



HB 57

National Assembly for Wales

Communities, Equality and Local Government Committee

Housing (Wales) Bill: Stage 1

Response from: Tai Pawb

## Tai Pawb

**Written Evidence to the Inquiry into the General Principles of the Housing (Wales) Bill.**

**Communities, Equality and Local Government Committee.**

13<sup>th</sup> January 2014

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### **Who we are**

Tai Pawb (housing for all) is a registered charity and a company limited by guarantee. The organisation's mission is, "To promote equality and social justice in housing in Wales". It operates a membership system which is open to local authorities, registered social landlords, third (voluntary) sector organisations, other housing interests and individuals.

### **What we do**

Tai Pawb works closely with the Welsh Assembly Government and other key partners on national housing strategies and key working groups, to ensure that equality is an inherent consideration in national strategic development and implementation. The organisation also provides practical advice and assistance to its members on a range of equality and diversity issues in housing and related services.

### **Tai Pawb's vision is to be:**

The primary driver in the promotion of equality and diversity in housing, leading to the reduction of prejudice and disadvantage, as well as changing lives for the better.

A valued partner who supports housing providers and services to recognise, respect and respond appropriately to the diversity of housing needs and characteristics of people living in Wales, including those who are vulnerable and marginalised.

For further information visit: [www.taipawb.org](http://www.taipawb.org)

Charity registration no. 1110078  
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## Introduction

1. Tai Pawb welcomes the introduction of Housing (Wales) Bill and the opportunity to provide evidence to the Committee. Tai Pawb welcomes the content and the ambition of the Bill. We believe this is an exciting opportunity to strengthen the strategic housing function, encourage cooperation, improve outcomes for tenants and service users, reduce homelessness and improve fair and equal access to affordable housing for all citizens.
2. Robust equality impact assessments are necessary to consider and mitigate any barriers and unintended consequences of the Bill. Unfortunately, we have been disappointed with the content of majority of the published Equality Impact Assessments (except for the Gypsy and Traveller Equality Impact Assessment). In our opinion these are not sufficient to appropriately assess the impact of the Bill on various groups. They lack robustness, do not contain sufficient data and evidence of engagement and in some cases manifest lack of understanding of equality legislation. Although we understand current pressures of resources, this is disappointing, considering the Welsh Government leadership and commitment to equality impact assessments and the specific equality duties in Wales.

## **A compulsory registration and licensing scheme for all private rented sector landlords and letting and management agents.**

3. We strongly support the proposals. If implemented, the proposals will provide the first step towards a better promotion of equality and protection of human rights of groups such as ethnic minority communities and migrants who tend to utilise private rented sector to a much greater extent and as a result are disproportionately affected by any malpractice. For example, in Wales 15% of White people live in private rented sector compared to ca. 50% of White Other groups (which usually include White Migrants) and over 45% of Chinese people, over 45% of Black Africans and over 37% of Non-White people as a group. There is good practice in the sector and Tai Pawb recognises the vital contribution that private sector housing is making towards the provision of accommodation and alleviation of homelessness. However there is also far too much malpractice which, considering the above statistics, affects some groups disproportionately. A Recent BBC undercover investigation found that 10 out of 10 letting agents were willing to discriminate against prospective tenants on the grounds of race<sup>1</sup> and research by Runnymede found that 29% of Black Caribbean survey respondents 28% of Black African respondents and 27% of

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<sup>1</sup> BBC News, *London Letting Agents Refuse Black Tenants*, 14<sup>th</sup> October 2013, <http://www.bbc.co.uk/news/uk-england-london-24372509>

Pakistani respondents discriminated against because of their ethnic background, nationality or religion when applying to private housing<sup>2</sup>. If we don't work with the private rented sector, we risk further marginalising BME people in Wales who are already disproportionately affected by poor housing and poverty in general.

4. The regime should also be a prerequisite for ensuring that the new opportunity to discharge homelessness duty to PRS does not lead to greater uncertainty and worse treatment of those who are most in need. Licensing, registration, accreditation and training can be used to ensure and communicate appropriate treatment of those who may be vulnerable or disadvantaged due to learning or other disabilities or mental ill health and victims of domestic violence or hate crime. It will help drive up standards. Greater engagement between social and private rented sector could also mean that more is understood about the real market need and business case for accessible housing and more is done to meet this need. We think that diluting the private rented sector proposals in any way would be a real step backwards for equality.
5. In our opinion the Equality Impact Assessment of the private rented sector proposals is not robust enough in identifying the clear positive impact of the proposals on groups such as migrants, BME groups, people with learning and other disabilities.  
<http://wales.gov.uk/topics/equality/inclusivepolicy/impactassessments/housingbilleia2013/?lang=en>

### **Reform of homelessness law, including placing a stronger duty on local authorities to prevent homelessness and allowing them to use suitable accommodation in the private sector.**

1. The new approach and duties related to homelessness are all welcome developments although not nearly as robust as the proposals in the White Paper which considered making redundant the notions of intentionality or priority need when providing ALL of those who are homeless with a 'safe place to stay'. This would have made a world of a difference to groups such as non-priority need Asylum seekers who are granted refugee status, humanitarian protection or discretionary leave who unfortunately have limited access to support or those ex-offenders who are not classed as vulnerable but may have complex support needs not related to custody.

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<sup>2</sup> Runnymede, 'No Dogs, No Blacks' new findings show that minority ethnic groups are still discriminated against when trying to rent private housing, 14<sup>th</sup> October 2013, <http://www.runnymedetrust.org/news/525/272/No-Dogs-No-Blacks-new-findings-show-that-minority-ethnic-groups-are-still-discriminated-against-when-trying-to-rent-private-housing.html>

## Prisoners

2. Prisoners leaving custody will no longer be classed as priority need and it is yet to be seen how these proposals will mitigate against the negative equality impact on people with mental health problems and BME people, as both these groups are overrepresented in the prison population (a well-documented fact, e.g. Statswales). Contrary to this, The Equality Impact Assessment does not identify any disproportionate impact on people with mental health conditions or disabilities in general. With an estimated 36% of prison population declaring themselves as disabled within a recent survey compared to 19% of the general population. This is broken down to 55% of the female prison population and 34% of the male prison population in the UK<sup>3</sup>. Whether vulnerability is defined or not, the proposals, as the currently are, have the potential to indirectly discriminate against disabled people due to the statistical overrepresentation of disabled people in the prison population.
3. The Welsh Government Equality Impact Assessment identifies impact on BME people however the EIA suggests this will be mitigated because the “new proposal of duties to help prevent or relieve homelessness are inclusive of all groups including prisoners and this will offset the possible disadvantage to this group“. Such statements directly contradict the spirit and requirements of the Equality Act to either mitigate against negative impact or justify it through indirect discrimination provisions. In our opinion, women will also be disproportionately affected by these proposals. As there is no women’s prison in Wales, it is already harder for homeless female ex-offenders to find accommodation due to the need to re-locate. The proposals will only make the situation harder, unless extra support is available to mitigate this impact. This is also relevant to older people - the fastest growing age population in prison is the over 60s group<sup>4</sup>. This is reflected and recognised in specific resettlement programmes for this group of prisoners in England. For example, RECOOP – Re-settlement and Care for Older Ex-offenders and Prisoners. This group has trebled in size in the UK prison population in the last 20 years, consideration needs to be given as to their status in the proposals.
4. While we understand the increased pressure which local authorities are being faced with in relation to homelessness as a direct result of the present economic climate and housing shortage, we do not believe that these proposals will deliver any real savings. We believe that the Welsh Government should see priority housing for homeless ex-prisoners as a long term investment which not only helps reduce re-offending but also the need for other support and advice associated with rough-sleeping or overcrowding and its associated costs. Whilst we lack statistical evidence on the contribution of housing to reduction of re-offending in Wales, there is no evidence to suggest otherwise. We would urge the National Assembly and the Welsh

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<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217398/estimating-prevalence-disability-amongst-prisoners.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217398/estimating-prevalence-disability-amongst-prisoners.pdf)

<sup>4</sup> <http://www.prisonreformtrust.org.uk/ProjectsResearch/Olderpeopleinprison>

Government to consider the need for robust research on this complex topic before making any decisions.

5. It is unclear as to what “vulnerable” means in relation to former prisoners and we would urge the government to clarify the definition and take into consideration the needs of people with protected characteristics as outlined above. Clarity is also needed as to the meaning of “vulnerable as a result of” having served custodial sentence etc.

### **Other Homelessness Provisions**

6. We welcome the extended period of 56 days to deal with homelessness cases and greater focus on prevention which will undoubtedly improve the current situation, especially if accompanied by a shift in culture and appropriate guidance from Welsh Government which takes account of the needs of people with protected characteristics.
7. We believe that the extended period of 56 days referred to above will help reduce homelessness amongst refugees as the current notice of 28 days to quit asylum seeker accommodation (following a decision on their asylum application) is often not sufficient and results in homelessness. This is a particular problem for those asylum seekers not in priority need when they are granted refugee status, humanitarian protection or discretionary leave who struggle to find their own accommodation (especially with decreasing support from refugee organisations whose funding is under constant threat).
8. There is a need to either specify or provide more examples of persons who are in priority need due to being vulnerable “as a result of some special reason” – these reasons are clearly defined in current legislation and include for example mental illness or learning difficulty or disability.
9. We welcome the broad definition of domestic abuse provided in the Bill which is not only limited to physical abuse and follows the spirit of Domestic Abuse (Wales) Bill. We would urge the government to check how the new homelessness provisions will be interlinked with the Renting Homes Bill provisions, especially whether homelessness assessments will be in any way dependent on the proposed definition of prohibited conduct in the Renting Homes proposals (which is not as broad and refers more to physical aspects of abuse).
10. Section 51a of the Bill explains the meaning of “help to secure accommodation” stating that the authority is “required to take reasonable steps to help, having regard (among other things) to the need to make the best use of the authority’s resources”. We believe that singling out “authority’s” resources and not mentioning the “other things” in this case may be damaging and misunderstood especially when those “other things” relate to the duty to make reasonable adjustments for disabled

people (case law shows that the cost of reasonable adjustments is often given lower priority by courts than the need of a disabled person to access a service or function). We would urge the government to consider broadening this definition to provide examples of what should be considered when helping to secure accommodation.

11. We believe that the Bill and the planned new guidance for local authorities offer a good opportunity to take account of recent case law relating to equality in housing and re-new local authority focus on equality when making homelessness decisions. It is particularly important to consider needs related to protected characteristics when assessing intentionality (for example *Pieretti vs. Enfield* 2010) such as the duty to have due regard to a person's disability or ethnicity (e.g. language and communication needs). The new guidance offers an opportunity to strengthen the focus on equality and its importance when making decisions.
12. The guidance should also focus on consistency of approaches not only in relation to assessing intentionality but also eligibility. For example, our members and stakeholders told us that due to the complex nature of immigration law, homelessness decisions are inconsistent across local authorities. The same relates to language assistance – whilst national and local policies and procedures advise to make use of telephone interpreting services, such as language line, to assist non-English or Welsh speaking service users, anecdotally, the practice varies across local authorities. The Bill offers a great opportunity to promote consistency alongside good practice, to drive up standards. The use of telephone interpreting services is an example of considering the public sector equality duty when for example fulfilling the duty to prevent or the relief duty. Again, we would like to stress that consideration of local authority resources should not be the only consideration exemplified in the Bill in relation to the relief duty (as above)
13. Finally we welcome the provisions relating to reducing family homelessness, which will have a positive impact on particularly women, children and young people and will enable the Human Rights and the Rights of Children in Wales to be promoted further. A consideration needs to be given to the definition of intentionality in relation to Gypsy and Traveller families and families living in unauthorised encampments.

### **Duty on local authorities to provide sites for Gypsies and Travellers where a need has been identified.**

14. This part of the Bill is very welcomed by Tai Pawb and our stakeholders. We know that there is a big gap between supply and demand for sites in Wales. There are already strong business and obvious moral arguments for site provision but it is quite clear that these have not been sufficient as the last sites in Wales were built as long ago as 1997. To make this duty work as intended we need to ensure that local authorities, partners and Gypsies and Travellers themselves are supported through the process as site provision is unfortunately a contentious issue. Welsh Government

should support local authorities through guidance and assistance on issues such as facilitating and supporting strong leadership or clear and focused local communication and public engagement strategies. The local authority housing champions should have a key role in relation to supporting the case for Gypsy and Traveller sites where needs are identified. There is a significant need to do more community engagement work and work with the media on their portrayal of Gypsy and Traveller Communities which tends to focus on negative aspects of these communities. Effective management of current sites is also a prerequisite to better community relations. Tai Pawb has already received requests for assistance from some local authority members, especially in relation to practical learning from those developments which have worked in the past and we are looking forward to assisting Welsh Government through this aspect of our work and promotion of good practice.

15. Additionally, in our housing White Paper response we supported recommendations included in the response submitted by Save the Children. We would like to re-iterate those below:

*“Welsh Government should scrutinise the robustness of needs assessments by comparing conclusions against the levels of illegal encampments, Gypsy and Traveller school roll figures, and through discussions with local Gypsy and Traveller advocacy groups.*

*If evidence of need can be demonstrated, prevent the adoption of local authority Local Development Plans (LDPs) without identification of Gypsy and Traveller site accommodation for 5 years’ worth of population growth.*

*Establish a procedure to ensure that family homelessness can be prevented amongst Gypsies and Travellers resident in local authorities that continue to fail to create Gypsy and Traveller site provision. (please also see paragraph 13 above)*

*Clearly define what qualifies as a “suitable housing solution” for Gypsy and Traveller families.*

*Establish a procedure about how the new homelessness duty will apply to families living on unauthorised encampments.”*

We would also recommend that the need is captured on broader regional levels and regional considerations are part of the needs assessments. Consideration also needs to be given as to the need to consult Registered Social Landlords on their interest in developing or managing sites.