

Let Down in Wales

Campaigning for Private Rented Sector reform

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
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To the Communities, Equality and Local Government Committee,

Thank you for the request for additional information.

Firstly, you asked for our view on “whether the Bill will improve the condition of dwellings in the private rented sector” and “whether it is right that enforcement of these conditions is effectively left to contract-holders taking the matter to court”.

At present, we do not think the Bill will improve conditions in the sector. The short-termism that the Bill encourages by removing the 6 month moratorium will incentivise for a greater ‘churn’ of tenants in properties, so there will be less incentive for these short-lived tenants to get to know the property (and see, for example, where damp may have been temporarily covered up) and request repairs.

The moves on retaliatory eviction would, theoretically, let people know they could complain without fear of being kicked out. However, we think that the unknown and fairly intimidating possibility of needing to take the matter to court would still put off most tenants from risking challenging their landlord on repairs. We’ve found that tenants are often fearful of being blamed for problems, even when they know it’s not their fault. We also think retaliatory eviction happens for a number of reasons, not just for asking for repairs, so would like this policy to be more encompassing and for there to be an alternative to using the courts. We would like this to be referred to the Residential Property Tribunal instead, which we will return to in more detail further on.

The Fit for Human Habitation standard is vague and would need to be very strongly communicated to both tenants and landlords to be firstly recognised and secondly actively engaged with by tenants (contract-holders) to measure up whether their home is suitable. We do not think contract-holders should have to enforce this but we appreciate that taking an independent stock take of the whole PRS in Wales would not be feasible.

However we do think improvement should be actively encouraged and incentivised to landlords. Due to the nature of low supply and high demand in much of the PRS, the landlord can still turn down the tenant who wants repairs and instead accept a tenant who will not complain about the state of the property. This also does not reflect the widespread use of letting agents who may agree improvements without checking with the landlord, or who need to use so much to-ing and fro-ing that another tenant can be confirmed in the meantime who, again, will not complain about poor conditions.

We were interested to note a suggestion from the Association of Letting Agents (ARLA) on 14th May that fixed penalty notices could be used to make Environmental Health departments into revenue generators. We would support such a move as it would incentivise them to carry out more inspections and to drive up standards more proactively. Generation Rent has also endorsed local authorities being able to retain fines in their manifesto.¹

¹ http://www.generationrent.org/manifesto_launch

We also think the Fit for Human Habitation standard should be more ambitious and improving PRS conditions should be a priority for the Welsh Government as failure to act will only result in more properties falling into disrepair and eventually not being habitable at all. Landlords need to be taught that they will have better tenants and a better business with well-maintained properties, and there needs to be a real threat of enforcement when they do not comply. We'd like reassurance that the licensing authority will be notified when there is evidence of a landlord/agent not complying or carrying out their duties appropriately, so they can be removed from the market if there is repeated bad practice or criminal behaviour and they are proved unfit. Penalties should be used and behaviour change encouraged.

Secondly, you asked for Let Down to expand on our proposal for a dedicated and resourced body to provide advice, legal assistance and information for tenants, such as England's Housing Ombudsman or Scotland's Housing Tribunal. You specifically asked if we believed this could be the Residential Property Tribunal (RPT) in Wales or whether an alternative body should be developed, to reduce the need to go to court to resolve disputes.

We would very much endorse an expansion of the RPT and it seems from their evidence that they would as well. They are very well-placed as a body that can provide mediation on a range of issues, and potentially expanded to become an advisory service for all the new legislation that tenants/landlords should be vitally aware of. We are concerned at propositions from the Welsh Government of a technologically redundant CD-Rom to provide tenant education (on anti-social behaviour in this instance, suggested in the Constitutional & Legislative Affairs Committee). A website is far more appropriate and relevant today, and more cost effective. This is the easiest, cheapest and most effective way the Welsh Government could start to improve the PRS, with tenant and landlord education enthusiastically promoted across the public sector. This needs to be publicly available, not reliant on people passing along messages in a haphazard fashion.

Let Down would ideally like an Ombudsman that could champion and push for improvement in various tenant issues, like affordability, availability and security of tenure. However the RPT has the relevant housing expertise to do work in this. They can identify repetitive problems and perhaps make suggestions on how to tackle the root causes of tenants' problems, rather than just dealing with the symptoms of a poor PRS.

The RPT could even be developed to be a complaints system, as well as an arbitration system, for any breaches of the Code of Practice. Tenants could approach the RPT if complaints with their agent/landlord or local authority are not getting anywhere, or look up information on the RPT website prior to a complaint, in order to give them reassurance that their concerns are valid and worth pursuing.

Simply having an 'on-paper' support, such as a letter from the RPT that warns against breaches, or a template letter they could use as a tenant to complain, could easily be utilised at low-cost to help empower tenants to take on bad landlords. We think the English Housing Ombudsman's approach in this, before the Localism Act 'watered down' its power, is worth looking at. The mere fact that the RPT *could* intervene would go some way to addressing the power imbalance between landlords and tenants. The problem is that tenants have no one on their side and therefore no confidence in challenging landlords/agents who always seem to have the most powerful on side.

Again, awareness of the RPT would be vital and we think it should at least be a statutory obligation for tenants to be informed of their existence when they sign for a property.

Many thanks for your time and I hope you find our proposals worth considering.

All the best,
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