

RHA 07

Ymgynghoriad ar yr hawl i dai ddigonol
Consultation on the right to adequate housing
Ymateb gan: Cyngor Ffoaduriaid Cymru
Response from: Welsh Refugee Council



Local Government and Housing Committee

The Right to Adequate Housing

A response from the Welsh Refugee Council

2 March 2023

About the Welsh Refugee Council:

We have been **empowering asylum seekers and refugees** to build new futures in Wales for 32 years. We deliver direct specialist support to our clients from our offices in Cardiff, Newport, Swansea, and Wrexham. We work with community, voluntary, and statutory sector partners to create a society where there is **respect and equality for all**.

We support asylum seekers and refugees at the most critical points of their lives. Our work enables people who have been forced to seek sanctuary to find their feet and begin **building a life in Wales**. Through our work we help people find a place to stay, work to support themselves, access to English classes, legal advice, and community networks so they have what they need to begin again in their new homes.

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RESPONSE

1. INTRODUCTION

- 1.1 We welcome the Committee's inquiry into the right to adequate housing. Its timing is pressing given the current housing crisis in Wales and the UK.
- 1.2 We would like to highlight the previous work done by Tai Pawb on the right to a good home in Wales. '*The right to adequate housing in Wales: the evidence base*' showed the inadequacy of the current housing stock in Wales and its impact on other services, such as health.ⁱ Using international examples, it demonstrated the suitability of a right to adequate housing.ⁱⁱ Furthermore, '*The right to adequate housing in Wales: cost-benefit analysis*' found "total benefits to Wales of ending homelessness and improving housing adequacy of £11.5bn" over 30 years.ⁱⁱⁱ
- 1.3 For Wales to truly be a Nation of Sanctuary, the housing needs of asylum seekers and refugees must truly be met. It is worth remembering though, that these are two different groups each with its unique needs. If implemented properly, the right to adequate housing is not only an option but a solution.

INTRODUCTION – ASYLUM SEEKERS

- 1.4 Asylum seekers' housing is determined by the Home Office and policy of the UK Government. Lately, this housing has often included hotels, which are unsuitable as long-term solutions for a number of reasons:
 - hotels are designed for short-term use
 - at times, the hotels are in the outskirts of urban areas
 - no cooking facilities
 - limited communal areas
 - no play areas for asylum-seeking families
 - no sense of community

Case study 1

We recently spoke to an asylum seeker who had been moved to Swansea from his Cardiff accommodation by the Home Office. The asylum seeker had attended classes in Cardiff and had their friends and community in the capital. The move to Swansea had had a detrimental impact on their mental health. They are now spending part of their £45 weekly allowance to travel to Cardiff to be able to engage in some semblance of a social life. The current cost of an off-peak return ticket between Cardiff and Swansea is £10.50.

INTRODUCTION – REFUGEES

- 1.5 The UN singles out refugees as one of the groups that "have a particularly hard time exercising their right to adequate housing as a result of who they are, discrimination or stigma, or a combination of these factors".^{iv}

- 1.6 Tai Pawb's *'Refugee Housing and Support Feasibility Study'* pointed to the "significant barriers experienced by refugees once they are granted leave to remain to finding appropriate accommodation and support that enables them to move on with their lives, integrate into society and avoid destitution".^v
- 1.7 Refugees compete at a disadvantage within the saturated social and private rented markets. Some of the main barriers faced are:
- they often do not qualify for social housing
 - newly granted refugees only have 28 days to access homelessness prevention services after they are evicted from their Home Office accommodation
 - less likely to find a guarantor
 - less likely to have savings for a deposit or several months' advance rent

Case study 2

We run quarterly housing forum sessions for refugees at the YMCA in Cardiff. The refugees there are residents who have been placed in the hostel as a temporary measure. However, many have been there for nearly a year. A hostel is not the right housing environment to restart a life and there is very limited private space. The refugees are hopeful about getting social housing, even if their chances are limited. Although some would consider private renting, they are completely outpriced at the moment. They often point at the need for guarantors, deposits, and several months' advance rent as additional barriers. The YMCA currently has only a few beds available and sometimes operates at over capacity. This is unsustainable.

- 1.8 Research from the Bevan Foundation found that between May and December 2021, the Local Housing Allowance (LHA) only covered 3.8% of all advertised rental properties in 10 Welsh local authorities.^{vi} Refugees on benefits face these hardships.
- 1.9 Our Move-On service works with refugees, predominantly during the short period after they have been granted Leave to Remain (or another status) from the Home Office. Between 1 April 2022 and 31 December 2022, our Move On caseworkers had 1,152 contact episodes regarding housing issues. Universal Credit was the only category which had more contact episodes in this period. The five most raised issues to our caseworkers have been:
- The chaotic move from temporary to permanent accommodation
 - No clear communication from local authorities regarding housing
 - The 28-day eviction notice from Home Office accommodation
 - Families with infants being kept in hotels rather than supported accommodation
 - The Local Housing Allowance being too low to cover private renting

2. EXAMINE HOW INCORPORATING THE RIGHT TO ADEQUATE HOUSING INTO WELSH LAW WOULD WORK IN PRACTICE

INTERNATIONAL EVIDENCE

2.1 Importantly, the Welsh Government would not be the first to try to provide a right to adequate housing. Much can be learned from the endeavours of other countries. Finland has led the way in this field and the right to housing is protected in its constitution.^{vii} Canada, Scotland, and New Zealand are currently in a process of their own to ensure the right to adequate housing. Lessons learnt from the implementation in these three cases will be key to examining how incorporating the right to adequate housing into Welsh law would work in practice. At the same time, the failures to implement the right to adequate housing in Catalonia, France, and South Africa, demonstrate the need for rigid legislative frameworks and continual funding.^{viii}

2.2 The international case studies show three main pillars which need to be considered to incorporate the right to adequate housing into Welsh law:

- progressive realisation
- governance
- housing supply

2.3 Progressive realisation is the response to acknowledging that the right to adequate housing cannot be met overnight. Governments should make steady progress towards the full realisation of such a policy, taking deliberate steps both immediately and in future. For instance, since the right to housing was introduced in the Finnish constitution 21 years ago, there has been a continual but gradual improvement with significant increases in housing supply putting Finland on track to end homelessness by 2027.^{ix}

2.4 To make the right to adequate housing a success, a legislative framework must be created to ensure that future Welsh governments continue the progressive realisation of the policy. This would make it unlawful for any public body to act in a way which is incompatible with the right to adequate housing. UK-wide legislation, such as the Human Rights Act 1998 or the Equality Act 2010, or the Well-being of Future Generations (Wales) Act 2015 should be a model to follow. This legislative long-term commitment should have the aim of achieving the right to adequate housing.

RECOMMENDATION 1: Welsh Government to create the legislative framework for the progressive realisation of the right to adequate housing.

2.5 The struggles to realise the right to adequate housing in Catalonia and France were largely caused by a lack of governance. In Finland, economic, social, and cultural rights laws must be compliant with the right to adequate housing enshrined in the constitution.^x Canada has used accountability bodies to monitor, promote, and protect the right.^{xi} A number of bodies, such as Rent Smart Wales, which could have a role in monitoring, promoting, and protecting the right to adequate housing, already exist in Wales. Additional funding and powers are essential to ensure that contract holders have legal protection.

RECOMMENDATION 2: Welsh Government to give the adequate funding and powers to Rent Smart Wales to act as an accountability body for the right to adequate housing.

2.6 Spending on housing, especially social, is one of the principal factors leading to the success in Finland and the failure in South Africa to provide the right to adequate housing. Whilst we welcome the Welsh Government's commitment to building 20,000 new social homes by the end of the current Senedd term, future administrations must follow suit. The adequacy of these homes should also be taken into consideration. Housing support providers often complain that there are not enough one-bedroom properties available. It is also fundamental that these new properties are energy efficient, as challenges to energy and fuel supply will continue in the coming decades.

RECOMMENDATION 3: Welsh Government to bring more suitable affordable and social homes onto the market.

THE RIGHT TO ADEQUATE HOUSING IN WALES IN PRACTICE

2.7 The Welsh Government's response to the Covid-19 pandemic demonstrated what could be accomplished in terms of housing people if the will to do it exists. Government (both at national and local level), the public and private spheres, and the third sector all worked together to ensure that almost hardly anyone would be left on the streets. This was achieved under the pressure of an unprecedented health emergency.

2.8 The right to adequate housing would create a legislative framework to help address some pressing housing issues:

- Homelessness – ensuring we build on some of the measures taken during the Covid-19 crisis, including maximising investment in social housing and support.

- Security of tenure – strengthening the position of the Welsh Government in its rights-based approach, better balancing the rights of contract holders to live in security with those of private landlords. A practical example in this context would be the Welsh Government using its powers to lobby the Home Office not to move asylum seekers without good cause and proper notice.

- Accessible housing – ensuring proper consideration of disabled people's rights in a housing context, giving them a voice to have those rights recognised and, if necessary, enforced.

- Black, Asian and Minority Ethnic people, young people, asylum seekers and refugees, and other minority or disadvantaged groups' access to affordable housing – local authorities would need to consider the needs of particularly disadvantaged groups in the development of local strategies and the supply of affordable homes.

- Resource – pushing housing up the policy priority list and in turn ensuring increased focus of resource and investment, tackling the chronic under-supply of housing as well as support services.

2.9 Wales is already in the early stages of the right to adequate housing. The Welsh Government has progressively taken policy action toward tackling homelessness, providing affordable housing, and accelerating the decarbonisation of the existing housing stock. The

commitment to reform homelessness services focussing on prevention and rapid rehousing is laudable. The Welsh Government should follow this up by making the right to adequate housing a reality.

RECOMMENDATION 4: Welsh Government to continue action toward tackling homelessness, providing affordable housing, and accelerating the decarbonisation of the existing housing stock.

REFUGEES AND THE RIGHT TO ADEQUATE HOUSING IN PRACTICE

2.10 Evidence brought forward by refugees suggests discrimination by landlords. They do not accept refugees on the grounds of their status or because they are on benefits. Further, refugees are less likely to know their rights as contract holders and are, therefore, at risk of being exploited by landlords. The accountability bodies must be aware of this and be prepared to tackle these issues to ensure the right to adequate housing. Cultural sensitivities must also be taken into account.

2.11 The need for a guarantor is a significant barrier faced by refugees in accessing the private rented market. As a result, they are limited in where they can live. We would argue that in this context, the guarantor requirement is discriminatory and that it should be eliminated or modified to ensure refugees' rights to adequate housing.

2.12 Similarly, deposits and several months' advance rent payments are simply impossible for many refugees, which limits their options further. This should also be addressed to attain the right to adequate housing for refugees.

RECOMMENDATION 5: Welsh Government to work to end discriminatory practices against refugees in the rental market. These include guarantors, deposits, and several months' advance rent payments.

3. IDENTIFY ANY CHALLENGES AND BARRIERS TO TAKING THIS POLICY FORWARD

3.1 The main barriers to implementing the right to adequate housing are the political will and cost. The right to adequate housing will not be achieved from one day to the next, not even during a Senedd term, it is a process, not an event.

THE HOME OFFICE AND ASYLUM SEEKER ACCOMMODATION

3.2 In terms of specific barriers to asylum seekers and refugees, there are UK Government and Home Office policies which extend into Wales, often affecting devolved areas. Immigration policy is not devolved. As a result, even if housing is devolved, some decisions that will affect asylum seekers and refugees' housing status could potentially not be covered by a Welsh right to adequate housing. This is especially true for asylum seekers. For Wales to truly be a Nation of Sanctuary, everyone must be given the right to adequate housing.

3.3 For the most part, asylum seekers in Wales are housed by the Home Office, or, more specifically, Clearsprings Ready Homes. Properties managed by Clearsprings have been criticised for their poor conditions and overcrowding.^{xii xiii} Recently, asylum seekers have been housed in hotels.

Case study 3

“In my experience, asylum accommodation is not provided in a hygienic manner. When I moved to my Section 98 house, it was so unclean and the radiators were not working. We had no utensils or anything to clean with. I didn't receive my ‘Aspen Card’ for 20 days, so had no money to buy things. For 20 days, I survived on coffee and water. When I reached out to my Housing Manager, they were so rude and said ‘you have to survive like this’. The house was not appropriate. It was damp and was cold all the time. Housemates were rude to me and created more mess. It felt like there were all these issues and nobody to reach out to. The House Manager was not empathetic towards us. They gave the impression they thought we should be grateful just to have a house. Not everyone, but there are people who have no empathy, who don't treat you like humans, who just treat you like you came into their country just to ask for shelter or a job.”

3.4 The Home Office can also move asylum seekers from one property to another, sometimes in different local authorities. Asylum seekers who have been moved this way have highlighted the impact this has had on their mental health. Families with school-age children have to regularly re-register children in new schools, which has a detrimental effect on their educational outcomes and development. These go against the right to adequate housing.

3.5 To overcome this significant barrier to the right to adequate housing for asylum seekers, the Welsh Government should explore constitutional procedures to clarify this grey area between devolved and non-devolved policy.

3.6 If constitutionally possible, the Home Office must follow the Welsh Government's right to adequate housing frameworks. Home Office asylum accommodation in Wales must be of a higher standard, the use of hotels to house asylum seekers permanently must be stopped, and moving asylum seekers between properties must be restricted. One possible solution is for the Welsh Government to request the management of all Home Office accommodation in Wales, or at least, some powers in deciding who manages those properties.

RECOMMENDATION 6: Welsh Government to ensure that the Home Office must follow its right to adequate housing frameworks.

CHALLENGES FOR NEWLY GRANTED REFUGEES

3.7 Once an asylum seeker receives a positive outcome, they are given 28 days to leave their Home Office accommodation. This 28-day period is shorter than the 56-day local authority's duty introduced by the Housing (Wales) Act 2014 or the 6-month no-fault eviction (s.21) of the Renting Homes (Wales) Act 2016. Again, this is another grey area of

devolved and non-devolved policy. To provide the right to adequate housing to all, these inconsistencies must be clarified.

3.8 In this 28-day period, newly granted refugees will have to open a bank account, try and set up benefit payments, find a job, secure accommodation, etc. Under the current housing crisis, 28 days are not enough to find accommodation, especially for refugees.

3.9 Because of the limited job opportunities and the short 28-day eviction period, newly granted refugees are often destitute and become homeless.^{xiv} Under a Welsh right to adequate housing, the Home Office and the Welsh Government should ensure that no newly granted refugee is evicted into homelessness.

RECOMMENDATION 7: UK Government and Welsh Government to ensure that no newly granted refugee is evicted into homelessness.

4. CONSIDER THE IMPACT A RIGHT TO ADEQUATE HOUSING WOULD MAKE ACROSS WELSH HOUSING POLICY

4.1 Overall, the right to adequate housing would have a positive impact across Welsh housing policy. It would also have a significant positive impact on other areas, such as the criminal justice system and health.

THE COST-BENEFIT OF THE RIGHT TO ADEQUATE HOUSING

4.2 Research has found that investing £5 billion in ending homelessness and improving housing adequacy can generate £11.5 billion in economic and social benefits over a 30-year period.^{xv} In other words, spending £1 to provide adequate housing in Wales will generate £2.30 in benefits to beneficiaries and society.^{xvi} The financial model used divided the economic and social benefits over a number of areas.

4.3 NHS Wales, the largest recipient of Welsh Government funding, could save around £1 billion over a 30-year period with the introduction of the right to adequate housing.^{xvii}

4.4 The improved well-being of households resulting from the move from homelessness to secure housing along with reduced housing hazards because of housing adaptations is estimated to be around £5.5 billion over a 30-year period.^{xviii}

4.5 The economic outputs produced as a result of previously homeless individuals moving into employment are estimated to be around £900 million over a 30-year period.^{xix}

4.6 The savings produced due to reduced contact of homeless households with the criminal justice system are estimated to be around £1.3 billion over a 30-year period.^{xx}

4.7 In addition, there are a number of uncoded benefits:

- a healthier Wales and its contribution to a sustainable future for NHS Wales
- reduced crime, thus fewer victims of crime and enhanced community safety

- more positive educational outcomes, which could further lead to increased lifetime earnings for children^{xxi}

WELSH GOVERNMENT COMMITMENTS

4.8 The progressive realisation of the right to adequate housing would ensure continual investment in the housing sector. This additional funding would enable longer-term budgets and funding plans for stakeholders. In turn, these would provide more job security in what is currently a very volatile sector. The present struggles to recruit would be mitigated.

4.9 The need to build more affordable and social accommodation would have a positive knock-on effect on the Welsh economy and in a variety of sectors. It would also create new jobs. Similarly, the need for accountability to ensure the right to adequate housing is retained would create more jobs.

4.10 Introducing the right to adequate housing would mean that some of the recommendations and objectives of the *Ending Homelessness High Level Action Plan* or the Welsh Government's own *Programme for Government 2021-2026* would be met. It would also meet many of the actions and goals of the Well-being of Future Generations (Wales) Act 2015:

- a prosperous Wales
- a resilient Wales
- a healthier Wales
- a more equal Wales
- a Wales of cohesive communities

4.11 The right to adequate housing would be a further step in making Wales a Nation of Sanctuary. The Welsh Government's Nation of Sanctuary plan seeks "to prevent the most harmful problems experienced by refugees and asylum seekers in Wales".^{xxii} Adequacy and security of tenure, provided by the right to adequate housing, would undoubtedly prevent a significant portion of these harmful experiences.

ⁱ Alma Economics, The right to adequate housing in Wales: the evidence base (December 2021)

ⁱⁱ Ibid

ⁱⁱⁱ Alma Economics, The right to adequate housing in Wales: cost-benefit analysis (September 2022), p. 2

^{iv} Office of the United Nations High Commissioner for Human Rights, The Right to Adequate Housing, Fact Sheet No. 21/Rev.1, p. 16

^v Joy Kent, Tai Pawb, Refugee Housing and Support Feasibility Study (May 2019), p. 6

^{vi} The Bevan Foundation, Wales' Housing Crisis: making the LHA work for Wales (March 2022), p. 1

^{vii} The right to adequate housing in Wales: the evidence base, p. 3

^{viii} The right to adequate housing in Wales: the evidence base, p. 4

^{ix} The right to adequate housing in Wales: the evidence base, p. 5

^x Ibid

^{xi} The right to adequate housing in Wales: the evidence base, p. 6

^{xii} James Williams, BBC Wales, Poor asylum seeker housing conditions criticised (4 December 2016)

^{xiii} BBC Wales, 'Overcrowding' at asylum seekers' Lynx House, Cardiff (29 January 2016)

^{xiv} NACCOM, Mind the Gap: Homelessness Amongst Newly Recognised Refugees (May 2018), p. 7

^{xv} The right to adequate housing in Wales: cost-benefit analysis, p. 16

^{xvi} Ibid

^{xvii} Ibid

^{xviii} Ibid

^{xix} Ibid

^{xx} Ibid

^{xxi} Ibid

^{xxii} Welsh Government, Nation of Sanctuary – Refugee and Asylum Seeker Plan (January 2019)