

Julie James MS
Minister for Climate Change

15 November 2021

Dear Julie

Legislative Consent Memoranda on the UK Government's Leasehold Reform (Ground Rent) Bill and Building Safety Bill

I am sorry to hear that you are unwell and are therefore unable to attend our meeting today to discuss the legislative consent memoranda on the Leasehold Reform (Ground Rent) Bill and Building Safety Bill.

In lieu of your attendance, I would be grateful if you would provide a written response to the questions in the annex by 10am on Wednesday 17 November in order for us to consider and report by the deadline we have been set by the Business Committee.

I am copying this letter to John Griffiths MS, Chair of the Local Government and Housing Committee.

Yours sincerely,



Huw Irranca-Davies
Chair

Annex

Overarching issues

Legislating in devolved areas:

1. Given the Welsh Government's overriding principle that legislation in devolved areas should be enacted by the Senedd can you set out your reason why this principle is not being followed in relation to all provisions in the Leasehold (Ground Rent) Bill and 35 clauses in the Building Safety Bill?
 - i. Can you confirm if it is your view that commonality can only be achieved via England and Wales legislation in both cases using UK Government Bills and can you clarify why Senedd legislation cannot be used to amend England and Wales legislation to achieve or retain commonality of approach if that is the Welsh Government's objective in these areas?
 - ii. Is the priority of your department to achieve a consistency of approach in these policy areas over and above the Welsh Government's principle that legislation in devolved areas should be made in Wales?
 - iii. What are your views on the cumulative constitutional implications of asking and allowing the UK Parliament to legislate in two wholly devolved areas?

Capacity of the Welsh Government:

2. Does your department have the capacity it needs to deliver on the Welsh Government's legislative priorities?
 - i. Can you explain why both LCMs on the Bill say there is no **Senedd** time to bring forward the provisions contained in the two UK Bills in the Senedd ?
 - ii. What are your other legislative priorities and why is there is no capacity to bring forward Senedd legislation in these areas?
 - iii. Have you sought the views of stakeholders and Senedd Members on whether they would prioritise the content of these Bill's over others and whether they would prefer Senedd legislation in these areas even if it should take longer than pursuing these provisions through UK Bills?

Accessibility:

3. What assessment have you made of the impact of making these provisions in UK Bills on the Welsh Government's duties in relation to the accessibility of Welsh law particularly as regards:

- the lack of bi-lingual legislation in these two devolved areas in relation to these Bills;
- that law in relation to leasehold reform for Wales will be contained in two separate UK Bills and a Senedd Bill;
- that law in relation to Building Safety will be contained within a UK Bill which amends an existing Act and in a separate Senedd Bill?

Completeness of information:

4. Are you satisfied with the quality and completeness of information provided to Members in the LCMs and the Building Safety Bill supplementary LCM? We draw your attention to references made in the summary of clauses in the Leasehold Reform Bill LCM to provisions relating to England only and the lack of information in the Leasehold Reform Bill LCM about what further amendments are being sought.

Scrutiny:

5. Do you have any concerns that Senedd Members have not had the opportunity to scrutinise in detail the impact and scope of the Leasehold Reform Bill and the 35 clauses currently proposed for Wales in the Building Safety Bill?
 - i. What engagement has the Welsh Government had with stakeholders in Wales on the development of these Bills?
 - ii. Can you provide examples of how the Welsh Government has responded to stakeholder concerns about any of these Bills given the issues raised during Bill scrutiny in the UK Parliament?
 - iii. How do you respond to concerns about the lack of scrutiny of Welsh provisions by the public bill committee on Building Safety and lack of inclusion of any Welsh MPs in that committee's work?

Leasehold Reform (Ground Rent) Bill specific issues

6. The LCM says the Law Commission concluded there was no evidence of a need for different provision in the law in England and Wales. Did the Commission go on to recommend an England and Wales Bill and did they prepare draft clauses?
7. The LCM on the Leasehold Reform Bill states that the Bill established an important precedent for legislation in Wales to be taken forward via UK legislation. Can you clarify why this precedent is important and what the long term implications for the Senedd are of setting this precedent in this area?

8. In both the LCM on the Leasehold Reform Bill and in correspondence to the Senedd's Local Government and Housing Committee you have indicated your intention to take forward other areas of leasehold reform in separate UK legislation. Can you clarify why this legislation is being taking forward separately in two UK Bills rather than in a single Senedd Bill? Given that you are suggesting *future* action through UK legislation, how does this fit with your principle that legislation in devolved areas should be enacted by the Senedd?
9. Can you clarify what further amendments to the Bill you are seeking and confirm whether or not the UK Government has agreed to these amendments?
10. Can you clarify when a second supplementary LCM will be tabled and how much time will Senedd Members be afforded to scrutinise it given that some of the amendments were made in July 2021 and an LCM was not laid within the normal two week period set out in standing orders?
11. Given that the Bill falls within wholly devolved areas why do some of the delegated powers in the Bill only extend to the Secretary of State and what are the implications of this if they remain unamended?
12. Can you clarify why commencement powers are only provided to the Secretary of State given that commencement powers in relation to Wales have been sought in the Building Safety Bill and what are the implications of this for enactment of the provisions in Wales?
13. Do you have any plans to bring forward a Bill in the Sixth Senedd on further aspects of leasehold reform should the UK Government not bring a further Bill forward?

Building Safety Bill Specific Issues

14. When will a summary of consultation responses to the Welsh Government's White Paper on building safety be published, and will this be prior to Members being asked to vote on a consent motion for the Building Safety Bill?
15. Can you clarify how the Bill's provisions are both 'bespoke' and are necessary for consistency at the same time, and can you clarify whether Welsh drafters or UK Parliamentary drafters drafted the bespoke provisions in the Bill?
16. What were the views of stakeholders on taking forward issues in relation to building safety in two separate Bills, one UK Bill and one Senedd Bill?
17. Do you have any concerns that taking forward legislation on the life-cycle safety of buildings in two separate pieces of legislation will have any impacts on the coherence and accessibility of that legislation?

18. Can you clarify why the technical amendments made during the House of Commons Committee stage were not included in the Bill on introduction and do you expect any further amendments to be made to the Bill in relation to Wales?
19. Can you confirm if the Welsh Government has any intention to publish draft regulations for the Senedd to scrutinise your intentions in relation to the delegated powers provided to the Welsh Ministers in the Bill? (The UK Government did so for England in July 2021.)
20. Can you clarify if there is any intention to extend the scope of the New Homes Building Ombudsman to Wales?
21. Can you confirm that you will notify the Senedd of any regulations made using the powers provided under clause 40 of the Bill?