

Y Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol

Communities, Equality and Local Government
Committee

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Communities, Equality and Local Government Committee
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Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Bae Caerdydd / Cardiff Bay
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Lesley Griffiths AM
Minister for Communities and
Tackling Poverty

2 April 2015

Dear Minister

Renting Homes (Wales) Bill

You have agreed to attend the Committee's meeting on 22 April to give evidence on the Renting Homes (Wales) Bill and we look forward to the opportunity to discuss the provisions of the Bill with you.

In advance of that session, I would be grateful if you would consider the following matters, with a view to **responding by Thursday 16 April** to enable Members to consider your response before the evidence session.

1. Common Law

The Bill, as drafted, appears to be intended to replace the common law, setting it aside in parts and adopting it in other parts. Can you confirm that this is your intention, and can you clarify how the Bill is intended to interact with the common law and how you will ensure this is done.

2. Legislative Gaps

We have some concerns about a number of gaps in the Bill that appear to allow landlords to avoid some of its important effects. In particular, it appears that landlords can bypass the restrictions on no-fault possession notices by using other mandatory grounds for possession in ways that do not appear to have been intended. For example, there is no restriction on the ability of a landlord to increase the rent, and there appears to be no ability for the tenant to object to the proposed increase on the basis that it is excessive or outside market levels, a function originally provided by the Welsh RPT. Therefore, there appears to be no

restriction on a landlord simply increasing the rent to an excessive level, beyond the tenant's means, and then seeking possession for rent arrears.

There also appears to be nothing in place to prevent a landlord seeking an unreasonable variation of the tenancy, knowing that the tenant will not agree to such variation, and then using this as a vehicle to found a possession claim.

The ability to bypass the no-fault possession mechanism, and particularly the lack of controls on this, are worrying. We are also concerned about removing the current 6-month limit on the use of the equivalent ability under section 21 of the Housing Act 1988. If the other controls and limits on the no-fault mechanism were not effective and could be bypassed, that would likely prove unacceptable to many tenants and could be damaging to the purpose of the Bill.

3. Termination Without a Possession Claim

Section 152 enables landlords and tenants to end tenancies without the need for a possession claim. Could you clarify how a landlord would obtain possession from a tenant who has agreed to vacate in such a way and subsequently elects not to do so.

4. Waste

In relation to the common law doctrines of Waste and Tenant-Like User, could you clarify what effect the Bill will have on the discretion of the courts to deal with unanticipated tenant behaviour in properties and for landlords to obtain compensation for matters that are not explicitly covered by contracts.

5. Welsh Residential Property Tribunal (RPT) and Courts

The Bill appears to remove a large number of core roles from the Welsh RPT under the Housing Act 1988. These include dealing with rent increases and variations to tenancies, previously dealt with by sections 13 and 6 of the Housing Act 1988 respectively. This work currently forms a substantial part of the role of the RPT.

Could you provide details as to the number of matters that are currently dealt with by the Welsh RPT and how those split across different legislative provisions. Could you also give projections as to the number of matters you anticipate will be dealt with by the Welsh RPT following the full coming into force of both the Housing (Wales) Act 2014 and this Bill, subject to its enactment.

The Bill relies considerably on recourse to the courts to decide matters. Could you set out what you expect to be the level of use of the courts for these matters. Further to this, what consideration have you given as to whether any of the matters currently reserved to the courts could be better performed by the Welsh RPT.

We note the recent expansion of the role of the Scottish PRHP, a body that grew from the Scottish equivalent of the RPT. Can you set out why a greater role for the Welsh RPT was not created, particularly in relation to matters under sections 14, 37, 38, 85, 94, 100, and 116. Further to this, there are other matters within the Bill that involve decisions being made subject to specific criteria that could have a process permitting review by the Welsh RPT as a more cost effective means of permitting judicial oversight.

6. Judicial Review

Substantial parts of the Bill involve landlords, whether private or community, making decisions with regard to specific criteria but provide no clear process by which those decisions can be challenged. We have some concerns that this could lead to a large number of challenges to decisions by way of declarations being sought or judicial review. Can you provide projections as to the number of anticipated challenges and the mechanism you envisage will be available to handle these. Can you also set out why a specific statutory mechanism involving the Welsh RPT would not be a better mechanism.

7. Minors

We have some concerns about the far reaching consequences of the powers in the Bill for minors to enter into contracts for tenancies and the potential this has to alter the common law in Wales. Additionally, section 230(5) appears to create a situation whereby a minor could succeed to any tenancy in Wales, including long leases outside the scope of the Bill. Can you confirm that this is your intention.

8. Cost

In relation to implementation costs, I would be grateful if you would provide details of the expected use of the courts in relation to items in the Bill, the likely additional court costs incurred due to longer hearings as the Bill beds in, and the likely cost to landlords and tenants caused by failures to understand the provisions. In addition, could you provide estimates of the costs of judicial and court staff training.

I look forward to your reply.

Yours sincerely,

A handwritten signature in black ink that reads "Christine Chapman". The signature is written in a cursive, flowing style.

Christine Chapman AM
Chair