

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
MUNICIPAL YEAR 2015-16**

**HEALTH & WELLBEING SCRUTINY
COMMITTEE**

2ND SEPTEMBER 2015

**REPORT OF THE GROUP DIRECTOR,
COMMUNITY & CHILDREN'S SERVICES**

Agenda Item No. 3
HOUSING (WALES) ACT 2014

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1.0 PURPOSE OF THE REPORT

The purpose of this report is to update Members on the Housing (Wales) Act 2014 and its implications for the Council.

2.0 RECOMMENDATIONS

It is recommended that Members:

2.1 Scrutinise and comment on the information provided.

3.0 BACKGROUND

3.1 The Housing (Wales) Act 2014 received Royal Assent on 17th September 2014. The sections of the Act that are relevant to this Council will come into effect over the course of 2015 and 2016. The Act aims to enable more to be done to meet housing needs. The priorities of the Act are:

- more homes
- better quality homes
- better housing-related services

3.2 The Act includes a wide range of provisions including new enforcement measures relating to the private rented sector; the reform of homelessness law and new duties in relation to gypsies and travelers amongst other provisions.

3.3 The sections of the Act that are relevant to this Council and may have implications are:

- Part 1 - Regulation of Private Rented Housing
- Part 2 - Homelessness

- Part 3 - Gypsy and Travellers
- Part 7 - Council Tax
- Part 8 - Amendment of Leasehold Reform

4. HOUSING (WALES) ACT 2014

4.1 Part 1: Regulation of Private Rented Housing

4.1.1 The new legislation is aimed at improving standards in the private rented sector through increased regulation and licensing. The legislation includes the following provisions:

- all private landlords must register themselves and the addresses of their rental properties in Wales with the designated licensing authority;
- landlords who undertake defined letting or property management activities at a rental property in Wales must become licensed. If a landlord instructs an agent to do such work on their behalf, it is that agent who must become licensed;
- in order to get a license a person must be adequately trained, and also declare themselves 'fit and proper';
- the licensing authority and individual local authorities where rental properties are located are responsible for any necessary enforcement action against non-compliance;
- the legal regime will replace the existing voluntary 'Landlord Accreditation Wales' scheme which is operated by Cardiff Council on behalf of all local authorities in Wales;
- the new licensing authority will establish a comprehensive, central database of all private landlords and agents that operate in the sector;
- the licensing authority will operate a training and development provision.

4.1.2 The requirements on registration and licensing will come into force in November 2015.

4.2 Implications of Part 1 of the Housing Act 2014

4.2.1 The Council will need to maximise existing resources to ensure that where necessary, any enforcement action can be carried out effectively. Potential work arising from the Act includes:

- formal enforcement action for breaches of the legislation resulting in prosecutions being taken to court;
- Service of Fixed Penalty Notices requiring subsequent enforcement action in cases of non-payment and management of receipts in cases where payment is made;
- Complaints made to Rhondda Cynon Taf Council about unregistered or unlicensed landlords;
- Complaints leading to increased numbers of complaints about poor property conditions, which will require investigation and resolution by Environmental Health;

- Responding to requests for information from the Licensing Authority;
- Inputting data onto a central database for use by the Licensing Authority.

4.2.3 There may be staff implications arising from the implementation of Part 1 of the Housing (Wales) Act 2014 highlighted above. The additional capacity required to undertake the above actions will be challenging and may need to be identified from existing resources. However, WG has indicated that additional funding may be made available to local authorities to mitigate the impact of enforcing the new scheme, although the particular form that this will take and level of funding available to RCT is yet to be agreed.

4.3 Part 2: Homelessness

4.3.1 Prevention of homelessness is an essential part of housing policy and a number of areas have been identified for change, including the need to place an even greater emphasis on prevention and on improving services for all people who are at risk of homelessness.

4.3.2 The Act includes a new strengthened duty on local authorities to take reasonable steps to prevent and relieve homelessness, with an emphasis on prevention; enabling local authorities to discharge their main homelessness duty through suitable accommodation in the private rented housing sector; and taking steps towards ending family homelessness.

4.3.3 The definition of homeless remains largely unchanged within the Housing (Wales) Act 2014; however there are some changes in respect of establishing whether a person is deemed to have become intentionally homeless through their actions.

4.3.4 The Welsh Government had considered excluding from the Housing (Wales) Act 2014 the test of “intentionality”. The reasoning behind this thinking being that many households who are determined to be intentionally homeless often have significant unmet support needs and by not providing them with settled accommodation and effectively addressing these needs can significantly impact on the household and the resources of areas such as social services, the criminal justice system (including police and probation), health services and voluntary organisations.

4.3.5 In the longer term Welsh Government has pledged to remove the intentionality test for all families. It is envisaged this will be happen from April 2019. As Officers of the Council with responsibility for this area of work, we are supportive of the longer term commitment to remove the “test”. However, our considered opinion is that for practical reasons it would not be timely or appropriate to remove it from any individual grouping presenting as homeless post April 2015, at this point in time. Over the last three years the amount of cases deemed intentionally homeless represent less than 1% of all homeless decisions made by RCT. It has been agreed that the Council opts in to intentionality under the new Act and as such that the test of intentionality will be applied to the following groups:

- A pregnant woman
- A person with whom a dependent child resides
- A person aged 16 and 17
- A person who has attained the age of 18, not the age of 21 who is at risk of sexual or financial exploitation
- A person who has served in the regular armed forces of the Crown who has been homeless since leaving the forces
- A person who has a local connection and is vulnerable as a result of having served a custodial sentence
- Having been remanded in or committed to custody by an order of the Court
- Having been remanded to youth detention accommodation under Section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- A person who is homeless or threatened with homelessness as a result of an emergency such as a fire, flood or other disaster
- A person who is vulnerable as a result of some special reason for example old age, physical or mental illness or physical or mental disability

4.3.6 By not removing the “intentionality test” at this point in time we are not advocating taking a legalistic and punitive approach to homeless households who have been deemed to be “intentionally homeless”; turning them away with nothing more than basic advice. Rather we are advocating an interim position between now and the future removal of the “intentionality test” by Welsh Government, whereby the “intentionally test” is used in a positive way to lever, where appropriate, cooperation from “intentionally homeless” households to work in collaboration with the Council to recognise and address underpinning issues for their homelessness or threatened with homelessness state.

4.3.7 From April 2015 the new legislation places a duty on Local Authorities to award priority need to only those prison leavers who are vulnerable after being in custody or detention as opposed to all prison leavers. This should result in a significant reduction in the numbers of prison leavers being placed in temporary accommodation.

4.3.8 It is intended that the legislation will result in:

- fewer households experiencing the trauma of homelessness;
- early intervention;
- better, more targeted, prevention work;
- increased help, advice and information for households who receive limited assistance under the current legislation;
- more focus on the service user, helping them to address the causes of homelessness and make informed decisions on finding solutions to their housing problem;
- more effective use of the private rented sector as a solution to homelessness;
- a stronger emphasis on co-operation and multi agency working, and

- greater protection provided for children in households who are homeless or threatened with homelessness as well as additional help for children leaving care.

4.4 Implications of Part 2 of the Housing Act 2014

- 4.4.1 The Council will continue to have a duty to provide advice and assistance in relation to homelessness and to undertake an assessment if someone is homeless or threatened with homelessness. The Council will also continue to have a duty to provide interim accommodation if it believes that someone may be eligible for help, homeless and in priority need. However new legislation places a duty on Councils to 'take reasonable steps to prevent homelessness' for anyone at risk of homelessness within 56 days, rather than the current period of 28 days. This could have an impact on the current Service as it will now apply to anyone in need of assistance regardless of whether there is a local connection to Rhondda Cynon Taf or if they are intentionally homeless.
- 4.4.2 The Council must publish a notice of its decision to have regard to intentionality and which of the allowed specific categories it will consider. The notice must give the reasons why the Council has decided to have regard to intentionality for each of the categories specified.
- 4.4.3 The Welsh Government draft Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness states that Local Authorities need to be committed corporately to preventing homelessness and resources need to be targeted and allocated to achieve this. The Council will need to ensure that it maintains a dedicated homelessness prevention service and that resources are allocated effectively to ensure that all clients receive a tailored core service. The WG states that where Local Authorities have made disproportionate reductions in their homelessness budget when compared to their full funding settlement, any decisions to discharge their duty on the best use of resources can be subject to scrutiny and could potentially be challenged. WG states that the redirection of budget from homelessness services to other statutory services, although potentially of indirect benefits, will not be considered a justifiable reason for a disproportionate reduction in budget. The Council will need to monitor resources closely throughout the year to ensure expenditure is consistent with spend profiles and client numbers.
- 4.4.4 Welsh Government has made funding available through the Homelessness Grant Programme to assist Local Authorities with the implementation of the Housing (Wales) Act 2014 and to support local authorities in the transition to a more preventative approach. Rhondda Cynon Taf County Borough Council has been awarded £396,797 as part of the 'Housing (Wales) Act 2014 Transitional Funding. Details of the different projects that the funding will support are outlined in Appendix 1.
- 4.4.5 Greater use of the private rented sector will be essential to prevent homelessness and to provide settled accommodation for those living in temporary accommodation. The Welsh Government's draft Code of Guidance

for Local Authorities on the Allocation of Accommodation and Homelessness recommends that Local Authorities build strong relationships with private landlords e.g. through Landlord Forums.

- 4.4.6 The Council will need to ensure that the accommodation offered to homeless people meets statutory requirements for dwellings including regulations on gas and electricity appliances and the provisions of the Furniture and Furnishings Regulations 1988. Therefore the implications to the Council are ensuring that resources are available for the inspection of properties before they are used to discharge the homelessness duty. Each property will need to be inspected prior to it being offered to the applicant and then re-inspected before it is offered to a different applicant. In its draft Code of Guidance WG recommend that local authorities carry out spot checks, based on risk assessment of the properties and landlords.
- 4.4.7 In order to encourage private landlords to provide available accommodation, the Council will need to offer packages and services. Part of the funding in Appendix 1 which is being provided to assist the Council in implementing the Housing (Wales) Act 2014 will be used to develop incentive packages for landlords. These will include guaranteed rent and one off payments, furniture packs and bonds/rent in advance. In addition the Council must ensure that resources are available to ensure tenancy support services are in place as landlords are more likely to accept a homeless household if support mechanisms are assured.

4.5 Part 3 - Gypsy and Travellers

Local authorities are already required to undertake Accommodation Assessments for Gypsies and Travellers in their area but the Housing (Wales) Act 2014 places a duty on all local authorities to undertake a new Accommodation Assessment and to make provision for any identified need. The commencement of the duty to undertake a Gypsy and Traveller Accommodation Assessment begins in February 2015 and is to be completed by February 2016.

4.6 Implications of Part 3 of the Housing Act 2014

- 4.6.1 Local authorities must submit the Assessment to Welsh Ministers for approval. Where the Assessment has identified a need local authorities must ensure sites are provided. Where a need for sites has been identified, but not met, there is a power which enables Welsh Ministers to compel local authorities to provide sites for Gypsy Traveller communities. However, sites would still be required to obtain planning permission in the normal way.
- 4.6.2 The Local Housing Market Assessment is updated every 2 years and as part of this the Council includes an overview of Gypsy and Travellers detailing current figures of Gypsy and Traveller encampments within the Borough. However under the new duty the Council will be required to undertake a detailed Gypsy and Traveller Accommodation Needs Assessment every 5 years which will require a census based methodology using in-depth surveys

and interviews with Gypsies and Travellers. Resources will be required to undertake the research and in order to minimise costs it is important to identify, as far as possible, where existing services can carry out the Gypsy and Traveller Accommodation Assessment in-house. The Guidance recommends that local authorities seek to deliver this regionally which the Council will also explore as an option. Although the evidence base can be carried out regionally, each local authority is still required to produce their own report to be submitted to Welsh Ministers.

- 4.6.3 If the Gypsy and Traveller Accommodation Needs Assessment identify a need for more sites, the Council will be required to demonstrate that it is doing all that can be reasonably expected to meet that need. Any new site will require planning permission in the same way as other developments.
- 4.6.4 Welsh Government provides 100% grant funding for the refurbishment of existing Gypsy and Traveller sites or for the provision of new sites up to a maximum of £1.5m per site. However the total amount of funding that is available is £1.5m per annum for the whole of Wales.

4.7 Part 4 and 5- Standards for Social Housing and Housing Finance

- 4.7.1 Part 4 of the Housing (Wales) Act 2014 will enable a standard to be set in relation to existing and any new accommodation which reflects the requirements of the Welsh Housing Quality Standard. Setting standards will ensure that all tenants will be able to live in an acceptable standard of accommodation regardless of whether they rent from a local authority or housing association. The rent and service charge standards will ensure the cost of rents and service charges paid by tenants of local authorities will be clear and shown separately.
- 4.7.2 Part 5 of the Act, will enable the Welsh Ministers to implement the agreement of Her Majesty's Treasury and abolish Housing Revenue Account Subsidy (HRAS) system. This will allow new self-financing arrangements to be introduced for the eleven stock retaining local housing authorities which keep a Housing Revenue Account.

4.8 Implications of Part 4 and 5 of the Housing Act 2014

As the Council transferred its housing stock to RCT Homes in 2007, there are no implications of Parts 4 and 5 of the Housing Act for this Council.

4.9 Part 6 - Allowing fully mutual housing associations to grant assured tenancies

- 4.9.1 Community Mutual Housing Associations are not 'fully mutual' co-operatives where all members are residents and vice-versa but they embody they key principles of a co-operative approach to meeting housing needs. These organisations can grant assured and assured-shorthold tenancies which mutually co-operatives cannot do. The Housing (Wales) Act 2014 intends to

facilitate the further development of co-operative housing by enabling assured tenancies to be granted.

4.10 Implications of Part 6 of the Housing Act 2014

There are no implications of Part 6 of the Housing Act for this Council.

4.11 Part 7 - Council tax for certain types of dwelling

4.11.1 Across Wales, approximately 22,000 privately-owned homes have been empty for more than six months and are wasted resource particularly when demand exceeds supply.

4.11.2 The Housing (Wales) Act 2014 provides local authorities with a discretionary power to charge a council tax premium of up to 100% of the standard council tax charge on homes that have been empty for one year or more. Local authorities will be encouraged to channel any revenue raised into addressing problems caused by a lack of affordable housing in their area.

4.11.3 A survey by the Welsh Local Government Association in 2011 identified approximately 23,360 second homes in Wales. The current council tax system allows for discounts on council tax for second homes at the discretion of local authorities. The Act 2014 will give local authorities the discretion to apply a council tax premium of up to 100% of a standard council tax charge on second homes should they wish to do so.

4.12 Implications of Part 7 of the Housing Act 2014

The Council will need to make a decision regarding Council Tax for empty properties and second homes following the commencement of this part of the Act.

4.13 Part 8: Amendment of the Leasehold reform, Housing and Urban Development Act 1993

4.13.1 Section 13 of the 1993 Act provides the right for leaseholders to participate in the processes of collective enfranchisement which requires the owner to sell the freehold interest in the property to the leaseholder. Section 42 of the 1993 Act provides the right for a leaseholder to extend a lease and notices under both of these sections, previously had to be signed by the leaseholder and not by a person acting under a Power of Attorney or under the direction of Court of Protection. The amendment allows a person such a solicitor or relative to sign notices on the leaseholder's behalf and assists those leaseholders who are physically disabled, seriously ill or mentally incapacitated to benefit from the exercise of their rights.

4.13.2 The amendment provides that where notices are served under sections 13 and 42 of the 1993 Act, these notices are no longer required to be signed personally by a leaseholder but may be signed on a leaseholder's behalf.

4.14 Implications of Part 8 of the Housing Act 2014

The Council needs to be aware of the changes outlined above in relation to any freehold interests it may have where leaseholders may wish to purchase the freehold.

5.0 CONCLUSION

The benefits of having a decent, affordable, home in good condition are considerable. Housing has an important influence on health and well being, education, employment, access to leisure activities and local communities. It represents the best possible start in life for children and is the foundation for strong, safe and fair communities. In Rhondda Cynon Taf, the key elements of the Housing (Wales) Act 2014 will enable the improvements in the operation of the private rented sector, and will assist in helping people to meet their housing needs effectively and prevent homelessness.

APPENDIX 1 - Homelessness Grant Programme - Housing (Wales) Act 2014 Transitional Funding Projects in RCT		
Project Focus	What will the funding be utilised for?	How do you envisage the project becoming sustainable in the longer term?
<p>Extend Access to independent Housing Advice at the Housing Advice Centre to 5 days. Develop an affordability tool to enable a full financial assessment to be undertaken in accordance with the new duties outlined in the Housing (Wales) Act 2014. The above will be undertaken in partnership with Shelter Cymru</p>	<p>1.5 FTE (Advisor and admin support)</p>	<p>Exploring options with Shelter Cymru to identify how the existing service can be extended. The affordability tool will be a one off project with aim of extending to other local authorities.</p>
<p>Domestic Abuse Complete review of the RCT Domestic procedural guidance and complete updates to the E learning module Undertake training with front line Housing Options officers, support providers and Housing officers. This work will link in with Gender- based Violence, Domestic Abuse and Sexual Violence (Wales) Bill by raising awareness and providing consistency of response across housing and other support services. As well as enhancing current service provision and promotion of joint working arrangements</p>	<p>Module updates Training</p>	<p>This is a one off payment with any future system updates funded by partners</p>

<ul style="list-style-type: none"> • Bonds / Rent in advance. 		
<p>Access to Specialist Advice for Welfare Benefits Ensuring individuals have access to timely benefits advice will be an important part of the authority's prevention agenda. The role will be based at the Housing Advice Centre and seek to enhance our existing multi agency service. The role will work closely with those affected by Universal Credit both who present as homeless or are in existing tenancies to set up bank accounts and direct debits.</p>		
<p>IT Arrangements 1. Enhanced Housing Options As part of its housing solution work the Council is to enhance its housing options model accessible for all clients via the web. This will provide a personalised housing options action plan which will provide clear information on:</p> <ul style="list-style-type: none"> • The full range of housing options available to clients • Further details on the option • Next steps. <p>This will be a vital part of the Housing Solutions pathway which is a requirement of the new Housing (Wales) Act 2014.</p> <p>2. Access to Supported Housing The council is seeking to enhance its single point of access partnership arrangements. This will include better client matching to support services. As well as assisting support providers to identify how they can best meet the applicant's needs</p>		<p>One off payment</p> <p>Ongoing annual costs to be met by the Council in due course</p>

<p>and any unmet needs The process will also enable applicants and providers to clearly identify waiting time for a service. Planned outcomes can also be created for the service user with the ability to monitor each outcome at the end of support.</p> <p>3. Options to facilitate access to the Private Rented Sector.</p> <p>We are seeking to enhance our current access to housing by advertising all private rented sector properties as per the same arrangement as our social housing. We see this as a landlord incentive encouraging landlords to work us by having a ready supply of tenants. This will also improve the information we provide to service users in respect of property availability and affordability. Helping with decisions that need to be made as part of the prevention and relief duties.</p> <p>4. Homelessness/ Prevention monitoring Enhancing current processing monitoring and recording arrangements for housing solutions, Homelessness and prevention temporary accommodation arrangements</p>		
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