

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



Llywodraeth Cymru
Welsh Government

ELGC(5)-24-18 Papur 7/ Paper 7

Ein cyf/Our ref MAL/RE/0386/18

John Griffiths AM
Chair, Equality, Local Government and Communities Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

4 September 2018

Dear John,

Thank you for your letter following my appearance before the Committee on 21 June 2018. At that meeting I agreed to provide further details on those matters raised in your letter. I have responded in the order the matters were raised.

Assessment of evidence that the equivalent legislation to the Bill introduced by the Scottish Government led to rent increases

Following implementation of the Rented Housing (Scotland) Act 2011, some stakeholders have argued, based on data available through the *Private sector rent statistics: 2010 – 2017*¹, that there is a causal link between the 2011 Act and a recorded increase in rent of 4.2% during 2012-13.

The issue of rent rises was examined by a House of Commons inquiry into the banning of letting agents' fees in Scotland in March 2015² which was unable to find strong evidence linking the increase to the 2011 Act. The experience of the 2011 Act in Scotland was also examined as part of research³ commissioned by the Welsh Government. Quantitative analysis referenced within the research indicated that there had been a small inflationary impact of 1-2%, at least for part of 2013, because of the ban on agents' fees. However, the analysis concluded that this was likely to be a marginal and short-term response. This matter is considered further within the RIA which accompanied the Bill.

¹ <https://beta.gov.scot/publications/private-sector-rent-statistics-scotland-2010-2017/pages/8/>

² <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/964/964.pdf>

³ <https://gov.wales/statistics-and-research/research-letting-agent-fees-tenants/?lang=en>

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

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.

Whether the provision in paragraph 3(b) of Schedule 2 to the Renting Homes (Fees etc.) (Wales Bill), dealing with the return of holding deposits, prevents landlords from defaulting on any agreement to carry out works prior to the occupation date

The purpose of holding deposits is limited to taking the property off the market whilst checks are being undertaken and the contract drawn up. Any commitment in relation to work to be carried out before the property is occupied should be included as a term of the contract, so that it can be enforced under the contract.

Whether sums from fines issued by courts for offences under the Bill should be retained by a local housing authority, as with fixed penalty notices

Under section 38 of the Courts Act 2003, any fine imposed by the Magistrates Court must be paid by the Lord Chancellor into the Consolidated Fund. Notwithstanding potential concerns around competence with this proposal, I do not think it is appropriate for fines issued by magistrates courts to be passed to local authorities, or for those fines to be a source of income for local authorities.

Reference to lettings work and letting agency work within the Bill

I am grateful to the Committee for identifying this drafting inconsistency within the Bill. In order to ensure consistency with the 2014 Act, I will ensure that an amendment is brought forward at stage 2 so that section 4 refers to “lettings work” rather than “lettings agency work”.

Under sections 2(6), 3(5) and 17, should the Bill require that interest also be payable or would a court automatically award interest?

The County Court already has power to award interest on debts and damages. In respect of the Magistrates Court a fine upon conviction may comprise a number of elements (the fine itself, compensation prosecution costs and a surcharge), all of which in turn depend upon the offender’s ability to pay. Again, there would be considerations in respect of competence with this proposal.

The meaning of section 2(3) in the Bill (which applies solely to landlords) and explain why there is no equivalent provision for letting agents in section 3.

Section 2(3) of the Bill provides an exception to the prohibition on payments if the contract for services is provided by the person entitled to occupy the dwelling, an example being where the contract-holder is under a contract for employment and occupies the dwelling as a condition of their employment, such as a caretaker. A contract for services would apply to a landlord, but would not apply to a letting agent. For that reason, it is appropriate the exception applies to landlords and not letting agents.

What was the rationale behind setting “reckless” as the threshold for Section 12(1)(b) and 12(2)(a)? Why was the lower threshold of negligence, not chosen?

The provision within the Bill reflects actions which are criminal rather than negligent, as the basis for determining offences of providing false or misleading information. In developing the provision, consistency has been sought with section 39 of the 2014 Act. Under that section, a person who-

- (a) supplies any false or misleading information to another person;
 - (b) knows that it is false or misleading or is reckless as to whether it is false or misleading;
- and

(c) knows that the information is to be used as information by a licensing authority in connection with any of its functions under Part 1 of that Act (Regulation of Private Rented Housing) commits an offence. A lower threshold was not chosen for such offences because doing so would not reflect a deliberate act to deceive.

I trust that this further explanation provides greater clarity on the purpose and effect of the Bill.

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