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Y Gweinidog Tai ac Adfywio  
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Llywodraeth Cymru  
Welsh Government

Ein cyf / Our ref: LF/CS/0471/14

Jocelyn Davies AM  
Chair  
Finance Committee  
National Assembly for Wales  
Cardiff Bay  
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09 June 2014

Dear Jocelyn

### **Housing (Wales) Bill – Financial implications of Government amendments**

In my letter of 19 February 2014, in which I responded to your letter of 7 February, I promised to write again outlining the financial implications of amendments to the Housing (Wales) Bill when they were tabled. As you know, all Stage 2 amendments have now been tabled and voted on by the Communities, Equality and Local Government Committee. A large number of the Stage 2 amendments were technical in nature with no financial implications.

I have set out below the Stage 2 amendments that were agreed, which have financial implications and a brief explanation of that impact. I will write again when Stage 3 amendments are tabled.

#### **Private Rented Sector**

#### **Amendment 288 - Rent Repayment Orders and 290 Rent Repayment Orders: further provision**

These amendments provide for local housing authorities to be able to apply to the Residential Property Tribunal for Rent Repayment Orders to be made in circumstances where an authority considers certain offences are being committed under Part 1. This amendment will enable a licensing authority, local housing authority or tenant (depending on the circumstances) to apply to a Tribunal for an order requiring rent and other monies relating to the occupation of dwelling to be repaid. The approach reflects that in other housing legislation.

The financial implications of this for the Tribunal are likely to be minimal and are unlikely to add much to the financial implications already set out in the Regulatory Impact Assessment. Even though this will be an additional responsibility for the Residential Property Tribunal, we do not anticipate that Rent Repayment Orders will be used excessively. We anticipate that they will be used where other enforcement action has failed or been deemed inappropriate. In addition, introducing these measures at this stage will mean that all the additional responsibilities for the Residential Property Tribunal can be dealt with in the training courses (already identified) and any changes to forms etc. can be made at the same time.

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The Residential Property Tribunal Procedures and Fees (Wales) Regulations 2012 will also need to be amended to take account of the Bill (as previously identified) and fees for rent repayment orders will be set out in the amending Regulations; this will also allow the Tribunal to charge fees in order to recover the costs

Furthermore, where the payment in relation to rent or services is funded by means of housing benefit or relevant awards of universal credit, the licensing authority or local housing authority will be able to apply for these payments to be repaid to itself. The Welsh Ministers will have power by regulations to provide how such receipts are to be dealt with.

### **Amendment 292 Fixed penalty notices:**

This amendment reflects recommendation one from the Finance Committee and recommendation eight from the report of the Communities, Equality and Local Government Committee's consideration of the Bill.

The amendment has inserted a new section into the Bill which provide for a licensing authority and, potentially, local housing authorities to issue fixed penalty notices where it is considered that an alleged offence, under Part 1 of the Bill, has been committed. This will include where a landlord is letting a rental property while being unregistered; where a person is managing a rental property without a licence; or where a person fails to update information as required as part of the licensing process.

The effect of this amendment is to provide the licensing authority and local housing authorities with a means of taking enforcement action and to encourage compliance with the requirements of Part 1 of the Bill, without resorting to court proceedings, in the event of a person paying a penalty. The amendment allows the fines paid as a result of the fixed penalty notice to be retained by the licensing authority or local housing authority and specifies that the monies raised be used for the purposes of enforcing Part 1 of the Bill.

The introduction of fixed penalty notices will also mitigate the concerns raised as a result of the decision of the Court in the *Hemming v Westminster City Council* case which would preclude the licensing and registration fee from being used for enforcement action against unlicensed or unregistered individuals.

The penalties will be £150 or £250 depending on the type of offence. The levels of fines can be amended by Welsh Ministers by order to be approved by the National Assembly for Wales.

### **Homelessness**

#### **Amendment 33: Power to amend or repeal provisions about priority need for accommodation**

This amendment provides a power for the Welsh Ministers to add, amend or remove categories of persons who have priority need (by way of an order). This was requested by the Committee and stakeholders and will allow the Welsh Ministers to be able to remove priority need altogether when this is appropriate. I believe that the Bill is a key step towards achieving this aim.

The amendment does not have an immediate financial impact, but the financial impact on local authorities and benefit costs would be felt if and when priority need categories were added / amended in the future if more groups were to be given additional protection or access to services such as emergency accommodation. Any such order made under these powers would be subject to full Assembly legislative scrutiny and a Regulatory Impact Assessment.

## **Council Tax**

### **Amendment 66: Increase in Council Tax premium that local housing authorities may charge on empty dwellings**

The purpose of this amendment is to increase the amount of council tax premium which local authorities will be able to charge for properties classed as being long-term empty dwellings. The increase is from a fixed 50 per cent premium to a maximum 100 per cent premium. This will allow local authorities to determine the rate of premium to be charged in their area based on local circumstances. The rate can go from nil to 100% of the standard Council Tax charge. This is at the discretion of the local authority.

We do not expect local authorities to incur any additional costs as a result of this amendment other than those set out in the Regulatory Impact Assessment when the Bill was originally tabled. The financial implications of this amendment will be met from existing departmental allocations.

The impact of this amendment on property owners is dependent on the number of local authorities that choose to introduce a council tax premium on empty homes, the level at which they set that premium and council tax collection rates. However, if all local authorities choose to introduce a council tax premium on empty homes of 100%, there are no exemptions, and the homeowners retain the property as an empty home, then the additional tax charge on property owners would be a maximum of around £28.8 million (based on the average Band D tax charge for 2013-14 of £1,226, the estimated number of long term empty properties 24,216 and a 97% collection rate (the current average). It is unlikely, however, that a 97% collection rate would be achieved for long-term empty properties.

### **Amendment 69: Increase in Council Tax premium that local housing authorities may charge on dwellings occupied periodically**

The purpose of this amendment is to amend the Local Government Finance Act 1992, by inserting a new section 12B into that Act, which will allow local authorities to charge up to a 100 per cent premium on Council Tax for dwellings occupied periodically (second homes).

Each local authority must make a decision about charging a premium on Council Tax for second homes and cannot vary this in year. The Welsh Ministers will have power to make regulations, subject to negative resolution procedure, setting out the prescribed classes of dwellings that would be exempt from this charge.

It is expected that there will be minimal additional costs incurred by local authorities as a result of this amendment as they already have software systems, collection and reporting mechanisms in place. In addition, they are already likely to be collecting the standard council tax charge on the second homes in their areas, making it less costly for local authorities to administer than the Council Tax Premium on empty properties. However, if an authority chose to charge an additional council tax premium on second homes, there would be requirements to monitor and enforce the collection of council tax. It is estimated that the cost could be the equivalent of one member of staff at £30,000 per annum per local authority – although this would be dependent on the number of second homes an authority has in its area.

It is anticipated that these costs could be contained within the costs that would be incurred by local authorities who apply a council tax premium to long term empty properties. Should there be a case where a local authority chose not to apply the council tax premium for long term empty properties but did apply a premium in respect of second homes, the costs to a local authority would be no more than those for a premium on long term empty properties, as set out in the Regulatory Impact Assessment when the Bill was originally tabled.

It would be for local authorities to balance the additional costs they may incur as a result of charging this premium, against the additional council tax income they could raise, before deciding whether or not to charge an additional premium on second homes.

The impact of this amendment on property owners is dependent on the number and identity of local authorities that choose to introduce a council tax premium on second homes, the level at which they set that premium and council tax collection rates.

A WLGA survey undertaken in 2011 suggested there were around 23,000 second homes in Wales, although this figure includes some empty properties, and some self-catering holiday lets. There is currently no definitive figure as there are a number of sources of data on second homes in Wales and as council tax discounts for second homes are currently at the discretion of local authorities, council tax returns to the Welsh Government are also incomplete. However, were all local authorities choose to introduce a council tax premium of 100% on second homes, without there being any exemptions, and homeowners retain the property as a second home, the additional tax charge on property owners would be a maximum of around £27.4 million (based on the average Band D tax charge for 2013-14 of £1,226 and a 97% collection rate (the current average)). As with long-term empty properties, it is unlikely that the 97% collection rate could be achieved, although the collection rates for occupied properties do tend to be higher than those for empty properties.

The number of second homes varies by area with North West, South West and Mid Wales in particular having large numbers of second homes. 2011 Census data shows that of the people with a second home in Wales which is used for holiday purposes, around 80% have that second home in Gwynedd, the Isle of Anglesey, Conwy, Powys, Ceredigion or Pembrokeshire. If those six local authorities introduce a 100% council tax premium and there are no exemptions then the additional tax charge on property owners based on the WLGA's estimate would be a maximum of around £21.9 million (again this is based on average Band D tax charge for 2013-14 and the current 97% average collection rate). While this would be a cost to the property owners, there would be an equivalent increase in council tax revenue for the relevant local authorities.

I hope this information is helpful.

I am copying this letter to Christine Chapman AM, Chair of the Communities, Equality and Local Government Committee.



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