

Senedd Local Government and Housing Committee
Consultation on The Right to Adequate Housing in Wales
Response from Propertymark
March 2023

Background

1. Propertymark is the UK's leading professional body for estate and letting agents, inventory providers, commercial agents, auctioneers and valuers, comprising over 17,000 members. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.¹

Overview

2. In November 2021, the Co-operation Agreement between the Welsh Government and Plaid Cymru² committed the Welsh Government to publishing a White Paper on proposals for introducing a right to adequate housing in Wales. Accordingly, the Local Government and Housing Committee has agreed to undertake an inquiry into the right to adequate housing in Wales.

Summary

3. Propertymark believes the right to adequate housing can be incorporated into Welsh law, but integral to this will be ensuring that any future legislation considers the implications of the right to adequate housing through a defined policy framework that considers economic, environmental and welfare implications as well as how future housing policy implicates the Well-being of Future Generations (Wales) Act 2015³ and the Equality Act 2010.⁴
4. Furthermore, any policy that could impact the right to adequate housing must consider the impact on all stakeholders including housing providers, homeowners, and tenants. Policy must also consider the impact on environmental sustainability and the welfare of people. The protected characteristics identified within the Equality Act, Socio-economic Duty, and the impact on the use of the Welsh Language should be considered in any legal determination of the right to adequate housing.
5. Policy makers must also incorporate impact assessments across these areas on strategic decisions, such as the development or the review of policies, strategies, services, and functions and that it is considered that there will be no significant or unacceptable equality impacts because of future legislation. Equally, the well-being goals identified in the Well-being of Future Generations Act

¹ <https://www.propertymark.co.uk/>

² <https://www.gov.wales/co-operation-agreement-2021>

³ <https://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

⁴ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

must be considered in the legal right to adequate housing and any legislation that impacts the right.

Questions

How incorporating the right to adequate housing into Welsh law would work in practice

6. Propertymark recognises and supports the right to adequate housing as a fundamental human right in line with the right to an adequate standard of living. We recognise that this right has been enshrined in law in several countries including South Africa, Canada and written in the constitutions of countries such as Finland. We believe that there are four areas that can support the incorporation of a right to adequate housing into Welsh law:

- Firstly, ensuring that the policy framework and process for housing policy has a cross-departmental and Ministerial approach. The strategic objective for implementing a right to adequate housing should be to secure active buy-in from all relevant government departments.
- Secondly, policy development that sits behind a right to adequate housing, must incorporate seven policy checks and impact assessments before legislation is drafted. These are: welfare, access to justice and the judiciary system, energy efficiency, economy such as wages, well-being, future generations, and equality.
- Thirdly, accurate housing data and research. Integral to understanding the housing needs of the people of Wales and subsequently the right to adequate housing will be improved data. Data for the housing sector in Wales is weak especially for the private rented sector (PRS) in Wales. Policy is often based on anecdotal evidence and more needs to be done to understand if people are living in appropriate housing that meets their needs such as being inclusive for accessibility needs. Accordingly, we would like to use this opportunity to reaffirm our support for a Welsh Housing Survey based on the English Housing Survey that has been collecting data since 1967⁵. While not an exhaustive list, we believe a Welsh Housing Survey would collect a wealth of information such as data on the proportion of private rented sector tenancies ended by the tenant, the levels of satisfaction among social renters, and the percentage of owner-occupied homes that are under-occupied. This would be integral to understanding housing needs in Wales and their suitability.
- Fourthly, the role of existing legislation in many cases already provides a safeguard for adequate housing and that there are provisions in the recently implemented Renting Homes (Wales) Act 2016 for example that ensure that housing is to a high standard as well as providing action to take when these standards are not met.⁶ Therefore, it might be more appropriate, at least in the short term, for the Welsh Government to do two

⁵ <https://www.propertymark.co.uk/resource/propertymark-backs-nrla-calls-for-a-welsh-housing-survey.html>

⁶ <https://www.legislation.gov.uk/anaw/2016/1/contents>

things. Firstly, ensure awareness is raised about existing legislation. Secondly, ensure legislation and ensure that it is functioning properly and being adequately enforced before considering additional legislation. However, we welcome the long-term conversation to achieve deliver the housing ambitions that all stakeholders want to achieve.

Identify any challenges and barriers to taking this policy forward

7. We believe there are six challenges and barriers to taking this policy forward:

- **Cost** - the biggest challenge to implementing the right to adequate housing would be the initial cost. The initial costs would exceed £5 billion. However, this would be achieved incrementally over several years. Furthermore, if this was generated over a ten-year period, it would produce economic and social savings of more than £11.5 billion.⁷
- **Security of tenure** – integral to the right of adequate housing is improved security of tenure. Propertymark recognises the changes in the demographics of the PRS, with an increasing number of families, older people and vulnerable tenants accessing the PRS. However, a balance must be made with the business needs of landlords and their agents to ensure they do not exit the market and further restrict housing supply. Security of tenure has improved with the enactment of the Renting Homes (Wales) Act. Under the Act, landlords can still seek possession by using a Section 173 notice that has replaced the Section 21 notice for Wales. This prohibits landlords from serving a possession notice in the first six months of an occupational contract. For existing tenancies, landlords must give two months’ notice for possession until 1 June 2023 when they will be required to give a further six months’ notice. In contrast to Wales, the UK Government’s White Paper on A Fairer Private Rented Sector in England is likely to abolish Section 21 notices in favour of a grounds-based approach.⁸ Anecdotally, the restrictions on possession of tenure for landlords is a likely reason for many leaving the sector in Wales and further abolishing ‘no fault’ possession via Section 173 notices would have increased negative repercussions for rental supply in the sector.
- **Redress, mediation and the court system** - effective regulation relies on efficient and equitable access to redress, meditation and enforcement. The current system leads to long and expensive court actions that are not always resolved satisfactorily. A right to adequate housing needs to be complemented by a wider evaluation of all the current pathways to justice. Here we make tow observations. Firstly, there needs to be greater certainty around the role of the police in serious incidents of criminal landlord or

⁷ <https://www.taipawb.org/wp-content/uploads/2022/09/Alma-Economics-Back-the-Bill-Final-Phase-2-report.pdf>

⁸ <https://www.gov.uk/government/publications/a-fairer-private-rented-sector>

tenant behaviour and a clear framework for landlords to secure local authority support for action against criminal and fraudulent tenants. Secondly, a report written by the Commission on Justice for Wales concluded that demand in respect of housing disputes in the County Court system in Wales is high. Despite this, not all District Judges had specialist knowledge in housing cases, which the Commission believe may have resulted in inefficiencies in the process.⁹ Despite housing law being fully devolved to Wales, we note that as of late, neither the Welsh Government or the Senedd have considered the introduction of a specialist housing court or tribunal service for Wales. As part of the right to adequate housing, we believe the committee should consider improved access to justice for both tenants and landlords as a recommendation to the Welsh Government.

- **Improving affordability** - the affordability of private rents varies geographically across the country Welsh Government and Plaid Cymru as part of the Cooperation Agreement has committed to publishing a Green and White Paper on rent controls. Propertymark are members of the Fair Rent and Adequate Housing Stakeholders Group, and we look forward to continuing to engage with the Welsh Government on this subject. Despite this reassurance, we remain concerned over the impact of rent controls could have on the sector in Wales. Firstly, rents in Wales are lower than the UK average. Rent controls could take the form of a cap on how much rent can be charged for certain properties or the introduction of rent pressure zones that limit how much existing rents can increase. Secondly, landlords have many costs to cover to preserve good quality accommodation. If they are to be limited in the income they can generate from the property, the quality of rental properties will deteriorate. Thirdly, if rents were to be capped landlords may become far more selective of potential tenants, pushing less-desirable tenants towards rogue landlords. Fourthly, some landlords may try and find other ways of making back the money from tenants, if future rent rises were capped, landlords may start tenancies on a much higher rate to compensate. Fifthly, as well as having impacts for landlords, respondents also predict overwhelmingly that implementing rent controls would have a detrimental impact on lettings agencies. Our research has shown that 36% of our members believed they could have an impact on a reduction in letting agents branches, 73% believed would accrue a reduction in staff and 94% believed there would be a reduction in overall housing stock.¹⁰
- **Improving habitability** - Propertymark's aim is to improve standards across both the owner-occupied sector and PRS. Our members are obliged to abide by a code of conduct, we provide specialist qualifications for property agents and provide best practice and insight to our membership to improve professional standards. We agree that adequate housing must be habitable, providing adequate space and protection from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease. We believe the start of a conversation on adequate housing should signal a

⁹ [Justice Commission ENG DIGITAL 2.pdf \(gov.wales\)](#)

¹⁰ <https://www.propertymark.co.uk/resource/property-maintenance-and-rent-controls.html>

review of the Rent Smart Wales (RSW) regime.¹¹ Central to the work of RSW should be a clearly defined strategy of what the body entails to achieve as well as a clear line of accountability. Although we are supportive of the work that RSW undertakes, we believe that it would be better defined if RSW's work was scrutinised to ensure accountability and that this work is planned through a strategic document.

- **Improving accessibility** - despite more older and disabled people accessing the PRS, between 2013 to 2021, there were only 228 completed Disabled Facility Grants (DFGs) for the PRS in Wales.¹² DFGs are a means tested grant designed to help meet the costs of adaptations to a property for a disabled occupant and can be used for any tenure. In Wales, local authorities can award up to £36,000 for the grant. However, local authorities also have the powers to top these grants up for work that exceeds these amounts on a discretionary basis. Given the increase in numbers of disabled and elderly tenants accessing the PRS against the continued low levels of grants being awarded to landlords, more work is required to promote opportunities for landlords in improving accessibility and to establish what the barriers are for landlords in accessing support.
- **More effective communication between local authorities and the Private Rented Sector** – there needs to be a significant shift in attitude towards the PRS and an improved relationship between landlords, their agents and stakeholders such as the Welsh Government and local authorities in Wales. Local authorities should consider adopting more effective and regular communication channels with landlords and their agents such as landlord and agent forums, newsletters, and methods to signpost opportunities for landlords within the local authority area.

Consider the impact a right to adequate housing would make across Welsh housing policy

8. We believe there are two impacts that would result from the implementation of a right to adequate housing on Welsh housing policy. Firstly, positive societal impacts resulting in potential cost savings for public services and the courts. It is estimated that implementing the right to adequate housing will cost £5 billion, but with a cost saving benefit of £11.5 billion, which includes savings to the NHS and savings in criminal justice. Furthermore, the right to adequate housing would likely result in a reduction in homelessness and ensure that people are living in housing that meets their needs. Secondly, the impact of a right to adequate housing has the potential to bring in different policy areas and wider thinking from across government to shape Welsh housing policy. With the relevant checks in place that result in a right to adequate housing, Welsh housing policy would be strengthened to include statutory impact assessments on issues such as welfare, judiciary, energy efficiency, economy such as salaries, well-being, future generations, and equality as housing policy is developed and then legislated for.

¹¹ <https://rentsmart.gov.wales/en/home/>

¹² <https://statswales.gov.wales/Catalogue/Housing/Disabled-Facilities-Grants/disabledfacilitiesgrants-by-area-granttype>

Conclusion

9. Given the challenges in policy in housing, a radical change in thinking is required. The number of households using local authority temporary accommodation to avoid homelessness has grown from 2,226 households between January and March 2019 to 4,464 households between January and March 2022; an increase of just over 100%.¹³ We also must meet the challenges of an increasingly aged population, increased rates of homelessness and additional pressures such as housing refugees from Afghanistan, Ukraine and any other nation suffering similar hardship. In our 2021 Senedd Manifesto, we called for greater numbers of social housing.¹⁴ However, we also believe that the PRS can contribute towards the challenges that Wales is experiencing in housing. Taking incremental steps towards making the right to adequate housing law in Wales, could be an opportunity to reflect a new attitude and relationship with landlords and to dispel the myth that anyone sector has the monopoly on finding solutions to the current challenges.

¹³ <https://statswales.gov.wales/catalogue/housing/homelessness/temporary-accommodation/householdsaccommodatedtemporarily-by-accommodationtype-householdtype>

¹⁴ <https://www.propertymark.co.uk/resource/propertymark-releases-action-plan-for-next-welsh-government.html>