

Renting Homes (Fees etc.) (Wales) Bill

CIH Cymru consultation response

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org

In Wales, we aim to provide a professional and impartial voice for housing across all sectors to emphasise the particular context of housing in Wales and to work with organisations to identify housing solutions.

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General Comments

CIH Cymru welcomes the opportunity to provide evidence to the Equalities, Local Government and Communities Committee on the Renting Homes (Fees etc.) (Wales) Bill.

Our response is informed by feedback from our members, our knowledge of the housing industry and expertise from our policy and practice teams.

CIH Cymru supports the development of Welsh policies, practices and legislation that aim to address the key housing challenges we face, to improve standards and supply, promote community cohesion, tackle poverty and promote equality. We promote a *one housing system* approach that:

- places the delivery of additional affordable housing at the top of national, regional and local strategies as a primary method of tackling the housing crisis;
- secures investment to ensure the high and sustainable quality of all homes in a sustainable framework;
- improves standards and develops the consumer voice within the private rented sector
- promotes the concept of housing led regeneration to capture the added value that housing brings in terms of economic, social and environmental outcomes;
- recognises that meeting the housing needs of our communities is a key aspect of tackling inequality and poverty;
- ensures that that there are properly resourced support services in place to prevent homelessness and protect the most vulnerable;
- uses current and potential legislative and financial powers to intervene in housing markets and benefit schemes;
- promotes consumer rights & tenant involvement;
- and supports the continued professional development of housing practitioners.

1. Main messages

- We agree with the option outlined in the consultation which would see a ban on fees charged to tenants in Wales.
- Whilst there is much good practice by private landlords and letting agents we support the need to ensure consistency and transparency in the approach.
- Homelessness is on the rise in Wales with a particular challenge in reducing people sleeping on the streets. Add to this housing waiting lists continue to grow, and we have a situation where we must use our housing system to its fullest - the PRS is and does continue to have a central role in addressing these challenges - removing any barriers is therefore vital.
- There must be an on-going dialogue with the PRS to ensure implementation of the Bill does not cause concern that prompts changes to practices which, in turn, could limit the supply of homes
- There must be a comprehensive and clear programme of supported communication activity to ensure the public are aware of what 'fees' incorporate and therefore what enacting this legislation could mean for those renting in the future.

2. Introduction

- 2.1 Wales is facing an acute housing crisis. Estimates show that over the period 2011 to 2031 an additional 240,000 homes over the period, or 12,000 a year; of which 65% would be in the market sector (7,800 a year, 156,000 over the period) and 35% in the social sector (4,200 a year, 84,000 over the period).¹ This marks a return to house building rates not seen for a generation.
- 2.2 The private rented sector (PRS) has grown considerably in Wales in the last decade, as has been the trend across the UK. Between 2001-2011 every Local Authority in Wales saw at least 100% growth in the private rented market. Overall between 2000/01- The PRS has a key role to play in addressing the housing crisis in partnership with housing associations and local authorities.
- 2.3 The role of the PRS is further enhanced by provision in the Housing (Wales) Act 2014 (Part 2) where there is a greater emphasis on local authorities discharging their homelessness duty through providing a PRS housing solution. Whilst we and others in the sector have welcomed this provision, we must ensure that barriers to entering a secure and sustainable tenancy across the private and social rented sector are addressed and mitigated.
- 2.4. Lastly, we believe the potential to make progress in this area is further strengthened by the opportunity to learn from the experiences of the Scottish Government (in 2012) and more recently the Westminster government in progressing legislation with a similar policy intent in Scotland and England respectively.

¹ <https://sites.cardiff.ac.uk/ppiw/files/2015/10/Future-Need-and-Demand-for-Housing-in-Wales.pdf>

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

- 3.1 In principle, we support the policy intention of this Bill to ban fees charged to tenants. The consultation documents provides strong evidence highlighting that variation does exist coupled with instances where tenants are not well-informed about the justification behind charging fees.
- 3.2 Whether someone is renting or buying, accessing a safe secure and affordable home should be at the heart of housing policy – this legislation seeks to address one such barrier in the system.

Handling of exempt fees

- 3.3 The opportunity through the introduction of standard contracts under the Renting Homes (Wales) Act 2016 is significant. The Act will provide consistency between the approaches in the social and rented sector, providing a better experience for tenants.
- 3.4 We welcome provisions set-out in the Bill to cap holding deposits at a week's rent. This payment serves an important purpose, as recognised in the Bill, of providing assurances to both landlord and tenants over the intention to potentially enter into a tenancy agreement. Capping this at a week's rent will not impact affordability whilst also ensuring it continues to provide the intended protection to both tenants and landlords.
- 3.5 However we are concerned about the potential impact of the 'right to rent scheme' if this were to be introduced in Wales. We consider that this is likely to be produce unfair situations where prospective tenants may well have applied in good faith.
- 3.6 As a general principle we feel that unless prospective tenants have deliberately misrepresented their circumstances, they should not be left substantially out of pocket as a result of their holding deposit being kept.
- 3.7 More generally if it were to be introduced in Wales, we have serious concerns about the right to rent scheme. An independent assessment has revealed a number of problems, including that (in England):
- It has led to a rise in discriminatory lettings practices. 51 per cent of landlords say that they are now less likely to rent to a non-EU national, while 42 per cent are less likely to rent to anyone without a British passport
 - It is not widely understood by landlords. 27 per cent of landlords are either unaware of the scheme or feel that they don't understand their obligations
 - Levels of enforcement are low. Only 654 individuals have come to the
 - Home Office's attention as a result of the scheme and only 31 of these have since been removed from the country.

Although we recognise that the future of the right to rent scheme is not within the scope of this discussion, it is our view that the evidence shows that it is not working and should be abandoned.

- 3.8 In relation to security deposits we welcome the provision in the Bill, through powers granted to Welsh Ministers under the legislation to place a cap on these charges. We

would encourage the Welsh Government to outline how this situation will be monitored to ensure evidence suggesting a change is acted upon if necessary.

Homelessness

- 3.9 The PRS has an important role to play in ensuring there are homes available to address homelessness. In April 2017, the Welsh Government published research that evaluated the impact of the Housing(Wales) Act 2014 and the changes which followed in how homelessness is addressed. The research highlights that:

It is clear that the PRS is utilised to a large degree in preventative and relief work. Almost half of preventative work to help households obtain alternative accommodation involves the PRS, and more households who have been successfully prevented or relieved have obtained PRS accommodation when compared to social housing.²

- 3.10 With the increasing intelligence available to Local Authorities on the shape of the PRS in their area, through Rent Smart Wales, an further emphasis on working with the PRS to reduce homelessness within the Housing (Wales) Act 2014, it seems sensible to explore removing any barriers to furthering the good progress already made by landlords and local authorities.

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

- 4.1 It is important that the Welsh Government works closely with the PRS to ensure concerns are well-heard and addressed at the earliest opportunity. As is reflected in the consultation document, there will understandably be a fear that a ban on fees charged to tenants could lead to a number of changes in the sector which could have a negative impact – such as an increase in rents, higher fees for landlords or a reduction in services provided by letting agents.
- 4.2 These are similar fears to those expressed when the Scottish legislation was reviewed and re-enforced in 2012. In 2013, Shelter produced a report evaluating the impact of imposing the ban on fees charged to tenants.

The research found that:

- Renters in Scotland were no more likely to report a recent increase in their rent than those in other comparable areas of the UK.
- The majority of landlords (70%) who use letting agents had not seen an increase in fees since 2012
- Not one agency manager interviewed in the research found that it had had a negative impact on their business³

- 4.3 It is positive that many of the fears initially highlighted were not experienced to a detrimental level in practice. It will remain important to learn and disseminate

² <https://gov.wales/docs/caecd/research/2017/170808-post-implementation-evaluation-homelessness-legislation-interim-en.pdf> (Accessed (25/06/2018))

³ https://england.shelter.org.uk/_data/assets/pdf_file/0010/834832/6636_Scottish_letting_fees_report_v9.pdf (Accessed 26/06/18)

information arising from evaluations of this kind to ensure practices continue to be evidence-led and concerns addressed in a similar way.

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

5.1 We feel the areas identified are appropriate.

6. Whether there are any unintended consequences arising from the Bill

Raising public awareness

6.1 In informing the public on these changes, if passed it will be vital to adopt a clear and coherent way of explaining the policy intention of the Bill. Any confusion could cause additional work for landlords and letting agents and cause disruption during the process of setting-up a tenancy.

6.2 The abolition of the right to buy in Wales is a current example of where the Welsh Government has produced materials intended for public use, in collaboration with the sector to outline clearly the opportunities some tenants may wish to exercise during the period before permanent abolition. We feel it would be beneficial to adopt a similar process where, in partnership with the sector details of how best to communicate the changes, as well as the detail of materials used are devised collaboratively.

Possible impact on supply in the PRS

6.3 There is a perceived risk, as outlined in the consultation, that some private landlords may reduce or stop completely an activity of adding property to their portfolios. The evidence from Scotland suggests that landlords felt no less optimistic about growing their portfolio under the conditions of a ban on fees charged to tenants.⁴

6.4 Whilst it is encouraging the evidence in practice in this case has suggested those fears are unlikely to materialise, research conducted by the Cambridge Centre for Housing and Planning research on behalf of the Welsh Government suggests that 77% of lettings agents said the result of a ban would see an increase in up-front costs charged to landlords.

7. The financial implications of the Bill

7.1 If the Welsh Government were to undertake a comprehensive programme of public communication aimed at raising awareness of these changes then this would clearly have financial implications.

⁴ https://england.shelter.org.uk/data/assets/pdf_file/0010/834832/6636_Scottish_letting_fees_report_v9.pdf
(Accessed 26/06/18)

8. Additional Comments

- 8.1 Accessing a home in the PRS is being made increasingly difficult for those where the housing benefit they receive does not meet the cost of their rent. In some parts of the Wales (and more broadly across the UK), Local Housing Allowance (LHA) rates do not match the cost of rent making it difficult for those on housing benefit to find affordable accommodation.
- 8.2 Whilst plans to apply the LHA rate to rents in the social sector were abandoned in late 2017, their impact on people's ability to meet the overall cost of renting in the PRS continues to be of considerable concern. We recognise that powers over all welfare benefits are a non-devolved area, but strongly believe a Bill seeking to remove a similarly significant barrier should not be blind to this issue.