



Llywodraeth Cymru  
Welsh Government

# **HOUSING (WALES) BILL**

Explanatory Memorandum  
incorporating the Regulatory Impact  
Assessment and Explanatory Notes

November 2013



# **HOUSING (WALES) BILL**

## **Explanatory Memorandum to the Housing (Wales) Bill**

This Explanatory Memorandum has been prepared by the Department for Sustainable Futures of the Welsh Government and is laid before the National Assembly for Wales.

### **Member's Declaration**

In my view, the provisions of the Housing (Wales) Bill introduced by me on 18 November 2013 would be within the legislative competence of the National Assembly for Wales.

### **Carl Sargeant AM**

Minister for Housing and Regeneration  
Assembly Member in charge of the Bill

November 2013



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## **PART 1**

### **Section 1: Description**

- 1.1 The Housing (Wales) Bill (“the Bill”) is a coherent set of proposals that will contribute to the Welsh Government’s three strategic priorities for housing: more homes, better homes, and better services. In broad terms, it will help to ensure that people have access to a decent, affordable home and that people at risk of becoming homeless receive the help they need.
- 1.2 The Bill will modernise the private rented sector and it will place a greater emphasis on action to prevent people from becoming homeless. It will also provide local authorities with the power to introduce, should they wish to do so, an increased rate of council tax as another means of tackling the problem of empty homes and the impact on local housing supply in some areas. A duty will be placed on local authorities to provide sites for Gypsy and Traveller communities in response to identified need and the Bill will assist the expansion of co-operative housing by improving arrangements for people who wish to join or leave a co-operative. It will set standards for local authority rents, services charges and quality of accommodation and support the achievement of the Welsh Housing Quality Standard. Finally, it will abolish the Housing Revenue Account Subsidy system, enabling local authorities to become self financing.

## Section 2: Legislative background

- 2.1 The National Assembly for Wales (“the Assembly”) has the legislative competence to make provision for, and in connection with, housing by virtue of Part 4 of the Government of Wales Act 2006 (“the Act”). The relevant provisions of the Act are set out in section 108 and Schedule 7. Paragraph 5 of Part 1 of Schedule 7 sets out the following subjects on which the Assembly may legislate under the heading ‘Housing’,

“Housing and housing finance except schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits. Encouragement of home energy efficiency and conservation, otherwise than by prohibition or regulation. Regulation of rent. Homelessness. Residential caravans and mobile homes.”

- 2.2 The Assembly also has legislative competence to make provisions concerning Local Government by virtue of paragraph 12 of Part 1 of Schedule 7, which specifies the following subjects

“Constitution, structure and areas of local authorities. Electoral arrangements for local authorities. Powers and duties of local authorities and their members and officers. Local government finance.”

- 2.3 The above subjects provide the National Assembly with the competence to make the provisions contained in the Housing (Wales) Bill.



## **Section 3: Purpose and intended effect of the legislation**

### **Context**

- 3.1 The challenges for people in finding and keeping a home and for the organisations that help them are well documented<sup>1,2,3</sup>. The benefits of having an affordable home in good condition extend well beyond the roof over one's head. A suitable home is key to good health and wellbeing. It represents the best possible start in life for children, and the foundation for strong, safe and fair communities. It is fundamental to the Welsh Government's goals of reducing poverty and the inequalities within some of our communities.
- 3.2 The Government's priorities are clear: more homes and more choice, better quality homes, and better housing-related services. The latter has a strong emphasis on helping people to live independently in their own home for as long as possible.

### **Housing need**

- 3.3 There are an estimated 1.34 million homes in Wales of which around 70 percent are owner-occupied. The remainder are split between homes rented from local authorities or housing associations (16 percent) and homes rented from private landlords (14 percent). The private rented sector is an increasingly important part of housing provision.
- 3.4 Research<sup>4</sup> has estimated the need for approximately 14,000 homes per year, of which 9,200 are new market homes (defined as homes for owner-occupation or private rented homes) and 5,100 non-market homes. The latter includes homes provided by local authorities and housing associations, and private rented properties subsidised by Housing Benefit. While in recent years the rate of household formation, which underpins the estimates, may have slowed due to economic and other factors, the overall need for housing remains high. The supply of new homes is lagging well behind the demand.
- 3.5 New homes are important but so too are existing properties. There are 22,000 long-term empty homes. Some are not in a fit condition but most can be brought up to a decent standard.
- 3.6 The age of housing stock means that many existing homes need improvement. The Welsh Housing Quality Standard has led to significant improvements to social housing, bringing with it benefits for people's health and quality of life but there is more to do.
- 3.7 Housing markets are depressed and new house building is at a low point. More affordable homes are being built but numbers have fallen as the impacts of public sector cuts are felt. The underlying trend on homelessness is upwards as the cost of living rises and as the effects of job losses are felt.

## Outcomes

3.8 The Housing (Wales) Bill comprises several interrelated elements. Together and separately they respond to the challenges described above. Broadly speaking, the Bill will help to ensure that:

- (i) People have access to a decent, affordable, home.
- (ii) People at risk of becoming homeless receive the help they need

## The Housing (Wales) Bill

3.9 The specific elements of the Bill are:

- (i) Private rented housing
- (ii) Homelessness
- (iii) Gypsy and Traveller Sites
- (iv) Local Authority Standards: Welsh Housing Quality Standard
- (v) Local Authority Standards: Rents and service charges
- (vi) The Housing Revenue Account Subsidy system
- (vii) Co-operative Housing
- (viii) Council Tax on empty homes

3.10 The components of the Bill contribute to the desired outcomes in slightly different ways and to different extents. The broad relationship between the legislation and outcomes is set out below.

**Table 1: Broad links between the Housing (Wales) Bill and outcomes**

Housing Bill: Key elements	Outcomes	
	Access to a decent, affordable, home	People at risk of becoming homeless receive the help they need
Private rented housing	√√√	√√
Homelessness	√√	√√√
Gypsy and Traveller sites	√√	√
Local authority standards: Welsh Housing Quality Standard	√√√	√√
Local authority standards: Rents and service charges	√√	√
The Housing Revenue Account Subsidy system	√√√	√√
Co-operative Housing	√√√	√
Council tax on long-term empty homes	√√	√

Key: √√√ - Relatively major contribution; √√ - Reasonable contribution; √ - Relatively minor contribution

3.11 The following pages describe the purpose and intended effect of each of the Bill's component parts. Each element includes the broad background to the

proposals, the current position, the purpose of the legislation and the intended effect.

## **Private rented housing**

### **Background**

- 3.12 Private rented housing is becoming increasingly important. A strong private rented sector is an essential part of a well functioning housing market. It plays a critical role in supporting economic mobility, providing flexibility and choice to those who choose not to enter into home ownership and providing housing to many of the most vulnerable in society. The financial downturn has amplified its importance to the housing market of the future, both in providing homes for younger people, and in contributing towards an increase in the supply of homes.
- 3.13 The private rented sector has been the subject of considerable research. For example, a major review of the private rented sector in England in 2008, the “Rugg Review<sup>5</sup>”, identified measures needed to improve the sector.
- 3.14 In October 2010, the National Assembly for Wales’ Communities and Culture Committee undertook an inquiry into standards in the sector. The Committee published its report in February 2011<sup>6</sup>. It highlighted areas where improvements were needed in order to deliver better housing and better management standards. The Committee welcomed the Welsh Government’s commitment to tackle the problems that had been identified and recommended that the Welsh Government explore the possibility of a national, mandatory registration and licensing scheme to regulate private landlords, letting and management agents. This idea, which is a significant development, is in the Bill.

### **Current position**

- 3.15 The current scheme, Landlord Accreditation Wales, is a voluntary accreditation scheme for private rented sector landlords. It is run by Cardiff County Council on behalf of the 22 local authorities in Wales. All local authorities currently support the scheme, which has built its membership to around 2,000 landlords as accredited members.
- 3.16 Specific parts of the private rented sector are currently regulated through powers contained within the Housing Act 2004 and its accompanying Statutory Instruments. Two elements are particularly relevant:
- (i) The Housing Health and Safety Rating System.
  - (ii) Licensing of Houses in Multiple Occupation.
- 3.17 The quality and suitability of accommodation in the private sector is governed by the Housing, Health and Safety Rating, which applies to all residential

accommodation irrespective of tenure. Assessments are made based on risk to occupants who are the most vulnerable to a hazard, particularly the very old and the very young. Risks are divided into two categories. Where a hazard is classified as a Category 1, the authority has a statutory duty to take appropriate enforcement action. If a hazard is assessed as Category 2, the authority has discretion on enforcement action.

- 3.18 Houses in multiple occupation are subject to licensing, the purpose being to improve standards of management and property condition in this sector of the housing market. It is mandatory for local authorities to licence larger, higher-risk houses in multiple occupation of three storeys or more. Local authorities have discretion to extend licensing to smaller properties in order to address problems e.g. two storey properties occupied by four or more persons. Certain types of buildings are exempt from licensing; student halls of residence for example.
- 3.19 Local authorities can also introduce selective licensing schemes for other residential accommodation providing certain criteria are met. In England, selective licensing focuses principally on areas of low demand where there is evidence of market collapse. This has not been a particular issue in Wales where problems in the private rented sector are different. Problems in Wales are generally concentrated in deprived areas where renovation is taking place or where local authorities receive high levels of complaints about landlords. The problems often manifest themselves in anti-social behaviour.
- 3.20 The above are important mechanisms to address specific housing issues. However, they cannot, achieve the improvements that are needed in the overall conditions and practices in the private rented sector.

## **Purpose of the legislation**

- 3.21 The legislation will require private landlords and agents that manage privately owned properties for rent to register and to become licensed with the local authority in the area the property is located. Each local authority will be required to regulate private landlords and agents but in the interests of effectiveness and efficiency, local authorities will collaborate to establish and administer the Scheme on a national basis. Cardiff City Council, which has operated the voluntary accreditation scheme successfully on behalf of all local authorities, has agreed to do this for the new Scheme.
- 3.22 Individual local authorities will be responsible for any necessary enforcement action against a non-compliant landlord or agent. It is likely that the scheme will administer such enforcement action on behalf of a local authority.
- 3.23 The Scheme will be based on the existing “Landlord Accreditation Wales” scheme. Discussions with stakeholders have identified considerable merit, particularly for continuity and consistency across areas, in building on the existing arrangements. There will be a duty on local authorities to work collaboratively in order to be able to appoint a single local authority to lead on administering the Scheme.

- 3.24 A core element of the new Scheme will be to establish a comprehensive online database of all private landlords and letting/management agents that operate in the private rented market. This will allow existing and prospective tenants to check whether a property and/or landlord or agent are registered and/or licensed on the Scheme. Full details of a landlord's complete portfolio will not be publicly available. Landlord Accreditation Wales currently have a database of all of their accredited members, and this will form the basis of the online database.
- 3.25 After a private landlord or agent has registered, the process of becoming licensed will commence. This will require accreditation, which is obtained after successfully completing approved training provision. For agents registered on the Scheme, the process to become licensed will involve becoming a member of an approved body and ensuring that at least two-thirds of staff who are directly involved in the lettings and management of residential properties achieve the accreditation.
- 3.26 The Scheme will operate its own training and development provision, which will be suitable for private landlords, but landlords can choose to attend approved training courses delivered by other bodies. Local authorities will also be able to "approve" training courses and training providers that meet the minimum standards required to obtain a licence. There are indications that a number of bodies will wish to become approved training providers for the Scheme including the Residential Landlord Association, National Landlord Association, Association of Residential Letting Agents and the Association of Letting and Management Agents. There may be a fee payable by "Approved Training Providers" to cover the costs of ensuring the service they provide meets the minimum standards of the Scheme.

### **Intended effect**

- 3.27 The legislation will result in:
- (i) Improved standards in the private rented sector.
  - (ii) More information available on landlords for local authorities and tenants.
  - (iii) Raised awareness by landlords and tenants of their respective rights and responsibilities.

## **Homelessness**

### **Background**

- 3.28 Preventing people from becoming homeless has been a significant feature of the Welsh Government's housing policy. The number of households accepted as unintentionally homeless and in priority need increased during 2010-11

and 2011-12. However, the 5,795 households accepted as homeless during 2012-13 was down by 11 percent compared with the previous year. We believe this is due to an increased emphasis by local authorities on prevention. Whilst acceptances decreased in 2012-13 the number of applications rose by 3 percent suggesting that more people are seeking help. This figure is likely to increase over the coming years due to the impact of welfare reform, tighter public sector budgets, job losses, the rising cost of living and the economic outlook.

- 3.29 The Welsh Government's Ten Year Homelessness Plan<sup>7</sup> sets out its long-term approach. When developed, it identified the need to take stock of current homelessness legislation in order to ensure people get the help they need to avoid becoming homeless in the first place. The rationale for change, which was set out in the Housing White Paper, was grounded in evidence from commissioned research<sup>8,9</sup>. This examined in detail the effectiveness of current legislation and involved stakeholders and the users of homelessness services. It put forward options to improve legislation.
- 3.30 The study highlighted the need for change in several key areas. It identified the need to place an even greater emphasis on prevention and to break the link between homelessness and social housing by allowing local authorities the option of providing private rented accommodation instead. The need to broaden the provision of assistance was also identified. This includes the need for more assistance for those applicants who are found to be in priority need but intentionally homeless and also to those who are unintentionally homeless but not in one of the current priority need groups. Finally, the study highlighted the need for greater co-operation between organisations. For example, the need for local authorities to have more help from registered social landlords and Local Health Boards to help them to discharge their duties.
- 3.31 Other factors, such as the economic climate, the rising costs of living, welfare reform and shortage of housing supply, mean that homelessness legislation must not only be fit for purpose but must be as effective as possible. This is vital given that such factors are expected to result in an increase in the number of people at risk of becoming homeless.

## **Current position**

- 3.32 Current legislation on homelessness is set out in Part 7 of the Housing Act 1996, which applies to England and Wales. It has been subject to numerous amendments, notably the Homelessness Act 2002. Various items of subordinate legislation also apply.
- 3.33 The Housing Act 1996 places duties on local authorities to assist people who are homeless or threatened with homelessness and who apply to them for help. A person who is "threatened with homelessness" is defined as someone who is likely to become homeless within 28 days.

- 3.34 The duty only applies to applicants who are “eligible”, which refers to an individual’s immigration status. Applicants who are subject to immigration control are not “eligible” for assistance under the 1996 Act, but they are assisted under a separate set of rules, which are not relevant here.
- 3.35 A series of tests are used to determine the help that a person should receive from a local authority. Applicants deemed to be eligible and homeless, or threatened with homelessness, are then assessed on whether or not they fall into a priority need category. The current “priority need” categories include, for example, families with children, a woman who is pregnant, care-leavers, young persons aged 16-17, people leaving the armed forces, people leaving prison, and people escaping domestic abuse.
- 3.36 A person who is not considered to be “in priority need” is entitled only to advice and assistance. In practice, this is often limited to the provision of information leaflets and signposting to other agencies. Local authorities are permitted to help meet the housing accommodation needs for those applicants, but in practice do so inconsistently and, in many cases, inadequately.
- 3.37 Where an applicant is considered to be “in priority need” a local authority will then consider whether they have become homeless intentionally. A person becomes homeless, or threatened with homelessness, intentionally if they deliberately do or fail to do anything in consequence of which they cease to occupy accommodation which is available for them to occupy and which it would have been reasonable for them to continue to occupy. This may occur for instance where someone is evicted for rent arrears when they had the means to pay.
- 3.38 Under current law, applicants found to be in priority need but intentionally homeless are owed a limited duty. This provides accommodation for a short period whilst they secure their own accommodation.
- 3.39 Where an applicant is found to be in priority need and unintentionally homeless the local authority may choose to consider where they have a local connection. If they are deemed to have no local connection with the authority to which they have applied, they can be referred to another local authority where they have a local connection. A local authority is not obliged to refer an applicant elsewhere in accordance with this ‘local connection’ procedure, but in reality, many choose to exercise their discretion to do so.
- 3.40 The current legislation also requires registered social landlords or “housing associations” as they are more commonly known, to provide reasonable co-operation to local authorities in the discharge of their homelessness duties.

## **Purpose of legislation**

- 3.41 The legislation is designed to do more to tackle homelessness and thus prevent the considerable negative effects it can have on people’s lives. It will:

- (i) Ensure an even greater emphasis on preventing homelessness in the first place by strengthening the role of prevention in the duties local authorities owe to people threatened with homelessness.
- (ii) Achieve a more consistent application of homelessness legislation so that people in all areas receive a consistently good level of support and assistance.
- (iii) Extend the help available to people by improving services for those who are not in priority need and those who are found to be intentionally homeless.
- (iv) Improve the ability of local authorities to offer secure accommodation through the private rented sector by reforming the way local authorities can discharge their duties to people to whom they owe a full re-housing duty because they are in priority need and intentionally homeless.
- (v) Improve co-operation between organisations by strengthening the duty on Registered Social Landlords, or “housing associations” as they are more commonly known, to cooperate with local authorities in the discharge of their homelessness duties.
- (vi) Provide greater protection for children in households who are found to have caused their own homelessness.
- (vii) Redress the balance of priority need status for vulnerable applicants by amending the priority need status of former prisoners.

3.42 The concepts of prevention and relieving homelessness will be adopted in order to describe the duty that local authorities will be required to exercise in respect of all applicants who are eligible and homeless or threatened with homelessness. At the centre of these proposals is the intention to ensure that local authorities will owe these applicants a duty to take reasonable steps to prevent or relieve their homelessness.

3.43 The duty to prevent homelessness can commence up to 56 days before the applicant is likely to become homeless.

3.44 If the duty to prevent homelessness is unsuccessful or the applicant approaches the local authority already homeless then the local authority will have a duty, for up to 56 days, to take reasonable steps to relieve their homelessness, such as helping them to obtain an affordable tenancy in the private rented sector.

3.45 The duties to prevent and relieve homelessness will substantially extend the entitlement of many applicants who under current legislation would only be entitled to advice and assistance.



- 3.46 For those applicants who are in priority need and unintentionally homeless and where action to relieve homelessness is unsuccessful, the local authority will have a duty to secure accommodation. For those applicants, there will no longer be a presumption that they will be offered a secure tenancy or an assured tenancy in a house owned by a local authority or housing association. Local authorities will retain their power to offer social housing to applicants, but will also be permitted to discharge their statutory duty by offering them a six month assured shorthold tenancy in the private rented sector.
- 3.47 The obligation that a registered social landlord has to cooperate with the local authority to help it to discharge its homelessness duties by preventing homelessness in the first place as well as the provision of accommodation for people who become homeless will be strengthened. In addition, existing legislation will be used to strengthen co-operation between local authorities and local health boards to prevent and manage homelessness.
- 3.48 From 2019 onwards, local authorities will be expected to secure accommodation for households containing children where they have been found “intentionally homeless” and where the duty to prevent or relieve homelessness has been unsuccessful. However, it must be the first time they have been found intentionally homeless in the past five years. This will provide greater security for children in vulnerable households, in line with the aims in the United Nations Charter on the Rights of the Child. Local authorities will also be expected to co-ordinate a plan of action and support for these households to help prevent them becoming homeless in future.
- 3.49 From the commencement of the legislation former prisoners will be considered priority need where they can demonstrate that they are vulnerable as a result of having been in custody or detention, and they have a local connection. A local authority will have a corporate duty to take reasonable steps to prevent or relieve homelessness which will be applicable to former prisoners who will be homeless on release from prison. They may also be given priority need status as result of being particularly vulnerable due to other reasons e.g. mental health.

### **Intended effect**

- 3.50 The legislation will result in:
- (i) Fewer households experiencing the trauma of homelessness.
  - (ii) Better, more targeted, prevention work.
  - (iii) Increased help for households who receive limited assistance under the current legislation.
  - (iv) More informed choice for all households who are homeless or threatened with homelessness as increased prominence is given within the new legislation to prevent or relieve it.

- (v) A greater emphasis on co-operation and multi agency working.

## **Gypsy and Traveller Sites**

### **Background**

- 3.51 The aim of the “Travelling to a better future”, the Welsh Government’s Framework for Action and Delivery Plan,<sup>10</sup> is to ensure equality of opportunity. It encourages consideration of new ways in which Gypsy and Traveller communities can access resources that are not always available to them by ensuring that services are flexible enough to respond to their needs.
- 3.52 Living on the periphery of society has severe implications for Gypsy and Traveller communities and their ability to access essential services. The Framework provides an opportunity to set out a new relationship between Gypsies and Travellers and the settled community and with local and national government.
- 3.53 In order to address the accommodation issues faced by Gypsies and Travellers, including the level and quality of provision, the Framework pledges the Welsh Government’s continued support to assist the refurbishment of existing local authority sites through grant funding. The Framework recognises the lack of appropriate local authority sites and commits the Welsh Government to continued work with local authorities to provide new sites and to offer funding, support and guidance to facilitate the provision.

### **Current position**

- 3.54 There are currently eighteen local authority Gypsy and Travellers sites in Wales. The sites, which are owned by thirteen local authorities, are spread unevenly across the country. Demand for permanent residential sites outweighs supply and as a result, manifests itself in unauthorised encampments, which are illegal and can be unsafe for both Gypsies and Travellers and the surrounding communities. Currently, there are no transit sites to accommodate transient groups requiring short stay places. The last new local authority-owned sites were built in Carmarthenshire, Flintshire and Pembrokeshire in 1997.
- 3.55 Local authorities have a statutory requirement to undertake Gypsy and Traveller Accommodation Needs Assessments for Gypsies and Travellers in their area. Recent assessments have identified an urgent need for new sites. However, local authorities have been unable to progress plans to develop new sites. Current legislation requires them to have regard to the provision of suitable and sufficient sites in their area but falls short of an explicit statutory requirement. Achieving planning consent for proposed new local authority sites can be both difficult and time consuming.

## **Purpose of legislation**

3.56 The proposal will place a new statutory duty on local authorities to provide new Gypsy and Traveller sites where need has been identified.

## **Intended effect**

3.57 The broad aim is to ensure that more sites are provided in response to identified need. This will lead to:

- (i) Improved standard of accommodation.
- (ii) Better access to services.
- (iii) Tackling inequality.
- (iv) Reduction in illegal sites and unauthorised encampments.
- (v) Reduce homelessness.
- (vi) Improved community cohesion.
- (vii) Reduction in hate crime incidence.

3.58 A number of social benefits are expected to be realised as a result of the new duty. These include: better attendance and attainment within the education system as education professionals are able to build stable and trusting relationships with families and better uptake of preventative healthcare including vaccinations of children as health visitors are able to access families that they couldn't access previously. It should also lead to more integration of Gypsies and Travellers into the wider community as individuals access local facilities and a reduced likelihood of children having to live or play in an unsafe environment.

3.59 Most fundamentally, under the new duty many more Gypsies and Travellers will be able to access accommodation appropriate to meet their cultural need. This will have the consequential benefit of less eviction from unauthorised sites and the psychological trauma associated with it.

3.60 The new duty will be of particular benefit to children and young people, disabled people and older people who may have greater need to access community services.

# **Local Authority Standards: Welsh Housing Quality Standard**

## **Background**

- 3.61 The Welsh Housing Quality Standard was introduced in 2002 as a standard to be met by all social landlords. The Standard was developed to provide a common target standard for the physical condition of housing. It applies to existing as opposed to new build homes for which other building and design standards apply.
- 3.62 Local authorities that own their own housing can apply annually to the Welsh Government for a grant, the Major Repairs Allowance, to help them to improve their homes to the standard. The standard is not a statutory requirement for local authorities, but one of the conditions for receiving the Major Repairs Allowance is that the standard is met within timescales agreed with the Minister.

## **Current position**

- 3.63 All local authorities that own their own housing stock are required to meet the standard and demonstrate their ability to maintain this standard through their 30 year business plans. Since the standard was introduced, eleven local authorities have transferred their housing stock to housing associations following a positive ballot of tenants. Eleven authorities still own their housing stock with some having already reached the standard; others having plans to meet it within agreed timescales.
- 3.64 Tenants should be able to expect an acceptable standard of accommodation regardless of whether they are a tenant of a local authority or housing association.
- 3.65 Under the new self financing arrangements, local authorities will have greater freedom to build new affordable homes to meet local housing needs. Their first priority must be to meet and maintain the standard for their existing homes. If local authorities wish to develop new homes, the proposed rent standard would provide parity with housing associations and allow for rents for new affordable homes to be set above social rents but below market rents.

## **Purpose of legislation**

- 3.66 The Welsh Ministers have statutory powers to regulate Registered Social Landlords and as part of this process, Housing Associations are required to demonstrate achievement and maintenance of Welsh Housing Quality Standard as part of their business planning process. There is no such mechanism for local authorities. Hence, local authorities will be required to meet the standard.
- 3.67 The legislation will put standards of accommodation for both existing and new social housing on a statutory basis. This will ensure that all tenants are able to

live in an acceptable standard of accommodation regardless of whether they are a tenant of a local authority or a housing association.

- 3.68 Local authorities will have to comply with the standards and sanctions will be available to the Welsh Ministers for use if necessary. Standards would be kept under review and revised, replaced or withdrawn as necessary. The standards, relevant policies and guidance would be subject to consultation.

### **Intended effect**

- 3.69 The legislation will ensure that all tenants will be able to live in an acceptable standard of accommodation regardless of whether they rent their homes from a local authority or a housing association. Local authorities will have to ensure that all their properties meet the Welsh Housing Quality Standard by 2020 and the standard is maintained thereafter.

## **Local Authority Standards: Rents and service charges**

### **Background**

- 3.70 The Review of Affordable Housing in 2008<sup>11</sup> highlighted unfairness for local authorities, housing associations and their tenants in the system of setting rents. The report, which recommended a full review, explained that different systems were in place for local authorities and housing associations and their financial, legal and regulatory contexts were different. This results in different rents for two properties of the same size and type in the same local authority area.
- 3.71 The review also pointed to the absence of any financial incentive in the system for landlords to improve the quality of their homes. It also recommended that the way in which service charges are applied should be the same for local authorities and housing associations; that is, only tenants living in properties that receive, or are eligible to receive, additional services should pay service charges. Currently, the service charges for tenants in some local authorities are “pooled”. This means the cost of services provided are included in the rents charged for all tenancies.
- 3.72 In response, the Welsh Government developed a new policy for social housing rents which would apply consistently to local authorities and housing associations and reflect the type, size, location and quality of tenants’ homes.
- 3.73 Tenants should understand how their rent has been set and any services that they receive, or are entitled to receive, should be charged separately from rent and be clearly identifiable. Landlords should consult with tenants on the services provided and costs should be recovered through services charges. Information should be made available to tenants on how the service charges have been calculated and are reconciled each year.

## **Current position**

- 3.74 Local authorities and housing associations are responsible for setting the rents for individual dwellings within their stock within a financial and policy framework established by the Welsh Government. For local authorities, rents are set in the context of the Housing Revenue Account Subsidy system. Housing associations set rents in the context of a “Rent Benchmark” system. The rent policies for local authorities and housing associations have evolved over many years. The underlying approach for each is entirely different and has constrained attempts to achieve greater consistency between the two.
- 3.75 For local authorities, the Welsh Ministers set “Local Authority Guideline Rents” which are used in the calculation of the Housing Revenue Account Subsidy system each year. While local authorities can charge rents that are above or below the guideline rent, the financial disincentives within the Housing Revenue Account Subsidy system and rent rebate subsidy systems dissuade them from doing so. This means that there is pressure for local authorities to set actual rents, on average, at the guideline rent level.
- 3.76 As indicated in the following section on the Housing Revenue Account Subsidy system, an agreement has been reached with HM Treasury for the Housing Revenue Account Subsidy system to be abolished. The consequence of abolishing the system will be that the existing guideline rent system will end. This will mean that there would be no legislative framework for local authorities to set rents and Welsh Government would have no powers to influence the level of social housing rents.
- 3.77 For housing associations, a rent benchmarking system has been in place for many years that has kept rent levels affordable for people on low incomes. The system sets a benchmark rent and the maximum rent that can be charged for a three bed-roomed house in each local authority area.
- 3.78 The Welsh Government’s rent convergence policy has been in place for some time. This aims to bring the level of rents charged by local authorities in line with those of housing associations. However, the scope of the policy is limited. The way it has been implemented has been to bring the average rents charged by local authorities into line with the maximum rents charged by housing associations.

## **Purpose of Legislation**

- 3.79 The legislation is intended to ensure that local authorities set rents for their existing social housing dwellings within a sound policy and financial framework. The Welsh Government’s rent policy for social housing will be transparent and justifiable and will apply consistently to all social landlords, and reflect the type, size, location and quality of the properties. The policy will set a target rent band for social housing landlords and local authorities will be required to maintain their average rent levels within the target band. Local authorities will be required to comply with the rent policy.

- 3.80 The legislation is also intended to enable the Welsh Ministers to set standards for service charges. This would ensure that rents and service charges are separated and that those tenants that do not receive services, or are not eligible to receive services, do not have to cover the costs of service provided to others, which are currently incorporated within their weekly rent.
- 3.81 Local authorities will be required to comply with the rents and service charge standards and responsibility for ensuring this would fall within the existing remit of each local authority's Section 151 Officer<sup>12</sup>. It will be the responsibility of the Welsh Government to monitor ongoing compliance with the rent standard. Where tenants have concerns about the reasonableness of service charges, they would be able to raise the matter with the Leasehold Valuation Tribunal. The standards, rules and guidance would be kept under review and revised, replaced or withdrawn as necessary and be subject to consultation.
- 3.82 The proposed rent standard provides for consideration to be given to allowing local authorities to set rent levels for newly developed or newly acquired homes that are above social rent levels but below market rent levels. This would enable them to purchase or develop new housing to meet local housing demands for people who would not be prioritised for vacant social housing.
- 3.83 It was identified during an examination of legislation for housing associations, that the existing legislation would not provide for standards for housing associations to be revised, withdrawn or published.

### **Intended effect**

- 3.84 The legislation will set standards for rents and service charges, ensuring that they are clearly, and separately, identified. This will create greater transparency in payments made by tenants to local authorities. The implementation of the requirement will be enforced under the responsibilities of each local housing authority's Section 151 Officer.
- 3.85 The legislation will make minor amendments to the existing legislation relating to Standards for housing associations.

## **The Housing Revenue Account Subsidy system**

### **Background**

- 3.86 The original intention of the Housing Revenue Account Subsidy system was to enable the UK Government to determine the amounts that local authorities needed to spend on their housing and whether subsidy was required to support it. The system was split into two parts; the housing element and the rent rebate element.
- 3.87 Prior to devolution, the UK Government made notional calculations of how much income and expenditure each authority should have. If assumed

spending by the local authority was greater than assumed income, the Government paid the Housing Revenue Account Subsidy system to make up the deficit. If it was less, the local authority paid the surplus to the UK Government. While the calculations are notional, they are based on actual data such as stock numbers, interest rates and rent levels, all of which are adjusted annually.

- 3.88 The effect of the system was to redistribute revenue received by local authorities so that rents paid by tenants throughout England and Wales did not vary greatly. Without redistribution, the different spending needs and the different capacity of individual local authorities to raise income, would have meant that some local authorities would have to charge higher rents or deliver lower quality services. Local authorities would either receive subsidy or pay the surplus, or “negative subsidy” as it is known, to the UK Government. Over time, the result has been that local authorities in Wales pay negative subsidy.
- 3.89 It is not clear whether redistribution continued on an England and Wales basis since devolution. Following the launch of the review of the system in England, it was identified that the negative subsidy from Welsh local authorities was not included in the English redistribution arrangements. HM Treasury confirmed that negative subsidy from Wales was simply credited to HM Treasury’s consolidated fund.
- 3.90 Responsibility for the system in Wales was passed to the National Assembly for Wales under the Government of Wales Act 1998 and now rests with the Welsh Ministers. The formula that applied prior to devolution has continued post-devolution. Changes were made in 2004-2005 to allow for the removal of rent rebates and the introduction of the prudential borrowing regime. Whilst similar changes were also made in England, a number of other changes to the system in England were not replicated in Wales.

## **Current position**

- 3.91 The current system is not influenced by the efficiency of local authorities. The system in England made assumptions about spending needs based on a wide range of statistical data, whereas in Wales, the subsidy system provides a single management and maintenance allowance. This has been uplifted annually to provide an above-inflation real increase. If a local authority spends more or less than the management and maintenance allowance on delivering services, it does not alter the amount of subsidy which it is eligible to receive or surplus it is required to pay.
- 3.92 Wales is the only nation in the United Kingdom where the system remains in place. Eleven of the twenty-two local authorities still own their own housing stock. All remain in a negative subsidy position. Each year, approximately £73 million is collected from local authorities and paid to the UK Government. This means that these funds are not available to local authorities for use on improving their housing stock.



- 3.93 The system acts as a significant disincentive for local authorities to build new housing stock because any new properties held in the system would have to be included in the calculation of the subsidy. If an authority develops new houses and includes them in the Housing Revenue Account Subsidy system, this will increase the sum paid to the UK Government.
- 3.94 There are powers under section 80B of the Local Government and Housing Act 1989, which allow certain properties or authorities to be excluded from the system. The arrangement is subject to an agreement being in place between the authority and the Welsh Ministers. The first and only application for a section 80B Agreement has been agreed with Carmarthenshire County Council.

### **Purpose of Legislation**

- 3.95 Having secured a financial agreement with Treasury in June 2013, the intention is to abolish the Housing Revenue Account Subsidy system in Wales. It will be replaced with a new self-financing system that allows each local authority to retain all of its rental income locally to support its housing services. The agreement with Treasury requires local authorities to “buy-out” of the system at a settlement figure that is fiscally neutral to the UK Government. Part of the agreement will require local authorities to fund the settlement by borrowing from the Public Works Loans Board.
- 3.96 The legislation will allow for a buy-out value to be set for each authority and will provide for this figure to be revised in the event of an error or change in circumstances. It will also require local authorities to respond to requests for information and for the Welsh Ministers to set timescales and processes to implement the reforms. The existing legislation, which supports the current subsidy system, will be repealed.
- 3.97 A further element of the agreement with HM Treasury is that a housing related borrowing cap be set for each of the local authorities. It is proposed that HM Treasury will bring forward the relevant provisions within an appropriate UK Bill to enable a housing related borrowing cap to be set. Discussions with Treasury in early October 2013 have focussed on the proposed UK legislation and the need to set definitive timescales for local housing authorities to exit the Housing Revenue Account Subsidy system.

### **Intended effect**

- 3.98 The overall aim is to enable local housing authorities to become self-financing which will provide them with the flexibility to do more to improve the quality of their existing housing.
- 3.99 The goal is to free up some local housing revenues to enable authorities to invest in their housing stock. Local authorities would be able to use any additional revenues to support borrowing. The borrowing limit that forms part of the agreement with Treasury, will restrict future housing related borrowing but will allow local authorities to continue to invest in their housing stock in line

with their current housing business plan commitments. Local authorities will have more to spend on bringing their homes up to the Wales Housing Quality Standard.

## **Co-operative housing**

### **Background**

3.100 Wales has a rich history of co-operative housing. This includes, for example, the Garden Village movement at the turn of the 20th Century. However, the scale of co-operative housing in some European countries (ranging from 10 to 20 percent) is on a vastly different scale from that in the UK (0.1 percent of housing stock). There is more co-operative housing in England and Scotland and it consists mainly of rental co-operatives. A new form of limited equity that is part ownership co-operative housing is emerging in England, albeit on a small scale. Tenant Management Organisations also form part of the co-operative housing movement in England and Scotland but do not feature in Wales.

3.101 Four of the new Registered Social Landlords that came into being as a result of council housing stock transfer, were formed as Community Mutual Housing Associations. They function on a landlord and tenant basis with a proportion of tenants co-opted onto management boards.

3.102 The new organisations are not ‘fully mutual’ co-operatives where all members are residents and vice-versa but nevertheless, they embody key principles of a co-operative approach to meeting housing needs. They can grant assured and assured-shorthold tenancies which fully mutual co-operatives cannot do.

3.103 The Welsh Government is committed to developing the use of co-operative models as another option that people can have when seeking a home.

### **Current Position**

3.104 Apart from a small number of co-housing private schemes and self-build societies, the only existing provision that can be described as co-operative consists of the “Community Mutuals” mentioned above. These are registered as registered social landlords and function on a landlord and tenant basis with a proportion of tenants co-opted onto management boards. Building societies are also mutual organisations and were originally set up to build housing on a co-operative basis. However, they now appear to limit their activities to providing finance, both through private mortgages and to registered social landlords.

3.105 The scale of co-operative housing in England and Scotland is much larger. In addition to the Community Mutual Associations found here, they consist mainly of rental co-operatives, but not co-housing co-operatives, which are described below. A new form of limited equity, part-ownership, co-operative housing is emerging on a small scale in England and is of interest here too.

Tenant Management Organisations, which manage social housing, are also part of the co-operative housing movement in England and Scotland, but do not feature in Wales.

3.106 Working with stakeholders has identified three main categories of co-operative housing:

- (i) **Rental co-operatives:** A member has a nominal share (typically £1 or £5). Members pay a monthly or weekly rental charge for the right to occupy a home owned by the co-operative. When a member leaves, they surrender or transfer their occupancy agreement and their nominal share is forfeited. Members have no interest in the value of the property they occupy.
- (ii) **Market value co-operatives:** These are also known as “co-housing co-operatives”. The co-operative owns the freehold or leasehold of the properties that members occupy. Members are free to buy and sell the right to occupy their particular property at a market price. Access to mortgages for members is often provided via the co-operative itself but funded by banks and other lenders. The role of the co-operative is principally that of a building manager, handling communal and structural repairs and providing other services to its members.
- (iii) **Limited equity co-operatives:** A relatively new model of co-operative housing. Members have a right to occupy a particular property and share in the overall value of the property owned by the co-operative. The share in the value is proportionate to the equity value a member builds up through regular payments. When a member leaves, they are entitled to sell or assign their occupancy rights with their limited equity share at either a regulated price, to keep it affordable, or at an open market price.

3.107 The Limited Equity Model that has potential to attract new sources of longer term funding and the Welsh Government is exploring its use as another way of financing the development of more affordable homes. Demand for homes exceeds supply and a range of co-operative housing approaches can offer more choice for people seeking to buy or rent an affordable home that suits their needs and circumstances. However, it needs to be a viable and long-term option.

## Purpose of legislation

3.108 The legislation will facilitate the further development of co-operative housing.

It will:

- (i) Allow fully mutual housing co-operatives to grant assured and assured shorthold tenancies.

- (ii) Consequent on (i), enable lenders to fully mutual housing co-operatives to apply for repossession on the “vacant possession” value of the property.

## **Intended effect**

3.109 The legislation will strengthen the ability of fully mutual housing co-operatives to contribute to providing additional homes by allowing them to develop affordable housing schemes.

3.110 Allowing fully mutual housing co-operatives to grant assured tenancies will allow them to use standard and well-understood tenancy agreements and remove a known difficulty with occupancy agreement between the co-operative and its members.

## **Council Tax on empty homes**

### **Background**

3.111 Approximately 22,000 privately-owned homes have been empty for more than six months. All local authority areas have empty homes. At a time when the demand for homes far exceeds supply, they are a wasted resource. In addition, as a result of falling into disrepair and in some cases, vandalism, they can become not only unsightly but unsafe too.

3.112 Local authorities have a variety of tools to tackle empty properties. These range from advice and guidance to enforcement measures such as Empty Dwelling Management Orders, the enforced sale procedure and, in more extreme cases, Compulsory Purchase Orders. These are complemented by “Houses into Homes”, a national programme to tackle empty homes which provides property owners with loans to improve their property for sale or rent.

3.113 Homes become empty for many reasons and therefore, different ways of assisting owners to bring them back in to use are needed. . Some owners of empty properties simply require information and advice to help them to take action, but other owners have different requirements. This proposal is for a new, discretionary, power for local authorities to be able to levy more than the standard rate of council tax on properties that have been empty for more than a year or more.

### **Current position**

3.114 The existing council tax legislation (Section 11 of the Local Government Act Finance Act 1992) allows for discounts to be applied in certain circumstances, but makes no provision enabling additional tax to be levied on properties.

## **Purpose of legislation**

- 3.115 The legislation will allow local authorities to charge a flat 150 percent of the standard council tax charge on properties that are empty for twelve months or longer. As a discretionary power, it will allow local elected members to determine the case for any additional charge and the level of the charge.
- 3.116 The overall purpose of the legislation is to help make the best possible use of existing homes by bringing empty properties back into use. Local authorities will be able to retain any additional revenue generated by the proposals. It is hoped that local authorities would use additional revenue to help meet local housing needs by providing more homes and/or by improving existing homes. The Welsh Government cannot require local authorities to do this, although the Welsh Ministers can encourage it

## **Intended effect**

- 3.117 The aim is to provide an additional option for local authorities to tackle empty homes, so the prime effect would be to help reduce the number of long-term empty properties. This in turn is a contribution to increasing housing supply. For local communities, the effect could also extend to tackling the problems caused by empty properties such as vandalism and opportunities for anti-social behaviour would be reduced. Bringing empty properties back into use can also help improve the physical appearance of communities.
- 3.118 While generating more revenue is not the purpose of the legislation, any revenue raised could be used by local authorities to invest in action to do more to help meet local housing needs.

## 4. Consultation

### Meeting the Housing Challenge: Building a consensus

- 4.1 The foundations for the preparation for, and development of this Bill were set in 2011. A consultation paper was published by the then Minister for Housing, Regeneration and Heritage<sup>13</sup>.
- 4.2 The paper did not set out a list of actions in response to identified problems but highlighted the key challenges facing individuals and organisations in meeting housing needs and, as the basis for consultation, the priorities that might need to feature in future policy measures. They included:
- (i) The lack of homes because our population is increasing, people are living longer, and more people are choosing to live alone.
  - (ii) Many homes in need of improvement, particularly those rented from private landlords and some older houses that people own.
  - (iii) Ensuring people get the services they need to find and keep their home, particularly those in very difficult personal circumstances or crisis;
  - (iv) The impact of rising costs of living and welfare reform.
  - (v) Very tight public finances.
- 4.3 A total of 87 responses were received.

**Table 2: Response to Challenges and Priorities paper, by type of respondent**

Type of respondent	Response	
	Number	Percentage of Total response
National Housing Organisations (Wales)	24	27
Local Authorities and National Parks	12	14
Registered Social Landlords	8	9
Local Groups	7	8
Third Sector/Charities	7	8
Housing Related Support	1	1
Statutory Bodies	3	4
Private Sector	3	4
Individuals	22	25
<b>Total</b>	<b>87</b>	<b>100</b>

4.4 A summary of the responses<sup>14</sup> was published and the common themes of the response were:

- (i) Increasing Supply.
- (ii) Improving Quality.
- (iii) Better Housing-related services and support.

## Housing White Paper

4.5 The response to the above and other research informed the White Paper that was published in May 2012. It contained proposals for a programme of action, which included the legislation set out in the Bill. The proposals were subject to a twelve week period of public consultation. Respondents were invited to give their views on a set of suggested questions but had complete freedom to comment on any housing matters that were in the White Paper or, for that matter, anything they felt should have been in it. A summary of responses was published in October 2012<sup>15</sup>.

4.6 A total of 195 responses were received. The responses were drawn from the following:

**Table 3: Response to Housing White Paper, by type of respondent**

Type of respondent	Response	
	Number	Percentage of Total response
Local authorities	22	11
Housing associations	24	12
Private sector organisations	10	5
Voluntary sector organisations	24	13
Other organisations	63	32
Individuals*	52	27
<b>Total</b>	<b>195</b>	<b>100</b>

Note: \* 43 responses were from private landlords. There were identical and used a standard template provided by a body of private landlords

4.7 The length of responses varied considerably. Some focused on specific areas of interest; for example, a significant number of private sector landlords only responded to the proposals on the private rented sector. Other responses covered many different subjects. The number of organisations from outside the field of housing that responded was encouraging.

4.8 The vision and the “whole housing system” approach were welcomed by the vast majority of responses from all types of organisation. A number of respondents from different sectors and individuals commended the Welsh Government for its bold and ambitious approach. The shortage of housing, in particular affordable housing, was a constant theme, with significant

innovation required given the context of the economic downturn and associated reductions in the Welsh Government's capital budgets. Recognising the tight public financial situation, some respondents questioned whether the Welsh Government has sufficient resources to implement the proposals

4.9 A number of factors were identified as being important in delivering the vision:

- (i) Strong leadership in raising the profile of housing and working across Government, and the need for this to be reinforced and delivered locally.
- (ii) Prioritising actions and resources, and ensuring legislation is used proportionately;
- (iii) The need for effective joining up between housing and other relevant legislation; for example, that being developed on planning, domestic abuse, and social services, and engagement with other policy areas such as health.
- (iv) The importance of coherence with other Welsh Government frameworks and strategies such as the Single Equality Plan, the draft Framework for Independent Living, the Fuel Poverty Strategy, Tackling Poverty Action Plan, Gypsy and Traveller Framework for Action, and Cohesion Strategy.
- (v) Assessing the costs and benefits proposals to ensure value for money and to reduce the chance of unintended consequences;
- (vi) Co-operation with stakeholders to engage their skills and resources in delivering the desired outcomes;
- (vii) The need to monitor and track progress;

4.10 Subjects that respondents felt the White Paper did not adequately address included:

- (i) Recognition of the potential impact of welfare reform on organisations, individuals and communities and how these might affect proposals.
- (ii) The needs of rural areas and action to address their needs.
- (iii) The range of housing options and related support that need to be in place in order to respond to the ageing population.
- (iv) Consideration of the needs of people who fall within the various protected characteristics under equalities legislation.



## Other consultations

- 4.11 The consultations and responses listed above have been supplemented by a wide range of other consultation and action to engage with stakeholders in developing the legislation.

## Private Rented Sector

- 4.12 Consultation on “Proposals for a Better Private Rented Sector in Wales” opened on 6 July 2012 and closed on 17 August 2012<sup>16</sup>. A total of 167 responses were received. A summary of consultation responses was published in February 2013<sup>17</sup>.

**Table 4: Response to Proposals for a Better Private Rented Sector, by type of respondent**

Type of respondent	Response	
	Number	Percentage of Total response
Private landlords*	84	51
Letting/Management agents	18	11
Local authorities	11	7
Other organisations	28	16
Individuals	26	15
<b>Total</b>	<b>167</b>	<b>100</b>

Note: \* 43 responses were from private landlords. There were identical and used a standard template provided by a body of private landlords

- 4.13 The majority of the responses were supportive of the proposals to introduce a registration and licensing scheme for all private landlords and letting and management. The following provides an overview of comments received:
- (i) Tenants’ representative groups and local authorities were generally supportive of proposals. Main concerns were tenants who are the most vulnerable and therefore more likely to be victims of rogue practices. For this reason, some felt the scheme should be more robust in dealing with rogue landlords and agents.
  - (ii) Generally speaking, landlords were less supportive of the introduction of a Scheme, although some considered that reputable landlords would not object to the Scheme. Some did suggest that some landlords might sell their properties causing shortages of accommodation.
  - (iii) The majority of letting and management agents who responded felt that some form of regulation was required to tackle those companies that gave the lettings industry a “bad reputation”.

- (iv) Individuals, in particular students, who had experience of living in the private rented accommodation, were very supportive.
- (v) Concerns about funding the scheme were raised by a number of respondents including individual local authorities and the Welsh Local Government Association.
- (vi) Some local authorities, and the Welsh Local Government Association, suggested that the Scheme will save time and resources as it will enable more efficient targeting of enforcement activity.
- (vii) Respondents said that the Scheme needs to be publicised as widely as possible, especially in respect of landlords that live outside Wales as well as those even further afield.
- (viii) The majority of landlord respondents indicated they were against listing each property and comments referred to the right to privacy and data protection issues.
- (ix) The issue of properties being jointly owned was also raised with suggestions that a nominated person, who has control over the day-to-day management of a property, will register and then become licensed.
- (x) Landlords and other organisations raised concerns that landlords owning Houses in Multiple Occupation are already licensed and will be subject to additional fees.
- (xi) The majority of respondents favoured higher fees for landlords with larger portfolios.
- (xii) Most respondents believe that a licence should be valid for five years rather than the three years.
- (xiii) The majority of respondents supported the range of penalties included in the consultation paper. Some felt that they were far too high while others thought that there needed to be a visible deterrent associated with non-compliance.
- (xiv) Overall, there was support for measures to improve the private rented sector. Unsurprisingly, there was no consensus amongst respondents about how this should be achieved. Some were not convinced that the Scheme would achieve all of its aims but there was a general agreement that it will make improvements.

## Homelessness

4.14 In Autumn 2011, as part of considering ways in which more could be done to prevent homelessness, a review of the current homelessness legislation was

commissioned. The study, which included an extensive review of literature and examination of practice in other countries, also included extensive consultation with organisations working in and around the field of housing and users of homelessness services.

4.15 Key findings from the research<sup>18, 19</sup> were:

- (i) Current homelessness legislation does provide a safety net.
- (ii) Help for people is selective and rigid, and based on a household's circumstances, which places them into a priority need group. Those that do not meet the rigid criteria to become priority need are offered very limited assistance.
- (iii) The current legislative framework requires resources to be allocated processing decisions rather than meeting people's needs.
- (iv) Where practised, homelessness prevention work is effective but it is inconsistent across local authorities. This stems, partly, from ambiguities within the current legislative framework.
- (v) There is limited collection and analysis of homelessness data.

4.16 In September and October 2012, three events were held across Wales, involving a wide range of professionals and practitioners. These events focussed on the "Housing Solutions" model as set out in the White Paper. The report from the events<sup>20</sup>, which was issued to stakeholders and homelessness networks, has informed the legislation and its implementation. Key themes were:

- (i) General support for the new responsibilities of local authorities.
- (ii) Some concern that not everyone understood the nature of the duties to be placed on local authorities and that this reflected concerns out in the wider housing community.
- (iii) Unanimous agreement that the proposals, when implemented, will require local authorities and partner agencies to undergo a radical change in the way homelessness and advice services are delivered.
- (iv) General agreement that services are not always consistent and suggestions for a model for minimum forms of prevention tools and mapping exercise of existing homelessness prevention, housing advice and housing solution.

- (v) The need for strong corporate leadership and where this is not evident in a local authority, support from the Welsh Government and the Welsh Local Government Association.

4.17 The main concerns expressed during the events were:

- (i) The absence of a local connection test, which could lead to a significant number of people approaching rural local authorities or those close to the English border for assistance.
- (ii) That reasonable steps are taken when people are threatened with homelessness.
- (iii) That applicants and other agencies are aware of the proposed changes and have realistic expectations of what could and could not be provided when they discharge their duty.

4.18 Since October 2012, there has been continued dialogue with the Welsh Local Government Association, local authorities and other stakeholders. The discussions have considered the changes proposed and their impacts, including cost. As a result of discussion, some refinements were made to the original proposals.

4.19 The principal changes to the original proposals in the White Paper are:

- (i) When an applicant who is homeless first applies for assistance, a local authority can choose whether to carry out the test of intentionality in all cases or not at all.
- (ii) Applicants who are not in priority need will not be entitled to temporary accommodation.
- (iii) Local authorities will be able to refer applicants who are unintentionally homeless and in priority need to another authority under the current “local connection” provisions.
- (iv) Local authorities will be able to discharge the full duty by an offer of accommodation into a social tenancy or a six month assured shorthold tenancy in the private sector.

4.20 Two further elements of the original proposals have been changed. Firstly, following careful consideration, the Welsh Government has decided to introduce a provision that households with children found to be intentionally homeless will still have a right to the full homelessness duty, provided that it is the first time they have been found to be intentionally homeless within the past five years. In addition, in all cases where a household with children is found to be intentionally homeless but is owed a re-housing duty, the local authority will have a duty to co-ordinate a plan to help prevent that household becoming homeless in future.

4:21 The White Paper raised some important issues about priority need and who receives help and why. Some key stakeholder organisation questioned the value of the current duty to house former prisoners balanced against the burden it places on local authorities and others in housing need. Following recent stakeholder engagement the Welsh Government has decided to amend the priority need of all former prisoners who are homeless on release from custody. Priority need will now apply where a former prisoner can demonstrate vulnerability as a result of having been in custody or detention and they have a local connection.

## **Gypsy and Traveller Sites**

4.22 Approximately one third of responses to the Housing White Paper (65) included comments on the proposal for a statutory duty on local authorities to provide sites for Gypsy and Traveller communities. The majority of respondents (67 percent) were in favour.

4.23 Respondents who commented were from a wide range of backgrounds, demonstrating the range of issues involved and the diversity of the needs of the service users.

4.24 Housing organisations and groups felt that due to lack of pitches across different Gypsy and Traveller sites, some Gypsies and Travellers are moving into houses. They were concerned about the additional impacts on existing housing supply. They also highlighted the needs for a differentiation between transit and permanent sites. Some also stated that there should be better provision in place that ensures the Gypsy and Traveller communities have access to health, education and other services.

4.25 As part of Save the Children's response to the White Paper, all Gypsies and Travellers surveyed wanted the introduction of the statutory duty to provide sites. Many stated that existing sites will need to be brought up to minimum quality standards and new sites should be well designed. The new duty should ensure children live on sites with minimum standards and not on unauthorised sites, which may be unsafe. Respondents from Police Forces were in favour of a new duty as it should reduce the number of unauthorised encampments.

4.26 Two-thirds of local authority respondents (67 percent) were in favour of the duty, including the majority of local authorities. Just under a third (28 percent) was neither for nor against the new duty while 5 percent were against it.

4.27 A minority of authorities commented that they were not in favour of the duty for a variety of reasons. One authority suggested there should be a regional approach to identify suitable sites, whilst another stated that if there are going to be sanctions in place for not adhering to the duty, they need to be enforceable. Availability of funding and other support for local authorities was requested if the sites duty was introduced.

- 4.28 Legal firms that responded were mainly in favour of the duty. They believed it would address the lack of sites. Some also stated that it was important for the settled community and that elected members should be informed of developments so that they had ownership of the plans.
- 4.29 Gypsy and Traveller representative organisations who responded to the consultation were wholeheartedly behind the new duty. They stated that the new duty will improve both standards of living, access to services and equality of opportunity. Health professionals were in favour of the new duty as it could have a significant positive impact on health.
- 4.30 Not all members of public were in favour of the new duty. One stated that new sites would not happen and the scene will be set for more battles and waste in public services but another stated that it was better to spend money building sites than to spend money evicting people from illegal sites.
- 4.31 A stakeholder engagement event was held 13 September 2012. Sanctions were discussed with local authorities at the event. Feedback suggested that, due to the complexity of the Local Development Plan process and the fact that not all local authorities yet have a Plan, sanctions should not be included when the new duty is commenced.
- 4.32 Concerns have been raised about the estimated cost of the new duty. There has not been a new local authority Gypsy and Traveller site in Wales since 1997. However, the cost of the duty will be linked to the deliverability of sites as a result of this duty. Welsh Government officials have worked with local authorities to produce an estimate of the likely finance implications over the five year period following commencement of the duty. The evidence from this process has been used to inform and strengthen the assessment of costs, which are set out later in this document.

## **Local Authority Standards: Welsh Housing Quality Standard**

- 4.33 The White Paper included proposals to improve the quality of existing homes and their energy efficiency. The responses recognised the challenges for those authorities that have, to date, achieved a low level of compliance with the Welsh Housing Quality Standard. The proposals to work with the authorities that are unable to achieve full compliance and the plan to establish a Ministerial Task Force were welcomed. However, it was felt important that the way forward did not disadvantage those local authorities that have already achieved the Standard, or are close to doing so.

## **Local Authority Standards: Rents and service charges**

- 4.34 The principle of having standards for rents and service charges for local authorities was considered to be a good one by respondents, to the White Paper, other than those from local authorities. A consistent approach to rents,

service charges and standards across the social housing sector was felt to be beneficial. Questions were asked as to what would happen if there were cases of non-compliance.

- 4.35 The views amongst local authority respondents were mixed. Some supported the proposals. Others felt that the proposals were not detailed enough to provide a view.
- 4.36 Some concerns were raised about rents being set above social rents and their affordability for tenants. A small number of housing associations took the opportunity to raise their concerns about the new rent policy that applies to them, noting that they considered it to be flawed in relation to the extent to which it supports the development of affordable housing. One association called for housing association rents to rise to the level of Local Housing Allowance.
- 4.37. The guidance<sup>21</sup> issued to landlords, by the Department for Work and Pensions, on Universal Credit service charges was identified as important in deciding appropriate action on service charges. The Universal Credit regulations do not place a duty on landlords to determine or apportion eligible service charges or to notify their tenants of eligible amounts. However, tenants would only be able to claim for service charges eligible for Universal Credit if the landlord has provided a detailed breakdown of the charges. Therefore, it is essential that rents and service charges are separated and that tenants are provided with the appropriate information in order that service charges become fully transparent.
- 4.38 The Welsh Government consulted on its policy for social housing rents in 2011<sup>22</sup>. Following analysis of responses, the draft rent policy was revised and issued to landlords to enable them to comment on the documentation before the policy was finalised. The final version of the policy will be subject to further consultation prior to implementation.

## **The Housing Revenue Account Subsidy**

- 4.39 A steering group was established 2009 to consider both the Housing Revenue Account Subsidy system and rents for housing associations and local housing authorities. The group brought together Welsh Government officials, local authority representatives, the Wales Audit Office, the Welsh Local Government Association and representatives of housing organisations and tenant groups. The group was also involved in the consultation on the Housing White Paper.
- 4.40 The proposals to abolish the Housing Revenue Account Subsidy system attracted a wide range of views. There was universal support for reforming the system. The potential for increased resources for local authorities to improve their housing stock and/or to build new homes was welcomed. The abolition of the Housing Revenue Account Subsidy system depends on a settlement being agreed with HM Treasury. The distribution of monies after the

settlement agreement was of concern to local authorities and they asked to be involved in discussions about both issues.

- 4.41 As part of the agreement with HM Treasury, it will be necessary for the settlement, the “buy-out” figure and the borrowing limit to be distributed across the eleven affected authorities. The Welsh Government will consult with the relevant authorities and the Welsh Local Government Association on the proposed distribution of the settlement value. Each authority will be required to take on new borrowing from the Public Works Loan Board, to fund the buy-out.

## **Co-operative Housing**

- 4.42 The proposals have been developed as a result of extensive discussion with stakeholders. A steering group was established with representatives from both the housing and co-operative sectors.

- 4.43 The group agreed that all three models of co-operative housing should be considered in order to allow flexibility. The group agreed that the measures of success for cooperative schemes should be:

- (i) Meets housing need and provides democratic community membership.
- (ii) Members are involved in the governance of the co-operative.
- (iii) Provision of one or a combination of: rental co-operatives; market value co-operatives and limited equity cooperatives.
- (iv) The quality of the housing is equivalent or better than current standards for new build social housing.
- (v) “Quality of place” is demonstrated through social, economic and environmental sustainability.
- (vi) Flexibility of accommodation allows it to be accessible and attractive to a range of incomes of households, including those who are able to fund an equity stake in their home and those on low incomes.
- (vii) It provides mixed communities with a flexible form of tenure.
- (viii) The model or models of co-operative housing can be financed.

## **Council Tax on empty homes**

- 4.44 The Housing White Paper described the proposal to provide local authorities with a discretionary power to levy a higher rate of council tax on long-term empty properties. The suggestion was for authorities to have the discretion to



charge up to 200 percent of the applicable council tax on the property and that this charge should apply once the property is empty for 12 months and over. A significant proportion of respondents thought that 12 months would suffice. However, some thought that a staggered level of charge could be implemented with the 200 percent coming into force after a period of up to two years. This proposal was largely driven by the current depressed state of the housing market and the difficulties being encountered by sellers.

4.45 The detailed consultation on the proposals was launched at the end of July 2012 and closed on 20 October 2012. The exercise asked for views on ten key areas including the discretionary power itself, the length of time a property should be empty before it become liable for additional council tax, and how should the legislation distinguish between empty homes and second homes. It sought views on the maximum level of additional charge and whether local authorities could apply different levels to properties in different parts of their area. It also sought views on whether there should be exemptions from the additional charge and the circumstances in which exemptions might apply.

4.46 Thirty three responses were received from local authorities, housing associations, other organisations and individuals<sup>23</sup>. The responses shared common views on the following:

- (i) The definition of a long term empty property. There were a mix of views in respect of the definition, including the removal of the status of furnished or unfurnished. However, if no criteria were set, there could be an issues with tax avoidance. Persons who own long term empty properties could avoid tax by leaving their properties furnished.
- (ii) Additional exemptions suggested include where home owners are actively pursuing improvements to a property to bring it back into use, where older people are in specialist housing or where a property is unoccupied due to a tenant's other personal circumstances.

4.47 The majority of the responses supported the proposals for additional Council Tax on empty homes. The responses suggested a number of variations to the policy and highlighted some potential practical issues. The broad principle of introducing powers to impose increased levels of Council Tax on empty homes was supported but there was no overall consensus on the detail. Nine respondents thought the proposals should be extended to second homes. A further eight raised practical issues (such as differentiating between empty properties and second homes) but stopped short of saying the proposals should be extended to second homes.

## **5. Power to make subordinate legislation**

- 5.1 The Bill contains provisions to make subordinate legislation. The table on the following pages sets out, in relation to each provision in the Bill:
- (i) The person upon whom, or the body upon which, the power is conferred.
  - (ii) The form in which the power is to be exercised.
  - (iii) The appropriateness of the delegated power.
  - (iv) The applied procedure; that is, whether it is “affirmative”, “negative”, or “no procedure”, together with reasons why it is considered appropriate.
- 5.2 The Welsh Government will consult on the content of the subordinate legislation where it is considered appropriate to do so. The precise nature of consultation will be decided when the proposals have been formalised.

**Table 5: Summary of powers to make subordinate legislation for provisions in the Bill.**

<b>Section :</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 2(4)	Welsh Ministers	Order	Suitable for delegated powers as this provides the Welsh Ministers with the power to amend the definition of a “rental property” in Wales, which may reflect any future changes in legislation to tenancies or bodies issuing tenancies/occupation contracts.	Affirmative	Affirmative procedure required as any change to the definition of a “rental property” could change the extent of the registration and licensing requirements.
Section 6(4)	Welsh Ministers	Order	Suitable for delegated powers as this provides the Welsh Ministers with the flexibility to amend the categories of information held on the register from time to time and to amend what may be accessible by the public.	Affirmative	Powers allow amending of primary legislation and also have considerations of special importance as the power relates to the collection of the specific personal details of individuals and its release to others.
Section 7(1)	Welsh Ministers	Regulations	Suitable for delegated powers as this provides the Welsh Ministers with the flexibility to set out the time period for an applicant to be registered by a local housing authority.	Negative	Prescribes technical matters of detail, which may change from time to time.

<b>Section :</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 7(1)(b)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to prescribe by regulation the information required by a local housing authority when determining an application for registration.	Negative	Prescribes technical matters of detail, which may change from time to time.
Section 10(2)(b)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to prescribe by regulation the information required by a local housing authority when determining a licence application.	Negative	Prescribes technical matters of detail, which may change from time to time.
Section 11(6)	Welsh Ministers	Order	The evidence to be considered by local authorities when deciding if someone is a fit and proper person is set out on the face of the Bill. Suitable for order as it provides the Welsh Ministers with the ability to amend this section to vary the list of evidence to be considered to reflect future changes to the law.	Affirmative	Powers allow the amending of primary legislation and also have consideration of special importance as they relate to requirement on license applicants to demonstrate they are fit and proper persons.
Section 13(4)	Welsh Ministers	Regulations	Suitable for delegated powers as this provides the Welsh Ministers with the flexibility to set out the time period for an application for a licence to be determined by local	Negative	Prescribes technical matters of detail, which may change from time to time.

Section :	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			housing authority.		
Section 28(1)	Welsh Ministers	Code	Suitable for delegated powers as this sets out details on the standards of conduct to be followed in relation to regulated rental activity, which may need to change from time to time to reflect changing circumstances.	Affirmative	The Code may not be issued until approved by resolution of the National Assembly. The Code is an integral part of licensing, adherence to it being a statutory license condition.
Section 28(7)	Welsh Ministers	Order	Suitable for delegated powers as this empowers the Welsh Ministers to set a date that a Code of Practice will come into force.	No procedure	The Code itself will be subject to affirmative procedure, so will have been scrutinised by the National Assembly.
Section 31(1)	Welsh Ministers	Regulations	This enables the Welsh Ministers to set the fees payable to a local housing authority by an applicant for registration and licensing.	Negative	Prescribes technical matters of detail, which may change from time to time.
Section 36(3)	Welsh Ministers	Order	This enables the Welsh Ministers, by order, to amend the timing for a local housing authority to publish a homelessness strategy in 2018 and every fourth year thereafter.	Negative	Prescribes technical matters of detail, which may change from time to time.
Section 43(5)	Welsh Ministers	Order	This provides the Welsh Ministers with the flexibility to specify circumstances other than those set out in the legislation, in which it is to be regarded as reasonable, or not, for a person to continue to	Affirmative	The powers will affect whether individuals are defined as homeless and thus, whether they are entitled to assistance in finding a home.

Section :	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			continue to occupy accommodation. The Welsh Ministers may also specify other matters to be taken into account.		
Section 45(3)	Welsh Ministers	Order	This enables the Welsh Ministers to specify, by order, circumstances in which accommodation is, or is not, regarded as suitable for accommodation for an applicant. It also allows other matters to be specified which may be taken into account in assessing such suitability.	Affirmative	This Section may affect the duties owed to an individual.
Section 55(3)	Welsh Ministers	Order	Suitable for delegated powers as this provides the Welsh Ministers with the flexibility to amend the descriptions of persons who have a priority need, including those set out on the face of the Bill.	Affirmative	Powers allow amending of primary legislation and also have considerations of special importance as they relate to a person's entitlement to certain homelessness services.
Section 61(1)	Welsh Ministers	Regulations	Suitable for delegated powers as this provides the Welsh Ministers with the flexibility to set out categories of persons whose status as intentionally homeless, local authorities can chose to disregard for the purposes of this	Affirmative	Affirmative procedure to be followed as Regulations made under this Section would add a category of person who should have an offer of accommodation.

Section :	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			part of the Bill.		
Section 63(5)(b)(i)	Welsh Ministers	Order	Enables the Welsh Ministers to set out the arrangements for a local housing authority to refer a homelessness case to another local authority where both are in Wales.	Affirmative	This section replicates section 198 of the Housing Act 1996.. No change has been made to the procedure. It is considered that the exercise of the power should continue to be subject to the affirmative procedure because of the impact of the Order on homeless persons, and on the local housing authorities who may be obliged to assist them.
Section 63(5)(b)(ii)	Welsh Ministers and Secretary of State jointly	Order	Provides for the Welsh Ministers and the Secretary of State to set out the arrangements for a local authority to refer a homelessness case to another local authority where the homeless person is in Wales and the referral is to an authority in England.	Affirmative in both the National Assembly for Wales and each House of Parliament	This section replicates section 198 of the Housing Act 1996.. No change has been made to the procedure. It is considered that the exercise of the power should continue to be subject to the affirmative procedure because of the impact of the Order on homeless persons, and on the local housing authorities who may be obliged to assist them.
Section 63(8)	Welsh Ministers	Order	This allows the Welsh Ministers by order to specify other circumstances in which the	Affirmative	It is considered that the exercise of the power should be subject to the affirmative procedure

Section :	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			conditions are or are not met for referral of the case to another local authority.		because of the impact of the Order on homeless persons and on the local housing authorities who may be obliged to assist them.
Section 64(4)	Welsh Ministers	Order	This enables the Welsh Ministers to specify circumstances where a homelessness applicant is not deemed to have a local connection.	Affirmative	Fundamental to whether a person can be regarded as having a local connection and as such, being entitled to homelessness assistance.
Section 69(1)	Welsh Ministers	Regulations	Enables the Welsh Ministers to set out the procedures to be followed when undertaking a review of a decision made by a local authority on an application for assistance.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 84(4)	Welsh Ministers	Order	Enables the Welsh Ministers to amend the review period for assessment of needs of Gypsies and Travellers set out on the face of the Bill.	Affirmative	Powers allow amending the review period of Gypsies and Travellers as otherwise set out in primary legislation.
Section 92(1)	Welsh Ministers	Order	Allows the Welsh Ministers to change the definition of Gypsies and Travellers set out in the Bill.	Affirmative	Powers allow amending the definition of Gypsies and Travellers and therefore, to whom the requirements of Part 3 apply and therefore, of particular significance.



Section :	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 122(2) New section 12A (2) – Local Government Finance Act 1992	Welsh Ministers	Regulations	This allows the Welsh Ministers to prescribe different types of dwellings which will not be subject to the power to charge additional council tax.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 122(2) New section 12A (11) – Local Government Finance Act 1992	Welsh Ministers	Regulations	This allows the Welsh Ministers to amend the length of time a dwelling can be occupied but is regarded as being unoccupied for the purposes of this Part of the Bill.	Negative	Prescribes technical matters of detail which may change from time to time
Section 126(1)	Welsh Ministers	Regulations	This enables the Welsh Ministers to make supplementary, incidental, consequential, transitional or saving provisions	Negative unless making changes to primary legislation in which case, affirmative.	Affirmative procedure is appropriate where an order amends primary legislation  Negative procedure is appropriate for other orders which make technical provision only.
Section 127(3)	Welsh Ministers	Order	Suitable for Order because this provision enables the Welsh Ministers to provide for commencement of the Bill.	No procedure	These orders will be confined to commencement and are technical in nature.
Schedule 2 paragraph 1(2)	Welsh Ministers or Secretary	Regulations	Suitable for regulations as it enables the Welsh Ministers or the Secretary of State to set out categories of persons subject to	Affirmative	Affirmative procedure to be followed as Regulations made under this Section would add a category of person who should

<b>Section :</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
	of State		immigration control within the meaning of the Asylum and Immigration Act 1996 who are eligible for assistance under Chapter 2 of Part 2 of the Bill		have an offer of accommodation.
Schedule 2 paragraph 1(4)	Welsh Ministers or Secretary of State	Regulations	Suitable for regulations as it enables Welsh Ministers or the Secretary of State to set out descriptions of persons who are ineligible for assistance under Chapter 2 of Part 2 of the Bill	Affirmative	Affirmative procedure to be followed as Regulations made under this Section would add a category of person who should have an offer of accommodation.



## **6. Regulatory Impact Assessment**

- 6.1 A Regulatory Impact Assessment has been completed in accordance with Standing Order 26.6(vi) for the Bill and follows at Section 7.
- 6.2 A Competition Assessment and Specific Impacts are included at Section 8.
- 6.3 There are no specific provisions in the Bill which charge expenditure on the Welsh Consolidated Fund.

## Part 2 - Regulatory Impact Assessment

### 7. Options, costs & benefits

- 7.1 This regulatory impact assessment is structured around each element of the Bill. For ease of reference, it presents a series of options for each element, followed by costs and benefits.
- 7.2 The costs and benefits associated with each option have been assessed over a five year period. Where appropriate, the costs and benefits are presented in Present Value terms using a discount rate of 3.5 percent. This is in line with the guidance in HM Treasury's Green Book.

## Private Rented Sector

### Options

- 7.3 The options are:
1. Do nothing i.e. continue with the current voluntary accreditation scheme, which applies to landlords only and not lettings and management agents.
  2. Continue with the current voluntary scheme but with vigorous and sustained promotion.
  3. Introduce a mandatory registration and licensing for landlords and lettings and management agents.

#### Option 1 - Do nothing

- 7.4 Under this option, the voluntary scheme would continue in its current form. The existing Landlords Accreditation Wales has been running for five years and, so far, has attracted around 2,000 registered members. Based on experience of landlord registration in Scotland, our analysis indicates that there could be between 70,000 and 130,000 landlords in Wales. A voluntary scheme would never capture them all.
- 7.5 Experience has showed that without vigorous and sustained promotion, voluntary schemes have very limited reach to the target audience and as a result, achieve much less in terms of desired change, which in this case is registration and licensing. It is Government policy to improve standards in the private rented sector and to ensure that all landlords and agents are aware of their responsibilities and practice to an acceptable standard.
- 7.6 There are distinct risks with this option. Given pressures on public finances, it is possible that some local authorities could withdraw their current support for a scheme that is managed on their behalf by Cardiff Council. Any withdrawal

of support would require the other authorities to cover the gaps in funding. If this was not forthcoming, the voluntary scheme could collapse. Even if the scheme continues, there is a risk of differences in the levels of registration of landlords between different areas, which would ultimately mean differing levels of practice and standards for tenants.

7.7 Given the above, this option is not viable and is ruled out.

### **Option 2 – Vigorous and sustained promotion of the voluntary scheme**

7.8 A sustained publicity campaign to promote the benefits of the voluntary scheme could be expected to increase the number of landlords registering on the database. However, this relies on information and persuasion alone to achieve behavioural change in those landlords who have not yet registered on the voluntary scheme.

7.9 Without a formal requirement to become registered, the scheme is unlikely to achieve the desired effects and thus will not achieve what Ministers require. This option could expend substantial sums of public money with relative few gains by way of substantially more landlords registered let alone registration by all landlords. Furthermore, this option would not include the compulsory licensing of agents, which in itself will not address full registration of all agents and the poor practices that are currently demonstrated by some of them.

7.10 This option will not achieve the changes desired and will deliver very poor value for money for the expenditure that would be required to deliver it. The option is therefore dismissed.

### **Option 3 – Legislation to make the registration and licensing of all landlords and agents mandatory**

7.11 A legal requirement to register will achieve the scale of registration required while the extension to include agents, and individuals appointed by landlords as responsible persons to act on their behalf, will ensure that the situation for tenants who are currently at the end of poor and in some cases, dubious, practices is improved.

7.12 The existing database for the voluntary scheme can be expanded to include details of all properties in the private rented sector and the person(s) appointed to manage those properties. Persons who let and manage private rented property will be required to undergo approved training, and owners, responsible persons and agents will be required to pass a fit and proper person test before gaining a licence. This is a cost-effective approach. It retains – and strengthens - the benefits of national collaboration between local authorities, allowing action to build upon existing arrangements.

7.13 Some communication will be necessary but this will be to inform private landlords and their agents of their obligations on registration and licensing and not to persuade in order to achieve a behavioural change, which requires more sophisticated and sustained communications activities. The additional

costs will therefore be substantially less and much can be achieved through the existing functions and activities of local authorities.

- 7.14 Having considered all options, this is considered to be the best option to meet the aims and objectives of Welsh Government policy, and this was the option that was subsequently the subject of public consultation.

## **Costs**

- 7.15 The following paragraphs take each option in turn, providing an estimate of the total cost and benefits. The total costs for each comprises the additional costs of the legislation for the main stakeholders.

### **Option 1- Do Nothing**

- 7.16 There are no additional costs associated with this option. The current voluntary registration scheme, the annual cost for which is approximately £65,000, is funded by local authorities. The contributions enable Cardiff Council to provide the service on behalf of the others. The costs assume the continued provision of financial support from local authorities for a national, voluntary, scheme.

### **Option 2 – Vigorous and sustained promotion of the voluntary scheme**

- 7.17 To try and achieve the desired effects, the bulk of costs for this option would fall to the Welsh Government. It would have to bear the cost for a considerably greater level of action to promote a voluntary scheme across Wales. Given the experience of the voluntary approach, substantially more effort would be needed to increase the number of landlords that are registered. The benefits of being part of the scheme would need to be promoted vigorously, and reinforced, many times over many years. Achieving behavioural change through information and persuasion alone can be costly in terms of direct costs and time and effort.
- 7.18 Without the backing of a legislative requirement, repeated messaging and information would be needed in order to persuade landlords to register. Notwithstanding considerations of the availability and prioritising of future budget decisions, it is reasonable to say that £440,000 per year (£20,000 per local authority area) would be the minimum needed to deliver sufficient communications activities – national and local – to try and increase the numbers of landlords on the voluntary register. That said, it must be recognised that even this level of expenditure would not secure the involvement of the majority of private landlords.
- 7.19 If communications activities had some impact, local authorities would incur some increase in costs to deal with additional registrations. The database currently holds 2,000 registrations and is supported by 1.5 staff. As stated earlier, the estimated number of landlords is between 70,000 and 130,000. Using the lower figure, assuming communications activities achieve voluntary registration of 10 percent would generate 7,000 additional registrations over

the five year period. Handling the additional registrations and undertaking the additional marketing and promotional activity would require at least double the existing staff. It is therefore reasonable to conclude that local authority costs would double to £130,000 per annum.

- 7.20 Landlords choosing to register on the voluntary scheme are expected to attend a one-day Professional Development course. The cost of attending the course is £75 for online applications and £90 for paper applications. This option is estimated to achieve 7,000 more registrations (10 percent of the minimum estimated number of landlords of 70,000) achieved over five years; that is, approximately 1,400 additional registrations per year. The cost to private landlords, based on this figure and on the cost of online registration, would be approximately £100,000 per annum. This assumes that the increased number of landlords registering is spread evenly over the five years.
- 7.21 Note that this cost does not take into account the savings and benefits that landlords can secure as a result of being a better landlord e.g. reduced legal costs due to fewer disputes with tenants.

**Table 6: Summary of costs of Option 2**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Communications	440,000	440,000	490,000	440,000	440,000
<b>Local Authorities</b>					
Administration	65,000	130,000	130,000	130,000	130,000
<b>Landlords</b>					
Registration	--	--	--	--	--
Professional Development Course	105,000	105,000	105,000	105,000	105,000
<b>Total</b>	<b>610,000</b>	<b>675,000</b>	<b>725,000</b>	<b>675,000</b>	<b>675,000</b>

Notes:

1. Additional £50,000 expenditure Welsh Government line in 2016-17 for evaluation of the voluntary scheme.
2. Reduced expenditure in local government line for 2014-15 reflects lag of additional registrations behind promotional activity. Latter needed first before additional registrations occur.
3. Costs in the landlords lines are gross fees for training (based on online applications). The figure excludes the next effect of savings and benefits that landlords can secure as a result of being a better landlord e.g. reduced legal costs due to fewer disputes with tenants

7.22 The Net Present Value of Option 2 is £3,030,000.



### **Option 3 - Legislation to make the registration and licensing of all landlords and agents mandatory**

- 7.23 There will be administrative costs associated with the proposals to regulate the private rented sector. The Welsh Government does not currently provide any direct funding to support the sector. Around £50,000 was provided to local authorities in 2007-2008 to establish a voluntary accreditation scheme.
- 7.24 It is estimated that up to £500,000 will be required to provide for regulation of all landlords and agents. However, this money will be recouped in fees and charges meaning the registration and licensing regime will eventually become self financing ensuring no additional costs will fall on local authorities.
- 7.25 This option carries with it additional costs but it is important to note that the new regime will be self-financing over time; that is, fees will cover the costs of administering and managing it. Thus some of the costs are those associated with the transition between the current scheme and the commencement of the mandatory regime. Arrangements will be made to cover costs during the transition period.

#### **Cost to Welsh Government**

- 7.26 The main costs for the Welsh Government and local authorities will be the transitional costs associated with extending and developing the existing database to accommodate the registration of all landlords, responsible persons and agents and to capture individual property level data. Discussions with Cardiff Council and the developers of the existing database suggest that the additional cost will be approximately £500,000. This includes the technical costs of an expanded database, to secure remote access capability, the public facing front-end, and new branding and domain.
- 7.27 Some communications costs will be necessary in order to alert landlords and letting and management agents to the statutory obligations and what is expected of them. This will be achieved through no-cost press and media articles, existing local authority communication channels (e.g. websites, newsletters), and those of stakeholders. It is estimated that some paid-for advertising may be commissioned. Activity will commence prior to the implementation of the new legislation; that is, 2014-15, as there are good indications from stakeholders of the prospect of voluntary registrations in advance of the commencement of the legislation. The costs will be incurred in advance of the flow of fee income. The cost to the Welsh Government in the first year is estimated to be £50,000 and costs for the following two years are estimated at £20,000 and £10,000 respectively but could be less as fee income flows in.

#### **Cost to Local Authorities**

- 7.28 The main cost to local authorities is the cost of additional staff to administer the registration and licensing process, assist in marketing and promotion

activity, and deal with queries from landlords. It is estimated that ten additional administrative staff will be required in the initial years of the scheme. Once all landlords have been registered, the level of staffing is expected to reduce to five members of staff to maintain the register and provide administrative support for training courses. The administration costs are likely to peak at £250,000 in the initial years of the scheme before falling back to £125,000.

- 7.29 As the regime is expected to be self-financing, the administration and operational costs for the scheme, including for the Fit and Proper Persons test and monitoring and enforcement, will be met by fees payable by landlords, responsible persons and agents on registration and thereafter, at the end of each five-year period when re-registration will be required. Similarly, local authority costs for arranging professional development course and the licensing/accreditation training will be met via attendance fees and may be procured locally. Table 7 reflects this, showing an initial administration cost of £250,000 in 2014-15 (before landlord fees are received) but no cost in later years when administration costs will be covered by landlord fees.

### **Cost to private landlords**

- 7.30 Under this option, all landlords, responsible persons and letting agents will be required to register and, where applicable, to obtain a license within defined periods. Current estimates suggest that there are between 70,000 and 130,000 landlords, with 183,000 properties. Under the scheme, landlords will be expected to pay an initial registration fee of £50 plus £10 for each property they own. Taking the upper estimate for the number of landlords, this equates to a total cost to the sector of approximately £8,300,000.
- 7.31 The requirement to provide property level information means that the application process in this option will take slightly more time than the current voluntary scheme but the costs are relatively low. For example, it is estimated that the application will take an average of 10 minutes. Based on an average hourly salary of £12.77 in Wales<sup>24</sup>, this equates to a total cost of approximately £277,000 for the estimated 130,000 landlords. When added to the registration fees estimated above, the total cost to landlords for registering is approximately £8,577,000. However, in many cases, the time spent on an application is very much an opportunity cost and therefore applying an hourly rate to such a calculation can have the effect of artificially increasing the cost. For the purposes of the summary of costs table which follows, it is assumed that 20 percent of landlords will register in year two and become licensed in year three, with a further 80 percent becoming registered in year three and licensed in year four. Registration costs in years three and four are therefore £1,715,000 and £6,862,000 respectively
- 7.32 Within two years of registering, landlords are expected to apply for a licence if they intend to let and manage their rental properties themselves. This is expected to cost approximately £100 per landlord or a maximum of £13 million for the sector as whole. Alternatively, landlords can choose to appoint an agent or responsible person to manage their property on their behalf, in which case they would not need to become licensed. It is assumed that

around 30,000 landlords will register but not become licensed, preferring instead to appoint an agent or responsible person to manage the properties on their behalf. On this basis, the cost to landlords for accreditation falls to £10 million. As noted above, 20 percent of landlords are assumed to become licensed in year three with a further 80 percent becoming licensed in year four, at a cost of £2 million and £8 million respectively in these years. A licence will last for five years, after which it will need to be renewed.

- 7.33 There is a potential risk that landlords will pass the cost of registration and/or licensing on to their tenants. However, if, for example, the registration fee is set at £50 plus £10 per unit for landlords and a landlord had two units this would equate to £70 for five years. Including the £100 training fee to become licensed, the total cost to the landlord would be £170. This equates to 33p per week for each of the two properties over the five year period.
- 7.34 In the current climate, it is difficult to assess how many net new entrants there will be to the landlords' market every year. If there is 1 percent turnover, this would mean around 1,300 landlords leaving, and being replaced, each year. For the purposes of this assessment we have assumed that 1,500 new landlords will register in later years at a cost of £75,000. These landlords are assumed to become accredited a year after registering at a cost of £150,000.
- 7.35 We do not have accurate data on the size of the letting and management agents' market in Wales. For the purposes of this assessment, it is estimated that there are at least 1,000 letting and management agents' offices/branches operating in Wales. It is envisaged that these will each have to pay £250 to become registered. They will also have to pay around £100 to join one of the professional bodies recognised by the scheme. The total cost is therefore estimated to be £350,000. These costs will all fall in year two as agents have a shorter transitional period in which to comply with the legislation. Again, we anticipate an annual churn in the market but expect this to be at a higher rate than landlords. Agencies could change at the rate of 10 percent per year but we do not expect much by means of additional new business in the current climate.

### **Cost of sanctions**

- 7.36 The legislation will create a number of offences including failure to register, supplying false or misleading information, failure to update the register and letting or managing property on behalf of an unregistered owner. The range of penalties available to local authorities will include both civil sanctions; for example, the power to issue payment cessation orders (the effect of which is to suspend a tenant's requirement to pay rent). It will also include potential criminal sanctions carrying fines, the amounts of which, in almost all offences, are to be set by the courts.
- 7.37 It is expected that the available civil sanctions will be used in the first instance where a landlord continually refuses to register. In economic terms, the imposition of a payment cessation order represents a transfer from landlord to tenant and the net impact on the UK economy is zero.

- 7.38 The expectation is that most of the criminal sanctions will only be used as the last resort. As such, the number of criminal cases is expected to be small. This view is supported by the evaluation of the landlord registration scheme in Scotland which found that only four of the 32 local authorities had made a report to the Procurator Fiscal, with fewer than 10 reports filed in total. In Wales, the Residential Property Tribunal will also handle appeals linked with the administration of the scheme thus avoiding such matters being referred to the Courts.
- 7.39 Uncertainty around how many landlords will steadfastly refuse to register and subsequently either become licensed or appoint a licensed agent or responsible person to manage properties on their behalf means that it has not been possible to quantify the costs associated with sanctions. The costs of enforcement will vary on a case by case basis. However, based on the enforcement actions available, the cost is likely to range from approximately £30 for issuing a warning letter up to £30,000 if court action is required. It should be emphasised that the majority of landlords are expected to register and secure licensed status under the legislation, action is only likely to be taken against those landlords that refuse to comply.
- 7.40 The cost to the local authorities of enforcing the legislation will be met from the revenue arising from registration fees.

### **Cost to the Residential Property Tribunal for Wales**

- 7.41 There will also be additional costs for the Residential Property Tribunal, which will be expected to adjudicate in the appeals process. The additional costs for the Residential Property Tribunal for Wales are included in the summary of costs. The estimate reflects training costs in year two and, as enforcement action by local authorities will not commence until year three. However, the costs also assume that, in line with previous legislative changes of this nature, the setting of precedents by the Tribunal will greatly reduce the volume of appeals in later years. The additional cost of the new legislation to the Tribunal is therefore expected to peak in year 3.

**Table 7: Summary of (gross) costs for Option 3**

	<b>2014-15 (£)</b>	<b>2015-16 (£)</b>	<b>2016-17 (£)</b>	<b>2017-18 (£)</b>	<b>2018-19 (£)</b>
<b>Welsh Government</b>					
Database development	500,000	0	0	0	0
Communications	50,000	20,000	10,000	0	0
<b>Local Authorities</b>	250,000	0	0	0	0
<b>Landlords</b>					
Registration	0	1,715,000	6,862,000	75,000	75,000
Accreditation	0	0	2,000,000	8,000,000	150,000
<b>Agents</b>	0	350,000	35,000	35,000	35,000
<b>Residential Property Tribunal for Wales</b>	0	10,000	25,000	15,000	5,000
<b>Total</b>	<b>800,000</b>	<b>2,095,000</b>	<b>8,932,000</b>	<b>8,125,000</b>	<b>265,000</b>

7.42 It is envisaged that the registration and licensing regime will be self-financing. The Net Present Value of Option 3 is £18.11 million.

## **Benefits**

7.43 The following paragraphs summarise the main benefits of each option.

### **Option 1 – Do nothing**

7.44 There are no additional benefits associated with this option. Indeed, there is a considerable risk that due to increasingly tight public finances, the support for the current voluntary scheme could be withdrawn. This would lead to its collapse in many, if not all parts of Wales.

### **Option 2 – Vigorous promotion of the voluntary scheme**

7.45 This option can be expected to increase the number of landlords and letting and management agents that are part of the voluntary scheme. In turn, this can reasonably be expected to result in at least a very small improvement in management standards and practices. However, it must be noted that those joining are unlikely to be bad landlords, who are a key target of the legislative proposal.

7.46 Additional members would have the potential for more revenue income for the current voluntary scheme through training activities for example. The costs benefit of expenditure to promote the scheme are questionable given that voluntary behavioural change, i.e. getting a landlord deciding to register on a voluntary scheme can be difficult to achieve. This is demonstrated by the size

of the current register in relation to the estimated number of landlords and the slow pace at which it has grown in past years.

### **Option 3 - Legislation to make the registration and licensing of all landlords and agents mandatory**

7.47 Research in Scotland<sup>25</sup> indicated that its Landlord Registration Scheme has had some impact on raising standards in the sector, making landlords more aware of their obligations, which has led to improvements in landlord behaviour. It also resulted in a small number of cases where property conditions have improved. The scheme is registration only. It is our intention that by extending the obligation to licensing and by including a need to operate to a Code of Practice, the Welsh Government's proposals will lead to wider improvements for the sector.

7.48 This option stands out in terms of its ability to achieve the policy objectives of more modern approach by landlords and lettings and management agents, improved practices, which carry benefits for landlords and tenants alike, and tackling bad landlords. It also benefits from being able to build on current arrangements and past practice.

7.49 There are numerous benefits to mandatory registration and licensing:

- (i) Improvements in the practice of landlords and lettings and management agents thus reducing problems, worry and angst for tenants who are at the receiving end of bad practice.
- (ii) Better practices mean better landlord/tenant relationships thus reduced voids and improved rental income for landlords and letting and management agents.
- (iii) Better informed landlords as to their responsibilities.
- (iv) Improved image for private rented accommodation means it would become a more acceptable option for a home.
- (v) Better value for tenants from improved management standards and property condition.
- (vi) Financial savings to tenants from having to take action against landlords or agents for poor management and disrepair.
- (vii) Environmental benefits to local areas from improved litter removal, rubbish disposal and reductions in noise pollution associated with anti-social behaviour.
- (viii) Wider social benefits for communities arising out of accidental landlords being more aware of their responsibilities.

- (ix) More comprehensive information held by local authorities in respect of private landlords and properties leading to more effective use of resources by allowing better targeting of enforcement action by local authorities and, where necessary in the case of certain activities such as anti-social behaviour, by the police.
- (x) Better information means better targeting which means more effective and efficient use of limited staff resources.

## **Summary and preferred option**

- 7.50 Whilst the voluntary scheme has been operating for little more than five years, it is evident that its main weakness is its lack of reach to all landlords. It is unable to compel landlords to join, which explains why only a very small proportion is involved. Broadly speaking, these are largely the better, more responsible landlords. The voluntary scheme does allow Agents to register but there is no specific test for agents.
- 7.51 Promoting the voluntary scheme in Wales is unlikely to bring the required improvements to the sector as the “bad” landlords will continue to ignore the scheme.
- 7.52 The Welsh Government considers that Option 3 that is, legislation to introduce mandatory registration and licensing of landlords and agents, offers the best way forward to achieve improved management standards in Wales. It will have the maximum impact on the sector and will be delivered centrally, thus avoiding any confusion over registration.
- 7.53 Under the proposals, Wales will be the first country in the UK to introduce mandatory registration and licensing for landlords and agents to improve the way in which the private rented sector operates.

## **Homelessness**

### **Options**

- 7.54 The options are:
1. Do nothing and continue with legislation in its current form.
  2. A duty on local authorities to take reasonable steps to prevent or relieve homelessness for all eligible applicants who are homeless or threatened with homelessness.
  3. A duty on local authorities to take all reasonable steps to prevent or relieve homelessness for all eligible applicants who are homeless or threatened with homelessness and the universal right to temporary accommodation for all applicants who have nowhere safe to stay.

## **Option 1 – Do nothing**

- 7.55 Under this option, there would be no change to the current legislation, which is set out in Part 7 of the Housing Act 1996, the Homeless Persons (Priority Need) (Wales) Order 2001, the Homelessness Act 2002 and the Homelessness (Suitability of Accommodation) (Wales) Order 2006.
- 7.56 This option was discounted following careful consideration of the evidence from research commissioned by the Welsh Government. The research<sup>26</sup> examined the effectiveness of current legislation.
- 7.57 The research concluded that the assistance provided to people is selective and rigid. Where it is practised, homelessness prevention is effective but it is applied inconsistently across local authorities, partly due to its role within the current legislative framework being ambiguous. It also concluded that homelessness legislation is applied inconsistently across Wales, that the collection and analysis of homelessness data is limited and that the current legislative framework leads to resources being allocated on processing decisions rather than on meeting the needs of an individual.
- 7.58 The Welsh Government's intention is set out in its Ten Year Homelessness Plan. The aim is to have a statutory framework that allows local authorities to develop and deliver services that are universally available to all. This would use a housing options approach to address housing and support needs with an even greater emphasis on preventing someone becoming homeless in the first place.

## **Option 2 – A duty on local authorities to take reasonable steps to prevent or relieve homelessness for all applicants who are homeless or threatened with homelessness**

- 7.59 This option has several elements. It does the following:
- (i) Places an initial duty on local authorities to take reasonable steps to prevent homelessness for households. Where homelessness cannot be prevented, reasonable steps must be taken to relieve homelessness.
  - (ii) Allows local authorities the option of being able to discharge their duty to households who are homeless, in priority need and unintentionally homeless through an offer of private rented accommodation using a six month assured shorthold tenancy.
  - (iii) When an applicant is homeless, a local authority can choose whether to carry out the test of intentionality in defined priority need categories or not at all.



- (iv) Strengthens the duty on Registered Social Landlords to co-operate to help local authorities to discharge their homelessness responsibilities.

7.60 This option includes another commitment that was set out in the White Paper; namely a review of the way that homelessness is measured and the monitoring of local service performance. Among respondents that commented on this matter, there was broad agreement that current performance indicators should change to reflect the outcomes expected from the implementation of new legislation. This will be done.

7.61 Option 2 is the preferred option. It achieves a greater emphasis on prevention and at the same time, provides an appropriate balance between protecting people who are homeless or who are at risk of homelessness while recognising the additional demands that would fall on local authorities to deliver an enhanced and more equitable service.

**Option 3 – A duty on local authorities to take all reasonable steps to prevent or relieve homelessness for all applicants who are homeless or threatened with homelessness and the universal right to temporary accommodation for all applicants with nowhere safe to stay**

7.62 This is the original option set out in the White Paper and described as the “Housing Solutions” approach. It proposed that local authorities would be required to take all reasonable steps to achieve a suitable housing solution for all households that are homeless or are threatened with homelessness. They would also be required to provide all homeless households with interim accommodation if they had nowhere safe to stay.

7.63 Concerns about this option were raised by local authorities<sup>27</sup>. They felt that the requirement to provide somewhere safe to stay would result in a considerable increase in demand for temporary accommodation and an increased burden on local authorities to source accommodation and to pay for it. It was also suggested that the proposal could encourage inward migration by homeless households with no local connection to any area in Wales as they would be seeking what would in effect be an enhanced entitlement to assistance when compared with that available in England.

7.64 Both issues identified above would result in cost and resource implications for local authorities, which would be in addition to those that would stem from the universal right to assistance that is in the preferred Option 2.

7.65 Our research into homelessness also recommended some form of monitoring and inspection of homelessness service. It recommended that it could be based on the Scottish Housing Regulator, which regularly inspects local authority homeless functions against homelessness performance standards.

7.66 The practical and resource implications of establishing a regulatory function were considered to be prohibitive and as a result, the proposal was not included in the proposals contained in the White Paper. Taking this into

account along with the concerns of local authorities highlighted above, Option 3 was set aside in favour of Option 2.

## **Costs and benefits**

### **Costs**

7.67 Welsh Government officials have liaised with the Welsh Local Government Association on the additional costs associated with options, with extensive discussion. Both organisations agree that the independent research<sup>28</sup> provides the most robust basis for estimating the cost of homelessness measures. That research provides the unit costs used in this assessment. For ease of reference, the summary costs are rounded to the nearest pound.

### **Option 1 - Do nothing**

7.68 As this option proposes no change, there are no additional costs associated with it. However, in seeking to calculate the additional costs of the new legislation, the essential first step is to estimate the costs of provision under the current legislation. This includes the anticipated increase in the number of homelessness applications between 2010-11 and 2015-16, which is the point at which the proposed legislation would come into force.

7.69 The starting point for the calculations is the 2010-11, quarterly statistical returns on homelessness applications<sup>29</sup>. Several factors are expected to impact on the number of homelessness applications between 2010-11 and 2015-16. These include, for example, welfare reform and the general economic situation. It is estimated that these will result in a 25 percent increase in homelessness applications over the period. Sensitivity analysis has been undertaken to test the impact of changing this assumption.

**Table 8: Estimated number of homelessness applications, 2015-16, after legislation commenced, by type**

Type	Households	
	No.	Percent
Eligible, homeless, in priority need and unintentionally so	7,781	24.2
Eligible, homeless, in priority need but intentionally so	738	2.3
Eligible, homeless, but not in priority need	3,763	11.7
Eligible but not homeless (27 percent assumed to be prevention)	3,983	12.4
Ineligible for assistance	125	0.4
<b>Sub-total</b>	<b>16,390</b>	<b>51.0</b>
Homelessness prevention	15,746	49.0
<b>Total applications for homelessness assistance</b>	<b>32,135</b>	<b>100.0</b>

- 7.70 The “eligible and homeless” applicants and “ineligible” applicants are assumed to have a full assessment at a cost of £382.50 in each case, whilst the “not homeless” applicants are assumed to require a shorter, initial, assessment to determine their status. The cost of this is estimated to be £191.25 each. The total cost for these assessments is estimated to be £5,507,426.
- 7.71 Those applicants who are ‘eligible, homeless, priority need and unintentionally so’ are owed a full duty, the cost of which is £2,030.50 (£2,413 less the £382.50 assessment cost). The total cost of providing the full duty to these applicants is estimated to be £15,799,321.
- 7.72 The total estimated cost of homelessness assistance to applicants that would be expected to be incurred in 2015-16 under the existing legislation is £21,306,747. This figure does not include the cost of providing prevention services to the 49 percent of applicants that are assumed to be prevented under the existing legislation. The cost of dealing with these applicants is assumed to be the same under the current and new legislation.

**Table 9: Summary of estimated costs if existing homelessness legislation applied in 2015-16**

Type	Households		
	No.	Unit cost (£)	Total cost (£)
<b>Assessment costs</b>			
Eligible, homeless, in priority need and unintentionally so	7,781	382.50	2,976,233
Eligible, homeless, in priority need but intentionally so	738	382.50	282,285
Eligible, homeless, but not in priority need	3,763	382.50	1,439,348
Eligible but not homeless (27 percent assumed to be prevention)	3,983	191.25	761,749
Ineligible for assistance	125	382.50	47,813
<b>Sub-total</b>	<b>16,390</b>		<b>5,507,426</b>
<b>Full duty</b>			
Eligible, homeless, in priority need and unintentionally so	7,781	2,030.50	15,799,321
<b>Sub total</b>	<b>7,781</b>		<b>15,799,321</b>
<b>Total estimated cost for applicants in 2015-16 under existing legislation</b>			<b>21,306,747</b>

**Option 2 – A duty on local authorities to take reasonable steps to prevent or relieve homelessness for all applicants who are homeless or threatened with homelessness**

**Welsh Government**

- 7.73 There will be minimal transitional costs to the Welsh Government associated with informing local authorities and the general public about the proposed changes to the homelessness legislation and providing guidance and training to local authorities on delivering the new homelessness services. The cost falls into three main categories: guidance, training, and communication.
- 7.74 Statutory guidance on the delivery of the proposed homelessness legislation will be developed for local authorities. It is intended that this will be made available to local authorities prior to the intended implementation date of April 2015. The cost of producing the guidance will be minimal. It will be developed through an Advisory Group with members participating on a voluntary basis. Administrative costs associated with the Group will be managed out of existing departmental resources. The opportunity cost is estimated as £7,500 (0.3 of a policy post over a period of six months). The guidance will be published on the Welsh Government website and updated as necessary.

- 7.75 The Welsh Government has committed to providing training for local authority homelessness practitioners on the new legislation. It is anticipated that there will need to be 12 training events at an average cost of £500 per day for the trainer and £120 per day for the hire of a venue if “no-cost” venues could not be found. Total cost would be £7,440.
- 7.76 Communications activities would include meetings and discussions, direct correspondence, and the use of media, web and social media channels. Existing networks with local authorities at strategic and operational levels would be used. The new legislation would not generate extra costs as these are already used to discuss and disseminate information on existing legislation, practice, and changes to legislation. No additional staff would be needed to introduce the new legislation. There would be an opportunity cost to utilising existing communications and policy staff on work to support the introduction of the new legislation. Based on an estimated 0.2 of a typical full-time media and policy post, this is equivalent to £9,000.

**Table 10: Summary of estimated costs to the Welsh Government**

Action	Total cost (£)
Guidance	7,500
Training	7,440
Communications	9,000
Total	23,940

## Local Authorities

- 7.77 The cost of providing homelessness services will continue to fall to the local authorities. In estimating the additional costs of the new legislation, it is necessary to split the analysis between ‘existing’ and ‘new’ applicants.

### Existing applicants

- 7.78 The number of ‘existing’ applicants in 2015-16 under the new legislation is assumed to be the same as the number of applicants under the current legislation in 2015-16. This is shown in Table 11.
- 7.79 As with current legislation, there will be an initial assessment for those applicants that are either not homeless or ineligible for assistance. The cost of this assessment is assumed to be £382.50 per “ineligible” applicant and £191.25 for an individual who is considered as “not homeless”. This equates to an estimated total cost of £809,561.
- 7.80 Of the 7,781 individuals categorised as “eligible, homeless, in priority need and unintentionally so”, 14 percent (1,089) are assumed to be homeless on applying. The remaining 86 percent plus those in the “eligible, homeless, priority need but intentionally so” category and those in the “eligible, homeless but not priority need” category are considered to be those to whom a

prevention duty will be owed (11,193 applicants in total). Using the same research mentioned earlier as the basis for costing cases, the average cost of discharging a prevention duty is estimated to be £993. This includes the cost of an assessment. The total cost is therefore estimated to be £11,114,649.

- 7.81 Welsh Government statistics show that the proportion of cases for which homelessness is already being prevented is 49 percent (2010-11). In order to achieve an overall prevention target of 64 percent, it is estimated that homelessness would need to be prevented for 43 percent of the total of 11,193 owed a prevention duty (4,820). The remaining 57 percent applicants for whom prevention fails (6,373) will require a further assessment at an average cost of £191.25 per applicant. The total cost of this is £1,218,836.
- 7.82 The 1,089 applicants who are deemed to be homeless upon application will require a full assessment at the average cost of £382.50 per applicant. The total cost of this is £416,638.
- 7.83 For applicants for whom prevention fails or who are deemed to be homeless upon presentation, there will be a duty to relieve homelessness. The duty to relieve homelessness is assumed to have no additional cost for those applicants who have already been through the prevention duty. For the 1,089 applicants who were homeless upon presentation, the duty is estimated to cost £993 per applicant. The total cost of providing the duty to relieve homelessness is therefore estimated to be £1,081,625.
- 7.84 The duty to relieve homelessness is assumed to be successful in 5 percent of cases. The 95 percent of applicants who are considered to be “eligible, homeless, in priority need and unintentionally homeless” for whom action to relieve homelessness is unsuccessful will be entitled to a full duty at a cost of £2,030.50 per applicant (£2,413 less the cost of an assessment of £382.50). The total cost of this is estimated to be £9,451,978.
- 7.85 The total cost of the proposed legislation for existing applicants is therefore estimated to be £24,093,287.

**Table 11: Summary of costs of Option 2  
for existing applicants, 2015-16**

Type	Households		
	No.	Unit cost (£)	Total cost (£)
<b>Initial assessment only</b>			
Not homeless	3,983	191.25	761,749
Ineligible	125	382.50	47,813
<b>Sub-total</b>	<b>4,108</b>		<b>809,561</b>
<b>Prevention costs</b>			
Priority need, unintentionally homeless	6,692	993.00	6,645,156
Priority need, intentionally homeless	738	993.00	732,834
Non-priority	3,763	993.00	3,736,659
<b>Sub-total</b>	<b>11,193</b>		<b>11,114,649</b>
<b>Assessment cost</b>			
Prevention failed for intentionally homeless; not in priority need	2,563	191.25	490,174
Prevention failed; unintentionally homeless	3,810	191.25	728,663
Eligible, homeless, in priority need and unintentionally so (upon presentation)	1,089	382.50	416,638
<b>Sub-total</b>	<b>7,462</b>		<b>1,635,475</b>
<b>Cost of relieving homelessness</b>			
Prevention failed; intentionally homeless; not in priority need	2,563	0	0
Prevention failed; unintentionally homeless	3,810	0	0
Eligible, homeless, in priority need and unintentionally so (upon presentation)	1,089	993.00	1,081,625
<b>Sub-total</b>	<b>7,462</b>		<b>1,081,625</b>
<b>Full duty owed</b>			
Eligible, homeless, in priority need and unintentionally so (upon presentation – action to relieve homelessness failed)	1,035	2,030.50	2,101,567
Eligible, homeless, in priority need and unintentionally so (prevention and relieving action failed)	3,620	2,030.50	7,350,410
<b>Sub-total</b>	<b>4,655</b>		<b>9,451,977</b>
<b>Total estimated cost for existing applicants in 2015-16 under new legislation (Option 2)</b>			<b>24,093,287</b>

### New applicants

7.86 The proposed homelessness legislation is expected to result in an increase in the number of applications received by local authorities. Under this option, the estimated increase in applications in 2015-16 is 10 percent. This is based on a comparison of the services that will be offered in Wales to those that were introduced in Scotland in 2003, which resulted in a 25 percent increase in applications. The changes in Scotland involved ending priority need and an

offer of temporary accommodation for all, and thus inevitably resulted in a much greater increase than we would expect.

**Table 12: Estimated number of applications in 2015-16 under Option 2**

<b>Applications</b>	<b>Change</b>
Applications for assistance in 2015-16 under current legislation	32,135
Percentage change in applications due to new legislation	+10%
Applications for assistance in 2015-16 under new legislation	35,349
<b>Additional applications for assistance as result of new legislation</b>	<b>3,214</b>

- 7.87 In the case of new applicants, an initial assessment is expected to determine that 68 percent of them (2,185) are homeless or are threatened with homelessness. The remaining 32 percent (1,028) are assumed to be not homeless. These figures are based on research commissioned by the Welsh Government<sup>30</sup>.
- 7.88 The average cost of each initial assessment which determines that some applicants are not homeless is £191.25. The total cost for these assessments is £196,605.
- 7.89 Of those applicants who are homeless or threatened with homelessness, 14 percent (306) are assumed to be homeless upon presentation with the remaining 86 percent (1,880) considered to be threatened with homelessness. As stated earlier, the cost of prevention is estimated to be £993 per case, including the cost of an assessment. The total cost of the prevention duty for the 1,880 applicants threatened with homelessness is therefore £1,866,800.
- 7.90 Prevention is assumed to be successful in 64 percent of cases (1,203). In the remaining 36 percent of cases (677), the applicant is owed a duty to relieve homelessness. There is not assumed to be an additional cost for the duty over and above the £993 cost of the failed prevention duty. There will be a further assessment to determine whether the applicant is “in priority need” or not. The average cost of that assessment is assumed to be £191.25 per applicant, which results in an estimated total cost of £129,469.



**Table 13: Summary of costs of Option 2  
for new applicants, 2015-16**

Type	Households		
	No.	Unit cost (£)	Total cost (£)
<b>Assessment</b>			
Not homeless (32 percent of additional applicants)	1,028	191.25	196,605
Homeless due to failure of prevention	677	191.25	129,476
Homeless upon presentation	306	382.50	117,045
<b>Sub-total</b>	<b>2,011</b>		<b>443,126</b>
<b>Prevention</b>			
Number of people threatened with homelessness who are prevented from becoming homeless	1,880	993.00	1,866,840
<b>Sub-total</b>	<b>1,880</b>		<b>1,866,640</b>
<b>Action to relieve homelessness</b>			
Duty (after prevention duty)	677	0	0
Duty (homeless upon presentation)	306	993.00	303,858
<b>Sub-total</b>	<b>983</b>		<b>303,858</b>
<b>Full duty owed</b>			
In priority need	246	2,030.50	499,503
<b>Sub-total</b>	<b>246</b>		<b>499,503</b>
<b>Total estimated cost for new applicants in 2015-16 under new legislation</b>			<b>3,113,127</b>

7.91 There will also be a cost associated with assessing the status of the 306 applicants who are found to be homeless upon presentation. The average cost of each assessment is estimated to £382.50, which gives an estimated total cost of £117,060. The 306 applicants who are homeless on application will be owed a duty to relieve homelessness, the cost of which is assumed to be £993 per applicant. There is a cost for this duty because the applicants have not previously been through the prevention process. The total cost of this duty is therefore £303,858.

7.92 Of the 983 people owed an duty to relieve homelessness, that is, the 677 for whom prevention failed and 306 who were homeless on application, 25 percent (246) are assumed to be “in priority need” and owed a full duty. As stated earlier, the average cost per case for providing a full duty is estimated to be £2,030.50. The total cost of providing the full duty is therefore estimated to be £499,503.

## Reduced costs over time

- 7.93 The total cost of the new legislation for new applicants is estimated to be £3,113,335. When added to the cost for new applicants, the total cost for the new legislation is estimated to be £27,182,716.
- 7.94 Compared to the cost of the existing legislation, the additional cost of the new legislation in 2015-16 is approximately £5,899,876.
- 7.95 There is a link between the cost of the new legislation and the homelessness prevention rates achieved by local authorities. With a statutory duty to prevent homelessness and funding and support provided by the Welsh Government to underpin the approach in the transitional years (2015-2018), it is envisaged that local authorities will be able to increase their prevention rates from 64 percent in the first year of implementation (2015-16) to 70 percent in 2016-17, and 74 percent in 2017-18. The increases, which are considered to be reasonable and achievable, will result in a corresponding year-on-year decrease in the additional costs of the new legislation.

**Table 14: Summary of transitional costs for Option 2 related to prevention rates, 2015 - 2018**

Year	Prevention rate (%)	Additional cost (£ million)
2015/16	64	5.9
2016/17	70	3.2
2017/18	74	1.9

## Sensitivity Analysis

- 7.96 Sensitivity analysis has been undertaken on a number of the key assumptions identified above, namely:
- Sensitivity 1: Assumes a 33.5 percent increase in applications between 2010-11 and 2015-16 due to welfare reform and economic conditions.
  - Sensitivity 2: Assumes a 20 percent increase in applications in 2015-16 due to the new legislation.
  - Sensitivity 3: Combines the two changes outlined above.
- 7.97 The results of these sensitivity tests are shown in the table below.

**Table 15: Summary of sensitivity analysis results**

	<b>Existing legislation (£)</b>	<b>Proposed legislation (£)</b>	<b>Additional Cost (£)</b>
Central scenario	21,300,000	27,200,000	5,900,000
Sensitivity 1	22,700,000	29,000,000	6,300,000
Sensitivity 2	21,300,000	30,300,000	9,000,000
Sensitivity 3	22,700,000	32,400,000	9,600,000

Note: Costs rounded to the nearest £100,000

**Option 3 – A duty on local authorities to take all reasonable steps to prevent or relieve homelessness for all applicants who are homeless or threatened with homelessness and the universal right to temporary accommodation for all applicants with no where safe to stay**

**Welsh Government**

7.98 The costs associated with communications, guidance and training under this option are expected to be the same as under Option 2; that is, £23,940.

**Local Authorities**

7.99 As with Option 2, the cost of providing homelessness services will continue to fall to the local authorities. As with that option, the analysis assesses 'existing' and 'new' applicants.

**Existing applicants**

7.100 The majority of the costs associated with dealing with existing applicants will be the same as under Option 2. However, there will be an additional cost due to the increase in the number of applicants eligible to receive temporary accommodation. The cost of providing temporary accommodation to those applicants who are in priority need and for whom homelessness is not prevented or relieved is already included in the cost of providing a full-duty. In this option, a proportion of those applicants who are classified as "eligible, homeless but not in priority need" are considered to be eligible for temporary accommodation if they are deemed to have nowhere safe to stay. Research into the impacts assumed that 14 percent of homeless applicants would require temporary accommodation. This is approximately 527 of those applicants considered to be "eligible, homeless but not in priority need".

7.101 Currently, approximately 80 percent of temporary accommodation is provided by leased accommodation. The remaining 20 percent is bed and breakfast accommodation. Local authorities estimate that the average cost of temporary accommodation in leased premises is £57 per week, while the average cost in bed and breakfast accommodation is approximately £325 per week. The average length of stay in temporary accommodation is approximately six weeks. On this basis, the average cost per case requiring

temporary accommodation is approximately £1,082. On this basis, the additional cost of providing temporary accommodation to existing applicants is £569,851.

**Table 16: Summary of costs of Option 3 for existing applicants, 2015-16**

Type	Households		
	No.	Unit cost (£)	Total cost (£)
<b>Initial assessment only</b>			
Not homeless	3,983	191.25	761,749
Ineligible	125	382.50	47,813
<b>Sub-total</b>	<b>4,108</b>		<b>809,561</b>
<b>Prevention and relieving costs</b>			
Priority need, unintentionally homeless	6,692	993.00	6,645,156
Priority need, intentionally homeless	738	993.00	732,834
Non-priority	3,763	993.00	3,736,659
Eligible, homeless, in priority need and unintentionally so (upon presentation)	1,089	993.00	1,081,625
<b>Sub-total</b>	<b>11,193</b>		<b>12,196,274</b>
<b>Assessment cost</b>			
Prevention failed for intentionally homeless; not in priority need	2,563	191.25	490,174
Prevention failed; unintentionally homeless	3,810	191.25	782,663
Eligible, homeless, in priority need and unintentionally so (upon presentation)	1,089	382.50	416,638
<b>Sub-total</b>	<b>7,462</b>		<b>1,635,474</b>
<b>Temporary accommodation</b>			
Eligible, homeless, but not in priority need	527	1,081.68	569,851
<b>Sub-total</b>	<b>527</b>		<b>569,851</b>
<b>Full duty owed</b>			
Eligible, homeless, in priority need and unintentionally so (upon presentation – duty to relieve homelessness failed)	1,035	2,030.50	2,101,567
Eligible, homeless, in priority need and unintentionally so (prevention and relieving failed)	3,620	2,030.50	7,350,410
<b>Sub-total</b>	<b>4,655</b>		<b>9,451,977</b>
<b>Total estimated cost for existing applicants in 2015-16 under Option 3</b>			<b>24,663,137</b>

## New applicants

7.102 The additional duty is expected to result in an increase in the number of homelessness applications. Under Option 2, the change in policy is expected to generate a 10 percent increase in the number of homelessness applications in 2015-16. This is after taking into account the impact of other factors such as welfare reform. In Option 3, the greater access to temporary accommodation is expected to result in a 20 percent increase in homelessness applications. This represents an additional 6,427 applications over and above those which would have otherwise been made.

**Table 17: Estimated number of applications in 2015-16 under Option 3**

<b>Applications</b>	<b>Change</b>
Applications for assistance in 2015-16 under current legislation	32,135
Percentage change in applications due to new legislation	+20%
Applications for assistance in 2015-16 under new legislation	38,562
<b>Additional applications for assistance as result of new legislation</b>	<b>6,427</b>

- 7.103 Of the additional applicants, an initial assessment is expected to determine that 68 percent (4,370) are homeless or threatened with homelessness. The remaining 32 percent (2,057) are assumed to be not homeless. This assumption is taken from the research commissioned as part of developing the legislation<sup>31</sup>.
- 7.104 The initial assessment determining that some applicants are not homeless is estimated cost £191.25 per case. The estimated total cost for these assessments is £393,401.
- 7.105 Of the applicants that are homeless or threatened with homelessness, 14 percent (612) are assumed to be homeless on presentation with the remaining 86 percent (3,758) threatened with homelessness.
- 7.106 As noted above, the cost of prevention and relieving homelessness is estimated to be £993 per case. This includes the cost of an assessment. The total cost of the intervention for the 3,758 applicants threatened with homelessness is £3,731,893 and the cost for the 612 applicants that are homeless upon presentation is £607,517.
- 7.107 As in Option 2, prevention is assumed to be successful in 64 percent of cases (2,405) where the applicant is threatened with homelessness. The remaining 1,353 applicants will require a further assessment to determine whether they are “in priority need” and whether or not they have “somewhere safe to stay”. The cost of that assessment is assumed to be £191.25, resulting in a total cost of £258,800.
- 7.108 There will also be a cost associated with assessing the status of the 612 applicants who are found to be homeless on presentation. The cost of this assessment is estimated to be £382.50 per case giving a total cost of £234,014.
- 7.109 Based on these assessments, 25 percent of applicants are expected to be entitled to a full-duty at an average cost of £2,030. The total cost of providing the full duty is therefore estimated to be £996,976.
- 7.110 In this option, the remaining 75 percent of applicants who were homeless on presentation are expected to be eligible for temporary accommodation at an average cost of approximately £1,082 per case. This equates to a cost of £496,491.

7.111 As shown in Table 18, the total cost of Option 3 for new applicants in 2015-16 is estimated to be £6,719,091. The total costs for this option is therefore estimated to be £31,382,229 in 2015-16.

7.112 Compared to the estimated cost of the existing legislation in 2015-16, the additional cost of Option 3 is £10,075,482 per annum.

**Table 18: Summary of costs of Option 3 for new applicants, 2015-16**

Type	Households		
	No.	Unit cost (£)	Total cost (£)
<b>Assessment</b>			
Not homeless (32 percent of additional applicants)	2,057	191.25	393,401
Homeless due to failure of prevention	1,353	191.25	258,800
Homeless upon presentation	612	382.50	234,014
<b>Sub-total</b>	<b>4,022</b>		<b>886,214</b>
<b>Prevention</b>			
Number of people threatened with homelessness who are prevented from becoming homeless	3,758	993.00	3,731,893
Homeless upon presentation	612	993.00	607,517
<b>Sub-total</b>	<b>4,370</b>		<b>4,339,410</b>
<b>Temporary accommodation</b>			
Homeless upon presentation (owed a full duty)	459	1,081.68	496,491
<b>Sub-total</b>	<b>459</b>		<b>496,491</b>
<b>Full duty owed</b>			
In priority need	491	2,030.50	996,976
<b>Sub-total</b>	<b>491</b>		<b>996,976</b>
<b>Total estimated cost for new applicants in 2015-16</b>			<b>6,719,091</b>

7.113 The transitional costs related to prevention rates for Option 3 are summarised in the table below.

**Table 19: Summary of transitional costs for Option 3 related to prevention rates, 2015 - 2018**

Year	Prevention rate (%)	Additional cost (£ million)
2015/16	64	10.00
2016/17	70	7.3
2017/18	74	5.5

## **Benefits**

### **Option 1 – Do nothing**

7.114 This option has no additional benefits other than it would neither require legislative action nor the cost of implementing new legislation. Such action would contradict the conclusions and recommendations of research into homelessness legislation in 2011-12. Commissioning the research study was a Welsh Government commitment based on recognition that current legislation does not reflect the importance of prevention or the need for a local authority to have more flexibility in discharging its duties. The need for better legislation was confirmed by the review report. Legislation is needed to tackle the increasing level of homelessness which is expected to rise further as a result of the UK Government's welfare reform programme.

### **Option 2 – A duty on local authorities to take reasonable steps to prevent or relieve homelessness for all applicants who are homeless or threatened with homelessness**

7.115 The proposals set out in this option will address the need to strengthen the role of prevention in the duty that local authorities owe to homeless people. They will require local authorities to provide a more comprehensive service by providing assistance to all eligible applicants who are at risk of homelessness within the next 56 days. The duty to take reasonable steps to prevent and relieve homelessness will also apply for people who have become homeless. The legislation will significantly reduce the number of people who become homeless and will provide more help to those who do.

7.116 The way local authorities can discharge their duties to people to whom they owe a full re-housing duty because they are in priority need and unintentionally homeless will be reformed. It will provide local authorities with another option. They will be able to meet their duty by finding suitable accommodation in the private rented sector, which at the moment requires the agreement of the applicant. This reflects the increasing importance of the private sector and the increasing pressure on the social housing sector.

7.117 This option does require some additional investment in services to ensure that local authorities can deliver the additional assistance. The need will reduce as the rate of prevention increases.

### **Option 3 – A duty on local authorities to take all reasonable steps to prevent or relieve homelessness for all applicants who are homeless or threatened with homelessness and the universal right to temporary accommodation for all applicants with nowhere safe to stay**

7.118 This option contains the same elements as Option 2, but with one significant difference. It imposes on local authorities a duty to provide temporary accommodation to homeless applicants who are not in priority need but who lack somewhere safe to stay, such as rough sleepers. This option would provide additional protection to people in vulnerable circumstances whilst the

local authority was working to assist them, thereby reducing the risk of harm and increasing the likelihood of successful engagement with the local authority. However, it would be substantially more expensive than Option 2. The additional cost is estimated to be approximately £4 million in the first year, which would place a severe strain on reducing public resources.

7.119 There is also a substantial concern that a duty to provide temporary accommodation to all would encourage people to declare themselves to be homeless even where they had somewhere safe to stay, such as with family. In particular, it is likely this proposal would incentivise people to move across borders, including from England to Wales, creating additional pressure in areas which are attractive to live in for various reasons.

## **Summary and preferred option**

7.120 Option 2 will strengthen considerably the prevention of homelessness. It will extend the assistance given to applicants who currently receive very little help. It will also provide more flexibility to local authorities to discharge their homelessness duties through use of the private rented sector. The option will achieve an even greater emphasis on preventing homelessness in the first place and will allow earlier intervention to do so. It provides a reasonable and appropriate balance between protecting people who are homeless and those who are at risk of becoming homeless, while recognising the additional demands that will fall on local authorities to deliver an enhanced and more equitable service. The improvements will require additional resources from the first year of implementation, which will fall to the Welsh Government. The additional cost falls away in subsequent years as prevention levels increase.

7.121 In addition to the main proposals above, the Welsh Government proposes to amend the priority need status of former prisoners, so that it only applies where they are vulnerable as a result of having been in custody. Local authorities have expressed increasing concern in recent years at the cost of finding accommodation for this group, which now comprise 15 percent of all people accepted for the full duty (around 1,100 per year). A survey of local authorities by the Welsh Government in summer 2013 revealed that the average cost of meeting their homelessness duty to each former prisoner was £2,100. Assuming that local authorities continue to find 10 percent of prisoners meeting the revised definition, and accounting for the cost of providing the enhanced prevention and relief duties to this group, the change will reduce the net costs for local authorities of discharging their homelessness duties by approximately £1,200,000 per year.

## **Gypsy and Traveller Sites**

### **Options**

7.122 Three main options were identified:

1. Do nothing.



2. Introduce a new duty for local authorities to make provision for Gypsy and Traveller sites where a need has been identified.
3. Registered Social Landlords are encouraged to build and manage sites.

### **Option 1 - Do nothing**

- 7.123 This option would see current arrangements continue. As a result, the risks and in some cases, the reality, of more unauthorised encampments will persist. Unauthorised encampments can result in additional social costs to local authorities, the police and other public services. The Welsh Government could also be seen to be failing in its equalities duty as it is responsible for advancing equality of opportunity.
- 7.124 Past research<sup>32</sup> has identified the need for 300-400 pitches, including 150-200 local authority pitches, 50 private pitches and 100-150 transit pitches. The Welsh Government's own estimate, using Census 2011, bi-annual caravan count and past research, indicates a shortfall of between 209 and 243 permanent residential pitches. Since 2007, the Welsh Government has provided a new sites grant but no local authority sites have been built since 1997.
- 7.125 The Welsh Government has made grant funding available for the creation of new sites since 2007 and encouraged applications for 100 percent of the capital costs associated with the building of new sites since 2011. 'Travelling to a Better Future' also urged the need for new sites but despite these initiatives, no new sites have been built in Wales since 1997. For the above reasons this option is dismissed.

### **Option 2 - Introduce a new duty for local authorities to make provision for Gypsy and Traveller sites where a need has been identified.**

- 7.126 This option would, in effect, result in the re-introduction of a statutory duty on local authorities to make provision for new Gypsy and Traveller sites where a need has been identified. However, the duty would differ in some ways from the original.
- 7.127 There was a duty in the 1968 Caravan Sites Act, which was repealed in 1994. Under the previous duty, local authorities were required to provide sites for Gypsies and Travellers. It also placed a responsibility on local authorities to allow a maximum of fifteen caravans on each new site.
- 7.128 Under the new duty, there will be no restriction to the number of caravans on a new site. Statutory guidance will be issued to local authorities to assist them in the process of identifying the need for new sites.
- 7.129 This option responds directly to the lack of action to provide new sites to meet need. This is the preferred option. The decision has been informed by the facts set out in Option 3 below.

### **Option 3 - Registered Social Landlords are encouraged to build and manage sites**

- 7.130 This option would encourage Registered Social Landlords or “housing associations” as they are more commonly known, to build new sites and to manage them afterwards. It relies on associations coming forward and making available new, suitable, sites.
- 7.131 In England, several sites are managed by Registered Social Landlords but, few have been built by them. No Gypsy and Traveller sites are managed by Registered Social Landlords in Wales. Since 2007, the Welsh Government has made available to local authorities the New Sites capital grant and has stated its willingness to work with associations to ensure schemes are eligible for assistance. However, to date, no expressions of interest have been received.
- 7.132 To be considered as an option, housing associations would need to present a viable alternative to a duty on local authorities. The most common difficulty in providing new sites is identifying them in the first place and then obtaining the necessary planning permission for such use. There are very few examples of housing associations that have provided sites and there is no evidence to suggest that they find it any easier than local authorities to obtain the necessary planning permission.
- 7.133 Under this option, the differences in status between local authorities and housing associations would also present a difficulty. Providing local authority sites recognises that Gypsy and Traveller communities want to fulfil their traditional way of life. The level of poverty in these communities is relatively high and it is recognised that they may not be able to afford to buy appropriate land to develop a site of their own. Welsh Government Planning Guidance<sup>33</sup> encourages local authorities to provide the appropriate type of sites for their local area. This may involve working with more affluent Gypsy and Traveller families to ensure planning permission for private accommodation or providing local authority-funded sites if needed. If housing associations develop sites to meet the identified need, the sites would be classified as private sites under the Mobile Home Sites Act 1983.
- 7.134 The Welsh Government implemented the Mobile Homes Act 1983 for local authority Gypsy and Traveller sites on 10 July 2013. The 1983 Act, and amended terms, includes equal security of tenure and the regulation of pitch fees. They also include limited assignment rights for residents. These rights have been established as a means of allowing local authorities to manage their sites effectively and to prevent the creation of a market in pitches. In terms of effective management, full assignment rights would allow residents to transfer the agreement to anyone they wished, which would make administration of a pitch allocation waiting list (much like a social housing waiting list) extremely difficult. In terms of a market in pitches, when transferring agreements, it would be possible for residents to effectively auction their pitch to the highest bidder as there is currently a large shortage

of pitches in Wales. Limited assignment limits the gifting of agreements to family members only.

7.135 A site owned by a housing association would not benefit from these amendments. As a result, the sites could be subject to the problems outlined above. This might mean that public funding is used to build a site but then the site might very quickly become unavailable to families who cannot afford to provide their own private sites. This development would run counter to the rationale for socially-funded sites.

7.136 For these reasons, sites owned by housing associations are not considered to be a sensible alternative to creating a duty on local authorities. Local authorities could work in partnership with housing associations to help them exercise a duty to provide sites. Local authorities would need to identify and buy the land, bid for Welsh Government funding and own the site. A housing association could assist by deploying its expertise in developing a site and possibly managing it afterwards on behalf of the local authority. The partnership would ensure that sites benefit from the proposed changes to the Mobile Homes Act 1983. While limited, information from England suggests that such partnerships could deliver value-for-money in terms of the number of pitches provided for the level of allocated funding.

7.137 While this option has some merits, the matters relating to the Mobile Homes Act point to the benefits of housing associations' involvement being limited to assisting local authorities to discharging a new duty; that is, Option 2.

## **Costs**

### **Option 1 - Do Nothing**

7.138 Under this option, the existing policy and legislation in relation to Gypsies and Travellers will continue unchanged. Therefore, no additional costs will be incurred.

### **Option 2 - Introduce a new duty for local authorities to make provision for Gypsy and Traveller sites where a need has been identified.**

7.139 The legislation is designed to ensure that new sites are developed where the need has been identified. The legislation will therefore generate additional costs. The following paragraphs summarise the main costs. The assessment draws on past experience of site development and an analysis of the anticipated range of cost components associated with the development of a new site.

### **Welsh Government**

7.140 Statutory guidance will be produced to accompany the introduction of the duty. This will provide clear instruction on what is required and will help to ensure a

consistent approach by all local authorities. The one-off cost of developing and disseminating the guidance is estimated at £35,000.

- 7.141 The cost of communications will be based on the production of an audio resource. This will be used to explain the new duty to the members of Gypsy and Traveller communities who are interviewed as part of a local authority's assessment of accommodation needs. It will be available for download from the Welsh Government's website and will help ensure consistent messages and allow expectations to be managed. The costs associated with producing this resource will not exceed £5,000. This is a one-off cost. The cost of saving the audio resource to a CD to issue to a community will be borne by the local authority but the costs of this are negligible. In addition to the above and covered by the cost estimate, information and good practise will be disseminated through existing channels and networks and through the specialist Gypsy and Traveller publication 'Travellers' Times'
- 7.142 The Welsh Government is committed to working with local authorities to deliver new sites and will provide up to 100 percent of the capital grant funding to a local authority for a new site up to a maximum of £1,500,000 million per project. The current budget for the Sites Capital Grant is £1,500,000 per annum. A business case is currently being prepared within Welsh Government which will, if approved, result in an increase in the Sites Capital grant to enable support to be given up to a maximum of £1,500,000 of the capital cost of each site. However, until approval is provided, the budget is assumed to remain at £1,500,000 per year. This budget will ensure that it is possible to provide funding to at least one new site per year. It will also ensure that local authorities conduct competitive tendering processes to ensure value for money is achieved at all times.
- 7.143 The last site built in Wales was in 1997. Accurate data on the capital cost of a new site is therefore limited. However, a new site in Powys is currently under development and provides a useful indication of the costs involved. While the precise costs reflect some elements specific to the site in question and the characteristics of the area, an analysis of the cost components allows the cost of a typical site to be estimated. The table below provides a breakdown of the costs.

**Table 20: Illustrative cost of a new Gypsy and Travellers site, by main cost components**

<b>Main Component</b>	<b>Cost (£)</b>
Design fees and survey costs	369,000
Preliminary costs of main contractors	159,000
Fees and charges (e.g. building control, planning)	11,000
Employer's requirements (e.g. contract contingency; client contingency; ground investigation works)	241,000
Amenity substructure	60,000
Amenity superstructure	492,000
External works (e.g. roads, paths, paving; drainage, services, fencing)	892,000
<b>Total</b>	<b>2,224,000</b>

7.144 The costs above relate to the recent development of a fourteen pitch Gypsy and Traveller site in Wales. The figures have been adjusted to remove planning conditions specific to its location in a National Park. Current best practice suggests that a twelve pitch site is the preferred development size. Adjusting the Powys site costs presented above to reflect such a site suggests a cost per site of approximately £1,900,000. However, based upon the most recent grant allocations in England, the costs of creating new Gypsy and Traveller sites can range from £900,000 to £1,100,000<sup>34</sup>. These figures are based on a 12-pitch site and represents 64 percent of the total cost, which is the proportion of funding provided by the department for Communities and Local Government in 2012-13. Taking this figure and applying it to the Welsh Government's 100 percent grant commitment, the estimated costs should range from of £1,400,000 to £1,700,000.

7.145 Taking the data from the various sources, the cost of developing a new Gypsy and Traveller site is estimated to range from £1,400,000 to approximately £1,900,000. For the purposes of this assessment, £1,500,000 is adopted as the best estimate of the cost of developing a new site. This reflects the possibility that costs will exceed the lower estimate of the range, but should be deliverable where local authorities are scrutinising proposals for value-for-money, as has been shown in England.

7.146 The number of future funding applications for new sites coming forward and thus the costs profile over the next five years is very difficult to predict. As the grant for a new site must be spent within a financial year, it is anticipated that a local authority will need to have identified a site within its Local Development Plan before it applies for the grant.

7.147 It is likely that the Welsh Government will receive relatively few applications each year. It is understood that several local authorities have expressed an

interest in developing new sites or extending existing sites. However, some are considerably closer to achieving this than others. The assessment of need is one step and several local authorities have not yet undertaken assessments or adopted their Local Development Plans. Even where assessments have been undertaken, some are inadequate and require further work. However, the key factor in determining the expenditure profile on sites in the coming years is the length of the planning and development process itself. Experience shows that the process of identifying and building a new site can take several years due to public consultation and identification of a suitable site.

7.148 Although consultation with local authorities has indicated that 14 may be in a position to develop a new Gypsy and Traveller site in the next five years following the commencement of the duty, Welsh Ministers have stated that they would not compel local authorities to provide new sites where grant funding from the Welsh Government is not available. As mentioned above, a business case is currently in development to seek increased capital funding for the sites upon commencement of the new duty. However, until such time as that business case is approved, Welsh Government funding is assumed to be fixed at £1,500,000 a year. This funding is equivalent to the estimated cost of developing one new site. Therefore, at this stage, our best estimate is that one new site will be developed each year. On this basis, the cost to the Welsh Government over the five year appraisal period is estimated to be £7,500,000.

7.149 In the absence of additional grant funding, the new Gypsy and Traveller sites would be delivered over the medium-term rather than the short-term. If the amount of grant funding available was increased to finance the potential 14 new sites indicated by local authorities during the appraisal period (each at an estimated cost of £1,500,000) then the cost to the Welsh Government would increase to £21,000,000.

7.150 Action will be taken to monitor and enforce the new duty. Local authorities' needs assessments will be reviewed to ensure they are robust and meet the required standard, which will be set out in statutory guidance. These assessments of need will be approved, rejected, or approved with modifications by the Welsh Ministers. The Welsh Ministers will also be able to request information from local authorities that is relevant to scrutinising that needs assessments are robust. Based on 0.2 of a full time team leader and 0.5 of a typical policy post, the total estimated cost is £40,000 per annum.

### **Local authorities**

7.151 Local authorities are currently required to make an assessment of Gypsy and Traveller accommodation needs but are not explicitly required to provide site accommodation<sup>35</sup>. Under this duty, local authorities will have to undertake an initial assessment of need within 12 months of commencement, followed by subsequent assessments within rolling five year periods. Where there is a shortage of suitable sites/pitches, Gypsies and Travellers are categorised as homeless if they have no legal alternative accommodation and are eligible for

local authority housing support. Tackling unauthorised encampments that stem from an absence of adequate and appropriate site accommodation and clearing or securing a site afterwards, also results in a wide range of costs to local authorities. The costs of these are incurred under current legislation and therefore are excluded.

- 7.152 The statutory guidance that will be issued by the Welsh Government will set out the methodology for undertaking an assessment. This will be more rigorous than the current methodology used by some local authorities. It is recognised that this might require more resources in some local authorities who have not yet undertaken rigorous needs assessments. It is not expected that local authorities will need to employ additional officers to deliver the new duty but if an authority did require additional staff resource, the costs are estimated at £40,000 per annum.
- 7.153 As stated earlier, the Welsh Government will fund 100 percent of the capital costs of developing a new site up to a maximum of £1,500,000 a year. This is equivalent to the best estimate of the cost of developing a new site. Capping the amount of grant funding available will encourage local authorities to scrutinise the procurement of new sites in order to secure best value for money for themselves and for the Welsh Government. However, some local authorities may wish to develop sites that are larger than 12 pitches and in these circumstances, costs may exceed the £1,500,000 grant. If costs exceed the maximum grant, local authorities may need to finance the shortfall.
- 7.154 After a site has been built, the local authority will be responsible for the annual maintenance and site management costs. These include lighting, refuse collection, site insurance, minor repairs, and inspections. These are estimated at £22,000 per site per annum. It is expected that this cost can be offset by the collection of pitch fees from residents of the sites. For example, the maintenance cost could be recouped by charging residents £35 per week. Based on 12 pitches x £35 per week x 52 weeks, the total income generated would be £21,840. A pitch fee of £35 per week would be among the cheapest pitch fee on sites in Wales.

## **Others**

- 7.155 There are no costs for other organisations. An assessment of costs incurred by the police, by landowners and by other bodies, including public sector organisations indicate that these stem from unauthorised encampments; this is precisely what the new duty is designed to avoid.
- 7.156 Experience has shown that when a local authority plans to build a new site for Gypsy and Travellers, there can be community tension. As a result, costs can be incurred by a variety of parties including individuals and communities and local authorities when dealing with legal and communication issues associated with new sites. However, these are not directly the result of the new legislation. It is argued that the costs will be no greater than those that

are currently incurred as a result of unauthorised sites where authorised sites are not available.

**Table 21: Summary of costs of Option 2**

	2015-16 (£)	2016-17 (£)	2017-18(£)	2018-19 (£)	2019-20 (£)
<b>Welsh Government</b>					
Guidance	35,000	0	0	0	0
Communications	5,000	0	0	0	0
Monitoring and enforcement	40,000	40,000	40,000	40,000	40,000
Grant funding for new sites (note 1)	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
<b>Local authorities</b>					
Management; maintenance (note 2)	22,000	44,000	66,000	88,000	110,000
<b>Pitch fee receipts</b>	-22,000	-44,000	-66,000	-88,000	-110,000
<b>Households</b>					
Pitch fees	22,000	44,000	66,000	88,000	110,000
<b>Total</b>	<b>1,602,000</b>	<b>1,584,000</b>	<b>1,606,000</b>	<b>1,628,000</b>	<b>1,650,000</b>

Notes:

1. Based on 100 percent of grant applications up to a maximum of £1,500,000 a year
2. Total maintenance cost to local authorities based on one new site a year.

7.157 The Net Present Value of the costs of Option 2 is £7,000,000.

7.158 As noted above, the costs in table 21 are based on the current level of grant support available from the Welsh Government and assume one new site is developed in each year of the appraisal period. A business case is currently being prepared within Welsh Government which will, if approved, result in an increase in the Sites Capital grant such to enable support to be given up to a maximum of £1,500,000 of the capital costs of each site developed by local authorities.

### **Option 3: Registered Social Landlords are encouraged to build and manage sites.**

7.159 The costs of Option 3 are very similar to those of Option 2. The prime difference is that the costs would be incurred by a housing association but it could apply for funding for these costs through the Welsh Government's Capital Site Grant. This would be dependent upon the terms and conditions of the Sites Capital Grant being amended to allow applications from Registered Social Landlords. As Option 3 was ruled out, the costs of this option are not presented.



## Benefits

### Option 1 - Do Nothing

7.160 There are no additional benefits under this option. The shortfall in legal pitches that are available to Gypsy and Traveller families is expected to continue and the problems associated with unauthorised encampments and overcrowded sites will remain.

### Option 2 - Introduce a new duty for local authorities to make provision for Gypsy and Traveller sites where a need has been identified.

7.161 There are many benefits from this option. They fall into two main categories. Firstly, the benefits, including cost savings, of preventing unauthorised encampments in communities. Secondly, the many positive benefits to Gypsies and Travellers themselves as individuals and as families.

7.162 Local authorities will see a long-term reduction in costs associated with unauthorised camping. Some unauthorised camping is inevitable even if sites are available. This stems from the fact that some Gypsy or Traveller families wish to maintain a purely nomadic way of life, stopping wherever they require, rather than on official sites. With the provision of new sites, the frequency and costs of unauthorised encampments is expected to reduce significantly.

7.163 Research in 2002<sup>36</sup> estimated the cost of unauthorised encampments across the UK as at least £6 million per year, which is approximately £8 million per year at 2013 prices. It identified that 88 percent of public bodies in Wales had incurred costs as a result of unauthorised encampments. In 2012, the Department for Communities and Local Government in England quoted the costs to local authorities of evicting families from unauthorised sites as approximately £18 million per year<sup>37</sup>. More recently, the savings are illustrated by one local authority in England, which has seen its annual expenditure on dealing with illegal encampments fall from around £200,000 per annum to £5,000<sup>38</sup>.

7.164 Gypsy and Traveller families will benefit in a number of ways. Children will benefit as a result of better attendance and attainment within the education system as education professionals are able to build stable and trusting relationships with families. This is recognised by regulators<sup>39</sup>.

7.165 Better health will result from, for example, uptake of preventative healthcare, including vaccinations of children as health visitors are able to access families that they couldn't access previously. Greater integration of Gypsies and Travellers is also likely as individuals access local facilities, which can also lead to the reduced likelihood of children having to live or play in unsafe environments.

7.166 Most fundamentally, many more Gypsies and Travellers will be able to access culturally-appropriate accommodation. This pays due regard to Human Rights legislation and supports Objective 6 of the Welsh Government's Strategic

Equality Plan by reflecting the needs of those with protected characteristics in meeting housing needs.

7.167 It is possible that the development of new sites could result in some social housing becoming available if Gypsy and Travellers decide to take up residence on new sites. Estimates of Gypsy and Travellers living in more traditional homes vary between half and two thirds<sup>40,41,42</sup>.

7.168 Other organisations, such as the police, private landowners and public bodies will also benefit from the introduction of the duty. As stated previously, unauthorised camping causes significant costs for both. With the provision of more authorised sites, these costs should be reduced significantly.

### **Option 3: Registered Social Landlords are encouraged to build and manage sites.**

7.169 The benefits of Option 3 are similar to those of Option 2 but with the significant exception explained on pages 2-3. As this option has been set aside, the benefits are not restated.

## **Summary and preferred option**

7.170 No new Gypsy and Traveller sites have been built in Wales since 1997. The lack of sufficient pitches combined with a number of new unauthorised encampments each year causes significant economic costs, environmental concerns and social tensions.

7.171 The Welsh Government considers that Option 2: that is, legislation to ensure local authorities make provision for new Gypsy and Traveller sites where a need has been identified, offers the best way forward to ensuring that the cultural and living requirements of Gypsies and Travellers are properly addressed.

7.172 Under the proposals, Wales will be taking the lead in tackling inequalities for Gypsies and Travellers by ensuring that local authorities have a statutory obligation to provide new Gypsy and Traveller sites where a need has been identified. This will lead to an improved standard of accommodation, a reduction in unauthorised encampments and benefits for individuals and their families.

## **Local Authority Standards: Welsh Housing Quality Standard**

### **Options**

7.173 The options are –

1. Do nothing; maintain the existing voluntary standard.

2. Greater promotion of the existing voluntary standard.
3. Introduce a mandatory standard with sanctions for non compliance.

**Option 1 - Do nothing; maintain the existing voluntary standard.**

7.174 Under this option, the Welsh Housing Quality Standard would continue to be a voluntary arrangement on the part of the local housing authorities that retain their own housing stock. Other than encouragement, it does not provide the Welsh Government with any sanctions to ensure an authority achieves the Standard within a reasonable time. It could well lead to considerable variation in the quality of homes, with standards depending on a tenant's landlord. The Welsh Government considers it important for tenants have the right to live in a decent home regardless of their landlord.

7.175 This option has been discounted for the following reasons:

- (i) Local housing authorities are currently able to withdraw their commitment to meeting and maintaining the Standard at any time. Any such withdrawal would lead to a fragmented approach to housing standards between different landlords and between different communities and areas.
- (ii) The only sanction currently available to the Welsh Government to secure compliance is to withdraw the Major Repairs Allowance grant that supports the achievement of the Standard by local housing authorities. However both the Welsh Government and the Wales Audit Office Report recognise that this would be counter-productive. Withdrawing the grant would reduce further the investment in already poor housing stock.
- (iii) The tenants of local housing authorities would not have parity of treatment with those of Registered Social Landlords. Tenants have the right to live in a decent home regardless of their landlord.

**Option 2 – Greater promotion of the existing voluntary standard.**

7.176 This option would involve additional action to achieve of the Welsh Housing Quality Standard through greater promotion of the existing policy and by increasing pressure on local housing authorities to achieve it. It would include providing additional support for those authorities that are slower to implement the work necessary to achieve the Standard, closer monitoring of performance through more detailed business plans, and the withdrawal of grant for those who are not complying.

7.177 A Ministerial Task Force was established by the Welsh Government in September 2012. Its prime role is to examine why three local housing authorities have been unable to develop a viable business plan to achieve the Standard by 2020. That work has now led to the resolution of a number of

issues. All three authorities now have compliant plans. However, the fundamental disadvantage of this option is that a local housing authority could still, at any time, decide not to comply. If that happened, the Welsh Government would not have recourse to any sanctions to ensure compliance. The benefits of better quality homes would then be lost for the tenants.

### **Option 3 – Introduce a mandatory standard with sanctions for non compliance.**

7.178 Under this option, all local housing authorities would be placed under a statutory duty to meet a “quality of accommodation” standard. The standard would be set by the Welsh Ministers. Action to achieve the Standard would continue to be supported by guidance and by grant. The introduction of the mandatory requirement would be accompanied by a number of enforcement and intervention measures for use in the event of non-compliance. The measures could include the performance of the local housing authority’s functions by the Welsh Ministers or their nominee, although this would be as a last resort.

7.179 There are currently no plans to vary or rewrite the existing Welsh Housing Quality Standard. However, the Welsh Ministers would be able to amend it following consultation with key stakeholders and specifically, the relevant local housing authorities.

## **Costs**

### **Option 1 - Do nothing; maintain the existing voluntary standard.**

7.180 This option proposes no change to the existing arrangements and therefore, there are no additional costs associated with it. The following paragraphs present a summary of the costs incurred under the current policy.

7.181 Local housing authorities' thirty-year business plans provide information on projected expenditure on major repairs and maintenance work. The total projected expenditure for the business plans of all the local housing authorities is £1.444 billion between April 2013 and March 2021. This works out at an average of £16,244 per property. The figures show that planned annual expenditure peaks at £202 million in 2014-15 and then falls back to £156 million in 2020-21.

7.182 For local housing authorities who have been delivering the Welsh Housing Quality Standard since its introduction in 2002, there have been costs associated with implementing it. However, the Wales Audit Office<sup>43</sup> identified a difficulty in disaggregating expenditure on general planned maintenance and replacement from specific, and additional, expenditure driven solely by the introduction of the Welsh Housing Quality Standard. It also found it impossible to say whether, in undertaking planned maintenance and replacement without the introduction of the Welsh Housing Quality Standard, landlords would have undertaken the work to a lower specification and at lower cost.

7.183 Between April 2004 and March 2012, the Welsh Government's contribution to local housing authorities for core expenditure through the Major Repairs Allowance was approximately £481 million. An additional £541 million of expenditure is forecast by March 2021.

7.184 The cost of the repair and maintenance work required to achieve the Standard and the Welsh Government's contribution to the costs through the Major Repairs Allowance grant are not expected to differ under any of the options. The costs associated with monitoring and enforcement may differ between the options and so the following analysis focuses on these costs.

7.185 The cost to the Welsh Government for monitoring compliance with the Standard is approximately £15,000 per annum. The cost to the eleven local housing authorities that still own their housing stock for collecting the required monitoring data is estimated at £7,000 a year.

7.186 In 2012-13 and 2013-14, an additional cost has been incurred by the creation of a Ministerial Task Force to look at the inability of three local authorities to produce business plans that demonstrates compliance with the Standard by 2020. The group was time limited and independent, with the secretariat provided by officials from within existing resources. Costs were under £1,000 as members of the group undertook the work on a voluntary basis and were not remunerated.

**Table 22: Summary of costs of Option 1**

	<b>2014-15 (£)</b>	<b>2015-16 (£)</b>	<b>2016-17 (£)</b>	<b>2017-18 (£)</b>	<b>2018-19 (£)</b>	<b>2019-20 (£)</b>
Welsh Government	15,000	15,000	15,000	15,000	15,000	15,000
Local Housing Authorities	7,000	7,000	7,000	7,000	7,000	7,000
<b>Total</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>

**Option 2 – Greater promotion of the existing voluntary standard.**

7.187 The direct costs to the Welsh Government for this option would be incurred in more active intervention with local housing authorities that are identified as making slow or insufficient progress. The action would include promoting the need to meet and maintain the Standard, more in-depth monitoring of business plans and more detailed monitoring returns. Action would also be taken to raise the profile of the Standard as a means of applying pressure to any authority that is under-performing. Similar action has been taken through the Ministerial Task Force. That was achieved on a voluntary basis using the time and goodwill of senior housing professionals. It is not considered to be an option that could be pursued on a regular basis.

7.188 The estimated cost of the additional monitoring and engagement activities would be approximately £200,000 per annum.

7.189 In addition, there would be a further cost associated with the collection and analysis of data from the local housing authorities. The need for system and process development means that data collection and analysis costs in the first year will be £27,000 and £7,000 respectively. In later years, these costs will fall to £12,000 and £5,000 per annum respectively.

7.190 The promotion of the voluntary standard would result in direct costs falling to local housing authorities that were considered to be “at risk” of not meeting or maintaining the Standard. However, it is difficult to estimate these additional costs as the precise level of engagement and intervention needed would vary between authorities. The cost to authorities of collecting the required data is approximately £11,000 per annum; that is, £4,000 per annum higher than that under Option 1.

7.191 As noted above, the cost of the maintenance and repair work required to achieve the Welsh Housing Quality Standard is expected to be the same as Option 1; that is, a further £541 million contribution from the Welsh Government through the Major Repairs Allowance Grant.

**Table 23: Summary of costs of Option 2**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)	2019-20 (£)
<b>Welsh Government</b>						
Policy engagement and monitoring)	200,000	200,000	200,000	200,000	200,000	200,000
Data collection	27,000	12,000	12,000	12,000	12,000	12,000
Data analysis	7,000	5,000	5,000	5,000	5,000	5,000
<b>Local Authority</b>						
Providing data	11,000	11,000	11,000	11,000	11,000	11,000
<b>Total</b>	<b>245,000</b>	<b>228,000</b>	<b>228,000</b>	<b>228,000</b>	<b>228,000</b>	<b>228,000</b>

7.192 The Net Present Value of this option is £1.23 million.

**Option 3 – Introduce a mandatory standard with sanctions for non compliance.**

7.193 Under this option, the Welsh Government will replace the existing voluntary agreement with a statutory duty on local housing authorities to achieve the Welsh Housing Quality Standard by 2020. There are no plans to review the existing Standard. The cost of achieving the Standard is assumed to be the same as under Option 1. Any revisions would not incur any additional costs over and above those that would have been incurred by a revision to the current, voluntary, Standard.

7.194 It is recognised that by placing an additional duty on local housing authorities, some of the financial flexibility in those authorities that still own their housing stock will be reduced.

- 7.195 The existing monitoring arrangements would continue. The cost to the Welsh Government would be approximately £15,000 per annum for collating and analysing the data. The cost to the local housing authorities would be approximately £7,000 per annum for collecting and submitting the data. The costs are the same as under Option 1.
- 7.196 Additional costs may be incurred if there was a case of non compliance by any local housing authority and where enforcement and intervention action was deemed necessary. This is explored in more detail below.
- 7.197 The legislation would provide an intervention mechanism that could be used if a local housing authority fails to comply with a standard that relates to the quality of accommodation. This would comprise a series of steps. The Welsh Ministers would first issue a warning notice stating that the Standard is not being met, and requiring remedial action to be taken. Where an authority has failed to comply with the warning notice, the Welsh Ministers would have the powers to intervene on a case by case basis. The powers are intended to be used as part of an overall, incremental, approach and to deal with deliberate non-compliance. Intervention may lead to an authority being subject to a direction or an instruction by the Welsh Ministers. Ultimately, the Welsh Ministers have powers to direct that the local housing authority's functions for meeting the quality of accommodation standard could be discharged by the Welsh Ministers or by an agent of the Ministers.
- 7.198 Placing the existing voluntary requirement onto a mandatory footing is expected to reduce the risk that local housing authorities' resources will be diverted to other priorities. The fact that all such authorities now have an approved business plan for achieving the Welsh Housing Quality Standard means that full compliance is expected. This would mean that intervention and enforcement would only be needed infrequently if at all, and only then as an action of last resort. Based on an assumption of full compliance, the estimated cost of enforcement is nil.
- 7.199 In the event that intervention is deemed necessary, the financial costs would be incremental and dependent up on the response of the local authority concerned. As such, intervention costs would vary on a case by case basis. However, for illustrative purposes, the costs could range from £30 for preparing, clearing and sending a warning notice, up to £100,000 per annum salary plus on-costs for an agent appointed at Deputy-Director level. Intervention would be arranged in such a way as to ensure that it was delivered in a way that did not add to the costs for local government.
- 7.200 As before, the cost of the maintenance and repair work required to achieve the standard is expected to be the same as under Option 1. However, in the unlikely event that the Welsh Government is forced to intervene, there may be some redistribution of the cost.

**Table 24: Summary of costs of Option 3**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)	2019-20 (£)
<b>Welsh Government</b>						
Monitoring and reporting data	15,000	15,000	15,000	15,000	15,000	15,000
<b>Local Housing Authorities</b>						
Collecting and submitting data	7,000	7,000	7,000	7,000	7,000	7,000
<b>Total</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>	<b>22,000</b>

7.201 The Net Present Value of this option is £0.12 million.

## **Benefits**

### **Option 1 - Do nothing; maintain the existing voluntary standard.**

7.202 This option offers no additional benefits for the Welsh Government, for local housing authorities or for tenants and their families.

### **Option 2 – Greater promotion of the existing voluntary standard.**

7.203 This option would allow more engagement with local housing authorities on their plans and priorities. This should provide the Welsh Government with more detailed information about the issues faced by the authorities and the likely risk of non compliance with the Standard. This approach has been shown to work by the Ministerial Task Force that was established to increase compliance with the Standard. However, it would not prevent a local housing authority from withdrawing from action to ensure compliance with the Standard.

### **Option 3 – Introduce a mandatory standard with sanctions for non compliance.**

7.204 The quality of existing homes, particularly for people whose needs cannot be satisfied by the housing market, and vulnerable people, is crucial to the quality of their lives, including their health and well being. The investment in improving people's homes is also an investment in local jobs, skills and communities at a time when tackling poverty and creating jobs are priorities. For these reasons, it is essential that all social housing landlords achieve and maintain the Welsh Housing Quality Standard by 2020.

7.205 The voluntary approach has been operating in Wales since 2002. Good progress has been made, but it has been slow in some local authorities. This has been highlighted by the Wales Audit Office and by the National



Assembly's Public Accounts Committee<sup>44,45</sup>. The tenants of the last local housing authorities to meet the Standard, if it is met by 2020, will have lived in poorer quality housing for eight years longer than those in the authorities and housing associations that achieved it in 2012. The current system also means that there is no effective sanction against those authorities who might choose not to comply.

- 7.206 In the absence of the new legislation, and with considerable pressure on public finances, there is a risk that local housing authorities may divert the resources needed to meet the Welsh Housing Quality Standard to other priorities. This is of immense concern.
- 7.207 All local housing authorities and housing associations have agreed to meet the Standard. This option will ensure it is met by a given date as, if progress is unsatisfactory, the Welsh Ministers will be able to take enforcement action if necessary.
- 7.208 The Auditor General's report on progress in meeting the Standard recognised that, other than withholding the Major Repairs Allowance, the Welsh Government has few levers to ensure it is achieved. As stated earlier, this would be counterproductive as it reduces even further the level of investment in already poor quality homes. There is a strong relationship between poor quality housing and people's health and well being and, as a result, the demands on the NHS and social services.
- 7.209 The Welsh Government has long recognised the additional benefits that can be secured through the procurement approach for investing in the repair, refurbishment and maintenance of home. The benefits include new jobs and training opportunities for unemployed local people.

## **Summary and preferred option**

- 7.210 The majority of homes that will not meet the Standard by 2017 are owned by local authorities that have retained ownership of their housing stock. Three local authorities<sup>46</sup> were unable to produce acceptable<sup>47</sup> business plans demonstrating compliance by 2020. Four other landlords, of which three are local authorities, were due to achieve it after 2015-16. Options 1 and 2 are voluntary and therefore lack the benefits of sanctions which, although designed for use as the last resort, provide the means by which full achievement of the Standard can be assured.
- 7.211 Option 2 carries with it considerably more cost from additional support to boost efforts to achieve the Standard but there is no guarantee that such expenditure will be cost-effective in relation to achievement of the Standard.
- 7.212 Option 3 is the preferred and most effective option. It offers greater certainty that the Welsh Housing Quality Standard will be achieved by all local housing authorities by 2020. In 1998, the Welsh Office estimated that the backlog of repairs for homes owned by local housing authorities would require £750 million to improve them to a decent standard. The Welsh Housing Quality

Standard was introduced in 2002 to address the problem, with a target for achievement by 2012.

7.213 While a significant number of tenants have seen substantial improvements in the quality of their homes, many have yet to see the benefits. The Standard is considered more stretching than standards in other parts of the UK and progress has been favourable compared to other areas. However, there must be a concerted effort to ensure that all social housing landlords achieve the Standard. For the reasons set out earlier, the proposed legislation is the minimum needed to do this. It will have no impact on the eleven local authorities that have transferred their housing stock or on Registered Social Landlords but it will ensure that the eleven local authorities that still own their own homes achieve the Standard and, by doing so, benefits their tenants and their families.

## **Local Authority Standards: Rents and Service Charges**

### **Options**

7.214 The options are:

1. Do nothing; the Housing Revenue Account Subsidy system remains in place and continues to impose controls over local authority rents.
2. Do nothing, but the Housing Revenue Account Subsidy system is abolished and there would be no legislative requirement for local housing authorities to comply with the Welsh Government's policy on Rents and Service Charges.
3. The Housing Revenue Account Subsidy system is abolished and new standards for rents and service charges are introduced for local housing authorities to ensure that rents and service charges are separated and clearly identified.

### **Option 1 - Do nothing; the Housing Revenue Account Subsidy system remains in place and continues to impose controls over local authority rents.**

7.215 This is the current position. The Housing Revenue Account Subsidy system imposes the controls over local authority rents. While rents would continue to be controlled, this option restricts the Welsh Government's ability to implement a new rent framework that could be applied consistently to both local housing authorities and to housing associations. Under this option, the Welsh Government has no powers to require a local housing authority to separate rents from service charges in order to ensure that only those tenants receiving services pay service charges.

7.216 This option has been discounted. The Welsh Government has agreed with HM Treasury to end the Housing Revenue Account Subsidy system.

**Option 2 – Do nothing, but the Housing Revenue Account Subsidy system is abolished and there would be no legislative requirement for local housing authorities to comply with the Welsh Government’s policy on Rents and Service Charges.**

7.217 This option would allow local housing authorities the freedom to set their own rents. It would be up to each authority to determine whether it considered it necessary to separate service charges from existing rents.

7.218 The main disadvantages of this option are:

- (i) The Welsh Government would not be able to exercise the level of control required to meet its obligations under the Concordat with the Department for Work and Pensions. The Concordat established a framework for co-operation on all matters arising from the Department for Work and Pensions’ responsibilities that impact directly or indirectly on the functions of Welsh Government and vice versa. Paragraph 17 of the Concordat refers to the Statement of Funding Policy. Paragraph 6 refers to the need to make adjustments where changes in expenditure on rent rebate subsidies are disproportionate to relative changes in England.
- (ii) It would not enable the Welsh Government to exercise the level of control required to meet its obligations under HM Treasury’s Statement of Funding Policy. This sets out matters that underpin the setting of budgets for the devolved administrations.
- (iii) The lack of control could result in HM Treasury making adjustments to the Welsh budget if increases in Wales were deemed by HM Treasury to be disproportionate compared to England.
- (iv) Local housing authorities would have the power to set their own rents and may increase them to a level that is disproportionate to relative changes in England. This would result in the Department for Work and Pensions and HM Treasury making adjustments to the Welsh budget.

7.219 This option would provide no opportunity for the Welsh Government to require local housing authorities to comply with a new rent policy. This would mean that it would have no control over levels of rents and the separation of service charges. The option is therefore dismissed.

**Option 3 – The Housing Revenue Account Subsidy system is abolished and new standards for rents and service charges are introduced for local housing authorities to ensure that rents and service charges are separated and clearly identified.**

7.220 This option would see the introduction of standards for local housing authorities for rents and service charges. Guidance would be provided to support the standards and local authorities would be required to comply with the requirements.

- 7.221 The legislation would ensure that local housing authorities set rents for their existing social housing dwellings within a policy and financial framework that is established by the Welsh Government. A new, evidence-based, rent policy for social housing rents would be issued as guidance it would be applied consistently across all social landlords and would reflect the type, size, location and quality of the properties. The policy would set a target rent band for each social landlord. They would be required to keep their average rent levels within that band. It would be the responsibility of the local housing authority's Section 151<sup>48</sup> officer to ensure compliance. The Welsh Government would monitor compliance.
- 7.222 This approach would enable the Welsh Ministers to set standards for service charges. Currently in some local housing authorities, service charges are pooled and divided up among all the tenants of a local housing authority. This means that tenants who do not receive services, or who are not eligible to receive services, pay towards the services received by other tenants. This option would ensure that rents and service charges are separated. Only those tenants who receive, or are eligible to receive, services would be charged separate service charges. It would enable the Welsh Ministers to require local authorities to comply with the standards. Tenants would have the right to raise concerns about the reasonableness of services charges with the Leasehold Valuation Tribunal.
- 7.223 The standards and guidance would need to be revised, replaced and withdrawn from time to time. Its development and any future amendments would be subject to consultation.
- 7.224 The legislation would also enable consideration to be given to allowing local authorities to set higher rent levels for newly developed or newly acquired local authority-owned housing. The rents could be above social rent levels but below market rent levels. This would enable local authorities to purchase or develop new housing to meet housing demand for people who would not normally be prioritised for social housing.
- 7.225 Past research into affordable housing policy<sup>49</sup> provides the evidence to support this option. It explains the unfairness of the current system of rent setting for both social landlords and their tenants. It recommended a full review. There are other reasons for selecting this option:
- (i) The benchmark rents for Registered Social Landlord, or "housing associations" as they are more commonly known, were set some time ago. They have been increased each year without a systematic re-evaluation.
  - (ii) The financial, legal and regulatory contexts for setting rents for local housing authorities and Registered Social Landlords are different. This results in an unfair difference in the rents for two properties of the same size and type within a local authority area.

- (iii) There is no financial incentive for social landlords to improve the quality of their homes.
- (iv) The way in which service charges are applied in both sectors should be the same; that is, only tenants and properties that attract services should pay service charges.
- (v) There is no transparent and evidence-based system for setting guideline rents.

## Costs

7.226 These proposals set out in this section apply to the eleven local housing authorities that have retained their housing stock. The eleven local authorities that previously transferred ownership of their housing stock to Registered Social Landlords will not be affected and will not incur any costs or benefits.

7.227 The eleven local housing authorities that have retained their housing stock were invited to provide estimated costs for each of the three options. Seven of the eleven authorities provided information that helped to estimate the impact of each of the three options.

### **Option 1 – Do nothing; the Housing Revenue Account Subsidy system remains in place and continues to impose controls over local authority rents.**

7.228 Under this option the existing rent policy would continue. While there are no additional costs associated with this option, an analysis of the current costs is provided below.

7.229 The annual cost of retaining the existing system is estimated to be £264,000 for local authorities, zero for the Welsh Local Government Association, and £5,000 for the Welsh Government. The total estimated cost is £269,000 each year.

7.230 The direct costs associated with this option for local housing authorities would be incurred with the ongoing administration of the existing rent policy. These costs cover staff time required for the annual uplifting of rents each year, issuing notification letters to tenants and obtaining approval from an authority's Section 151 Officer and Cabinet. This is estimated to cost £24,000 for each of the eleven local housing authorities that have retained ownership of their housing stock. The total estimated cost is therefore £264,000.

7.231 The Welsh Local Government Association has confirmed that, as they do not provide landlord services, no costs should be assumed in respect of rent or service charge policy.

7.232 The cost to Welsh Government of retaining the existing system stems from the collection of data, consultation and providing policy advice on proposals for annual rent increases. This is estimated to cost £5,000 per annum.

**Table 25: Administrative costs associated with the existing system for setting rents (Option 1)**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Administration	5,000	5,000	5,000	5,000	5,000
<b>Local Housing Authorities</b>					
Administration	264,000	264,000	264,000	264,000	264,000
<b>Welsh Local Government Association</b>					
Administration	0	0	0	0	0
<b>Total</b>	<b>269,000</b>	<b>269,000</b>	<b>269,000</b>	<b>269,000</b>	<b>269,000</b>

7.233 The present value of costs in this option is £1.2 million.

7.234 This option has been discounted as agreement was reached on 25 June 2013 with HM Treasury to exit the Housing Revenue Account Subsidy system.

**Option 2 – Do nothing, but the Housing Revenue Account Subsidy system is abolished and there would be no legislative requirement for local housing authorities to comply with the Welsh Government’s policy on Rents and Service Charges.**

#### **Welsh Government**

7.235 There would be relatively little cost to the Welsh Government as there would be no legislative requirement to control the level of rents and there would be no costs relating to service charges. However, the Welsh Government would continue to collect data on local housing authority rent levels in order to monitor average rent levels. Based on 10 days of two statistician posts, the estimated costs is £5,000 per annum.

7.236 If local housing authorities increased their rents to such an extent that HM Treasury regard the rents and rent rebates as disproportionate when compared to England, it could reduce the Welsh Government’s budget by a compensatory amount. Costs would also be incurred in the event of HM Treasury making such a budget reduction. The Welsh Government would need to establish which local authority rent levels had caused the budget reduction. The Welsh Government would need to liaise with the relevant authority or authorities to ensure that liability for the share of the budget reduction is placed appropriately. There would also be costs to making the necessary adjustments to Welsh Government budgets. An illustrative cost of such an event is £5,000 per annum based on posts within strategic budgeting, finance, local government and homes divisions. This has not been

included in the summary of costs for Option 2 due to the uncertainty as to whether the cost would ever be incurred.

### **Local housing authorities**

- 7.237 Abolishing the Housing Revenue Account Subsidy system means that the existing system for establishing guideline rents for local housing authorities and for the rent rebates system would no longer exist. This would mean that local housing authorities would need to review their local rent setting policies. Local housing authorities would need to consider if their existing local rent setting policy was able to continue without reference to the existing Housing Revenue Account Subsidy system or whether a new local rent setting policy would need to be developed. As this would depend on a number of factors, it is not possible to quantify and cost the range of decisions that the authorities would make under this option.
- 7.238 Regardless of the above, there would be recurring costs for local housing authorities for data collection, for providing rent increase notices to tenants and for seeking Section 151 Officer and Cabinet approval. The costs would be the same as those set out under Option 1 at £264,000, albeit that they would make their own decision on uplifting rents each year and whether new local rent setting policies would need to be developed. They would also make their own decisions on whether to separate service charges from rents. Where separation occurs, the authority would be responsible for putting in place appropriate mechanisms to administer the service charges.
- 7.239 Under welfare reform, and in particular the new Universal Credit arrangements, service charges and rents need to be separated as tenants will be asked to provide evidence to support any claims for eligible service charges and rent costs. It will be the responsibility of each landlord to ensure that the appropriate evidence is made available to tenants. Under this option, the Welsh Government would have no powers to require local authorities to separate rents to ensure that the correct information on service charges is provided to tenants. This could adversely affect a claimant's benefit payments.
- 7.240 To date, technical adjustments to the budget have not been made by HM Treasury as rent rebates have not been considered disproportionate when compared with England. They have been controlled through the guideline rent system. Given this, we are unable to quantify any future budget reductions.
- 7.241 The cost of separating service charges from rents has not been estimated for this option as there would be no requirement for local housing authorities to carry out this work.

### **Welsh Local Government Association**

- 7.242 As with Option 1, there are no costs for the Welsh Local Government Association in respect of rents or services charges.

**Table 26: Summary of costs for Option 2**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Data collection	5,000	5,000	5,000	5,000	5,000
<b>Local Housing Authorities</b>					
Administration	264,000	264,000	264,000	264,000	264,000
<b>Welsh Local Government Association</b>					
Administration	0	0	0	0	0
<b>Total</b>	<b>269,000</b>	<b>269,000</b>	<b>269,000</b>	<b>269,000</b>	<b>269,000</b>

7.243 The present value of costs in this option is £1.2 million.

**Option 3 – The Housing Revenue Account Subsidy system is abolished and new standards for rents and service charges are introduced for local housing authorities to ensure that rents and service charges are separated and clearly identified.**

#### **Welsh Government**

7.244 A Rent Steering Group has already been established by the Welsh Government with a membership of key stakeholders. The group has a remit to develop a new policy for social housing rents to be consistently applied to Registered Social Landlords and local housing authorities. The draft of the new policy has been revised following consultation and consideration is currently being given to technical matters in preparation for policy to be implemented in April 2015. The new policy would replace the current guideline rent policy. The bulk of the Group's work has already been completed and the Welsh Government will consult upon, and issue, the new rent policy as guidance on the new standard for rents. The estimated cost of undertaking the necessary work to implement the new policy is £9,000 in the first year only, based on three policy and one legal posts.

7.245 The Welsh Government would need to set a standard for service charges. Mechanisms already exist for Registered Social Landlords to operate service charges. These would be reviewed by the Steering Group for implementation by local housing authorities. The Welsh Government will consult and issue a new service charge standard and guidance. The estimated one off cost is £7,000. It is anticipated that there will be a one-off exercise to establish the extent to which local authorities have separated service charges from rent. The estimated one-off cost for this is £1,000. This provides a total one off cost of £8,000.



- 7.246 The estimated cost of data collection and on-going monitoring is estimated to be approximately £7,000 per annum for rents, based on two statistical and one policy officer posts.
- 7.247 It is the responsibility of each local housing authority to set the rent and service charges for individual tenants and properties. The legislation proposed for rents would not fetter the ability of tenants to make a complaint to their landlord or their right to recourse to the Public Services Ombudsman for Wales if they remain dissatisfied after exhausting the authority's complaints procedure. However, the proposed changes to the law for service charges<sup>50</sup> would provide a new right for tenants. It will enable the tenants of local housing authorities to raise concerns about the reasonableness of service charges with a Leasehold Valuation Tribunal, which is part of The Residential Property Tribunal for Wales. The Residential Property Tribunal is an independent statutory body<sup>51</sup>. It sets up Leasehold Valuation Tribunals to settle disputes between landlords and tenants on the reasonableness of service charges. Under this option, there will be resource implications for the Residential Property Tribunal for Wales. The estimated cost for a one day hearing, based on one Chair and two surveyors, is £1,250, per hearing. The actual cost will be dependent upon the complexity of the cases heard and will vary if the hearing was over a number of days or if the composition of the panel differed. The number and complexity of future cases is uncertain at this stage, however, for the purposes of this assessment it is assumed that four cases will be heard each year, this provides an estimated cost of £5,000 per annum.

### **Local housing authorities**

- 7.248 Abolishing the Housing Revenue Account Subsidy system would trigger the ending of the system for local authority guideline rents. As a result, local housing authorities would become self-financing. This means that they would be able to retain 100 percent of their rental income. The Welsh Government would need to exercise some level of control over average rent levels in order that it is able to meet the expectations set out in the Concordat with the Department for Work and Pensions and HM Treasury's Statement of Funding Policy.
- 7.249 There would be recurrent costs for local housing authorities for data collection, for providing rent increase notices to tenants and for Section 151 Officer and Cabinet approval. The costs would be the same as those set out under Option 1 at £264,000.
- 7.250 The standards for rent and service will establish the basis for compliance by local authorities. It will be the responsibility of the local housing authority's Section 151 Officer to ensure compliance with the standards and to ensure that the authority has regard to published guidance. There would be costs associated with monitoring local housing authorities' compliance with both standards. The estimated cost for ensuring compliance is £11,000 per authority, which gives a total estimated cost of £121,000 per annum, based on the eleven authorities.

- 7.251 There would be administrative costs for local housing authorities associated with the introduction of a new rent policy which may include the cost of conversion of records and IT systems. However, as current average rent levels fall below the target rent band in the new rent policy for ten out of the eleven authorities, they are expected to see an increase in their rental income over a period of time. This will complement the savings that will accrue to the authorities in due course from not having to administer the complex Housing Revenue Account Subsidy system. There will be transitional protection for tenants. This will set the maximum amount by which rents could be increased per week. While the precise cost of implementing a new rent policy will vary between local authorities, it is estimated that the average cost is £71,000 giving a total one off cost for the eleven authorities of £781,000.
- 7.252 The cost of separating service charges from rents is estimated to be £18,000 for each authority. This is expected to apply to eight out of the eleven local housing authorities as some authorities have already introduced separate service charges. This provides an estimated one off cost of £144,000. This cost includes detailed research and consultation with tenants to ensure that only tenants receiving, or eligible to receive, services actually pay service charges. It is assumed that the services provided to tenants would be at full cost recovery as management costs are included within the service charge.
- 7.253 Because the authorities will be making changes to tenants' rents and service charges, new tenancy agreements will need to be developed and signed by all tenants affected. The estimated cost is £33,000 per authority giving rise to total cost of £363,000. This is assumed to be a one-off cost.
- 7.254 It is anticipated that these one-off costs will be incurred in the first year of implementation as consultation is undertaken and as systems and processes are put in place. The cost in subsequent years will be significantly less. This is reflected in Table 27.

## **Tenants**

- 7.255 Some tenants will be affected by both the implementation of a new rent policy and by the separation of service charges from rents. As indicated above, the rent policy will include transitional protection for tenants by setting a maximum amount by which rent can increase per week. Service charges will be a matter for consultation between each local housing authority and its tenants who are affected. For service charges, this will cover the quality, frequency and cost of the services provided. Given the significant variations in the tenants, type and size of accommodation within each local housing authority, it is not possible to produce a reasonable estimate of the cost.
- 7.256 As described earlier, where a tenant considers that a rent has not been set in accordance with the authority's local policy, and where its own complaints procedure has been exhausted, a complaint can be referred to the Public Service Ombudsman for Wales. Tenants will also be able to refer cases to a Leasehold Valuation Tribunal to determine the reasonableness of service

charges. The estimated cost to a tenant for a referral to the Leasehold Valuation Tribunal would range between £50 and £350 depending on the amount in dispute. For these purposes, we have assumed an average cost of £200. This would be in addition to a hearing fee of £150 making a total of £350 per application. Regardless of how many applications will be referred to the Tribunal each year, the estimated cost to an individual tenant will remain at £350. Therefore the cost has not been included in the summary of costs for option 3 but has been noted for information.

**Table 27: Summary of costs for Option 3**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Implement new rent policy	9,000				
Establish system for service charges	8,000				
Monitoring	7,000	7,000	7,000	7,000	7,000
<b>Residential Property Tribunal</b>					
Operational cost of four cases each year*	5,000	5,000	5,000	5,000	5,000
<b>Local Authorities</b>					
Administration**	264,000	264,000	264,000	264,000	264,000
Compliance	121,000	121,000	121,000	121,000	121,000
Rent policy	781,000				
Tenancy agreements	363,000				
Service charges	144,000				
<b>Total***</b>	<b>1,702,000</b>	<b>397,000</b>	<b>397,000</b>	<b>397,000</b>	<b>397,000</b>

Note:

\* The estimated cost to a tenant for a referral; to a Leasehold Valuation Tribunal is £350

\*\* The cost of administration is an existing cost and is, therefore. Not included in the Summary of Additional Costs of Legislation at Annex B.

\*\*\* The total additional costs are shown in the Summary of Additional Costs of Legislation at Annex B

7.257 The present value of costs under this option is £3,100,000.

## **Benefits**

### **Option 1 – Do nothing; the Housing Revenue Account system remains in place and continues to impose controls over local authority rents.**

7.258 This option has been discounted as the Welsh Government has agreed with HM Treasury for the Housing Revenue Account Subsidy system to be abolished.

### **Option 2 – Do nothing, but the Housing Revenue Account Subsidy system is abolished and there would be no legislative requirement for local housing authorities to comply with the Welsh Government’s policy on Rents and Service Charges.**

7.259 Aside from the benefits of abolishing the Housing Revenue Account Subsidy system, this option would provide greater flexibility to local housing authorities to set rent levels in their area. However, it would not enable the Welsh Government to exercise the level of control that is needed to meet its obligations under its Concordat with the Department for Work and Pensions or HM Treasury’s Statement of Funding Policy. There are cost implications from not being able to meet the obligations and risks to benefit claimants if they cannot be provided with appropriate information on rents and service charges. This option was dismissed.

### **Option 3 – The Housing Revenue Account Subsidy system is abolished and new standards for rents and service charges are introduced for local housing authorities to ensure that rents and service charges are separated and clearly identified.**

7.260 This option would enable the Welsh Ministers to exercise reasonable and appropriate control by providing a new framework for local housing authorities’ rents after the Housing Revenue Account Subsidy system is ended. This offers protection to tenants. It also provides the foundation for a consistent, and fairer, approach to rents and service charges regardless of whether someone is a tenant of a local housing authority or a Registered Social Landlord. It will help to ensure a consistent approach to rents and service charges across all social landlords.

7.261 Rollout of new the Universal Credit system commenced in October 2013. Under the new arrangements, claimants will only be able to claim eligible service charges in addition to rent costs. It is essential that the necessary policy changes are made to ensure that claimants receive the correct amount of benefit. This depends on them being provided with the relevant information by their landlord, which is assured under this option. Over time, service charges will become fully transparent to both landlords and tenants.

7.262 Finally, and significantly, this option would ensure that the Welsh Government has sufficient control to meet its obligations under its Concordat

with Department for Work and Pensions and HM Treasury's Statement of Funding Policy.

## **Summary and preferred option**

- 7.263 As set out above, Option 3 would bring with it several benefits. These include a fairer, more transparent, system for rents and services charges for the tenants of local housing authorities. It protects the Welsh Government from adverse financial consequences that could stem from a failure to meet requirements in agreements with the Department for Work and Pensions and HM Treasury.
- 7.264 Option 3 offers the best way forward to achieve an improvement in standards for local housing authorities for rents and service charges. It will help ensure a consistent approach to rents and service charges is adopted across all social landlords. It will also benefit claimants by helping to ensure that recipients of Universal Credit are able to receive the correct amount of benefit.
- 7.265 Although un-quantified, these benefits are considered to be sufficient to justify the additional cost associated with Option 3.

## **Housing Revenue Account Subsidy**

### **Options**

7.266 The options are:

1. Do nothing.
2. Use a voluntary approach without an agreement with HM Treasury.
3. Abolition of the Housing Revenue Account Subsidy system and the introduction of new self-financing arrangements.

### **Option 1 - Do nothing**

- 7.267 Under this option the existing Housing Revenue Account Subsidy legislation would remain in place. The transfer of housing revenues from local housing authorities to HM Treasury would continue each year. This would mean that Wales is the only part of the United Kingdom that remains in the system.
- 7.268 Returning revenue to HM Treasury means that local housing authorities have less resource to spend on ensuring that their existing homes meet the Welsh Housing Quality Standard. It also limits their aspirations to build new affordable homes.
- 7.269 This option has two major disadvantages:

1. £73 million of Welsh housing revenues would continue to be returned to the UK Government each year.
2. This would adversely affect the longer term achievement and maintenance of the Welsh Housing Quality Standard and the development of new local authority owned homes.

### **Option 2 – Use a voluntary approach without an agreement with HM Treasury**

- 7.270 Current law<sup>52</sup> allows certain housing properties, or local housing authorities, to be excluded from the existing Housing Revenue Account Subsidy system. The provisions require a legal agreement to be in place between the Welsh Ministers and the authority. This means that a separate agreement would need to be in place with each of the eleven local housing authorities that are included in the current Housing Revenue Account Subsidy system i.e. those that still retain their own housing stock.
- 7.271 The disadvantage of this option is that whilst a voluntary approach could end, or reduce, the transfer of housing revenues, it would not enable the Housing Revenue Account Subsidy system provisions in primary legislation to be repealed.
- 7.272 The major disadvantage of proceeding with a voluntary approach without the agreement of HM Treasury would be that the Treasury's powers would be used to reduce Welsh Budgets by a compensatory £73 million per annum. The reduction would be made from Homes and Places or Local Government Finance Budgets, which would ultimately reduce the resources allocated to the eleven local housing authorities.

### **Option 3 – Abolition of the Housing Revenue Account Subsidy system and the introduction of new self-financing arrangements**

- 7.273 The intention is to abolish the primary legislation that sets the framework for the system in Wales by repealing the relevant provisions<sup>53</sup> and making appropriate transitional arrangements. In order to exit from the system, new powers will be provided for the Welsh Ministers to make determinations to:
- (i) Set a settlement value and the procedures to be followed to enable each local housing authority to exit from the Housing Revenue Account Subsidy system.
  - (ii) To amend the settlement value in the event of an error or a change in a matter that was taken into account in the settlement value.
- 7.274 As part of the exit agreement, HM Treasury require a housing-related borrowing limit to be set for local housing authorities. HM Treasury propose bringing forward the relevant provisions within an appropriate UK Bill. However, the legislative mechanism and timescales for setting borrowing limits for local housing authorities are currently under discussion.

Consequently, an agreement has yet to be reached with HM Treasury on timescales for local housing authorities to exit the Housing Revenue Account Subsidy system.

- 7.275 HM Treasury were not able to agree for local housing authorities to exit the Housing Revenue Account Subsidy system in March 2014. However, the Welsh Government and HM Treasury are working constructively together to identify an appropriate implementation date. It may be possible, subject to HM Treasury consent, for a voluntary agreement to be implemented prior to the new UK legislation coming into force. It is important to note that if a voluntary agreement is required, this could only be implemented if all 11 local housing authorities agree to it.
- 7.276 The abolition of the Housing Revenue Account Subsidy system will require local housing authorities to take on new debt to fund the “buy-out”. This will enable each authority to become self-financing, which means it will be able to retain all its rental income and use it to support its Business Plan for housing.

## **Costs**

### **Option 1 – Do nothing**

- 7.277 In this option, the current policy would continue and as such, no additional costs would be incurred. The Housing Revenue Account Subsidy system would remain in place. The current £73 million would continue to be collected from local housing authorities and returned to HM Treasury each year.
- 7.278 There is a significant ongoing administrative cost of maintaining the Housing Revenue Account Subsidy system. This cost is estimated to be up to £35,000 per annum for each of the eleven local housing authorities; a total of £385,000 per annum, and £49,000 per annum for the Welsh Government.
- 7.279 There would also be an ongoing cost to those authorities for the Wales Audit Office to undertake an audit of the scheme. The cost of this is estimated to be between £2,000 and £10,000 per authority. Adopting the mid-point of this range suggests a total annual cost associated with auditing the scheme of £66,000.
- 7.280 The total administrative cost of the maintaining the Housing Revenue Account Subsidy scheme is therefore estimated to be £500,000 per annum.

**Table 28: Costs associated with Option 1**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Administration	49,000	49,000	49,000	49,000	49,000
<b>Local Housing Authorities</b>					
Administration	385,000	385,000	385,000	385,000	385,000
Audit	66,000	66,000	66,000	66,000	66,000
<b>Total</b>	<b>500,000</b>	<b>500,000</b>	<b>500,000</b>	<b>500,000</b>	<b>500,000</b>

7.281 This option has been discounted. Agreement was reached with HM Treasury on 25 June 2013 to exit the Housing Revenue Account Subsidy system.

### **Option 2 – Use a voluntary approach without an agreement with HM Treasury**

7.282 The transitional and administrative cost of this option over a five year period is estimated to be £377,000 for local housing authorities, £19,000 for the Welsh Local Government Association and £139,000 for the Welsh Government. The total estimated cost is £535,000, the details of which are set out in the following paragraphs.

7.283 The costs associated with the administration of the Housing Revenue Account Subsidy system would not apply for this option.

7.284 Without agreement to exit from the Housing Revenue Account Subsidy system, HM Treasury would reduce the Welsh Government's budget by a compensatory £73 million. The consequence of such a budget reduction would be that the Welsh Government's Homes and Places or Local Government Finance budgets would be reduced in order that funding provided to local housing authorities could be reduced by the appropriate share of the £73 million. This would have a detrimental impact upon their resources.

7.285 This option has been discounted. Agreement was reached with HM Treasury on 25 June 2013 to exit the Housing Revenue Account Subsidy system.

### **Welsh Government**

7.286 The Welsh Government will consult with local housing authorities on the distribution of the settlement value and the borrowing cap. The estimated cost for this is £2,000.

7.287 Costs will be incurred in preparing and negotiating the eleven agreements. Policy officials and legal advisers will prepare and issue a generic agreement for consideration and agreement by the local housing authorities. It is anticipated that the process would be undertaken over a three month period. Based on the costs of a typical policy officer and lawyer, the total cost is estimated to be £10,000.



- 7.288 Work would also need to be undertaken with local housing authorities and with the Welsh Local Government Association to develop guidance for the new self-financing arrangements. This includes the production of technical guidance on matters such as depreciation, Minimum Revenue Provision, capital receipts and developing the skills and knowledge of officers in local housing authorities. The cost is estimated to be £57,000.
- 7.289 In order to implement the new self-financing arrangements, technical assistance would need to be obtained from external sources. This expertise will need to be available over a period of six months. Based on an estimated £1,000 per day, the cost is estimated at £60,000.
- 7.290 There would also be costs associated with the administration and monitoring local housing authorities' compliance with the new arrangements. The cost, based on a typical policy post, is estimated at £2,000 per year.

### **Local housing authorities and the Welsh Local Government Association**

- 7.291 Local housing authorities will need to consider the Welsh Government's consultation on the distribution of the settlement figure. The cost for this is estimated at £15,000, which includes consideration at officer and Cabinet level.
- 7.292 In order to implement a voluntary agreement, individual legal agreements would need to be in place between the Welsh Government and the eleven local housing authorities in the Housing Revenue Account Subsidy system.
- 7.293 The authorities and Welsh Local Government Association would need to work jointly with the Welsh Government to produce the agreements to ensure they are acceptable to all parties. Local housing authorities have confirmed that they will share legal and policy resources. The cost to those authorities and to the Welsh Local Government Association is estimated to be £7,000 and £2,000 respectively. These are one-off costs,
- 7.294 Local housing authorities will also need to obtain loans to buy-out of the scheme. This will require consideration by accountants, treasury management advisers and lawyers. The cost is estimated to be up to £5,000 per authority.
- 7.295 The involvement of local housing authorities and the Welsh Local Government Association would also be required to ensure the development and consultation of effective guidance to implement the new self-financing arrangements and to ensure officers acquire sufficient knowledge. The estimated cost based on an average cost to each local housing authority of £17,000 is £190,000, and £17,000 to the Welsh Local Government Association. There is a further cost of monitoring by the authorities' Section 151 Officers, who would have responsibility for ensuring compliance with the voluntary agreement. This cost is estimated to be up to £2,000 per annum for each local authority; a total of £22,000 per annum

**Table 29: Summary of costs for Option 2**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Voluntary agreement	10,000				
Consultation	2,000				
Guidance and support for local housing authorities	57,000				
Technical assistance	60,000				
Monitoring	2,000	2,000	2,000	2,000	2,000
<b>Local Housing Authorities</b>					
Voluntary agreement	7,000				
Consultation	15,000				
Treasury management advice	55,000				
Guidance and training	190,000				
Monitoring	22,000	22,000	22,000	22,000	22,000
<b>Welsh Local Government Association</b>					
Voluntary agreement	2,000				
Guidance and training	17,000				
<b>Total</b>	<b>439,000</b>	<b>24,000</b>	<b>24,000</b>	<b>24,000</b>	<b>24,000</b>

7.296 This table shows significant administrative cost savings from 2015-16 when compared to Option 1. The Present Value of the administrative costs under this option is £510,000.

### **Option 3 – Abolition of the Housing Revenue Account Subsidy system and the introduction of new self-financing arrangements**

7.297 The cost of this option depends on whether all legislation is in place or HM Treasury agree for a voluntary agreement to be utilised as an interim arrangement while legislative provisions to set a borrowing cap are introduced by the UK Government in a UK Bill.

7.298 If the UK legislation is not in place, it is possible that HM Treasury would agree for a voluntary agreement to be implemented. This would enable local housing authorities to exit the subsidy system in March 2015. The estimated cost, over the five year period, is £828,000 for local housing authorities, £19,000 for Welsh Local Government Association and £188,000 for the Welsh Government. The total cost is £1,035,000 over the period 2014-15 to 2018-19.

7.299 If the UK legislation is in place by March 2015, this could enable local housing authorities to exit the subsidy system in March 2015. The estimated cost over the five year period will reduce to £821,000 for the eleven local housing

authorities, £17,000 for Welsh Local Government Association and £178,000 for Welsh Government, with a total cost up to £1,016,000 over the period 2014-15 to 2018-19.

- 7.300 As the abolition of the Subsidy will require local housing authorities to buy-out of the scheme based on an agreed settlement figure, authorities will need to fund the settlement by borrowing from the Public Works Loan Board. They will have the flexibility to determine their local borrowing requirements in accordance with local treasury management strategies, and operational and business planning needs. This allows them flexibility to be able to draw down in the short, medium and long-term. The actual borrowing would be dependent on prevailing interest rates at the time of the settlement.
- 7.301 The Welsh Government is putting in place rigorous governance arrangements to oversee and manage implementation of the reforms. The need to agree timescales for implementation is key to this process. The Welsh Government will consult with the eleven local housing authorities on the distribution of the borrowing cap and the final settlement, which requires total annual interest payments of £40 million a year.
- 7.302 If a voluntary agreement is to be implemented in March 2015, before the UK legislation comes into force, the costs associated with Option 1 plus Option 2 for 2014-15 only would apply to this option. This is because the existing Housing Revenue Account Subsidy system would remain in place throughout 2014-15 at a total cost of £500,000 (Option 1). The cost associated with the development of the voluntary agreement and implementation in 2014-15 (Option 2) would amount to £439,000. The total cost in 2014-15 is £939,000, reducing to £24,000 each year over the period 2015-16 to 2018-19.
- 7.303 If the voluntary agreement is not put in place, the costs associated with Option 1 plus Option 2 for 2014-15 would apply, save for, the cost of developing the actual voluntary agreement under Option 2. This would reduce the total cost in 2014-15 to £920,000 and £24,000 each year over the period 2015-16 to 2018-19.
- 7.304 In the event that the UK legislation is not in place by March 2015 and HM Treasury do not agree to the use of a voluntary agreement, the Housing Revenue Account Subsidy system would remain in place. The cost of administering the existing system under Option 1 would apply each year until the UK legislation is introduced. These administration costs would be in addition to the continuing transfer of £73,000,000 from local housing authorities to HM Treasury for each year that the Housing Revenue Account Subsidy system remains in place.
- 7.305 If local housing authorities exit the Housing Revenue Account Subsidy system and the transfer of £73,000,000 ceases, without either HM Treasury consent for a voluntary agreement or UK legislation in place, there are potential risks to Welsh Budgets. HM Treasury could use its powers to reduce Welsh Budgets by a compensatory £73,000,000 each year. As explained previously, such a reduction would be made from Homes and Places or Local

Government and Finance Budgets, which would ultimately reduce the resources allocated to the eleven local housing authorities.

### **Welsh Government**

- 7.306 As previously indicated, the costs for Option 3 will depend on whether a voluntary agreement is implemented or whether reliance will need to be placed upon legislation.
- 7.307 If a voluntary agreement is used as an interim arrangement, pending UK legislation, the costs would be a combination of Option 1 and Option 2 for 2014-15. .
- 7.308 The cost associated with the legislative approach include all of the costs under Option 1 for administering the existing system for 2014-15 plus all of the costs associated with Option 2, excluding the cost of developing the actual voluntary agreement
- 7.309 Following the Welsh Government's consultation on the settlement value and consideration of consultation responses, each local housing authority's share of the settlement value will be set out in a Determination.
- 7.310 While the Welsh Government will consult on the distribution of the borrowing cap, the mechanism for setting the borrowing limit for each local housing authority is currently subject to agreement with HM Treasury. Provisions will need to allow for the borrowing cap to be uplifted from time to time.

### **Local housing authorities and the Welsh Local Government Association**

- 7.311 The agreement with HM Treasury requires local housing authorities to buy themselves out of the existing system and taking on new debt from the Public Loans Works Board to fund the settlement. The agreement is based on local housing authorities paying total annual interest of £40 million each year. The level of debt that each authority will be required to take on, to generate their share of the annual interest, will be calculated a short period before the agreed implementation date and will be dependant upon the prevailing interest rates at that time. The agreement provides revenue savings for local housing authorities as the total annual interest payments of £40 million are £33 million less than the £73 million currently paid to HM Treasury each year. However, when considering this, it should be noted that the Welsh Government, local housing authorities and the Welsh Local Government Association will together, consider technical accounting matters that are likely to impact upon the potential revenue savings. The ability to estimate the actual savings depends on the completion of the detailed technical work. The agreement provides certainty for each authority as its share of the annual interest payment will remain constant and will not fluctuate with movements in interest rates.
- 7.312 As part of the agreement with HM Treasury, a limit will be set for the maximum amount of housing debt that each local housing authority can hold.

They will be required to comply with the limit. The total borrowing limit agreed for Wales overall is £1.85 billion. This includes local housing authorities' existing borrowing and the new debt required to fund the buy-out.

- 7.313 The allocation of the settlement value and the borrowing limit for each local housing authority will be subject to detailed consultation with all the authorities that operate the Housing Revenue Account Subsidy system. It is not possible to estimate the impact on each authority until full discussion and consultation has taken place.
- 7.314 As part of negotiations, HM Treasury required that any agreement to exit from the existing system must be fiscally neutral upon the Exchequer. The UK Debt Management Office is an Executive Agency of HM Treasury. The Public Works Loan Board is a statutory body operating within the Debt Management Office. Consequently, the agreed settlement payments to HM Treasury and the loans and annual interest repayments from, and to, the Public Works Loan Board represent inter-Governmental transfers. This means that the impact on the UK economy is neutral; that is, the settlement payment is a cost to the local housing authorities but this is cancelled out by an equivalent benefit to HM Treasury. While the economic impact of these transfers would be neutral, exiting the Housing Revenue Account Subsidy scheme will impact on the finances of local housing authorities and the availability of funding to maintain and develop their housing stock.
- 7.315 When the Welsh Government consults on the settlement value and the borrowing cap, the local housing authorities will respond and through negotiation, reach agreement on the settlement and cap. These costs are covered within the estimated voluntary agreement costs under Option 2. A summary of costs for Option 3 are set out in table 30. The Present Value of the administrative costs for Option 3 is £990,000 where a voluntary agreement with HM Treasury is reached and £970,000 where there is no voluntary agreement.
- 7.316 The end of the Housing Revenue Account Subsidy system and the introduction of new self-financing arrangements mean that all rental income raised in Wales remains in Wales and can be used to support housing-related services locally. As noted above, the difference between the interest repayments incurred in exiting the scheme and the total of payments to HM Treasury under the Housing Revenue Account Subsidy system is approximately £33 million each year.
- 7.317 A settlement should also free up some revenue in local housing authorities, which can be used to help manage and maintain their housing stock. Any additional costs associated with the introduction of the new Standards for local authority housing authorities, as set out in the previous section, can be met from the revenue savings arising from the ending of the Housing Revenue Account Subsidy system.
- 7.318 It is acknowledged that the borrowing limit, which formed part of the agreement with HM Treasury, will restrict the amount of housing-related

borrowing that each local housing authority would be able to take on in the future. Where a local housing authority is exploring the potential to build new homes, the authority must ensure that ongoing compliance with the borrowing cap is maintained. It is further acknowledged that existing local housing authority housing business plans currently assume the continuation of the Major Repairs Allowance, which is a grant to support meeting the backlog of repairs in their housing stock. For planning purposes, it is assumed that Major Repairs Allowance will remain in place, subject to funding availability.

**Table 30: Summary of costs for Option 3**

	<b>Costs of Option 3</b>			
	<b>With a voluntary agreement and new legislation</b>		<b>Without a voluntary agreement - new legislation only</b>	
	<b>2014-15 (£)</b>	<b>2015-16 to 2018-19 (£)</b>	<b>2014-15 (£)</b>	<b>2015-16 to 2018-19 (£)</b>
<b>Welsh Government</b>				
Administration of existing system*	49,000		49,000	
Voluntary agreement	10,000			
Consultation	2,000		2,000	
Guidance and support for local housing authorities	57,000		57,000	
Technical assistance	60,000		60,000	
Monitoring	2,000	8,000	2,000	8,000
<b>Local Housing Authorities</b>				
Administration of existing system	385,000		385,000	
Audit existing system	66,000		66,000	
Voluntary agreement	7,000			
Consultation	15,000		15,000	
Treasury management advice	55,000		55,000	
Guidance and training	190,000		190,000	
Monitoring	22,000	88,000	22,000	88,000
<b>Welsh Local Government Association</b>				
Voluntary agreement	2,000			
Guidance and training	17,000		17,000	
<b>Total**</b>	<b>939,000</b>	<b>96,000</b>	<b>920,000</b>	<b>96,000</b>

Note:

\* The costs of the administration and audit of the Housing Revenue Account Subsidy system are existing costs are included in the summary of costs in Table 30 above.

\*\* Only the total additional costs are shown in the Summary of Additional Costs of Legislation at Annex B.

7.319 The following table is a comparison of the administrative costs associated with Option 1 and those incurred in proceeding with a voluntary agreement within Option 3. The data is taken from the summary tables for each option. The

table shows an administrative cost saving of approximately £1,965,000 over the period 2014-15 to 2018-19 by abolishing the Housing Revenue Account Subsidy system, introducing new self-financing arrangements and applying a voluntary approach.

**Table 31: Comparison of administrative costs under Options 1 and 3**

	<b>2014-15 (£)</b>	<b>2015-16 (£)</b>	<b>2016-17 (£)</b>	<b>2017-18 (£)</b>	<b>2018-19 (£)</b>	<b>Total (£)</b>
Option 1	500,000	500,000	500,000	500,000	500,000	<b>2,500,000</b>
Option 3	439,000	24,000	24,000	24,000	24,000	<b>535,000</b>

## **Benefits**

### **Option 1 – Do nothing**

7.320 There are no additional benefits for local housing authorities or tenants from this option. There would be no savings, which means no additional resources for them to invest in improving the standard of their housing stock. If the Housing Revenue Account Subsidy system continues, the financial disincentive to build new homes will remain.

### **Option 2 – Use a voluntary approach without HM Treasury Agreement**

7.321 It is considered that this option would not meet HM Treasury's expectation for new legislation to be introduced similar to that which was introduced by the Localism Act 2011 for the Housing Revenue Account Subsidy system reforms in England.

7.322 This option would be reliant on all eleven local housing authorities signing up to an agreement. If one authority does not agree the voluntary agreement approach could not proceed.

### **Option 3 – Abolition of the Housing Revenue Account Subsidy system and introduction of new self-financing arrangements**

7.323 The most significant benefit of a self-financing scheme and the abolition of the Housing Revenue Account Subsidy system would be the revenue savings to local housing authorities. As indicated earlier, the figure of approximately £33 million each year is subject to the completion of detailed work on accounting matters. This saving is calculated by comparing the payments they current make as part of the Housing Revenue Account Subsidy system with the annual interest that local housing authorities will pay on the new debt they take on to fund the buy-out. This, together with the savings arising from exiting the system provides important, additional, investment that can be used to improve their homes. This would enable a marked improvement in progress to achieve the Welsh Housing Quality Standard.

- 7.324 After a local housing authority has met the Welsh Housing Quality Standard, it may wish to build new homes. To do this, the authority would need to fully fund the development cost and it would need to establish if it has the borrowing capacity where borrowing may be required.
- 7.325 The introduction of new self-financing arrangements for local housing authorities would provide them with more flexibility and control in maintaining their housing stock and their Business Plan for this purpose.
- 7.326 Other benefits include the removal of the perceived inequities in the approach to local housing authority housing finance that has developed across the UK. The fairness of the current subsidy system depends on the accuracy of the historic assumptions used within the complex formula, which has made the system hard to understand, less transparent, with outcomes that are sometimes unpredictable. The assumptions used about rent levels are also highly complex, adding a great deal of bureaucracy.
- 7.327 The requirement for local housing authorities to make payments to the HM Treasury from their rental income is particularly unpopular with them, with the Welsh Local Government Association and with tenants. The fact that the Housing Revenue Account Subsidy system in England has been abolished adds to its unpopularity. There are other disadvantages. For example, the annual nature of the process surrounding the Housing Revenue Account Subsidy system and the volatility that accompanies it mitigates against longer term planning by the authorities. All the authorities support the need to exit from it.

## **Summary and preferred option**

- 7.328 Wales is currently the only part of the UK where the Housing Revenue Account Subsidy system remains in place. Wales was in a negative housing subsidy position prior to devolution and all eleven local housing authorities remain in a negative subsidy position. Each year they are required to pay back to HM Treasury via the Welsh Government a significant amount of the Housing Revenue Account Subsidy system.
- 7.329 The system could not be abolished without agreement of HM Treasury. The Welsh Government and HM Treasury have reached agreement on a financial package that will enable the system to be abolished thus bringing local housing authorities in Wales to the same position as those in England. The preferred option is to abolish the Housing Revenue Account Subsidy system by way of new Welsh legislation with the borrowing cap being subject to UK legislation. The preferred option requires implementation of the reform through a voluntary agreement with all eleven local housing authorities. This will require HM Treasury agreement and will ensure that revenues raised in Wales can be used locally by the authorities involved to improve social housing stock.
- 7.330 There is published evidence explaining how historic decisions in housing policy have disadvantaged Wales over many years<sup>54</sup>. This, together with very



careful consideration of the case for abolition, underpins Option 3, which is the preferred option. This option offers by far the best way forward to achieve the maximum cost saving to local housing authorities, whilst achieving savings. The savings create additional, much needed, resources. These can be invested in improving the quality of social housing stock and in meeting the Welsh Housing Quality Standard. It also increases the potential to build more affordable homes. Wales will no longer be at a disadvantage compared with other parts of the UK.

## **Co-operative Housing**

### **Options**

7.331 Three main options were identified:

1. Do nothing.
2. Promote and raise awareness of co-operative housing.
3. Enable more co-operative housing by legislating to allow fully mutual co-operative housing associations to use the assured tenancy regime.

#### **Option 1 - Do nothing**

7.332 Under this option, co-operative housing would need to develop within the limits, and constraints, of existing legislation. The use of a Limited Equity Model of co-operative housing is emerging. There is knowledge of one in England, which is operating under current law.

7.333 While one could conclude that the legal position should remain unchanged, discussion with stakeholders has identified the legislation surrounding the security of tenure has potential difficulties, which affect the prospects of co-operative housing coming forward and the pace at which it develops. This option has therefore been dismissed.

#### **Option 2 - Promote and raise awareness of co-operative housing**

7.334 Co-operative housing is limited in Wales and therefore unfamiliar to the majority of people as a potential choice for a home. The level of interest in such housing is critical to the viability of developments and therefore, increasing public awareness of co-operative housing and confidence in it as an option is essential.

7.335 A sustained publicity campaign to promote the benefits of co-operative models of housing might increase the interest in, and potential take-up of, this type of tenure as an affordable housing option. This option may be taken forward without making legislative changes. However, the scale of resources required to change people's attitudes and behaviour would be considerable. This option would not address the exclusion of co-operative housing

associations from the assured tenancy regime, which is seen as a potential barrier to new developments.

### **Option 3 - Enable more co-operative housing by legislating to allow fully mutual co-operative housing associations to use the assured tenancy regime**

7.336 This is intended to remove some legislative barriers to the use of fully mutual co-operative housing associations to allow better arrangements for co-operative housing to operate effectively. This option addresses an identified barrier to developing co-operative housing and will make improvements to the way that co-operatives need to operate. It has two elements:

- (i) Lifting the statutory restriction on the granting of assured and assured shorthold tenancies by fully mutual housing co-operatives.
- (ii) Creating an additional ground for lenders to fully mutual co-housing operatives to seek possession of an assured tenancy to allow repossession on vacant possession value.

7.337 The demand for housing far exceeds supply. Co-operative housing can provide more choice for people in need of affordable homes for both rent and sale. However, the existing law poses a number of challenges for such models and these can manifest themselves as potential barriers to their greater use. Option 3 addresses these matters and is therefore the preferred option.

## **Costs**

### **Option 1 – Do Nothing**

7.338 As this option proposes no change, there would be no additional costs associated with this option. Work would continue with the co-operative housing stakeholder group to explore ways of developing more co-operative housing.

7.339 The Welsh Government currently funds project resources via the Wales Co-operative Centre to increase the supply of co-operative housing by providing advice and support to new co-operative housing schemes. It also works to increase awareness of co-operative housing another option for people across Wales. The cost of the project resources this financial year is £92,000 per annum.

### **Option 2 - Promote and raise awareness of co-operative housing**

#### **Welsh Government**

7.340 The main costs to the Welsh Government will be continued support for the project resources to work with stakeholders. The cost is £92,000 as stated in Option 1 above.

7.341 This option would also give broader action to promote social housing and to raise awareness of it as an option for people seeking an affordable home. The additional action would include promotional events and conferences, web-based information prepared for the web sites of the different stakeholders, the use of social media channels of communication, and selective PR activities. Based on 0.3 of a typical media and policy post and taking into account the direct costs of promotional events, the estimated cost for this element of the option would be £16,000 per annum for two years.

7.342 Taking together, the total estimated cost of the project resources and the communications costs would be £124,000 over two years.

7.343 The Net Present Value of the costs of Option 2 is £119,300.

7.344 This option would not impose any additional costs on stakeholders.

### **Option 3 – Enable more co-operative housing by legislating to allow fully mutual co-operative housing associations to use the assured tenancy regime.**

#### **Welsh Government**

7.345 The main cost to the Welsh Government will be the development of guidance for local authorities, Registered Social Landlords and stakeholders. This will ensure that they are aware of the change in the legislation relating to fully mutual housing co-operative in Wales and its implications. Based on the cost of 0.5 of a senior policy officer and 0.2 of a full-time team leader for six months, the estimated cost of producing the guidance is £19,100. This is a one-off cost.

7.346 As with Option 2, the Welsh Government will undertake a variety of communications activities to raise awareness of co-operative housing amongst stakeholders. The activities will also be used to publicise the new guidance on co-operative housing. The activities undertaken in this campaign will be similar to those described in Option 2 as will be the cost; that is, £16,000 per annum for two years. The Welsh Government would also consider the continuation of funding for the Wales Co-operative Centre project in 2014-15 at a cost of £92,000.

#### **Co-operatives**

7.347 The change in legislation is intended to increase the number of potential options available to those in housing need. The proposals will not create additional tenancies, rather they will enable different tenancies. Furthermore, there will be no obligation for a co-operative to use this legislation.

7.348 Assured and Assured Shorthold Tenancies already exist and therefore, there would be no initial or set up costs associated with utilising these. Discussions with stakeholders indicate that the cost of administering these tenancies will

be no more than the administration costs that would be incurred by co-operatives under the existing arrangements

7.349 The additional ground for possession to allow lenders to fully mutual co-operatives to be able to seek vacant possession if the co-operative defaults on its mortgage would incur no more costs than those that are normally associated with action to repossess a property. As such the change in legislation will not create any additional costs for co-operatives

**Table 32: Summary of costs of Option 3**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Guidance	19,100	0	0	0	0
Communications	16,000	16,000	0	0	0
Wales Co-operative Centre Project	92,000	0	0	0	0
<b>Total</b>	<b>127,100</b>	<b>16,000</b>	<b>0</b>	<b>0</b>	<b>0</b>

7.350 The Net Present Value of the costs of Options 3 is £137,700.

## **Benefits**

### **Option 1 - Do nothing**

7.351 As this option proposes no change it is considered that there are no additional benefits associated with this option. It would not assist in the expansion of co-operative housing as another option for increasing housing supply or for expanding the choice available to people for affordable homes.

### **Option 2 - Promote and raise awareness of co-operative housing**

7.352 Co-operative housing is a relative new concept in Wales and housing providers, members of the public and other potential interested parties are not aware of what this is. Action to raise awareness of co-operative housing and the benefits of this type of housing is likely to produce some increase in interest and understanding of it as an option for a home.

7.353 Increased public demand would help stimulate more interest in developments. However, the benefits of this action alone for the policy intent of expanding the existence of housing co-operatives is questionable as it does not address the identified barriers to their development and operation.

### **Option 3 - Enable more co-operative housing by legislating to allow fully mutual co-operative housing associations to use the assured tenancy regime.**

- 7.354 This option is designed to remove some legislative barriers to the use of fully mutual co-operative housing associations, thus allowing better arrangements for co-operative housing to operate more effectively.
- 7.355 The use of assured and assured short-hold tenancies will allow fully mutual housing co-operatives to provide increased security of tenure for individual tenant members. Currently, a fully-mutual housing co-operative does not have the ability to use assured tenancies. The legislation will allow the members to benefit from a statutory tenancy and a comprehensive, well-understood package of tenants' rights including better protection from eviction.
- 7.356 Creating an additional ground for lenders to fully mutual housing co-operatives to seek possession of a tenancy so they can take vacant possession if the co-operative does not pay its mortgage and enables the assets to be used to secure loans or investment. This helps overcome some reluctance by lenders to finance co-operatives because of the potential inability to release security. It will mean that co-operatives can develop more robustly and independently.

### **Summary and preferred option**

- 7.357 Option 3 offers the best way forward to achieve the policy intent of more co-operative housing to be developed. This is intended to remove some legislative barriers to the use of fully mutual co-operative housing associations, thus allowing better arrangements for co-operative housing to operate effectively.
- 7.358 Exploratory work has been completed around financial modelling of co-operative housing and also market research to determine the potential demand beyond the current interest in co-operative housing. The legislation complements this by facilitating the easier development and operation of such models.
- 7.359 This option will help to address the problem of the demand for housing exceeding supply by providing new models for housing, learning from elsewhere in Europe. Importantly, it will also provide the public with another option and thus more choice for people seeking an affordable home to rent or buy as a viable and long term housing option.
- 7.360 There is a range of evidence to support this option. For example, in recent years, the number of new dwellings completed for the private sector has been steadily falling. In 2011-12, completions increased by 5 percent over the previous year. In contrast, completions by Registered Social Landlords, which had been on an increasing trajectory, decreased by 16 percent during 2011-12. The supply of affordable housing needs to be increased to respond not only to overall demand for more housing but to UK Government policies such as

welfare reform. Co-operative housing models have the potential to offer a new affordable housing option for people facing difficulties.

- 7.361 While fully mutual housing co-operatives are to be given the choice whether to use assured tenancies, through discussions with established co-operatives it was clear that the elements that are to be included in the Bill will assist in increasing the security of tenure for those living in co-operative housing.
- 7.362 Under this proposal, Wales will be the first country in the UK to introduce legislation that provides increased security of tenure, which will bring with it benefits and assurance for co-operative members.

## **Council Tax on Empty Homes**

7.363 The options are:

1. Do nothing.
2. Compel local authorities to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.
3. Give local authorities discretion over whether or not to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.

### **Option 1 – Do nothing**

- 7.364 The Welsh Government goal is to bring 5,000 long-term empty properties back into use to address the shortage of housing. This option involves no action over and above the current arrangements and no additional council tax would be levied on long-term empty homes.
- 7.365 Following careful consideration, this option was dismissed. It will not address the need to encourage more owners to bring empty homes back into use. There would be a need to rely entirely on existing means of tackling empty homes. Under existing regulations, if a home is empty and contains no furniture, it is exempt from council tax for the first six months from the date it became unfurnished. Once this period has elapsed, the property falls within the prescribed class of dwellings within the regulations<sup>55</sup>. At the end of the six month period, the local authority can determine what level of discount (up to 50 percent) applies. However, the maximum charge for the empty property is 100 percent of the applicable tax for the year.

**Option 2 – Compel local authorities to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.**

- 7.366 In this option, all owners of homes that have been empty for twelve months or more would be liable for an additional council tax charge. The level and timescale for the charge would be specified by the legislation.
- 7.367 As this option would apply to all owners of empty homes, it would not take into account local circumstances, the prevailing economic or housing market conditions at the time, or the personal circumstances of the owner. This option would also deny local authorities any flexibility in implementing the law, which would mean that the additional tax would apply in areas where empty homes are not a significant issue.
- 7.368 In implementing this option, local authorities would need to consider whether or not they would need to deploy additional resources to undertake inspection work in order to establish whether or not the home is empty. There would also be a need to provide for additional appeals and enforcement work. The systems to deal with inspection through to appeals are already in place but it is reasonable to expect marginal increases in such activity as a result of implementing the legislation.

**Option 3 – Give local authorities discretion over whether or not to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.**

- 7.369 This is the preferred option. It gives each local authority the discretion over whether or not to apply the additional council tax. It will allow local authorities to make a decision based on the specific housing and community needs in their area. They will also be democratically accountable for their decision.
- 7.370 Local authorities that choose to implement this option may incur modest additional costs. Likewise, enforcement costs would be likely to increase as homeowners may seek to avoid payment. In reaching its decision on whether or not to utilise the discretionary power, a local authority would need to balance the additional costs against income that the additional council tax could provide.
- 7.371 If some local authorities utilise the power and others do not, owners of long-term empty homes in those areas where it is applied may be dissatisfied if owners in other areas are treated differently. However, the other side of this is that applying such a power to all areas could penalise some owners that are experiencing significant difficulties in selling their properties due to variations in the buoyancy of local housing markets and the economy more generally. As in Option 2, where a local authority decides to implement the policy, then it will need to justify the decision to its local electorate. The justification will, inevitably, set out the position locally on long-term empty homes and the problems they cause for the local community and local environment.

## Costs

### Option 1 – Do Nothing

- 7.372 Under this option, there will be no additional council tax charge placed on long-term empty homes. As a result, there are no additional costs associated with this option.

### Option 2 – Compel local authorities to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.

### Welsh Government

- 7.373 There would be a one-off cost to the Welsh Government stemming from the need to issue guidance at the implementation stage. Based on the equivalent of 0.2 of a typical full-time policy officer over a ten-week period, the cost of producing this guidance, publishing it on the web site, communication Wales-wide and beyond using existing channels and other press and media channels, and disseminating it is estimated to be £2,000.

### Local authorities

- 7.374 The costs of the legislation to local authorities comprise implementation, notably communicating the new charge, and ongoing administration to collect the additional charge.
- 7.375 As the application of the policy would be compulsory for all local authorities, press and media activity would be undertaken when the Bill receives Royal Assent. Existing channels of communication used by local authorities, such as community newsletters would be utilised. Additional communications activity would be undertaken to state when the additional charge would come into effect. Local authorities would need to supplement action by the Welsh Government using press releases and their internet sites. This approach was adopted in England and worked, with information being picked up and used extensively by various media outlets. Significant coverage will therefore be achieved without additional costs. The estimated cost of such action is approximately £1,000 per authority, which is a total one-off cost of £22,000 for all local authorities.
- 7.376 Each local authority uses software to administer the council tax system in its area. Three software suppliers look after the needs of all twenty-two authorities. Software changes would be needed in order to allow authorities to identify homes that have been empty for twelve months or more and then to calculate the council tax bill for that property.
- 7.377 Any additional cost of updating software will depend on the contractual arrangements that local authorities have with their software suppliers. Some contracts allow for adjustments to be undertaken free of charge. Others may not. Given that a similar change has already been made in England, it is



reasonable to conclude that the necessary software changes have already been made by the three suppliers covering Wales and therefore, no additional costs or minimal additional costs are incurred.

- 7.378 Experience from previous alterations to software required when council tax has changed, suggests that where a charge would be incurred then this would be in the region of £20,000 per authority. The maximum cost for all local authorities would therefore be £440,000. This would be a one-off cost.
- 7.379 The need for inspection of homes would incur some costs. Local authorities already hold records of long-term empty homes as under existing legislation, empty properties are exempt from any charge for the first six months of being unoccupied. However, it is possible that some owners, albeit a relatively small proportion, may state that the home is occupied in order to avoid paying the additional tax. Some inspections may therefore need to be undertaken. A pattern of notifications of relatively large numbers of long-term empty homes suddenly being declared as being occupied would be an indication that inspections were necessary.
- 7.380 Based on the current requirements to monitor the collection of council tax, it is estimated that the cost would be the equivalent of one member of staff at £30,000 per annum. The experience in England, where the majority of local authorities have implemented a policy of charging additional council tax on long-term empty homes, has informed this estimate. The total costs of all twenty-two local authorities employing one additional staff member would be £660,000 per annum.
- 7.381 This option could incur additional costs from enforcement activity and appeals. It is very difficult to estimate, with any degree of accuracy, the likelihood of appeals. Initially, the owners of long-term empty homes could appeal to the billing authority. After this, they would have the right to appeal to the Valuation Tribunal Wales, which is an independent non-executive sponsored body of the Welsh Government. It is tasked with hearing appeals relating to local taxation. Based on past changes in policy, it is reasonable to estimate that the increase in appeals heard by the Tribunal will be in the region of 0.5 percent of those affected. Working on the basis of long-term empty properties standing at 24,000 but allowing for the fact that this statistic includes homes that have been empty for between six months and twelve months, this equates to an estimated caseload of 120. Based on previous data this caseload would incur an estimated cost in the region of £20,000 per annum.
- 7.382 The transitional costs associated with communications activities and software costs will be incurred in 2014-15. However, the owners of long-term empty properties will be given a period of time to decide how to respond to the proposed changes. As such, no additional council tax will be due until the 1<sup>st</sup> April 2016. The costs associated with inspections and enforcement will be incurred from 2016-17.

## Owners of long-term empty homes

- 7.383 The owners of homes that have been empty for more than twelve months would be required to pay the additional council tax charge that is placed on their property. This would only apply if the owner decided not to sell the property or take action to make sure it is occupied; for example, by renting it out.
- 7.384 The total additional cost of the legislation will depend on the number of long-term empty homes, the additional charge that is set, and the collection rate achieved.
- 7.385 The average Band D council tax charge for a property in 2013-14 is £1,226. With the council tax charge for a long-term empty property set at 150 percent of the standard rate, the additional charge would equate to approximately £613 per property per annum.
- 7.386 The total number of homes that have been empty for more than twelve months is 24,216<sup>56</sup>. Based on this figure, the average rate of council tax, and assuming the same 97 percent collection rate achieved in 2010-11, the gross estimated additional cost to the owners of long-term empty homes would be £14,400,000 per annum. This cost would be lower if the policy encouraged the owners of empty properties to sell or rent the property.
- 7.387 The additional council tax paid by the owners of long-term empty homes would be a transfer payment and there is a corresponding benefit to local authorities (see below).

**Table 33: Summary of costs of Option 2**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Guidance	2,000	0	0	0	0
<b>Local Authorities</b>					
Communications	22,000	0	0	0	0
Software	440,000	0	0	0	0
Enforcement		0	660,000	660,000	660,000
<b>Valuation Tribunal Wales</b>		0	20,000	20,000	20,000
<b>Total</b>	<b>464,000</b>	<b>0</b>	<b>680,000</b>	<b>680,000</b>	<b>680,000</b>

Note:

The table does not include the additional tax paid by the owners of long-term empty properties because it is a transfer payment (i.e. a cost to the home-owners but a benefit (receipt) to Local Authorities).

**Option 3 – Give local authorities discretion over whether or not to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.**

**Welsh Government**

7.388 The costs to the Welsh Government are the same as those for Option 2. Although the power to apply the charge would be discretionary, there would be no difference in the need to issue guidance at the implementation stage. Based on the equivalent of 0.2 of a typical full-time policy officer over a ten-week period, the one-off cost of producing this guidance, publishing it on the web site, communication Wales-wide and beyond using existing channels and other press and media channels, and disseminating it is estimated to be £2,000.

**Local authorities**

7.389 Option 3 costs depend on the number of local authorities that take up the policy. From observing the implementation of similar legislation in other regions of the UK, it is reasonable to assume that a significant number of local authorities would implement the policy. The existing legislation allows for a 50 percent discount to be applied where a property has been empty for over six months. At the moment approximately 50 percent of authorities do not allow any discount. However, unless authorities have opted to include council tax policy within their respective housing strategies then there is little incentive to remove any discount. This is because the support provided to the authority by the Welsh Government would be adjusted to reflect this change in policy. The proposals contained in the Housing Bill contain no such restraints. The intention is that local authorities will be able to retain the additional tax revenues, though they will be encouraged to use this revenue on improving housing in their area.

7.390 In assessing any costs and benefits for Option 3, a higher implementation rate than 50 percent has been assumed due to the differing financial arrangements. We are therefore assuming an implementation rate in the region of 75 percent (seventeen local authorities).

7.391 After receiving Royal Assent, each local authority will be able to decide whether or not it wishes to implement the policy. If it is to be adopted then there would be a one-off cost to the local authority to provide members of the public with information. As stated earlier, this could take the form of press releases in local newspapers, information on the authority's website and the use of local newsletters. It would also include the use of more targeted notifications to the owners of long-term empty homes identified by the authority's own council tax system. The estimated costs of this action is the same as that in Option 2; that is, £1,000 per authority. If three quarters of Welsh local authorities adopted the policy then total cost would be approximately £17,000.

- 7.392 Implementing authorities would need to update their council tax software and as with Option 2 the cost of this is estimated to be approximately £20,000 per authority. If seventeen authorities implement the policy then the total cost is £340,000. This would be a one-off cost.
- 7.393 The costs of monitoring the collection of council tax in each authority are again the same as those for Option 2. This reflects the cost of one additional member of staff at £30,000 per annum. The total costs of seventeen local authorities employing one additional staff member would be £510,000 per annum.
- 7.394 The final cost to be considered relates to the appeals process. If seventeen local authorities implement the policy then the estimated increase in appeals is in the region of 100. The estimated cost of these appeals is £17,000 per annum. The cost will be lower if fewer authorities take up the discretionary power.
- 7.395 As with Option 2, the transitional costs will be incurred in 2014-15 but since the additional council tax will not be due until 1<sup>st</sup> April 2016, the costs associated with inspection and enforcement are incurred from 2016-17.

### **Owners of long-term empty homes**

- 7.396 For the purposes of costing this option we are assuming that seventeen local authorities implement the policy.
- 7.397 The owners of homes that have been empty for more than twelve months would be required to pay the additional council tax charge. This would only apply if the owner decided not to sell or rent the property.
- 7.398 The total additional cost of the legislation will depend on the number of long-term empty homes, the additional charge that is set, and the collection rate achieved. Using the figures in Option 2, namely an additional charge of £613 on an average Band D property (£613 per annum), the total number of homes empty for more than twelve months of 24,216 and a 97 percent success rate in tax collection, the gross estimated additional cost to the owners of long-term empty homes would be £11 million per annum.
- 7.399 The total cost would be lower if the policy encouraged the owners of empty properties to sell or rent the property and if only some local authorities decided to utilise the power. The same will be true if local authorities decide to utilise the discretionary element of this option to exempt certain properties from the extra charge. It is not possible to predict this with any degree of accuracy.
- 7.400 The additional council tax paid by the owners of long-term empty homes would be a transfer payment and there is a corresponding benefit to local authorities. This is reflected later in this section.

**Table 34: Summary of costs of Option 3**

	2014-15 (£)	2015-16 (£)	2016-17 (£)	2017-18 (£)	2018-19 (£)
<b>Welsh Government</b>					
Guidance	2,000	0	0	0	0
<b>Local Authorities</b>					
Communications	17,000	0	0	0	0
Software	340,000	0	0	0	0
Enforcement		0	510,000	510,000	510,000
<b>Valuation Tribunal Wales</b>		0	17,000	17,000	17,000
<b>Total</b>	<b>359,000</b>	<b>0</b>	<b>527,000</b>	<b>527,000</b>	<b>527,000</b>

Note:

The table does not include the additional tax paid by the owners of long-term empty properties because it is a transfer payment (i.e. a cost to the home-owners but a benefit (receipt) to Local Authorities).

## Benefits

### Option 1 – Do Nothing

7.401 This option represents a continuation of existing policy. There are no benefits associated with it.

### Option 2 – Compel local authorities to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.

7.402 The additional council tax would be applied on all long-term empty homes regardless of local circumstances. The policy would assist efforts to address the shortage of housing by making use of those homes that currently lie empty. It would be another incentive to the owners of long-term empty homes to bring them back into use. It would complement the range of tools and powers that authorities have to tackle empty homes. It would also complement the Houses into Homes scheme, which provides loans to owners to improve the property for sale or rent.

7.403 Other benefits are gained by reducing the number of long-term empty homes. These include improvements to the physical appearance of communities by addressing dilapidated homes and the vandalism and other forms of anti social behaviour that empty properties can attract. An expansion in the number of empty properties in an area can lead to a spiral of decline. Residential property becomes less attractive as the number of empty properties increase, which in turn can affect the price of other properties. This, and the physical appearance of an area can cause businesses to avoid the

area. Encouraging the owners of empty properties to bring them back into use is important for maintaining strong and vibrant local communities.

7.404 While the purpose of the policy is not to generate income, any revenue generated can be used by local authorities to make further improvements that help meet the housing needs of local people. A previous study<sup>57</sup> estimated that approximately £22 million would be generated if all local authorities levied the additional charge. However, this was based on a maximum charge of 200 percent and not 150 percent, which is the basis of this option and Option 3. This figure also excluded any collection losses, which are a normal feature of the council tax system.

7.405 Using the calculation for the additional costs to the owners of long-term empty homes set out earlier, and as this is a transactional cost with local authorities, the additional revenue to local authorities of a 150 percent charge would be £14.4 million

7.406 It should be noted that actual collection rates could be lower than the average used above.

**Option 3 – Give local authorities discretion over whether or not to implement additional council tax on long-term empty homes at a rate of 150 percent of the applicable charge for the property.**

7.407 The major difference, and additional benefit, is that the decision on whether or not to apply the extra charge is down to each local authority. This allows local factors and circumstances to be taken into account by the authority, which can inform the use of the power in a way that complements its strategic housing policy.

**Summary and preferred option**

7.408 As Option 1 carries with it no benefits at all, the prime decision is between Options 2 and 3. They are essentially similar. The major difference is that one would require every local authority to impose the extra charge while the other allows them to option to do so. Taking all factors into account, the principle of allowing this to be determined locally is, as described above, considered to be important and therefore Option 3 is the preferred option.

## **8. Competition Assessment and Specific Impacts**

### **Competition Assessment**

#### **Private Rented Sector**

- 8.1 The proposals for the licensing landlords and agents are not expected to have impact on competition within the private rented sector. Landlords with larger portfolios and agents with multiple branches will pay more but these costs will be proportionate to the relative size of their businesses.

#### **Homelessness**

- 8.2 There are no competition impacts because the legislation replaces an already existing statutory duty on local authorities to address homelessness in their area. Local authorities will continue to be able to subcontract some of the functions within the legislation but this would amount to no more than 10 percent of market value. This section of the Bill places exclusive duties on a local authority; it will not involve competition and will not affect business, charities or the voluntary sector.

#### **Gypsy and Traveller Sites**

- 8.3 The risk of a significant detrimental effect on competition is low. Local authorities will be expected to undertake a competitive procurement exercise when planning to develop a new Gypsy and Traveller site. The Welsh Government include an explanation of this in the 'funding pre conditions' section of the offer letter and terms and conditions of funding.

#### **Local Authority Standards: Welsh Housing Quality Standard**

- 8.4 There are no competition impacts because the legislation to set standards for local authority housing stock would effectively underpin the work local authorities are already carrying out voluntarily to achieve the Welsh Housing Quality Standard.

#### **Local Authority Standards: Rents and service charges**

- 8.5 Changes to local authority rents and service charges will have no impact on businesses, the voluntary sector and charities, so there is no risk of a significant detrimental effect on competition.

## The Housing Revenue Account Subsidy

- 8.6 The improvements to housing stock to meet the Welsh Housing Quality Standard would largely be met by the Major Repairs Allowance Grant and not necessarily by savings as a consequence of the abolition of the Housing Revenue Account Subsidy system. The arrangements for new build would be subject to the planning and procurement processes within local government.

## Co-operative Housing

- 8.7 The legislation to enable co-operative housing and will not create competition issues as it is making an alternative form of tenure provision that is unique and could be used in other contexts.

## Council Tax on empty homes

- 8.8 The impact of the legislation will mainly be felt by individuals rather than businesses. Developers of residential property may be affected if they cannot occupy their properties within 12 months of completion. All developments within a local authority would be affected but the national impact would depend upon the extent of the implementation of the policy across Wales. We do not anticipate that this would be a significant or distorting burden due to the 12 month period between completion and the tax premium being charged.

## Specific Impacts

- 8.9 A series of impacts assessments on the policy areas contained within the Housing (Wales) Bill have been completed as part of the Regulatory Impact Assessment. The impacts varied in a number of policy areas but were largely positive.

## Equality Impact Assessment

- 8.10 The Welsh Government is bound by the Equality Act 2010, and the Wales-Specific Equality Duties Regulations, the Human Rights Act 1998 and the European Convention on Human Rights. An equality impact assessment on the Housing Bill found positive impacts for **Gypsies and Travellers** because the duty to provide a site where a need has been identified will create better access to education, healthcare and community facilities, and improve community cohesion. Authorised sites will provide safer environments compared with unauthorised sites and will particularly benefit those who are physically disabled, children, young people and older people. There will be a positive impact for the human rights of Gypsies and Travellers as the European Court of Human Rights has recognised that the vulnerable position



of Gypsies and Travellers means that special consideration should be given to their needs and that the state should facilitate their way of life.

- 8.11 The range of priority need categories that apply to local authority assessments of **homeless people** demonstrate positive impacts for younger people, family groups, the elderly and those with a mental or physical disability.
- 8.12 The **private rented sector** registration and licensing regime will have a significant impact on the way in which a relevant property may be used by an owner. As a result, it is conceivable that an owner may seek to challenge aspects of the Scheme on the basis that there is a breach of Article 1 of the First Protocol to Article One (P1, A1) of the Convention on Human Rights. However, P1, A1 provides that “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”. However, the Convention of Human Rights does recognise that a public authority will not breach this right if the “law says that it can interfere with, deprive, or restrict the use of a person’s possessions”. The European Court of Human Rights has found that a Member State may enact and enforce laws as it deems necessary to control the use of property and that Member States have a wide margin of discretion particularly to matters controlling public health and control.
- 8.13 The proposals to modernise and improve the private rented sector and its practices will benefit tenants, some of whom are vulnerable by improving the practices and standards of private landlords and lettings agents.

## Rights of the Child

- 8.14 The *Rights of Children and Young People Measure 2011* requires the Welsh Ministers to give due regard to the United Nations Convention on the Rights of the Child in the development of all legislation and policy. The Bill has many positive impacts on the rights of the child, such as the duty to on local authorities to provide **Gypsy and Traveller** sites where a need has been identified demonstrates positive impacts under the United Nations Convention on the Rights of the Child by creating improved access to education facilities and health provision. Authorised sites are a better, safer environment for children and their families. The duties for preventing and relieving **Homelessness** will avoid the trauma of homelessness for children. Positive beneficial impacts on families with children are met in the policies for **Local Authority Standards** and **Private Rented Sector** through the consequential provision of better managed and better quality housing.

## Impact on the Welsh language

- 8.15 The Welsh Government’s *Welsh Language Scheme* requires that an assessment of the impacts of the Bill on the Welsh language be carried out. The Housing Bill may have positive impacts on the Welsh language. The

proposals for **Gypsy and Traveller** sites may see families moving into predominantly Welsh areas and their children attending Welsh medium schools and learning the language, with parents mixing in Welsh speaking communities and potentially raising the number of Welsh speakers. However discretionary powers for **Council Tax on empty homes** may result in more affordable housing being available in rural, Welsh speaking communities, which could help to sustain and enhance those communities and the use of the Welsh language.

## Sustainable development

- 8.16 As part of the policy impact screening for the Bill, consideration has been given to the five headline indicators in the Welsh Government's Sustainable Development Scheme. Where local authorities build new **Gypsy and Traveller** sites, this will require Local Authorities taking account of Sustainable Development impacts during the planning process. Reduced illegal encampments will have a positive impact on communities. Natural Resources Wales has confirmed that unauthorised encampments are sometimes associated with adverse environmental impacts, the main type of incidents that have been experienced in the past include the dumping and burning of waste and pollution of nearby watercourses. **Homelessness** affects those in poverty or facing poverty and the duty to prevent or relieve homelessness will have a positive impact to ensure that workless households at least have the certainty and benefits of a safe and secure place to live.
- 8.17 Local authorities can use their discretionary powers for **Council Tax on empty homes** to improve communities where long term empty properties can cause issues for residents, including a rise in anti social behaviour and properties becoming neglected and vandalised. Encouraging these properties back into use not only increases the housing stock available but also has the effect of improving and sustaining local communities. The **Welsh Housing Quality Standard** is expected to have a positive impact through planned improvements to the quality of local authority housing stock and the achievement of the Standard which sets a minimum rating for energy efficiency. It will carry with it benefits to the health and well being of tenants and their families that arise from housing improvement, which contributes to the social well being element of sustainable development.
- 8.18 **Tenants in the private rented sector** are expected to experience improved management of their accommodation, with reduced heating bills if better insulation is installed. **Co-operative housing** will promote a degree of new build that would need to take into account the likely impact that new developments would have on a sustainable resource and environment.

## Rural proofing

- 8.19 The rural proofing screening assessment found that new **Gypsy and Traveller** sites in a rural area could impact on the availability of public services. If increased numbers of Gypsies and Travellers arrive into an established area could place an additional pressure on the availability of

school places in small rural schools that have a limited pupil capacity. There may also be an impact on the quality and character of the natural and built rural landscape through the establishment of new sites, although, all new sites would be subject to the full scrutiny of the planning process. There could be short term economic benefits to rural construction businesses when new sites are developed.

- 8.20 Where **Council Tax on empty homes** is applied, there may be benefits for small rural businesses as a consequence of empty properties being refurbished and brought back into use. There may also be a benefit of more business for rural estate agents or letting agents if empty properties are brought back into use.
- 8.21 The registration of landlords in the **private rented sector** could see a small negative financial impact on rural businesses involving the rental market.
- 8.22 **Co-operative tenure** may result in beneficial impacts on rural businesses associated with the development of co-operative housing developments in rural parts of Wales. The Welsh Government's target of 500 new homes through pioneer projects on co-operative housing to achieve the overall target of 7,500 new affordable homes over the term of the Government can be expected to deliver some new homes in rural areas.

## Health and well being

- 8.23 Screening assessments on health impacts found that authorised **Gypsy and Traveller** sites raise standards of living conditions, creating a consequential beneficial health impact on Gypsy and Traveller families. Gypsies and Travellers tend to have the poorest housing and sanitation and infectious diseases are a particular issue. **Homelessness** in all forms is repeatedly linked to the worsening of physical and mental health. This is made worse after a decision has been made to make a family or an individual homeless, with both physical and mental health likely to deteriorate following a period of street dwelling or temporary accommodation. Homelessness, or the prospect of being made homeless, can also lead to mental health problems at a variety of levels, which can result in the need for prescribed medication. In some cases, it can lead to domestic conflict, which can have serious negative impacts on both adults and children. The duties to prevent and relieve **homelessness** place an increased emphasis on a multi agency approach to both the causes of and the responses to homelessness, which includes strengthening joint working between local authorities and local health boards to address the problem. The proposals for the **Welsh Housing Quality Standard** will see positive benefits where the Standard is achieved. Research has proven that homes meeting the Standard can reduce an occupant's likelihood of being treated for depression and reduce the numbers of people with respiratory infection like coughs and colds.
- 8.24 A health impact assessment for the **Private Rented Sector** has been carried out. It concluded that there are likely to be positive health impacts. They include improved safety, health and comfort of privately rented homes and

benefits from improvements in the way that landlords treat their tenants. Positive health impacts are also likely to come from increasing awareness of rights and responsibilities amongst landlords and tenants, leading to less conflict, fewer disputes, less stress and less frustration for people in both groups. There are risks that if the scheme is not enforced effectively, conditions may improve for tenants with good landlords, but not for vulnerable tenants whose homes are managed by unscrupulous landlords, or for those who find the scheme difficult to use. Whilst not creating negative health impacts, there is a possibility that this could lead to a scenario where health inequalities are increased.

### **Impact on privacy**

- 8.25 The privacy impact assessments found that the **private rented sector** registration will identify individual properties owned by landlords or managed by their agents, allowing prospective tenants to look up the potential property that they wish to rent, or their prospective landlord/agent, and find out whether they are registered and/or licensed on the Scheme. Data will be shared between the Scheme Operators i.e. local authorities and the Welsh Government. Landlords will have access to the data in respect of their own properties and tenants will have access to property specific data.

### **Impact on the voluntary sector**

- 8.26 A wide range of voluntary sector organisations receive funding from the Welsh Government to support **homeless** people. It is possible that they could be affected by the new duties as their referrals may increase and they will be expected to support the framework of prevention in partnership with the local authority. However, the greater emphasis on preventing homelessness in the first place and early intervention could reduce the complexity or difficulty in helping people that can be encountered when assistance is left the last possible moment.

## 9. Post-implementation review

- 9.1 The Housing Bill is multi-faceted, designed to address identified priorities in order to do more to help people meet their housing needs. Given this, the review, monitoring and evaluation must reflect this. It will comprise a coherent set of components. Some of these will be common to two or more elements of the Bill while others, because of the specific nature of certain parts, will be bespoke.
- 9.2 The elements of the Housing Bill will be measured in a number of ways. These will include the use of regular, official, statistics as well as dedicated surveys and other research methods designed to capture the necessary data. The research design for the post-implementation evaluation will combine a variety of different research methods most suited to measuring the overall impacts of the legislation and specific elements of it.
- 9.3 A programme of monitoring and evaluation activity will be developed to allow reporting one year after the relevant element of the Bill has been commenced and at appropriate points thereafter. For some elements, such as the registration scheme for private landlords, monitoring will be monthly for some aspects such as the pace of registration by private landlords.
- 9.4 The review and evaluation will reflect the different commencement dates for elements of the Bill. For example, the private rented sector element will be enacted as soon as possible after Royal Assent while plans for some other elements, such as homelessness which will come into effect from April 2015, will need to reflect a different timescale
- 9.5 By way of some examples, some of the regular indicators and performance measures that will be used to review and evaluate the intended effect are:

### Indicators

- (i) Empty private stock.
- (ii) Empty private properties as a percentage of total private stock.
- (iii) Estimated number of homes needed.
- (iv) Number of homes built & ready for occupation.
- (v) Number of additional affordable housing units delivered.
- (vi) Amount of gas and electricity used in homes each year.
- (vii) Percentage of social housing meeting the Welsh Housing Quality Standard.
- (viii) Percentage of household living in fuel poverty.

- (ix) Percentage of homeless households which include dependent children.
- (x) Homeless acceptances.

### **Performance Measures**

- (i) Number of local development plans adopted.
- (ii) Number of private empty homes brought back into use via action by local authorities.
- (iii) Number of homes built and ready for occupation.
- (iv) Number of five year housing land availability studies completed within 12 months.
- (v) Number of houses brought up to the Welsh Housing Quality Standard.
- (vi) Number of homes benefitting from improved domestic energy performance measures.
- (vii) Number of local authority Gypsy and Traveller sites refurbished.
- (viii) Number of households helped towards securing improvements in the energy performance of their homes.
- (ix) Percentage of dwellings assessed under Housing Health and Safety Rating System that contained at least one Category 1 hazard.
- (x) Number of homeless families with children in bed and breakfast accommodation.

### **Private Rented Sector**

9.6 There will be a formal monitoring process of the effect of the registration and licensing scheme for landlords and letting and management agents in the private rented sector. This will be in the form of an overall evaluation project within a specific time period of 3 years after implementation. Interim reporting points will be determined at six-month or twelve month period. Some elements of the scheme, such as the number of landlords registering, will be monitored monthly. The evaluation will include an assessment of the impact of the new arrangements from tenants' perspectives.

### **Homelessness**

9.7 The implementation of the Bill will be subject to the broader regime of local authority oversight and performance management by the Welsh Government. The Welsh Government provides funding to third sector organisations to provide independent housing advice. Services such as this provides

assistance to people to ensure local authorities meet their duties to homeless people and therefore provide an important source of information on how legislation is being applied and services provided..

- 9.8 There is broad agreement on the need for information to be collected on homelessness prevention to be in place by the time the legislation is implemented. This will provide detailed information for monitoring the performance of local authorities on how they prevent homelessness.
- 9.9 The Welsh Government intends to commission research into the effectiveness of implementation of the legislation after an appropriate period, expected to be within the first two years of implementation.

## **Gypsy and Traveller Sites**

- 9.10 There will be an annual review of how effective local authorities are in complying with the Duty.

## **Local Authority Standards: Welsh Housing Quality Standard**

- 9.11 As the legislation is to ensure compliance with a standard, the effectiveness will be determined by whether the local housing authorities are progressing satisfactorily towards achievement of the Welsh Housing Quality Standard, by 2020 and are maintaining thereafter. Progress and maintenance is monitored primarily through the requirement to submit business plans and data returns. The Welsh Government will monitor and analyse the returns and determine whether the plans are “acceptable” in light of the ultimate goal.
- 9.12 Failure to comply with the legislative requirement or any subsequent subordinate legislation would indicate a failure of the measure and would trigger a review of its effectiveness.

## **Local Authority Standards: Rents and service charges**

- 9.13 The effectiveness of the legislation will be demonstrated through monitoring of local authorities to ensure that service charges and rents have been separated and rent levels remain affordable.
- 9.14 Local authorities will be expected to submit annual returns in relation to the rent standard and Welsh Government will monitor compliance each year. Discussions will be held with authorities where there are cases of non-compliance.
- 9.15 As the provision of services will be subject to consultation with tenants, an inevitable outcome will be that the level of service charges will vary from scheme to scheme. This would make the collection of detailed information an increased burden for both landlords and Welsh Government. The Welsh

Government will therefore liaise with local authorities to establish the extent to which rents and service charges have been separated and to identify any areas of concern.

## **The Housing Revenue Account Subsidy**

9.16 The monitoring of Local Housing Authorities will demonstrate effectiveness of legislation. This monitoring would include the impact on achievement of the Welsh Housing Quality Standard within the agreed timescale for each authority and the external validation on the number of new homes developed as a consequence of the savings to Local Housing Authorities.

## **Co-operative Housing**

9.17 The legislation will be evaluated by assessing which co-operatives have used the legislation and what the benefits have been realised in doing so. Case studies will be used to demonstrate the benefits, including information about cases where the legislation was not used.

9.18 It is our intention to monitor and quantify the numbers of co-operative homes developed in Wales and we will do this through an assessment against the measures of success such as:

- (i) Meets housing need.
- (ii) Provides democratic community membership.
- (iii) The membership is involved in the governance of the co-operative.
- (iv) It provides one or a combination of; rental co-operatives; market value co-operatives and limited equity cooperatives.
- (v) The quality of the housing is equivalent or better than current Welsh standards for social new build housing.
- (vi) Quality of place is demonstrated through social, economic and environmental sustainability.
- (vii) Provides flexibility to be accessible and attractive to a range of incomes of households including those who are able to finance an equity stake in their home and those on low incomes.
- (viii) Provides mixed communities with a flexible form of tenure.
- (ix) The model, or models, of co-operative housing considered appropriate for Wales are fundable.

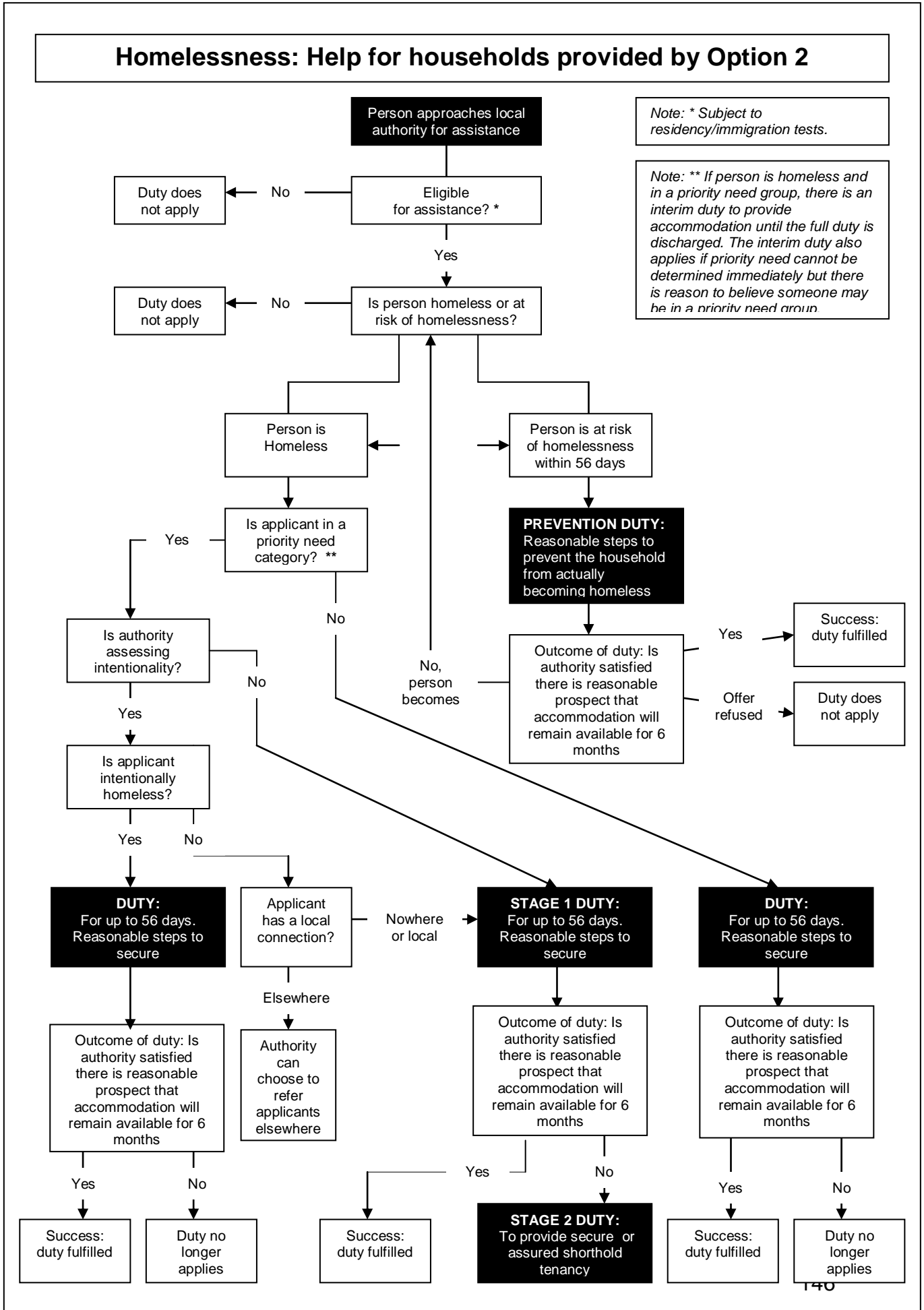


- 9.19 Some of the impacts of the proposed legislation will be cumulative. Therefore, while reporting over shorter periods such as twelve months will be possible for some elements of the Bill, for others the impacts will need to be measured over a longer timescale.
- 9.20 In the case of empty properties a number of factors will affect the level of empty properties. These include:
- (i) Interest rates.
  - (ii) Availability of finance.
  - (iii) Market conditions.
  - (iv) Employment levels and macro economic factors.
- 9.21 Data collected on a regular basis over longer periods would show the effects of economic factors and would tend to smooth out the comparatively short term effect of other factors. If the data was gathered from the date of implementation and this data showed a downward trend in comparison to the long term data, then this could be an important indicator of the success of the legislation. Periodic data extracts from local authority Council Tax systems would need to be obtained to enable monitoring to take place.

## **Council Tax on empty homes**

- 9.22 No measures are currently in place to monitor, on a routine basis, of the number of long-term empty homes. The following measures will therefore need to be taken to measure both the effects of the Bill and any unintended consequences:
- (i) Periodic statistical returns on the numbers of empty properties by local authority area. Each authority will be able to identify these from their council tax software systems. They will also need to indicate whether or not they have implemented the additional council tax policy for empty homes
  - (ii) One of the risks surrounding the legislation is that empty property owners will either seek to have their property de-listed by the Valuation Office Agency, therefore avoiding any tax liability. To identify whether or not this is occurring periodic reports can be obtained from the Agency on the extent of de-listing taking place in authority areas that have implemented the policy. If it is apparent that this is being used as a tax avoidance measure then further measures would be need to be developed and implemented.

# Annex A: Flow chart



## Annex B – Summary of Additional Costs of Legislation

Subject	2014-2015 (£)	2015-2016 (£)	2016-2017 (£)
Private Rented Sector (2)	735,000	2,030,000	8,867,000 (3)
Homelessness (4)	0	5,900,000	3,200,000
Gypsies and Travellers (5)	0	80,000	40,000
Local Authority Standards (6)	1,438,000	133,000	133,000
The Housing Revenue Account Subsidy system (7)	439,000	22,000	22,000
Co-op Housing (8)	35,100	16,000	0
Council Tax on Empty Homes (9)	359,000	0	527,000
<b>Total</b>	<b>3,006,100</b>	<b>8,181,000</b>	<b>12,789,000</b>

1. The figures in the table derive from the additional costs of the preferred option for each subject as set out in Part 2 – Regulatory Impact Assessment.
2. Estimated to be self-financing for local authorities from 2015-2016. Possibility of short-term need for some pump-priming funding from Welsh Government to assist set-up of new systems. Funds to be found from within the Sustainable Futures MEG. Commitment to funding made by Director General, with BEL to be confirmed.
3. All Wales total for costs of registration to landlords and lettings agents
4. Draft Budget includes £4,900,000 new funding. £1,000,000 will be saved from the cost of duties for released prisoners, resulting from provisions in the Bill. This is a year on year saving. In 2016-2017 there will be the ongoing £1,000,000 saving along with a £1,000,000 saving from existing Homelessness budgets.
5. Costs to Welsh Government of guidance, communications and monitoring and enforcement. Maintenance of management of sites by local authorities will be met from pitch fees. (The existing Welsh Government Capital Grant Scheme is referred to in paragraph 41 above)
6. The costs for local authority standards relate to implementing the new rent policy, de-pooling service charges and the setting up of new systems and tenancy agreements and ongoing compliance. These will be funded from existing resources and revenue savings arising from Local Housing Authorities' exit from the Housing Revenue Account Subsidy system.
7. Local Housing Authorities' exit from the Housing Revenue Account Subsidy system will result in revenue savings of some £33 million each year. The Housing Revenue Account Subsidy system costs relate to preparing a voluntary agreement and implementing new self-financing arrangements and will be met from existing resources and the revenue savings.
8. Minimal cost to Welsh Government of guidance and communications.

9. One-off initial cost of £20,000 to each local authority for software upgrade with ongoing costs of £30,000 per authority for the employment of an enforcement officer.

## **Annex C – Explanatory Notes**

1. These Explanatory Notes relate to the Housing (Wales) Bill as laid before the National Assembly on 18 November 2013.
2. They have been prepared to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the National Assembly for Wales.
3. The Explanatory Notes need to be read in conjunction with the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision or part of a provision does not seem to require any explanation or comment, none is given.

### **Introduction**

#### **Overview of the Bill**

4. The Bill comprises 128 Sections and 3 Schedules. The main provisions:
  - (a) Will provide changes to homelessness legislation to include a new strengthened corporate duty on local authorities to take all reasonable steps to achieve a suitable housing solution;
  - (b) Will introduce a mandatory licensing scheme with added accreditation for all private rented sector landlords and letting/management agents in Wales.
  - (c) Will provide local authorities with a discretionary power to charge up to double the standard rate of council tax on homes which have been empty for more than one year.
  - (d) Will include a provision to place a duty on local authorities to provide sites for Gypsies and Travellers where a need has been identified.
  - (e) Subject to agreement with Treasury, the Bill will reform the Housing Revenue Account Subsidy system to bring an end to the transfer of housing revenues from Wales to the UK Government.
  - (f) Will set standards for Rents, Service Charges and Quality of Accommodation which are charged or provided by a Local Housing Association; place a duty on a Local Housing Authority to comply with these standards; and create a sanctions mechanism if a Local Housing Authority fails to comply with the statutory standards.
  - (g) The Bill will promote, raise awareness of and enable more co-operative housing by allowing fully mutual co-operative housing associations to use the assured tenancy regime.

## **Explanatory Notes**

### **Part 1**

## **Regulation of Private Rented Housing**

### **Section 2 – Meaning of key terms**

This Section defines a rental property as any property in Wales let out, or intended to be let out, on an assured tenancy, assured shorthold tenancy (both of which are tenancies issued under Part 1 of the Housing Act 1988) or regulated tenancy (a tenancy to which the Rent Act 1977 applies), but it does not include any property let by a registered social landlord, local authority, the Crown or certain co-operative societies. Any rental property which is between lets will still be covered by this Part of the Bill.

This Section also draws a distinction between landlords, agents and responsible persons. It also defines letting as granting a tenancy or having an interest in a rental property and defines managing a rental property as marketing the property and undertaking the normal rental activities of a landlord.

### **Section 3 – Requirement to be registered and licensed: landlord**

This Section 3 provides that a landlord may not advertise, let or manage rental property or engage another person (other than a licensed responsible person or agent) to do so unless they are registered and licensed. This section makes it an offence for a landlord not to be registered, subject to a fine not exceeding level 3 on the standard scale and an offence not to be licensed subject to a fine, to be set by the courts.

### **Section 4 – Landlord's requirement to be registered and licensed: exceptions**

The requirement to be registered does not apply in the following circumstances. First, where a landlord has applied to be registered, until the application has been determined by the local housing authority. While a person may apply for registration electronically, some may apply manually by paper application. This provision will therefore allow for any delays between the date of the application and the date on which the local authority registers and notifies the person of their registration. Second, where a rental property has been transferred to a new owner, the requirements will not apply for the period of 28 days from the date of the transfer. Third, in the case of a transfer of tenanted property, if the owner of that property takes steps to recover possession of the property within 28 days of transfer the requirement to register will not apply, provided the owner continues to pursue the recovery of possession of the property. The same circumstances apply in relation to the requirement to be licensed. However, in addition where a licence application has been refused, the applicant may appeal that decision, in the event of which the requirement to become licensed will not apply pending the outcome of the appeals process.

A landlord will not be required to be licensed if he or she has appointed a licensed agent or responsible person to advertise, let or manage his or her rental property

on the understanding that the landlord can have no role in managing such properties.

### **Section 5 – Requirement to be registered and licensed: agent or responsible person**

This Section provides that an agent or responsible person appointed by a landlord must not advertise, let or manage a property unless he or she is a registered and licensed by the local housing authority for the area in which the property is located. This section makes it an offence not to be registered, subject to a fine not exceeding level 3 on the standard scale and an offence not to be licensed subject to a fine, to be set by the courts.

### **Section 6 – Duty to maintain register in relation to rental properties**

This Section requires local housing authorities to maintain and keep up to date a register of landlords (of private rented sector housing), rental properties and responsible persons and registered agents. The information which must be recorded on registers is set out in Part 1 of Schedule 1. Part 2 of the Schedule sets out what information is available to members of the public when searching the registers.

### **Section 7 – Registration by a local housing authority**

Under this Section, where an applicant makes an application and provides all the necessary information and pays the necessary fee, the local housing authority must grant the application, and assign a registration number to the applicant. The local housing authority will then enter the applicant in the register as a registered landlord, registered responsible person or registered agent.

### **Section 8 – Duty to update information**

A registered person is required under this Section to make sure that the information he or she has provided, as set out in regulations made by the Welsh Ministers, is up to date. If any changes occur, the registered person must tell the local housing authority within 28 days of the change. Under this Section, it is an offence to fail to provide information of any changes, subject to a fine not exceeding level 1 on the standard scale.

### **Section 9 – Revocation of registration**

Under this Section a local housing authority may revoke a registration if, among other things the registered person provided false or misleading information when applying for registration, or failed to update information, confirm that information is correct or pay any fee set out in regulations.

Before revoking a registration a local housing authority must allow the registered person 21 days within which to comment. In addition, any revocation is subject to rights of appeal. An appeal to the Residential Property Tribunal must be brought within 28 days of a person being notified of the decision. Revocation will not take effect until the time limits for appeal have expired or, in the event of appeal, the

appeal process has run its course and the tribunal or court has confirmed the authority's decision to revoke the person's registration.

### **Section 10 – Licence application requirements**

This Section provides that any person who has applied to be registered may also apply to a local housing authority for a licence.

Subsection (2) provides that an application for a licence must be in such form and must provide such information as required by the local housing authority and must be accompanied by the fee as prescribed by Section 31(1).

Subsection (3) sets out the matters with which a local housing authority must be satisfied before granting a licence. These are that the applicant is a fit and proper person, has completed relevant training and, where the applicant is an agent, that they are a member of a professional body approved by the local housing authority.

Under this Section it is an offence to provide false or misleading information when applying for a licence, subject to a fine not exceeding level 4 on the standard scale.

### **Section 11 - Fit and proper person requirement**

This Section sets out the matters to be taken into account by a local housing authority when considering whether an applicant for a licence is a fit and proper person. These include whether he or she has committed certain specified offences; unlawfully discriminated a person or has contravened any provision of housing, landlord or tenancy law. A local housing authority must also consider whether the actions of an associated person of the applicant are relevant to whether the applicant is a fit and proper person. An associate may be a person connected to the applicant through a personal, work or other basis. The list of matters to be taken into account may be amended by the Welsh Ministers by order.

### **Section 12 – Training requirement**

This Section sets out matters which may be covered by training which applicants must undertake in order to become licensed. Training will be provided by a range of approved training providers, authorised by the local housing authorities. Training will include matters which landlords are required to carry out by contract and statute law, including obligations under tenancy agreements. Where applicants are bodies corporate, for example, companies, all the staff engaged in the advertising, letting and management of rental properties must have undertaken the training.

### **Section 13 - Determination of application**

This Section provides that a local housing authority must issue a licence to an applicant who meets all the requirements in section 10. When a licence is issued by a local housing authority it must issue a licence and licence number to the applicant and record the fact in the register.



## **Section 14 - Licence conditions**

Licences are subject to conditions. Under this Section, all licences must be subject to a condition that the licence holder complies with any approved code of practice. Local housing authorities may set further conditions as they deem appropriate.

## **Section 15 – Duty to update information**

This Section provides that when information provided with the application for a licence ceases to be accurate, the licence holder must provide the necessary information rectifying this within 28 days. Failure to comply with this requirement is an offence, subject to a fine not exceeding level 4 on the standard scale.

## **Section 16 – Duty to show registration and licence number**

This Section provides that tenancy agreements must state the licence holder's licence number and, where the licensed person is not the landlord, the landlord's registration number. A licence holder must state his or her licence number in any advertisement for a rental property. Failure to state the relevant number is an offence, subject to a fine not exceeding level 3 on the standard scale.

## **Section 17 – Amendment of licence**

This Section permits a local housing authority to amend a licence by adding new conditions or removing or altering existing conditions. When amending the licence without the consent of the licence holder, the local housing authority must give the licence holders notice of its intention to amend the licence and the reasons for doing so and must consider any representations made within 21 days by the licence holder to the proposed amendments. After amending a licence, a local housing authority must give the licence holder notice setting out the reasons for the amendment and the licence holder's right of appeal.

## **Section 18 – Revocation of licence**

This Section allows a local housing authority to revoke a licence if the licence holder has breached the licence conditions, is no longer considered a fit and proper person or has failed to comply with the requirements of sections 15 and 16. Before revoking a licence, a local housing authority must give the licence holder notice of its intention to do so and consider any representations made within 21 days by the licence holder. After revoking a licence, a local housing authority must give the licence holder a notice setting out the reasons for the revocation and the licence holder's right of appeal. This section also provides that a licence may be revoked by agreement of the licence holder and local housing authority

## **Section 19 – Expiry and renewal of licence**

A licence expires five years after it is recorded on the register. This section allows a licence holder to make a renewal application during the renewal period which starts 3 months before the licence is due to expire. The procedure for making applications for renewed licences is that same as that for applications for a first licence. In the event of a local housing authority refusing an application for renewal of a licence, the licence holder has a right of appeal, and in the event of an appeal

the current licence will continue in effect pending the outcome of the appeals process.

Subsection (7) sets out circumstances in which a licence will automatically expire, which will include where a licence holder dies or becomes insolvent.

### **Section 20 – Licensing appeals**

This Section provides a right of appeal to the Residential Property Tribunal in the event of a local housing authority imposing a condition on a licence (other than the condition to comply with the code of practice), refusing a licence application, amending a licence or revoking a licence. An appeal must be brought within 28 days of a local housing authority notifying its decision to the licence holder.

### **Section 21 – Rent stopping orders**

This Section gives a local housing authority power to issue rent stopping orders in respect of tenanted rental properties in its area, where the landlord has contravened the requirements of section 3.

### **Section 22 – Impact of rent stopping order**

For the time that a rent stopping order is in force, no rent or other consideration (including service charges) under the tenancy of a rental property will be payable by the tenant to the landlord. Where a tenant has paid rent in advance and that rent covers the period after an order is made, the landlord must repay that rent within 28 days of the date of the order. In the event of a landlord not repaying rent, the tenant may bring a claim against the landlord in the courts for the sum outstanding.

### **Section 23 – Procedure for rent stopping orders**

This Section 25 sets out the procedure for rent stopping orders and the information which must be given to landlords and tenants of rental properties when an order is made. Landlords have a right of appeal against the making of rent stopping orders, and where an appeal is made, an order will not take effect until the appeals process has been exhausted and the tribunal or court has agreed with the local housing authority's decision to make the order.

### **Section 24 – Appeal against rent stopping order**

This Section provides a landlord with a right of appeal to the Residential Property Tribunal against a rent stopping order. An appeal must be made within 28 days of the order being given.

### **Section 25 – Withdrawal of rent stopping order**

This Section allows a local housing authority to withdraw a rent stopping order at any time. An authority must withdraw an order if the landlord complies with section 3. However, where an order is withdrawn, subsection (3) provides that the effect order will continue to have effect for the period when it was in force, and therefore a

tenant will not be required to pay any rent or other consideration in respect of that period.

### **Section 26 - Power to require documents and information to be given**

This Section gives local housing authorities power to require any person to provide documents or information, provided it is for a purpose connected with this Part of the Bill. Subsection (2) provides that any document which has legal professional privilege (containing advice from legal professionals such as solicitors or barristers) cannot be demanded by the authority.

Subsection (4) creates offences of failing to providing, destroying or altering or providing false or misleading information, subject to a fine not exceeding level 3 on the standard scale.

### **Section 27 – Offences by bodies corporate**

This Section sets out that where an offence under this Part of the Act has been committed by a body corporate (such as a company), proceedings can be taken against a person, director, manager, secretary other officer (or member if the body corporate is managed by its members) who may have consented or connived in committing the offence.

### **Section 28 – Code of practice**

This Section empowers the Welsh Ministers to issue a code of practice which sets out standards of conduct to be followed by landlords, responsible persons and agents in advertising, letting or managing rental properties and to modify or withdrawn any code.

The requirement to abide by the Code is a key feature of the licensing regime and while failure to comply will not be a criminal offence, persistent failure may result in a licence being revoked.

### **Section 29 - Guidance**

Under this Section, the Welsh Ministers, following consultation with local housing authorities and others, can issue guidance to local housing authorities in respect of the exercise of its functions under this Part, which it can subsequently vary or revoke. Local housing authorities are required to have regard for any guidance issued.

### **Section 30 – Directions**

This Section enables the Welsh Minister to give directions to a local housing authority with regards the exercise of its functions under this Part, to which the local housing authority must comply.

### **Section 31 – Regulations about fees**

This Section provides for the Welsh Minister to set out, by order, the fees payable for registration (section 7) and licensing (section 10).

## **Section 32 – Information about applications**

This section requires a local housing authority to publish information about its requirements in relation to the form and content of registration and licensing applications and the information that is required therein.

## **Section 33 – Form of licences and orders**

Under this Section, licences, notices and rent stopping orders must be made in writing, although, where agreed with any person, they may be sent electronically.

## **Section 34 – Sharing information**

Subsection (1) allows one local housing authority to share information where they consider that would assist another authority in exercising its functions under this Part of the Act. This will allow authorities to share personal data in accordance with the Data Protection Act 1998.

Subsection (2) allows for local housing authorities to collaborate so as to create a register covering more than one local housing authority area. This provision therefore allows authorities to create a single register for Wales, rather than individual registers.

## **Section 35 – Interpretation of this Part and index of defined terms**

This Section defines an insolvent individual and company and refers to the definitions of other key terms in Section 2.

## **Schedule 1 Part 1 - Content of Register**

Schedule 1 Part 1 sets out the list of information which local housing authorities must keep on their registers. This includes the name of the landlord, the address of each rental property let by the landlord in a local authority area, the landlord's registration number and the dates that the landlord was registered and, where appropriate, the date the licence was granted.

## **Schedule 1 Part 2 – Access to Register**

Schedule 1 Part 2 sets out what can be searched against the register. The purposes of this to ensure that people can find out the name of a landlord of and the person managing a rental property. They can also search to find out whether a landlord, agent or responsible person is registered and / or licensed.

## **Part 2**

### **Homelessness**

#### **Chapter 1 - Homeless Reviews and Strategies**

##### **Duties to carry out a homelessness review and formulate a homelessness strategy - Sections 36-38**

These Sections are derived from the Homelessness Act 2002 (“the 2002 Act”). They provide that a local authority is required to periodically carry out a homelessness review of its area and based on the results of the review, prepare and publish a homelessness strategy. A new strategy must be published every four years. The period has been amended from five years to align with other local housing authority planning cycles.

#### **Chapter 2 - Help for People who are Homeless or Threatened with Homelessness**

##### **Section 39 - Overview of this Chapter**

This Section summarises the main provisions in Chapter 2. These provisions represent a major reform of the duties owed to people affected by homelessness. Central to the changes are the new duties on local authorities to take reasonable steps to prevent and relieve homelessness for all eligible applicants, including those who are not in priority need or are intentionally homeless.

##### **Section 40 – Application of key terms**

This Section applies, for the purposes of this Part of the Bill, the following definitions of key terms: homelessness and threatened homelessness; when accommodation is available for occupation; when it is reasonable to continue to occupy accommodation; and when accommodation is deemed suitable. These provisions mainly continue the provisions in the Housing Act 1996, except that the term domestic ‘abuse’ has replaced ‘violence’ to reflect the broader meaning in case law and policy.

##### **Section 41 - Meaning of homeless and threatened homelessness**

Subsection (1), (2), (3) and (4) defines when a person may be treated as homeless for the purposes of this part of the Bill. It includes, among other things, someone who has accommodation but cannot secure entry to it. This definition is derived from section 175 of the Housing Act 1996 (“the 1996 Act”). The main change is that the period for threatened homelessness has been extended from 28 to 56 days

##### **Section 42 – Meaning of accommodation available for occupation**

Subsection (1) is derived from section 176 of the 1996 Act. It sets out that accommodation can only be regarded as being available for occupation if it is available not only to the individual but also to members of their household.

### **Section 43 – Whether it is reasonable to continue to occupy accommodation**

This Section is derived from section 177 of the 1996 Act. Subsection (1) sets out that it is not reasonable for someone to continue to live in accommodation where it is probable a person, or a member of their family, will be subject to domestic abuse or abuse from a person not associated with them. The reference to “domestic violence or other violence” has been updated to “domestic abuse or abuse”, which is then defined. This has been updated to reflect the way caselaw has interpreted the 1996 Act. The Bill has also been updated by including a reference to “affordability” which is taken from secondary legislation under the 1996 Act).

Under Subsection (5) the Welsh Ministers are given the power to add to the list of circumstances and to provide other matters which may be taken into account.

### **Section 44 – Meaning of associated person**

This Section is derived from section 178 of the 1996 Act. The wording has been modernised, but there are no significant changes to the list of associated persons.

### **Section 45 – Suitability of accommodation**

Subsection (1) provides for determining when accommodation is suitable for the purposes of the homelessness functions of a local housing authority. It is derived from Section 210 of the 1996 Act, but has been modernised and expanded to make it simpler to read. Subsection (2) states that accommodation is only suitable if it is affordable. This is currently provided for in secondary legislation under the 1996 Act. Under subsection (3) the Welsh Ministers may by order specify more detail of what accommodation is suitable for an applicant.

### **Section 46 - Duty to provide information, advice and assistance in accessing help**

This Section places a duty on a local housing authority to secure provision of free advice and assistance with regard to prevention of homelessness, securing accommodation and accessing support. The Bill allows for two or more authorities to work together to provide this service. It also allows for integration with section 8 of the Social Services and Well-being (Wales) Act 2014, in the provision of information, advice and assistance. It is derived from section 179 of the 1996 Act but has been strengthened and modernised.

Sections 180 and 181 of that Act have not been replicated. They gave powers to government ministers and local authorities to assist voluntary organisations, and provided for the terms of assistance. These have not been carried forward because they are no longer considered necessary in view of wider powers available.

### **Section 47 - Eligibility for help under this Chapter**

This Section is about determining when applicants from abroad are not eligible for help under this Part. It is derived from Sections 185-187 of the 1996 Act, but the provisions have been moved to Schedule 3. With some exceptions, people who are

subject to immigration control or are not habitually resident in the UK area are normally ineligible.

### **Section 48 - Duty to assess**

This Section places a duty on a local housing authority to carry out an assessment where an applicant has applied for help and it appears that they may be homeless or threatened with homelessness.

The local housing authority is not subject to this duty if the applicant has previously been assessed and their circumstances have not substantially changed.

Subsection (8) requires the local housing authority to keep the assessment under review whilst it continues to owe a duty to the applicant.

Subsection (9) requires the local housing authority to further review the assessment should the applicant become homeless whilst owed a duty under Section 52 duty to help prevent homelessness. The review of the assessment will need to allow the local housing authority to be satisfied that the applicant is owed a duty under Section 54 'interim duty to accommodate applicants in priority need', Section 56 'duty to help end an applicant's homelessness' and s58 duty to secure accommodation for applicants in priority need'.

### **Section 49 – Notice of the outcome of assessment**

This Section requires a local housing authority to notify an applicant in writing of the outcome of its assessment. It also requires the authority to give reasons for the decision, if it is against the applicant's interests. It also requires a local housing authority to inform an applicant of their right to request a review.

Subsection (2) and (5) replicates s184 (3A) of the 1996 Act with regard to the meaning of 'restricted person' and the duty owed.

### **Section 50 - How to secure or help to secure the availability of accommodation**

This Section provides examples of ways in which a local housing authority may help an applicant to secure suitable accommodation, including arranging for it or others to provide accommodation. They include examples of how this help might be given, including by mediation, grants or loans and security for those applicants at risk of abuse.

### **Section 51 - Meaning of help to secure**

This Section clarifies that requiring a local housing authority to "help to secure" the availability of accommodation does not oblige the authority to provide accommodation itself. It is however required to take reasonable steps to help find a solution to the housing problem, which means doing everything it reasonably can to achieve a positive outcome, subject to the limits of its resources and the local housing market.

## **Section 52 – Duty to help to prevent an applicant from becoming homeless**

This Section contains the main prevention duty. As described in Section 51, the local housing authority must work with the applicant to help them avoid becoming homeless, either by the retention of their current accommodation or finding somewhere else suitable to live.

## **Section 53 – Circumstances in which the duty in Section 52 ends**

This Section provides for the ending of a local housing authority's duties to help prevent homelessness under Section 52. It is intended that this will normally be achieved when it is satisfied that suitable accommodation is likely to be available to the applicant for at least six months. The duty will also end where an applicant actually becomes homeless. In that case, the duties in Sections 54 to 59, owed to those who are actually homeless, will then apply.

## **Section 54 - Interim duty to accommodate applicants in priority need**

This Section is based on section 188 of the 1996 Act and provides that where a local housing authority has reason to believe that an applicant, eligible for homelessness assistance, has a priority need, it must ensure that accommodation is available for the applicant to occupy in advance of a decision being made as to the duty (if any) owed to the applicant. In other words they must immediately find housing for an applicant who may be in priority need, such as a family with children. This Section also provides that this interim duty continues to apply whilst such an applicant is owed the other duties in connection with helping that applicant find a home.

## **Section 55 - Priority need for accommodation**

This Section lists the categories of persons who have a priority need for accommodation for the purposes of this Part of the Bill. It is based on section 189 of the 1996 Act, but has been updated by adding the categories previously in secondary legislation.

The Bill includes a change to the priority need status of former prisoners. Since 2001 they have been given priority need if they have been homeless since leaving prison, provided that they have a local connection with the area. The Bill amends this position so that they will only be in priority need if they are vulnerable as a result of their period in prison, which is most likely to be applied to people who have been in prison a long time and would have difficulty coping in the community. They may also be in priority need due to one of the other categories.

The wording of this Section has also been modernised in places. Subsection (3) provides for the Welsh Ministers by order to specify further categories of persons having a priority need or to amend or repeal this section.

## **Section 56 - Duty to help to secure suitable accommodation for a homeless applicant**

This Section provides that a local housing authority must help an applicant with finding a home if they are homeless. This requires a similar approach to that arising



from the duty to prevent in Section 52, and provides for the same or similar action to find a housing solution. Thus the local housing authority will be required to take reasonable steps as set out in Sections 50-51, which means doing everything it reasonably can to achieve a positive outcome, subject to the limits of its resources and the local housing market.

### **Section 57 – Circumstances in which the duty in section 56 ends**

The duty to local housing authorities under Section 56 ends at the end of the 56 day period as set out in Section 4 where during that period the local housing authority has taken reasonable steps to find suitable accommodation, or the local housing authority is satisfied that the applicant is no longer homeless and suitable accommodation (for at least 6 months) has been found for the applicant. Authorities will still owe a duty to those applicants with a priority need, not intentionally homeless, and who have not been able to find a home at this stage.

### **Section 58 – Duty to secure accommodation for applicants in priority need when the duty in section 56 ends**

This Section provides that where an eligible person continues to be homeless, is not intentionally homeless and has a priority need, then the local housing authority must secure accommodation for that applicant.

If an applicant is intentionally homeless, and the household contains a child, and where they have not received help under this section within the previous 5 years, the local housing authority must secure accommodation for occupation by the applicant. The Welsh Ministers do not intend to commence the provision relating to intentionally homeless households with children until 2019, to allow time for appropriate support arrangements to be put in place. It is intended that regulations and guidance issued under this Bill and the Social Services and Wellbeing Bill will support the development of these arrangements.

### **Section 59 – Circumstances in which the duty in section 58 ends**

The duty under Section 58 ends when, among other things, the applicant has refused accommodation deemed suitable by the local housing authority; becomes homeless intentionally; accepts a private rented sector offer of at least six months duration or an offer of social housing; or voluntarily ceases to occupy as their main home the accommodation offered.

The broadening of the powers of local housing authorities to discharge their duty to house unintentionally homeless people in priority need into the private rented sector is a substantial development in legislation. It recognises the range of opportunities for suitable accommodation in the private sector and the need for local authorities to have more flexibility in discharging their duties.

### **Section 60 – Meaning of intentionally homeless**

This Section replicates s191 of the 1996 Act. It provides that a person may be treated as being intentionally homeless if he or she does something deliberately, which causes that applicant to become homeless. This means that they must have done or failed to do something deliberately to cause their homelessness when they

should have known the consequences, such as surrender a suitable tenancy or be evicted for anti-social behaviour.

### **Section 61 – Deciding to disregard intentionality**

This Section provides for the Welsh Ministers to make regulations for local authorities to disregard intentionality for certain categories of person for the purposes of Section 58. It is intended that local authorities will be allowed to apply the intentionality test for all applicants, or none, or for certain priority need categories. This will allow for a gradual reduction in the application of intentionality to vulnerable groups.

### **Section 62 – Further circumstances in which the duties to help applicants end**

Under this Section, the duties under Sections 56 and 58 end when the applicant ceases to be eligible for help, has withdrawn his or her application for help or where the local housing authority has decided that the applicant is not co-operating reasonably with the local housing authority's homelessness duty. When the latter occurs, the local housing authority must inform the applicant of the decision and of the right of review within 21 days. It is expected that applicants will do everything they reasonably can to work with the local housing authority to find suitable accommodation.

### **Section 63 - Referral of case to another local housing authority**

This Section replicates the effect of sections 198 and 199 of the 1996 Act. It provides that those applicants who have a priority need for accommodation and who are not intentionally homeless, may be referred to another local housing authority in Wales or England.

Conditions for referral include if neither the applicant nor any person who resides with the applicant has a local connection with the area of the authority to which the application was made; he or she has a local connection with the area of the authority to which the case is being referred; and where neither the applicant nor any person who resides with the applicant will run the risk of domestic abuse or violence in that other area.

Both the referring and referred authority must agree the conditions for referral have been met, with the Welsh Ministers able to make an order in default of an agreement being made. The Secretary of State also has a power to make orders which apply in relation to England.

### **Section 64 - Local connection**

Under this Section a person has a local connection with the area of a local housing authority in Wales or England if he or she has a connection with it because he or she lives or has lived in the area out of choice, because he or she works in the area; has family associations in the area or has special circumstances linking him or her to the area.

The Welsh Ministers can by order specify where a person is not considered to be working in an area or the residence is not of his or her choice. Under Subsection (5) someone is regarded as having local connection if he or she has been provided with accommodation in the area as a result of a successful application for asylum under the Nationality, Immigration and Asylum Act 1999.

There is an existing agreement between the local housing authority representative organisations in Wales, England and Scotland covering the procedures and circumstances for referral. Welsh Government statutory guidance in this area will be strengthened by clarifying the scope of local authorities to refer people to other authorities when they have only lived in that area for a short time.

### **Section 65 - Duties to applicant whose case is considered for referral or referred**

Under this Section a local housing authority's homelessness duty to an applicant ends once it has notified the applicant that it intends to refer the case to another local housing authority in Wales or England. In doing so, it must make sure that accommodation is available for the applicant until he or she has been notified of the decision whether the conditions for referral of the case have been met. When this has been done, under subsection (2) the notifying authority must inform the applicant by notice in writing of the decision and the reasons for it as well as the applicant's right to request a review of the decision, and the time within which such a review must be made.

Under Subsection (3) if it is decided that the conditions for referral are not met, the notifying authority remains subject to duty under Section 56 to help end an applicant's homelessness, with the duty falling to the notified authority if the conditions are met.

### **Section 66 – Cases referred from a local housing authority in England**

This Section sets out that where a case is referred by a local housing authority in England it is done so under Section 198 (1) of the Housing Act 1996.

### **Section 67 – Notice that duties have ended**

This Section requires the local housing authority to give written notice to applicants when they have discharged their duties, give reasons why and notify the applicant of their right to have the decision reviewed. This provides accountability in the decisions taken by local authorities.

### **Section 68 - Right to request review**

Subsection (1) sets out where an applicant has the right to request a review of a decision made by a local housing authority, such as a decision on the applicant's eligibility for assistance; what duty is actually owed to the applicant and; where a case has been referred to another local housing authority. The right to a review extends to whether the steps taken by a local housing authority to prevent or relieve homelessness have been reasonable.

## **Section 69 - Procedure on review**

Subsection (1) provides for the Welsh Ministers to make Regulations as to the procedure to be followed in connection with a review of a decision of a local housing authority with subsection (2) setting out what the Regulations may cover (e.g. that the review is carried out by a person of “appropriate seniority” not involved in the original decision. Subsections (3) and (4) cover the mechanisms for conveying the decision on the review to the applicant with subsection (5) covering the applicant’s right of appeal to a county court on a point of law.

## **Section 70 – Effect of a decision on review or appeal that reasonable steps were not taken**

This Section applies to a successful review that not all reasonable steps were taken to secure suitable accommodation for an eligible applicant who has appealed under Section 68, with the duty under Section 56 applies again.

## **Section 71 – Right of appeal to county court on point of law**

Subsection (1) provides for an applicant to appeal to the county court on any point of law arising from the local housing authority’s decision if he or she is dissatisfied with the decision on the review. Subsection (2) stipulates that an appeal must be brought within 21 days of the applicant being notified of the local housing authority’s decision, which under subsection (3) may be varied by the court. Subsection (5) enables a local housing authority to provide accommodation to an appellant until a decision on the appeal is finally determined.

## **Section 72 - Appeals against refusal to accommodate pending appeal**

Where it has been agreed that an applicant has a right of appeal to the county court against a local housing authority’s decision on review, under Section 71, the court can order the authority to secure suitable accommodation for the appellant until the appeal is determined.

## **Section 73 – Charges**

This Section enables a local housing authority and another accommodation provider to levy reasonable charges on an applicant for accommodation made available to the applicant.

## **Section 74 - Out-of-area placement**

Subsection (1) sets out that when discharging its homelessness function a local housing authority must make sure that accommodation is available in its area for the applicant if it possibly can. Where accommodation is available outside the area, the local housing authority must give notice in writing to the relevant local housing authority where the accommodation is situated.

## **Section 75 – Interim accommodation: arrangements with private landlord**

This Section provides that when a local housing authority is carrying out its functions under Sections 54, 65 and 71 the tenancy will not be a secure or assured

tenancy unless specifically notified. This continues the existing provision in Section 209 of the Housing Act 1996.

### **Section 76 - Protection of property**

This Section provides for a local housing authority to take reasonable steps to prevent the loss of or damage to an applicant's property where no other suitable arrangements have been made. This only applies where an applicant has a priority need for accommodation, and continues the provisions in Section 211 of the Housing Act 1996.

### **Section 77 - Protection of property: supplementary provisions**

Subsection 76 provides for a local housing authority when discharging its duties under Section 99 to enter the applicant's normal premises, at all reasonable times, to deal with any problems that may exist with the applicant's property, which may include arranging for its storage. This continues the provisions in Section 212 of the Housing Act 1996.

### **Section 78 – Co-operation within local authorities and between bodies**

Under Subsection (1) a Welsh local housing authority (county or county borough council) must arrange to promote co-operation between its social services and housing officials in respect of the effective discharge of its homelessness functions. This also applies to co-operation with other bodies listed in Subsection (5). A Subsection (5) listed body which decides not to comply with a request for co-operation must give the local housing authority the reasons for its decision in writing.

The duties of co-operation have been strengthened by containing a stronger presumption that when an organisation such as a Registered Social Landlord is requested to co-operate by a local housing authority it will comply, unless it be incompatible with its duties or would have an adverse effect on its functions. This reflects the vital role that Registered Social Landlords have in working with local authorities to discharge the homelessness duties under this Bill.

### **Section 79 - Co-operation in certain cases involving children**

This Section provides for a local housing authority to make arrangements for the referral of a case to the social services department where it has reason to believe that a person under the age of 18 is residing with an applicant is found to be intentionally homeless or is ineligible for support under this part. This continues the provisions under s213A of the Housing Act 1996. This is to ensure the children can be protected through the exercise of functions under the Children Acts.

### **Section 80 – False statements, withholding information and failure to disclose change of circumstances**

This Section sets out that an offence is committed where an applicant for homelessness support makes false statements and knowingly withholds information requested by the authority in discharge of its functions under this part. Subsection (2) requires an applicant, while his or her application is being

considered, to notify the local housing authority of any changes of facts material to the application, with a person guilty of an offence under this Section liable to a fine on conviction. This continues the provisions under Section 214 of the Housing Act 1996.

### **Section 81 – Guidance**

This Section provides for local housing authorities to have regard to any guidance issued by the Welsh Ministers in respect of the authority's homelessness objectives. The guidance, which must be published, may be revised or withdrawn by the Welsh Ministers. This continues the powers under Section 182 of the Housing Act 1996.

The Welsh Ministers have issued guidance on homelessness under this power in 2003 which was revised in 2012. Further guidance will be issued in due course to support the implementation of the provisions in this Bill.

## **Part 3**

### **Gypsies and Travellers**

#### **Section 84 – Assessment of accommodation needs**

This Section requires local housing authorities to carry out assessments of the accommodation needs of Gypsies and Travellers living in, or from time to time visiting, their area. Assessments must be carried out within each five year period following the first assessment, which must be undertaken within one year of this Part of the Act coming into force. This Section provides for the Welsh Ministers to amend the subsequent five year review period by order.

#### **Section 85 – Report following assessment**

Where a local housing authority has carried out an assessment of the accommodation needs of Gypsies and Travellers in its area, it must submit a report to the Welsh Ministers for approval of the authority's assessment. This will need to set out how it carried out the assessment and a summary of the assessment consultation and any responses made to it and will inform the Welsh Minister's decision in approving or rejecting the assessment. The Welsh Ministers can approve the assessment report, with or without modifications, or reject the assessment. If an assessment is rejected local authorities must revise and resubmit the assessment or undertake another assessment. The Welsh Ministers' reasons for rejecting an assessment will inform a local housing authority's decision whether to revise or undertake another assessment. Local housing authorities are required to publish their approved assessment under this section.

#### **Section 86 – Duty to meet assessed needs**

This Section requires a local housing authority to exercise its powers under section [56] of the Mobile Homes (Wales) Act 2013 to provide sites for mobile homes for Gypsies and Travellers where its assessment under section 110 identifies that the provision of sites is inadequate to meet the accommodation needs of Gypsies and

Travellers in its area. This duty relates to an authority's most recent assessment approved by the Welsh Ministers.

The duty to meet the accommodation needs of Gypsies and Travellers under this section relates to the need for provision of sites on which mobile homes may be stationed. However, any information collected as part of an assessment which relates to the housing accommodation needs of Gypsies and Travellers will be reviewed by a local housing authority in conducting a periodical review of housing needs in their area under section 8 of the Housing Act 1985.

### **Section 87 – Failure to comply with duty under section 86**

Under this Section, where the Welsh Ministers consider that a local housing authority has failed to comply with its duty under Section 112 above, they can direct a local authority to do so under section 56 of the Mobile Homes (Wales) Act 2013 to meet the needs identified in its approved assessment. Before issuing any such direction, the Welsh Ministers must first consult the relevant local housing authority. The direction, with which the local housing authority must comply, will be in writing.

### **Section 88 – Provision of information upon request**

Information provided under this section will assist Ministers when making decisions about how to exercise their functions under this Part. Information that could be of assistance might be information gathered by authorities about the frequency and number of unauthorised Gypsy and Traveller encampments in their areas (which could indicate insufficient site provision) or information about the steps a local authority has taken to provide Gypsy and Traveller sites where there is an identified need."

### **Section 89 – Guidance**

This Section requires a local housing authority in exercising its functions under this Part, to have regard to any guidance issued by the Welsh Ministers and to have regard to the guidance when preparing a Housing Strategy as required under the Local Government Act 2003.

### **Section 90 – Duties in relation to housing strategies**

This Section sets out that local housing authorities, in preparing a strategy under Section 87 of the Local Government Act 2003, must have regard to guidance issued by the Welsh Ministers in preparing the strategy as well as taking the strategy into account in exercising its functions.

### **Section 91 - Interpretation**

This Section defines accommodation needs, mobile homes and Gypsies and Travellers, the latter being persons of a nomadic habit of life including, among other things, members of an organised group of travelling show or circus people.

## **Section 92 – Power to amend definition of Gypsies and Travellers**

This Section provides for the Welsh Ministers, by order, to change the definition of Gypsies and Travellers by adding or removing a description of a person or by modifying a description of a person. An order may also amend the Mobile Homes (Wales) Act 2013 if considered necessary. This would enable amendments to provide a consistent definition across both Acts if considered necessary.

## **Part 4**

### **Standards for Social Housing**

This Part allows the Welsh Ministers to set standards to be met by “local housing authorities” (local authorities which retain council housing stock and operate a Housing Revenue Account) in Wales, and provides the Welsh Ministers with a power to intervene where a local housing authority has failed, or may be failing, to meet the quality of accommodation standard. In summary: sections 94 to 97 relate to the three standards: rents, service charges and quality of accommodation. Rents and service charges are “financial” matters and there is existing legislation in place to ensure compliance by local housing authorities.

#### **Section 94 – Standards**

This Section enables the Welsh Ministers to set standards which relate to the housing accommodation provided by each local housing authority. The standards cover three specific topics: rents, service charges and the quality of housing accommodation. The standards may specify the rules which local housing authorities will be required to comply with. The rules could, for example, include provisions for minimum or maximum levels of rent or service charges, or minimum or maximum levels of increase or decrease of rent or service charges. The Welsh Ministers may revise and withdraw the standards from time to time and must publish any standards issued.

#### **Section 95 – Guidance**

This Section enables the Welsh Ministers to issue guidance to local housing authorities which relates to a matter addressed by a standard and adds detail to the standards issued under section 93. The Welsh Ministers may have regard to the guidance when considering if a local housing authority has complied with the standards. The Welsh Ministers may revise or withdraw the guidance and must publish any guidance issued.

#### **Section 96 – Consultation on standards and guidance**

Under this Section, the Welsh Ministers are required to consult in relation to standards and guidance as referred to in sections 93 and 94. They are required to consult with one or more bodies considered to represent the interests of both local housing authorities and tenants, as well as with other stakeholders, before setting, revising or withdrawing standards and before issuing, revising or withdrawing guidance. The Welsh Ministers can decide which organisations they wish to consult with.



## **Section 97 – Information on compliance with standards**

Under this Section, local housing authorities are required to provide the Welsh Ministers with any information requested which relates to their compliance with standards set under Section 93.

## **Section 98 – Powers of entry**

This Section enables the Welsh Ministers to authorise a person to enter a premises where it appears that a local housing authority may be failing to comply with a [quality of accommodation] standard under section 93 or accompanying guidance under section 94. A person authorised by the Welsh Ministers must give the local housing authority 28 days notice of their intention to enter the premises to survey and examine it. The local housing authority must then give the occupier (tenant) of the premises not less than seven days' notice of the proposed visit. The authorisation for a visit under this section must be in writing and set out the purpose why entry is required. It must be provided for inspection by a tenant or person acting on their behalf, if requested. Once a survey of a property has been carried out, the Welsh Ministers are required to give a copy of the survey report to the local housing authority concerned. The Welsh Ministers may charge the local housing authority some or all of the cost of the survey.

## **Section 99 – Exercise of intervention powers**

Under this Section, the Welsh Ministers are required to consider if a failure, or likely failure, to meet a standard is, or is likely to be, a recurrent or isolated incident and the timescales for addressing it. This will enable the Welsh Ministers to decide whether or not to exercise any of its intervention powers in sections 99 to 109.

## **Section 100 – Grounds for intervention**

This Section provides for the Welsh Ministers to have the powers to intervene under this Part where it considers a local housing authority has failed, or is likely to fail, to meet a quality of accommodation standard.

## **Section 101 – Warning notice**

This Section provides that the Welsh Ministers may give a warning notice to a local housing authority if they are satisfied that the grounds for intervention in section 99 exist in relation to that authority. The warning notice must specify the reasons why the Welsh Ministers consider the grounds exist, the action the local housing authority must take to deal with the grounds for intervention, the period within which the action is to be taken and the action the Welsh Ministers will consider taking if the local housing authority does not take the action set out in the notice.

## **Section 102 – Power of Welsh Ministers to intervene**

This Section provides that the Welsh Ministers have the power to intervene if a warning notice has been given and the local housing authority has not taken the required action to the Welsh Ministers' satisfaction within the compliance period. Where the Welsh Ministers have the power to intervene, they must keep the

circumstances giving rise to the power under review and the power remains in effect until the authority is notified in writing. The Welsh Ministers are also not limited to taking the intended action specified in the warning notice.

### **Section 103 – Power to require local housing authority to obtain advisory services**

Where the Welsh Ministers have the powers to intervene under Section 101, they can direct the local housing authority to enter into a contract with a specified person, or class of person, to provide services of a specified advisory nature. The direction can require the contract to contain certain terms and conditions.

### **Section 104 – Power to require performance of functions by other persons on behalf of authority**

Where the Welsh Ministers have the powers to intervene under Section 101, they can direct the local housing authority to secure the delivery of those functions, which relate to the grounds for intervention, by a specified person acting on behalf of the local housing authority. The direction can require that any contract or arrangement between a local housing authority and a specified person contains certain terms and conditions.

### **Section 105 – Power to require performance of functions by Welsh Ministers or nominee**

Where the Welsh Ministers have the powers to intervene under Section 101, they can direct that the delivery of those functions, which relate to the grounds for intervention, be undertaken by themselves or a person nominated by them. The local housing authority must comply with instructions given by the Welsh Ministers or their nominee.

### **Section 106 – Power to direct exercise of other local housing authority functions**

If the Welsh Ministers think it is expedient, a direction made under Sections 103 or 104 may relate to the performance of other functions of the local housing authority, in addition to those relating to the grounds for intervention. In deciding whether it is expedient, the Welsh Ministers may have regard to, among other things, financial considerations.

### **Section 107 – General power to give directions and take steps**

This Section provides that when the Welsh Ministers are exercising their power to intervene under Section 101, they have a general power to give directions to a local housing authority or any of its officers or take any other steps.

### **Section 108 – Directions**

This Section requires a local housing authority, or its officers, to comply with a direction issued under this Part. A direction must be in writing and can be revised or revoked by a subsequent direction. A direction can be enforced if an application is made by, or on behalf of, the Welsh Ministers to an appropriate court.

### **Section 109 – Duty to co-operate**

This Section requires a local housing authority to provide reasonable assistance to the Welsh Ministers and any authorised person, or other specified person, who is exercising functions in accordance with this Part of the Bill.

### **Section 110 – Powers of entry and inspection**

This Section provides that the people specified in Subsection (2) who are assisting the Welsh Ministers in the delivery of the functions under this Part of the Bill have at all reasonable times the following rights: a right of entry to the premises of the local housing authority in question; a right to inspect and make copies of any relevant documentation; and a right to access any computer used in connection with any of the documentation. Any of the people specified can require the people who use the computers to assist in the production of information for inspection.

### **Section 111 – Exemption from offences relating to service charges for social housing**

Currently under Section 25 of the Landlord and Tenant Act 1985 (“the 1985 Act”) it is an offence for a Registered Social Landlord in Wales to fail to provide information in relation to service charges requested under Sections 21, 22 and 23 of that Act. There is other existing legislation in place to ensure that Registered Social Landlords in Wales comply with requirements relating to service charges. This section removes the existing offence provision in Section 25 of the 1985 Act for Registered Social Landlord in Wales and clarifies that an offence under section 25 of the 1985 Act does not apply to local housing authorities in Wales.

### **Section 112 – Application of duties relating to service charges to local authority tenancies**

This Section amends Section 26(1) of the 1985 Act to clarify that it only applies to a local authority for an area in England.

### **Schedule 3, Part 3**

Paragraph 30(a) of Schedule 3 amends Section 24 of the Housing Act 1985 so as to remove subsections (3) and (4). Those subsections require a local housing authority, when setting reasonable rents, to have regard to the principle that the rents for the tenancy or occupancy of its houses should bear broadly the same proportion to rents in the private sector.

Paragraph 30(b) inserts a new provision into the 1985 Act which requires a local housing authority, when setting reasonable rents under Section 24 of the Housing Act 1985, to comply with the standards set under Section 93 and guidance issued under Section 94 of the Housing (Wales) Act 2014.

Paragraph 31(2) amends Section 33A of the Housing Act 1996 (“the 1996 Act”) so as to require Registered Social Landlords to comply with rules specified in standards set under section 33A of the 1996 Act.

Paragraph 31(3) replaces Subsections (3) and (4) of Section 33B of the 1996 Act. The effect of the new Subsections is that the Welsh Ministers may revise and withdraw guidance on the standards from time to time and must publish any guidance issued.

Paragraph 31(4) amends Section 33C of the 1996 Act so as to require the Welsh Ministers to consult when setting, revising or withdrawing standards and when setting, revising or withdrawing any guidance.

## **Part 5**

### **Housing Finance**

Sections 114 to 119 provide for local authorities, 'local housing authorities', which operate a Housing Revenue Account, to buy themselves out of the existing Housing Revenue Account subsidy system and for the subsidy system to be abolished.

#### **Section 114 – Abolition of Housing Revenue Account subsidy.**

This Section repeals various provisions of the Local Government and Housing Act 1989 which relate to the Housing Revenue Account subsidy system.

#### **Section 115 – Settlement payments**

This Section enables the Welsh Ministers to make a determination which provides for the calculation of a 'settlement payment' for each local housing authority. A settlement payment is the amount that each local housing authority will be required to either pay to, or receive from, the Welsh Ministers in order to exit the Housing Revenue Account subsidy system. A settlement payment may also be nil.

#### **Section 116 – Further payments**

This Section allows for a further determination to be made by the Welsh Ministers to adjust a settlement payment determined under Section 115. A further payment would be made where there was an error, or a change in any matter that was taken into consideration, in the calculation or determination relating to a settlement payment. Payments may be made by the Welsh Ministers to local housing authorities and vice versa.

#### **Section 117 – Additional provision about payments**

This Section provides for settlement and any further payments to be made in instalments and within timescales as set by the Welsh Ministers. If payments are not made according to this arrangement, the Welsh Ministers may charge interest on, and costs incurred in relation to, this late payment. A payment made by, or to, a local housing authority under this part is to be treated for accounting purposes as capital expenditure or capital receipt. Schedule 4 to the Local Government and Housing Act 1989, is amended, so as to enable interest and other costs to be treated as a debit transaction in a local housing authority's Housing Revenue

Account.

### **Section 118 – Provision of information upon request**

This Section requires local housing authorities to provide information to the Welsh Ministers which is necessary to exercise powers in this Part.

### **Section 119 – Determinations under this Part**

This Part allows determinations issued under this Part to apply to all local housing authorities, groups of local housing authorities or individual local housing authorities. Before making a determination under this Part, the Welsh Ministers must consult with such persons as they consider to be appropriate.

## **Part 6**

### **Allowing Fully Mutual Housing Associations to Grant Assured Tenancies**

#### **Section 120 – Amendment of Schedule 1 to the Housing Act 1988**

This Section amends the Housing Act 1988 (“the 1988 Act”) to make provision for fully mutual housing associations (which include co-operative housing associations) to be able to grant assured tenancies.

Part 1 of the 1988 Act provides for the system of assured (including assured shorthold) residential tenancies. Schedule 1 to the 1988 Act sets out types of tenancy which cannot be assured tenancies; this includes, at paragraph 12(1)(h) of Schedule 1, tenancies offered by a fully mutual housing association (see below).

The effect of this section is to provide for an exception to the general restriction in paragraph 12(1)(h) of Schedule 1 of the 1988 Act; where the conditions mentioned in section 100(3) are met in respect of a tenancy. Fully mutual housing associations will be able to opt-in to the assured tenancy regime by granting that tenancy as an assured tenancy. This will enable fully mutual housing associations to grant assured and assured shorthold tenancies so that their members may benefit from the statutory protection these tenancies provide, as set out in the 1988 Act.

#### **Section 121 – Amendment of Schedule 2 to the Housing Act 1988**

This Section amends Schedule 2 to the 1988 Act to add a ground for possession of an assured tenancy granted by a fully mutual housing association. This is as a consequence of associations being able to opt-in to the assured tenancy regime.

If a tenancy is assured, the landlord may normally seek a court order to end a tenancy and recover possession of a home only on one or more of the grounds set out in Schedule 2. Part 1 of Schedule 2 sets out the grounds when a court has no discretion and must order possession if the ground is proved. This Section inserts an additional ground into Part 1 of Schedule 2 which provides for a possession order to be made on the ground that the fully mutual housing association has defaulted on a mortgage. This ground may not be used unless the association

gives its tenant member a notice that this ground might apply before the tenancy is granted.

A “fully mutual housing association” is defined in section 45 of the 1988 Act by reference to the meaning given to the expression by Part 1 of the Housing Associations Act 1985. Section 1 of the 1985 Act contains the definition. In summary, it defines a housing association as a not-for-profit body whose purposes include providing housing. A “fully mutual” housing association means that membership is restricted to those who are tenants or prospective tenants. In addition, tenancies may only be granted to members. A “co-operative housing association” means a fully mutual housing association which is registered under the Industrial and Provident Societies Act 1965.

## **Part 7**

### **Council Tax for Empty Dwellings**

#### **Section 122 - Amount of tax payable for empty dwellings**

This section amends the Local Government Finance Act 1992 by inserting a new section 12A. It enables a county council or county borough council in Wales, by determination, to increase the council tax payable on long term empty dwellings in their area by 50%. “Long term empty dwellings” are defined as dwellings that have been both unoccupied and substantially unfurnished for a continuous period of at least one year. The determination will also provide that the usual discount under section 11(2)(a) of the Local Government Finance Act 1992, for dwellings where there are no residents, does not apply.

The section also sets out the arrangements for making, varying or revoking a determination made under the section. A determination must be made before the financial year in which it will apply, and must be published in at least one local newspaper within 21 days of the date of the determination.

This section also enables the Welsh Ministers to make regulations prescribing categories of dwelling in relation to which this additional council tax cannot be charged. These categories may be related to characteristics of the building or the circumstances of the person liable to the charge, but may also be prescribed in relation to such other factors as Welsh Ministers think fit.

Under this section, the furnishing or occupation of a dwelling for one or more periods of 6 weeks or less during that year will not affect its status as a long term empty dwelling. In other words, a person cannot alter a dwelling’s status as a “long-term empty dwelling” by taking up residence and/or installing furniture for a short period or periods: in such a case the increased council tax charge would still be payable. The Welsh Ministers may substitute, by regulations a different period, of more than 6 weeks, for the 6 week period.

## **Part 8**

### **Miscellaneous and General - Sections 123 – 128. .**

As well as making minor amendments to the Mobile Homes (Wales) Act 2013, Part 8 points out, among other things, that a power to make an order of regulations is to be exercised by statutory instrument; defines local housing authorities as the council of a county or county borough in Wales, empowers the Welsh Ministers, by regulations, to make any supplementary, incidental, consequential and transitional or saving provision.

It also sets out the provisions that will come into effect on the date of Royal Assent, those that will come into force two months after Royal Assent and those that will come into force by Commencement Orders made by the Welsh Ministers.

## Annex D – References

- <sup>1</sup> Welsh Government (2010) Improving Lives and Communities: Homes in Wales
- <sup>2</sup> Welsh Government (2011) Meeting the Housing Challenge - building a consensus for action
- <sup>3</sup> Welsh Government (2012) Homes for Wales: A White Paper for Better Lives and Communities
- <sup>4</sup> Holmans, A and Monk, S (2010) Housing need and demand in Wales 2006 - 2026
- <sup>5</sup> Rugg, J. and Rhodes, D. (2008) University of York (The Rugg Review)
- <sup>6</sup> National Assembly for Wales (2011) “Making the Most of the Private Rented Sector in Wales”. report of an inquiry by the Communities and Culture Committee
- <sup>7</sup> Welsh Government (2009) Ten Year Homelessness Plan for Wales 2009 - 2019
- <sup>8</sup> Mackie, P., Thomas I., & Hodgson K., (2012) Impact analysis of existing homelessness legislation in Wales: A report to inform the review of homelessness legislation in Wales
- <sup>9</sup> Welsh Government (2012) Options for an improved homelessness legislative framework in Wales: A report to inform the review of homelessness legislation in Wales
- <sup>10</sup> Welsh Government (2011) Travelling to a Better Future – Gypsy and Traveller Framework for Action and Delivery Plan
- <sup>11</sup> Essex, S. (2008) Affordable Housing Task and Finish Group Report
- <sup>12</sup> Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of their financial affairs and nominates one officer to take responsibility for the administration of those affairs. The Section 151 officer is usually the local authority’s treasurer and must be a qualified accountant belonging to one of the recognised chartered accountancy bodies. The Section 151 officer has a number of statutory duties, including the duty to report any unlawful financial activity involving the authority or failure to set or keep to a balanced budget. The Section 151 officer also has a number of statutory powers in order to allow this role to be carried out, such as the right to insist that the local authority makes sufficient financial provision for the cost of internal audit.
- <sup>13</sup> Welsh Government (2011) Meeting the Housing Challenge - building a consensus for action.
- <sup>14</sup> <http://wales.gov.uk/consultations/housingcommunity/housingchallenge/?lang=en>
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- <sup>17</sup> <http://wales.gov.uk/consultations/housingcommunity/proposalprivaterentsector/?jsessionid=2CF99FCDBAA4B669021FFF91D13C3BEE?status=closed&lang=en>
- <sup>18</sup> Mackie, P., Thomas I., & Hodgson K., (2012) Impact analysis of existing homelessness legislation in Wales: A report to inform the review of homelessness legislation in Wales
- <sup>19</sup> Welsh Government (2012) Options for an improved homelessness legislative framework in Wales: A report to inform the review of homelessness legislation in Wales
- <sup>20</sup> Delaney, A., Hedges, D., McNally., J and Inkson, S. (2012) The White Paper and Homelessness – Taking Things Forward
- <sup>21</sup> Guidance issued by the Department of Work and Pensions on Universal Credit service charges (2013)
- <sup>22</sup> Welsh Government (2011) A new policy for social housing rents
- <sup>23</sup> Welsh Government (2012) Consultation - Summary of Responses - Homes for Wales: A White Paper for Better Lives and Communities
- <sup>24</sup> Office for National Statistics 2012, Annual Survey of Hours and Earnings
- <sup>25</sup> Lees, F, and Boyle, J (2011) Evaluation of the impact and operation of landlord registration in Scotland
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- <sup>31</sup> Mackie, P., Thomas, I., Fitzpatrick, S., Stirling, T., Johnsen, S. and Hoffman, S. (2012) Assessing the impacts of the proposed changes in homelessness legislation in Wales, 2012. Cardiff: Cardiff University
- <sup>32</sup> The Pat Niner Report (2006) – Accommodation Needs of Gypsy – Travellers in Wales
- <sup>33</sup> Welsh Government (2007) Planning Circular 30/2007: Planning for Gypsy and Traveller Caravan Sites
- <sup>34</sup> <http://www.homesandcommunities.co.uk/ourwork/traveller-pitch-funding>
- <sup>35</sup> s225 of the Housing Act 2004
- <sup>36</sup> Clements, L and Morris, R (2002) At What Cost? The economics of Gypsy and Traveller encampments
- <sup>37</sup> 'Department for Communities and Local Government (2012) Planning policy for traveller sites' - Equality Impact Assessment
- <sup>38</sup> Equality & Human Rights Commission (2009) Gypsies and Travellers: Simple solutions for living together
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- <sup>45</sup> National Assembly for Wales: Public Accounts Committee (2012) Progress in Delivering the Welsh Housing Quality Standard
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- <sup>47</sup> Demonstrating compliance with the revised date
- <sup>48</sup> Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of their financial affairs and requires one officer to be nominated to take responsibility for the administration of those affairs. The Section 151 officer has a number of statutory duties, including the duty to report any unlawful financial activity involving the authority (past, present or proposed) or failure to set or keep to a balanced budget.
- <sup>49</sup> Essex, S. (2008) Affordable Housing Task and Finish Group Report
- <sup>50</sup> Landlord and Tenant Act 1985
- <sup>51</sup> Established under the Rent Act 1965
- <sup>52</sup> Section 80B of the Local Government and Housing Act 1989, c.42.
- <sup>53</sup> Part VI of the Local Government Housing Act 1989, c. 42
- <sup>54</sup> Griffiths, P (2010) The Great Rent Robbery - A sustained attack on Welsh council housing and council tenants
- <sup>55</sup> Section 12, Local Government Finance Act 1992, as amended by Local Government Act 2003
- <sup>56</sup> Stats Wales, National Strategic indicators
- <sup>57</sup> Welsh Local Government Association Discussion on Council Tax – second and empty homes from minutes of WLGA Council 24 February 2012