

National Assembly for Wales
Finance Committee

Report on the Financial Obligations
of the Proposed Housing (Wales) Measure

January 2011



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Finance Committee

The Finance Committee's remit is to ensure that proper scrutiny is given to the budget and expenditure of the Welsh Government, the Assembly Commission, the Ombudsman, the Children's Commissioner, the Older People's Commissioner and various Welsh Government Sponsored Bodies and NHS Bodies.

The Committee has, in broad terms, three main functions:

- to consider and report on Assembly budget proposals;
- to consider and, where it sees fit, report on the financial information presented in support of Assembly Measures;
- to consider any other matter relating to, or affecting, expenditure by the Government or out of the Welsh Consolidated Fund.

Powers

The Committee was established on 26 June 2007. Its powers are set out in the National Assembly for Wales's Standing Order 14. These are available at www.assemblywales.org

Committee Membership



Angela Burns (Chair)
Carmarthen West and South
Pembrokeshire
Welsh Conservative Party



Lorraine Barrett
Cardiff and South Penarth
Labour



Peter Black
South Wales West
Welsh Liberal Democrats



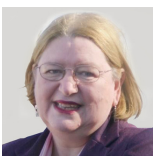
Andrew Davies
Swansea West
Labour



Chris Franks
South Wales Central
Plaid Cymru



Brian Gibbons
Aberavon
Labour



Ann Jones
Vale of Clwyd
Labour



Nick Ramsay
Monmouth
Welsh Conservative
Party



Janet Ryder
North Wales
Plaid Cymru

The following Member attended meetings of the Finance Committee as a substitute during the period of this report:



Alun Davies
Mid and West Wales
Labour

Report on Proposed Housing (Wales) Measure

Extracts from Standing Orders:

14.2 The [Finance] Committee may also consider and, where it sees fit, report on:

- i. financial information in explanatory memoranda accompanying proposed Assembly Measures;*

.....

23.18 At the same time as [the Member in charge] introduces a proposed Measure, he or she must also lay an Explanatory Memorandum which must:

(vi) set out the best estimates of:

- (a) any administrative, compliance and other costs to which the provisions of the proposed Measure would give rise;*
- (b) the timescales over which such costs would be expected to arise; and*
- (c) where the costs would fall;*

Introduction

1. The Finance Committee considered the Proposed Housing (Wales) Measure the accompanying Explanatory Memorandum at its meeting on 6 December 2010 and took evidence from

- Jocelyn Davies AM, Deputy Minister for Housing and Regeneration
- Ceri Breeze, Welsh Assembly Government

2. The Finance Committee also had regard to the evidence submitted to Legislation Committee 2 in its online consultation which had included a specific question relating to the financial considerations of the proposed Measure: *What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Section 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.*

3. Following the meeting on 6 December the Finance Committee wrote to the Deputy Minister for Housing and Regeneration seeking further information. The Deputy Minister replied on 15 December 2010.

Background

4. The Explanatory Memorandum says¹ that the proposed Measure makes provision to support the more effective delivery of affordable Housing in Wales. In particular it will:

- take forward the commitment made in the *One Wales* coalition document enabling the Welsh Ministers, on application from a Local Housing Authority, to suspend temporarily the Right to Buy, the Preserved Right to Buy and the Right to Acquire held by tenants of a social housing provider in Wales, in areas of housing pressure; and
- provide Welsh Ministers with enhanced regulatory and intervention powers concerning the provision of housing by Registered Social Landlords.

Costs associated with the proposed Measure

Part 1: Suspension of the Right to Buy and Related Rights

5. Part 1 of the proposed Measure deals with the suspension of the Right to Buy and related rights. The Explanatory Memorandum states² that one of the difficulties in estimating the impact of the three options in the Regulatory Impact Assessment is the uncertainty in relation to the volume of Right to Buy /Right to Acquire sales. In addition there is uncertainty associated with the suspension of Right to Buy/Right to Acquire in pressured areas which will be based on an assessment of local housing market conditions and demand for social housing. The Explanatory Memorandum goes on to say³ that it is not possible to provide precise costs and benefits for each option.

6. The Explanatory Memorandum does give the following information on costs:

¹ Proposed Housing (Wales) Measure, Explanatory Memorandum, para 1.1 – 1.3

² Proposed Housing (Wales) Measure, Explanatory Memorandum, para 7.6

³ Proposed Housing (Wales) Measure, Explanatory Memorandum, para 7.7

- Local Housing Authorities will incur administrative costs in preparing and submitting an application to suspend the Right to Buy. **No cost estimates are provided** as “the administrative cost will depend on the size and type of each individual application”. The Explanatory Memorandum states however that suspending the Right to Buy “would result in savings in the costs of administrating the schemes for the Local Housing Authority and Registered Social Landlords in the area(s) which should offset the administrative costs of application”. **No cost estimates of these savings are provided.**
- The submission of applications for a direction to suspend the Right to Buy from Local Housing Authorities will result in some additional administrative work for the Housing Directorate of the Welsh Government. The cost of administrating each application is estimated at **£5,000** which would be met from the Housing Directorate’s existing budget. **A breakdown of this figure and details of which budget these costs will come from has not been provided. In addition, an estimate of the likely number of applications submitted by Local Housing Authorities has not been included.**
- The suspension of the Right to Buy will mean that Local Housing Authorities will not benefit from the sales income, but will continue to accrue rental income. **No cost estimates on the likely financial impact of this provision on social housing providers has been included.**
- The suspension of the Right to Buy may also result in financial pressure on Local Housing Authorities to meet and maintain the Welsh Housing Quality Standard (“WHQS”) over the short term. Social housing providers are expected however to gain net income from retaining their housing stock. **No cost estimates of the financial impact of this provision on Local Housing Authorities have been included.**

Part 2: Registered Social Landlords

7. Part 2 of the proposed Measure would provide Welsh Ministers with enhanced regulatory and intervention powers as part of the new regulatory framework for Registered Social Landlords. The Explanatory Memorandum says⁴ that this would not lead to any additional costs for Registered Social

⁴ Proposed Housing (Wales) Measure, Explanatory Memorandum, para 10.3

Landlords, an increase in the regulatory role of the Welsh Ministers would however result in a rise in regulation costs. IN a subsequent letter to the Finance Committee the Deputy Minister said that the Measure would also enable Welsh Ministers to impose civil penalties of up to £5,000. With regard to criminal offences, the Housing Act 1996 already makes provisions for offences which may be the subject of prosecution and maximum fines vary up to £5,000.

8. The RIA estimates that:

- The costs for the Welsh Government of developing and implementing the new regulatory framework would be provided for within the running costs of the Welsh Government's Housing Directorate's Regulation Unit. The Housing Directorate's Regulation Unit budget for 2010-2011 is **£695,000**. This figure includes staffing costs of **£514,000** for 9.5 equivalent full time posts. The remaining **£181,000** forms the programme budget, which includes the set up costs of the new framework and includes the costs associated with using the powers specified. **No cost estimates of the Housing Directorate's Regulation Unit budget for subsequent financial years have been provided. This is especially pertinent given that the new powers in the Measure will not be available until the 2011-2012 financial year.**
- The cost of an inspection made under Sections 43-48 of the proposed Measure would be **£5,000 - £7,000. No breakdown of this cost and no estimate of the likely number of inspections per year has been provided.**
- The cost of securing a replacement manager for a Registered Social Landlord following the appointment of an interim manager, under section 83 of the proposed Measure, would be **£10,000** with the full cost of employing the interim manager falling to the Registered Social Landlord. **No breakdown of this cost and no estimate of how often the payment of such a cost would be necessary is provided.** In addition, **the RIA does not specify which Welsh Government department would bear the cost of securing a replacement manager.**

Potential costs not included in the Explanatory Memorandum

9. No cost estimates for the following provisions within the proposed Measure have been included in the Explanatory Memorandum for the following possible costs.

- The Explanatory Memorandum states⁵ that “the provisions in the Measure would not provide any additional costs to Registered Social Landlords unless the Welsh Ministers choose to make use of an intervention and enforcement provision”. No additional estimates of the cost implications for Registered Social Landlords in the event of intervention and enforcement by Welsh Ministers has been provided.
- Additional intervention powers provided to Welsh Ministers under Part 2 of the proposed Measure include the ability to accept a voluntary undertaking (Section 41), the power to issue an enforcement notice (Section 52), the power to impose a financial penalty (Sections 57 – 63), the power to require a Registered Social Landlord to pay compensation to specified individuals or groups (Sections 64 – 71), the ability to require a Registered Social Landlord to put its management functions out to tender (Sections 72 – 73), the ability to require a Registered Social Landlord to transfer management functions to a specified person (Section 74 – 75), the ability to appoint, or require a Registered Social Landlord to appoint an individual as manager of the Registered Social Landlord (Section 76 – 77), the ability to provide for the amalgamation of a Registered Social Landlord with another Registered Social Landlord (Section 78), and the ability to restrict certain dealings of a Registered Social Landlord during an inquiry (Section 79 – 80). No detailed cost estimates are provided in the RIA for the financial impact of the above provisions on the Welsh Government. None of these powers are subject to procedural control by the Assembly.

Discussion

10. The Finance Committee found it very difficult to make an informed assessment of the financial impact of this proposed Measure because of the lack of financial information contained within the EM.

11. In her oral evidence⁶ to the Finance Committee the Deputy Minister said that they already had the regulatory regime and so that was already a cost and she did not see the proposed Measure incurring additional cost. She added that it was the result of collaborative work.

⁵ Proposed Housing (Wales) Measure, Explanatory Memorandum, para 10.27

⁶ RoP p9, 6 December 2010, Finance Committee

12. In relation to right to buy the Deputy Minister said⁷ that they saw no extra costs in addition to the running of the directorate as it is. She said in particular that there are no extra costs for the Welsh Government.

13. Members asked⁸ about the impact the legislation would have on the housing market and the Deputy Minister said⁹ that she did not think it would have a radical or marked effect. Members asked¹⁰ about references in the Explanatory Memorandum to suspending the right to buy process resulting in new social housing completions. The Deputy Minister said¹¹ that this would be a consequence of the requirement that, in order to achieve a suspension of the right to buy, a local authority would have to identify the action it would take to increase the supply of social housing in the area.

14. Members were concerned about a number of financial aspects relating to this. First, the suspension of the right to buy would¹² ensure that landlords had an income stream for a number of years – but would also have to pay property maintenance and management costs. Conversely, these are reversed when a property is sold.

15. Suspension of the right to buy would also result in a loss of property sales, and loss of income, to social landlords. The Deputy Minister said¹³ that the number of sales had been very low in recent years and it was impossible to forecast for future years because of factors outside the Government's control such as the availability of mortgages. There were also uncertainties in relation to the cost to social providers of meeting the Welsh Housing Quality Standard.

16. In relation to local authorities, Members noted¹⁴ the New Understanding with Local Authorities agreement that no additional responsibilities would be placed on local authorities without the funding implications being worked through by both parties. Responding to this the Deputy Minister said that the costs of making an application would be offset by there not being a requirement to administer right to buy applications. The Deputy Minister also said¹⁵ that local authorities would incur costs consulting those affected by an

⁷ RoP p11, 6 December 2010, Finance Committee

⁸ RoP p15, 6 December 2010, Finance Committee

⁹ RoP p16, 6 December 2010, Finance Committee

¹⁰ RoP p19, 6 December 2010, Finance Committee

¹¹ RoP p28, 6 December 2010, Finance Committee

¹² RoP p35, 6 December 2010, Finance Committee

¹³ RoP p152, 6 December 2010, Finance Committee

¹⁴ RoP p77, 6 December 2010, Finance Committee

¹⁵ RoP p78, 6 December 2010, Finance Committee

application. But she did not think that significant extra costs would arise from the administration, however,¹⁶ this cost had not been quantified. Officials also confirmed¹⁷ that they could not quantify the cost of administering a right to buy application.

17. Members asked¹⁸ about the financial implications of Ministers using their powers to intervene in various circumstances. The Deputy Minister said¹⁹ that she hoped Ministers would never have to use these because it would show there had been a failure to spot something early enough. Members noted²⁰ that in recent years there had been a number of unexpected occurrences in the financial market and felt there was a need to have some estimate of what the likely costs might be and from where they would be funded. Responding the Deputy Minister said²¹ that the regulatory regime is accounted for out of her budget. She did not think there was anything that could not be dealt with from within the budget as it stands.

18. Members asked²² about the costs that might be incurred if a Registered Social Landlord were to get into difficulties. The Deputy Minister said²³ that the changes to the regulatory regime gave the Government a better oversight of all Registered Social Landlords and the “current regime makes that virtually impossible”. While members accepted²⁴ that the likelihood might be small, they wondered if a risk assessment had been undertaken. Officials said that they had not done a precise assessment but agreed that the cost could be considerable.

Conclusion

19. The Explanatory Memorandum to this proposed Measure provides very little information on the costs that would result from its implementation. While the Finance Committee accepts that some aspects of the proposed Measure are difficult to quantify, the evidence suggests that the main focus has been on whether the work associated with the proposed Measure can be accommodated within existing budgets.

¹⁶ RoP p106, 6 December 2010, Finance Committee

¹⁷ RoP p123, 6 December 2010, Finance Committee

¹⁸ RoP p153, 6 December 2010, Finance Committee

¹⁹ RoP p154, 6 December 2010, Finance Committee

²⁰ RoP p155, 6 December 2010, Finance Committee

²¹ RoP p156, 6 December 2010, Finance Committee

²² RoP p171, 6 December 2010, Finance Committee

²³ RoP p172, 6 December 2010, Finance Committee

²⁴ RoP p173, 6 December 2010, Finance Committee

20. Clearly the availability of resources is an important factor in considering legislation but it should not be the only one. An incomplete assessment of the costs associated with the Measure means that the Assembly is being asked to approve legislation without being able to consider its full implications. Equally, it means there is a serious risk that further resources will be required to meet unexpected consequences arising from it.

21. A further consideration is that the lack of a full financial assessment means it is not possible to undertake a full examination of the 'value' that the policy will deliver from the money which, at the current time of severe financial constraint, seems a serious omission.

22. Given the lack of financial information the Finance Committee finds it difficult to make much further comment on this proposed Measure.

Angela Burns
Chair, Finance Committee