



# **Cynulliad Cenedlaethol Cymru** **The National Assembly for Wales**

## **Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol** **The Communities, Equality and Local Government** **Committee**

**Dydd Iau, 12 Rhagfyr 2013**  
**Thursday, 12 December 2013**

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

### **Aelodau'r pwyllgor yn bresennol** **Committee members in attendance**

Leighton Andrews	Llafur Labour
Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)

Jocelyn Davies	Plaid Cymru The Party of Wales
Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Gwyn R. Price	Llafur Labour
Jenny Rathbone	Llafur Labour

**Eraill yn bresennol**  
**Others in attendance**

Ceri Breeze	Dirprwy Gyfarwyddwr, Polisiâu Tai, Llywodraeth Cymru Deputy Director, Housing Policy, Welsh Government
Paul Bryant	Cangen Bolisi Trethu Lleol, Llywodraeth Cymru Local Taxation Policy Branch, Welsh Government
Neil Buffin	Gwasanaethau Cyfreithiol, Llywodraeth Cymru Legal Services, Welsh Government
John Davies	Cyfarwyddiaeth Tai, Llywodraeth Cymru Housing Directorate, Welsh Government
Margaret Frith	Gwasanaethau Cyfreithiol, Llywodraeth Cymru Legal Services, Welsh Government
Chrishan Kamalan	Gwasanaethau Cyfreithiol, Llywodraeth Cymru Legal Services, Welsh Government
Geoff Marlow	Cyfarwyddiaeth Tai, Llywodraeth Cymru Housing Directorate, Welsh Government
Kath Palmer	Cyfarwyddiaeth Tai, Llywodraeth Cymru Housing Directorate, Welsh Government
Carl Sargeant	Aelod Cynulliad, Llafur (Y Gweinidog Tai ac Adfywio) Assembly Member, Labour (Minister for Housing and Regeneration)
Alyn Williams	Cyfarwyddiaeth Tai, Llywodraeth Cymru Housing Directorate, Welsh Government

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Sarah Beasley	Clerc Clerk
Leanne Hatcher	Dirprwy Glerc Deputy Clerk
Elizabeth Wilkinson	Ail Glerc Second Clerk

*Dechreuodd y cyfarfod am 10:00.*  
*The meeting began at 10:00.*

**Cyflwyniadau, Ymddiheuriadau a Dirprwyon**  
**Introductions, Apologies and Substitutions**

[1] **Christine Chapman:** Good morning, everyone, and welcome to the Assembly's Communities, Equality and Local Government Committee. This is the last committee meeting

before the Christmas recess. I remind Members to switch off any mobile phones because they affect the transmission. We have received apologies this morning from Rhodri Glyn Thomas and Janet Finch-Saunders.

10:01

**Bil Tai (Cymru)—Cyfnod 1 Ystyried yr Egwyddorion Cyffredinol  
Housing (Wales) Bill—Stage 1 Consideration of General Principles**

[2] **Christine Chapman:** The only substantive item today is Stage 1 scrutiny of the Housing (Wales) Bill; this is the first evidence session. I remind Members that the Housing (Wales) Bill was introduced by Carl Sargeant AM, the Minister for Housing and Regeneration, on 18 November. The Business Committee has referred the Bill to this committee for Stage 1 scrutiny, with a reporting deadline of 21 March 2014. At our meeting on 28 November, we agreed our approach to scrutiny, and we subsequently launched a call for evidence. Today is the first of five evidence sessions to inform our scrutiny of the Bill.

[3] I welcome the Minister, Carl Sargeant AM; Ceri Breeze, senior responsible officer, housing directorate, Welsh Government; Alyn Williams, housing directorate, Welsh Government; and, Neil Buffin, lawyer, Welsh Government. I welcome you all, Minister and your officials.

[4] There is a lot of detail to this Bill, and I know that Members have a lot of questions for you. If you are happy, I will start with the first question on the first area of the Bill. How do you plan to make landlords and agents aware of registration and licensing requirements?

[5] **The Minister for Housing and Regeneration (Carl Sargeant):** Thank you, Chair, and good morning to you all. It is quite a large Bill and I have a great team to support me here this morning, I hope; I am convinced.

[6] On your question around private rented sector registration, it is important that the message gets out to the sector, and we are working on a communications plan that will work through all the new media opportunities such as social media and the internet. We are also working with tenant and landlord associations to ensure that they get full knowledge of the new legislation that is coming through.

[7] **Christine Chapman:** Okay, thank you. On the subject of landlords who live outside Wales, do you have any comments on that, Minister?

[8] **Carl Sargeant:** It is equally important. The duty of being a landlord based in Wales means that there are laws that need to be complied with, and that is something that we would expect agents acting on their behalf to be aware of, and also with regard to the landlord/tenant relationship. There is an element here about the tenant relationship that is really important, because we will be giving tenants support to know what their rights are, so that they do not enter into an agreement with a landlord who is not registered in the appropriate way. Therefore, information will be targeted at both ends to support individuals.

[9] **Jocelyn Davies:** What do you think the size of the sector is? How many properties out there are being rented?

[10] **Carl Sargeant:** It is a bit of an unknown figure because of the lack of registration, so we do not know what the exact number is. However, we have an idea that it is around—

[11] **Mr Williams:** There are between 70,000 and 130,000 landlords with 183,000 properties.

- [12] **Jocelyn Davies:** How do you know that figure? Where is that from?
- [13] **Mr Breeze:** That is from the official statistics that the Welsh Government captures on tenure, including private rented sector, social housing and private owner-occupation.
- [14] **Jocelyn Davies:** However, you can imagine that that is an underestimation, so communication is important—that is a lot of people to communicate with.
- [15] **Carl Sargeant:** It is likely to be. This is an important piece of legislation and it is about people understanding their rights. We have already seen an awful lot of interest in this Bill. We are confident that we can grow the knowledge through landlord associations et cetera. It is interesting that quite a lot of the responses that we have had back have been about pushing back on PRS, so people are talking about it already. So, we are confident that we can make sure that we get our message to the individuals that appropriately need a licence or tenancy agreement.
- [16] **Christine Chapman:** Before I bring Gwyn Price in, there is a supplementary question from Leighton Andrews.
- [17] **Leighton Andrews:** It is a quick question. Do we know what proportion of private rented homes is rented out via an agency?
- [18] **Carl Sargeant:** We do not know the exact number. That is part of the problem of non-registration; the market is very open, and there is little knowledge behind that.
- [19] **Gwyn R. Price:** Following on from what Jocelyn was saying, are you confident that landlords who evade current regulatory requirements will register under the new scheme?
- [20] **Carl Sargeant:** There will always be people who will try to evade the legislation that is in place, not just in the housing sector but more broadly. We believe that we have a suite of tools that will effectively deal with people who seek not to register or act inappropriately in registering. Failure to register could ultimately lead to a stopping order being placed on rent, so a tenant would not have to pay rent to an individual who was not registered formally. The risk of not getting paid is a big incentive to register.
- [21] **Gwyn R. Price:** Could you go on to say whether evaluation arrangements will be put in place to monitor the scheme's effectiveness and its value for money?
- [22] **Carl Sargeant:** With all our legislation and schemes, we are keen to ensure that they operate effectively. This is a new scheme, so we will be really interested to make sure that it is working correctly. We have done modelling on the finances and the thresholds within that, so we know what will trigger what we consider to be an affordable scheme, and anything on top of that is a bonus. So, the finances are clear within that. In the longer term we will be reviewing to make sure that the scheme is in operation and that it works properly. There will probably be a monthly statistical evaluation of where the registration is up to. That will be easily identifiable. We will have only one single authority running the scheme, as opposed to what happened in Scotland, where there were 30 plus of them.
- [23] **Mr Breeze:** If I could come in on that, there will be monthly monitoring of compliance. It is really important that we know where we are with how many landlords are registered. Over and above that, we will be using things such as the Welsh omnibus survey, which measures public awareness. We can do that pre-legislation, during legislation and post-legislation. It links back to the issue of early communication. If the public is aware of it and if people are asking landlords whether they are registered, then that is going to create pressure

for them to register and become licensed.

[24] **Gwyn R. Price:** Why has the Government proposed a licensing scheme rather than a light-touch registration scheme as was proposed in the Rugg review?

[25] **Carl Sargeant:** We have made some assessments of other schemes in operation, and it is clear that the light touch or voluntary approach to registration just does not work. There is a scheme in Leeds operated by one of the landlord associations that I am going to see shortly, just to see how it operates. There is a voluntary registration scheme in Leeds—you would expect an awful lot of landlords there, given that it is a university town—but there are only around 200 landlords registered on the scheme, because it is voluntary. We are not seeking to make it difficult for landlords who want to register voluntarily; we are trying to capture the ones who are not registering because we know that some unscrupulous landlords are operating and renting out dangerous properties. They are the ones we are trying to capture.

[26] **Gwyn R. Price:** How will the fit-and-proper-person test be applied in practice? For example, will there be any criminal record checks?

[27] **Carl Sargeant:** There will not be a Criminal Records Bureau or disclosure and barring service check in this, but criteria around a fit-and-proper-person test will be issued to all licensing bodies.

[28] **Gwyn R. Price:** So, there will be no criminal record checks.

[29] **Carl Sargeant:** No.

[30] **Mr Breeze:** If a local authority had reason to ask for more information, then it could do that. However, the Minister is right—there will be no automatic check.

[31] **Peter Black:** On the issue of proportionality, I live in a small terraced street in Swansea, and in my part of the street there must be about 50 properties of which 10 are privately rented, because people have not been able to sell their home—they are single-property landlords. In terms of the requirements of this Bill, they are now going to have to register, go through training courses and a whole range of other bureaucratic things to get on the registration scheme. Is that not a bit disproportionate in terms of those single individuals?

[32] **Carl Sargeant:** I would like to be able to agree with you. First, I do not think that it is over-burdensome or financially burdensome. We believe that the registration scheme is relatively modest; in fact, it is at a lower level than a registration scheme for one of the residential landlord associations. So, it is not more expensive—it is actually less expensive.

[33] I have given the issue of single-property landlords some thought, because other Members have raised this with me too in terms of what the impact may or may not be. I cannot be confident that there are single-property owners who are not operating unlawfully or illegally in the way that they provide a service. I cannot have confidence that that is consistent across Wales or the UK. There are still individuals operating unprofessional services, so you are either a professional landlord or you are not a professional landlord. If you are operating in this field, then you should be acting professionally.

[34] **Peter Black:** However, these are exactly the individuals who may slip under the radar, just as you have not been able to find lots of houses in multiple occupation to license in the last five or six years. These are the ones you are not going to be able to find.

[35] **Carl Sargeant:** With respect, the HMO system is slightly different to what we are proposing in terms of this licensing scheme. We are looking at how the HMO system works

in order to possibly transfer HMOs into this system at a later date, because we believe that this will be a much easier registration system.

[36] **Peter Black:** The point that I am making is that it is easier to identify a HMO than a single property that someone is letting out to a family.

[37] **Carl Sargeant:** If we take a step back so that I can fully understand your question, Peter, I am still considering the family member relationship. I understand that some family units will offer a property that may be from a deceased parent, brother or sister et cetera to a brother or sister, and there may not be a rental income—they may just be using that property until the appropriate time to sell it or whatever. The legislation is not there to try to seek to displace the issue around family relationships or otherwise, such as the ‘granny flat’ scenario. This is not about capturing that. This is about capturing professional landlords making an income from the properties that they own.

[38] **Peter Black:** The point that I am making is that most of these are not professional landlords; most of these people are doing it because they have not been able to sell their properties.

[39] **Carl Sargeant:** I would argue the case that they are professional landlords if they are getting an income from the property.

[40] **Peter Black:** Some of them are just basically covering their mortgage cost.

[41] **Carl Sargeant:** What is the difference?

[42] **Peter Black:** They are not making any money.

[43] **Carl Sargeant:** It is not only about profit. The asset is a profit. I am saying that if they are acting as a landlord and offering a property for rent, then I believe that it is appropriate that they come under the registration scheme. Otherwise, I cannot guarantee that we will have safe properties in Wales outside of a licensing scheme. I do not think that that is unreasonable.

[44] **Peter Black:** How many unsafe properties are there in Wales?

[45] **Carl Sargeant:** We do not know because there is no licensing scheme.

[46] **Christine Chapman:** I know that Jocelyn wants to come in and that there are a lot of questions, but could they be supplementary questions on this? I know that Leighton asked first, then Jocelyn, and then we will move on to the rest of you.

10:15

[47] **Leighton Andrews:** Minister, I think that you are right to say that unless you have a registration system in place, you cannot be assured about the safety of properties. On the point about landlords with a single property, for the sake of argument, would it not be possible in that case to allow them to register and for them to be licensed without the training requirement? I wonder whether that might be a significant disincentive to a person owning a single property.

[48] **Carl Sargeant:** I will give that consideration.

[49] **Mr Breeze:** I would like to come in on this as well. When people start out being a landlord, one of the things that they do is look around to see what they need to do to fulfil

their obligations. The training will help them. It will not be an onerous registration system. Going back to the point on professional practices, the feedback that we had from some groups is that some of the difficulties with professionalism in practice exist in cases where landlords have inherited a property or have just happened to have a property that they cannot sell and have therefore become landlords.

[50] **Leighton Andrews:** Where do you expect to pick up the difficulties—in the process of registration or in the process of licensing?

[51] **Mr Breeze:** The process of registration will simply be to list who the landlords are. At the licensing stage, that will avoid the problems with practices.

[52] **Leighton Andrews:** Yes, but surely at the point of registration, you have what is almost a first check, do you not?

[53] **Mr Breeze:** To keep it as simple as possible, all that a landlord has to do is provide the relevant information and pay the fee. They will then get a registration number.

[54] **Leighton Andrews:** What is the responsibility of the local housing authority, in respect of a registered landlord?

[55] **Mr Breeze:** It is responsible for keeping the register.

[56] **Leighton Andrews:** That is it, is it?

[57] **Mr Breeze:** It is also responsible for maintaining the register and, obviously, for making sure that it is updated. The licensing scheme is where landlords will encounter the training. That deals with professional practice. What it gives us is far greater information on who the landlords are. At the same time, it ensures that professional standards and practices are raised to avoid some of the problems that we encounter in the private rented sector.

[58] **Carl Sargeant:** I would like to clarify the point that Leighton raised in his question to me about single occupancy registration. What I would go back to, in terms of the training aspect of this, is that this adds value to the system. I am not opposed to considering the training aspect on a single property. However, what I will not retract on is the quality expected from being registered. It does not mean that you should be a registered bad landlord. It is about being the kind of landlord I would expect everyone to be. The training will help that process.

[59] **Leighton Andrews:** At the point of registration, would you not get something telling you what was expected of a good landlord?

[60] **Carl Sargeant:** There will be an issue around compliance, yes.

[61] **Leighton Andrews:** No, what I mean is this: would you not be physically given or e-mailed some set of expectations on you as a landlord?

[62] **Mr Breeze:** That is a good suggestion in terms of what information you would receive in advance—for example, information about what the training will cover and what you will get to know from it. This includes the tenant-landlord relationship, and the obligations on both sides. So, I think that what you are saying is—

[63] **Leighton Andrews:** No, the point that I am making is simply that you could, at the point of registration, give clear guidance as to what is expected of the landlord and what the list of requirements under law might be. You could then say, ‘Should you want it, training

might be available.’

[64] **Carl Sargeant:** I do not think that that is an unreasonable idea. I will give it further consideration.

[65] **Christine Chapman:** Thank you. I now bring in Jocelyn.

[66] **Jocelyn Davies:** You know that I have concerns about those issues, Minister. From what I have heard this morning, it does not appear that you have any evidence at all that your proposals will not deter people from temporarily renting out properties, such as in the case that Peter just mentioned. I do not think that all of those people even consider themselves to be landlords. I wonder whether you have done any work in that respect. Do people realise that they are landlords, and do the people who live in those properties realise that they are tenants?

[67] You mentioned this idea of no rental income. I suppose that you were referring to family members. Does that mean, therefore, that those tenants are there on licence? This legislation, according to our technical briefing, does not cover people who are there on licence.

[68] **Carl Sargeant:** Your final point is correct.

[69] **Jocelyn Davies:** I hope it is because that is what your officials told us the last time they came to see us.

[70] **Carl Sargeant:** That is why I agreed with you. On the first point that you raised, around the fact that most people do not recognise that they are landlords or tenants—

[71] **Jocelyn Davies:** I did not say that most people did not. I am just asking what work you have done in relation to that. It could be anecdotal; I do not know. I am asking what evidence do you have that your proposals will not deter people who might think, ‘The market isn’t good enough for me to sell this property that I’ve inherited this year, we’ll leave it empty or we could possibly rent it out for a year’. How do you know that you are not going to deter people? My other question is this: you told us it will not be very onerous and people will have to pay only a small fee, well, you are hardly going to professionalise this sector, are you, by having a not very onerous entry into your registration scheme?

[72] **Carl Sargeant:** I do not agree with your points on the onerous issue. Currently, there is a voluntary licensing scheme that clearly works for some and not for others. There are people who operate, and they operate in the area that you represent too, who have dangerous practices in renting homes. I hope that you would agree with me on that point.

[73] **Jocelyn Davies:** I do not disagree with you on that, Minister. What I am saying is that you were saying that it is not very onerous to enter the registration scheme. Therefore, what I am saying to you is that that is hardly going to professionalise this industry. Do you have any evidence that there are rogue landlords with just one property?

[74] **Carl Sargeant:** There is evidence. Individuals have told us about this. Shelter is currently doing a review with, I think, 1,000, or it may be 500—forgive me on the actual number—and I am sure that it will present evidence on tenant relationships in terms of single properties as well. I was suggesting that the registration scheme was not onerous in terms of the financial aspect. For two properties, it would be around 65p per week, which I do not think is financially onerous. But, I think that the fact of being registered will give you conditions around what is expected of you as a landlord supplying properties for rent.

[75] **Mr Breeze:** To clarify, the onerous comment relates specifically to the process of



registering and the process of licensing. The licensing itself and the training will ensure that knowledge and standards are met. So, that does not apply.

[76] **Jocelyn Davies:** Do you have any evidence that these proposals will not deter people in the scenario that we painted, which I would suggest could be quite common in today's housing market?

[77] **Carl Sargeant:** We do not have evidence to support that. However, what we have done is not looked at this element of the Bill in isolation. We have looked at other parts of that. The Member will be aware of the empty homes section within the Bill that will encourage people who may consider that they do not want to use—. This is about increasing the supply of homes and quality within the housing sector. The Member is aware that, subject to the Bill passing, if somebody wishes to leave their property empty for a significant amount of time because they have made the choice that the registration is onerous, which is a term that somebody might use, then they would be in a position where they may have to pay an additionality to the empty homes premium in council tax.

[78] **Christine Chapman:** Jocelyn, do you have any other questions on this section?

[79] **Jocelyn Davies:** No, because I know that a lot of other Members want to come in.

[80] **Christine Chapman:** Mark, did you have a supplementary question on this section?

[81] **Mark Isherwood:** As you are aware, our predecessor committee, in its 'Making the most of the Private Rented Sector in Wales' report, recommended,

[82] 'that the Welsh Government researches the potential effectiveness and feasibility of a mandatory licensing or registration scheme'.

[83] Therefore, what consideration has the Welsh Government given to the review commissioned by the Scottish Government into the registration scheme there, including a fit-and-proper-person test, which found that the worst landlords had not been removed from the sector?

[84] **Carl Sargeant:** We have taken a lot of notice of what happened in Scotland. We have looked at not only the Scottish scheme, but other schemes that operate on a voluntary basis to look at what can work and what does work. It might be helpful for committee if I wrote to the Chair with our appraisal of the differences between the Scottish and Welsh schemes. That might help the committee with its work in looking at how we have done things differently and how we have learnt lessons from what worked in a more difficult situation in Scotland. One of the issues was that there were around 30-plus different schemes being operated in Scotland by different organisations, whereas we have one. Our licensing scheme is a five-year process, as opposed to it being a three-year process in Scotland. We have learnt lessons from that and made adjustments.

[85] **Christine Chapman:** If you could send that to us that would be useful. I note, Minister, that you have different officials for different parts, so I ask Members to be mindful of that because officials will need to move seats. I am going to move on now to Part 2 on homelessness—

[86] **Peter Black:** I have a question on enforcement.

[87] **Christine Chapman:** Did you want to come in on that? Okay.

[88] **Peter Black:** On enforcement, I am not quite clear how exactly you intend to enforce

this, Minister, and how you are going to be funding enforcement. Could you set out the mechanism by which the money will flow to those local authorities that enforce this particular licensing regime given that, as I understand it, there is going to be a central register based in Cardiff Council?

[89] **Carl Sargeant:** I will ask Alyn to go through that whole process.

[90] **Mr Williams:** The idea is that there will be a collaboration agreement between Cardiff Council and the other 21 local authorities. That will set out the terms of action and how it is going to manage the register on everybody's behalf. It will also set out how they will divide the revenue streams that come in and what action will be taken following that as regards enforcement and all the other actions necessary to ensure full compliance—or compliance that is as full as possible.

[91] **Peter Black:** Are you envisaging this as a self-funding scheme?

[92] **Mr Williams:** Yes.

[93] **Peter Black:** Therefore, how is the enforcement funded? Is enforcement funded from the fees?

[94] **Mr Williams:** Yes.

[95] **Peter Black:** Right, because there was a court case—

[96] **Mr Buffin:** Hemming v. Westminster City Council.

[97] **Peter Black:** Yes, that is the one. The High Court referred to the Provision of Services Regulations 2009 in relation to the European directive, which says that you cannot fund enforcement from fees.

[98] **Mr Buffin:** They are different elements of enforcement. Part of the scheme will potentially be monitoring compliance with the code of practice and compliance with conditions attached to licensing. Hemming v. Westminster City Council did not say that that could not be funded. For example, licence holders may wish to renew after five years and part of that renewal process will be the local authority considering whether there have been breaches. That is built into the scheme.

[99] **Peter Black:** There are other aspects of enforcement that cannot be funded as a result of that court case.

[100] **Mr Buffin:** There are some difficulties arising as a result of that case in relation to unlicensed or unregistered persons.

[101] **Peter Black:** How are you covering the funding gap as a result of that?

[102] **Carl Sargeant:** As regards the recovery of fees from the challenge of non-compliance, we will be putting a call back on the finances back into the system and local authorities will be retrieving those funds.

[103] **Peter Black:** To be clear, the non-compliance fines will be covering the cost of enforcement—the cost of that part of enforcement that you cannot cover as a result of that court case.

[104] **Carl Sargeant:** In compliance with the law.

[105] **Mr Buffin:** Costs are potentially recoverable for taking any proceedings in relation to the courts. That would cover the cost of bringing proceedings against someone who had failed to register or to be licenced.

[106] **Peter Black:** Where enforcement action does not lead to a court case and the recovery of costs, what happens then?

[107] **Carl Sargeant:** There are a few innovative ways already, pre-legislation, that authorities are looking at. I met with Shelter yesterday, which is already looking at working with Torfaen on the enforcement. It is a preventative mechanism that will already be in place in order for them to avoid taking legal action against landlords. Sometimes it is just about negotiation and asking them whether they realise what their duties are and what they should be doing; therefore, there would be no need for a court case. That is something with which Shelter is already looking to get involved in one of the lead authorities across Wales.

[108] **Mr Breeze:** We are still talking to colleagues in the Welsh Local Government Association and local authorities, and there have been suggestions there with regard to notices, for example. Should the costs for notices be recoverable? In other words, those are charged to those at whom they are targeted. That is another example of how we are looking at covering the cost of enforcement specifically.

[109] **Peter Black:** I am sure that we will come back to this in more detail in the Finance Committee's scrutiny of this particular aspect, but I just wanted to highlight that issue.

[110] **Christine Chapman:** I am still on this section and then I want to move on. I have three Members who have indicated that they want to ask supplementary questions. Will you be very concise as we need to move on to other areas? Leighton is next.

10:30

[111] **Leighton Andrews:** I have just a general question. Have you given any consideration to the role that the planning regime might have in addressing questions in relation to the concentration of either single rented homes or, indeed, houses in multiple occupation?

[112] **Carl Sargeant:** Following questions yesterday I made an announcement on HMOs, in terms of how they are registered and where they are appropriately sited. I have had representations from many Members on this. I think that Jenny Rathbone, in fact, has also raised this with me. In the new financial year, I will be putting in a review as to how that operates. I do not think that it is all about planning, and I do not think that it is all about licences. I think that there is a mixture of both, really, about how that operates. I will be looking at that work, so it may have some impact in terms of the whole licensing regime between HMOs and the private rented sector. That is something that we will be learning in the new year in terms of that.

[113] **Mike Hedges:** I will start by saying that I generally support the principles that you have here, but it is just that any legislation can have unintended consequences. Do you share my concern that people who are currently renting out to family or friends at nominal rents will decide that it will be much easier to go via an agent than to actually do it themselves, and that you will actually see rent increases because the agent will start renting at the market rate as opposed to the £30 or £40 per week that people are charging family and friends?

[114] **Carl Sargeant:** As I said earlier, I will give consideration to the issue around family members et cetera, and how that operates. It is not about capturing family. It was never intended to look at the family relationship in terms of that. I would hope that it does not deter

people from having that relationship in that process, and we would hope that there are no consequences of the Bill that will cover that. I will give that serious consideration.

[115] **Mark Isherwood:** You commented on costs earlier on. Are costs not already recoverable under existing law and, if so, why is local authority enforcement against the worst landlords so poor now, given the extensive powers that they already have under the 2004 Act and other legislation?

[116] **Carl Sargeant:** That is because we do not know where they are.

[117] **Mark Isherwood:** Local authorities?

[118] **Carl Sargeant:** The registration scheme does not provide us with a full and adequate number. The process of enrolment involves some authorities chasing this up because they wish to. This will be a new piece of legislation that will give them the powers to act upon this. Also, Members did not pick up on the detail around the registration scheme itself, around how this will become self-financing. We indicated at the beginning that we think that there are 70,000 landlords and more in Wales. We think that there is a break-even point for registration at around 10,000 registrations. So, anything above that is effectively a good take for the registration scheme. So, there is a benefit in doing this in terms of registration, and there are also some benefits from PRS to local authorities.

[119] **Mark Isherwood:** Last year, a north Wales local authority highlighted over 200 breaches by landlords, which it knew about, and yet it only took enforcement action against two of them, identified under a freedom of information request. So, that is a situation already. The concern is that that may not change.

[120] **Carl Sargeant:** Of course. We are working with the Welsh Local Government Association, and I am grateful for its commitment to work with us in terms of the whole housing aspect. As I said, this is one element of the Bill. We are looking to increase supply and support. Again, I am sure that there will be questions around homelessness, Chair, which is another significant area of the Bill. We are relying on and working with local authorities to change the way that we have supply. The PRS element of this is about using the private rented sector better, but we can only use the private rented sector better if we know who they are. There are also some benefits in the PRS. I am currently looking at how the grant mechanism may work, which is currently not available to some of the private rented sector. My view is that if you become a part of a scheme of professional landlord association registration, there may be opportunities for the Government and local authorities to make investments in those properties, such as energy-saving or conservation elements, which will help us with the homeless provision and the standard of the properties. However, none of that will be appropriate if you are not registered. This is a suite of things that come together within the Bill.

[121] **Mark Isherwood:** Accreditation did that and the Nest scheme already covers the energy efficiency on that basis.

[122] **Carl Sargeant:** With respect, it is all piecemeal. We believe that this is bringing everything together as a host in terms of registration.

[123] **Christine Chapman:** I call on Peter, very quickly.

[124] **Peter Black:** I have two more quick questions on the registration scheme. First of all, when you made your statement to Plenary, Mike Hedges raised with you the issue of electrical safety, and you said that that is very much going to be part of the code, I think, in terms of the standards required. Could you outline exactly how you intend to make sure that

all these properties have electrical safety certificates?

[125] **Carl Sargeant:** May I drop the committee a line on that, with the details around what standards are expected and how that will be done? I do not have the detail with me today.

[126] **Peter Black:** The second question is in terms of timing. As I understand the Bill, you are proposing to introduce the registration of letting agents and landlords at the same time, around about 2015.

[127] **Mr Breeze:** April 2015.

[128] **Peter Black:** Given that the whole sector thinks that letting agencies are the biggest priority, is that a sensible way of doing this, given the level of resources required and, effectively, the huge administration effort involved in doing that? Would it not be better to prioritise the letting agents first and then ease in the registration of the landlords after that, as they are, after all, the bigger cohort?

[129] **Mr Williams:** As a result of the way in which the arrangements are structured, letting agents will register first, and that will be a requirement, because they will not be able to take on any landlords unless they are registered and licensed. So, it will come through as a natural progression.

[130] **Peter Black:** So, if I am a landlord, what is my deadline for registration?

[131] **Mr Williams:** That needs to be sorted under the commencement and the following procedures, but we expect to be giving a year in which to register and then a further year in which to become licensed. So, we are working on arrangements whereby letting agents will be targeted first.

[132] **Peter Black:** So, your commencement is looking at, basically, getting the letting agents sorted out and then moving on to the landlord.

[133] **Mr Williams:** Letting agents will not be able to take on any landlords until they are registered and licensed, so they will not be able to operate unless they have complied. We have spoken to a number of letting agents and they have argued the opposite, of course, which is that the landlords are the biggest problem.

[134] **Carl Sargeant:** This is directed by fate as opposed to planning anything, Peter. Letting agents will not be able to have landlords registered with them if they are not already registered, so they would have to be registered. Again, if the committee made recommendations for a lag period, I would give that consideration too.

[135] **Peter Black:** Many single-property landlords may have their properties managed by letting agents, rather than doing it themselves.

[136] **Carl Sargeant:** Of course.

[137] **Christine Chapman:** We are going to move on to part 2 now, on homelessness. I apologise to Members, because we only have the Minister until 12 p.m., and I want to make sure that we cover all aspects of this. Members need to be very concise with their questions. If there are any outstanding questions, we will follow those up on e-mail, so I apologise in advance. I think that Peter has the first question on homelessness.

[138] **Peter Black:** Our two biggest sections are at the start of this, Chair. In terms of homelessness, what monitoring and evaluation of homelessness services will be undertaken

when the new legislation is in force?

[139] **Carl Sargeant:** I thank the Member for his question. This is another hefty part of the Bill. The overall approach to evaluation is set out in the explanatory memorandum, Chair. Implementation of homelessness provisions will be subject to a broader local government regime of performance management, which is currently in place for various other aspects of delivery. We will also be commissioning a piece of work on the effectiveness of the legislation within two years, so we do have a programme of monitoring and improvement.

[140] **Peter Black:** What are the current legal requirements in terms of the local homelessness strategies and how is that impacted by this Bill?

[141] **Ms Frith:** I think that we are simply consolidating existing arrangements in the first sections under homelessness in the Bill, so there is not a great deal of change.

[142] **Peter Black:** There is currently a requirement that a local authority has to produce a local homelessness strategy.

[143] **Ms Frith:** Yes.

[144] **Peter Black:** Is that evaluated in the same way as, for example, the assessment of the accommodation needs of Gypsies and Travellers?

[145] **Carl Sargeant:** Effectively, it is the same. It is on the needs basis set out by the local authority for Gypsies and Travellers.

[146] **Peter Black:** No; I am thinking in terms of the homelessness strategy. Will this be evaluated in the same way as that strategy?

[147] **Carl Sargeant:** Yes, that is what we intend to do.

[148] **Peter Black:** So, local authorities basically have no way out in terms of that.

[149] **Carl Sargeant:** Absolutely.

[150] **Peter Black:** The evidence base for the period when an applicant is considered to be threatened with homelessness, that is going to be increased to 56 days.

[151] **Carl Sargeant:** Yes.

[152] **Peter Black:** What is the evidence base for that?

[153] **Carl Sargeant:** Cardiff University did a review for us, and that is the evidence that came back.

[154] **Peter Black:** Is it possible for us to have a copy of that evidence?

[155] **Mr Breeze:** The report has been published, but we can make copies available for you. Just to expand on that, this legislation is on the basis of a fairly solid piece of work. We will repeat that after the legislation as well, and look at the experiences of both applicants and organisations in terms of how this pans out. So, it will be qualitative and quantitative evaluation in order to make sure that it is working consistently across Wales.

[156] **Peter Black:** There are questions here on funding, but we will do those in the Finance Committee, most probably, in terms of how that is funded. Moving on to the issue of

ex-offenders, as you know, the 2008 Welsh Government-funded research into the housing needs of ex-offenders concluded that there was a clear and evidenced link between accommodation and offending—staying in appropriate accommodation being a necessary but not sufficient condition for the reduction of reoffending. That report talked about building up support around the rehousing of those ex-offenders. Given that evidence base, why is it that you have effectively decided to go in the opposite direction and remove the priority need from ex-offenders?

[157] **Carl Sargeant:** This is not about taking the Act in isolation. I know that many Members will have a strong view in terms of how we are proposing to deal with the homelessness element in terms of ex-offenders. May I say from the outset, Chair, that I share the concerns of Members? The vulnerability of an individual, whether an ex-offender or not, should be dealt with appropriately by the local authority that is dealing with homeless provision. On that basis, and recognising that Members do have concerns about this particular element, I have already met with third sector organisations to set up a working group to look at the additional support needs of ex-offenders in the element of vulnerability. It is not right—and it does happen—that we see an offender coming to the end of their term, and the door is unlocked, and they go out into the broader world, and they present as homeless. I am saying that, actually, what should be happening is that there should be a support mechanism within the institution, and offenders should know what their rights are at that point. If they are presenting as homeless, they can present as homeless in prison, so they have a 56-day rule within prison. We have a working group with Shelter and Gofal—I think that that was the other one.

[158] **Mr Marlow:** It includes the WLGA and other representative housing bodies, the police and criminal justice agencies.

[159] **Carl Sargeant:** On the basis of the concerns that individuals have raised with me prior to committee, I have set that in motion, to ensure that we get better support for ex-offenders on leaving prison.

[160] **Peter Black:** May I just ask one more question on this? Obviously, you are reconsidering that, then. As I understand the Bill, you are saying to local authorities that they do not have to give ex-offenders priority need, but they do have to assess the vulnerability of ex-offenders. We will come back to the cost of that in Finance Committee. This is from memory now, but given that Gofal, in its submission, suggested that 75% of ex-prisoners will have substance misuse or mental health issues, which set of prisoners do you expect to be not vulnerable?

[161] **Carl Sargeant:** You are making me out to be somebody that I am not, actually. The issue for me is about vulnerability. I think that I am acting responsibly as Minister for housing—that is my duty, to make sure that people have a home. Whoever the person is, we are trying to support them in a housing mechanism. I believe that there are many people incarcerated who should not be there in the first place, because of alcohol, substance misuse or mental health issues. We know that. However, the fact of the matter is that they are. I am not comfortable with that, but they are in that position. My duty is around housing. I believe that we should be giving priority based on need to vulnerable individuals—not based on the fact that you have been incarcerated, but on the fact that you are in a vulnerable position. We are, on the basis that Members have raised with me these concerns, looking at the vulnerability of ex-offenders leaving prison on the basis of a balanced approach to this. Now, if the 75% that Peter raises with us represents the number who are presenting as vulnerable on exit, they would be the 75% who would still be treated as vulnerable. There will be no change there. Actually, I believe that the homeless solution for this, and the additional work that we are putting in, will put vulnerable, exiting ex-offenders in a better place than they are now.

10:45

[162] **Peter Black:** One of the reasons that the priority needs Order was brought in—I think that it was in 2001—was that local authorities were asked to rely on vulnerability assessments, and many of them were not doing them consistently or applying them properly. Now you are asking them to go back to it in relation to this particular group of individuals. How are you going to ensure that there will be proper assessment of vulnerability?

[163] **Carl Sargeant:** We are not saying for them to go back to what they did before. We have a working group in place—or we will have a working group in place—with the key stakeholders, such as Shelter and Gofal, and they are saying to us that there are issues here. We want to work with them to make sure that the appropriateness of testing the vulnerability of an individual is given the right priority across all the authorities that they are discharging from. We are not reintroducing the old here; we are actually going to a new place in terms of dealing with people who should have a right and should be protected, and that is what we want to do.

[164] **Christine Chapman:** I have a number of Members on this specific point—I know that Leighton wants to come in on this specific point—but I want to ask a question as well while we are on this theme. It is on the issue of women offenders, as there are perhaps vulnerabilities around them not having access to their children. I just wondered if you had taken that into account, Minister.

[165] **Carl Sargeant:** It does concern me also, Chair, and I do not mind being declared as a self-confessed feminist; I am quite comfortable with that. The fact is that I think that we should be making sure that we protect women in all circumstances. I am particularly worried about women who exit prison. It is slightly different in Wales, because we do not have such a facility. I am in the process of writing to HM Government on the relationship between the prison aspect of a prison holding and the Welsh Government, in terms of devolved powers and how it can work out better. I am particularly concerned about what, in essence, happens when, generally, a woman is incarcerated. In most cases, the children are displaced—not from the family unit; they go into care or some other provision. When a female member then comes back to civvy street, the priority need has gone—they do not have a direct need for the children, because the children are not there; they have been displaced. I am looking at how that operates. Is there something that this working group can look at better? I genuinely—and I hope that you take this at face value—want to get a better deal for people exiting prison who are vulnerable, be they men or women, but particularly women. I have even been asking lawyers to look at what it is that we can be more supportive of on a female gender basis, and that is really difficult under current legislation, despite me not agreeing with some of that legislation.

[166] **Leighton Andrews:** I have a specific question on prisoners, but there is a lot on this priority-needs section that I want to ask questions about. I think that it is one of the worst drafted pieces of the Bill, I am afraid.

[167] **Christine Chapman:** If you can, just ask that one specific question, because I know that Jenny wanted to come in, and I will come back to you then on those others.

[168] **Leighton Andrews:** Okay; fine. Do you have a lawyer with you, Minister?

[169] **Ms Frith:** Yes, I am a lawyer.

[170] **Leighton Andrews:** Okay. I am trying to understand this section on priority need in respect of prisoners, because, as I read it, it seems to suggest that every prisoner has priority in need. I am wondering whether the way it has been drafted even meets what I thought was



the Minister's policy intent. I read this as saying

[171] 'The following persons have a priority need for accommodation for the purposes of this Chapter—',

[172] and then, it says in section 55(1)(j),

[173] 'a person who has a local connection with the area of the local housing authority and who is vulnerable as a result of...having served a custodial sentence',

[174] et cetera. To me, that suggests that anybody who has served a custodial sentence has priority need.

[175] **Ms Frith:** Vulnerability is interpreted in the light of the case law and—

[176] **Leighton Andrews:** It says specifically here that they are vulnerable as a result of having served a custodial sentence. Therefore, is it the fact of having served a custodial sentence that confers vulnerability? That is what I am asking.

[177] **Ms Frith:** There would be prisoners who were more vulnerable—

[178] **Leighton Andrews:** Well, no, you do not say 'more vulnerable'; you say 'vulnerable as a result of'.

[179] **Ms Frith:** Yes, particularly vulnerable and less able to cope than the average homeless person.

[180] **Leighton Andrews:** I would like this committee to have some legal advice on this, please.

[181] **Jocelyn Davies:** It was on this point that I wanted to ask a question. You talk about the vulnerability test, but, when I looked at it, I thought, 'Does this mean that the vulnerability of the ex-offender has to be due to the fact that they have been in prison?'

[182] **Ms Frith:** Yes.

[183] **Jocelyn Davies:** So, that is different, because they would have to prove that that was why they were vulnerable: because they had been in prison, not because they had a mental health issue or because they were—

[184] **Ms Frith:** They can still qualify as vulnerable under other categories.

[185] **Jocelyn Davies:** Yes, but you have to prove that your vulnerability is because you have been in prison, not because you have had a mental health issue for a long time. I think that you really need to look at that particular point, because we are vastly reducing the number of people who can claim to be vulnerable.

[186] **Leighton Andrews:** Or including all of them.

[187] **Jocelyn Davies:** No, I do not think so; I think that the interpretation will be entirely different. So, I think you need to consider that, but, yes, we do need our own legal advice on that.

[188] **Carl Sargeant:** I am very happy to understand any further questions that the committee may have in a legal context on the way in which the Bill is drafted, Chair, but I

just want to pick up on a point that Jocelyn made there, which was really important, actually, in relation to the test about being vulnerable because you are an ex-offender. That is the current position: you are considered vulnerable and a priority need because you are an ex-offender.

[189] **Jocelyn Davies:** What this says now, however, is that you have to prove that your vulnerability is because you have been in prison. That is not the same thing, Minister. It is not the same thing.

[190] **Peter Black:** Vulnerability is not linked to being an ex-offender in the current legislation; the fact that you are an ex-offender makes you a priority.

[191] **Ms Frith:** That is correct, and so the concept of vulnerability—

[192] **Christine Chapman:** May I suggest—*[Interruption.]* Hang on a minute. Obviously, you are going to come back to us with a note. We will, for Members, get advice from our lawyers as well. We have a number of Members here and I want to make sure that we are fair about this. Jenny has been waiting quite a while and then I want to bring in others—Leighton, then Jocelyn.

[193] **Jocelyn Davies:** My question is on prisoners, so I will stay on that point after Jenny's question.

[194] **Christine Chapman:** Okay. Jenny is next.

[195] **Jenny Rathbone:** I have two issues. I want to go back to the duty to prevent homelessness in the Bill. You said that it was a tidying-up exercise—or your adviser did—but I am unclear as to how it will improve the current situation, where, frankly, agencies are not collaborating together to prevent homelessness. I had eight children who had their lives turned over because of a failure to collaborate. So, I am unclear as to how this strengthens that duty.

[196] **Mr Breeze:** Over and above earlier help for people, in terms of collaboration and co-operation, there is a duty on local authorities—all parts of a local authority—to work together to prevent homelessness. In terms of housing associations, there is a strengthened duty to co-operate, because they are a part of the whole housing system. With regard to local health boards, for example, we will be addressing that through separate arrangements—not in this Bill, but, again, with an emphasis on helping to prevent homelessness.

[197] **Jenny Rathbone:** Where do the police sit in this? I know that it is not a devolved issue, but, clearly, where we have intimidation going on and anti-social behaviour and neighbours being scared to come up with evidence of intimidation so as not to get their children involved, how will this Bill, if at all, improve that situation?

[198] **Mr Breeze:** The Bill is part of a suite of measures. Legislation is not the only solution; the Minister has a range of action in relation to anti-social behaviour and domestic violence in order to help to address those situations as well. Where the Bill will come in is in the case of people who are threatened with homelessness. More people than ever before who are threatened with homelessness will receive the help that they need earlier than is the case under the current legislation.

[199] **Jenny Rathbone:** Looking at it from the perspective of a child, prevention is miles better than coping with it after the event.

[200] **Mr Breeze:** Absolutely.

[201] **Carl Sargeant:** May I add to the response from Ceri? I said in a statement in Plenary that the Housing (Wales) Bill is one part of the suite of tools that we have in the housing division that we are looking at currently, both in legislation terms and otherwise. The Renting Homes White Paper will have provision in there to deal with anti-social behaviour and domestic violence, as you are aware, in relation to removing perpetrators, et cetera. Again, that is an additional tool that will complement the Bill. Members will recognise—this morning's discussion is a great example—that this is quite a large, composite Bill with many aspects to it. We cannot put everything in it, and that is why we have several elements. However, I share Members' concern about what it is that this Bill will do, and this Bill will deal with the homelessness prevention aspect, but it will not deal with the anti-social behaviour issues that the Member raises about why this occurs in the first place. I am hopeful that the Renting Homes White Paper and other parts of my division will be able to deal with that element, while this will deal with homelessness.

[202] **Jenny Rathbone:** Okay. Thank you for that clarification. My second question is about why you decided not to include something in the Bill around the regulation of the monitoring and inspection of homelessness services. The situation that we have at the moment is that anybody who is in work will not only lose their home—say, because of domestic violence—but they will lose their job as well, because the charges for hostel accommodation are unbelievably expensive, and beyond the means of most people.

[203] **Carl Sargeant:** Could you respond to that, Geoff, because it deserves some more detail?

[204] **Mr Marlow:** This is a local government service and it needs to fit within the broader regime of the oversight of local government services, and, obviously, we are working more broadly to improve local government services. The whole legislation does come with a set of rights and checks for the service user, and we have rights of review and appeal introduced in the new aspects of the legislation. What we are also doing is funding an independent housing advice sector. Obviously, we want local government itself to implement the legislation effectively, and we are confident that it will do so, but we have also retained the independent housing advice sector—mainly Shelter Cymru—to work very closely in supporting local authorities and to make sure that they are on their game in implementing the legislation.

[205] **Carl Sargeant:** I hate to labour the point, but it is a really important point. This piece of legislation will deal with one element of homelessness, but the whole societal issue of homelessness cannot be dealt with purely through legislation—there are other elements and things that we need to do. The Member will be aware that, in February, I have an anti-social behaviour/domestic abuse conference taking place with all of the housing associations and local authorities across Wales. I am hopeful that they will engage with that process, whereby there will be statutory requirements, but also practical things that we know work—ways of dealing with individuals and communities that stop the causes of homelessness in the first place, which are often around domestic abuse and anti-social behaviour, as the Member referred to. So, there are things that we can legislate for, and things that we cannot, and neither work effectively if you do not get them both right. That is why we are looking at other things apart from this legislation. This is just a small part of statutory regulation, which local authorities will have to comply with.

[206] **Jenny Rathbone:** I appreciate that this Bill cannot resolve all of society's ills, but I am still unclear as to why it cannot specifically regulate hostel accommodation, given that we are tightening up on private sector rented accommodation.

[207] **Carl Sargeant:** I will drop the committee a note. There are already regulation inspection elements in relation to hostels, if that is what the Member is seeking, but I would

be more than happy to clarify that for the committee, if you require more detail on that.

[208] **Christine Chapman:** Okay. Leighton is next.

[209] **Leighton Andrews:** May I ask whether you have a definition of vulnerability?

[210] **Carl Sargeant:** Yes, there is a test called the Pereira test.

[211] **Leighton Andrews:** You are not stating that on the face of the Bill, are you?

[212] **Ms Frith:** No, we are carrying forward the definitions from the previous 1996 Housing Act and subsequent subordinate legislation.

[213] **Leighton Andrews:** Okay. If you are carrying forward definitions from the previous Housing Act, why have you removed mental illness from the list of factors for priority need?

[214] **Ms Frith:** It is a broader concept; we are not exactly eradicating it, we are modernising the language.

[215] **Leighton Andrews:** How can you be modernising the language when you have the phrase ‘for example’ in it? Is that legislative language?

[216] **Ms Frith:** I am assured that it is, yes.

[217] **Leighton Andrews:** Are you sure that it is? I am not.

[218] **Mr Marlow:** It is more inclusive, because it does cover other forms of illness, perhaps someone with—

[219] **Leighton Andrews:** Then how is this compatible with the ‘Together for Mental Health’ action plan, because there is a whole series of requirements in that in relation to mental health, homelessness and housing need?

[220] **Carl Sargeant:** We always have this debate in committee around lists in legislation. The danger of having a list is that you always miss somebody out, or you include people that maybe should not be on it. On the element of ‘for example’, I will seek clarity on whether that is a legal and accurate definition, but the words are trying to reflect the fact that there are cases of vulnerability according to the test that are still included, and would be included, that may not be listed. The problem with a fixed list is that, when you are not on the list, you will not be included.

11:00

[221] **Leighton Andrews:** Yes, but your list is shorter than the list that was in the Housing Act 1996.

[222] **Carl Sargeant:** But it says ‘for example’.

[223] **Leighton Andrews:** It says ‘for example’, but it strikes me that the Welsh Government has done a huge amount on mental health in recent years and to remove mental illness from this seems to me to be sending the wrong signals.

[224] **Carl Sargeant:** I have looked at this element with interest and, reluctantly, I will look at it again to see whether we need a list in at all or whether we should just look at the issue around vulnerability and list it as that. I will take some further legal advice on that.

However, I am reluctant to add individual groups to the list.

[225] **Leighton Andrews:** You are not adding, you are taking one out, because there is a list in the existing Act.

[226] **Carl Sargeant:** With respect, the Member raised an individual issue around mental health issues, and he is quite right to do so. What he is perhaps suggesting is that that should be included on the list. I am sure that there are other groups that would also suggest that they should be included on the list. What I have tried to do in drafting this Bill is to have the flexibility of the 'for example', which does not exclude groups such as those with mental health problems or others, because it is based upon the test of vulnerability. However, I will explore it to see whether it could be drafted better.

[227] **Peter Black:** You could then have the issue of what the special reason is.

[228] **Leighton Andrews:** That is already in the legislation.

[229] **Peter Black:** Yes, but what if you do not have a list?

[230] **Christine Chapman:** We are here to ask the Minister questions. Obviously, this is a very important point here, Minister, so I hope that you will come back to us on this.

[231] **Carl Sargeant:** I have given a commitment to Members, Chair. I will look at the drafting of that to see whether we can be more prescriptive and inclusive so that the Members feel more comfortable with it.

[232] **Christine Chapman:** Okay. Jocelyn is next.

[233] **Jocelyn Davies:** It is on the issue of prisoners, really. I am very pleased to hear about the early intervention stuff and what you are setting up. Will there be anything on the face of the Bill, other than the 56 days rather than the 28 days for prisoners, that would ensure that that happen? Is there nothing at the moment?

[234] **Carl Sargeant:** There is nothing at the moment, but there is certainly time for us to look at that at a further stage, subject to the group reporting and the recommendations that that might come up with.

[235] **Jocelyn Davies:** Good. I think that some of us would feel much more comfortable if there were something on the face of the Bill that allowed early intervention for people who are currently incarcerated. The rhetoric around this has been incredibly unfortunate—even from the First Minister in the Chamber, I have to say. That was not helpful. I noticed that Peter Black cited research earlier that clearly shows that you need to give more help than just housing, although it seemed to me that you were citing the same research for making the change that you intend to make. Is the vulnerability test going to be a test for everybody? You talked about a vulnerability test for prisoners—although I think that we really need to look at that again—so is it going to be a vulnerability test for everybody? Why single them out? On the issue of women prisoners, I am very pleased to hear that you will look at that again, because many women who go to prison—although tiny numbers of women go to prison, obviously—are lone parents and are the head of the household. That is why, over 90% of the time, their children lose their home. It is vastly different for men; there is definitely a gender difference here. Perhaps very few men who are heads of households end up in prison, or perhaps there is another adult who is left to look after the children, I do not know. So, there needs to be more work on that, I think, and, on the general issue of prisoners, I would feel happier if you would consider putting something on the face of the Bill that makes it absolutely clear that there will be help for people, because, if you live in a community where

there is going to be a reduction in crime, you will benefit—not just the ex-offender—because there is less offending. So, I think that that is something that we really need to move towards.

[236] **Carl Sargeant:** I am very grateful for the Member's comments. I hope that I have been able to clarify some of that this morning in terms of my commitment to do something different. I think that it has been convenient for some to use different types of language that have taken away from my intention to support individuals exiting prison, to give them more support, and put them in a better place in terms of what we are dealing with, which is homelessness. We are committed to making sure that ex-offenders who have a vulnerability around them can be appropriately assessed and supported on exit. We are looking to make sure that that is consistent. That is why I have looked to work with a non-devolved Government body to see how we can work better together, because it does not work effectively now. Therefore, there are things that can improve, and we are seeking to do that. I will give the Member my commitment to report back following the working group to see whether there is anything that we can put on the face of the Bill that will help to give you confidence that we are clear on doing that.

[237] Finally, I will pick up on the issue around women prisoners and their exit. I am also committed to doing more work on that. There are other elements of legislation that are prohibitive in terms of being gender biased, which I would be more than happy to do, subject to the law allowing me to do so. However, it does not, but I will continue to work towards seeking to do that.

[238] **Christine Chapman:** Before we move away from homelessness, there are two other questions, which come from Mark and then from Peter.

[239] **Mark Isherwood:** I have a current case with a woman ex-offender. She is making her allegations under the Equality Act. Would the definition of vulnerability not have to include groups defined under the Equality Act 2010? Secondly, when I have had meetings with young adult offenders from north Wales, they have highlighted the need to relocate not to where they came from, but to different areas to get away from peers and—in their words—pushers. There are some reciprocal arrangements between local authorities to rehouse each other's ex-offenders. What consideration can be given to the impact on that? Finally, having defined vulnerability—whatever we decide that is at the end of the day—will these people not need supported housing, rather than general housing, and how is that being factored in?

[240] **Carl Sargeant:** You have raised a couple of points. Of course, the Equality Act has a big impact in terms of its determination of how we act lawfully in creating the legislation and the ability for us to make changes. That is something that I mentioned to Jocelyn earlier in relation to some of the more difficult issues that we face when we are trying to support what really happens in life. When women are incarcerated, it has a massive effect on the family units that they generally need.

[241] **Mark Isherwood:** And disabled.

[242] **Carl Sargeant:** Indeed. To pick up on the issue of ex-offenders et cetera, this particular piece of legislation deals with the homeless effect of presenting as homeless. Not all offenders coming out of prison are homeless. Therefore, there is the fact that they move around the country through reciprocal arrangements with local authorities. As to the issue of ensuring that the support mechanism is in place prior to their leaving, I cannot stress enough how important that is. That is why the 56-day homeless lead-in time is an important structure that is triggered within the prison as opposed to outside the prison. So, you exit as homeless, and it starts there. That is the wrong place if we are dealing with prevention. That is why we need to do this working group, and working with organisations like the National Offender Management Service, the prisons and support units that help ex-offenders to get back into the

system effectively. I think that it is wholly appropriate that a vulnerable person in that situation is dealt with effectively and better. I should not really finish on a real controversial note, while it is all going so well, but I will say that giving someone priority need in terms of housing just because they are an ex-offender is something that I do not agree with. I know that some Members do agree, but it is not something that I share. However, I certainly think that the vulnerability of an individual—and there is a high level of vulnerability in prison—should be dealt with. I am committed to doing that.

[243] **Jocelyn Davies:** I am sure that Jeffrey Archer would not want to go through the priority need—[*Inaudible.*]

[244] **Christine Chapman:** Right. Peter is next.

[245] **Mark Isherwood:** What about reciprocal arrangements?

[246] **Carl Sargeant:** Can I drop the committee a note on the reciprocal arrangements, please?

[247] **Christine Chapman:** Okay.

[248] **Peter Black:** In terms of the work with prisoners before they are released, I refer you to the report by the homelessness commission in 2001, which made recommendations to the Welsh Government on that, which do not seem to have been picked up. So, let us hope that you actually get it right this time.

[249] **Carl Sargeant:** I was not here then, Chair.

[250] **Peter Black:** I know that you were not; I am not blaming you, Minister. I have two quick questions in terms of consistency. First of all, on the ability to discharge homeless people into the private rented sector, is there a danger that some local authorities may target particular groups or applicants to discharge that duty? How will you ensure that you will get consistency across Wales?

[251] **Carl Sargeant:** Nothing has been brought to my attention showing that this will be targeted at an individual group of—

[252] **Peter Black:** No, but there is a danger, is there not? It is a possibility.

[253] **Carl Sargeant:** I would not say, ‘No, there isn’t a danger.’ Of course it could happen, but I cannot see any benefit to local authorities in doing that. In fact, I think that there are benefits in the ability for local authorities to discharge all groups of people to the PRS. So, I am not aware of that. If the Member wishes to indicate how he feels that that will be appropriate—

[254] **Peter Black:** For example, some local authorities might seek to discharge their duty to vulnerable ex-prisoners into the private sector.

[255] **Carl Sargeant:** They might do, but I do not know how they would gain value by doing so.

[256] **Peter Black:** Okay. I was just concerned that you were aware that that is a possibility. Again, in terms of consistency, local authorities are now going to have discretion over where to apply the intentionality test in terms of homelessness. How are you going to ensure that there is some level of consistency in how that is disappplied?

[257] **Carl Sargeant:** I think that consistency is an important part of whether the discretion is applied or not. So, whenever it is decided to use it or not should be appropriate, and there has been some work done by Cardiff University on homelessness legislation et cetera that we have looked at very carefully. The guidance around intentionality will be strong, as will the way in which that will be given to local authorities to enact. Variability between local authorities has always been an issue, Chair, and it is something that we just have to keep going on with to make sure that we continue to strive to get some consistency. However, we have a good relationship that we have with the WLGA in terms of housing, and it is working with us very strongly on homelessness, because there is a huge benefit in terms of this provision, we believe, not only in the moral aspect of the way that we deal with prevention around homelessness, but in the longer term, where there is a financial benefit to it, too.

[258] **Peter Black:** I think that the issue is the fact that the words ‘discretion’ and ‘consistency’ do not always go together, and you are going to need strong guidelines there, because there is a danger that some local authorities will apply discretion for resource reasons. If they do not have the properties, they will exercise discretion in a different way.

[259] **Ms Frith:** If I can help there, section 61 is the provision that deals with deciding to disregard intentionality. Due to concerns about it being applied differentially and unfairly, it is providing that a local authority has to either opt in or opt out with reference to particular categories of homeless people. It cannot just say that with one person it is going to apply it, and with the next person that it is not. It has to have a category, it has to publish a notice, and it can only do it in accordance with regulations that are prescribed by the Welsh Ministers.

[260] **Peter Black:** What of the example after the 2001 Order where one local authority determined that someone who was an ex-prisoner was intentionally homeless because they had been in prison?

[261] **Carl Sargeant:** We will be issuing strong guidance around this. I share the Member’s concern around consistency, but it is not unique to this piece of legislation.

[262] **Christine Chapman:** Okay, thank you. We are starting to get behind now and, again, there is a lot to get through—I know that the first two sections are large sections. However, I want to move on to Part 3, and I know that Mark Isherwood is leading on this. This is on Gypsies and Travellers.

[263] **Mark Isherwood:** Do you want me to wait a moment while the witnesses shuffle around?

[264] **Carl Sargeant:** Carry on, Mark.

[265] **Mark Isherwood:** Both the Niner report on the accommodation needs of Gypsies and Travellers and more recent research from Bangor University have identified that Gypsy and Traveller communities are separate and that they travel, generally, within distinct geographical areas. Why, therefore, are there no specific requirements on local authorities to consult with Gypsy and Traveller communities when assessing needs for sites in their travelling areas?

11:15

[266] **Carl Sargeant:** There will be a duty placed upon local authorities to consult with all Gypsy and Traveller communities, wherever they reside. So, this is on a needs basis for the authority. That is not in place at the moment, but it will be within this Bill structure moving forward. Is that what the Member was trying to articulate?



[267] **Mark Isherwood:** The Bill talks about such persons as it considers appropriate for local authorities to consult with. It does not specify that they must consult with the Gypsy and Traveller communities themselves.

[268] **Mr Davies:** In terms of consulting directly with the Gypsy and Traveller communities, that will be set out in guidance that will accompany the Bill. There will be a strong expectation that they are consulted with, and we believe that it would be considered unreasonable if they were not, due to what is in the legislation about relevant appropriate people.

[269] **Mark Isherwood:** You say there would be an expectation, and you would consider it unreasonable if they do not, but if they did not, what would happen then?

[270] **Carl Sargeant:** That is a really interesting point, because when they do the assessment, the assessment comes to the Minister for testing, and there will be an evidence base, so it would be very difficult for any Minister to agree a process where we are supposed to be consulting with Gypsy and Traveller communities but we have not asked Gypsy and Traveller communities what they think and what their need base is. Therefore it would be refused, and it would be asked for it to be done again. There is a process for that.

[271] **Mark Isherwood:** Okay. How, if at all, will the Bill address the needs of Gypsies and Travellers who do not live in mobile homes?

[272] **Carl Sargeant:** It is the same thing. It is not specific on where Gypsies and Travellers live, because there is a huge array of choice for Gypsy/Traveller accommodation. This is based upon the need of the Gypsy/Traveller community and therefore, regardless of whether they live in a mobile home or in a bricks-and-mortar property in the area, they will be considered as part of the assessment process.

[273] **Mark Isherwood:** Your explanatory memorandum notes that there are no transit sites in Wales. How will the Bill's provisions apply specifically to transit sites?

[274] **Carl Sargeant:** It is non-specific to transit sites or to fixed accommodation. It is about need assessment, and if the need basis is about transit sites, that is what we would expect in the report back from the authority. It could include transit, fixed, both or a mixture. It is not detailed about transit or otherwise—it is about general need.

[275] **Mark Isherwood:** The report that I referred to earlier identified different geographic travelling areas that have their own boundaries, but which do not match county and national boundaries. This is something that we have discussed privately in the past. How will you ensure that the Bill addresses those cross-border issues not only between counties, but between nations—the community in our area, for example, also travels into Cheshire and Merseyside, and so on—so that both the needs assessment and then the planned meeting of those needs meets the reality of the geographical existence of those communities?

[276] **Carl Sargeant:** As the Member appreciates, we are able to legislate within the boundaries of Wales, and therefore that is all that I am able to do in terms of the legislation drafting. However, the Member raises an important point in that this is not about authority boundaries; this is about the need of a community within Wales. I am very comfortable with the discharge of duty from a local authority, providing it has done an effective needs-based assessment of the Gypsy/Traveller community, in agreement with another authority, whether that be over the border in another country, or in a neighbouring authority in Wales. The fact of the matter is that it does not get it away from discharging its duty in terms of the needs-based assessment. If there is a need within its community, then I expect it to deal with that internally, or externally by agreement. There is no loophole for an authority to say, 'A

neighbouring authority can pick up this site for us on the basis that they can do that'. It is not appropriate. There will be a strong needs-based assessment for each local authority, which I will be taking very close scrutiny of once they are submitted.

[277] **Mark Isherwood:** So, they will not be required to collaborate with the neighbouring Welsh authorities to establish that strong needs-based assessment.

[278] **Carl Sargeant:** I think that we are already seeing collaboration to varying degrees across Wales. You cannot do right for doing wrong, sometimes. You tell local authorities to collaborate and they do not want to, but when it suits, it is fine. My view is that, currently, there are 22 local authorities in Wales that will have a duty to deal with a Gypsy/Traveller community, which is actually one of the most vulnerable communities that we have in the UK. It is easy for some authorities not to deal with that issue by saying that somebody else can have that problem. This Bill will address that, because each authority will be expected to do a thorough needs assessment for these Gypsy/Traveller families.

[279] **Mark Isherwood:** Even though that means a set-up must, by definition, cross boundaries, particularly if we are consulting with Gypsy/Traveller communities and they are saying, 'Well, we travel across four different counties'.

[280] **Carl Sargeant:** Absolutely, and that may be the case, but the needs-based assessment will be about each authority and what that is. It is not an excuse not to do something in your own authority. If you wish to discharge the duty following the needs assessment via an enabling authority, by agreement, that is fine, but it will not be an excuse not to do something at all.

[281] **Mark Isherwood:** No, but I do not want it to be an excuse to do the opposite and not necessarily meet their needs because you are only looking at it on a county-wide basis, as you have not been compelled to consult or liaise with your neighbours, despite knowing that your communities are residing for part of the time in the neighbouring area.

[282] **Mr Breeze:** The guidance will spell out what is expected of the assessments, and when assessments are received, that is exactly what we will be looking for. Welsh Ministers will have the ability to reject assessments, require more information for the assessments, or ask for them to be done again, if necessary.

[283] **Carl Sargeant:** Can we be really frank and honest about this, Chair? The reality is that some local authorities will not discharge any duty, because they do not want to, because it is politically sensitive. That is not effective and not acceptable to me in terms of moving forward. There is a duty to Gypsy/Traveller communities across all of Wales and all our communities, and that is what I expect this legislation to do.

[284] **Mark Isherwood:** We want that as well, but we want to ensure that it reflects the actual travelling geography of the communities affected.

[285] **Carl Sargeant:** Go back to your very first question: it always helps if you ask the Gypsy/Traveller community.

[286] **Christine Chapman:** Have you any other questions, Mark?

[287] **Mark Isherwood:** Yes, indeed.

[288] Your Bill does not refer to changing any aspects of the planning system, although many of the problems, as you have just alluded to, relate to planning matters in determining sites. So, do you believe that there may need to be changes to the planning system to facilitate

the delivery of the new sites?

[289] **Carl Sargeant:** I do not think so. We have looked at this carefully, and again, as the Minister for planning, I have given this consideration. The whole issue with this is that it is really politically sensitive, and it is actually about people making choices because they want to, as opposed to the 'can't-do' mentality. We are seeing very few new Gypsy/Traveller community sites being built in Wales, because it is too risky, politically, for individuals. This will place a duty on authorities to test that system, to come back to, and report to, Ministers about what the needs base is, and I expect them then to act in the planning system that they have, in which they can already work and function to do that. If, at some point, through that process, the system fails, where an authority fails to provide either an adequate assessment or an adequate site, it will be the responsibility of a Minister to direct, and that is in the Bill.

[290] **Mark Isherwood:** That leads very directly to the next question. Under what circumstances would Welsh Ministers direct under section 56, where a local authority has identified a need but has not met it?

[291] **Carl Sargeant:** When they do not do the job they are paid to do.

[292] **Mark Isherwood:** My final question in this section is: what financial support will be available from the Welsh Government to support the delivery of new sites? I think that you indicate quite rightly that £1.5 million per annum is currently available for sites in the Welsh Government budget. Your regulatory impact assessment estimates that the cost of a new site is £1.5 million, so that would only technically fund one per annum. You have indicated that a business case is currently being prepared, but could you tell us a little bit more about where you anticipate future funding needs will lie?

[293] **Carl Sargeant:** Money has never been the problem in this issue. We have not had a new site for 16 years. I am more than happy for one site a year to be built at £1.5 million, but we have not seen that interest, because it is too difficult. This, hopefully, in the Bill, will give a legislative pathway by which authorities will have to deal with those tricky issues that some of them have failed to deal with.

[294] **Mark Isherwood:** You have used the word 'must' quite a bit. If you reach the point where you have to exercise section 56, you could get several sites going forward, so what financial assessment do you anticipate will lie ahead?

[295] **Carl Sargeant:** I also accept that there is a process to this. There is an assessment process, and, prior to the legislation, although I said that we have not had any new sites for 16 years, we see that there are two authorities that are currently looking at new provisions, and I am really grateful to them for doing so. They are acting responsibly. It does not come out without the issues that I have alluded to in terms of the political sensitivity around placement, et cetera. That is a fact of life; it is real, and they have to deal with that effectively. I am not concerned about the financial modelling and the processes, because there is a lead-in period, and that can be managed appropriately. When I was responsible for Gypsy and Traveller communities in my old portfolio, I reduced the budget on several occasions, because it just was not spent. Therefore, we believe that it is at an appropriate level. We have increased the grant funding to 100% and still there is no take-up. That would suggest that people are not complying with the duties that they should be carrying out.

[296] **Christine Chapman:** Before we move on, we will have a two-minute break.

*Gohiriwyd y cyfarfod rhwng 11:26 a 11:31.  
The meeting adjourned between 11:26 and 11:31.*

[297] **Christine Chapman:** We will move on now to standards for social housing. I know that Leighton Andrews is leading on this one.

[298] **Leighton Andrews:** Is this section an acknowledgement that the Welsh housing quality standard has not been achieved on time?

[299] **Carl Sargeant:** I gave consideration to not including this section, but this is a fallback position on the basis that authorities may not comply. This gives us a legislative process within which there is statutory duty. I am confident now that the three business plans that were still outstanding have been submitted; we have signed them off and we are confident that they can meet them.

[300] **Leighton Andrews:** You do have other powers that you can use, like withholding the major repairs allowance. Has that ever been done?

[301] **Carl Sargeant:** Not within my tenure. Am I right? What about you, Mr Andrews? *[Laughter.]*

[302] **Leighton Andrews:** I did not do it, but I only had six weeks. *[Laughter.]* Do you not have existing powers under the local government Measure that you could use?

[303] **Carl Sargeant:** There are certainly elements within that Measure that could be enacted, in terms of improvement. Getting the evidence under the Measure is quite onerous; this is a more specific element of direction, in terms of whether they have achieved WHQS or not. That is why we have continued to include that within the Bill, just to give us the assurance that that will happen.

[304] **Christine Chapman:** I know that Peter wants to come in, and then Mike.

[305] **Peter Black:** I have three specific issues on this section. I know that the original target date of 2012 for WHQS was set when I was Deputy Minister for Local Government, so I think that we need to note that. You are now setting another target, seven years ahead, and you are putting it on the face of the Bill. What happens if that target is not met? I know that you are confident that it will be.

[306] **Carl Sargeant:** There are sanctions in terms of that process. Do we have a list of those sanctions?

[307] **Ms Palmer:** Yes. In terms of sanctions, they involve asking why the standard has not been met, taking action within that local authority, appointing advisers and the nuclear option of taking control of the function. So, there is a stepped range of sanctions that could be taken if the local authority is not going to be meeting WHQS. We are looking at authorities' business plans every year, assessing those and working very closely with them, particularly with those local authorities that are due to achieve WHQS later than some of the others.

[308] **Peter Black:** As has just been evidenced by the discussion between former Ministers, we have never gone into those sanctions, because Ministers have used their discretion. Having it on the face of the Bill does leave you rather less discretion, does it not?

[309] **Carl Sargeant:** I have never backed off from using powers when it is appropriate. I think that I am more confident now now that we will meet these standards in time, but just in case there is an inappropriate disagreement on making the WHQS standards in time, this facilitates the opportunity for a Minister, whoever that may be, to take the appropriate actions.

[310] **Peter Black:** Of course, the other thing about the Welsh housing quality standard is

that you have set a standard now that everyone has to meet. Once they have met that standard you may want to set a new standard for them to meet, or to revise that standard. How will that apply given that you have actually put it on the face of the Bill? Will you have to have primary legislation to do that now?

[311] **Carl Sargeant:** I think that it is just the detail under what the WHQS is. The WHQS is a heading title. I am reviewing quality standards currently within my department. I foresee more detailed work in terms of the WHQS and what that might mean for the future, but it will not substantiate change within the Bill; it will just be the detail underneath that.

[312] **Mr Kamalan:** If I may just clarify, it is about setting a standard in relation to the quality of accommodation, and that standard can be revised. There are express powers to do that.

[313] **Peter Black:** You will not need to amend the Act at all.

[314] **Mr Kamalan:** No, there will be no need to amend the Act.

[315] **Peter Black:** Okay. The other thing is—if I can work out how this iPad works—that the Bill does provide for standards to be set in regulations. Is that basically what you are saying? Does that give you that flexibility?

[316] **Mr Kamalan:** Yes.

[317] **Peter Black:** So that flexibility is there. Okay. That is the question that I had; that is fine.

[318] **Christine Chapman:** Do you have any other questions?

[319] **Peter Black:** No.

[320] **Christine Chapman:** Mike, you wanted to come in.

[321] **Mike Hedges:** We talk a lot about the quality of buildings. A number of my constituents move out of the most modernised buildings the council has into older buildings because of the quality of life. We have lots of housing Bills, and we talk a lot about housing, but not about dealing with the quality of life. I will not go back to the decision about ex-prisoners having houses, et cetera, but the issue of quality of life can be quite serious. You do not appear to be legislating on this, probably because it is more difficult. It is easier to legislate that you must have a new kitchen and a bathroom, but you must be able to enjoy the quiet contentment of your home, and that is not something that is in there. Have you considered doing something along those lines? You must have the same sort of constituency problems as I do.

[322] **Carl Sargeant:** The Member is right to raise the issue of the complexities of dealing with communities. As I said earlier to Jenny Rathbone, there are things that we can legislate for and there are things that we cannot. The Bill is just part of a suite of actions that my department is taking to make a better community. This is actually a function of quality in terms of the build of housing. I accept the Member's point absolutely: we must strive to have a better environment, both socially and in the physical build, to create a regenerative, affluent, confident place to live.

[323] **Mr Kamalan:** To address the Member's point on the quiet enjoyment of home, under the common law, a tenant is guaranteed that right to the quiet and peaceful enjoyment of the home. So, there is no need to legislate to place that on the face of the Bill.

[324] **Mike Hedges:** You are legislating on other things that are currently in previous housing Acts, are you not?

[325] **Mr Kamalan:** Yes, but that is a feature under common law, so there is no need to reiterate that on the face of statute. That is a guaranteed right.

[326] **Mike Hedges:** But, you could define it. What you and I would describe as ‘quiet enjoyment’ might be different to what would be described by other people.

[327] **Mr Kamalan:** Yes, well, as I say, it is a matter of common law, so there would be no need to stipulate it.

[328] **Jocelyn Davies:** I have a question on business plans. You are saying that you are confident that the WHQS can be delivered. I just wondered whether that is holding up considering the arrears that are arising because of the bedroom tax.

[329] **Carl Sargeant:** Currently, all the business plans are on target. Again, we have not been sighted on changes to that provision seeking change. It is a snapshot in time, and we will have to—

[330] **Jocelyn Davies:** So, when was that?

[331] **Carl Sargeant:** It is all under assessment continuously.

[332] **Jocelyn Davies:** It is continual, throughout-the-year assessment, and the business plans are holding up, despite the bedroom tax.

[333] **Carl Sargeant:** Yes.

[334] **Christine Chapman:** Do you have any other questions?

[335] **Jocelyn Davies:** No, it was just about the business plans.

[336] **Christine Chapman:** The next section is Part 5, housing finance. Are there any questions from Members on that one?

[337] **Peter Black:** In terms of the cap on borrowing, I think that you said that the total borrowing limit agreed for Wales overall with regard to the housing revenue account subsidy exit is £1.85 billion, which includes existing borrowing and the new debt to fund the buy-out. What is the level of the existing borrowing, as it stands at the moment? How much of that is covered by borrowing that is already in place at the moment?

[338] **Carl Sargeant:** Do we—

[339] **Ms Palmer:** I think that we would have to give you a note on the exact figure. I would not like to quote the exact figure.

[340] **Peter Black:** Presumably, it takes into account money that local authorities already owe in that.

[341] **Ms Palmer:** Yes. It takes into account local authorities’ business plans and what they have anticipated needing to borrow in terms of business plan borrowing for housing.

[342] **Peter Black:** It would be useful to have a note, because I would like to see how much

they have left—

[343] **Jocelyn Davies:** The breakdown of it.

[344] **Peter Black:** Yes, I would like to see how much they have left that they can borrow.

[345] **Carl Sargeant:** I think that there are elements there, Chair, if I may, and I am more than happy to supply details, as much as we can, to committee.

[346] **Christine Chapman:** Could you send that to us, please?

[347] **Carl Sargeant:** There are things that are still under discussion with local authorities as to how their business plans are working out. We have the top figure; it is just the breakdown that we are still working on with some authorities in terms of detail. If I have it, I would be more than happy to share it with you.

[348] **Peter Black:** It would be useful to see that.

[349] **Christine Chapman:** Thank you. Let us now move on to Part 6 on co-operative housing. I know that Leighton Andrews had some questions here.

[350] **Leighton Andrews:** Yes. I would just like to ask why you think that this section is needed.

[351] **Carl Sargeant:** It would be fair to say that we have not seen the growth in co-operative housing in Wales, as opposed to other parts of the UK, that we would have liked to have seen. On discussions with organisations that support co-operative housing, there seems to be an anecdotal and practical process where the lenders need more confidence in the process given to co-operatives. I do not know why it seems to be unique to Wales, but it is certainly the case that some of the lenders are suggesting that there is a process whereby the recovery of assets, subject to non-payments, repossessions, et cetera, gives them the confidence to lend at the beginning. That is why we are looking at the tenancy arrangements within this, to give security to the sector, hopefully to develop more.

[352] **Ms Frith:** If I can help here, it has arisen as a result of a court case. Previously, co-operatives, if they qualified, were exempt from the requirement to comply with assured and assured shorthold tenancies in the Housing Act 1998. It was not very satisfactory, because they then had to draft their own tenancy agreements, and one of them ended up all the way in the Supreme Court and came out with some fairly surprising results, which caused fair consternation among the sector and its lenders. This simply allows them to opt into the system; that is all it does. It is a fix, pending the renting homes Bill, when, hopefully, this will be looked at in some detail. It was done on an opt-in basis because, although we had clear lobbying and evidence of the problem, we did not know the extent of the number of co-ops out there that are not using the system and were reliant on not using the system; there simply is not the evidence. So, this is a temporary fix, pending the renting homes Bill, just to allow them to opt in.

[353] **Mike Hedges:** Would it be possible, somewhere in here, to count co-operative housing against local authority or housing association-type housing? They come under section 106 agreements that rental properties must be made available. Could co-operative housing actually be included alongside council and housing association housing in such a way that would, hopefully, allow it to become available from section 106 agreements?

[354] **Carl Sargeant:** I think that that is a largely technical issue, Chair, and I am more than happy to give that some consideration for the committee. I am not sure that it is a feature

of the Bill, but it is certainly something that I will consider and give you a formal response by letter.

[355] **Ms Frith:** I think that one thing I can say, which might help a little, is that some co-ops do now register as social landlords.

[356] **Mike Hedges:** But not all of them do.

[357] **Ms Frith:** No, they do not; some are very small and just for the benefit of their members.

[358] **Jenny Rathbone:** Do you think that this Bill will actually facilitate the delivery of community land trusts? Obviously, they are often competing for the same piece of land with large-scale private builders. Will this enable them to gain any sort of priority?

[359] **Carl Sargeant:** That is partly the reason that we have introduced it, following the first question from Leighton Andrews; it is about what we can do to make co-operative housing more enabled within Wales. It is definitely something that is challenging in terms of delivery in Wales for some obscure reason, as we said.

11:45

[360] We are trying to explore all options. The legal entities have been explained, but there is also the community land trust element. We have looked at that carefully and asked what more we need to do in terms of that. There are already different forms that CLTs can take advantage of, such as trusts, co-operatives or community benefits. So, we do not see the CLT element of this as being problematic to developing more co-operative housing in Wales. We have taken that into consideration within this process.

[361] **Peter Black:** I am interested in following that up. There have been attempts in the past to set up community land trusts, which have not always been majorly successful. What is going wrong with them that this Bill will put right?

[362] **Carl Sargeant:** Again, we have done quite an intensive piece of work internally looking at the difficulties in development. CLTs played a part in that in looking at whether there were issues regarding the identification of what a CLT is in terms of its legal definition. We do not think that community land trusts have a negative impact on making developments in Wales happen, in co-operative housing or otherwise. So, the small but significant changes to the tenancy agreements, which give confidence to lenders in the process of the market, will help to provide more confidence in the ability to gain more properties.

[363] **Peter Black:** Do you think that that will also facilitate more self-build as a result of that?

[364] **Carl Sargeant:** I cannot see it being an obstruction, but I cannot guarantee that it will give more in terms of self-build.

[365] **Jocelyn Davies:** So, this would make it easier for the co-operative to evict people, therefore the lenders see it as being a lower risk and are more likely to lend. Is that what makes it easier?

[366] **Carl Sargeant:** That is accurate.

[367] **Jocelyn Davies:** Otherwise, why would the Government want to interfere at all in co-operatives and community land trusts? You cannot have your finger in every pie, can you?



[368] **Carl Sargeant:** No; that is right.

[369] **Jocelyn Davies:** However, it is done only where necessary. So, this just facilitates the relationship between that as a legal entity and the lender.

[370] **Carl Sargeant:** Yes, absolutely.

[371] **Christine Chapman:** We have two more sections. I just want to alert Members that the Minister has to leave at dead on 12 p.m., so we need to be as concise as possible. On Part 7, in relation to empty houses, I believe that Mark has a question.

[372] **Mark Isherwood:** With regard to the proposal to allow 150% council tax on properties that have been empty for more than 12 months and are substantially unfurnished, why is any extra revenue raised through the proposal not ring-fenced? Could it be ring-fenced? If not, what are the barriers preventing this from happening?

[373] **Mr Breeze:** It cannot be ring-fenced.

[374] **Mark Isherwood:** Why?

[375] **Mr Breeze:** It is unhypothecated; therefore, we have to encourage local authorities to utilise the money for housing purposes, and we know that a lot of them are thinking that way. We cannot actually force them to do that.

[376] **Mark Isherwood:** Okay; thank you. I just wanted that on the record.

[377] **Carl Sargeant:** I am sure that Peter Black is grateful, too, because I know that he does not like hypothecated grants.

[378] **Peter Black:** I have a question soon.

[379] **Christine Chapman:** Yes, Peter has a question soon, but carry on, Mark.

[380] **Mark Isherwood:** It is a question that is bound to come up, so we needed to get that on the record.

[381] With regard to exemptions, it is often not the house, but the person—the owner—because of personal factors. It could be that they are unwell themselves, it could be a bereaved estate, or it could be that a furnished house has been empty for a long period of time and there might be a good reason why an unfurnished house might not have been occupied for a given period of time, or it could be that somebody simply cannot find a tenant because they are in an area where there is a certain set of economic circumstances or, because of competition and the availability of property, they cannot rent it out. So, do you feel that any exemptions from the charge should be included on the face of the Bill?

[382] **Carl Sargeant:** It is always difficult in terms of listings, once again, in terms of what is an exemption and what is not. That is why we start with the principle that this is a basis of an enabling power for local authorities to make a decision; it will be up to local authorities. We will issue guidance regarding what exemptions there should be, and we will make that very clear. However, ultimately, if a local authority wishes to pursue this, or otherwise, that is a matter for it. I do not think that it is something that we would want to prescribe too hard on the face of the Bill.

[383] **Mark Isherwood:** Okay. The most effective local authorities thus far in bringing

empty homes back in line have been those that have made a concerted and organised effort to identify the owners of the properties and to build individual relationships with them, and used the big stick as a last resort. Why would you not consider a system where this sort of penalty could only be levied on a discretionary basis, where the owner refuses to engage with attempts by the local authority to deliver a better solution and then have a proportionate—and possibly rising—penalty the longer the property has been empty?

[384] **Carl Sargeant:** Again, I am open to the views of this committee, Chair. This is, as I said, an enabling power for local authorities. If the authority chooses not to introduce it, that is a matter for it. If Members wish to have a stepping process in this, then I will give that consideration and, if I then need to amend the Bill, then I am happy to do so.

[385] **Mark Isherwood:** My final question in this session is how will you ensure that local authorities properly differentiate between empty homes and second homes?

[386] **Carl Sargeant:** There are already clear benefits to doing this. You will be aware—as will many Members—that empty homes can be a blight on the community, too. You mentioned the stick approach to getting these empty properties back into the system. There is the Houses into Homes grant that we facilitate through local authorities, which is very successful—there is around £20 million in the system already working. It is not about just saying, ‘You must get your empty property back into the market’, because, ‘Actually, we can help you to do that’. So as I have tried to explain this morning, Chair, this is one piece in a suite of tools that we have in the housing division that we are trying to bring forward.

[387] **Christine Chapman:** Okay. Peter has the next question.

[388] **Peter Black:** As the Minister knows, I favour an escalator approach in terms of service—I will put that on the record. This is a technical question, and I think that you will have to send me a note, because you do not have any local government colleagues with you: as I understand the local government finance system, when the Government determines how much revenue support grant goes to a local authority, it takes into account council tax revenue from the previous year, and, as such, any increase in council tax revenue as a result of a measure like this would be offset against reduced grant, which means that there is not actually any extra money for local authorities to spend. Is that correct? Mike Hedges is probably going to correct me.

[389] **Carl Sargeant:** We can answer that.

[390] **Mr Bryant:** That is correct. When additional tax is raised, there is an offset against the revenue support grant, but, in this case, that is not the intention. There will actually be additional funds for the local authority to invest.

[391] **Peter Black:** So, you are making an exception to the funding. That is great; thank you.

[392] **Jocelyn Davies:** So, anybody will be able to see clearly how much was raised because of this policy being exercised. So, you could make local authorities accountable for how they spend that money, even if you do not hypothecate it.

[393] **Carl Sargeant:** We can do a reporting process where we would encourage them to record exactly how much that is, as the Member suggests. We cannot hypothecate it, but it will certainly be able to be identified along with what it can be used for.

[394] **Jocelyn Davies:** It is going to have to be identified separately for the purpose of excluding it from—

[395] **Carl Sargeant:** Absolutely.

[396] **Christine Chapman:** Mike is next.

[397] **Mike Hedges:** I have two points. I would like to agree with Peter Black, as I also think that an escalator is a good idea. If someone has a band A property, it is not going to cost them a great deal more to keep it empty than it is costing them now. However, an escalator would put some pressure on. My second point is that the total rate support grant is not going to be changed; even if it were included, it would only move the money around.

[398] We talked about second homes a moment ago, so have you considered second homes? In many areas—I am sure that if someone from Gwynedd were here now they would be saying this—second homes are a blight, especially on villages, in the same way that empty homes are.

[399] **Carl Sargeant:** I have consulted on that and I am considering the responses from that consultation, but it is not currently within the Bill, as the Member is aware.

[400] **Christine Chapman:** Thank you. We have five minutes left. The last section of questions is on Part 8, 'Miscellaneous and General'. Mark, did you have a question on that?

[401] **Mark Isherwood:** I think that we know the answer, but, in terms of Peter's Act—as it now is—why are amendments being made to the Mobile Homes (Wales) Act 2013 so soon after legislation was passed by the Assembly? What will be the purpose of these amendments?

[402] **Carl Sargeant:** I am reliably informed that they are minor and technical amendments, but I will ask my team to explore the finer detail for you, if that is helpful.

[403] **Mr Breeze:** Yes, these are minor amendments. Some of them are a tidying-up of clauses and grammatical issues. This is a new sort of vehicle simply to put forward the changes.

[404] **Christine Chapman:** Are there any other comments?

[405] **Carl Sargeant:** Yes, but only to say that I had a conversation with the Member in charge of the Act to ensure that he was comfortable that this is purely a vehicle for this legislative process to take place.

[406] **Jocelyn Davies:** This is normal.

[407] **Christine Chapman:** Okay. I do not think that there are any other questions. I thank the Minister and his officials for today's evidence. Minister, you will be sent a transcript of the meeting, which you can check for factual accuracy. The next meeting of this committee is on 15 January, when we will continue to take evidence on the Housing (Wales) Bill. Before I close the meeting, I want to wish everyone formally a very good Christmas and new year. I also ask Members to stay behind for five minutes after we close the meeting so that we can discuss the Minister's evidence very quickly. Thank you.

*Daeth y cyfarfod i ben am 11:56.  
The meeting ended at 11:56.*

