

Agenda – Local Government and Housing Committee

Meeting Venue:

Committee Room 5

Meeting date: 23 March 2023

Meeting time: 08.45

For further information contact:

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Pre-meeting (08.45 – 09.00)

- 1 Introductions, apologies, substitutions and declarations of interest**
- 2 Local Authority Library and Leisure Services – evidence session 1**
(09.00 – 10.30) (Pages 1 – 34)
Jennifer Huygen, Head of Policy and Strategic Partnerships, Community Leisure UK
Owen Hathway, Assistant Director for Investments, Insights, Policy and Public Affairs, Sports Wales
Glenn Bowen, interim Chief Executive, Cwmpas
Lyn Cadwallader, Chief Executive, One Voice Wales
- 3 Motion under Standing Order 17.42(ix) to resolve to exclude the public from the following items of the meeting: 4, 5, 6 and 11**

Break (10.30 – 10.40)

- 4 Consideration of the evidence received under item 2**
(10.40 – 10.55)
- 5 Consideration of terms of reference – private rented sector inquiry**
(10.55 – 11.05) (Pages 35 – 37)



- 6 Consideration of Supplementary Legislative Consent
Memorandum (Memorandum No 6) for the Social Housing
(Regulation) Bill**
(11.05 – 11.15) (Pages 38 – 41)
- 7 The Right to Adequate Housing – evidence session 3**
(11.15 – 12.15) (Pages 42 – 75)
Faye Patton, Policy & Project Manager, Care and Repair Cymru
Laura Courtney, Head of Policy and External Affairs, Community Housing
Cymru
Jim McKirdle, Housing Policy Officer, Welsh Local Government Association
- Lunch (12.15 – 13.00)**
- 8 The Right to Adequate Housing – evidence session 4**
(13.00 – 13.45)
Dr Beth Watts–Cobbe, Heriot–Watt University
Dr Jessie Hohmann, University of Technology Sydney
- 9 The Right to Adequate Housing – evidence session 5**
(14.00 – 14.45) (Pages 76 – 83)
Professor Simon Hoffman, Swansea University
Dr Koldo Casla, University of Essex
- 10 Papers to note** (Page 84)
- 10.1 Letter from the Finance Committee in relation to the Welsh Government draft
budget 2023–24**
(Pages 85 – 86)
- 10.2 Letter from Business Committee in relation to Supplementary LCM
(Memorandum No.5) for the Social Housing (Regulation) Bill**
(Pages 87 – 88)

11 Consideration of the evidence received under items 7, 8 and 9
(14.45 – 15.00)

Document is Restricted



Inquiry into Local Authority Library and Leisure Services | Evidence from Community Leisure Wales | 13 March 2023

About us

Community Leisure Wales is a membership association representing leisure and culture trusts, which are registered charities, societies or community interest companies (with a public benefit asset lock) managing public leisure and/or culture services in partnership with their Local Authority for communities across Wales¹.

The current state of local authority leisure and library service provision

Not all leisure and library service provision is managed by local authorities themselves. In most cases, the service is managed by charities and social enterprises, known as leisure and culture trusts, who are all non-profit distributing organisations. They have a contractual partnership with the local authority to manage the library and leisure services.

For local authority library service provision, in four out of 22 local authorities, this is managed by culture trusts.

For local authority leisure service provision, in eleven out of 22 local authorities, this is managed by leisure trusts. In the remaining local authorities, there is a mixture of models for public leisure – two local authorities have set up their own Local Authority Trading Company (LATC), one local authority works with an operator that is part of a complex trading structure, and the remaining local authorities manage the service in-house.

Three Trusts manage both the library and leisure provision.

Further, in all local authorities there are independent leisure and culture facilities that may be managed through a registered charity or other social enterprise model, such as the Canolfan Carwyn Sports Centre who now manage the venue after a community asset transfer from the local authority. These 'single site' operators provide a vital resource and opportunity for people to be active in their community.

The below table gives an overview of the public leisure and library services delivery models for Wales.

¹ Community Leisure Wales member trusts are: Aneurin Leisure (Blaenau Gwent), Aura Leisure & Libraries (Flintshire), Awen Cultural Trust (Bridgend), Canolfan Carwyn Sports Centre (Carmarthenshire), Celtic Leisure (Neath Port Talbot), Freedom Leisure (Powys, Wrexham, Swansea), GLL (Cardiff), Halo Leisure (Bridgend), Newport Live (Newport), Torfaen Leisure Trust (Torfaen), Wales National Pool Swansea (Swansea), and Wellbeing@Merthyr (Merthyr Tydfil).

Local Authority	Leisure Provision	Library Provision
Blaenau Gwent	Aneurin Leisure (Trust)	Aneurin Leisure (Trust)
Bridgend	Halo Leisure (Trust)	Awen Cultural Trust (Trust)
Caerphilly	In-house	In-house
Cardiff	GLL (Trust)	In-house
Carmarthenshire	In-house	In-house
Ceredigion	In-house	In-house
Conwy	In-house	In-house
Denbighshire	Denbighshire Leisure (LATC)	In-house
Flintshire	Aura Leisure & Libraries (Trust)	Aura Leisure & Libraries (Trust)
Gwynedd	Byw'n Lach (LATC)	In-house
Isle of Anglesey	In-house	In-house
Merthyr Tydfil	Wellbeing@Merthyr (Trust)	Wellbeing@Merthyr (Trust)
Monmouthshire	In-house	In-house
Neath Port Talbot	Celtic Leisure (Trust) ²	In-house
Newport	Newport Live (Trust)	In-house
Pembrokeshire	In-house	In-house
Powys	Freedom Leisure (Trust)	In-house
Rhondda Cynon Taff	In-house	In-house
Swansea	Freedom Leisure (Trust)	In-house
Torfaen	Torfaen Leisure Trust (Trust)	In-house
Vale of Glamorgan	Legacy Leisure (complex trading structure)	In-house
Wrexham	Freedom Leisure (Trust)	In-house

Financial and operational challenges

Public leisure and library services had not yet fully recovered from the impact of the Covid-19 pandemic when the cost-of-living crisis hit last year. For the current financial year, ending March 2023, 80% of our members project a deficit outturn at year end³ with an anticipated combined deficit of over £5.4 million for only leisure trusts. The impact of inflation on leisure and culture was recognised by the Culture, Communications, Welsh Language, Sport, and International Relations Committee, which concluded that Welsh sports and cultural venues need urgent help⁴.

² The Council made the decision in 2022 to insource the public leisure service following a two-year tendering process. Due to the cost-of-living crisis and costs associated with the transfer, the Council has now postponed the transfer for another year.

³ We identified four underlying challenges: changed income levels from customers; local government budgets; increased costs in utilities; and increasing investment in pay awards. The full report is available on our website:

<https://communityleisureuk.org/work/latest-sector-landscape-reports/#wales-crisis>

⁴ Welsh Parliament Culture, Communications, Welsh Language, Sport, and International Relations Committee. Increasing costs Impact on culture and sport November 2022. Available at: <https://business.senedd.wales/mglIssueHistoryHome.aspx?lId=39879>

There are four key pressure points that are particularly challenging for public leisure and library services.

1) Public return to public leisure and library services

For leisure, while usage of facilities is recovering, with an average of 86% usage of public leisure (excluding swimming) when compared to pre-Covid visitor numbers, this does not correspond to a full return of income. Not only has the return level of customers stabilised, and therefore income has stagnated, but the number of people on concessionary or pay-as-you-go membership has increased. This reflects the impact of cost of living and the reduction in disposable income of the public.

To illustrate, one member stated that their visitor numbers are 102% compared to pre-Covid, but their general income is still 10% lower than pre-Covid as 80% of their current gym and fitness membership is on a concessionary rate. The exceptions are swimming lessons, where there is a strong return with some still working on waiting lists and backlogs from the pool closures during the pandemic.

For library services, footfall is slowly recovering but not yet back to pre-Covid levels. As many libraries share their facilities with other community services, such as the Council support office, it is difficult to count how many people come in for library services only, as the footfall is measured by the total number of people who come through the doors. However, while the footfall in libraries may be slower, the number of virtual issues of books and home delivery is seeing a higher demand.

2) Management fees and Council budgets

Leisure and culture trusts receive a management fee from their local authorities to manage the services on their behalf. However, the majority of these contributions have remained flat, a real terms reduction, or they have decreased in the past few years⁵. This trend forced operators to be more reliant on income from trading which is also reduced, making them now victims of their own success, and therefore leaving little to invest back into the service or to manage the increased expenditure. While the 7.9% increase in funding from the Welsh Government, which is around £400m, is welcomed, tough decisions will remain, given Welsh local government is facing a £784m budget black hole next year⁶.

3) Pay awards

Leisure and culture trusts have increased wages over the past 12 months beyond normal pay awards in order to recruit and retain staff. While 45% of Trusts receive financial support from their local authority partner to manage pay differentials and

⁵ Changes in the value of management fees froze during the pandemic in recognition of the financial challenges to operators, but have now continued in line with earlier targets from Councils.

⁶ Welsh Local Government Association. "Hopeful of continuation of Welsh Government's commitment to local services". Available at: <https://www.wlga.wales/hopeful-of-continuation-of-welsh-government%E2%80%99s-commitment-to-local-services>

inflation (either through management fees linked to the Consumer Price Index or additional funding support from the Council to cover pay rises), there are significant pressures regarding affordability, especially for the majority that receive no support.

To illustrate, our members in Wales work closely with trade unions and work to ensure pay is in line with increases in National Living Wage and ensure pay differentials. In the case of one Trust, this will add over £500k to the expenditure bill for 2023/24. Another Trust informed us that their end of year deficit budget of £300k is mostly caused by realigning pay scales to ensure there is no erosion of pay differentials between staff.

Due to the significant increase in the National Minimum/Living Wage (9.7% from April 2023), many Trusts will struggle to match this across the organisation. They will therefore prioritise those on NMW/NLW with a tiered pay award across the rest of the organisation. Unfortunately, this will result in further erosion of the differentials between salary grades.

4) Investment in decarbonisation

Leisure and culture trusts continue to review opportunities for decarbonisation as a key priority. While it will not solve the current, immediate pressures, they are working closely with local authorities to access the Welsh Government's Free Energy Service and are actively using the capital investment opportunities from Sport Wales to future proof the service.

However, while leisure facilities are consistently in the top 5 most carbon intensive buildings in a local authority area⁷, and up to two thirds of the building stock is past its replacement date, leisure trusts are unable to make further investments without sustainable financial support into their services due to the large costs involved and their current financial position.

Local authority arrangements and exit strategies

If a local authority with inhouse leisure or library services wants to move to a leisure or culture trust model, they can do so without the need to go through a competitive procurement process as leisure and culture trusts are core, or "anchor", local and regional public benefit community institutions, with no other competitors delivering the same services. They are purpose-aligned with commissioning public authorities and may, on that basis, in reality, be properly recognised as distinct from commercial market suppliers. The formal procurement requirement is the "Negotiated Procedure", meaning agreeing a contract which is objectively fair and reasonable from the public sector perspective⁸.

⁷ As identified through the 'opportunity identification' of the Welsh Government Energy Service.

⁸ Stone King. Leisure and Culture Trusts and Progressive Public Sector Commissioning: a Paper Commissioned by Community Leisure UK. Available at:

Strong partnership and an agreed joint focus on local outcomes between a local authority and their delivery partner i.e. leisure or culture trust will inform a Service Plan with mutually agreed targets and expectations.

For local authorities that work with a leisure and/or culture trust, there are direct and indirect financial risks and consequences to consider if they are contemplating an alternative model.

There are two main parts of this process:

1. The costs and timeline of the service transfer to a different delivery model;
2. A robust options appraisal outlining the advantages and disadvantages of different models.

Undertaking a full procurement exercise including transfer would take at least 18 months and incur significant costs and management resources. There are two options without the need to undertake a competitive procurement process; either bringing the service in-house or establishing a Local Authority Trading Company (LATC). However, in both cases, the insourcing process has significant set up costs, as well as ongoing increased delivery costs as compared with an outsourced model.

Advice from the Local Government Association in England and the lessons learned from local authorities who have gone through changing their delivery model highlight that exhausting all options to maintain the existing operator should be the first step⁹. This includes exploring terms that could make the existing contractual relationship more viable.

Moreover, section 16 of the Social Services and Well-being (Wales) Act 2014 places a duty on local authorities to 'promote development of Social Enterprises to provide care and support and preventative services'. In light of this, the Auditor General for Wales has evaluated how local authorities work with social enterprises, in which it concluded that "Social Enterprises can provide important services, but most local authorities lack a coherent strategy and are not working collaboratively to help support their growth and development"¹⁰.

If, after careful consideration, the local authority decides to go ahead with an exit strategy and change delivery models, there is a long checklist available to assist with the transfer process¹¹.

<https://communityleisureuk.org/wp-content/uploads/2022/07/Leisure-Trusts-and-Progressive-Commissioning.pdf>

⁹ Local Government Association. A guide to the emergency insourcing of leisure services. Available at: <https://www.local.gov.uk/publications/guide-emergency-insourcing-leisure-services#>

¹⁰ Audit Wales. 'A missed opportunity' – Social Enterprises. Available at: <https://www.audit.wales/publication/missed-opportunity-social-enterprises>

¹¹ See footnote 9, Appendix B: Transfer checklist.

As part of the transfer of service from an outsourced provider to an in-house delivery model i.e. insourcing, below are some of the key considerations, though this is not an exhaustive list:

- Set up and mobilisation costs and resources including human resources and TUPE transfer management, IT systems and licenses, operational systems and policies, health and safety policies and procedures, maintenance and utilities management systems, sales, marketing and communications development, finance and administration systems and project management.
- Allocation of risk, specifically operational and commercial.
- Service disruption.

In the case of a new LATC, there would be additional resources required to establish governance policies and additional legal costs¹².

Once the transfer is complete, it is important to consider that moving away from a leisure or culture trust model to an in-house delivery, will come with a significant change in the ability of the service to access efficiencies. While there has been a recent change in legislation to VAT treatment of local authority leisure services¹³ which allows local authorities to apply the non-business treatment to their supplies of leisure services, there are still significant cost benefits to the leisure and culture trust model that will be lost. What makes leisure and culture trusts a more favourable model from a tax perspective, is the 80% NNDR charitable relief. This will no longer be accessible if the Local Authority decides to run the public leisure and/or library services in-house.

In addition, the following needs to be considered when changing from a charitable trust model to in-house delivery of public leisure and library services:

- Future operational costs including lower levels of income generation, and higher procurement costs.
- Increased employee costs, including alignment with local authority pay scales and terms and conditions, and the absorption of pension liabilities.
- Loss of access to charitable relief, including Gift Aid and other benefits.

We caution local authorities to not make decisions based solely on cost management but instead focus on the delivery of leisure and culture as public services. Changing contracts from a leisure or culture trust to an alternative model is unlikely to support Councils with their budget pressures nor will it increase the investment going to public leisure and culture services.

¹² See "Phase two - Transfer preparation" of the emergency insourcing of leisure services guidance linked in footnote 9.

¹³ UK Government. Policy paper. Changes to VAT treatment of local authority leisure services.

Available at:

<https://www.gov.uk/government/publications/revenue-and-customs-brief-3-2023-changes-to-vat-treatment-of-local-authority-leisure-services/changes-to-vat-treatment-of-local-authority-leisure-services>

This is especially relevant in Wales with the Welsh Government's recent publication *A toolkit for insourcing in Wales*¹⁴. As highlighted in the guidance, insourcing should not undermine foundational economy objectives and the value of social enterprise and cooperative models should be recognised. The guidance states:

"Nurturing the third sector, including social businesses, not-for-profit enterprises, and democratic businesses such as worker-owned co-operatives, is key to maximising the benefits of a foundational economy approach. These organisations, provided they sit within a generative business structure, are hardwired to redistribute surplus and benefits locally, so increasing their prominence in the economy, locks more wealth and benefits into local communities. " (p. 18)

Therefore, a blanket approach to insourcing as an "exit strategy" would neglect to consider the charitable purpose of leisure and culture trusts as the Trust model is a charitable third sector approach to service delivery.

Integration with other services provided by local authorities

Most leisure and culture trusts have strong partnerships with local educational institutions and schools. They provide adult education schemes in libraries and other community venues, early years provision, and school holiday programming of various arts, sports and physical activities including adaptations of Streetgames' Fit and Fed programme.

To illustrate, Aura Leisure & Libraries delivered the Fit Fed and Read programme in summer 2022. The aim of Fit and Fed is to create opportunities for physical activity, and promote a healthy diet by providing healthy snacks at the end of each session. Back in 2021, Aura colleagues decided to add an additional library element to the sessions which focuses upon reading and creativity. The feedback from communities for this project has been really positive. The headline figures showing 5,480 attendances with 2,875 meals served over 110 Volunteering hours, engaging with 10 different partners and 100+ meals to homeless shelters¹⁵.

As leisure and culture trusts operate a wide portfolio of facilities and programmes beyond traditional leisure centres and libraries, including theatres, visitor attractions, country parks and community centres, they integrate more physical activity and cultural elements of their work, integrating this with wider economic development plans of their local authorities. For example, Wellbeing@Merthyr are working with local partners and are represented on local active travel and tourism boards.

¹⁴ Welsh Government. A toolkit for insourcing in Wales. Available at: <https://www.gov.wales/a-toolkit-for-insourcing-in-wales-html>

¹⁵ For more information, please visit Aura Leisure & Libraries website: <https://aura.wales/looking-back-on-a-summer-of-fit-fed-and-read-sessions-with-aura-wales/>

Further, public leisure and library services integrate care into communities. Their portfolio not only provides reliable infrastructure across Wales to keep people well nearer to home, away from clinical settings, but also considers people's personal preferences, needs and ability to engage. Their programmes and activities:

- i. *reduce inequalities in ill health* by providing access to tailored and supervised physical activity and cultural activity that improves people's physical and mental health.
- ii. *reduce the time patients spend in hospitals & in NHS care* through prehabilitation, rehabilitation, and preventative services.

We set out how this integrated and collaborative approach is supported by leisure and culture trusts in our joint report with the Welsh NHS Confederation¹⁶.

In addition, Wales is fortunate to have a National Exercise Referral Scheme (NERS), funded by Welsh Government, which standardises exercise referral opportunities across all local authorities and local Health Boards¹⁷. NERS is managed locally by leisure trusts and their workforce, providing an opportunity to the health sector to offer a person-centred approach to healthy living considering personal preferences, needs and ability to engage. The scheme is an evidenced based health intervention that incorporates physical activity and behavioural change. The aim of NERS is to reduce the inequalities in ill health by providing access to tailored and supervised physical activity.

In addition, as part of their preventative and person-centred approach to health, leisure and culture trusts manage social prescribing programmes. Social prescribing enables health professionals to refer people to a range of local, non-clinical services, offering a holistic way to health and enabling people to take greater ownership of their own health. Examples include exercise referral, arts and culture activities, books on prescription, gardening, health walks, and a range of sport activity.

Finally, leisure and culture trusts are a key partner for local government and contribute significantly to local authorities' statutory duties under the Wellbeing of Future Generations Act¹⁸. The application of the Act warrants the inclusion of leisure and culture trusts, not least because of the recognition it gives to arts, culture, sport and leisure as the wider determinants of health, but because the trust model is founded on cross-subsidy to ensure those communities who are in most need of inclusive activities and services, can access them. Trusts:

¹⁶ Welsh NHS Confederation. Leisure and culture trusts health and wellbeing support to the NHS in Wales. Available at: <https://www.nhsconfed.org/publications/leisure-and-culture-trusts-health-and-wellbeing-support-nhs-wales>

¹⁷ Public Health Wales. Wales National Exercise Referral Scheme. Further information at: <https://phw.nhs.wales/services-and-teams/wales-national-exercise-referral-scheme/>

¹⁸ For more information, please see our 2019 response to the consultation on *Our Future Wales*. Available at: <https://communityleisureuk.org/work/policy-strategy/#future-wales>

- i. cross-subsidise services i.e. more profitable activities will subsidise other health and community outreach work, and;
- ii. cross-subsidise access i.e. using income from those who can afford to pay is used to support reduced cost or free activities for those with less disposable income.

Perceived benefits of alternative models of service delivery in Wales

As evidenced earlier, half of all public leisure delivery and local library services in four local authorities in Wales is managed by leisure and culture trusts. Working through the Trust model allows the local authority to focus on other services while being assured that the public leisure and culture services are being managed with the community and quality of the service at its forefront.

Research from Social Business Wales shows that 26% of all social businesses in Wales operate in the community-based arts, leisure and recreation sectors. Their analysis further suggests that most social businesses' core purpose leads them to work towards five of the seven well-being goals, including a more resilient, prosperous, equal, healthy Wales and a Wales of cohesive communities¹⁹. They highlight that:

“Social businesses are different from both classic private sector companies and traditional charities because they strike a balance between the two, looking to trade as any other business but also primarily existing to deliver on their social mission.”

Leisure and culture trusts are an example of such social business; they are non-profit distributing organisations that operate on small margins. Any profit that is generated is reinvested into providing accessible and inclusive services for communities. These organisations do not have shareholders and are not private businesses. They are governed by Trustees from the local community, are transparent and share a fundamental commitment to supporting their community.

It is important to recognise the inherent public and social value and the distinct operating environment and additional benefits offered through social enterprise and charitable trust delivery models.

As organisations dedicated to: maximisation of public benefit, within available resources; deep community integration, knowledge and engagement; promoting community employment; and concerned with service sustainability and development, rather than, exclusively, shareholder investment returns, they offer potentially greater interest and focus on and long-term commitment to community benefit, development and wealth-building. They form an integral part of the foundational economy.

¹⁹ Social Business Wales. Mapping the Social Business Sector in Wales / 2020 Census. Available at: <https://cwmpas.coop/wp-content/uploads/2022/06/3.2.7.-SBW-MAPPING-SOCIAL-BUSINESS-full-2020-ENG.pdf>

Stone King, legal experts in public benefit, social enterprise and charity, produced a briefing on progressive commissioning and stated: “Leisure and Culture Trusts, as charitable and/or public benefit companies, dedicated to such inherent Social Value, are purpose-aligned with commissioning public authorities and may, on that basis, in reality, be properly recognised as distinct from commercial market suppliers.”²⁰

Good practice to ensure sustainability of local leisure and library services

It is good practice where public leisure and library services are outsourced, for local authorities to see their relationship with the leisure and culture trust as a partnership rather than a client-supplier relationship. This includes the collaborative co-design and co-development of services to address common aims, rather than simply purchasing services at the lowest cost. Effective engagement should include leisure and culture trusts in local strategic planning.

The strategic specification for public leisure and culture should include a focus on “Public Value Imperatives”, which may include: being demonstrably purpose-driven; demonstrably community engaged; and demonstrably serving social needs, for example, in relation to well-being, health, education, social inclusion.

To ensure sustainable service delivery, local authorities need to have an ongoing commitment to sustainable funding for the service. In the case of leisure and culture trusts, this is most commonly done through management fees with an uplift linked to CPI.

Further, to future proof the service and to support the move to net zero, there will need to be separate investment into environmental efficiency. Local authorities need to actively include local leisure and library facilities in any decarbonisation efforts, and work closely with leisure and culture trusts to improve energy efficiency of existing buildings.

For example, the collaboration between Newport Live and Newport City Council saw over 2,000 solar panels installed on the rooftop at the Geraint Thomas National Velodrome in Newport after they were able to access the Welsh Government’s Free Energy Service for a full environmental audit and interest free loans²¹.

Finally, to support local authorities in their collaboration with social enterprises, there is a checklist available from the Auditor General for Wales that enables them to review their current approach and ensure alignment across departments and with the wider voluntary and community sector²².

²⁰ See footnote 8.

²¹ Egni Coop. New film launched featuring Geraint Thomas National Velodrome of Wales. Available at: <https://egni.coop/new-film-launched-featuring-geraint-thomas-national-velodrome-of-wales/>

²² See footnote 10, Appendix 2: Checklist for local authorities for effectively engaging and working with Social Enterprises

Local Authority and Library Services – Local Government and Housing Committee Inquiry

Sport Wales Response

About Sport Wales

Sport Wales is the national organisation responsible for developing and promoting sport and physical activity in Wales. We support the delivery of strategic priorities through the Vision for Sport in Wales and the Sport Wales Strategy. We distribute Welsh Government Funding and National Lottery grants; investing in elite and grassroots sport to enable sport in Wales to thrive. We want Wales to be a more active, healthier nation, with opportunities for everyone to be active.

Sport Wales is pleased to be able to respond to the Local Government and Housing Committee's Inquiry into Local Authority and Leisure Services.

The current state of local authority leisure and library service provision;

We know that local authorities' leisure provision has had a very difficult number of years, with factors from the covid crisis onwards affecting services through: difficulty in recruitment, furlough, rising energy costs, falling membership fees and fewer people feeling confident to access services.

Whilst support through the pandemic ensured that the leisure sector in Wales was comparably resilient, this has not futureproofed facility providers against the cost-of-living crisis in terms of reduced income, or the increased expenditure associated with inflation and rising energy costs. A significant proportion of leisure facilities in Wales, particularly those with swimming pool facilities, will be under pressure with changes to timetables at the very least being an inevitable consequence.

Importantly, much of the building stock is past its replacement date, and older equipment is at risk of falling into disrepair, incurring yet more costs if any closures for a period are needed. As seen in the pandemic, facilities often require a great deal of technical and health and safety assessments to reopen too.

UK Active found that public leisure generates £3.3 billion in social value in improved health, life satisfaction, and educational attainment each year, and works with some of the most vulnerable groups in our society.¹ It was also reported by Liverpool John Moores University in 2020² that a large percentage of rehabilitation services for non-communicable diseases take place in public leisure spaces. With the Welsh Government's ambition to build on social prescribing, the importance of local authority leisure stock may be increasingly important.

Not only are providers important in their communities for health and wellbeing programmes which take place on their premises, but they are also important employers in the local economy. Community Leisure UK reports that there are around 3,000 members of staff in

¹ UK Active, The Decade of Change for Public Leisure, July 2021, available at <https://www.ukactive.com/wp-content/uploads/2021/07/The-Decade-of-Change-for-PSL.pdf> (accessed 8 March 2023)

² Liverpool John Moores University, Why the fitness and leisure sector should be awarded 'essential service' status – by Professor Greg Whyte OBE, November 2020, available at <https://www.ljmu.ac.uk/about-us/news/articles/2020/11/17/unnamed-item> (accessed 8 March 2023)

local authority leisure across Wales and that a significant number of 18–30-year-olds make up the workforce.³

The financial and operational challenges facing local authorities to maintain these vital community services;

During the Covid-19 pandemic, Leisure trusts received significant support through the Hardship Fund for local government and were able to access sector-specific funding provided by Sport Wales and through the Culture Recovery Fund; a one-time round of funding.

It was expected that 2022 would be an important year for recovery for trusts and to see more people back in leisure provision, however as global pressures increased on food and living costs, physical activity and leisure activities were some of the things people felt were possible to cut from their budgets, further exacerbating the pressures on local authority leisure trusts.

There has also been a rise in energy costs. Sport Wales has responded to this challenge by opening up its capital funding streams to local authorities and leisure trusts for green energy investments, such as solar panels, which will have a positive impact on the sustainability agenda whilst also supporting reduced energy costs. However the scope of the challenge extends beyond the capacity of the capital funding available to Sport Wales.

Our Wales Activity Tracker has shown a lack of confidence post-pandemic for participants to access leisure facilities. As leisure facilities opened up from the middle of 2020 onwards, many respondents indicated that they had low confidence on attending indoor activities.⁴ We started to see some improvement in confidence as the vaccine programme was rolled out⁵, however confidence still remained low. This was driven by people with existing health conditions, older people and women.

However, even now, three years after the pandemic began, almost half of Welsh adults say they do not feel confident in indoor courts, two in five do not feel confident in studios or sports halls, and over a third do not feel confident in gyms/health and fitness suites. This trend continues to be driven largely by female respondents, as well as those who are older.⁶

Furthermore the cost-of-living crisis is also having a detrimental impact on the operation of leisure facilities. Two in five respondents to our quarterly survey say the cost-of-living crisis has had a negative impact on their ability to be active, whilst a third say they've been doing less sport and physical activity due to changes in the cost-of-living.

³ Community Leisure UK, Wales Report, Cost of living report, Public Leisure in Crisis, November 2022, available at <https://communityleisureuk.org/work/latest-sector-landscape-reports/#wales-crisis> (accessed 7 March 2023)

⁴ Sport Wales, Savanta ComRes Data, Survey 2, October 2020, available at <https://www.sport.wales/comres-research/comres-survey-2-october-2020/>, accessed 1 March 2023

⁵ Sport Wales, Savanta ComRes Data, Survey 3, March 2021, available at <https://www.sport.wales/research-and-insight/comres-research/comres-survey-3-march-2021/>, accessed 1 March 2023

⁶ Sport Wales, Savanta ComRes Data, Survey 7, January 2023, available at <https://www.sport.wales/research-and-insight/comres-research/welsh-activity-tracker-survey-7-january-2023/>, accessed 6 March 2023

This change in participation will impact on the numbers of paying customers who are able to access leisure facilities in Wales. Indeed, one in four also say that changes in the cost-of-living means they have/will switch to cheaper/free activities, whilst one in five say they will/have taken part in fewer paid activities or spend less on sports clothing/equipment.⁷

Local authority arrangements and exit strategies where alternative delivery models utilised are unsuccessful;

N/a.

How the provision of other services provided by local authorities interact with leisure and library services;

Sport Wales is implementing a flagship programme relating to its work with and investment of local authority sport delivery. The Regional Sport Partnership (RSP) model is a key element of encouraging greater collaboration of resources, expertise and opportunities among public bodies and partners in a local area.

Sport Wales is facilitating, through RSPs, partnerships that extend beyond traditional sport providers. This means bringing different local authority services together with sport and leisure, but also different partners including universities, housing associations, third sector charities, National Governing Bodies of Sport and others who can enhance and accelerate change in the sporting offer.

This change has been brought about by aligning with Welsh Government regional working policies and a desire to support opportunities which can address the stubborn inequalities in participation among different sections of the community. It is also a recognition that local authorities have myriad requirements delivering vital services to their populations, and with smart working across public bodies, charities, and enterprises delivering leisure, sport and physical activity offerings across an area should become more sustainable.

How local authorities use alternative models of service delivery in Wales, and the perceived benefits associated with them;

Many local authorities in Wales work with different bodies in their area already to deliver sport and sports development. Below are some examples of these.

Sports development provision in Cardiff is coordinated through **Sport Cardiff**, which is hosted by Cardiff MET.⁸ Sport Cardiff has programmes around community sport through which they aim to tackle inequalities and have produced an aquatics strategy with key intents for safety and learning. Their Move More Project supports less active communities through social prescribing; and junior sport to encourage healthy habits with young people.

Newport Live delivers Sport and art development as well as a range of leisure facilities and work with schools, families and other community groups on behalf of Newport County Council. They are governed by a board of trustees as a registered charitable trust and are operated on behalf of Newport City Council.

Strength Academy Wales are a social enterprise based in Haverfordwest, not for profit and for community benefit. Community work is overseen by a Board of six directors. The

⁷ Ibid

⁸ <https://www.sportcardiff.co.uk/home#>, accessed 8 March 2023

company is voluntarily managed with some part-time employed positions. They work in partnership with Pembrokeshire Leisure, supporting not only local people through various sporting pathways, but also the community, and groups from women-only activities to ageing well and learning disability sessions too. They also partner with Haverford West community school to use facilities for the community.

Leisure Trusts. Similar to Newport Live, a number of local authorities in Wales operate their leisure facilities through Leisure Trusts. Either established “in house” or commissioned out to larger UK-based Trusts such as Freedom Leisure or GLL (Greenwich Leisure Limited). There are a number of models across Wales, which include all local authority facilities or just a number of specific sites.

Good practice to ensure sustainability of local leisure and library services for future generations.

There are many different models that could work for local communities. Examples from above have identified larger UK-based trusts through to smaller community-based charities. Along with FE and HE investing in facility and community provision, example such as Cardiff MET, Swansea, Aberystwyth and Bangor Universities, all of which could provide opportunities for the wider local community as well as servicing student populations.

Actif North Wales is the first Regional Sport Partnership to launch and has a central team to manage the governance and delivery of their strategy and delivery across the region. This consists of a regional director, partnership manager and business support officer. The actual partnership consists of the six local authorities (Conwy, Ynys Môn, Flintshire, Denbighshire, Gwynedd and Wrexham) and their respective activity deliverers, as well as Public Health Wales and Betsi Cadwaladr Health Board, Glyndwr and Bangor universities, Disability Sport Wales, GwE regional school improvement service and the six housing associations.

Through this partnership they aim to deliver on their 10-year vision which is ‘everyone in North Wales being more active, leading healthier and happier lives’, as well as their 10-year mission ‘everyone in North Wales has access to safe spaces and places; diverse opportunities to be active every day’.

Many of these models are reaching out beyond traditional leisure provision and into education, their communities, and focusing on individual groups who are less active, and have less opportunity to be active.

Sport Wales is working with the other areas which will become Sport Partnerships to explore the type of working model which will be appropriate for them. The West Wales Regional Partnership is currently working towards setting up a company limited by guarantee.

The other three, Central South, Gwent, and Mid Wales are in development, and it is anticipated that they will be operational in order to receive Sport Wales funding by April 2024.

Empowered to bring about system change, they will be the catalyst to tackling two long-standing issues:

1. Ensuring there is the right support and opportunities in place for those who are not regularly physically active - with a clear focus on removing barriers for those who need most help ;

2. Taking steps to meet the high latent demand from those who are active but want to do much more.

Whichever working model is chosen, the benefits of local authorities, public bodies, charities, entities in health, housing and education working together to tackle inequalities and low participation rates in the area in which they are based is a new and exciting opportunity to improve the sustainability of physical activity and sporting offers.

Emma Henwood

Policy and Public Affairs Manager

March 2023

Local Authority Library and Leisure Services - Cwmpas Inquiry Response

Cwmpas is a co-operative economic development agency working for positive change in Wales. Our focus is on building a fairer, greener economy and a more equal society, where communities are empowered and people and planet come first.

We deliver a range of services including Social Business Wales, Digital Communities Wales, Communities Creating Homes and Community Shares Wales. In addition, we provide consultancy to a diverse range of clients. Our extensive work supporting communities and social enterprises across the country means we have unique experience and insights into how we can transform the Welsh economy, and the support communities need to lead the way.

In recent years, we have supported communities across Wales to take over management and ownership of key local assets, including within the leisure and libraries sectors. There has been a range of experiences, some which highlight the capacity within communities to save these assets and the benefits that can come these models, and some which highlight the challenges and barriers to this taking place in a successful and sustainable way.

The current state of local authority leisure and library service provision;

As noted in the Committee's introduction to the inquiry, there are several models for delivering these services in Wales, such as social enterprise, cultural trusts, community-led enterprises and LATCs. We have supported communities to save and take over local assets in different ways across the country. In a recent report, Community Leisure UK outlined that "Leisure and culture trusts operate public leisure services in 50% of all local authorities in Wales, and manage libraries in four local authority areas. They also operate parks and playgrounds, theatres, town halls and cultural centres. Collectively, they manage 115 physical buildings in communities across nearly every region in Wales, welcome over 16.6 million visits a year, and have a combined workforce of over 3000 people."¹.

How local authorities use alternative models of service delivery in Wales, and the perceived benefits associated with them;

When managed effectively in a way that develops these services and facilities as community assets, alternative models of service delivery can provide essential services and create considerable social value. These are outlined below:

Social enterprise and community-led ownership benefits

The social enterprise model creates multi-faceted benefits for communities beyond the delivery of community-based services. Our 2022 Mapping exercise has found that social enterprises across Wales produce significant social value, including improving health and well-being, supporting vulnerable people and addressing social exclusion, creating employment opportunities and providing access to services. It also found that 66% of social

¹ <https://communityleisureuk.org/work/latest-sector-landscape-reports/>

enterprises pay the UK Living Wage to all staff - considerably higher than the wider private sector.

The triple bottom line is crucial to the impact of the social enterprise model. It means that social enterprises re-invest their profits in a social or environmental mission, and prioritise making a positive impact in their communities and to the mission to combat climate change to at least the same extent as financial considerations. The social enterprise model facilitates the innovation and responsiveness of the private sector while taking the focus away from solely delivering money to stakeholders, and can be key to the development of vibrant, thriving communities.

Anchored in communities

Community-led ownership structures anchor management of assets in local communities, meaning decisions are made by those who are affected most. The "Understanding a maturing community shares market"² report explored the impact of community shares as a sustainable financing option, and found it to be an innovative, accessible investment model that has become a popular approach to raising finance. It is unique to co-operative and community benefit societies – businesses owned and run by local communities across the UK. By investing, individuals can support business and organisations important to themselves and their communities and become co-owners of the business in the process. The report found that these organisations have a 92% survival rate after 5 years, demonstrating the long-term impact and sustainability of this model of delivery.³

Community wealth building

It is also vital that we see these assets as being crucial to the wider economy. A significant, positive example of this in Wales is Awen Cultural Trust⁴ in Bridgend, which was established in 2015 as a charitable organisation with objectives to enhance cultural opportunities in Bridgend and the wider region. The people involved were highly-skilled and experienced in the cultural sector, and have made a significant impact between 2015 and 2023. Financially, the Trust has been successful, and have been able to invest £5.4m in delivering their charitable activities.

Between 2022-23, 1,908 library events have taken place aimed at improving social, digital and economic inclusion, well-being and community engagement. They develop new ideas, through innovative collaborations and partnerships. The year before, in 2021-22, 206,426 people visited the library. Awen Cultural Trust states that, "Ensuring everyone has equal access to the power and pleasure of reading, information and ideas, experiencing new ideas, getting lost in wonderful stories, meeting new people, while at the same time providing a sense of place," is central to their work.

These assets can also be crucial to wider social missions, such as fighting against digital exclusion. 28,048 hours of PC access have been provided to users by Awen Cultural Trust,

² <https://plunkett.co.uk/wp-content/uploads/community-shares-report-2020-FINAL.pdf>

³ <https://plunkett.co.uk/wp-content/uploads/community-shares-report-2020-FINAL.pdf>

⁴ <https://www.awen-wales.com/our-impact/our-outcomes/>

helping individuals to gain information important to their everyday lives, including education, work and social networks, as well as increasing employability through improved digital skills training and support.

Public health/Social prescribing

Public Health Wales have made clear that the cost-of-living crisis is having a profound impact on public health.⁵ It is vital that we see community-based library and leisure services as key assets in this context. These buildings can be community hubs, engaging and bringing communities together, reducing social isolation and improving mental health and well-being. Removing these assets and services from communities can have a profound impact on an already dangerous and worsening public health crisis, and ensuring a consistent and sustainable delivery of library and leisure services can be a key preventative measure and investment for our health and care services. This is highly relevant to the Welsh Government's exploration of social prescribing and the development of a social prescribing framework for Wales. For social prescribing to have the most impact possible across the country, it is essential that the delivery of community-based services and activities are sustainable. Social enterprise and community-led management of these assets is a potential way of ensuring that this sustainable delivery is possible.

Good practice to ensure sustainability of local leisure and library services for future generations.

Different models and contexts have taught us different lessons. It is important to note the context to the Awen Cultural Trust case study – the people involved in starting the Trust and building it from the ground-up had an extremely high level of knowledge, skills, expertise, and a supportive policy and political context, with a very positive relationship with the Local Authority. In contrast, other examples of communities coming together to run key local assets that were highly valued by local people have seen communities have to come together in an emergency capacity. These assets were previously often either failing commercially or under threat of closure due to budget cuts within local authorities at a time of austerity. This process is highly demanding of individuals' time, needs high levels of skill and capacity, often involves considerable financial commitments and even taking on serious liabilities.

We must not presume that community ownership is an easy answer to budgetary pressures within local authorities. To maximise the benefits of community ownership and management, this must be facilitated in a way that nurtures and supports community groups within a wider framework of community wealth building. Specialist support for community groups, as well as networks to promote best practice, would be essential to developing this form of public service delivery across Wales in a sustainable way. The best examples of this across Wales are when local authorities, other public bodies, or key institutions such as housing associations have taken a leadership role, facilitating communities to develop their own role in a sustainable and proportionate way.

⁵ <https://phw.nhs.wales/news/cost-of-living-crisis-a-public-health-emergency/>

Document is Restricted

Agenda Item 6

By virtue of paragraph(s) ix of Standing Order 17.42

Document is Restricted

Agenda Item 7

By virtue of paragraph(s) ix of Standing Order 17.42

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1. **Examine how incorporating the right to adequate housing into Welsh law would work in practise**

Care & Repair Cymru is Wales' Older People's Housing Champion. Every day, Care & Repair sees older people in Wales living in unfit and unsafe housing, with few opportunities to improve their situation. Older people are more likely than any other demographic to own their own home. The rising cost-of-living and a shortage of contractors have contributed to the deterioration and disrepair of many properties. Without Care & Repair's intervention, thousands of vulnerable older adults are increasingly at risk due to unfit, unchecked and unresolved housing issues.

For Care & Repair, the right to adequate housing has always been at the heart of what we do. Ensuring all older people in Wales have access to homes that are safe, warm, suitably adapted to their needs, and supports them as they age is our priority. In 2021-2022, Care & Repair provided support to 56,897 older people across Wales, completing over 58,000 individual works for older people in Wales to enable them to live safely and independently in their own home.

Immediate, practical solutions to help solve housing disrepair:

In January 2023, Care & Repair published a new report '*The State of Older People's Housing in Wales*'¹. This report draws on the experiences of Care & Repair staff, including our Technical Officers who are responsible for fitting adaptations and facilities as required. The report highlights the urgency of thousands of older people living in inadequate housing right now, today, in Wales. Nearly 1 in 5 homes in Wales have a Category 1 Hazard present, rising to nearly 1 in 3 for homes built before 1919. With Wales having a median EPC (Energy Performance Certificate) rating of Band D, the need for energy efficiency and home insulation is key to protecting energy bills and health. Our clients tend to be low-income, and the cost-of-living crisis means they are even less likely to be able to afford work in a volatile environment, so they have no choice but to turn to Care & Repair. A long-term ambition to incorporate the right to adequate housing must be supplemented with a series of practicably implemented policy solutions implemented over the short and medium term. For this reason, Care & Repair are calling for a safety net grant to tackle disrepair in owner occupied and private rented tenures for vulnerable older people who would otherwise have to live in unfit housing.

Mandatory accessible housing targets:

Wales has already adopted a 'Lifetime Homes' approach through its Beautiful Homes and Spaces quality standards for affordable homes. Despite this, only one out of 22 Local Authorities in Wales has an accessible housing building target. However, the standard mostly applies to new builds. Many Care & Repair clients will not move home again in their lifetime, unless to seek residential care or supported living. Welsh Government cannot overlook owner occupiers with changing needs throughout the life course when it comes to accessible housing. By 2035, 58% of people over 65 are predicted to have a mobility impairment. Without forward

planning and investment based on population need, the Welsh housing stock will be increasingly unfit for purpose for an ageing population with increasingly complex needs.²

In practise, the creation of accessible housing must be a key feature in allowing equal access to adequate housing for those with physical adaptation needs. Disabled people are disproportionately and systemically locked out of housing options due to a lack of accessible homes that are adapted to their needs, or the cost of creating a home that is suitable for their needs is seen as unviable. *‘Locked Out: liberating disabled people’s lives and rights in Wales beyond COVID-19’* comments on the necessity to provide housing adapted to suit the needs of disabled people:

‘Urgent financial support is needed for disabled people who require adaptations to their living spaces and for disabled homeowners to retain their adapted properties. In the long-term, we recommend more research and analysis is undertaken into the barriers to high quality housing and home ownership for disabled people in Wales, particularly those in receipt of benefits relating to disability/long-term health conditions.’

We believe there should be a specific requirement on all Local Authorities to commit to creating an accessible housing building target. This will mean that disabled people and people needing adaptations will have a greater choice of housing options and locations and will be able to access suitable housing in their chosen community.

Review of Disabled Facilities Grants (DFGs) means-test removal to support accessible housing demand:

In April 2021 Welsh Government issued guidance for Local Authorities to remove the means test for small and medium DFGs across Wales under Regulatory Reform Order 2002. We asked our Care & Repair Agencies whether, as of February 2023, this guidance had been adhered to in their local area with mixed results:

- Ten local authorities had removed the means test. Some of these local authorities have reached capacity and have stopped accepting applications.
- Five local authorities had removed the means test up to a certain value, ranging from between £8,000 and £16,000.
- One local authority had removed the means test but reinstated it due to over demand for the grant.
- Six local authorities still apply the means test entirely.

Alongside this announcement, Welsh Government increased the Enable grant by £400,000 to £4.4million. From our scoping exercise, it is clear that Welsh Government guidance on the

removal of the means test is not being followed in some areas, and where it is, capital funding and capacity issues are meaning there is a postcode lottery of accessibility for DFGs across Wales, despite good intentions.

Incorporating existing policy levers to maximise opportunity:

Wales already has some policy levers at its disposal to integrate the right to adequate housing. Incorporating this right into Welsh law is fundamental to creating a Wales that is meeting the seven goals of the Wellbeing of Future Generations Act (2015). This right addresses each of the seven goals, which are regarded as pillars for creating a Welsh society fit for now and the future.

The UN Covenant gives the definition of ‘adequate’ as ‘... *the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.*’³ Whilst this inquiry is primarily focussed on the provision of adequate housing, there is the opportunity for us to consider the place of adequate housing in a wider context for Wales and create spaces that addresses all the above. For Care & Repair, there must be a clear definition of ‘adequate’ to be used and applied across sectors and legislation, to ensure that there is no miscommunication or misapplication of the wording to provide substandard or unsuitable housing.

The Office of the High Commissioner for Human Rights (OHCHR) has stated that ‘*Under international law, to be adequately housed means having secure tenure—not having to worry about being evicted or having your home or lands taken away. It means living somewhere that is in keeping with your culture, and having access to appropriate services, schools, and employment.*’⁴ This security of home, to be fully equitable, must be afforded to all housing and tenure types under the right to adequate housing. For older owner-occupiers, this means the right to stay in their home for as long as they choose and are empowered and supported to do so. This means they are not forced to move into another house, care homes or other accommodation against their will, and are protected should they refuse. This right would support many of the Principles in the United Nations Principles for Older Persons (1991) (UNPOP), including that ‘*older persons should be able to reside at home for as long as possible*’ and ‘*older persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities.*’⁵ We believe that by introducing this right into law, these beliefs from UNPOP will give further protection to older people living in their own homes, as currently this is not always seen as a positive or viable solution for our ageing population.

The right actively states that, for adequate housing to be met, it must at a minimum meet the following criteria (among others);

- Habitability: Housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
- Accessibility: Housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.
- Security of tenure: Housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.

For Care & Repair, 'adequate' means very similar things to what is described in the UN definition – that housing is warm, safe, accessible for those with additional needs, affordable and a place that someone feels comfortable growing older in. In 2018, it was predicted that there would be 39,113 people aged 90 or over living in Wales by 2033, rising to 55,987 by 2043⁶. In 2020, it was predicted that there would be 750,000 people over the age of 65 living in Wales by 2028⁷ – just five years away. This means that almost every fourth person in Wales will be over 65 by 2028. So, whilst we may currently have housing that is suitable for our younger generations, the adequacy of the Welsh housing stock and suitability of it for the needs of the changing population may be in question in a few decades' time.

2. Identify any challenges and barriers to taking this policy forward

Financial

The significant scale of the issue and time it would take to resolve a fundamentally Wales-wide issue would mean that funding would need to be allocated and committed beyond the scope of the sixth Senedd, as it is unlikely that change on a Wales-wide scale would be achieved in a single Senedd term. Committing such funding would mandate future Welsh Governments to invest in this policy for it to be successful. However, such commitments made by future iterations of Welsh Government would not be guaranteed unless the Bill becomes law.

Care & Repair's *The State of Older People's Housing* report highlighted the increasing pressure our service is coming under due to rising costs. Within this report, one of the challenges identified was the impact of cost increases on this work. Our Technical Officers report that;

"The general price of doing a bathroom adaptation, where we would take out everything in the bathroom and replace everything with either a low-level shower or a wet room, was around about the £5,000 mark - that was our in-house team that was doing that, which is really quite competitive. Because the cost of things has gone up, we're now looking at £6,000 / £6,500 average." - Technical Officer, South Wales

“At start the cost of everything has gone up because material prices have skyrocketed. Steel price for grab rails is up 50%.” Caseworker, South East Wales

“I mean, three or four years ago a sheet of plaster board was probably about £6 or £7, it’s now about £18 or £19 a sheet, and I know 12 months ago we couldn’t get hold of plaster board at all.” Senior Technical Officer, North Wales

“I’ve got contractors now that are providing quotes and saying that they are valid for seven days, whereas I used to have contractors saying they are valid for six months, because the contractors just can’t hold the prices. And that creates all sorts of problems.” Senior Technical Officer, North Wales

These price increases are unsustainable both for organisations like Care & Repair, as well as older homeowners themselves. Currently the cost of adaptations needed to make homes physically accessible are becoming financially unviable. With many older people in receipt of a Basic State Pension entitling them to the basic rate of less than £8,000 per year, it is clear to see why intervention from Care & Repair is needed. We anticipate this to increase as the cost-of-living crisis deepens and our ageing population means we have more people becoming eligible for support.

Likewise, in June 2019, Public Health Wales published *‘Making a Difference Housing and Health: A Case for Investment’*⁸. This report states that poor quality housing is costing the Welsh NHS upwards of £95 million every single year in treatment costs for falls, cardiovascular conditions or respiratory infections caused by substandard housing. The report also states that action to mitigate poor housing could provide a return on investment within six years, if actioned soon.

Skills gap

A shortage of technical tradespeople in Wales means the competition and cost for works is higher than before the pandemic and increasing cost of living. This results in longer waits for work. Older people waiting for assistance are living in unsafe and cold conditions for longer than before.

Competition creates a challenging environment for organisations like Care & Repair to work in, as private work funded by individuals provides a faster, more lucrative source of income for contractors and is not subject to the level of safeguarding and quality checks that contractors employed by Care & Repair face.

“[a shortage of apprentices] has been an ongoing thing... since I can remember from the 80s even. I mean, there’s been various schemes in the building industry, apprenticeship schemes and this and that, but it all depends on the contractors who are willing to take these people on

and if you get smaller outfits and they're just too busy to be bothered with apprentices.” Care & Repair Technical Officer, North Wales

To address the growing skills gap facing vital industries, Welsh Government should focus on reskilling and upskilling the existing workforce. Maintaining the workforce from an intergenerational perspective will mean that vital knowledge and experience is able to be passed on to the future workforce. This will enable current tradespeople to receive training and skill strengthening in new areas such as decarbonisation and retrofitting, and for their existing skills to aid in training new apprentices in their field. This should be alongside the promotion and incentivisation of the Welsh Government's Young Person's Guarantee that has currently enabled more than 11,000 young people into work. There needs to be further work in incentivising young people into the construction and trade labour industries to fill the gaps that will otherwise be left from an ageing workforce and increased number of retirements.

Housing availability

Earlier this year, Welsh Government introduced a National Empty Homes Grant scheme, with the aim of bringing over 2,000 long-term empty properties back into use to house the Welsh community. The £50 million scheme announced by the Minister for Climate Change in January 2023 will provide financial support to current or prospective owners of empty properties to remove significant hazards from their properties to make them safe to live in and to improve energy efficiency. We believe that this will begin to create affordable housing at an acceptable quality for a wider proportion of the population. However, these grants do not apply to those homes that are currently being lived in, no matter how poor the quality of that home is. This means there could be situations where - when comparing two homes in the same state of disrepair but one is occupied and one is empty - the one with no occupants is eligible for the grant, but the one with occupants is not. This is not providing adequate and equitable support for those that already own and live in their own home. Care & Repair is calling for the introduction of a safety net housing repair grant, targeted at the lowest income older people living in the poorest-quality homes. This would have similar requirements as the Empty Homes Grant Scheme, only our proposed grant would be accessible for those that currently live in their own home, to address housing disrepair, and preventing further deterioration.

Retrofitting and repairing existing housing stock

For this Bill to be successful, there must be enough funds to retrofit and tackle disrepair in homes that currently would be deemed 'inadequate'. Care & Repair staff have the unique privilege of being in the homes of older people every day, undertaking approximately 15,000 home visits and *Healthy Homes Assessments* every year. Our casework and surveying staff witness first-hand the extreme levels of disrepair that so many older people are living in right now. If homes are deemed uninhabitable and inadequate by the new Bill, Care & Repair would

need assurances that there are sufficient funds available to bring these homes up to standard whilst allowing the occupier to remain in their own home. Care & Repair would be willing partners of Welsh Government to work to ensure this is done, targeting people on low incomes who genuinely cannot afford to do anything themselves.

If retrofitting and repairing the existing stock is to become a part of the introduction of this Bill, capital and revenue funds would be needed to cover the inevitable increase in activities of organisations such as Care & Repair and capital works to retrofit homes to the required standard. Tai Pawb's 'The Right to Adequate Housing' feasibility report explicitly mentions accessibility:

'Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources and should be ensured priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups.'

There must also be assurances that any retrofitting and repair work to bring homes up to an 'adequate' standard is not merely minimal, low-impact measures that will need constant, costly maintenance to keep homes 'adequate'. Any changes and repairs needed to homes should have a view of longevity and be taken on a whole-house approach. Otherwise, it may become more costly to maintain small, inefficient measures than to increase spending but undertake more robust and significant adaptations and maintenance, encapsulated by the Vimes 'Boots' theory⁹ which discusses the 'poverty premium' of paying for inexpensive but low-quality items multiple times, versus more expensive but longer-lasting products only once.

3. Consider the impact a right to adequate housing would make across Welsh housing policy

For Care & Repair, this would be the first step in realising equity between tenure types in terms of rights and legislation. Currently the housing policy landscape is unbalanced between the rights and protections between tenure types, resulting in inequity between people who hold different tenancies. This right would protect low-income older owner-occupiers, who are at disproportionate risk of home deterioration or injury due to disrepair. However, currently we do not have a clear picture of the state of housing across Wales between tenure types, due to the ceasing of comprehensive Welsh Housing Conditions Surveys. This means that, by introducing this right, there would be a necessity to reintroduce a similar analysis on the current housing stock quality, to understand the trajectory to ensuring adequate housing for all.

By establishing this right into law, it will also further exemplify the widely known links between housing and health. By ensuring that people in Wales have a right to adequate housing, they would also experience a range of benefits to health including a reduced number of falls risks, enabling homes that are energy efficient enough to be kept to a safe temperature so as to not

contract or exacerbate existing respiratory or cardiovascular illnesses, or simply removing hazards such as rising damp and mould growth. Swansea University's Medical School Data Science unit worked with us to undertake a 9-year longitudinal study on the impact of home adaptations in relation to Care & Repair's impact on falls prevention and hospital admissions. This research found that:

- There was a 13% reduction in risk of someone having a fall one year following a Care & Repair intervention, compared to citizens that had not had an intervention (therefore reducing hospitalisation and unscheduled care admissions)
- Post intervention, the Care & Repair client cohort didn't see fall risk increase annually as it did for the group that had not received a Care & Repair intervention.

These findings show that providing adequate housing and addressing the specific needs of its occupants reduces the need for medical intervention, hospitalisation or at-home care. Therefore, we believe that providing adequate housing is a research and evidence supported, preventative strategy to addressing the health crisis. More needs to be done to ensure that housing keeps people out of hospital where possible - whatever this may look like.

Enacting this right into law will also aid in providing similarity between Welsh housing policy and international legislation. Housing is devolved in Wales, so Welsh Government has the power to fulfil this opportunity and embrace housing equality for all. There is an opportunity for Wales to lead the way in aligning Welsh housing policy and the UN, and fulfil duties promised in the *Strategy for an Ageing Society*.

By enshrining this right in Welsh law, it would work to supplement other areas of Welsh policy and legislation that currently exists. It would work in conjunction with *Wellbeing of Future Generations Act*, *Strategy for Older People in Wales 2013-2023*, and *Age Friendly Wales* among others.

These Acts and Strategies are cross-topical, and already encapsulate a range of themes and areas that affect the lives of people in Wales: NHS waiting times, benefit take up and income maximisation, fuel poverty and affordability, access to housing, transport options and more. With many of these areas intersecting with a right to adequate housing, implementing this right would allow for many of these to be linked further. This would create cohesion and consideration for housing to be a key part of creating a society that thrives for all in Wales, and decisions made to consider housing when proposing or implementing new legislation.

The Right to Adequate Housing - CHC Sector Response

About Us

Community Housing Cymru (CHC) is the voice of housing associations in Wales. We represent and support 36 housing associations and community mutuals. Our members provide almost 165,000 homes to 10% of the Welsh population.

Our Response

1. Examine how incorporating the right to adequate housing into Welsh Law would work in practise

CHC believes wholly in the right to adequate housing. We have a vision that Wales is a place where good housing is a basic right for all. However we know that making this vision a reality requires the resources and tools to deliver it.

We are unclear how a proposed right to adequate housing in itself would expedite progress, and consider that any work on this right needs to be grounded in an understanding of the resources and tools that would facilitate this. We recommend that this work is done as a priority to inform any consideration of legislative change.

When determining the need for legislative change, we should first consider the nature of the challenge facing us and consider which tools are most appropriate to drive the desired outcomes. This should include interrogation of potential unintended consequences of legislative proposals.

2. Identify any challenges and barriers to taking this policy forward

Below we outline the challenges and barriers to implementing this policy as reported by our members. Where possible, we also identify potential routes to overcome these barriers.

We consider that efforts to overcome existing barriers to accessing adequate housing, including providing affordable homes at the pace and scale required, preventing and responding to homelessness, and decarbonising our housing stock must be prioritised.

- **Development and supply chain issues**

The Welsh Government has a substantial programme of work with partners to tackle the drivers of the housing crisis in Wales. However despite record investment in social homes in recent years, demand for affordable homes continues to far outstrip supply with estimates showing that between 2019 and 2024 Wales needs an additional 3,500 affordable homes per year.¹

¹ [Estimates of Housing Need 2019 based, Welsh government](#)



Housing associations and partner organisations are experiencing substantial barriers to developing new homes. In order to deliver the high quality, safe, warm build the homes the people and communities of Wales need, we must work to remedy the major challenges affecting the housing and planning sector.

We need a planning system which has enabling environmentally responsible developments at its heart. In order to achieve this we need a bespoke troubleshooting service which has the resources and powers to step in and find solutions to problems that are habitually causing costly, unnecessary delays to development. This service must have the power to bring stakeholders together and negotiate pragmatic approaches to moving development forward. We need a swift but realistic plan with achievable milestones for reviews of the planning system, in particular in relation to sustainable drainage systems (SUDs) and TAN15. We need a holistic Welsh strategy and aligned decision making across Welsh government departments to avoid policy making in one area that creates problems in another. We must also prioritise getting the right people in the right places at the right time for the system to work - for example, providing funding to local authorities to create posts that have strategic oversight for the delivery of affordable housing developments and exploring regional pooling of planning and development staff with relevant specialisms.

- **Homelessness pressures and lack of revenue funding**

There are significant pressures on homelessness and housing support services. There are currently over 8,500 people in temporary accommodation with this figure rising approximately 500 people every month². Many of these people will require support to help them move on to settled accommodation. Against this picture of rising demand, Housing Support Grant (HSG) funding has been maintained at 2022/23 levels and has not risen in line with inflation, leaving services in an increasingly precarious position.

Our 'Housing Matters' campaign, delivered in partnership with Cymorth Cymru, highlights that once inflation has been accounted for HSG is worth £18m less today than supported people funding allocations were in 2011/12. This decrease in funding is coupled with a rapid increase in running costs as accommodation-based services are particularly vulnerable to volatile energy bills.

Services are finding it incredibly difficult to recruit and retain staff - a major factor is the lack of funding to pay for decent wages, training and support for staff who are doing extremely skilled, complex and traumatic jobs. Some are currently paid below the Real Living Wage, yet no additional funding is being made available to services.

Housing associations are committed to playing their part in ending homelessness and ensuring Everyone in Wales has access to suitable housing but significant revenue funding is needed, alongside work to increase the supply of affordable homes, in order to ensure people can access the right support and the right property.

- **Decarbonisation**

Making swift progress on reducing the carbon emissions of our homes is a hugely important step in tackling climate change and addressing the cost of living crisis by saving people money on bills. We

² [Housing Matters Campaign 2022, Cymorth Cymru and Community Housing Cymru](#)



know that housing emissions make up 10% of total emissions in Wales. Developing and retrofitting homes that use renewable energy, are well insulated, and are efficient will ensure occupiers can save money on energy bills and lower maintenance costs. This is particularly important during the cost of living crisis as it means vulnerable people will have increased protection from fluctuations in energy prices.

However at present, we have no clear long-term route map to decarbonising our housing stock. Modelling sourced by CHC demonstrates that achieving EPC A by 2033 for housing associations in Wales alone will cost at least £2.05bn and this estimate is likely to be a conservative figure. Barriers to progressing the decarbonisation agenda include; a lack of necessary infrastructure required to deliver retrofit ambitions at pace, absence of a skilled workforce who can provide specialist trades and services and an increasingly more volatile climate that is vulnerable to extreme weather events such as flooding.

The following conditions must be in place in order to make expedited progress on decarbonisation: an ambitious but achievable target date, a long term funding programme, a complementary skills strategy and space and time to learn and implement effective tenant engagement strategies.

We must acknowledge the cumulative pressures being experienced by housing associations across all areas of service delivery and how this may impact upon the right of adequate housing to be realised. As outlined in our introduction, we must think carefully about whether legislative measures are the right tool to address the barriers outlined above and rather, other levers like increased funding or fostering new cultures are more appropriate to avoid unintended consequences.

3. Consider the impact a right to adequate housing would make across Wales

Everyone in Wales deserves somewhere safe, comfortable and secure to live. Somewhere that is adaptable to our changing needs, connected to where we work, or where we are educated and somewhere where public services are accessible. The pandemic highlighted how important it was to have somewhere safe to call home. The benefits of a good home for everyone are multiple.

- **A healthier, happier population**

We know that investment in good quality homes means that people can be healthier and can live independently in their own homes for longer. This is better for individuals and families and also saves public money by relieving pressures on the NHS and other public services.

We understand the UK's ageing population is likely to place strain on the NHS and the public purse over the next few decades with a predicted rise of 63% in the number of people over 65 admitted to hospital for a fall³. On top of this, a Housing LIN study estimates that for each person living in housing with care settings, the NHS saves approximately £2,000 per year, per person. We can prevent hospital admission by improving access to accessible and adapted housing. With proper, long-term, sufficient investment in housing and support, we can greatly decrease the strain on the NHS and improve the day to day lives of individuals living throughout Wales.

- **A more prosperous Welsh economy**

³ [Population Projections Platform - Data Cymru and Usk Scientific Services on behalf of Social Care Wales, 2018](#)



Investment in housing greatly boosts the Welsh economy. At present, housing associations employ around 11,000 full time equivalent jobs and this rises to around 27,000 if indirect sources of employment are also considered.⁴ On top of this, housing associations spend 90p of every £1 earned locally in Wales and over the course of five years, starting in 2021, are predicted to provide a £6bn economic boost to communities up and down Wales.⁵

For further information please contact:

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⁴ [Global Accounts, the financial statement of Welsh housing associations 2021, Community Housing Cymru](#)

⁵ [Home Manifesto, Community Housing Cymru, 2021](#)

WLGA evidence to Local Government and Housing Committee

– Right to Adequate Housing

Welsh Local Government Association - The Voice of Welsh Councils

The Welsh Local Government Association (WLGA) is a politically led cross party organisation that seeks to give local government a strong voice at a national level. The Association represents the interests of local government and promotes local democracy in Wales. The 22 councils in Wales are all members of the WLGA and the 3 fire and rescue authorities and 3 national park authorities are associate members.

We believe that the ideas that change people's lives, happen locally

Communities are at their best when they feel connected to their councils through local democracy. By championing, facilitating, and achieving these connections, we can build a vibrant local democracy that allows sustainable communities to thrive.

The main aim of the Association is to promote, protect, support and develop democratic local government and the interests of councils in Wales.

This means:

- Promoting the role and prominence of councillors and council leaders
- Ensuring maximum local discretion in legislation or statutory guidance
- Championing and securing long-term and sustainable funding for councils
- Promoting sector-led improvement
- Encouraging a vibrant local democracy, promoting greater diversity
- Supporting councils to effectively manage their workforce.

Senedd Cymru's Local Government and Housing Committee is undertaking an inquiry into the **right to adequate housing**. This is the WLGA's submission to that inquiry.

The terms of reference for the inquiry, which the Committee has invited contributors to share views on, are to:

1. Examine how incorporating the right to adequate housing into Welsh law would work in practice;

The WLGA would support the general principle of the appropriate incorporation of human rights into Welsh law. Therefore, in the case of the right to adequate housing it is, as suggested, most useful to focus the

Committee's inquiry on the practical implications of incorporating the right into Welsh law.

The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has set out seven conditions that must be attained for the full realisation of the right to adequate housing. These are security of tenure, habitability, availability of services, affordability, accessibility, cultural adequacy and location.

This provides a useful framework against which to assess the current position of the citizens of Wales in relation to the availability to them of adequate housing, to plan for detailed implementation to meet any identified gaps, and to measure future progress and achievement.

We would support the general concept of progressive realisation, through which the right to housing may be fulfilled progressively, over time, and meaning that the government is required to make progress towards the fullest possible realisation of the right through the application of maximum available resources. In this context, due consideration would need to be given to identify the key resources and levers for change which lie within the competence of both Welsh and UK Governments (e.g. welfare policy and support). Ensuring that sufficient resources and capacity were available to all stakeholders, particularly local authorities and their partners, to support implementation and realisation would be critical to delivering success.

2. Identify any challenges and barriers to taking this policy forward;

As part of the WLGA's "A Manifesto for Localism" covering the Senedd period 2021-26, in order "to create good quality homes and safer communities for people to live and work", the WLGA identified that the Welsh Government should:

- Support the work of local authorities in tackling and preventing homelessness and rough sleeping and ensuring that those brought into temporary accommodation during the pandemic are supported into permanent housing while transforming current and future temporary accommodation provision and homelessness services;
- Support delivery of increased plans for building council houses across Wales; A cross Government approach to new-build, improvement and retro-fit housing projects can provide simultaneous action on: meeting housing need and tackling homelessness; energy efficiency, fuel poverty and climate change; inclusive local economic growth; and improving health, well-being and general social cohesion;
- Support work focused on the decarbonisation of existing homes, including identifying resource implications; and
- Continue to contribute to on-going work to improve building safety following the findings of the Hackitt Review.

These issues, and the associated “asks” of Welsh Government provide a useful summary of the current key housing-related challenges facing Councils and their partners in Wales, and also indicate a number of the barriers to be overcome. Further information on some of these significant challenges faced by Councils in delivering their housing services is outlined below : -

Homelessness

Driven initially by the pandemic and changes to the statutory guidance from Welsh Government, there has been a significant change in approach to the provision of emergency temporary accommodation for homeless households. Increasing numbers of people are being accommodated in emergency temporary accommodation provided by Councils (9,247 individuals as at end of December 2022). Since the start of the pandemic over 31,200 people who were previously homeless have been supported through emergency temporary accommodation. The numbers of people presenting as homeless to Councils continue to be very high, and the challenges of providing and maintaining appropriate levels of suitable temporary accommodation, along with difficulties in securing long term homes for people to move into, means that the numbers of people in emergency accommodation continue to increase with a consistent upward trend which shows no sign of reducing.

As well as increased household costs for everyone, including rising energy costs, there have been significant increases in rents in most areas, with an increasing gap over Local Housing Allowance support means that the Private Rented Sector is increasingly difficult for many households to access and afford. A sustained period of rising consumer costs and increased interest rates, without any increase in household incomes, is also very likely to impact on owner-occupiers who will find their mortgage payments more difficult to meet. All leading to increased demand for homelessness services and the use of temporary accommodation.

The Housing Support Grant (HSG) is the Welsh Government’s principal funding stream for preventing homelessness, supporting more than 60,000 people each year to live independently in their communities. Through the provision of refuge, supported accommodation and tenancy support services, the HSG allows people to exit homelessness, leave abusive relationships, maintain their tenancies, overcome mental health and substance abuse issues, build on their strengths and fulfil their aspirations. The current annual HSG funding of £166m is under considerable pressure to meet the increased demand related to these homelessness pressures outlined above, and the need to ensure that services commissioned by Councils receive enough funding to pay their staff a fair wage and provide them with the support they need.

Housing Supply

Part of the response to dealing with increased homelessness, and to meet housing need more generally, is the building of more social rented homes.

Councils and Registered Social Landlords (RSLs) are making significant efforts to meet the Programme for Government target of 20,000 new low carbon homes for social rent.

Councils with housing stock are playing an increasingly important role directly developing a growing number of these much-needed new homes, and all Councils continue to work with their RSL partners to ensure that new homes meet strategic housing needs.

The Welsh Government budget contains a significant increase in the funding to support the development new social rented homes by Councils and RSLs, with more than £1Bn in total across the current and next 2 financial years covered by the budget.

However, even with record levels of investment support and borrowing by Councils and RSLs, there are many growing challenges to developing enough new homes including the availability of land, phosphate restrictions, rising costs of materials, constraints on the supply of materials, shortages in necessary key skills, capacity within some Council functions, capacity within utility companies, etc.

Decarbonisation of Council housing stock

It is estimated that the current housing stock in Wales is responsible for 27 per cent of all energy consumed in Wales and 15 per cent of all our demand side greenhouse gas emissions. The initial focus on achieving effective decarbonisation in existing Welsh homes will be via improvements to the social rented housing stock (including c. 87,000 Council homes).

As well as utilising existing funding support to further improve the condition of the current stock of social housing, the Welsh Government's current budget confirms an increase in funding for the Optimised Retrofit Programme for the current financial year and each of the next 2 years to support the continued development of an evidence base around effective measures to deliver improvements in decarbonisation.

Further work is required to clarify the total funding required to retrofit existing homes, and to identify sources for this funding. The funding currently identified will not allow Council's to deliver on both the twin objectives of delivering significantly increased numbers of new low carbon homes for social rent and retrofitting the existing stock of Council homes.

Properly developed and implemented, the right to adequate housing could have an important role in enabling and underpinning a joined up approach regarding a focus on apprenticeships and vocational skills to help bridge the current and forecast future gaps in the construction sector to support our ambitious retrofit and new build programmes.

Housing Quality & Standards

The pre-conditions of habitability and accessibility, as set out by CESC, pose particular challenges when addressing the condition of Wales' existing housing stock. For the social rented stock, Welsh Government are able to set standards and drive improvement via WHQS – the latest version of which has been consulted upon. However, influencing and supporting improvement in housing quality and standards in the private rented and owner occupied sectors (including issues such as adaptations) will be much more challenging

3. Consider the impact a right to adequate housing would make across Welsh housing policy.

As previously set out in the housing pact jointly agreed by Welsh Government, WLGA and Community Housing Cymru during the previous Senedd period, the housing sector in Wales has been one of the most successful partnerships of public, private and third sectors across the UK in recent years. The partners jointly undertook to continue to deliver on the objectives they share – by creating and investing in communities meeting people's housing needs, making a positive difference to their lives and helping to give children the best possible start in life. Increasing the supply of rural and urban affordable housing is a vital part of this, as is meeting and maintaining Welsh Housing Quality Standards. To achieve our mutual goals, the Welsh Government, housing associations and local authorities must continue to work in partnership and ensure we encourage an environment in which we can thrive and deliver.

By further underpinning this kind of shared ambition across public, third and private sector bodies, a right to adequate housing which is fully resourced, jointly developed, mutually agreed and understood by all stakeholders, and progressively realised, has the potential to improve the lives of the current and future citizens of Wales who may not otherwise enjoy the benefits of adequate and appropriate housing.

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Agenda Item 9

Papur 7/Paper 7

Local Government and Housing Committee

The Right to Adequate Housing

Submission: Professor Simon Hoffman, Swansea University

My work focusses on incorporation of international human rights through devolved law-making and policy. I contributed expertise to the civil society campaign to incorporate the UN Convention of the Rights of the Child (UNCRC) in Welsh law via the Rights of Children and Young Persons (Wales) Measure 2011 (Child Rights Measure). More recently I acted in an advisory capacity to organisations working on UNCRC incorporation in Scotland and in Jersey. In 2020-21, I was Principal Investigator and co-author of a report for the Welsh Government on options to strengthen and advance equality and human rights in Wales. I am a member of a Legislative Options Working Group convened to make recommendations on further incorporation of human rights in Wales. In 2019, I authored a Feasibility Report on incorporation of the Right to Adequate Housing (RAH) under article 11 of International Covenant on Economic Social and Cultural Rights (ICESCR) in Welsh law. As part of the 'Back the Bill' campaign, I prepared the draft Bill which is the focus of the campaign.

Initial Points

When discussing incorporation of any international human right into domestic law in Wales it should be recalled:

1. The UK has voluntarily signed and ratified human rights treaties, including ICESCR, under which it is obliged to introduce legislative and other measures to implement the rights guaranteed.¹ This applies to the state at all levels, including devolved government.
2. The Committee on Economic Social and Cultural Right (CommESC), as well, human rights experts and civil society organisations have confirmed that a key step toward effective implementation of ICESCR is incorporation into domestic law.²
3. The Senedd has competence to incorporate the RAH in Welsh law. Particular reference may be made to the Government of Wales Act 2006, Schedule 7A, which lists reserved matters. Paragraph 10 refers to 'Foreign Affairs etc' as reserved; however, paragraph 10(3) expressly excludes 'observing and implementing international obligations' from this reservation. These obligations include human rights.

¹ Article 2(1) ICESCR.

² Committee on Economic, Social and Cultural Rights, General Comment no.9, 1998, [The Domestic Application of the Covenant](#), Part B. Aoife Daly, Joshua Curtis, and Yvonne McDermott Rees, 2018, [Enhancing the Status of UN Treaty Rights in Domestic Settings](#), EHRC. See also, JustFair submission to current inquiry and references therein.

4. There is no single model of incorporation of international human rights into domestic law. Different approaches are often summarised as:
 - **Direct incorporation** – rights are made part of domestic law in a way which makes them enforceable by a court or tribunal (e.g. the Human Rights Act 1998 (HRA 1998) which incorporates the European Convention on Human Rights).
 - **Indirect incorporation** - rights are made part of domestic law in a way which means decision-makers have to take specified rights into account when exercising their functions. The formulation used in Welsh law is ‘due regard’ (e.g. the Child Rights Measure requiring Welsh Ministers to have due regard to the UNCRC when exercising their functions). Rights are not directly enforceable but decision-makers are subject to judicial review if they fail to have due regard.
 - **Sectoral or piecemeal incorporation** - rights are given some legal effect in specific fields of public policy, e.g. education, or housing. Sectoral incorporation may be direct or indirect (e.g. section 7 of the Social Services and Well-being (Wales) Act 2014, requires persons exercising functions under the Act to have due regard to the UNCRC and the UN Principles for Older Persons).
5. Research suggests that direct incorporation leads to stronger recognition of human rights than other forms of incorporation.³ Wales-based research confirms a strong desire amongst stakeholders in Wales to move beyond indirect incorporation, to direct incorporation of human rights.⁴ This research also confirms a desire to see human rights obligations imposed not only on Welsh Ministers, but on relevant public authorities whose decisions and actions impact on individuals and communities.

How would incorporating the right to adequate housing into Welsh law work in practice?

I will focus on the approach that might be taken to incorporation of the RAH.

6. Welsh Ministers and the Senedd can determine how incorporation of the RAH may be achieved through devolved legislation. Legislation could make provision for Ministers to issue guidance for housing authorities in Wales on implementation of the RAH. There are therefore numerous mechanisms by which Ministers and the Senedd can shape how an incorporated RAH would work in practice.
7. There is no ‘one size fits all’ approach to incorporation. JustFair and the Back the Bill partners have given examples of incorporation of the RAH internationally.⁵ I respectfully adopt the evidence submitted by those organisations.

³ See above Daly et al. See also: Laura Lundy, Ursula Kilkelly, Bronagh Byrne and Jason Kang, 2012, [The UN Convention on the Rights of the Child: A Study of Legal Implementation in 12 Countries](#), UNICEF-UK.

⁴ Simon Hoffman and Sean O'Neill, 2018, [The Impact of Legal Integration of the UNCRC in Wales](#), EHRC; Simon Hoffman, Sarah Nason, Elli Hicks and Rhian Chamberlain, 2021, [Strengthening and Advancing Equality and Human Rights in Wales](#), Welsh Government.

⁵ Evidence submitted to the current inquiry.

8. The approach to incorporation in practice in Wales needs to be one that works for Wales, taking account of the particular governance and jurisdictional context.
9. Research confirms a desire amongst civil society stakeholders to prioritise direct incorporation of human rights in Welsh law, primarily because indirect incorporation results in an accountability deficit.⁶ Under the due regard model duty-bearers are not fully accountable if they breach an individual's human rights. Direct incorporation of the RAH would provide strong accountability as there would be scope to appeal to a court or tribunal for a remedy where a relevant public authority (in which I include Welsh Ministers) breaches an individual's RAH. It is for this reason that I support direct incorporation of the RAH.
10. Significantly, research also confirms positive impacts of the due regard approach. In particular: to ensure attention to human rights during policy development, to promote transparency, to underpin a policy culture which recognises human rights, and to provide for some enhanced political and administrative accountability.⁷ It is for this reason that I support an approach to incorporation of the RAH which maintains the benefits of due regard.
11. I favour a model of incorporation which in practice takes the best elements of due regard and allies this to an approach which makes the RAH enforceable to ensure strong accountability. So, for example:
 - Policy decision-makers could be required to take the RAH into account at all stages when devising policy and legislation and to demonstrate this through a Housing Impact Assessment and Housing Rights Scheme.
 - Policy decision-makers could be required to adopt a participative approach to establish housing priorities and local housing strategies.
 - Welsh Ministers could be required to report periodically to the Senedd on progress toward realising the RAH, triggering scrutiny by committee.
 - Relevant authorities could be required to act in compliance with the RAH.
 - Intended beneficiaries could be authorised to bring a claim that a relevant authority has breached their RAH.

Identify any challenges and barriers to taking this policy forward.

12. Challenges and barriers may arise if future duty-bearers are concerned about the implications on strategic planning, resources and delivery. These concerns are best addressed by raising awareness and understanding about the likely impact of the RAH, as well as how the RAH might be enforced. JustFair and the Back the Bill partners have sought to address impact in their submissions to this inquiry. I respectfully adopt that evidence.
13. I will address another potential challenge which will likely concern the Committee, Welsh Ministers, and the Senedd if Wales chooses to enact a

⁶ Note 4.

⁷ Note 4.

RAH. This is the possibility that the UK Government will object to the Senedd taking this step.

14. Unlike in Wales, successive UK governments and UK Parliaments have not sought to embed human rights through domestic legislation (with the exception of the HRA 1998). There are concerns in Wales (as well as in Scotland and Northern Ireland), about possible reform of the HRA 1998 and its impact on devolution. While these concerns merit ongoing discussion, I will not seek to do this in my submission. Instead, I note that incorporation of the RAH in Welsh Law would further highlight the possibility of divergent approaches to human rights which is a feature of devolution.
15. I urge the Committee, as well as Welsh Ministers and the Senedd to be wary of allowing the possibility of divergence on human rights to create a 'chilling effect' on developments in Wales. While the UK Government has raised the possibility for reform of the HRA 1998, it has **not** sought to interfere with progress so far on incorporation of human rights in Wales. **Nor** has it threatened to undermine efforts by Welsh Ministers toward further incorporation. **Nor** has it suggested that Wales has gone too far to provide legal recognition of human rights. Indeed, when the UK Government reports to international Treaty Bodies on progress on meeting its human rights obligations in the UK, it often draws on developments in Wales to evidence progress.⁸
16. The Committee may be familiar with the recent decision in the UK Supreme Court on the Bill to incorporate the UNCRC into Scots law.⁹ The validity of the Bill was challenged by the UK Government; a challenge which was upheld by the UK Supreme Court. This might suggest a willingness on the part of the UK Government to question the conduct of devolved legislation on matters of human rights governance. However, in Wales we should be wary of reaching this conclusion or giving undue weight to the UK Supreme Court decision.
17. This is not the place for a detailed legal analysis. However, it is worth noting that the UK Supreme Court was not asked to rule that incorporation of the UNCRC was outside the scope of devolved competence in Scotland, but instead to focus on provisions in a Bill which sought to give legal effect to a 'maximalist' approach to incorporation, so as to apply a duty to comply with the UNCRC to as many authorities and public functions as possible. Although this is a laudable objective for any legislation to incorporate human rights, in this case it resulted in UK Government objecting to certain provisions in the Bill having consequential impacts for any Court which might be asked to interpret and apply legislation enacted by the UK Parliament having effect in relation to Scotland; and, a provision requiring (in terms) the Courts to determine on a case-by-case basis whether a public authority is exercising devolved or non-devolved functions. The Supreme Court held that in these respects, the Bill went beyond the devolved competence of the Scottish

⁸ See, for example, the numerous references to Welsh legislation in the 2022 [UK State Party Report CommESCR](#), and children's rights developments in Wales in its 2022 [UK State Party Report CommCRC](#).

⁹ [Reference by the Attorney General and the Advocate General for Scotland - United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill](#), [2021] UKSC 42.

Parliament. It is reasonable to infer that had the Bill been drafted so as to avoid these issues, the Supreme Court would not have seen cause to interfere and further, the UK Government would probably not have objected to the Bill.

18. While Welsh Ministers and the Senedd will need to be highly sensitive to the need to remain within the framework of devolved competence if the decision is taken to incorporate the RAH through legislation, the Scottish experience neither negates the competence of the Senedd to enact legislation to achieve this, nor does it prevent a 'maximalist' approach which results in an enforceable RAH: provided that the RAH is only enforceable against authorities exercising devolved functions (e.g. when exercising housing functions introduced by legislation already enacted by the National Assembly for Wales or the Senedd, such as the Housing (Wales) Act 2014).

What impact would a right to adequate housing make across Welsh housing policy?

19. Research based evidence submitted by the Back the Bill partners highlights how the RAH in Wales would generate significant financial benefits over the long-term. Submissions to the current inquiry by JustFair and the Back the Bill partner also suggest that a RAH would underpin investment in social housing; provide better recognition of the rights of tenants to a secure home; ensure closer attention to the specific housing needs of minority and disadvantaged groups; and, deliver greater prioritisation of housing priorities such as the supply of affordable, appropriate and sustainable homes in local housing strategies. I respectfully endorse and adopt these submissions.
20. In my submission I wish to focus on the impact of incorporation of the RAH on strategic planning, and key implications for relevant authorities, as well as on enforcement.
21. The RAH is often misunderstood as a narrow right to immediate provision of a home. This is a fundamental misconception and one which leads to resistance to adopting a human rights approach to housing policy. The proper approach to implementation of the RAH is explained by the CommESCR, in guidance on general obligations with respect to socioeconomic rights, i.e. in General Comment No.3, 1990¹⁰; and specifically with respect to the RAH in General Comment No.4, 1991¹¹.
22. The CommESCR gives detailed guidance on the RAH in General Comment No.4. This guidance would provide an excellent framework for Welsh Government guidance to housing authorities in Wales on implementing the RAH. While the guidance is too detailed to properly summarise in this submission, key points are:

¹⁰ CommESCR, 1990, General Comment No.3, [The Nature of States Parties' Obligations](#).

¹¹ CommESCR, 1991, General Comment No.4, [The Right to Adequate Housing](#).

- The RAH should not be interpreted in a narrow sense which equates it merely with the right to shelter. Instead, the RAH should be seen as right to 'live somewhere in security, peace and dignity.'¹²
- The RAH should be available on a non-discriminatory basis.¹³
- Housing policy should prioritise those in greatest housing need.¹⁴
- Every effort should be made to avoid retrogression.¹⁵
- The concept of adequacy is particularly significant as it points at different aspects of housing which may contribute to the RAH. The Committee lists these as including:
 - Legal security of tenure.
 - Availability of services, materials, facilities and infrastructure.
 - Affordability.
 - Habitability.
 - Accessibility.
 - Location.
 - Cultural adequacy.¹⁶

23. Two general notions on implementation of RAH emerge from CommESCR guidance which ought to assist relevant authorities to understand how they might address implementation of the RAH, including the different aspects of the RAH identified by the CommESCR. The first is the obligation of **progressive realisation**, the second is the concept of a **minimum core or minimum essential level** of the RAH.

On progressive realisation and the minimum core

24. An obligation that applies to all rights under ICESCR is that of progressive realisation.¹⁷ This means relevant authorities will be required to take 'concrete' steps making effective use of their maximum available resources to progressively realise, in full, the RAH. This does not mean that authorities will need allocate *all* their resources to housing, but they will need to demonstrate and justify how they prioritise housing in their strategic planning and how they will progress 'expeditiously' toward realising the RAH, and how adequate resources are allocated to support their housing policies. Authorities will also need to demonstrate that they are making the most efficient use of all their resources so as to maximise the amount available to support the RAH. Where an authority argues that it has insufficient resources to prioritise certain aspects of the RAH (e.g. the provision of affordable housing), it will need to transparently and convincingly demonstrate that this is the case.

25. An important function of progressive realisation is to focus policy-makers on the longer term impacts of policy decisions. Incorporating the RAH in Welsh Law would 'hardwire' a commitment to address housing need not only for the present Welsh Government, Senedd, and housing authorities, but for these

¹² Note 11 paragraph 7.

¹³ Note 11 e.g. paragraph 6.

¹⁴ Note 11 e.g. paragraph 8(e).

¹⁵ This point is made in relation to all rights set out in ICESCR, including the RAH, in General Comment No.3 (note 10) at paragraph 9.

¹⁶ Note 11, these aspects of the RAH are fully discussed in paragraph 8.

¹⁷ Article 2(1) ICESCR. Fully discussed in General Comment No.3, note 10.

institutions in the future. Given that adequate housing for all may take several generations to achieve, it is vital that Wales embeds a policy-framework which extends the vision of decision-makers beyond the immediate policy horizon. This approach is also, of course, consistent with the policy ambition of the Well-being of Future Generations (Wales) Act 2015, and provides a real opportunity to ensure housing policy makes a strong contribution to the sustainable development principle.

On the minimum core

26. While relevant authorities are permitted discretion as to the steps they take to implement the different aspects of the RAH, the CommESCR has emphasized that there is an expectation of a minimum core or minimum essential level of all rights set out in ICESCR, including the RAH.¹⁸ It is not readily apparent what this might be in relation to all facets of the RAH, but a clear example is avoiding homelessness and destitution.¹⁹ Arguably this is already an obligation imposed on Welsh Ministers and local authorities under Article 3 of the ECHR.²⁰ A RAH in Welsh law would concentrate attention on how housing policies and resource allocation contribute to meeting the requirements of ensuring a minimum core of the RAH in Wales.
27. A priority for relevant authorities if Wales were to incorporate a RAH would be to adopt a participative approach to establish what we, as a nation, and as local communities, anticipate as the minimum level of provision when it comes to housing, and what we expect to be the outcomes of progressive realisation of the RAH. This is the approach which is encouraged by the CommESCR.²¹

On enforcement

28. Socioeconomic rights, and the RAH, are not part of UK domestic law. In assessing the conduct of public authorities in pursuit of policies with socioeconomic implications, UK judges tend toward an approach which defers to priority setting and resource allocation by responsible authorities. This manifest in a reasonableness standard of review (which is also the approach now favoured in South Africa where the right to access adequate housing is part of the country's constitution).
29. It is highly likely that if a RAH were incorporate in Welsh Law any legal challenge claiming breach of the right would take place as a judicial review, where the reasonableness standard would be applied. The reasonableness standard achieves some balance between the rights of individuals and the need to permit relevant authorities some discretion in the way limited resources are allocated. However, UK Courts are traditionally shy of scrutinising socioeconomic policy decision-making by government and public authorities. In my view, if an incorporated RAH in Wales is to have real impact

¹⁸ Fully discussed in General Comment No.3, note 10.

¹⁹ CommESCR General Comment No.4 is in part premised on the notion that the RAH seeks to address homelessness, see note 11, paragraphs 4 and 13. Failure to provide basic housing is identified as a violation of the minimum core of rights under ICESCR in the [Maastricht Guidelines on Violations of Economic, Social and Cultural Rights](#), at paragraph 9.

²⁰ The right not to suffer inhuman or degrading treatment.

²¹ Note 11 paragraph 12.

to promote progress on housing in Wales, the requirement of progressive realisation should be included on the face of legislation; and, legislation should authorise the Courts to refer to international interpretive texts (such as CommESCR general commentary) to assist judges to determine whether relevant authorities have complied with the RAH.

30. It should be noted that the notion of a minimum core is not an express requirement in the ICESCR or under the RAH. The concept has been developed primarily through interpretation by the CommESCR²². Application of a minimum core would be a departure from the approach taken to adjudication of socioeconomic rights – and therefore the RAH – by the Courts in Wales and England (see above). In my view, once again if the RAH is to have meaningful effect to protect the interest of those in greatest housing need in Wales (such as people who are experiencing homelessness), the Courts will need to be directed to apply a minimum core as a standard of adjudication. This should be achieved by express reference to the need to apply a minimum core in legislation to incorporate the RAH, and the inclusion of a mechanism to establish what the minimum core means in practice.

16th March 2023

²² Notably in General Comment No.3 (note 10).

Agenda Item 10

Local Government and Housing Committee

23 March 2023 – papers to note cover sheet

Paper no.	Issue	From	Action point
Paper 8	Welsh Government draft budget 2023–24	Finance Committee	To note
Paper 9	Legislative Consent: Social Housing (Regulation) Bill	Business Committee	To note

Chair, Children, Young People, and Education Committee
Chair, Climate Change, Environment, and Infrastructure Committee
Chair, Culture, Communications, Welsh Language, Sport, and International
Relations Committee
Chair, Economy, Trade, and Rural Affairs Committee
Chair, Equality and Social Justice Committee
Chair, Health and Social Care Committee
Chair, Legislation, Justice and Constitution Committee
Chair, Local Government and Housing Committee

8 March 2023

Dear Committee Chairs,

Scrutiny of the Draft Budget 2023-24: Evidence provided by the Welsh Government

In our report on the scrutiny of the Welsh Government Draft Budget 2023-24, we made several recommendations relating to budget presentation improvements. We also agreed to consult Committees on the documentation provided by the Welsh Government alongside its Draft Budget proposals, concluding that:

"Conclusion 1. We welcome the Minister's willingness to consider ways in which budget documentation can be improved. While we have reflected our views above, the Committee has decided to consult Senedd committees on their experiences of scrutinising this year's budget documentation and ways in which improvements can be made."

As a result, in reflecting on this year's budget scrutiny experience and in seeking improvements to the budget documentation provided by the Welsh Government at the 2024-25 Draft Budget and beyond, I would be grateful for the views of your committee in response to the following question:

What improvements would you like to see in the Welsh Government's Draft Budget documentation and subsequent ministerial written evidence?

Please make reference to the timeliness, quality and usefulness of any documentation and/or evidence received in your response.

We would appreciate responses by **Friday 28 April 2023**. Your views will then be collated and fed back to the Minister for Finance and Local Government, for her consideration in advance of the Budget Priorities 2024-25 Plenary debate that will be led by the Finance Committee and take place before summer recess.

Yours sincerely,



Peredur Owen Griffiths MS
Chair, Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



John Griffiths MS

Chair of the Local Government and Housing Committee

10 March 2023

Supplementary LCM (Memorandum No.5) for the Social Housing (Regulation) Bill

Dear John,

Thank you for your letter of 23 February concerning the limited time that was available to scrutinise the Supplementary LCM (Memorandum No.5) on the Social Housing (Regulation) Bill.

Business Committee considered the letter on 28 February and noted the concerns that you raised, both in relation to this SLCM and the LCM process in general. We appreciate the impact that limited scrutiny time has on the degree of scrutiny that is possible. During our consideration of your letter, the Minister for Rural Affairs and North Wales, and Trefnydd reflected that the issues in this case had been caused by the late agreement of amendments at Westminster and limited prior engagement between the UK Government and the Welsh Government.

At the same meeting, we received a letter from the Minister for Rural Affairs and North Wales, and Trefnydd in relation to similar issues on a different LCM. In that letter, the Minister stated that the Welsh Government remains committed to laying LCMs “in a timely fashion and to ensuring the Senedd is given as much opportunity for scrutiny as possible”. The letter also asserts that the Welsh Government will continue to raise with the UK Government the importance of better engagement and will ask that the UK Government accommodates Senedd processes in their Bill timetabling considerations.

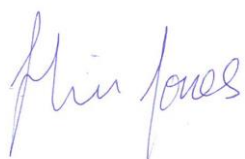


As you will be aware, the Minister for Climate Change echoed similar sentiments during the Plenary debate on the LCM on the Social Housing (Regulation) Bill, also on 28 February.

In the same debate, the Minister confirmed that further amendments had been tabled to the Bill at Westminster and that these may trigger a further requirement for consent. The Minister confirmed her intention to write to the UK Government to reflect the impact of this on the Senedd's ability to effectively scrutinise the Bill. As a Business Committee, we will continue to keep these matters under review.

I would like to thank your Committee for the work that it has undertaken to date and will enclose a copy of this letter to the Legislation, Justice and Constitution Committee who have previously raised similar concerns.

Kind regards,



The Rt Hon. Elin Jones MS

Y Llywydd and Chair of the Business Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.