

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair – Legislation, Justice and Constitutional Committee
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24 March 2022

Dear Huw

Thank you for the Committee's report of 17 March on the Supplementary Legislative Consent Memoranda (Memorandum No. 3 and Memorandum No. 4) on the Building Safety Bill (the Bill). The recommendations made by the Committee together with my response are provided below.

Recommendation 1. *The Minister should, in advance of the debate on the relevant legislative consent motion, provide a further and full explanation as regards the statements made in paragraph 48 of Memorandum No. 3, and specifically address our concerns outlined in paragraphs 80 and 81 of our report.*

Response

Routes to redress for homeowners are complex with a number of industry codes of practice in place, which makes it difficult for consumers to navigate. When something goes wrong, clearly house builders and warranty providers should meet their obligations and put things right. However, there are gaps in protection currently which need to be plugged and the control over such situations is very much one-sided in favour of the developer. The New Homes Ombudsman ("NHO") seeks to address that balance so that dispute resolution is fair for all.

Operating different systems across different parts of the UK will not assist in reducing the complexity for homeowners. A standard approach, implemented at a single point in time across participating parts of the UK (currently England, Wales and Scotland), will reduce confusion for complainants and developers.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

It is acknowledged that the Senedd has competence to pass comprehensive legislation which could achieve substantially the same effect as the NHO provisions within the Building Safety Bill. However, we have stated we will take a pragmatic approach to using UK legislation, in achieving the Welsh Government's objectives in devolved areas.

In paragraph 81 of its report on SLCM No.3, the Committee asked *'is the Minister of the view that seeking such consent would permanently remove from and therefore reduce the Senedd's competence as set out in the 2006 Act?'* Had the Welsh Government not secured the relevant amendment to add the NHO to the "cross-border" bodies in Schedule 7B of the Government of Wales Act 2006, the requirement to obtain consent of a UK Government Minister prior to legislating for a Wales-specific redress mechanism could have potentially impacted upon the Senedd's ability to freely legislate in this regard. However, as such an amendment has been secured, the Senedd is not required to obtain consent of a UK Government Minister before removing or modifying functions of the NHO.

Recommendation 2. *We again ask the Minister, and all the Welsh Ministers, to ensure that legislative consent memoranda laid before the Senedd contain full, accurate and transparent information, in addition to delivering what is required by Standing Order 29.*

Response

I recognise the importance of clear legislative consent memoranda to enable the committee, and other interested parties, to assess legislation that affects Wales. I will ask my officials to liaise with their counterparts over how amendments are referenced to enable clearer cross referencing.

In responding to some of the other points made within your report, I offer the following additional response. I note your disappointment with my view that *"it is practical and appropriate for the NHO provisions to be commenced by the Secretary of State"*, however as the NHO will be implemented at a single point in time I believe it is appropriate for the Secretary of State to commence the provisions. This will also help with the clarity of communication around the NHO.

I acknowledge your view that *"We do not consider it sufficient or appropriate that the Senedd (or the Welsh Ministers) will not have a formal role before the Secretary of State issues and approves a code of practice about the standards of conduct and quality of work expected from members of the NHO scheme"*, however for the reasons provided in response to Recommendation 1, there is a strong argument as to why the NHO should be cross border rather than a Wales only entity. Furthermore, the [UK Government response](#) to the consultation: [Redress for Purchasers of New Build Homes and the New Homes Ombudsman](#), which explored the detail of the proposed legislation and how a NHO will be delivered, details that 91% of respondents agreed that the New Homes Ombudsman remit should be UK-wide.

Officials have worked very closely with the UK Government to ensure that Welsh Ministers have a formal and purposeful role. The express provisions on the face of the Bill to "consult" place a statutory duty on the Secretary of State to consult with Welsh Ministers on various aspects of the NHO provisions, including the issuing, revising or replacing of a code of practice. We expect engagement at an early formative stage, with the Welsh Ministers' views being taken into account when finalising proposals.

The provisions within the Bill reflect the extent of the productive co-operation and engagement with the UK Government.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

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