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Llywodraeth Cymru
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Dear John,

Legislative Consent Memorandum (LCM) on the Leasehold Reform (Ground Rent) Bill

Thank you for your letter of 24 September seeking further information about the Leasehold Reform (Ground Rent) Bill and how it fits with the Welsh Government's plans on wider leasehold reform, including the implementation of the Law Commission's recommendations.

The Leasehold Reform (Ground Rent) Bill represents the first, but significant, step towards the implementation of broad-ranging reforms to leasehold as a tenure. By restricting ground rent to a peppercorn on new leases, the Bill will protect leaseholders from unreasonable ground rents and, at the same time, disincentivise homes being sold on a leasehold basis in order to generate an ongoing income stream for the freeholder. Whilst the Bill is not itself responding to the Law Commission's recommendations for reform, it is paving the way for a wider Leasehold Reform Bill to implement those reforms. The UK Government has already committed to introduce this Bill at a later point in the current Parliamentary term. Whilst this wider Bill has yet to be drafted, it is anticipated it will include provisions to help tackle ground rent issues faced by existing leaseholders. When we receive that Bill, we will review it and consider whether a LCM is required.

Regarding the Law Commission recommendations more generally, these stem from three projects on leasehold reform that were carried out on an England and Wales basis. Following consultation, the Commission concluded that there was no evidence of a need for different provision in the law in England and Wales. Given the complexity of the existing leasehold legislation, I consider it to be more expedient to continue to work with the UK Government on this subsequent legislation and for it to also be developed on an England and Wales basis. My department is therefore working with the Law Commission and UK Government to achieve this.

The Law Commission's reports on Leasehold Enfranchisement, the Right to Manage, and Reinvigorating Commonhold set out far-reaching proposals for reforming leasehold law. In particular, in terms of the right to enfranchisement and the right to manage for existing leaseholders, the recommendations will help make these rights available to more

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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.

leaseholders than is currently the case, as well as making exercising those rights simpler, fairer and cheaper.

The Commission's proposals for encouraging commonhold as a workable alternative to leasehold for the ownership of flats, are focused on addressing shortcomings with the current legislation that have contributed to its slow uptake to date. In addition, they will make it easier for leaseholders to convert to commonhold should they so wish, by making conversion available to more leaseholders than is currently the case, as well as making the process simpler, fairer and cheaper.

A summary of the Law Commission's proposals can be found [here](#). These proposals have broadly been accepted by the Welsh Government and are reflected in our new [Programme for Government](#). Importantly, the Law Commission recognises that changes to leasehold law, such as the reduction of ground rents to a peppercorn as being implemented through the current Bill, are required to encourage commonhold as a form of ownership. Without such changes, the potential financial returns to developers from the leasehold model would continue to constrain the growth of commonhold.

In May 2021, the UK Government established a [Commonhold Council](#) - an expert group in which the Welsh Government is also involved - to help ensure the widespread use of commonhold as a positive alternative to leasehold. The principal aim of the Council is to advise on the implementation of a reformed commonhold regime and to bring forward solutions to prepare homeowners and the market for the broad adoption of commonhold for new-build flats. In addition, consideration is being given to the Law Commission's proposals for reforming how existing leasehold buildings could convert to commonhold. The overarching aim is to extend the benefits of freehold ownership to flat owners where possible. It is unlikely that the proposals will lead to leasehold being abolished entirely, as there may be some limited exceptions where a leasehold option is still the most suitable or only workable model available. However, I would anticipate that once these reforms are implemented we will see very few "new" leasehold houses or flats.

In a similar way to the Leasehold Reform (Ground Rent) Bill, there are other potential reforms to leasehold that do not respond directly to the Law Commission's proposals, and it is possible that some of these may also be included in the further Bill planned for introduction later in the current parliamentary term. As with the current Bill, my department will work closely with the UK Government to ensure that, where they would benefit leaseholders in Wales, the legislation is applied to Wales.

An example of such a reform would be banning the unnecessary use of leasehold for houses. Our [research into the sale and use of leasehold in Wales](#) did not identify any advantages to owning a leasehold house, and found that leaseholders of houses who participated in the research were generally more dissatisfied than leaseholders of flats. Indeed, the research indicated there was a 'strong consensus to end the sale of leasehold houses'. The independent [Task and Finish Group](#) also concluded that houses were being offered as leasehold 'without any justifiable reason' and recommended the Welsh Government should 'legislate to introduce a ban on the unjustified use of leasehold in new build houses'. Consequently, I consider there is a compelling case for introducing a statutory ban on the unnecessary use of leasehold as a tenure for houses in Wales. The UK Government has already made a [commitment to ban leasehold houses in England](#), a position that is also supported by the Law Commission. Therefore, I would expect this commitment to be provided for in the further Bill.

There are also likely to be some other important areas of leasehold reform that will be taken forward on a Wales-only basis. For example, in relation to building safety proposals, I intend to introduce a new registration and licensing regime which will be brought forward in the

planned Building Safety Bill during this Senedd term. This work will include consideration as to how those managing building in the future work with residents and leaseholders in relation to remedial works and associated service costs

Finally, whilst the Government amendments to the Leasehold Reform (Ground Rent) Bill, which were tabled on 20th July, delegated some powers to Welsh Ministers and made other appropriate changes, in order for the Bill to work effectively further amendments are necessary in my view. The UK Government has acknowledged the need for further discussion on this and our officials are working closely on appropriate amendments. However, I do not anticipate those amendments being tabled before late November or early December. Whilst a supplementary LCM would normally be laid within a fortnight of any amendments being tabled, on this occasion we are aware further important amendments are due to be tabled and so, to be more helpful to members, will look to issue a supplementary LCM at that point.

Yours sincerely



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