

# Property Act Proposals



## Cymdeithas yr Iaith 2022

**cymdeithas**<sup>®</sup> o bobol sy'n gweithredu'n ddi-drais  
dros y gymraeg a chymunedau cymru  
fel rhan o'r chwyldro rhyngwladol dros hawliau a rhyddid

### **AIM 1: A RIGHT TO A HOME LOCALLY**

*Place a responsibility on Local Authorities to act on a request by local people for a home to buy, rent or via a hybrid scheme - within a reasonable distance and time.*

A Property Act would:

- i. place a duty on local authorities to ensure suitable housing solutions for local people within a reasonable distance and time;
- ii. give local authorities broad discretionary powers to be resourceful in facilitating suitable housing solutions within a reasonable distance and time;
- iii. place a duty on other community housing providers - housing associations and community-owned enterprises - to assist the local authority to ensure suitable housing solutions for local people within a reasonable distance and time.

### **AIM 2: PLAN FOR LOCAL NEEDS**

*Place a responsibility on Local Authorities to co-produce regular Community Assessments in each area of the county with communities as equal partners. These would underpin housing policies, land use and public policies such as transport and education.*

A Property Act would impose duties on local authorities to:

- i. produce a Community Assessment jointly with individual community councils at least every 5 years;
- ii. draw up a Local Housing Strategy that reflects the results of the Community Assessments through an investment programme of specific projects to be commissioned for each community where local needs have been identified;
- iii. amend their land use policies and housing targets in the Local Development Plan in accordance with the results of the Community Assessments in order to enable suitable solutions to local needs.

### **AIM 3: EMPOWER COMMUNITIES**

*Strengthen the rights of communities to own and control housing, land and community assets through community-led organisations. Place a duty on public bodies to dispose of or lease land and property to community-owned social enterprises.*

A Property Act would introduce a Community Right to Buy empowering communities to buy and lease land and property from private and public landowners for community purposes, including community-led affordable housing initiatives.

### **AIM 4: PRIORITISE LOCAL PEOPLE**

*Create a housing and property system that meets local needs and protects communities from the effects of the free market; impose conditions on ownership and sales that give local people or community-led organisations first rights to buy or rent houses and to buy land and property in accordance with the Community Assessments.*

A Property Act would:

- i. place a duty on local authorities to ensure, in communities where the Community Assessment shows unmet local needs, a moratorium on the sale of property to anyone without a local connection;
- ii. give powers to local authorities to require property sellers to advertise locally first;
- iii. place a duty on Welsh Government and local authorities to ensure that community housing providers implement letting policies that prioritise local applicants in accordance with the latest Community Assessments.

#### **AIM 5: CONTROL THE RENTAL SECTOR**

*Control rent levels, housing standards and tenancy conditions to ensure quality affordable homes in the private rented and social housing sectors.*

A Property Act would:

- i. amend the Renting Homes (Wales) Act 2016 to give tenants of private landlords the right to receive Secure Contracts;
- ii. control the rents of private landlords and community landlords to ensure they are affordable for tenants on lower than median incomes.

#### **AIM 6: SUSTAINABLE HOMES**

*Ensure that the existing housing stock and new homes are affordable, reduce carbon and are compatible with community needs – by adhering to the principle of sustainable development.*

A Property Act would:

- i. place a duty on Welsh Government and Local Authorities to ensure that their housing and planning policies, Development Plans, Local Housing Strategies and housing investment programmes satisfy the principle of sustainable development and the well-being goals of the Well-being of Future Generations Act 2015;
- ii. amend the Well-being of Future Generations Act 2015 by extending the duty to act in accordance with the sustainable development principle and work towards the well-being goals to include private landowners, housing developers and community housing providers.

#### **AIM 7: INVEST IN COMMUNITIES**

*Enable communities to exercise their rights to own housing, land and community assets through a Community Wealth Fund. Facilitate low interest loans from a community bank, such as Banc Cambria, for local people and community led enterprises.*

A Property Act would:

- i. place a duty on Welsh Government to establish and fund a Community Wealth Fund (similar to the Scottish Land Fund);
- ii. give powers to local authorities to offer loans and grants and to invest equity in community-led enterprises;
- iii. give powers to Welsh Government and local authorities to invest in a Community Bank fund for low interest loans to local people and community owned enterprises.

We call on the Welsh Government to take urgent action to prevent a complete social and cultural collapse in our communities by introducing a comprehensive Property Act during the current Senedd term.

We call on community councils, local authorities, national parks, housing associations, community and social enterprises, and everyone who wants to see the Welsh language and Welsh communities flourish to support the campaign for a Property Act.

## INTRODUCTION

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In 2022 we saw the culmination of years of campaigning when Welsh Government announced a package of far-reaching new measures to tackle second homes: planning powers to control the numbers of second homes and short-term holiday accommodation, the introduction of a statutory licensing scheme for short-term holiday accommodation, enabling local authorities to request higher land transaction tax rates for second homes and holiday accommodation.

However, the most likely result of introducing these new measures will be to reduce the increase in the number of second homes and holiday accommodation: on their own they will not lead to a significant reduction in the numbers or the creation of more truly affordable homes for local people.

The period of the Covid pandemic has highlighted the worst features of an unregulated open housing market – fierce competition for housing as wealthy people 'escaped' from the cities, houses in seaside villages sold overnight, an increased demand for second homes and houses to be let as short-term holiday accommodation - and as a result the gap between house prices and local average income has become a gulf, leading to the weakening of Welsh language communities which are already on the brink linguistically.

We have seen other examples of economic and social inequality as greedy private landlords evicted local tenants just to let properties as holiday accommodation and create even more profit for themselves.

If we are serious about ensuring the continuation of the Welsh language as a living community language, we must reject the philosophy of free market capitalism that has been embraced by every Government in Westminster since the days of Margaret Thatcher. That is why we must transform the entire housing and property system by putting local needs before profit and treating houses as homes rather than financial assets.

The campaign for the Property Act is nothing less than a campaign for the future of all communities in Wales, whether they are Welsh-speaking, English-speaking or multicultural.

We call on the Welsh Government to take urgent action to prevent a complete social and cultural collapse in our communities by introducing a comprehensive Property Act during the current Senedd term.

We call on community councils, local authorities, national parks, housing associations, community and social enterprises, and everyone who wants to see the Welsh language and Welsh communities flourish to support the campaign for a Property Act.

## AIM 1: A RIGHT TO A HOME LOCALLY

*Place a responsibility on Local Authorities to act on a request by local people for a home to buy, rent or via a hybrid scheme - within a reasonable distance and time.*

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All Local Authorities have a duty to meet the housing needs of their area. Their main functions focus on developing and implementing a housing strategy, allocating existing social housing (the Authority's and housing associations' stock), homelessness prevention services, providing housing advice and developing new social and affordable homes in partnership with housing associations.

Local authorities should be much more proactive in identifying the needs and circumstances of local people, then find and facilitate suitable individual solutions. In this context "local people" are defined as: (a) people who have lived or worked in the area for a total of 10 out of the last 20 years (b) people who are employed or who have a contract for services, whether in one or more permanent positions, which constitute full-time working hours in the area; (c) people who are self-employed, whether in one or more jobs, which constitute full-time working hours in the area; or (d) people who have lived in the area for at least a total of 10 years during their lifetime.

Depending on the individual needs, suitable solutions may include:

- i. social rented housing (subsidised provision for those who cannot afford to rent or buy a home due to low or unstable income, or who are vulnerable due to health problems, disability or other special needs)
- ii. intermediate market housing (provision that is subsidised to make it affordable for those on a fixed income but unable to afford to rent or buy on the open market e.g. shared ownership or shared equity models)
- iii. local market housing (provision available to local people at a reduced price through planning conditions e.g. section 106 agreement)

When a community housing provider (the local authority, housing association or community owned enterprise) does not have a suitable home in the local area for the applicant, the Local Authority should be resourceful in facilitating a bespoke local solution within a reasonable distance and time such as:

- i. A community housing provider to receive a subsidy in order to buy a property on the open market, or to develop a new home, and let it on social or intermediate rent.
- ii. A community housing provider to receive a subsidy for buying a property on the open market, or to develop a new home, together with the applicant (shared-ownership model).
- iii. The applicant to receive a subsidy in the form of an equity loan to purchase a suitable property on the open market or to develop a new home.

All community housing providers should offer a 'step-up, step-down' option which would enable the applicant to remain in the home if their economic situation or personal circumstances change, for better or worse (e.g. moving from a shared ownership arrangement to an intermediate rent or from social rent to an equity sharing arrangement).

**A Property Act would:**

- i. place a duty on local authorities to ensure suitable housing solutions for local people within a reasonable distance and time;**
- ii. give local authorities broad discretionary powers to be resourceful in facilitating suitable housing solutions within a reasonable distance and time;**
- iii. place a duty on other community housing providers - housing associations and community-owned enterprises - to assist the local authority to ensure suitable housing solutions for local people within a reasonable distance and time.**

## AIM 2: PLAN FOR LOCAL NEEDS

*Place a responsibility on Local Authorities to co-produce regular Community Assessments in each area of the county with communities as equal partners. These would underpin housing policies, land use and public policies such as transport and education.*

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Carrying out a periodic review of housing needs is a statutory duty on Local Authorities. Since 2006, these reviews have been carried out through a Local Housing Market Assessment (LHMA). Local authorities are expected to re-write the LHMA every five years and to renew those LHMA's once during that period (between years two and three).

The LHMA is an essential part of the evidence base for the preparation of local authorities' Development Plans and Local Housing Strategies. It is a key consideration when devising the spatial strategies for Development Plans and for allocating land for affordable housing and open market housing.

However, the LHMA only provides broad, long-term estimates of what the local need for housing **might be** in the future - based on functional areas where people currently live and would be willing to move home without changing jobs, rather than on individual defined communities. Although this estimate will inform the development plan, it is unlikely to correspond directly to local housing need or requirement.

Instead of theoretical estimates of need and demand, local authority Development Plans and Housing Strategies should be guided by evidence of local needs at individual community level. This evidence would be the basis for deciding on appropriate housing solutions for each community, identifying local opportunities to meet the need and then making the case for investing public funds.

There are excellent examples from the North West and South West of Wales, where Rural Housing Enablers use a variety of methods to identify existing local needs, usually in collaboration with the community councils and community groups. This local evidence is essential in order to receive planning permission for affordable housing on exemption sites, which prioritise local people, and for housing associations to receive Social Housing Grant towards the development costs.

Carrying out a regular assessment of the needs of each community would provide a 'real' evidence base for the preparation of Development Plans and Local Housing Strategies which would, in turn, ensure that local needs guide land use policies, affordable housing targets and priorities for investment in new homes.

Each local authority's Housing Strategy should anticipate the number of homes to be provided per community where local needs have been identified, and provide an investment programme of specific projects to be commissioned that would meet those needs. No project should be included in the programme without evidence of local need.

The investment programme would allocate Social Housing Grant and support from the Local Authority (in the form of grants and loans) to finance the projects in the strategy, as well as allocating resources to facilitate bespoke housing solutions (as referred to in Aim 1) such as buying individual houses on the open market. The level of public subsidy for each project should be determined on the basis of producing a rent or sale price that is affordable for local people.



A Property Act would impose duties on local authorities to:

- i. produce a Community Assessment jointly with individual community councils at least every 5 years;
- ii. draw up a Local Housing Strategy that reflects the results of the Community Assessments through an investment programme of specific projects to be commissioned for each community where local needs have been identified;
- iii. amend their land use policies and housing targets in the Local Development Plan in accordance with the results of the Community Assessments in order to enable suitable solutions to local needs.

### AIM 3: EMPOWER COMMUNITIES

*Strengthen the rights of communities to own and control housing, land and community assets through community-led organisations. Place a duty on public bodies to dispose of or lease land and property to community-owned social enterprises.*

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We have a tradition of Welsh communities buying, developing and managing local assets in order to provide essential services such as pubs, community shops and renewable energy projects. However, there are few current examples of community-led housing initiatives. Cymdeithas Tai Gwynedd was formed in 1971 and continues to operate providing a home for tens of local families over the last 50 years. A number of rural housing associations were established in the North and South West during the 1970s and 80s but none of the original organisations exist today, their housing assets having been transferred to regional housing associations.

Important lessons should be learned from the history of the rural housing associations, namely the negative effects of a centralised funding and regulation system under the control of an unelected quango (Tai Cymru): a continuous reduction in grant rates creating an increasing dependence on private funding; rigid design requirements and grant criteria restricting the purchase of houses from the existing housing stock; the professionalisation of governance leading to a weakening of control by the communities that established them.

Welsh Government already recognises the ability of local communities to address their own housing needs and is committed to continuing to support community-led initiatives. Care should be taken that any programme to promote and support new community and co-operative housing initiatives does not ultimately prevent them from offering a variety of appropriate local solutions or weaken the control and influence of the communities that establish them.

Currently community groups wanting access to land and property rely entirely on the transfer of community assets from public bodies or on philanthropic landowners. Local communities can be at a disadvantage when a landowner (private or public) decides to sell a piece of land or a building that could be used for affordable housing: mainly because of the owner's desire to sell as soon as possible on the open market.

In Scotland, and to some extent in England, policies exist to enable the transfer of land and assets to community ownership which set useful precedents with the intention of improving the powers that Welsh communities have.

In England there is a *Community Right to Bid*. Local groups have the right to nominate a building or other land to be listed by the local authority as an asset of community value. Once an asset is listed the owner will only be able to dispose of the asset after a certain period has expired. If a community group applies to be treated as a potential bidder, then a full 6-month moratorium will apply. During this period the owner may continue to market and negotiate sales, but may not exchange contracts.

In Scotland the *Community Right to Buy* policy enables communities that register a community interest in land and property to have the first option to buy when the land or property is offered for sale. Community bodies can register an interest in any land, such as churches, pubs, estates, empty shops, woodland, fields and more. A registered interest in land lasts for five

years. Any land or building purchased must be able to provide a level of income that ensures it does not become a liability to the community in the long term.

**A Property Act would introduce a Community Right to Buy empowering communities to buy and lease land and property from private and public landowners for community purposes, including community-led affordable housing initiatives.**

#### AIM 4: PRIORITISE LOCAL PEOPLE

*Create a housing and property system that meets local needs and protects communities from the effects of the free market; impose conditions on ownership and sales that give local people or community-led organisations first rights to buy or rent houses and to buy land and property in accordance with the Community Assessments.*

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People across Wales are increasingly excluded from being able to secure a suitable home to rent or buy due to economic and social disadvantage. The unregulated housing market is the main cause of price inflation beyond the reach of local people. We must ensure control over the open housing market, putting local needs ahead of profit and treating houses as homes rather than financial assets. These interventions will be essential in order to protect the density of Welsh speakers, by maintaining the local population and reducing outward-migration, ensuring the future of rural schools, public services and local businesses.

In areas where a Community Assessment shows local housing needs that are unmet, local people should be given the first opportunity to buy properties that come on the market in that community. In practice the seller (individual, private organisation or public body) would be required to advertise it locally for up to 6 months. During this period there would be a moratorium on the sale of the property to anyone without a local connection while the seller considers offers from local individuals and community housing providers. It would be a requirement for the seller to accept an offer to purchase from a local applicant or community provider that equals or exceeds an independent valuation of the property.

Local authority housing investment programmes should allocate sufficient subsidy, in the form of grants and loans, to enable local applicants and community housing providers to exchange contracts before the end of the moratorium period. In addition, if the property is purchased by a community housing provider it should be a condition of grant to implement a lettings policy which prioritises local people as long as the Community Assessment continues to show unmet local needs.

#### **A Property Act would:**

- i. place a duty on local authorities to ensure, in communities where the Community Assessment shows unmet local needs, a moratorium on the sale of property to anyone without a local connection;**
- ii. give powers to local authorities to require property sellers to advertise locally first;**
- iii. place a duty on Welsh Government and local authorities to ensure that community housing providers implement letting policies that prioritise local applicants in accordance with the latest Community Assessments.**

## AIM 5: CONTROL THE RENTAL SECTOR

*Control rent levels, housing standards and tenancy conditions to ensure quality affordable homes in the private rented and social housing sectors.*

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Private landlords must register and obtain a license from Rent Smart Wales in respect of each of their domestic tenancies intended to be let. In order to retain the licence, the landlord or agent must comply with the requirements of a statutory Code of Practice. While the Code of Practice sets out what landlords and agents must do in order to comply with the law (i.e. Requirements), large parts of it are Best Practice which is entirely at the discretion of landlords and letting agents.

The Renting Homes (Wales) Act 2016, which comes into force from 1st December 2022, will create a completely new system for residential tenancies. Once the Act is implemented, most existing tenancies and licenses will be converted into occupancy contracts.

Landlords will also be grouped into one of two groups:

- i. Community landlords (including local authorities, housing associations and other registered social landlords)
- ii. Private landlords (any landlord in Wales who is not a community landlord)

There will be two types of occupancy agreement, a 'Secure Contract' and a 'Standard Contract'. The type of occupancy contract in place will depend on whether the property is owned by a community landlord or a private landlord.

It is expected that private landlords will usually enter into standard contracts, but may choose to enter into a secure contract. The landlord can terminate a standard contract with cause, or without cause, after a certain period of notice. At the end of a fixed period the occupier will automatically be given a new periodic standard contract if they continue to occupy, on similar terms and conditions to the previous fixed period contract.

In the housing association sector, assured tenancies are currently a Regulatory Requirement from Welsh Government. The Secure Contract introduced by the Renting Homes Act is modelled on the current secure tenancy issued by Local Authorities. In general, the landlord can only end the contract for a specific reason. Most community landlords will enter into secure contracts with their tenants. This gives the contract holder the strongest security of occupancy.

The Welsh Government registers and regulates Registered Social Landlords (including housing associations). This allows them to issue guidelines and set standards relating to the management of housing accommodation, governance and financial management, complaints and performance, maintaining financial viability. However, there are growing concerns about the affordability of housing association rents, as Welsh Government has allowed above-inflation rent increases for a number of years, primarily to facilitate the development of more homes.

**A Property Act would:**

- i. **amend the Renting Homes (Wales) Act 2016 to give tenants of private landlords the right to receive Secure Contracts;**
- ii. **control the rents of private landlords and community landlords to ensure they are affordable for tenants on lower than median incomes.**

## AIM 6: SUSTAINABLE HOMES

*Ensure that the existing housing stock and new homes are affordable, reduce carbon and are compatible with community needs – by adhering to the principle of sustainable development.*

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The Well-being of Future Generations (Wales) Act 2015 deals with improving the social, economic, environmental and cultural well-being of Wales. It places a duty on public bodies to act in a manner that seeks to ensure that the needs of the present are met without jeopardizing the ability of future generations to meet their own needs (the sustainable development principle).

The Act sets seven well-being goals which, together, provide a joint vision for the public bodies to work towards. A number of the aims are directly relevant to our call for a Property Act:

- i. A prosperous Wales: an innovative, productive, low-carbon society which recognises the limits of the global environment and which, as a result, uses resources in an efficient and proportionate manner (including action on climate change)
- ii. A Wales of cohesive communities: attractive, viable and safe communities that are well connected
- iii. Wales with a vibrant culture where the Welsh language flourishes: a society that promotes and protects culture, heritage and the Welsh language and that encourages people to participate in the arts, sports and leisure activities

Obviously, all interventions related to improving the existing housing stock or providing new homes are relevant to the well-being goals in some way - socially (e.g. meeting local needs, affordable for local people, maintaining local services), economically (e.g. investing in communities, supporting local contractors and suppliers), environmentally (e.g. reducing carbon, alleviating fuel poverty, protecting natural habitats) and culturally (e.g. meeting local needs, maintaining Welsh-speaking communities).

It should therefore be a requirement for **all** proposed housing interventions to be assessed against the sustainable development principle and well-being goals. This should include housing and land use policies in Development Plans, planning applications submitted for new homes, investment programmes in Local Housing Strategies and new affordable housing projects. Simply put, no housing policy should be adopted, planning permission should not be given or any housing project that receives public funds should not be approved where it cannot be shown that they meet the sustainable development principle and support the achievement of the well-being goals.

In addition, the duty to undertake sustainable development and work towards the well-being goals should be extended to include private landowners, housing developers and community housing providers.

### **A Property Act would:**

- i. **place a duty on Welsh Government and Local Authorities to ensure that their housing and planning policies, Development Plans, Local Housing Strategies and housing investment programmes satisfy the principle of sustainable development and the well-being goals of the Well-being of Future Generations Act 2015;**

- ii. amend the Well-being of Future Generations Act 2015 by extending the duty to act in accordance with the sustainable development principle and work towards the well-being goals to include private landowners, housing developers and community housing providers.

## AIM 7: INVEST IN COMMUNITIES

*Enable communities to exercise their rights to own housing, land and community assets through a Community Wealth Fund. Facilitate low interest loans from a community bank, such as Banc Cambria, for local people and community led enterprises.*

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The Social Housing Grant is the main capital grant provided by Welsh Government to fund the provision of social and affordable housing. This funding is essential to ensure that schemes are viable and rent levels remain affordable. In recent years, the level of funding available has increased significantly from £68m in 2016 to £310m in 2022/23, supporting the Government's target of building 20,000 new low carbon social homes by the end of this Senedd term.

Housing associations and local authorities can access this funding for building new homes and buying and renovating existing properties. Housing associations also borrow private funding, using it alongside the grant they receive to build new homes and make public money go further.

Community and co-operative housing initiatives will face a significant challenge to raise funds for the purchase of land and property and the development of truly affordable homes. They can emulate the renewable energy projects and community pubs that have successfully raised money through the sale of community shares. However, due to the significant costs associated with providing affordable homes, community and co-operative housing initiatives will need to access additional financial support. A new enterprise's lack of experience or assets could prevent them from accessing commercial loans. Therefore, Local Authorities and the Welsh Government should offer financial support in the form of grants, equity investment and low-interest loans.

The Welsh Government should establish a fund similar to the Scottish Land Fund, which finances the purchase of land and buildings that would contribute to the overall sustainability of a community or enable the retention or provision of key local services. The Scottish Land Fund can support the purchase of many types of land and buildings ranging from large estates and forestry to shops and community hubs. Any land or building purchased must be able to provide a level of income that ensures it does not become a liability to the community in the long term.

The Scottish Government has committed £20 million a year to the Fund by the end of this parliamentary term. As a first step applicants can apply for technical support funding towards the costs of specialist advice and/or professional fees including the preparation of feasibility studies and business plans, valuations and surveys as well as some costs towards community engagement. In the second step they can apply for funding to buy assets.

Levels of locally generated investment are an important indicator of local support and capacity. As a minimum, 5% of the funding should come from other sources including the community group's fundraising efforts, community shares, negotiated discounts on the valuation, or other funders.

The establishment of a community bank in Wales, Banc Cambria, will be a unique opportunity to facilitate local investment in community assets. Welsh Government should work with Banc Cambria to develop a low interest loan fund for local people and community led housing



initiatives. The fund would be specifically for financing the costs of buying, improving or building affordable housing and other community resources.

These public and private funds will be essential if community-led enterprises are to realise the opportunities that will be created by introducing policies similar to the Community Right to Buy.

**A Property Act would:**

- i. place a duty on Welsh Government to establish and fund a Community Wealth Fund (similar to the Scottish Land Fund);**
- ii. give powers to local authorities to offer loans and grants and to invest equity in community-led enterprises;**
- iii. give powers to Welsh Government and local authorities to invest in a Community Bank fund for low interest loans to local people and community owned enterprises.**