

HSHAWB 06 Yr Athro Peter Mackie, Prifysgol Caerdydd | Professor Peter Mackie, Cardiff University

Senedd Cymru | Welsh Parliament

Y Pwyllgor Llywodraeth Leol a Thai | Local Government and Housing Committee

Bil Digartrefedd a Dyrannu Tai Cymdeithasol (Cymru) | Homelessness and Social Housing Allocation (Wales) Bill

Ymateb gan: Yr Athro Peter Mackie | Evidence from: Professor Peter Mackie

1. What are your views on the general principles of the Bill, and whether there is a need for legislation to deliver the stated policy intention?

Legislative reforms are required if Wales is to make meaningful progress towards making homelessness rare, brief and unrepeatable. As a package, the intended reforms have potential to make a significant impact on meeting these goals. The legislation is progressive, and I welcome the vast majority of intended changes. These largely emerge from the Expert Review Panel proposals that were developed through meaningful collaboration, compromise, and excellent input from people with lived experience, local authorities, Third Sector partners, RSLs, academics, and legal experts.

I firmly support the direction of travel and the incredibly broad range of provisions. In my response I focus mostly on those areas where I feel further consideration may be warranted.

2. What are your views on the provisions set out in Part 1 of the Bill - Homelessness (sections 1 -34)? In particular, are the provisions workable and will they deliver the stated policy intention?

I strongly support the vast majority of provisions set out in Part 1 of the Bill - Homelessness. These move Wales in a positive and prevention-oriented direction and create a more robust safety net. I support the extension of the definition of threatened with homelessness to six months, the abolition of Priority Need and Intentionality, the requirement for regularly updated PSAPs, new rights of review, the ability to discharge into a wider range of accommodation options, new provisions for young people leaving care, the requirement to engage people with lived experience of homelessness, new duties on social landlords to comply with local authority requests to provide accommodation, and many more specific

revisions. Within this very positive context, I reflect on the few areas where I feel further consideration may be warranted.

S.4 Prevention, support and accommodation plans (PSAPs)

I welcome the inclusion of PSAPs as a requirement of the legislation – this was a recommendation of the Expert Review Panel. My recollection is that the initial conception of the Housing (Wales) Act 2014 did not anticipate households being expected to ‘take steps’, however this was introduced in statutory guidance in 2016 within Personal Housing Plans and it appears this is now included on the face of the proposed legislation; ‘The local housing authority must try to agree with the applicant— (a) any steps the applicant is to take.’

The Expert Review Panel did not recommend the inclusion of a requirement to record the ‘steps’ an applicant should take. This was informed by research examining the implementation of the Housing Wales Act 2014, which found the burden to act was far too frequently placed on households and not the local authority. I recommend serious consideration is given to refocussing the PSAPs on support needs, aspirations, and the reasonable steps the local authority plans to take – excluding steps households might take.

S.18 Help to retain suitable accommodation secured in exercise of homelessness functions

I am very strongly in favour of this new support duty. Two points are worth considering:

1] How will ‘at risk of becoming homeless or threatened with homelessness unless further help is provided’ be defined? This may be addressed through statutory guidance, however it will be important to define to ensure the threshold for accessing support does not vary markedly across Wales.

2] Whilst I broadly agree with the circumstances in which this support duty comes to an end, there is a rich international evidence base that demonstrates the value of avoiding such time-limited periods of support (i.e. the current 12-month end point). If this 12-month period is to remain, I would recommend the wording is revised to give local authorities the power to continue to support households for a longer period. Experience of introducing time periods within the Housing Wales Act 214 tells us that an unintended consequence will be a default towards commissioning support services for a maximum of 12-months.

S. 20 Further circumstances in which the duties to help applicants end

Section 20 replaces the ‘unreasonable failure to co-operate’ test, which the EM says is not sufficiently trauma-informed. New provisions within the Bill focus on failures to respond to local authority communications, threatening behaviours, and damage to property. It is likely that many of these behaviours are the result of past and ongoing traumas, therefore I think it’s unreasonable to claim the new provisions are more trauma informed. Most importantly, in this context access to housing is being removed due to problematic behaviours. If this approach is pursued, Welsh Government will not be able to meet its commitment to make homelessness rare, brief and unrepeatable for these households. Housing is a human right and there are other mechanisms and laws that can be used to address problematic behaviours.

S.21 Duty of a public authority to ask and act

Amend ‘Ask and Act’ to ‘Identify and Act’

The Expert Review Panel discussed the distinction between ‘Ask and Act’ and ‘Identify and Act’. The panel reached the conclusion that the duty should refer to ‘Identify and Act’. I recommend reverting to the panel recommendation.

To ‘identify’ requires a public body to be proactive in their duty to determine who may be at risk of homelessness. This might include use of routine administrative data, routine interactions, and various forms of targeted enquiry. The act of ‘asking’, only when the authority considers the person may be at risk, is only one form of identification, it is more reactive, and is less likely to lead to the scale of early identification envisioned by the legislative reforms.

Revisit the list of specified public authorities

The Expert Review Panel recommended the inclusion of the widest possible range of public bodies. The intention of this keystone new provision is to identify people likely to be at risk of homelessness before they reach crisis and ultimately become homeless. Whilst the Bill includes an extensive list of specified public authorities, there are omissions that will significantly undermine the potential impact of this legislation, and I would encourage this list to be revisited.

Whilst it is true that many people become homeless from institutions listed in the Bill, such as prison or other institutions (c.13%), most people seeking homelessness assistance do not exit these institutions. Therefore, to have greatest impact we must seek to identify people through a much wider range of services. There is UK and international evidence to support the Expert Review Panel recommendations relating to institutions that reach a wider population, particularly Education and Primary Care.

Education. In Australia a schools-based early identification approach (The Geelong Project) reduced youth homelessness presentations by approximately 40%. A similar model – Upstream – is being piloted across Great Britain and has proven effective at identifying young people at risk. The EM claims that ‘identify and act’ provisions could be achieved through amendments to the forthcoming review of ‘Keeping Learners Safe’ guidance. If this is the model Welsh Government wishes to pursue, then similar amendments would potentially also be viable within safeguarding guidance of all public bodies. In my view, there are two key problems here: 1] Such an approach would considerably undermine fidelity to the ‘identify and act’ duty and oversight of compliance would remain siloed within individual public services that do not have a homelessness prevention focus; and 2] More specifically in relation to ‘Keeping Learners Safe’, this is operationalised reactively by schools when ‘signs’ are ‘observed’. International and GB evidence is clear that such approaches consistently fail to identify young people at risk of homelessness.

Primary Care. In the USA, the Veterans Health Administration (VHA) implemented a universal homelessness risk screening questionnaire. Although the outcomes of the intervention have not yet been evaluated, its introduction coincided with a significant reduction in the rate of unsheltered homelessness among veterans. Given the reach of General Practitioners, and the high likelihood of engaging with people at risk of homelessness, it would be beneficial to consider all means through which they might be specified in the legislation.

Other institutions I would have expected to see listed include; Police and Home Office accommodation. A PhD student at Cardiff University, Sasha Eykyn, has recently produced work that documents the considerable challenges experienced by refugees exiting Home Office accommodation into the Welsh homelessness system. Another PhD student, Hannah Browne-Gott has similarly documented the potential pivotal role of the police. Of course, I recognise these are not devolved institutions, but I hope progress can be made to include them in the future.

The Private Rented Sector

It is also important to note that approximately 1 in 5 entries to homelessness in Wales are triggered by rent arrears or loss of rented accommodation. The Expert Panel recommended that private landlords should be under a duty to make a local authority homelessness referral when they issue a possession notice. Similar policies exist internationally, including in Scotland, and it would be beneficial to have a similar early identification approach in Wales. Whilst this would rightly differ from the duties placed on public sector services, it is worth highlighting at

this point. The EM implies that existing provisions are sufficient. I would suggest these are not working and local authorities are not made aware sufficiently early of potential evictions into homelessness.

3. What are your views on the provisions set out in Part 2 of the Bill – Social Housing Allocation (sections 35 – 38)? In particular, are the provisions workable and will they deliver the stated policy intention?

I am supportive of the provisions set out in Part 2 of the Bill – Social Housing Allocations, including in relation to qualifying persons, common housing registers, and particularly the addition of a sixth reasonable preference category for young people leaving care.

Whilst the Expert Review Panel recommended additional preference for homeless households, I understand local authority concerns, and the decision not to include this provision. However, the downside of failing to introduce this provision, which was intended to be time-limited, means that the legislative changes are largely reliant on the success of the additional prevention measures to reduce the vast number of people currently staying in temporary accommodation. If prevention efforts were temporarily accompanied by a more concentrated focus on moving people on, a reduction in the occupation of TA could be achieved far more rapidly – with all the associated social and economic benefits. I believe this is worth further consideration

4. What are your views on the provisions set out in Part 3 of the Bill – Social Housing Allocation (sections 39 – 43 and Schedule 1)? In particular, are the provisions workable and will they deliver the stated policy intention?

N/A

5. What are the potential barriers to the implementation of the Bill’s provisions and how does the Bill take account of them?

N/A

6. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation, as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

N/A

7. Are there any unintended consequences likely to arise from the Bill?

N/A

8. What are your views on the Welsh Government's assessment of the financial implications of the Bill, as set out in Part 2 of the Explanatory Memorandum?

There is considerable uncertainty surrounding homeless data and associated costs, however the assessment of the financial implications of the Bill are thorough and as well-informed as they can be.

A key challenge to the success of the Bill will be to ensure that any additional funding is spent on the intended homelessness prevention and relief activities e.g. on meaningful time supporting individuals.

9. Are there any other issues you would like to raise about the Bill and the Explanatory Memorandum or any related matters?

It is interesting to see a 10-year timeline for implementation, including potentially retaining Priority Need until the latter part of that timeline. Given the average number of additional households who would be owed a full duty in each local authority is only 17 households per year, I would have hoped for earlier implementation of this provision.

My greatest concern surrounding this ambitious and progressive legislation relates to implementation. The Housing (Wales) Act 2014 proved relatively successful but it did not deliver fully against its intent, and I believe this is at least partly due to the absence of meaningful oversight. There have been multiple calls – including from the Public Services Ombudsman - for a regulator to provide oversight of implementation of the homelessness legislation. The role of the regulator in Scotland proved pivotal to achieving homelessness legislative reforms. I believe a regulator would be even more crucial to the success of the current Bill because of its wide-reaching remit across the public sector. In the absence of a regulator, what mechanisms are intended to hold public services to account for their 'identify and act' responsibilities?

I must reiterate that despite these potential areas for improvement, this is an incredibly positive leap forward, shaped by such a wide range of experiences and perspectives, and likely to have a very positive impact on the lives of people at risk of or experiencing homelessness in Wales.