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**Tai Pawb**

**Response: Renting Homes – A better way for Wales.**

August 2013

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**Who we are**

Tai Pawb (housing for all) is a registered charity and a company limited by guarantee. The organisation’s mission is, “To promote equality and social justice in housing in Wales”. It operates a membership system which is open to local authorities, registered social landlords, third (voluntary) sector organisations, other housing interests and individuals.

**What we do**

Tai Pawb works closely with the Welsh Assembly Government and other key partners on national housing strategies and key working groups, to ensure that equality is an inherent consideration in national strategic development and implementation. The organisation also provides practical advice and assistance to its members on a range of equality and diversity issues in housing and related services.

**Tai Pawb’s vision is to be:**

The primary driver in the promotion of equality and diversity in housing, leading to the reduction of prejudice and disadvantage, as well as changing lives for the better.

A valued partner who supports housing providers and services to recognise, respect and respond appropriately to the diversity of housing needs and characteristics of people living in Wales, including those who are vulnerable and marginalised.

For further information visit: [www.taipawb.org](http://www.taipawb.org)

Charity registration no. 1110078

Company No. 5282554

**Question 1: Do you support our proposal for changing the legal framework for renting a home?**

Yes. In broad terms Tai Pawb supports the Welsh Government’s proposal for changing the legal framework, for the following reasons:

* We welcome that the proposed new framework removes some of the complexity of existing arrangement in terms of the variety of different tenancy types and inconsistency between different sectors.
* The adoption of the two forms of contracts and the subsequent ability to provide model contracts will make it clearer for tenants what their rights and obligations are when entering into a tenancy. The new framework also places clear expectations on landlords in terms of what is expected of them when entering into a rental agreement. This will have benefits in terms of helping to sustain tenancies but also make processes clearer for those involved when a contract breaks down.
* The changing of the legal framework offers an opportunity to increase awareness and knowledge of tenancy rights and obligations. It offers the opportunity to develop additional material to assist people in understanding the contents of their agreement, developing model contracts in accessible formats and to engage with schools to look at how young people can be made aware of the different tenancies available and what they mean.
* We also welcome that this framework has taken into account developments relating to the Equality Act 2010 and article 8 of the European Convention on Human Rights.

However:

* Tai Pawb has some concerns relating to the impact of the implementation of the proposals. It is likely in the interim period of change that there will be a significant need for support for some groups of people. They will need this to enable them to understand these changes and the impact on their current agreement or licence etc it is very important that any fears they may have are addressed and adequate support is provided. Welsh Government should highlight examples of good practice within the sector relating to information and support in light of Welfare Reform, in particular the ‘Your benefits are changing’ campaign and the work undertaken by e.g. Wales and West housing association to provide face to face contact with their tenants to engage with them on this issue.
* It is important to note that some of the language used in the framework will be unfamiliar to some people. For example the use of the term ‘contracts’ instead of ‘tenancy agreement’ and the use of the term ‘prohibitive conduct’. We would recommend that both easy read formats and a glossary of terms should be made available for people and it is imperative that accurate and adequate explanation is provided in all appropriate community languages, in addition to English, Welsh and BSL provision.

**Question 2: Do you agree that the secure contract should be based on the current local authority secure tenancy (paragraph 6.11)**

* Yes; Tai Pawb welcomes the proposal that the secure contract should be based on the current local authority secure tenancy, due to the high level of security of tenure linked to the local authority secure tenancy.
* Tai Pawb supports the proposal that this contract will apply to both local authority and housing association landlords and that private sector landlords can also choose to use them. The encouragement of their use in the private rented sector may help over time to alleviate perceptions people may have around tenancy security in the private rented sector, in turn playing a positive part in helping address the shortfall in affordable housing in Wales.
* This is particularly important for vulnerable clients entering into the social housing sector, in terms of encouraging and assisting tenancy sustainability, encouraging tenants to feel that the house they rent can be a long term home and is a key factor on why people look to rent in the social housing sector. We have anecdotal evidence from an accessible housing register in Wales that those requiring an adapted property are hesitant to take property in the private rented sector, currently, due to fears relating to long term security of tenure.
* Tai Pawb supports the Welsh Government’s decision not to introduce fixed term tenancies that limit the time that someone can stay in social housing, which has been introduced in other parts of the UK. This decision acts to demonstrate the commitment of the Welsh Government to the importance of tenancy sustainability and the work the social housing sector has carried out to assist people in sustaining tenancies.

**Question 3: Do you agree that the standard contract should be based on the current assured shorthold tenancy (paragraph 6.13)**

* Yes. Tai Pawb agrees that the standard contract should be based on the current assured shorthold tenancy.
* This contract will assist tenants who need to move between tenancies, locations or need shorter lets within the private sector. This is particularly relevant for students and people in need of tenancy flexibility to be able to access accommodation due to work internships, or due to the need for specialised hospital care.
* Tai Pawb supports that the contract can be fixed term or periodic.
* However we have concerns relating to the impact on security of tenure for those in the private rented sector in relation to the proposal to abolish the six-month moratorium on ‘no fault’ evictions. This proposal may have a negative impact if used on those looking to stay longer term in private accommodation, vulnerable groups and where homelessness duty has been discharged to the private rented sector (particularly for those on periodic rather than fixed contracts).

**Question 4:**

**Do you support the proposals in relation to each of the following issues:**

1. **Addressing the anti-social behaviour of some households**

Yes, Tai Pawb supports the proposal for there to be a prohibitive conduct clause in all contracts:

* Tai Pawb welcomes that both domestic violence and hate crime fall under the prohibitive conduct term.
* Tai Pawb believes that the proposal may have positive implications in relation to tackling issues of harassment/hate crime in shared accommodation especially when viewed alongside proposed changes to joint tenancies. This is important due to an increasing number of people having to enter into shared accommodation as a result of the shared room rate now applying to those under 35 year olds.
* Tai Pawb supports the move to take a discretionary approach to eviction rather than a mandatory one. We believe this is a positive approach from an equality perspective that embraces Equality Act 2010 and Human Rights (Article 8) consideration as it ensures proportionality is taken into account allowing consideration of personal circumstances of the tenant (a key element demonstrated in the Case Law referenced by the Law Commission Report). This will also assist in those cases related to prohibitive conduct that relates to a matter arising from disability which is covered by the Equality Act 2010.

However:

* There are issues in relation to terminology and language used. The term ‘prohibitive conduct’ is not a term that tenants would necessarily be familiar with and the explanation of it which will be used in the model contract uses very technical language with no examples. As a result tenants and landlords may be unclear about what sort of behaviour is covered by it. Also no actual reference is made to the terms anti-social behaviour, domestic violence and hate crime/incidents covered by this clause.
* Tai Pawb would support a move to re look at the scope of the prohibitive conduct in relation to it including economic, psychological, emotional and other behaviour within a home. We believe this is important as these forms of abuse can play a key part in domestic violence, harassment and hate crime, elder abuse and mate crime cases. We recognise that such cases can be difficult to evidence but it seems that in such cases were evidence is available that a victim of for example domestic abuse in the form of financial or psychological abuse should be able to turn to the prohibitive conduct clause. We feel that this is of particular importance in relation to the key changes which have been made with regard to payment arrangements and welfare reform.
* In relation to the suggestion that as a deterrent to someone who is or has been subject to an anti-social behaviour order or injunction should be disqualified from being a reserve successor; we feel that if this was introduced it should be time limited, discretionary and take into account equality considerations, support and evidenced changes in behaviour. We note that when an exclusion from allocation listing is currently imposed on an individual this is usually a time bound measure, in part to ensure proportionality; we would recommend a similar approach in a ‘prohibited conduct’ clause linked to subsequent access to social housing provision through succession rights if introduced.
* We recognise that there could be perceived difficulty with administration relating to ‘prohibitive conduct orders’ for non tenancy or contract holders; however the approach outlined within the documentation where a decision at point of succession is made based on robust and appropriate evidence could overcome this difficulty. Furthermore we would like to highlight that any evidentiary tool or links to legal injunctions / orders are mindful of a potentially discriminatory overuse for some individuals with specific protected characteristics.
1. **Dealing with Domestic Abuse (paragraph 6.25)**

Yes, Tai Pawb supports the proposal for dealing with domestic abuse.

* Tai Pawb feels that the proposal has a positive implication in relation to enabling victims of domestic abuse who are in a joint tenancy to remain in their own home. In doing so it will also enable them to seek an exchange if they then decide that they wish to move to another area.
* We support that the framework will be using the civil level of proof. However as previously mentioned Tai Pawb would support a move to re look at the scope of the prohibitive conduct in relation to it including economic, psychological, emotional and other behaviour within a home. We believe this is important as these forms of abuse can play a key part in domestic violence cases.
* We also support that it applies to violence against someone who lives in the property which recognises acts of domestic abuse that may not relate to partners but to other family members, or non related shared occupants (in particular mate-crime).

However:

* Further guidance will be needed to ensure victims of domestic abuse are not placed at risk when action is taken against the perpetrator of domestic violence on the grounds of the prohibitive conduct term and notification of ending a joint tenancy.
* It is important that sufficient training is provided to staff to assist them in relation to ensuring the effective application of the prohibitive conduct term and ending of joint tenancies in domestic violence cases.
* Domestic Violence relating to behaviour in connection with a disability is a particularly difficult area to legislate for, and in many cases the information in paragraph 6.215 would not be appropriate. However; we would recommend consideration of the following to be highlighted as good practice for housing providers which may help in relation to their handling of such cases. <http://www.alzheimers.org.uk/site/scripts/documents_info.php?documentID=96>
1. **A more flexible approach to joint tenancies (paragraph 6.27**

Yes, Tai Pawb broadly supports the proposed approach to joint tenancies.

* Tai Pawb recognises the benefits that a more flexible approach to joint tenancies will have as outlined in the White Paper particularly in relationship breakdown circumstances.
* However there needs to be a clear process in place to protect the other tenants in a joint tenancy when one tenant decides to withdraw from the joint contract. It is important that the contract makes it clear that the tenant must notify both landlord and the other tenants in the agreement. With note to considerations relating to domestic abuse / violence and safeguarding victims.
* In some situations the withdrawal of one tenant from the agreement could result in the remaining tenant being in a situation where the financial sustainability of the tenancy is no longer viable (as the remaining tenant cannot on their own make up the rent due). How will the financial interests of the remaining tenants be protected? Will they be liable for any outstanding rent arrears or arrears accrued during the notice period in relation to the tenant who has asked to withdraw? How will issues in relation to outstanding utility bills be dealt with particularly in shared housing circumstances?
* In relation to the use of joint tenancies in shared accommodation particularly in the private rented sector this approach currently places the liability for finding a new tenant on the remaining tenants rather than the landlord, with the tenants liable to make up the payment of the outstanding rent as payment is calculated for the house as a whole. We would like to seek further clarification on what work has been undertaken to consider if there are potential benefits to the approach some landlords currently use where individual tenancies are issued making each tenant liable only for their own rent and not the rent of the whole household. In these cases the landlord will look for a new tenant if one leaves, which while provides financial benefit to the remaining tenants it also gives them less control over who they share the accommodation with. From a landlord’s perspective it may make it easier to ensure the financial viability of the property.
* The ability for those in shared accommodation to have a valued input into the decisions which are taken regarding who they share the accommodation with is a particularly complex issue. While we support the potential for existing tenants to have a legitimate voice in the process we also appreciate the needs of the landlord. Furthermore we are keen to ensure that any potential tenant is also protected from discriminatory behaviour of the existing tenants who could raise spurious objections in connection with them being offered a tenancy in the property. There are similarities in this situation with those who have tenancies in supported accommodation; we feel that it would be beneficial to look in detail at the real tenancy test with relation to this.
1. **Abandonment of the property by a tenant (paragraph 6.31)**

Yes, Tai Pawb broadly supports the proposed approach relating to abandonment of property by a tenant.

* Tai Pawb recognises that the simplification of the abandonment process would help some of our housing provider members.
* However we feel it is important to consider the potential impacts of the new procedure on those cases where it is not clear that abandonment has occurred or where people are vulnerable in relation to unscrupulous landlords.
* It is important that the simplification of retaking possession process does not result in landlords taking a more lax approach to their current process and checks that are carried out in relation to ensuring a property has been abandoned.
* It is important that the procedure takes into account communication needs in terms of contact made with tenants and consideration of reasons why the property may be empty for a period of time including hospital stays, pilgrimages, gone to care for relative/friend and work purposes.
* It is important that the model contract makes it clear to tenants who they need to contact if they will be away from their property for a long period. It would be helpful for an explicit period of time to be included to help minimise any unscrupulous tenant or landlord behaviour.
* In relation to the private rented sector it is important that this simplified process does not lead to private landlords using abandonment as a way to illegally evict people from properties.
* We would like to see a review of information relating to current abandonments and any equality monitoring data which is available in relation to the tenants of these properties. It is important to see if certain protected groups are more likely to abandon properties and why this is the case.
* There is also the potential for issues around delayed discharge of care and the need for a home to be adapted to meet the needs of a tenant. Consideration needs to take place to ensure abandonment has not been forced due to the unreasonable actions of a landlord refusing to allow adaptations to a property. This would also be the case where people have temporarily moved closer to a regional specialised medical facility in order to obtain treatment.
1. **Renting by younger people (paragraph 6.33)**
* Tai Pawb supports the proposals on 16 and 17 year olds being able to access tenancies.
* This approach will provide clarification to housing providers in relation to tenancy provision for 16 and 17 year olds.
* However it is very important that contracts do not set a young person up to fail in maintaining a tenancy because of unrealistic expectations.
* Failure to comply with a contract will have long term implications in relation to their ability to access social housing and other forms of housing in the future. As a result there are cost implications for resources to ensure adequate support is available to prevent tenancy breakdown. Joseph Rowntree Foundation has a number of good practice studies of work organisations have carried out to assist young people in sustaining their tenancy <http://www.jrf.org.uk/sites/files/jrf/young-people-housing-options-full.pdf>.
* Tai Pawb would like clarification if any other options will be available where granting a tenancy may not be suitable?
* We would also like further clarification on the impact this may have in relation to Social Services discharge of duty and child in need?
1. **Standardising succession rights (paragraph 6.36)**

Tai Pawb welcomes that the proposals aims to standardise succession rights in relation to local authorities and housing associations so that it allows a family member to succeed, not just a spouse or civil partner of a tenant.

* As an equality organisation we recognise the positive implication this may have for adults with learning disabilities who are cared for by older relatives and parents. This issue was highlighted in the Joseph Rowntree Foundation ‘Perspectives on ageing with a learning disability’ <http://www.jrf.org.uk/sites/files/jrf/ageing-and-learning-disability-summary.pdf> which notes issues relating to planning and assisting people if appropriate around ageing in place. Below is a case study from the report

*‘‘Ben lived at home with his Auntie Mabel, who had cared for him since he was a child. Although known to services, he had not used any funded care since he was a child. Ill health had left his aunt with physical disabilities and she and Ben looked after each other and made a great team. Ben was supported by an older families project to develop a person-centred plan that included his life story, his likes and dislikes, how he liked to be supported and his fears and wishes for the future. All his family were involved, along with workers and friends who had known him for years. As a result of this planning, Ben was supported to build his independent living skills and social life, and his name was added to the tenancy. When his aunt died suddenly, Ben was smoothly supported to remain living in his own home with support workers he already knew, as planned. His worst nightmare of having to leave his home and ‘go into care’ never came true.’*

* Tai Pawb welcomes the move to allow someone who has been living in the premises, as their only home, to care for the deceased contract-holder during the 12 month prior to their death to become a reserve successor. However we recognise that the time limit approach will not benefit an individual who has moved into a property to care for an older, disabled or sick person and this person passes away before this 12 month period has expired. Depending on the financial and / or tenancy arrangements of the carer they may have had to relinquish their home in order to provide care. On the death of the individual through no fault of their own this could leave them homeless. Have there been any problems in Scotland caused by there not being a time limit?
* Where there is a period of less than 12 months occupancy relating to a carer reasonable consideration should be given to the housing need of the carer.
* Tai Pawb would also like to highlight potential risks relating to elder abuse and abuse against disabled people with carers by a person looking to benefit from becoming a reserve successor. It is important that mechanisms are put in place to protect tenants from incidents of elder abuse from people seeking a tenancy. It is important to link in with relevant agencies such as Age Cymru and the Older Persons Commissioner to look at what mechanisms and guidance could be put in place to prevent this from happening, we would recommend the exploration of using safeguarding boards.
* It is positive to see in the White Paper an example of how succession provisions treats civil partnership and children of those in civil partnership in terms of succession (e.g. clearly outlining same sex couples rights and defining priority successor as ‘spouse, or civil partner, or persons living together as husband and wife, or as civil partners’). We would like clarification that this would also apply to non-adopted step children and foster children.
1. **Standardising eviction for rent arrears (paragraph 6.42)**

Yes, Tai Pawb supports the standardising of eviction for rent arrears.

* Tai Pawb recognises the concerns some of our housing association members may have in relation to the removal of ground 8 (please see additional comments at the end of this submission).
* It has been noted that currently ground 8 is not widely used, although there have been indications from the sector that some housing associations in light of financial pressures caused by potential increases in rent arrears due to housing benefit changes and welfare reform may wish to increase their use of ground 8 (or have the option open to use it)**.**
* It is important to note that housing associations will still be able to take tenants to court for rent arrears but that the discretionary option ensures that pre court protocols are effectively followed and will allow judges to take into consideration the tenants circumstances and issues around proportionality (including Human Rights and Equality Act consideration.)
* Tai Pawb supports the discretionary approach as the use of pre court protocols ensures that the process encourages tenancy sustainability with eviction as a last resort. This is also important in light of the likely complex cases that will arise as a result of the impact of welfare reform (including for example rent arrears caused by under occupancy issues where no suitable alternative accommodation is available).
* This approach encourages housing providers to develop proactive and effective rent arrears management procedures that take into account communication and support needs of tenants. The removal of ground 8 will mean that there is less risk of Housing Associations facing cost of Human Rights court cases.
* One of our concerns is; if ground 8 were to remain relates to the proportionality of its usage (how and why a housing provider chooses to pursue ground 8 possessions rather than any other ground for possession proceedings). This is particularly significant in ensuring that no tenants from any protected characteristic are unfairly and unduly discriminated against in relation to the usage of ground 8. If ground 8 were to remain, which we would not support, we would like to see clear and robust monitoring, including equality monitoring by Welsh Government of its usage perhaps through the modern regulatory framework or another suitable mechanism. We feel this is particularly important due to the disproportionate adverse effect of welfare reform on particular protected characteristics.
1. **Requiring landlords to ensure that there are no Category 1 hazards under the Housing Health & Safety Rating System (Paragraph 5.5 (g)**

Tai Pawb supports this proposal and feels it will increase awareness of landlord’s obligations in relation to repairs and tenant rights particularly in the private rented sector.

* However, it is important that there is support for tenants in cases where there is a breach.
* It would be useful to have contact details in the model contracts of who a tenant should contact if they feel there is a breach and the landlord has not addressed the issue.
* Further clarification is also needed in relation to repairs and maintenance of adaptations as these were not addressed in this section of the Law Commission Report.
1. **Abolishing the six-month moratorium on ‘no fault’ evictions (paragraph 6.48)**
* Tai Pawb recognises that this approach will benefit some people looking for short term lets, and may be particularly beneficial for students studying for short periods of time or people needing flexibility to move in relation to the labour market and short term and temporary employment contracts or internships. It also has the possibility for family of sick and disabled children who need to move closer to specialised medical provision
* However it may have a negative impact in relation to those looking to stay longer term in private accommodation and vulnerable tenants. It is important that mechanisms are developed and funded to ensure protection of vulnerable people accessing housing through the private rented sector. It is important that tenants and landlords are made aware of the difference between the contractual and statutory rights in relation to contracts in terms of termination of contract. It is proposed that contractual rights will be used to protect vulnerable people in these situations, but what guarantees will be made in this framework to ensure that this happens.
* There is also a risk that this could impact on people’s perceptions of the private rented sector, and impact on the behaviour of tenants when in the private renting sector – e.g. concerns in relation to landlord ending tenancy if the make a fuss for example reporting repairs. It also has implications in relation to potential exploitative landlords wanting to evict/change tenancies in order to increase rents.
* It is also important to consider the implication of this proposal on tenants applying for Disabled Facilities Grants in the private rented sector (intentions relating to the property being adapted will be the need for the main residence of the disabled person for (usually) five years). Particularly in light of the low take up of DFG funding currently in relation to the private rented sector*.*
1. **Establishing a legal framework for supported housing (paragraph 6.55)**

Yes we support establishing a legal framework for supported housing.

**Exclusions during enhanced management period**

* In relation to exclusions we believe that Equality Monitoring should be implemented in relation to their use. For example when monitoring has been carried out in relation to mental health provision issues have arisen around risk management techniques and the over prevalence of their use on men from BME backgrounds. A Mind report from 2009 on Men and Mental Health notes:

‘Seclusion rates and the use of hands-on restraint by mental health staff are higher than average among some black groups and these groups are also more likely to be on medium or high secure wards as a result of their mental health problem (Commission for healthcare Audit and Inspection, 2008).Cultural attitudes and ingrained prejudice may go some way to explain why BME men are treated like this by mental health services. Stereotypes of threat associated with some ethnic groups, African Caribbean men in particular, have deep historical roots. Such stereotypes can have repercussions in the mental health system, especially in areas that deal with risk management.’

* Special consideration needs to be made of the impact of exclusions in relation to mental health, learning disabilities, autism and Asperger’s Syndrome and complex needs. Welsh Government guidance (such as Autistic Spectrum Disorder – A housing management guide for practitioners and people in rented housing <http://wales.gov.uk/docs/dhss/publications/110324asdhousingen.pdf> ) and specialist training will be key to minimise the unfair use of exclusions in relation to individuals whose behaviour may be a result of a matter arising from a disability and that could be exacerbated in stressful situations.
* We also feel that further consideration needs to be made of the impact of exclusions relating to behaviour that is provoked by bullying (prohibitive conduct) in a supported housing context (e.g. retaliation after a long period of bullying and harassment by other residents/tenants.) This is important for example when looking at supported housing and young people and Stonewall’s wider research in relation to homophobic bullying in Schools ( <http://www.stonewallcymru.org.uk/documents/the_school_report_2012.pdf> ).
* On the other hand we also recognise the benefit the use of exclusions may have in relation to incidents where a hate incident has occurred.

**Mobility during enhanced management period**

* We recognise from a housing management perspective that the ability to move tenant during the enhanced management period is beneficial. However we feel that it is important that tenants have a say in the process and a right to appeal.
* We would like further clarification in relation to mobility what rights will tenants have to refuse a move or to make an appeal and how will tenants be made aware of these rights? Will information on rights and appeals be provided in plain English/Welsh and easy read format? How will they be assisted by an independent advocate to make an appeal?
* How are tenants involved in the process relating to decisions around mobility and moving rooms in schemes? It is important to note that tenants in supported housing context will be given less control over their housing options then people not living in a supported housing context and this needs to be considered (this has potential implications in relation to supported housing provision for disabled people and the real tenancy test <http://www.cymorthcymru.org.uk/pdf/policy/the-real-tenancy-test-2012.pdf>).
1. **Bringing housing association Rent Act tenancies within the Renting Homes framework (paragraph (6.62)**

Tai Pawb believes that housing association Rent Act tenants’ views should be a key determining factor in relation to whether they should be included.

* We would like to seek further clarification on any actions proposed to look at mechanisms to improve conditions of properties/ repairs for Rent Act tenants in the private rented sector (as it is proposed that they are not moved across into the new contract system).

**Question 5: What do you consider to be the most significant elements listed in Question 4 for people who rent their home?**

* The importance of the different elements varies according to people’s current situations in relation to their lives and renting for example; the prohibitive conduct and joint tenancy aspect will be significant for victims of domestic violence currently in joint tenancies. The measures relating to tenancies for 16 and 17 year olds will have significant impact for this age group; in particular those leaving care, establishing a legal framework for supported housing tenants have for those in supported housing, while the standardisation of succession rights is likely to have a significant impact on carers and disabled people.

**The box below is provided for any additional comments you may have**

**Model Contracts**

* Tai Pawb supports the introduction of model contracts. It is important that they use plain language, accessible formats are available and they should contain contact details of advice and advocacy services. The agreement is likely to have to contain some technical terms as seen in relation to the section on prohibitive conduct. However, it would be beneficial to develop an easy read guide to go with the model contract. This guide could also explain what additional clauses are and where to look on the agreement for them. This is important in order to ensure model contracts are accessible for people with learning disabilities and people with limited literacy skills (25% of the working-age population in Wales lack basic literacy skills -<http://www.poverty.org.uk/w59/index.shtml>) or where English or Welsh is not someone’s first language. It is important that both the Welsh and English model tenancy agreement are tested with a cross section of tenants with different levels of communication needs including tenants within supported housing. In particular it would be useful to get them to look at the use of additional clauses to see if it is easy to identify when an additional clause has been added and an agreement differs from the model contract.
* Housing associations have developed tenant handbook DVD’s and online films to assist tenants in understanding their rights and obligation in relation to their tenancy agreements (United Welsh’s online video ‘About your tenancy’ available both on You Tube and on their website). It would be useful to develop similar films as well as BSL videos to go alongside the model contracts that could be uploaded on to the Welsh Governments website and online video sharing platforms.
* Work needs to be done to ensure people looking to rent are made aware of whom they should contact when a landlord does not provide a written statement or they have concerns about additional clauses that have been added.

**Interim Period**

* Tai Pawb feels that a lot of work will need to be done to ensure that the implementation of the new proposals especially in the interim period does not negatively impact anyone.
* Awareness raising of the changes before and during the changes is key. It is important to address how people (landlords, tenants, support providers, advice agencies) from across the housing renting sector will be informed of the changes. In particular looking at methods to engage with and inform tenants within the private rented sector and people with communication related or support needs. The Welsh Government needs to ensure that any publicity is available in accessible formats and a variety of accessible communication methods and channels are used. It is also important that the Welsh Government looks at mechanisms to counter miss communication which can have potential negative impacts and create confusion during the interim period (e.g. as seen with the wrong advice being given out to people via Facebook messages in relation to under occupancy and discretionary housing benefit). Ensuring people are well informed will assist in the smooth transition and it will also ensure that people know that changes have occurred to their tenancy even if they have not been issued with a new tenancy.
* It is important that landlords are encouraged to give tenants sufficient notice in relation to the conversion of their current tenancies and licenses. It would be useful to look at how Stock Transfer organisations in the past have engaged with tenants in relation to them having to issue new tenancies following transfer.
* In effect as the migration from ‘tenancy’ to ‘contract’ should not disadvantage any person there is a large body of work which will need to be done by landlords to ensure the model contract accurately reflect each individual tenant’s tenancy agreement. This is of particular importance where written agreements have been made either confirming more or less responsibility on the tenant. We are concerned this may affect older people and disabled tenants who may have exclusions agreed in relation to gardens or window cleaning. This group will need sufficient help, support and advocacy to ensure they are not unintentionally adversely affected by the proposed changes.
* In addition there will be a significant need for support for some groups of people to understand these changes and allay fears they might have in relation to the changes to their current tenancy agreements. We would like to seek further clarification on the following points:

What advice will be available for concerned tenants?

Will the national housing advice and information service noted in the Housing White Paper be available in time to assist in this?

* It is important that advice services are accessible and can cater for different communication needs. It would also be beneficial to consider developing a model handbook that can be given to tenants explaining their rights and obligations, the obligations of their landlord and who to contact if they need advice or have a problem in relation to their tenancy or conduct of their landlord. Adequate resources are needed to meet the demand and to enable proper advice to be given, both at the start of the new scheme and on a continuing basis to landlords and tenants. Potential costs involved include ensuring that this advice is accessible, available to people in rural and urban areas and does not exclude people who do not have access to internet etc. It is important that this advice is accessible to people with different needs across the protected characteristics (including ability to get to and access advice services). It is important to recognise the financial impact housing benefit and welfare reform is having on housing associations and local authority departments and how this might impact on the resources they have available during the transition period.
* It is important that the cost of issuing a new tenancy agreement is not passed on to the tenant and that tenants do not face unfair administration costs when signing up for the tenancy. This is important in light of recent reports highlighting the fees being issued to private tenants by private sector landlords and agency on renewal of tenancies. This was an issue also highlighted in the Consumer Wales report ‘Their house, your home, The Private Rented Sector in Wales.’
* It important that monitoring is put into place to look at individuals who have reported difficulties in the transitioning period; either in relation to accessing accessible new tenancy agreements or changes in their tenancy agreement terms which are less favourably. This should be monitored with relation to all protected characteristics and after review if there appears to be a causal link between being treated less favourably (either directly or indirectly)and protected characteristics this needs to be addressed through mitigation within a continuous improvement framework.

**Sub – letting**

* Further information is needed in relation to sub-letting and sub occupation contract to ensure tenants who enter under this agreement are aware of their rights and those sub letting are aware of their obligations and rights. This is a complex area so it is import people are able to access adequate and correct advice.

**Further Clarification needed on Estate Management Ground**

* In the original Law Commission report reference is made to Estate Management Grounds and under occupation. In the White Paper reference is made to the fact that landlords in relation to reserve successors would be able to seek repossession of the property due to under occupation. It is important to consider the impact that housing benefit reform will have in terms of potentially increasing use of estate management ground (Ground G and H under-occupation grounds – original Law Commission report) as a mechanism to deal with under occupancy due to an increase risk of rent arrears. It is important in this context to consider what will be deemed suitable alternative accommodation, how much say tenant will have in that and what will be the reasonable test for use of the grounds.
* In relation to adapted properties (Ground D) there are potential implications for disabled people and any family or carers that live with them. For example where a property was adapted or let to a household to meet the needs of a child/ young adult their family may be reluctant for the disabled family member to seek independent living if it impacts on the family as a whole. /there may be a fear that the landlord could seek possession on estate management grounds for the property as it is an adapted property, this could have the unintended putting disabled people at risk of domestic abuse, of a type which is not currently protected within these propositions (psychological abuse) Further clarification is needed in relation to how the Estate Management Ground will be used and to ensure that it does not negatively impact on disabled people in adapted properties and their families.
* We have concerns in relation to the potentialimpact that the use of Estate Management Grounds may have in terms of reserve successors where a property was adapted in the past for a successor and not for the original tenant and there is an under occupation issue.

**Issues not adequately addressed in the White Paper and the updated Law Commission Report**

* How will the issue of the right to improve (in relation to the Housing Act 1985 and the ‘Tenants Charter’) be addressed within the proposed secure contract?
* Further clarification is needed in relation to addressing obligations and responsibilities around the repair and maintenance of adaptations.
* The updated Law Commission Report and the White Paper do not make reference to service charges in terms of the contracts. Service charges can be a contentious issues and obligations in relation to what tenants will be required to pay out for will often be set out in agreements. Further clarification is needed on how service charges will be addressed within the new contracts and how they will be dealt with in relation to the model contracts.

**Our Members Views**

Our organisational response is outlined above. However, when consulting with our members a small number have expressed differing views. These are as follows:

* They desire to see it expressly and overtly stated that both contract types are free to be used by housing providers in both the private and social rented sectors. They felt this element of the proposal could be strengthened. This is of importance to them in particular when considering newer models / products with relation to their housing provision in particular linked to their ability to raise finance through different options.
* They do not support the removal of Ground 8 Mandatory power of possession. While most said they do not use this as a current tool for combating rising rent arrears linked to under occupation charges the view was expressed that it was an important ‘tool’ which they are reluctant to have removed from them. There was some confusion with the links to the mandatory powers of possession for ASB incidents and the relevance of this legislation in the Welsh context. Tai Pawb’s views with regard to this have been expressed in detail above.
* Some concern has been raised with regard to succession rights for non family members and carers, relating to the right to succeed to the existing property which might be adapted or put the successor at risk of under occupation. In relation to the fair and appropriate use of limited housing stock it has been mooted that the potential successor should have the right to succeed to an appropriate social housing property – not necessarily the property in which they have been living.

**Consultation Process**

Tai Pawb undertook consultation with our members predominately via email. We informed our members and wider equality organisation of our intention to submit a consultation response and invited members and non members to become involved with the process. We forwarded a draft version to all our members and those non members who work within the field of equality and diversity allowing time for them to respond. Those responses; where they differ from our main response have been listed above.

We worked in partnership with both TPAS Cymru and Welsh Tenants Federation to ensure we engaged with tenants from both social housing providers and those in the private rented sector.