply and affordability issues in the private rented sector are some of the main drivers of homelessness in Wales.

Private renters in Wales currently face a perfect storm: the existing housing supply emergency where social housing is like gold dust and ownership is a long way out of reach; the highest rent increase levels outside of London; and a further squeeze on budgets from rising utility bills and daily essentials such as food.

Supply

Lettings agents report² that there simply was not "enough houses out there for people who want rentals." Across the UK, Zoopla³ report that Lettings agencies typically had 10 available rentals in March 2023 compared to over 16 before September 2021. Meanwhile demand had risen by more than 50%.

Supply has also been hindered by unprecedented rates of possession proceedings across Wales as landlords serve notice to sell their properties or change their market to holiday lets for greater returns.

The Bevan Foundation have highlighted that⁴ on average, letting a property on Air B&B in a tourist hotspot would take a host less than 10 weeks to obtain the same rental income as a landlord letting their property at LHA rates for a year in all Welsh local authorities bar Torfaen.

We continue to fight for an end to no fault evictions in Wales following a U-turn in policy direction last year. This puts Welsh renters in a far more vulnerable position than their

² <https://www.bbc.co.uk/news/uk-wales-65474569>

³ <https://www.bbc.co.uk/news/business-65090846>

⁴ <https://www.bevanfoundation.org/resources/holiday-lets-and-the-prs/>

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Scottish counterparts, and in England the long awaited Renters (Reform) Bill⁵ has recently been published after originally being discussed four years ago.

It has been reported⁶ that every day last year more than 12 households in Wales sought temporary accommodation after being given an eviction notice. In 2022, at least 4,500 households presented themselves to council housing teams after being issued with a Section 21 notice.

Affordability

The search for a new home becomes even harder when looking to find accommodation at Local Housing Allowance rates. Further research⁷ by the Bevan Foundation confirmed something which we have all known but feared – the scarcity of affordable accommodation options in the private rented sector for low income families.

Data collected from 2,638 rental adverts across Wales in February 2023, found that, in Wales, only 32 properties advertised were available at or below LHA rates, equating to just 1.2% of the market. 16 local authorities did not have a single property available at LHA rates.

LHA levels have not been increased since April 2020, but we know that Wales has seen significant rent increases⁸ of up 10% or 11% in hotspots such as Merthyr, Rhondda Cynon Taff, Cardiff, Newport, Vale of Glamorgan and Conwy. We've seen landlords deciding to raise the rent by £200 a month in line with the increase in their mortgage payments⁹ and have also heard of cases where tenancies have been brought to an end by a landlord so that they are able to significantly increase the rent charged to the new tenant.

⁵ <https://bills.parliament.uk/bills/3462/publications>

⁶ <https://www.itv.com/news/wales/2023-03-27/the-huge-number-of-no-fault-evictions-last-year-and-why-theres-a-crisis>

⁷ <https://www.bevanfoundation.org/wp-content/uploads/2023/03/Wales-Housing-Crisis-Winter-2023.pdf>

⁸ <https://www.bbc.co.uk/news/business-65103937>

⁹ <https://www.bbc.co.uk/news/uk-wales-65474569>

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We continue to campaign to ask MPs to support the call to unfreeze Local Housing Allowance and lift the benefits cap as an emergency cost-of-living measure and would call on Welsh Government to do the same. .

The shortfall in assistance with rental payments is forcing households into homelessness as well as impacting on a local authority's ability to assist them. The private rented sector is a vital accommodation source for local authorities seeking both temporary and permanent accommodation solutions.

Quality

Wales has some of the oldest housing stock in Western Europe, with 26% of housing being built before 1919. Much of this older stock is used as private rented accommodation.

Shelter Cymru research¹⁰ from 2021 identified more than 1 in 4 of us - around 819,000 people - are living in homes with significant damp, mould or condensation problems. Over 1 in 10 (13%) - almost half a million people (409,000) - are living in homes that are not structurally sound or have hazards such as faulty wiring or fire risks.

Poor housing conditions are unfortunately commonly associated with the private rented sector and much of the regulation of the past has focused on improving living standards.

From 1st December 2022 the Renting Homes (Wales) Act 2016 sets out the obligations placed on a landlord with regard to the condition of a dwelling. These obligations apply to all occupation contracts made for a term of less than seven years. A landlord under an occupation contract is obliged to ensure a dwelling is both in repair and fit for human habitation. This includes matters such as damp and mould growth, cold, heat, crowding and space, entry by intruders, lighting, noise and hygiene. A landlord must keep the

¹⁰<https://www.itv.com/news/wales/2021-05-26/shocking-new-figures-demonstrate-scale-of-housing-crisis-in-wales-amidst-calls-for-immediate-welsh-government-action>

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dwelling in repair at all times. Once the landlord is aware of the need for repairs, they must be carried out in a reasonable time and to a reasonable standard.

We have seen increased concern in our case load about issues of damp and mould over the past 12 months. This follows the health concerns being brought into the spotlight by the inquest into the death of two-year old Awaab Ishak, which found that the cause was prolonged exposure to black mould in his social housing home in Rochdale. The property had "inadequate ventilation and was not equipped for normal day-to-day living activities which led to excess damp and condensation."

People are also concerned about the cost of heating their home given the rise in energy prices last year. According to the Energy Savings Trust¹¹ the private rented sector across the UK has the largest proportion of the most energy inefficient homes (6.3% are F and G rated properties, compared to around 0.7% of social housing). Nearly half (45.7%) of households living in such properties are in fuel poverty.

The Trust acknowledges that it has not proved easy to tackle this issue, as it is landlords who are responsible for investing in improvement measures, while it is the tenant who benefits from the resulting reductions in fuel bills.

As of 1 April 2022, all new tenancies in the private rented sector now require the property to have an EPC rating of at least 'D', however where significant investment is needed this may add more fuel to a landlord's decision to leave the sector.

The challenges currently facing private sector landlords

We totally appreciate that private sector landlords are having a challenging time at the moment and are having to make some difficult business decisions. Rent Smart Wales data suggest that 70% of landlords own only one property and for many that may have been inherited or bought to supplement their income rather than property rental being their main business focus.

¹¹ <https://energysavingtrust.org.uk/minimum-energy-efficiency-standards-private-rented-sector/>

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For these smaller landlords, increased regulation through mandatory registration, the changes introduced by the Renting Homes (Wales) Act and increased interest rates have understandably led many to question whether they want to remain in the sector.

Shelter Cymru's focus however, has to be on the households who are given notice to leave their home, with increasing numbers turning to local authority homelessness teams when they can't find alternative accommodation themselves. Many will go on to also require temporary accommodation.

The opportunities for greater partnership working between social and private landlords

The Welsh Government Leasing Scheme Wales is an excellent example of partnership working which aims to benefit tenants, property owners and local authorities. 15 local authorities have signed up to the Welsh Government backed scheme which offers incentives for property owners who lease their properties to the local authority. Tenants housed under the scheme will have longer term, secure and affordable accommodation as well as access to a high-level of support to help maintain their tenancy.

We applaud the scheme for providing an attractive package to a landlord such as guaranteed rent, a repairing lease, and grants for energy efficiency works. Whilst rental payments are tied to local housing allowance rates, and the significant shortfall to market rents exists, we question whether the scheme is attractive enough to an income focused landlord and whether this has hindered take up.

Shelter Cymru are aware of a number of initiatives being used by homeless prevention teams to save tenancies in the private sector. Some look to support the landlord or tenant to resolve issues which have led to the threat of eviction. This could include paying off rent arrears or providing intensive support to deal with issues such as anti-social behaviour or hoarding. Often this will be in partnership with a social landlord service, be it the local authority themselves or a housing association.

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We have also become aware of a number of authorities / associations considering whether homelessness could be prevented through rent rescue, where the property is purchased from the private landlord but the tenant remains in their home, becoming a social tenant. This is happening in at least three local authority areas after putting out a call for good practice¹².

Barriers to accessing the private rented sector including challenges facing young people and people with pets

Our 2022 report *Can I get a home?*¹³ considered the barriers which can be faced when trying to rent privately in Wales. With significant demand for private rented accommodation we are very much in a market where landlords have multiple potential tenants to consider for their property and set criteria on who they are willing to let to.

The report provides the findings of a Shelter Cymru survey of private landlords in Wales which reveals barriers that some prospective tenants can face when trying to access private rented homes, which makes it even more difficult for them to find a home.

The survey findings focussed on a number of barriers:

- Being a claimant of housing related benefits - Just over half (51%) of landlords asked, or sometimes asked, prospective tenants if they are receiving benefits and over a third (37%) of landlords do not, or would prefer not to, let to people who claim benefits. The report advocated that changes to the benefits system would make it more likely for landlords to let to people claiming benefits. These changes should include benefits for housing costs being paid directly to the landlord, benefits being paid in advance rather than in arrears and an uplift in local housing allowance levels to reflect higher market rents. We understand that some mortgage lenders still stipulate that properties should not be let to benefit recipients.

¹² https://sheltercymru.org.uk/policy_and_research/rent-rescue-homelessness-prevention-tool/

¹³ https://sheltercymru.org.uk/policy_and_research/can-i-get-a-home-barriers-to-getting-a-private-rented-home-in-wales/

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- Being homeless or moving from supported housing - Almost half of the landlords surveyed do not, or would prefer not to, let to people who are homeless (48%) or moving from supported housing (47%). Some commented that they had experienced difficulties with former tenants who had been homeless or moved in from supported housing. This had resulted in them adopting a blanket policy to not let to people in these situations again. One landlord was quoted to say *"homelessness is not an isolated issue, it is often related to many other issues such as domestic abuse, substance abuse and mental health issues that are not adequately supported by government agencies. If there was adequate support to help homeless people overcome these issues landlords would be much happier to have them as tenants."*
- Being the wrong age, being pregnant, being a transgender person, and being of a certain religion or holding certain beliefs - Only a small minority (less than 2%) of landlords surveyed said that they would not let a property to someone based on their race, marital status or sexual orientation. 3% would not let to people of all religions and beliefs, 4% would not let to transgender people and 5% said that they would not let to a woman who was pregnant. The most significant response was in relation to age with 10% saying that they would not let to people of all ages. Comments included: *"Experience has taught me young people are more likely to not pay the rent and damage the property and cause problems for the neighbours."*
- Having satisfactory financial and pre-tenancy checks - It is widely accepted practice for up-front payments and checks to be required by landlords. Whilst this is lawful, it can act as a significant barrier for people seeking accommodation. 72% of landlords surveyed said they require a month's rent in advance, and 7% require between two months and a year's rent in advance (with almost 2% asking for six months or more). Almost three quarters (72%) required a bond/deposit, half (50%) required an employer's reference, with 42% requiring a reference other than from an employer. Over half of landlords surveyed (55%)

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required a credit check and almost a third (36%) required people to have a minimum level of income.

- Having a pet- Prospective tenants can find that having a pet can significantly restrict their opportunities and choice of housing in the private rented sector. Over half of landlords surveyed (57%) said they don't, or would prefer not to, let to people with pets.

How effectively the private rented sector is regulated

Most landlords would argue that they are feeling over-regulated at the moment and would say that is causing them to consider leaving the sector. In reality we should remember that the UK rental market has been the exception across Europe, and that here gradual deregulation and easier access to debt finance has fuelled the rapid growth of the sector since the turn of the century.¹⁴

Research conducted by Cambridge Centre for Housing and Planning Research and LSE London¹⁵ suggests that a well- designed regulatory framework can have the potential to increase the size of the sector, but only where the aim is to improve quality and reduce costs as well as ensure reasonable rental returns for landlords.

Overall, the outcomes of regulatory regimes depend on the general context in which they operate as well as on finding a balance between too much interference which deters investment, and too little protection for tenants. The size of the private rented sector is not just an outcome of these regulatory regimes but also of the relative attractiveness and accessibility of other tenures and the availability of other investment opportunities.

Whilst we have a structured regulatory regime for social housing providers, regulation of the private rented sector is scattered across different mechanisms and is weaker as a result. The makeup of the two sectors is very different but we believe that there is a lot to be said for regulation sitting in one place.

¹⁴ https://www.cchpr.landecon.cam.ac.uk/system/files/documents/Summary_14.pdf

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At present we have:

- Rent Smart Wales being responsible for mandatory registration and licencing
- The Residential Property Tribunal Wales managing rent level disputes, management orders, licencing and housing health and safety rating disputes
- Government approved deposit protection scheme managing deposit disputes.

Enforcement starts at a local authority level however we hear from colleagues that this is increasingly taking more of a reactive rather than proactive approach due to the strain on public sector budgets.

Shelter Cymru recently worked with Public Law Project on a strategic legal action to highlight that Cardiff Council had no resource available to fulfil their duty to prosecute illegal evictions. Following our action we understand resources are now in place at the authority but this is an issue that is likely to be found elsewhere.

We're not surprised that landlords feel overwhelmed by the level of scrutiny that they are under given its complexity. At present our casework is seeing wide variations in the way the requirements of the Renting Homes (Wales) Act 2016 have been actioned by individual landlords, particularly in relation to converting existing tenancies.

We should remember that the situation is equally complex and overwhelming for tenants as they navigate through different mechanisms to determine what their rights are – a reason why many turn to us at Shelter Cymru for help.

In terms of specific rent regulation Shelter Cymru keenly await the publication of the Welsh Government Green Paper which will call for evidence on securing a path towards adequate housing – including fair rents and affordability. We have been cautious in our support for rent control, wanting to see the policy position supported by a clear evidence base. It is good to see this approach being taken.

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The availability of data on the private rented sector and how it can be improved

The lack of reliable data in relation to the private rented sector has long been a concern for us. Robust data collection is essential to inform future policy decisions and monitor their impact.

The high number of households receiving Section 21 notices who are turning to us for advice gives us an indication that landlords are deciding to remove their properties from the sector, but we don't know for certain the scale of their departure, whether there are geographical differences across Wales or what those properties are becoming. The most recent Census has given us an updated snapshot of what the sector looks like, but that is 12-months out of date at the point which it is published.

Local housing allowance levels are not covering the rents being charged but with no consistent data collection on rent levels, we are in the dark about what the realities of the shortfall are. Online lettings portals only tell us part of the story for properties which have actually been listed, and then only the advertised asking rent rather than the level agreed contractually.

We also have concerns about the methodology used by Rent Officers Wales to conduct rent valuations which inform local housing allowance levels. Landlords provide rent information on a voluntary basis which is then combined with data held by local authority housing benefit departments. This is not captured rent data from across the market.

There were missed opportunities in the early days of Rent Smart Wales regarding the data that was collected as part of the registration and licencing process. Calls to collect rental information at the point of application or renewal were not listened to when the licencing authority was established. We understand that further data collection to enable informed policy making is now being considered and we very much support this as the logical place for it to happen.

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We are also pleased to see that statistical dashboards are being made available on the Rent Smart Wales website¹⁶ regarding the number of registered properties and energy performance. The breakdown of this information at a local authority level is particularly useful and we hope to see further access to the information they hold about:

- The properties in the sector - property type, number of bedrooms etc.
- The tenants - number of people in each household, single or multiple household
- The landlords - type or organisation, number of properties registered.

We also wonder if there are plans for Rent Smart Wales data to be made available through Stats Wales at some point in the future.

¹⁶ <https://rentsmart.gov.wales/en/registeredpropertiesdashboard/>