



Llywodraeth Cymru
Welsh Government

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Dear John

Thank you for your letter following my latest evidence session in relation to the Renting Homes (Fees etc.) (Wales) Bill before the committee on 19 September. I have responded to the issues in your letter in the order they were raised.

An overview of guidance to tenants and landlords ahead of the Bill coming into force

I have noted from the committee's evidence sessions that stakeholders have expressed uncertainty about the circumstances where a payment in default of a contract may occur. Our intention, in providing guidance in respect of these payments, is to provide the most common examples of such circumstances and to set out best practice. Such guidance would be non-statutory to reflect practice in the sector. I would be happy to provide further detail once officials have had an opportunity to engage further with the sector. I would expect this to be possible during the stage 2 proceedings.

Right to rent provisions within the Bill

The Immigration Act 2014 relates to a non-devolved area and the 2014 Act extends to the UK in its entirety. Reference to the 2014 Act in paragraph 7 of Schedule 2 to the Bill does not commence section 22 of the 2014 Act, nor sanction the right to rent in Wales, it reflects legislation that is already on the statute book. This cannot be ignored.

To remove this provision from Schedule 2 would put landlords in Wales at a disadvantage in comparison to their English counterparts. A landlord in Wales would be required to return a

holding deposit notwithstanding the prospective tenant had provided false or misleading information, while a landlord in England would not.

The deposit would have to be repaid in Wales despite the landlord being prohibited from granting a contract to the contract-holder when the landlord did not and could not reasonably have been expected to know the position before accepting it and subsequently the parties fail to enter into the contract before the deadline for agreement.

During this time there would be a right of first refusal in relation to granting the contract, subject to suitability checks being undertaken by the landlord. This would place a landlord in Wales at a clear disadvantage over a landlord in England, as a result of legislation which applies UK-wide. We consider this provision should remain in the Bill not least to ensure equal treatment for landlords in England and Wales reflecting the current legislation.

Post-legislative evaluation

Post-legislative evaluation should focus on how successful this particular legislation – if passed by the National Assembly and enacted – is at delivering the policy objective of improving access to and movement within the private rented sector by banning letting agents and landlords from charging contract holders fees. It will also seek to monitor impact on the sector, as set out in the explanatory memorandum.

In undertaking the evaluation, we will have at our disposal, for the first time, a range of data collected by Rent Smart Wales, including registrations, de-registrations and licensing information for letting agents and landlords. This unique set of information will help us understand the sector and changes to it over time in more depth than has previously been possible and is currently possible in other parts of the UK. Specifically, we will be able to identify changes in the number of letting agents, landlords and properties within the sector. We will also use publically-available national statistics and Rent Officer Wales data about the private rented sector to identify changes to rent levels.

Any changes to the sector identified through this detailed data monitoring will prompt further examination and exploration, including quantitative or qualitative research to examine the underlying factors.

This monitoring will be ongoing from the date the legislation is implemented, in the event it is passed by the National Assembly.

Why the Bill does not give powers to local authorities to assist contract-holders in recovering prohibited payments

Local authorities have a duty under section 60 of the Housing (Wales) Act 2014 to provide information, advice and assistance, free of charge, in accessing help to prevent anyone from becoming homeless. A contract-holder vulnerable to such risk may be able to receive such assistance.

For claimants not at risk of homelessness, but who are nonetheless seeking help from the local authority to make a claim, local authorities will direct them to an advice body such as Citizens Advice Shelter Cymru and NUS Cymru, who already specialise in supporting individuals facing financial disputes or difficulties. As such, I consider them to be better placed to offer this kind of assistance given their existing expertise and experience. In addition, giving powers to local authorities to assist contract-holders in recovering prohibited payments creates a risk that those authorities will be drawn into ongoing and often protracted disputes over financial claims. As well as creating duplication, this may result in resources being

diverted from wider public service duties, including those that would be necessary for the successful enforcement of the Bill.

I hope this response assists with your ongoing scrutiny of the Bill and I look forward to continuing to work with the committee.

Yours sincerely

A handwritten signature in black ink that reads "Rebecca". The script is cursive and fluid.

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