



Ein cyf/Our ref MA - L/RE/0076/18

David Rees AM  
Chair  
External Affairs and Additional Legislation Committee  
National Assembly for Wales  
Cardiff  
CF99 1NA

21 February 2018

Dear David,

I would like to thank the External Affairs and Additional Legislation Committee for its scrutiny of the Regulation of Registered Social Landlords (Wales) Bill during Stage 1 of the legislative process. I have set out responses to the six recommendations made in the Committee's Stage 1 scrutiny report on the Bill below.

1) *The Committee recommends that the National Assembly for Wales agrees the general principles of the Bill.*

I welcome this recommendation and the Committee's support for the general principles of the Bill.

2) *In light of the conflicting messages received relating to the status of local councillors as independent members of RSL Boards, the Committee recommends that the Welsh Government clarifies the position definitively in its response to this report.*

I accept this recommendation and will update the Committee once further information is available.

- 3) *The Committee recommends that the Bill is amended to ensure that a failure to comply with the Regulatory Framework, and the associated performance standards, is explicitly recognised on the face of the Bill as a failure to comply with a requirement imposed under an enactment.*

I have noted the Committee's comments. To clarify, the term "Regulatory Framework" does not itself appear in legislation. The legal requirements which must be met by RSLs are contained in the performance standards issued under section 33A of the Housing Act 1996. These take the central role in the Regulatory Framework, which also sets out the process by which Regulatory Judgements are reached.

Section 33A is already clear that the performance standards must be met by RSLs, and therefore there is no doubt that they are "requirements imposed under an enactment". Therefore I am satisfied that further clarification in the Bill is unnecessary and could be detrimental to the status of other requirements which are imposed under an enactment.

Where the effect of legislation is clear, it is not necessary to include additional words of clarification, and doing so can have unintended adverse consequences for the interpretation of other provisions which do not have similar words of clarification. However, I have asked officials to review the Explanatory Notes to consider whether additional reference to the issue would be helpful.

- 4) *The Committee recommends that the Welsh Government brings forward amendments to strengthen the role of tenants on RSL Boards which set out a formal process for tenant participation before certain constitutional changes and/or mergers are made.*

Tenants at the heart of regulation is one of the key principles of the Regulatory Framework. The Bill does nothing to change this. Expectations for tenant consultation and the need for Boards to take into account the views of tenants are currently set out in the regulatory framework and guidance. Assuming the Bill is enacted, it is intended that this guidance will be updated and issued as statutory guidance and if any such guidance is not followed, this could be reflected in the regulatory judgment and regulatory enforcement action considered.

It is my view the regulatory expectations around consultation with tenants and listening to their views are fundamental, and the potential regulatory consequences for any Boards which do not take those responsibilities seriously provides assurance to tenants that their interests are safeguarded.

In terms of the role of tenants on Boards, the Bill does not weaken the role of Board members who may be tenants, nor does it change the position that it is RSLs which determine who their Board members are and determine the number of tenant Board members - not the Welsh Government.

Whilst any revised statutory guidance will be subject to consultation, my officials have prepared draft guidance regarding constitutional changes by way of merger. If it is helpful, I am able to share this example with the Committee on a confidential basis since we would not be consulting on the guidance until after the passage of the Bill, to illustrate the requirements on consulting and listening to tenants before making decisions.

- 5) *The Committee recommends that the Welsh Government brings forward an amendment to clarify that the regulation-making powers in section 18 provide the power to make consequential amendments only.*

It is clear from the evidence provided to the Committee, and as outlined in the report, that there was some uncertainty as to the exact scope and purpose of the power in section 18.

Section 18 does not provide a power to make further amendments to achieve reclassification. Its scope is limited to allowing the Welsh Ministers to ensure that the existing law continues to work effectively in the light of the specific changes made by the Bill. Any amendments made using the power need to be closely connected to the specific changes made by this Bill.

I have however accepted this recommendation and asked officials to develop an amendment to the Bill, with a view to indicating more clearly the scope of the power. I note that there was a recommendation from the Constitutional and Legislative Affairs Committee relating to this power.

6) *The Committee recommends that the National Assembly conducts post-legislative scrutiny of the Bill should it become an Act to ensure in particular that tenants' rights are safeguarded and that RSLs are not disposing of land and assets in a way unanticipated by the Welsh Government.*

This recommendation is for the National Assembly, but I would welcome the opportunity for the Welsh Government to be involved in any post-legislative scrutiny process as appropriate, and can confirm our ongoing regulatory oversight will include the protection of tenants' rights as well as any other unintended consequences.

I hope this letter is helpful in setting out my response to the Committee's report. I will also be writing to the Chairs of the Constitutional and Legislative Affairs Committee and the Finance Committee with regard to their Stage 1 reports, and will copy the letters to all three Committee Chairs.

I look forward to continuing to work with Members as the Bill progresses through the Assembly process.

Yours sincerely,

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

**Rebecca Evans AC/AM**  
Y Gweinidog Tai ac Adfywio  
Minister for Housing and Regeneration