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Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA - L/CS/0496/17

Huw Irranca-Davies AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales

12th September 2017

Dear Huw

ABOLITION OF THE RIGHT TO BUY AND ASSOCIATED RIGHTS (WALES) BILL

I would like to thank you and your colleagues on the Constitutional and Legislative Affairs Committee, for your consideration of the Abolition of the Right to Buy and Associated Rights (Wales) Bill during Stage 1 scrutiny.

I have considered carefully the recommendations contained in the Committee's report and my response to each one is set out below:

Recommendation 1. We recommend that the Cabinet Secretary should fully explain during the Stage 1 debate his reasons for introducing a Bill that amends existing UK legislation rather than one that is consolidated and free-standing.

As I explained during the debate on 18 July, the Bill abolishes the right to buy, which was established in England and Wales by legislation dating back to 1985. In order to do this, it has to amend existing England and Wales legislation so far as it applies to Wales.

To combine these necessary amendments with freestanding, independent provision, in the Bill, would require very extensive re-statement of the law relating to the right to buy for a temporary period only – in a Bill whose whole purpose is to abolish the right rather than to make provision about it. However, the Welsh Government remains committed to promoting the accessibility and coherence of bilingual Welsh law.

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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.

Recommendation 2. We recommend that the Cabinet Secretary should table an amendment to the Bill to place an absolute duty on the Welsh Ministers to provide every qualifying landlord based in Wales with a copy of the information document set out in section 8.

I have re-considered this recommendation following the General Principles debate. However, I remain of the view that there is no need for an absolute duty as the Welsh Government is fully aware of all the qualifying landlords based in Wales and will be contacting them accordingly.

Recommendation 3. We recommend that the existing qualified duty on the Welsh Ministers to provide every qualifying landlord with a copy of the information document (section 8(1)(c)) should only apply to landlords based outside of Wales, and that the Cabinet Secretary should table an amendment to the Bill to that effect.

I do not consider that the Bill should be amended so that the existing qualified duty to inform landlords only applies to landlords based outside Wales. The current drafting recognises that the Welsh Government is reliant on a third party (the Homes and Communities Agency) to provide us with details of social landlords, based outside Wales, which own homes for rent in Wales.

As I mentioned in the General Principles debate, the matters covered in recommendations 2 and 3 from your Committee were also considered by the Equalities, Local Government and Communities Committee who are content with the current provisions in the Bill. I do not, therefore, propose to bring forward any amendments on these matters.

Recommendation 4. We recommend that the Cabinet Secretary should table an amendment to the Bill to delete the words “or expedient” from section 9.

Section 9 of the Bill confers power on the Welsh Ministers to make consequential etc provision if they consider it “necessary or expedient” to do so in consequence of provision made by the Bill, or made under it. The word “expedient” has its own meaning and allows for amendments which may be desirable, useful or have a practical benefit, but which may fail a strict “necessity” test. For instance, if a power to make consequential amendments was used to streamline an administrative procedure which was proving difficult to apply, or impractical for tenants to deal with, it might be arguable that this did not meet the “necessity” test, in that the tenants could simply live with the difficulty, undesirable though this might be. This approach would be unduly inflexible and restrictive and could prevent beneficial changes being made.

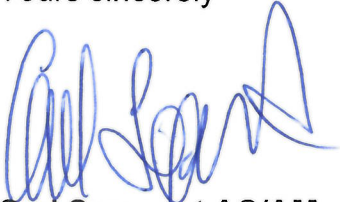
I do not, therefore, propose to bring forward an amendment on this matter.

Recommendation 5. We recommend that the Cabinet Secretary should table an amendment to the Bill to make it clear that section 10(1) applies only to the regulation-making power in section 9.

I consider that the amendment, recommended by the Committee, would clarify the scope of the regulation making power in section 10(1) and improve the Bill as a result. I am grateful for the Committee’s recommendation on this matter and will bring forward an amendment at Stage 2 to remove any ambiguity concerning the wording of section 10(1).

In conclusion, I hope this letter is helpful in setting out the Welsh Government's response to the Committee's report and I would like to repeat my thanks to Members for their detailed consideration of the Bill.

Yours sincerely



Carl Sargeant AC/AM

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Cabinet Secretary for Communities and Children

