

Gofal evidence: Housing (Wales) Bill

Communities, Equality and Local Government Committee inquiry

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About Gofal:

Gofal is a leading Welsh mental health and wellbeing charity. We provide a wide range of services to people with mental ill health, supporting their independence, health, wellbeing and recovery. We lobby to improve mental health policy, practice and legislation, and we campaign to increase public understanding of mental health and wellbeing.



Our Vision:

Good mental health and wellbeing for all.

Our Mission:

To have a positive lasting impact in all that we do, by:

- Working together to provide services that we can be proud of.
- Demonstrating outstanding practice in relation to staff mental health and wellbeing, learning and development.
- Challenging the way we all think about, talk about and respond to mental health and wellbeing in all areas of our lives.
- Using our profile, influence and voice to improve the lives of people living with or at risk of experiencing mental ill health.
- Increasing the range and reach of our services through targeted and sustainable business growth.
- Spending our money where it will have the maximum impact.

Introduction

Thank you for the invitation to submit written evidence to the Communities, Equality and Local Government Committee inquiry into the general principles of the Housing (Wales) Bill.

Access to stable, good quality housing is extremely important for whole population mental health and wellbeing. However, for people with mental health problems it plays an even more significant role in their health and recovery. Gofal broadly welcomes the aims and ambitions laid out in the Housing (Wales) Bill and explanatory memorandum, but we do have concerns, questions and suggestions about some aspects of the legislation.

Part 1: Regulation of private rented housing

We support the Bill's intention to improve the standard and quality of the private rented sector (PRS) through a registration and licensing scheme for landlords and letting agents. It is important to consider this part of the Bill in conjunction with the new homelessness provisions in part two. If local authorities are to discharge their homelessness duty through the PRS it is absolutely crucial that some form of regulation exists. Failing to take this forward may lead to the exploitation of vulnerable people who have accessed this sector through the homelessness system. Although we want to avoid an overly bureaucratic system that deters people from becoming landlords, we question whether the Welsh Government needs to consider taking further steps to adequately meet the needs of the most vulnerable groups.

The combination of welfare reform and the rising demand for social housing is forcing increasing numbers of vulnerable people with mental health problems into unregulated and often unsuitable PRS accommodation. The proposal to allow local authorities to discharge their homelessness duty through this sector will undoubtedly add to this trend. Now more than ever, it is crucial that private landlords and letting agents have the skills, knowledge and experience to provide safe and appropriate accommodation. We welcome plans to regulate the PRS but believe that there are huge challenges in trying to safeguard the most vulnerable people who will be entering this sector through the homelessness system. It is important that the Welsh Government is confident that the proposed system of regulation stands up to these challenges.

While we welcome the inclusion of training for landlords and letting agents under section 10(3)(b), we question whether section 12 needs to be expanded to include training on equality/diversity issues and vulnerable groups. We also believe that the Welsh Government should consider whether there needs to be a 'gold standard' that sits above the basic registration/licensing, aimed at landlords and letting agents who can demonstrate that they are equipped to house vulnerable people. This would give further assurances to local authorities who need to discharge their homelessness duty through the PRS. It could include additional training, establishing links with the third sector or other requirements that would give local authorities added confidence that a landlord or letting agent has the relevant knowledge, skills or experience to provide safe, quality accommodation to vulnerable people.

In summary, we support the plans to regulate the PRS but believe that:

- The Welsh Government needs to recognise the challenges and risks associated with allowing local authorities to discharge their homelessness duty through the PRS.
- The training for landlords and letting agents should include equality and diversity issues and address the needs of vulnerable groups.
- Consideration should be given to a 'gold standard' license, which gives additional assurances that a private landlord or letting agent is equipped to provide accommodation to vulnerable people (i.e. for local authorities seeking to discharge their homelessness duty through the PRS).

Part 2: Homelessness

We broadly support part two of the Housing (Wales) Bill and in particular welcome the emphasis on early intervention and prevention. We do however have some suggestions and concerns about particular aspects of the Bill, consistency of application and the impact on vulnerable groups.

Early intervention and prevention

We fully support the focus on prevention and welcome the duties laid out in this section of the Housing (Wales) Bill. As an organisation working with a particularly vulnerable client group, we frequently see the negative impact of homelessness on people's mental health and wellbeing, as well as the financial cost to the individual and statutory services. However, we also have experience of working with local authorities, health and the criminal justice system to prevent homelessness and we witness the positive impact that effective early intervention can have on people's lives. This is often achieved through cross sector partnerships and we believe that this will be crucial in delivering the Welsh Government's vision.

Although we welcome a great deal of this part of the legislation, we believe that it could be strengthened by including specific requirements for local housing authorities to work with statutory and non-statutory agencies in other sectors, to address the needs of groups at particular risk of homelessness. Several of these groups are recognised in other parts of the Bill (such as the priority need section) and we believe that they should also be identified in the prevention and early intervention section. Many of these groups are people who are leaving institutions such as hospitals, prisons, the armed forces or foster care. In each of these cases there are opportunities to work with the relevant public authorities and voluntary organisations to ensure that steps are taken to avoid homelessness.

Although this can be addressed in the Code of Guidance, we believe that the inclusion of specific duties within the legislation would demonstrate a clear commitment to this issue. We understand that the Bill cannot place duties on non-devolved functions like the criminal justice system, but believe that it should contain duties on local housing authorities to work with bodies in other sectors. We have outlined several opportunities to do so in the examples below.

It can also be argued that the amendment to priority need is reducing the support available to former prisoners. If the work on prevention is intended to assist more prisoners (as described in the recent Welsh Government consultation) then we believe that they should be recognised in the legislation that deals with homelessness strategies and the provision of information, advice and assistance. In effect, the Welsh Government is taking away a safety net by amending the priority need definition and should therefore seek to re-balance this through a specific requirement for local housing authorities to consider prisoners in their early intervention duties.

38 Homelessness strategies

We welcome the duty on local authorities to formulate a homelessness strategy but believe that the legislation is too general and could be strengthened by:

- Including references to specific groups at particular risk of homelessness and
- Requiring local authorities to work with statutory and non-statutory agencies (such as health and criminal justice) to develop these strategies, in order to reduce the risk to these groups

For example, we know that many people on mental health wards are at risk of becoming homeless after discharge from hospital. We are also concerned about the impact of changes to the priority need definition and believe that work with the criminal justice system will become more important than ever in reducing homelessness amongst former prisoners. Former armed forces personnel and care leavers are also at an increased risk of homelessness, as demonstrated by their inclusion in priority need legislation.

We believe that it is in everyone's best interests to promote early intervention for people within these groups and develop strategies that ensure access to safe and quality accommodation before they reach homelessness departments. Although many local authorities already work across sectors to mitigate the likelihood or impact of homelessness on these groups, we believe that the inclusion of specific duties in the Bill or in subsequent regulations will make absolutely sure that they do. The following example outlines a possible addition to this part of the Bill, though we accept that the language may need adjusting to meet legislative requirements (and the list of people/agencies may need adding to or amending).

Potential addition to section 38 (Homelessness strategies):

- () The strategy must outline steps to prevent homelessness for groups at particular risk of homelessness such as:*
- (a) People leaving prison or young offenders institutions*
 - (b) Young people leaving care*
 - (c) People leaving the armed forces*
 - (d) People leaving psychiatric wards*
 - (e) People receiving mental health services in the community*

() A local housing authority must work with relevant public authorities and voluntary organisations in the development of their homelessness strategy in order to prevent homelessness for groups at particular risk such as those referenced in subsection ()

Alternatively, subsection (3) could be amended to include specific references to agencies such as health, the prison service, probation service and armed forces.

46 Duty to provide information, advice and assistance in accessing help

Again, in light of the changes to the priority need definition it is important that the prison population has timely access to information, advice and assistance as they approach release. Local housing authorities will need to work with relevant public and voluntary agencies within the criminal justice system to ensure the provision of these services to prisoners and young offenders. As this group is at particular risk of homelessness, we believe it would be sensible for the Bill to include specific references to working with the criminal justice system to reduce the likelihood of prisoners being homeless on release.

The same applies for statutory and non-statutory organisations in the health service with regards to meeting the needs of people with mental health problems who are at risk of being homeless on discharge. We currently provide hospital to home services in a number of local authorities, bridging the gap between housing and health agencies and helping to prevent both homelessness and 'bed-blocking'. A cross sector approach is crucial. This could also be said for other vulnerable groups such as young people leaving care or people leaving the armed forces. We believe that the legislation needs to recognise these groups as being vulnerable to homelessness and require that steps are taken to ensure that they receive the information, advice and assistance that they are entitled to.

The following example outlines a possible addition to this part of the Bill, though we accept that the language may need adjusting to meet legislative requirements (and the list of people/agencies may need adding to or amending).

Potential addition to section 46 (Duty to provide information, advice and assistance in accessing help):

() The local housing authority must ensure that the service is delivered to and meets the needs of groups at particular risk of homelessness such as:

- (a) People leaving prison or young offenders institutions*
- (b) Young people leaving care*
- (c) People leaving the armed forces*
- (d) People leaving psychiatric wards*
- (e) People receiving mental health services in the community*

() A local housing authority must work with relevant public authorities and voluntary organisations to ensure that the service meets the needs of groups at particular risk of homelessness such as those referenced in subsection ()

48 Duty to assess

The same arguments apply to the duty to assess and we would like to see reference to specific groups at risk of homelessness included in this part of the legislation. Some of the examples listed below are people who have accommodation provided by a public authority; whether that is in care, prison, the armed forces or a mental health ward. It is crucial that assessments for housing need are undertaken as soon as possible before the individual leaves this setting and we believe that reference to this in the Bill or subsequent regulations will help to ensure this takes place.

The following example outlines a possible addition to this part of the Bill, though we accept that the language may need adjusting to meet legislative requirements (and the list of people/agencies may need adding to or amending).

Potential addition to section 48 (Duty to assess):

- () The local housing authority must ensure that groups at particular risk of homelessness can be assessed such as:
 - (a) People leaving prison or young offenders institutions*
 - (b) Young people leaving care*
 - (c) People leaving the armed forces*
 - (d) People leaving psychiatric wards*
 - (e) People receiving mental health services in the community**

- () A local housing authority must work with relevant public authorities and voluntary organisations to ensure that groups at particular risk of homelessness can be assessed such as those referenced in subsection ()*

Use of PRS for discharging homelessness duties

The decision to allow local authorities to discharge their homelessness duty through the private rented sector should not be taken lightly. Although we welcome the PRS as an avenue for providing much-needed housing, appropriate safeguards and support need to be in place to ensure that vulnerable groups are not put at risk. We also continue to be concerned about the inappropriate use of bed and breakfasts as temporary accommodation and question whether the Bill provides an opportunity to deal with this issue.

As we have outlined above, we believe that if the PRS is going to be used to discharge local authority homelessness duties, this scheme must also include training in relation to equality/diversity issues and safeguarding vulnerable people. Local authorities need to have the confidence that landlords and letting agencies can appropriately house and provide housing management services to vulnerable people. A 'gold standard' may be necessary for local authorities to make the distinction between landlords and letting agencies that they should and should not use to discharge their homelessness duty.

The relationships between the PRS and third sector support organisations would also need to be strengthened. Vulnerable people often require additional support to help them maintain their tenancy and it is important that this is considered in the context of the plan to allow local housing authorities to discharge their homelessness duty using the PRS. The best examples of social landlords are those who understand the needs of vulnerable people and contact the relevant support agencies to help resolve tenancy issues, rather than simply evicting vulnerable tenants. However, this often comes with the experience, skills and knowledge associated with housing vulnerable groups over many years. We believe that the Welsh Government must consider how this sort of approach can be delivered in the private rented sector and we believe that it will require more than basic registration and licensing.

We also advocate the expansion of social lettings schemes as a solution to this challenge, with third sector organisations or housing associations guaranteeing rent for private landlords, as well as ensuring that vulnerable people have the appropriate support to access and maintain a safe and stable tenancy.

Priority need definitions

We are concerned about two particular changes to the priority need definition.

- **Mental health**

In section 55(1)(c) of the Housing (Wales) Bill there is no reference to mental health, despite this appearing in corresponding part of the Housing Act 1996:

(c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;

(Housing Act 1996)

(c) a person—

- (i) who is vulnerable as a result of some special reason (for example: old age, illness or disability), or*
- (ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;*

(Proposed Housing (Wales) Bill)

We are concerned that this could have a detrimental impact on people with mental health problems who are being considered for priority need status. Unfortunately, some people still fail to see mental health as part of a person’s general health and many others regard it as less important than physical health issues. It is essential that this seemingly small amendment to current homelessness legislation does not result in the unintended consequence of people with mental health problems being disregarded during the priority need process.

The 2010 Wales Audit Office review into housing services for adults with mental health needs provides evidence that housing-related services need to pay particular attention to people with mental health problems. The review found that:

“Access to housing of an appropriate quality and related care and support services is critical in ensuring the independence and social inclusion of people who have a mental illness. A lack of stable housing is one of the key factors that can exacerbate and perpetuate social exclusion and risky behaviour, and can precipitate a move on to more institutional forms of care and support.”

(Housing Services for adults with mental health needs, Wales Audit Office, 2010)

The main findings of the WAO review were:

1. Despite the clear expectations set out in the National Service Framework, progress in delivering its housing targets has been poor
2. Strategic planning of housing and support services for people with health needs has remained of poor quality, largely because of inadequate analysis of the needs for services and ineffective joint planning between local partners
3. In many parts of Wales, some people with low level mental health needs continued to face difficulties in accessing suitable housing and related services.

This is of increased importance in the context of the proposed change to the former prisoner priority need definition, with such a high proportion of prisoners having one or more mental health problems. Once this legislation is implemented they will become more reliant on their mental health being appropriately considered in the priority need judgement.

In summary, we believe that this part of the legislation needs to include a specific reference to mental health problems or mental illness to ensure that people with mental health problems get the support and help that they are entitled to.

• Former prisoners

We continue to be concerned about the amendment to the priority need definition regarding former prisoners. We fear that this proposal will lead to many vulnerable former prisoners being denied access to accommodation. Our full response to the recent Welsh Government consultation can be found at <http://www.gofal.org.uk/consultation-responses/> but a summary of our arguments are outlined below.

Former prisoners are a vulnerable group - It is estimated that more than 90 per cent of prisoners have a mental health problem of some kind and that more than 70 per cent of both male and female prisoners have at least two mental disorders¹. Many are from disadvantaged backgrounds, have substance misuse issues and poor literacy rates. It is clear that a significant proportion of the prison population is vulnerable and we therefore question the benefits of amending the priority need definition.

¹ *Psychiatric Morbidity Among Prisoners In England And Wales*, ONS on behalf of the Department of Health, 1998

Likely to be homeless or become homeless - It is clear that the prison population is particularly vulnerable to losing their accommodation and becoming homeless. Many prisoners do not have access to stable accommodation prior to their entry into prison and many others lose their home during their sentence. In addition, housing benefit stops at the point of sentence for prisoners expected to be in prison for more than 13 weeks, which can lead to rent arrears and the loss of their accommodation.

Reducing re-offending - A number of studies have supported the view that access to accommodation plays an important role in reducing re-offending. This not only benefits the individual but also benefits the communities that they are from and are released into. Reducing re-offending also delivers obvious savings to the criminal justice system, with the average cost of each prisoner exceeding £40,000 per year.

Access to health and support services - Access to primary and secondary health services can often depend on whether an individual has an address in the area. Due to the high prevalence of mental health problems within the prison population it is imperative that ex-offenders have access to health care and appropriate support packages on release.

Subjective nature of 'vulnerable' judgement - We are concerned about the subjective nature of the proposed amendment, which will lead to homelessness departments having to make a judgement about whether someone is vulnerable as a result of having been in custody or detention. By changing the nature of this priority need group, the system moves further away from being fact-based (*is the person a former prisoner or not?*) to being increasingly opinion-based (*is the person regarded as being vulnerable as a result of having been in custody or detention?*). We know that there are already variations in the application of priority need and intentionality judgements that prevent former prisoners from qualifying for accommodation and fear that the new definition will do nothing but exacerbate the situation.

We understand the burden placed on local authorities by the current homelessness duty, but believe that this burden could be reduced by effective implementation of the Bill's enhanced early intervention and prevention duties and the UK Government's planned changes to the probation service - rather than amending the priority need definition and inevitably forcing more former prisoners on to the streets. If both sets of changes are implemented successfully, the existence of the former prisoner priority group will become less of a problem for local authorities.

In light of the proposed changes, the definition of vulnerability and guidance to support these judgements will need to be extremely robust in order to reduce the likelihood of ill-informed decisions being made about issues such as mental health. We have been asked to attend meetings of the Prisoner Accommodation Resettlement Working Group along with colleagues from a range of sectors and hope that this results in some mutually agreeable solutions. However, we remain concerned about the potential for inconsistent application of the vulnerability definition.

In order to reduce the likelihood of inappropriate application of the vulnerability test, local housing authorities should also be encouraged to utilise relevant expertise by working with statutory and non-statutory organisations. We have an extremely positive experience of working in a homelessness department with local authority staff, where our mental health

expertise is utilised to ensure appropriate decisions are made about people with mental health problems who present as homeless.

Intentionality

We would prefer to see the phasing out of the intentionality test, but while it remains we would like to see the guidance strengthened to ensure consistency and fairness in its application. It should not be used to avoid fulfilling homelessness duty for vulnerable people, including former prisoners. We also believe that local authorities should consider whether people who are regarded as having made themselves intentionally homeless require support and ensure that they are signposted or referred appropriately.

Cooperation between bodies

We support the intention to improve cooperation between local housing authorities, social services authorities and social housing organisations. However, we believe that the Bill also needs to strengthen cooperation between housing and other statutory and non-statutory agencies in health and the criminal justice system. This is particularly important for people with mental health problems and would recognise the challenges outlined in the Wales Audit Office review into housing services for adults with mental health needs. It would also reflect the challenges that we see in our work with people facing discharge from mental health wards and help to mitigate the impact on former prisoners of the planned changes to priority need.

As a result, we believe that local health boards should be added to section 78(5). Although we recognise that the Welsh Government cannot place a duty on non-devolved areas such as the prison and probation service, we believe it would be helpful to add a subsection that places a duty on local authorities to engage with these bodies.

Gofal is an active member of Cymorth Cymru, and as such we support their written evidence and we are confident that our views will be reflected during their oral evidence session on the 23rd January 2014.