

Information Briefing for the Minister for Communities and Tackling Poverty: The impact of Right to Rent checks in Wales August 2015

Key Points

- The Immigration Act 2014 contains provisions to make it compulsory for landlords to check the immigration status of all new adult tenants. The provisions, so far implemented only in five authorities in the West Midlands, potentially cover the whole of the UK.
- Additionally UK government proposes to extend these provisions by making housing irregular migrants a criminal offence and allowing summary eviction without court order in England.
- Right to Rent was piloted in West Midlands and independently evaluated by third party organisations, with initial evidence showing negative impacts including discrimination, increased costs passed on to tenants and lack of effectiveness of the scheme (many landlords not implementing the checks, very few fines issued).
- Independent organisations report that Right to Rent pilot has led to **discrimination** against legal migrants and British citizens.
- Right to Rent will place a significant **administrative burden** onto private landlords. It will likely lead to growth in hidden economy renting and there is some evidence that it has already lead to increased fees/deposits.
- Right to Rent will likely lead to **destitution and increase in homelessness**, putting more pressures and **costs** on already stretched local authorities.
- **The decision on whether and how Right to Rent should be implemented should be made by the Welsh Government.**
- Welsh Government should carefully consider the evidence from independent sources, especially forthcoming evaluation from Movement Against Xenophobia and partners¹ as well as the evaluation of the UK government pilot expected at the end of August.
- Welsh Government should carry out their own pilot and/or urge UK government to carry out more evaluation as there is evidence that the current evaluation will not be sufficient to test the operation and impact
- Welsh Government should look at other ways to mitigate the impact of these proposals in order to ensure no individuals are discriminated against, exploited or end up with nowhere to live.

¹ <http://www.noxenophobia.org/immigration-act/right-to-rent-checks-survey/> (partners include Joint Council for the Welfare of Immigrants (JCWI), Shelter, Chartered Institute of Housing and National Union of Students)

Current measures and further plans

The Immigration Act 2014 contains provisions to make it compulsory for landlords to check the immigration status of all new adult tenants. A failure to conduct the checks, called “Right to Rent” and to provide accommodation to those without leave to remain could lead to penalties of up to £3000. The provisions, so far implemented only in five authorities in the West Midlands, potentially cover the whole of the UK.

The Coalition Government initially agreed to a six month ‘pilot’ of the scheme. The pilot has been run in West Midlands. The evaluation is due to be published by the end of August 2015, however announcements made by the UK government imply that the pilot will not impact on the decision whether to roll out the scheme.

On the 3rd of August, the UK government revealed further plans building on current provisions. The plans, amongst others, mean that landlords who fail to check tenants’ immigration status face five-year jail terms as well as allowing summary eviction without a court order. UK Government website currently states that these provisions will only relate to England and we would urge Welsh Government to ensure this does not change.

Impacts of the current measures

We believe that current measures will not only be ineffective but also cause severe negative impacts on prospective tenants, landlords and local authorities – impacts confirmed by emerging evidence^{2 3 4}. These have been summarised below.

Burden on landlords leading to discrimination and disadvantage

Emerging evidence shows that migrants and British citizens perceived to be migrants are **being turned away** by some landlords^{2 3 4}. Although it is currently difficult to assess the extent of this happening in pilot areas, it is easy to predict that discrimination may become widespread. It is common knowledge that currently, considering competition for accommodation, costs and delays associated with any checks, many landlords prefer applicants who can quickly comply with landlord requirements.

This and the complexity of checks and fines means that discrimination may become widespread against those who look or sound different, have ‘migrant’ sounding names, those who find it hard to provide passports due to vulnerabilities linked to young age, mental health problems, homelessness etc. Refugee groups monitoring the pilot said they had found examples of some British nationals being stopped from

² CIH, 2015, Practical Implications of Immigration Checks on New Lettings
<http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/Practical%20implications%20of%20immigration%20checks%20on%20new%20lettings.pdf>

³ CIH, 2015, Submission on Expanding the Right to Rent scheme beyond the West Midlands
<http://www.cih.org/resources/policy/Consultation%20responses/CIH%20submission%20on%20Right%20to%20Rent%20jul%202015.pdf>

⁴ Guardian, 2015, <http://www.theguardian.com/uk-news/2015/aug/03/british-citizens-without-passports-being-turned-away-by-landlords>

moving into a private rented home because they could not afford the £72.50 passport fee or did not have a birth certificate.⁵

CIH states that there are already reports of many private landlords instigating checks and **increasing the deposits** required from those they perceive to be migrants by £100 or more⁶.

The scheme puts additional burden on landlords and is likely to cause delays to lettings, increased void times and financial losses to landlords. Whilst lack of willingness by landlords to bear such costs is understandable, charging some applicants extra is also deeply unfair and discriminatory.

The immigration minister himself stated that **the pilot has raised concerns** about some British citizens finding it harder to get access to rented accommodation.⁵

More than 25% of calls to the official landlord checking service in the West Midlands pilot were about the list of acceptable ID documents. Many of these documents are clearly complex, very unfamiliar to landlords and letting agents and the status of many tenants will be unconfirmed via documentation, whilst they are awaiting immigration appeals. CIH reports that in addition to applicants being turned away, there is already some evidence from the Refugee and Migrant Centre of **onerous conditions** being applied if applicants only have limited leave or have documents lodged with the Home Office.

Destitution, homelessness and increased costs local authorities and social housing

Migrants are more likely to live in the private rented sector⁷ and in substandard accommodation where they are exploited, with a limited choice and a lack of awareness of their options⁸. Additionally the number of BME homeless people in Wales is disproportionately high⁹

Homelessness will do doubt increase as a result of current measures. Many migrants and British citizens, including pregnant women and children, who are turned away or evicted will end up sleeping rough or turn to local authorities for housing advice and homelessness assistance.

This will not only cause human suffering and safeguarding issues but also **increased pressures and costs for already stretched local authorities**. Many of those approaching local authorities may be eligible for assistance but destitute due to complicated immigration status. Many might be eligible for homelessness and other assistance under S.17 of Children Act 1989. Recent research carried out by

⁵ Guardian, 2015, <http://www.theguardian.com/uk-news/2015/aug/03/british-citizens-without-passports-being-turned-away-by-landlords>

⁶ CIH, 2015, Submission on Expanding the Right to Rent scheme beyond the West Midlands <http://www.cih.org/resources/policy/Consultation%20responses/CIH%20submission%20on%20Right%20to%20Rent%20jul%2015.pdf>

⁷ John Perry, Joseph Rowntree Foundation, *UK Migrants and the Private Rented Sector*, 20th February 2012

⁸ Ibid.

⁹ Stats Wales, *Eligible households by ethnicity and year*, <https://statswales.wales.gov.uk/Catalogue/Housing/Homelessness/Acceptances-and-Other-Decisions/EligibleHouseholds-by-Ethnicity-Year>

COMPAS¹⁰ shows that between 2011 and 2013, the cost to 6 Welsh local authorities which provided assistance under the Children Act was ca. £620,000 pounds. There are also additional enforcement costs and the costs and implications of **increased pressure of social housing** with many vulnerable groups likely to be deterred from using the private rented sector. This also directly contradicts the measures in Housing (Wales) Act 2014 which allow Welsh local authorities to discharge the duty to the private rented sector.

There is a risk that the proposals will create a **hidden economy** of unscrupulous landlords which may lead to exploitation. This is because, once people are stripped of their Human Right to a home and become homeless, they may see no other option. They may also avoid the Right to Rent checks altogether for a variety of reasons.

Emerging evidence also shows that landlords who are members of national bodies are more likely to carry out checks (as they are too onerous for small landlords) which could mean that migrants end up in **poorer parts of the sector** as a result, even in potentially dangerous properties.

Low likelihood of success

There are no plans for subsidising local authority enforcement of the scheme in relation to landlords who discriminate or repeatedly rent to irregular migrants. In Wales, where local authorities already have additional enforcement obligations under Rent Smart Wales, this is either likely to increase pressures or simply deem the scheme **unenforceable**. This means that the scheme has poor chances of meeting its goal of 'clamping down on rogue landlords'.

While larger landlord businesses may be able to cope with these checks, we agree with CIH², who are concerned that the vast majority of landlords who have only one property will be **unaware** of the requirements or face difficulty in complying with them. A survey by website Easyroommate found that 80% of landlords were unaware of the legislation and 30% did not intend to comply. Similarly, in a JCWI survey in the pilot area, few tenants were aware of the immigration checks and only around 50% had been asked to prove their permission to be in the UK².

The above may explain the reasons behind **only one reported fine** resulting from the initial phase.

Next steps

We are asking the Welsh Government to treat the Right to Rent checks as a housing related responsibility. Consequently, the decision on whether and how these checks should be implemented in Wales should be made by the Welsh Government.

¹⁰ COMPAS, 2015. Safeguarding Children from Destitution...
https://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/PR-2015-No_Recourse_Public_Funds_LAs.pdf

However, should the Home Office not accept that this is an area of devolved responsibility, we would urge that the Welsh Government carefully considers their impact in Wales. Specifically, we would like to see:

- Welsh Government to carefully consider the evidence from independent sources, especially forthcoming evaluation from Movement Against Xenophobia and partners¹ as well as the evaluation of the UK government pilot expected at the end of August.
- Clear analysis of the costs and benefits of this scheme, not only financial costs to landlords and tenants but also to local authorities and Welsh Government.
- Welsh Government should carry out their own pilot and/or urge UK government to carry out more evaluation as there is evidence that the current evaluation will not be sufficient to test the operation and impact due to its short-term nature and potential long term effects.
- Welsh Government should look at other ways to mitigate the impact of these proposals in order to ensure no individuals, especially children are discriminated against, exploited or end up with nowhere to live.
- Robust mechanisms should be created to enable tenants to access advice and report landlords acting in a discriminatory way.
- The August 2015 proposals to build on Right to Rent in England should not be extended to Wales.

We urge the Welsh Government to make representations to the Immigration Minister and the Home Office requesting that the Welsh Government have responsibility for deciding on whether and how these checks would apply in Wales.

The Welsh Government should also continue considering the above points as part of their landlord registration and licensing proposals in order to ensure checks are conducted on a fair and equal basis.

For further information, or to discuss any part of this response further, please contact alicia@taipawb.org or 029 2053 7632

Mae cyfieithiad Cymraeg o'r ddogfen hon ar gael ar gais