

Institution: University of Kent
Unit of Assessment: 20
Title of case study: Housing Tenure Reform in Wales
<p>1. Summary of the impact</p> <p>Working both individually and in collaboration with other researchers, Dr Helen Carr has produced a highly significant and original body of work dealing with questions of housing tenure. This work has provided a direct inspiration for substantial reform of Welsh housing legislation, indelibly colouring current public and political debates in this area, and is recognised by Welsh policy-makers as having had ‘significant impact’ in the reform process, a process in which Carr remains closely and directly involved. With the legislation now in draft form, the research has substantially shaped the agenda of the Welsh Assembly, providing inspiration, intellectual underpinning, a legal framework and the evidential basis for proposals which are now at an advanced stage of development. The research will impact directly on the lives of approximately half a million people who are tenants or landlords, as well as the extensive work in this area of all Welsh councils and housing associations.</p>
<p>2. Underpinning research</p> <p>Since 2006, both individually and in close collaboration with other researchers (Cowan, Bristol and Hunter, York), Dr Helen Carr has produced a body of work which questions the operations of, and assumptions behind, housing law with a specific focus on its application to tenants of different kinds of landlords (outputs 1-5). A key insight has been to highlight the apparent legal dissonance between different housing tenures which have grown up without cross-reference, leading to the highly inequitable outcome that, despite uniform points of access to different tenures, rights and responsibilities vary significantly depending on the apparently neutral choice of type of landlord (output 3). For example, the right to buy is limited to council housing although being in housing need does not necessarily lead to such tenure but might lead to housing association or private renting. Shared ownership (where the tenant part buys/part rents) presents particular problems in law and policy without easy resolution (output 3). This body of research provides a compelling case for the need for reform and the various objectives that must inform it, including simplification, uniformity across tenures, neutralising the politics of housing, and avoiding the diverse types (or layers) of housing tenure (outputs 1-4). Furthermore, the research has pointed out the diverse locations, bases and principles upon which housing rights can be adjudicated (output 3).</p> <p>To consolidate and further extend their previous empirical and doctrinal scholarship, Carr (with Cowan and Hunter) was commissioned by the Joseph Rowntree Foundation Housing Market Taskforce to produce a substantial research paper (output 3). The research paper drew on and developed various aspects of Carr’s earlier research, including: her earlier work for the Law Commission (see below), Carr and Hunter’s scholarship on the concept of “vulnerability” (outputs 2 and 6, with the latter output drawing upon research done earlier and written up for publication in 2013); and Carr, Cowan and Hunter’s British Academy funded research into the workings of private landlord associations (output 1). The JRF research paper consolidated and further developed this extensive and wide-ranging body of work, advancing a closely argued and highly original case for a coherent programme for housing tenure reform, premised on a rigorous analysis of different elements of risk in each area.</p>

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Carr arrived in Kent in 2006, having previously worked closely with the Law Commission on housing law reform from 2002 to 2006 (where she had co-authored two substantial working papers and one major Report on 'Renting Homes'). Since arriving in Kent, she has greatly extended her research in this area, publishing a range of further pieces, which have made a distinct and material contribution to the impact described in this case study. In addition to making a full and equal contribution to the ideas, research and drafting of output 3, she has conducted further research which highlights the complex and unintended outcomes of tenure reform (outputs 2 & 4), and foregrounds the needs of vulnerable populations (outputs 2 and 6). During a recent secondment, she has also written a major new Law Commission Report, which updates the original Law Commission proposals, builds on and extends the research insights highlighted above and explains how they apply in the context of Welsh devolution and housing priorities. As well as constituting an important research contribution in its own right, this Report provides an essential step in the legislative process (output 5).

3. References to the research

1. H. Carr, D. Cowan & C. Hunter (2007) 'Policing the Housing Crisis' 27(1) *Critical Social Policy* 100-127. Peer reviewed journal.
2. H. Carr & C. Hunter, 'Managing vulnerability: homelessness law and the interplay of the social, the political and the technical', (2008) 30(4) *Journal of Social Welfare and Family Law*, 293-307. Peer reviewed journal. REF2.
3. H. Carr, D. Cowan & C. Hunter, *Tenure Rights and Responsibilities*, JRF Programme Paper: Housing Market Taskforce, York: Joseph Rowntree Foundation, 2010. Funded through competitively awarded grant process.
4. H. Carr (2011) 'The Right to Buy, the Leaseholder, and the Impoverishment of Ownership'. *Journal of Law and Society*, 38 (4). pp. 519-541. Peer reviewed journal. REF2.
5. Law Commission, *Renting Homes in Wales* (Law Com 337), 9 April 2013, drafted by Carr.
6. H. Carr (2013) 'Housing the Vulnerable Subject: The English Context' in *Vulnerability and the State* ed. M Fineman and A Grear (Ashgate). (Research conducted primarily from 2009-10 and subsequently written up for publication in 2013) REF2.

4. Details of the impact

Soon after taking devolved legislative power for housing in 2011, the National Assembly for Wales moved to introduce reform in this area, recognising the serious inadequacies of current law and the compelling need for legal reform. In October 2011, the Assembly published an initial discussion paper, which drew heavily on the work of Carr, Cowan and Hunter and quoted it directly as an inspiration for reform: "2.1 The current state of the law is out of date, cumbersome, wastes landlord, tenant and court resources and places unnecessary obstacles in the way of the achievement of appropriate policy outcomes" (source 1, citing output 3).

In recognition of the significance of their research to the Assembly's reform agenda, the Joseph Rowntree Foundation then arranged for Carr, Cowan and Hunter to meet with the Assembly's Housing Directorate and their legislative personnel in November 2011. This meeting, described by

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a Project Manager for the Welsh Government as 'immensely useful' (source 5) enabled a focused discussion of the key research insights detailed in their joint research (focussing particularly on output 3), and assisted the development of Welsh law and policy. Issues discussed drew on a range of previous key research findings, including how the Law Commission's rental reform Bill might be updated to deal with the proportionality jurisdiction opened up as a result of Article 8, Schedule 1, Human Rights Act 1998 (output 3); leasehold reform (output 6); the problems of vulnerable tenants facing automatic eviction (outputs 3 and 6), and the integration of co-operative housing provision within a tenancy reform project. Subsequently, Carr was appointed to the expert panel advising on the legislation, attending further key stakeholder meetings in December 2011 and February 2012.

The Assembly then published a Consultation Paper in Spring 2012, setting out its intention to take forward tenancy reform in the current parliamentary session (2012/13) (source 2). This paper again took its starting point from the body of research described above (outputs 1-5) (source 5). The Consultation Paper is a substantive document, which accompanied advice to the Welsh Minister for Housing and Regeneration and informed the subsequent White Paper published in May 2012 (source 3). The White Paper commits to legislation on tenancy reform, during the lifetime of the Assembly (i.e. before 2016). In preparation for that legislation Carr was seconded to the Welsh Law Commission for six months (September 2012 - March 2013) to work on the project, writing a series of issue based memoranda and a report updating the Law Commission's proposals, placing them in the Welsh context, and engaging with the legal scope of devolution (which includes housing but not property law) (source 4). This is work for which she was considered by the Law Commission to be uniquely qualified (source 6). Her work is closely informed by the body of research described above and made a very significant contribution to the advice given to the Minister and the proposed legislation. In the 2013 White Paper (output 5), which underpins the reform, she developed and extended that body of research. In particular, the following elements of the legislation closely reflect the insights that are developed in the research set out above:

- The need for distinct separation between social and market tenure (outputs 3, 4, 5 & 6).
- Abolition of ground 8, the mandatory ground for possession currently available to housing association landlords (outputs 3 & 5).
- Extension of succession provisions to carers (output 5).
- Incorporation of some of Scottish reforms to social housing tenure (modified in the light of experience) (output 5).
- The need to ensure that proposals are sensitive to the needs of supported housing and issues of domestic violence (outputs 2, 3, 5 & 6).

Carr is also working closely with key stakeholders within Welsh housing and with Government lawyers in Cardiff to ensure that the Report is responsive to their concerns, again drawing fully on the research insights described above in this process.

The senior civil servant responsible for the Welsh Assembly tenure reform process wrote to Carr and Cowan to offer formal thanks for the contribution which their research made in the reform process, and highlighting as key Carr's 'knowledge of comparative tenure', 'understanding of the legal context in which supported housing operates', ability 'to draw on significant previous engagement with supported housing organisations in Wales' and role in helping to ensure that the Renting Homes White Paper takes account of all key developments in housing law subsequent to

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the publication of the Law Commission's report in 2006 (source 5). He explains:

"I particularly value the independence of an academic perspective against which a wide range of viewpoints, such as there are within the housing sector, can be validated ... your input has already had a significant impact by stressing the importance of adopting a broad-ranging perspective on tenure reform, flagging reforms in other countries we could learn from and highlighting issues that have arisen since the Law Commission's work that we might wish to address.

... I would go so far as to say that, without that body of research and your on-hand expertise whenever I have required it, I would not have been able to develop the proposals as far as we have been able to do so. Although the Consultation Paper did not explicitly refer to your body of work [as is normal practice with this type of document], it is evident from the terms of the paper that it formed the basis for it. For example, the following elements of the proposed legislation closely reflect the insights developed in your research: Distinct separation between social and market tenure; Abolition of ground 8, the mandatory ground for possession currently available to housing association landlords; Extension of succession provisions to carers; incorporation of some Scottish reforms to social housing tenure (modified in the light of experience)" (source 5).

The research has thus provided a direct inspiration for substantial reform of Welsh housing law, shaping the political agenda, colouring public debates and forming the basis for changes that will impact very directly on the lives of approximately half a million people who are either tenants or landlords, as well as the work in this area of all Welsh councils and housing associations.

5. Sources to corroborate the impact

1. Working Paper 1: *Tenure Reform in Wales, Discussion Paper*, October 2011 (confidential internal working paper), which cited output 1 as an inspiration for reform.
2. Consultation Paper: *Tenancy Reform in Wales: a Position Paper*, February 2012 (confidential internal working paper, circulation restricted to stakeholders), which took its starting point from the research described above.
3. White Paper 1: *Homes for Wales*, Welsh Government, May 2012, WG15346, committing to legislation on tenancy reform, during the lifetime of the Assembly.
4. White Paper 2: *Renting Homes: A Better Way for Wales*, May 2013, WG17986, drawing closely on Carr's research (output 5) in the framing of the reform and many detailed recommendations
5. Simon White, Project Manager, Tenure Legislation, Welsh Government (e-mail dated 26 July 2013, on file), stating that the reform process found its starting point in the research described above and noting that without it, the Welsh Government would not have been able to develop the proposals discussed.
6. Richard Percival, Team Leader, Public Law team, Law Commission (e-mail dated 19 May 2013) on file), explaining the very significant contribution which Carr's work made to the advice given to the Minister, the second White Paper and the proposed legislation.