

Securing a path towards Adequate Housing – including Fair Rents and Affordability

Response by the Bevan Foundation

The Bevan Foundation is Wales' most influential think-tank. We create insights, ideas and impact that help to end poverty and inequality. We are grateful for the opportunity to submit our response to the consultation on the Green Paper on Adequate Housing and Fair Rents.

Overarching comments

There are two key points that underpin our responses to each of the consultation questions.

First, there is a lack of clarity in the Green Paper about the Welsh Government's overarching policy objectives. If the long-term policy aim is to develop a larger social rented/ owner occupied sector and a smaller private rental sector, then the measures that should be taken forward from this Green Paper would be different than if the policy aim is to retain or grow the private rented sector. Given this ambiguity, our response primarily focuses on the needs of low-income households, looking at solutions for this group.

Second, we believe that the proposed timeline makes submitting a meaningful response challenging. If no legislation is to be introduced prior to the next Senedd election, then it is likely that any legislation that emerges from this Green Paper would not take effect until 2027/28 at the earliest. The economic landscape may have changed significantly by that point meaning that some policy interventions may be more, or less needed. Given the extent of the housing crisis facing Welsh communities today, we believe that there is a case for bringing forward some of the measures outlined in this Green Paper. Our response therefore analyses the strengths and weaknesses of each proposal as if they were introduced today.

Q1. Do you think that the 7 factors of adequacy are something to aspire to achieving in Wales? If so, what mechanism or combination of mechanisms do you think are required to achieve the 7 factors of housing adequacy in Wales? (Please explain your reasons)

The Bevan Foundation supports the seven factors of adequacy outlined in the Green Paper and believes they provide a robust basis upon which to build a Welsh housing system. It is vital however, that if the Welsh Government adopts these factors that they have a real-world effect.

We appreciate that this is a process that will take time. We therefore believe that the progressive realisation approach, proposed by the #BacktheBill campaign, is a sensible one. Taking such an approach balances the challenges faced in the short term in giving effect to the factors, with a desire to give people in Wales greater, more meaningful rights into the future.

Q2. What considerations should be taken into account when establishing a minimum core for Wales against the 7 factors of housing adequacy?

There is a need to ensure that there is a sufficient degree of ambition when establishing a minimum core for Wales against the 7 factors of housing adequacy. The table on page 16 of the consultation document provides a useful oversight of the measures that are already in place. But to improve the lives of people in Wales there is a need to look to raise these standards. For instance, despite the measures on affordability set out in the table, housing is simply unaffordable for too many people in Wales. Some of the actions that appear in this consultation paper could help address some of these challenges with regards to affordability but there is a need for a similar exercise with regards to each of the 7 factors, with the progressive realisation approach proposed by Tai Pawb, Shelter Cymru and CIH Cymru providing a route through which ambitious standards could be worked towards.

Q3. What type of monitoring arrangements and/or enforcement measures should be available to ensure the delivery of housing adequacy?

Ongoing and proactive monitoring and enforcement measures are vital if housing adequacy is to be achieved. As an example of why this matters, the Bevan Foundation's response to the Welsh Government's consultation on the Welsh Housing Quality Standards in 2022 highlighted how properties are currently only assessed for compliance with the Standards at the beginning of a new tenancy. We provided numerous examples of tenants living in properties which were compliant at the start of their tenancy, but as a result of repairs not being undertaken in a timely manner, the property would probably no longer comply. This had seen tenants lose faith with the system, feeling that the Standards were not there to work for them.

Q4. Are there any other considerations or potential implications of working towards delivering the 7 factors of housing adequacy you wish to highlight?

No.

Q5. Do you agree with the proposal to define "fair" in its broader context? (Yes/No – Please explain why)

We broadly agree with the proposal to define "fair" in its broader context. We do have some concerns, however, about the current wording of the definition with regards to localities. We are especially concerned about the wording of the proposal that a rent could be defined as fair if it is "reasonable and proportional to the specific circumstances of the locality". There is a lack of clarity in the consultation document as to what factors would be considered when exploring the "specific circumstances of the locality". If the only factors that are taken into account when exploring local circumstances is current market rents, there is a risk that the needs of low-income renters, living in areas where there are high rental prices will not be taken into account.

Q6. What considerations do you think should be taken into account when defining what is meant by fair rents – and how might we avoid unintended consequences?

We believe that the priority of the Welsh Government must be ensuring that the needs of low-income households are met and that therefore their position must be central to any definition of fair rents. Any definition of fair rents that mean that rents are only affordable to the median renter for instance, would itself be unfair.

We believe that the second part of the question cannot be fully answered without the Welsh Government adopting a clearer policy position. As outlined in our introduction, to

understand whether a policy consequence is desirable or undesirable we first need to understand what the Welsh Government is seeking to achieve. For instance, landlords selling their properties to owner occupiers or social housing providers, as a result of a particular definition of fair rent would only be a negative unintended consequence if the aim of the Welsh Government is to retain the sector in its current form.

One potential consequence from the Welsh Government's work in this area that would clearly have a negative effect on low-income households would be if landlords decided to stop renting out their properties for long-term rentals, renting them out as holiday lets instead. The Bevan Foundation has previously raised concerns about how property owners can make significant returns by renting out their properties as short-term holiday lets. If fair rent measures are introduced in the private rental sector, but the short-term holiday rental sector remains unregulated, then there is a risk that properties that are currently let out as long-term rentals could be flipped into short-term holiday lets. We are aware that the Welsh Government is moving forward with measures to better regulate the holiday-let sector. It is vital that these measures are connected with broader measures to create a fairer housing system in Wales.

Q7. What considerations do you think should be taken into account when defining "local incomes" – and how should it be defined?

As outlined in the Green Paper and in Alma Economics' research paper, accurately measuring local incomes is incredibly difficult due to limited data. We believe that the welcome focus of the Green Paper on measuring "low incomes" provides a solution to these challenges.

People on low incomes live in all communities across Wales. Given that it is these households that are in greatest need of support in accessing affordable housing, then using sources of data that provide us with insights as to what are the incomes of "low income" households would provide us with the most valuable data.

The Green Paper outlines one possible method of measuring "low incomes" by calculating 60% of the median full time weekly earnings of workers. It should be noted that the Welsh Government source cited on page 24 draws its data from the Annual Survey of Hours and Earnings (ASHE). ASHE data provides us with information on the earnings of employees (i.e. individuals) not households as is stated on page 25 of the Green Paper. **The statement in the Green Paper that a household could be defined as a "low income" household if their income is less than £18,660 (60%) is therefore incorrect.**

The data is a reasonable measure however, of low pay. In 2022/ 23 the National Living Wage stood at £9.50 an hour for those aged 23 and over. For a fulltime worker, working 35 hours a week at the National Living Wage, their annual salary would be £17,290 per week, just below the figure calculated using the 60% of ASHE measure. If the Welsh Government were eager to use a "low pay" measure when calculating affordability, then using the National Living Wage as a benchmark may be more useful. Whilst ASHE is only able to provide us with data for the previous year, the National Living Wage gives us real time insights into the incomes of those on the lowest pay, with the National Living Wage standing at £10.42 an hour from April 2023.

There are significant limitations to using data on “pay” as a proxy for “incomes”. First, employee data does not give us a full picture when it comes to incomes. It does not take into account incomes that people receive through benefits, through pensions, dividends, or the incomes of self-employed workers, or if several people in a household work.

It also does not take into account people’s circumstances. The 60 per cent of the median measure referred to in the consultation document refers to data published through the Household Below Average Income data set. A household is said to be on a relative low-income if they are on 60 per cent of the median income adjusted for household composition. This is to reflect the fact that households with children need a higher income to make ends meet than a single adult household, whilst a couple household is in a stronger financial position than a single adult household.

Given the shortage of other relevant data sources, however, there may be arguments to using data based on earnings, rather than household incomes.

Q8a. What measures should be used to assess affordability, and why?

The primary focus of any measure of affordability should be the position of low-income households. Our answer to question 7 has outlined some possible data sources that could be used to calculate “low earnings”. Despite their limitations these could be used to assess affordability, with rents being measured against people’s earnings.

An alternative, approach that is raised in Alma Economics’ research paper is to adopt a residual income measure. Such an approach is intended to capture whether a household’s disposable income, after housing costs is sufficient to cover a minimum basket of expenses. The Joseph Rowntree Foundation and Trussell Trust’s essentials guarantee provides an indication as to what is the necessary level of residual income to afford all essentials. They calculate that for a single adult this is £120 a week, raising to £200 a week for couples. Whilst this measure does not take into account the additional needs of people with larger living costs such households with children or disabled people, it does provide us with an indication as to what sort of alternative approaches that could be considered. The JRF – Trussell Trust campaign has been endorsed by the Welsh Government and this is an additional reason to consider this definition.

Q8b. Do you agree that 30% of a household’s income is an appropriate indicator of affordability? (Yes/No – If no, please explain why and what alternative value could be used).

No. The 30% measure is arbitrary and for very low-income households potentially leaves tenants without enough income for food and heating. We would prefer a residual income measure as outlined above.

Q9. Can you provide any additional data or evidence which has not been considered? (Please provide details)

No.

Q10. Do you agree that better data on incomes and affordability is necessary to inform policy interventions – and how could this data be obtained?

We agree that better data on incomes and affordability is necessary to inform policy interventions. At present, the lack of available data on incomes would make it very difficult to develop any local approaches to calculating fair rents.

There is a need to improve data on household incomes in Wales more broadly if we are to develop more effective policy solutions to the challenges facing low-income households. The Welsh Government could make better use of data it collects via the Council Tax Reduction Scheme and other devolved grants and allowances, the Welsh Revenue Authority's data or by boosting sample size of the Family Resources Survey.

Q11. What data do you consider needs to be captured on rents and relevant affordability factors, at what scale, and how often?

The Bevan Foundation has advocated that all landlords in Wales should be required to share how much they charge in rent with the Welsh Government. We believe that this should be an annual requirement. It is only by capturing this data that the Welsh Government will have a full understanding of the rental market in Wales at both a national and more local level.

To get a full understanding of the housing market in Wales the Welsh Government should also require the owners of short-term holiday lets to share their data with them annually. Without access to this data, it will be difficult for the Welsh Government to ensure that the holiday let sector is regulated in a way that reduces incentives for landlords to flip their properties from the long-term rental sector to the holiday let sector.

Q12. Are there other considerations and potential impacts (including other data sources) you wish to highlight in regard to the current and future private rental market?

The acute shortage of properties available at LHA highlights the importance of reviewing rent levels at least annually. The decision to freeze LHA has undoubtedly contributed to the development of a large gap between LHA and market rents. Given that the rental market can move quickly, a decision by the Welsh Government to not update its data annually could lead to policy decisions being taken based on information that does not reflect the reality on the ground.

Q13. What other sources of data on rent might we draw on to inform policy development and future monitoring and evaluation?

We believe that if landlords are mandated to share how much they charge for rent with the Welsh Government, then the Welsh Government will have the most robust data available to it.

A second source of data that the Welsh Government could look to draw on is data from the property marketing sites such as Rightmove or Zoopla. If there was a sudden upsurge in advertised rents on these sites, it would provide the Welsh Government with an "in-year" indication that there may be a growing problem with rent affordability.

Q14. Do you think there should be a requirement to provide rent information to Rent Officers? (Yes/No – If no, please explain why)

Yes

Q15. How do you think such a requirement could be enacted and enforced?

As outlined above, for the requirement to be effective we believe that landlords should be required to share their data with Rent Officers annually.

One option for ensuring enforcement would be to make compliance with the requirement a condition for Rent Smart Wales licence. Any landlord or agent that fails to comply with the requirement and continues to do so having been issued with a notice should have their licence revoked, with further legal action taken against them should they continue to rent out their property illegally following revocation.

Q16. Should such a requirement apply to all landlords or only some, perhaps larger, landlords? Why?

The requirement to share data should apply to all landlords.

To have an accurate understanding of the rental sector in Wales we must have an understanding of the whole market. As outlined by Alma Economics in their work for the Welsh Government, 34% of private rental properties in Wales are let by landlords who only own one rental properties. Excluding these landlords from the requirement to share their rents with Rent Officers risks creating a distorted image of the rental sector that could result in policies that don't adequately address the housing crisis.

Q17. What do you consider to be the advantages and/or disadvantages of first, second, and third generation rent control measures?

Before we can look at the advantages and disadvantages on any particular generation of rent control, there are some broader issues that we must consider.

It is important to note that rent controls are only one mechanism that could secure a path towards Adequate Housing. Questions around the supply and availability of housing are just as important when it comes to boosting affordability. The measures outlined in this Green Paper on rent controls, fairness and housing adequacy provide a useful starting point for considering how housing affordability could be improved. To be successful however, they must be integrated with the Welsh Government's broader approach to housing. There is very limited information within the Green Paper as to how such integration would take place. This is likely to be a by-product of the lack of clarity that is evident in the Green Paper as to what are the Welsh Government's overarching policy objectives, as set out in the introduction to our response.

This lack of clarity also means that any analysis of the models of first, second or third generation rent controls set out in our response can only be done in the abstract, given that we don't have a clear idea as to how they would interact with other Welsh Government housing policy.

First generation rent controls

There are some possible advantages of introducing first generation rent controls. A rent freeze, for instance, could provide a powerful temporary relief to people struggling with their rent. The recent introduction of such controls in Scotland is likely to have reduced the pressure on tenants at a time when all costs have been increasing sharply. Given that it is not envisaged that any form of rent control identified in this Green Paper would be put into effect prior to the next Senedd election in 2026, the financial landscape could

have improved or worsened significantly by the time a rent cap was introduced. As such it is difficult to measure just how effective such a form of rent control would be at that time.

The more detailed model of first generation rent controls proposed by the Welsh Government in the Green Paper do raise some concerns.

The yield-based model of rent controls outlined by the Welsh Government in its Green Paper risks setting rent controls well above what would be affordable for many renters. As set out by the Chartered Institute of Housing in their consultation response, a rent cap set under the yield-based model would see rents capped at over £2,000 a month in Cardiff. At best this creates a risk of the cap becoming irrelevant with it being well above market rents, at worse it creates the risk of dragging rents higher.

The cost-based model outlined in the Green Paper also has some limitations. First, as outlined by CIH, the model proposed in the Green Paper would see rents capped at very high levels, meaning that it would carry many of the same risks as the yield-based model. Second, this model of rent control risks creating a two-tier housing system. If landlords are permitted to charge higher rents for properties that are better maintained, this will place these properties out of the reach of low-income renters. This could lead to a position where low-income renters are pushed to live in poor quality, expensive to heat housing.

Finally, we believe that the affordable supply model is should not be explored further.

First, it is unlikely that a large number of homes would be delivered through creating a new category of "affordable rent" through the use of Section 106. There are already well documented examples of house builders avoiding their duty to deliver affordable housing through s106. Given that the Bevan Foundation has unearthed that only 1.2% of properties advertised on the rental market in Wales in February 2023 were available at LHA, it is not difficult to imagine that house builders would argue that delivering housing at "affordable rent" was economically unviable.

Second, creating a new category of "quasi social rent" and extending the "intermediate rent" model built through s106 to the PRS risks undermining attempts to deliver social housing. These new categories of "affordable rent" are likely to be less affordable than social rent. Resources should therefore be prioritised towards the delivery of social housing, not other products that are less effective in improving housing affordability.

Finally, the premise of the suggestion again brings into the focus the question about what are the aims of the Welsh Government's housing policy? Given that this a model that would seek to support the growth of the private rented sector, does this mean that the aim of the Welsh Government is to grow the tenure? If this is the case, then the Welsh Government should be explicit in setting this out. This would allow the other proposals set out in the Green Paper to be assessed against the Welsh Government's stated policy intentions.

Second generation

In principle we believe that second generation rent control models could improve rental affordability in Wales. Such an approach to rent controls could smooth increases in an overheating rental market, providing renters with some protection. This model of rent

control is also in place in Wales within the social housing sector. This means that there are already mechanisms in place that could be taken and applied to the private rental sector.

There are some potential disadvantages to this model of rent control, however. Prior to 2020 social landlords were permitted to increase their rents at rates that were above inflation. This resulted in 40,000 people being pushed into poverty according to research undertaken by the Joseph Rowntree Foundation. The level at which rent rises are capped would therefore need to be carefully considered should this model be rolled out into the Private Rental Sector.

On top of these concerns the specific model of second generation rent controls proposed by the Welsh Government in its Green Paper is deeply flawed. As with our concerns about a cost-based model of first-generation rent controls, we believe that an Energy/ Quality based approach to second generation rent controls would create a two-tier rental market. It would see low-income renters pushed into poor quality, expensive to heat housing with better quality properties accessed by wealthier renters.

Third generation

There are merits to the model of third generation rent controls set out in the Green Paper. It provides an opportunity to take local factors into account, ensuring that any rent controls that are put in place more effectively meets people's needs. There are some considerable disadvantages from adopting this model of rent controls, however.

Lessons from Scotland suggest that rent pressure zones are very difficult to put into effect. The level of detailed data required to make rent pressure zones effective is difficult to obtain and risks creating a very bureaucratic system. As set out in our response to questions about income, getting accurate data with regards to local incomes is extremely challenging. Furthermore, our recent work on LHA notes that getting data on rents for all property types can be a challenge. In a number of Broad Rental Market areas there are not enough properties of a particular type (e.g. shared accommodation) to set LHA levels, therefore data is used from neighbouring areas. Requiring landlords to share data with rent officers may help improve sample sizes, but there is a risk that for some types of properties, the available pool of information will be very small, making it very difficult to set caps at fair levels.

Q18. What factors should apply to determine if a rent control measure is required?

This question is difficult to answer without greater clarity as to the Welsh Government's policy objectives, as set out in the introduction to our response, or its preferred model of rent controls. If the aim of the Welsh Government is to introduce rent controls as a temporary measure to regulate rents in an overheating market, the measures that should be considered would be different to if the aim of the Welsh Government is to regulate rents on a longer-term basis.

Either way some of the key measures that would be used to determine whether rent control measures are necessary are clearly indicating a need for action. The number of people living in temporary accommodation in Wales now exceeds 10,000 highlighting that the homelessness system is under huge pressure. The lack of properties available at LHA rates is another indication that the private rental sector is not working for those on low incomes. The need for urgency to take forward some of the ideas outlined in this Green Paper ahead of the current, proposed schedule, is therefore evident.

Q19. Who should be responsible for determining if a rent control measure is to be introduced?

The answer to this question again depends on what the policy intentions of the Welsh Government are. If the aim of the Welsh Government is to significantly grow the social housing sector, the Welsh Government would need to implement a nation-wide programme of house building or buy back schemes. As such, given the need for any rent control policy to align with this broader objective, it would seem rational for ultimate responsibility to lie with the Welsh Government working in partnership with local government.

Q20. How could compliance with a rent control measure be monitored and enforced?

As with the question 15 we believe that Rent Smart Wales' licence requirements provide a vehicle for enforcement. Compliance with rent control measures should be a licencing requirement for all landlords. If rent control measures were introduced alongside a requirement for landlords to share their rent data, then any landlord or agent that submitted data that indicated that their rents were above a relevant rent cap would be notified of this and provided with an opportunity to rectify their rent. Failure to do so would see them have their Rent Smart Wales licence revoked.

If a landlord provided inaccurate data as to the rent they charge in an effort to hide the fact that they were not acting in compliance with rent control measures then this would also provide grounds for a landlord to have their Rent Smart Wales licence revoked, with further legal action taken against them should they continue to rent out their property illegally following revocation. Tenants should also be provided with a means to report their landlords if they believe they are charging rents above the rent control rate. They should also be provided with a legal right to claim a refund for any amount they have paid above rent controlled rates.

Q21. Do you have any views on the models for rent control measures?

The most effective way to improve rent affordability in Wales in the medium to long term is to increase the availability of social housing. As such we believe that a version of first or second generation rent controls that regulate increases in rents in the private rental sector, whilst investment is made in increasing the availability of social housing would be the most effective way of using rent controls.

Q22. Do you have any further evidence or observations that you wish to provide?

There is a need for much greater urgency in bringing forward solutions to the housing crisis. As our submission has noted, the homelessness system in Wales is facing unprecedented pressure whilst rents in the private rental sector are unaffordable for those on the lowest incomes. Waiting until 2027/28 to take action will be too late for many.

As also outlined in our response there is a need for much greater consideration as to how any measures of fair rent and adequate housing are connected with broader housing policy reform, including action to increase the supply of social housing and to better regulate the short-term holiday let sector.
