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Llywodraeth Cymru
Welsh Government

John Griffiths MS
Chair
Local Government and Housing Committee

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Dear John

Thank you for your letter of 14 October regarding the Legislative Consent Memorandum (LCM) on the Building Safety Bill.

Whilst the committee's concern that legislation within the Senedd's competence is rightly the business of the Senedd the LCM process recognises that circumstances may arise where there are clear benefits from taking a different approach for the benefit of the people of Wales.

The First Minister has made clear that whilst protecting the devolution settlement remains a critical priority and that our general principle should be to legislate in the Senedd in devolved areas, we should be open to taking a pragmatic approach to using UK legislation to achieve the Welsh Government's objectives where necessary.

I believe the Grenfell tragedy and the need to respond to the subsequent independent review of building regulations created such circumstances. The criticisms levelled at the system in England by Dame Judith Hackitt in her report, whilst of a different magnitude to those in Wales, apply equally as it is the same core legislation.

The Building Act 1984 and the Building Regulations 2010 have set the framework for Buildings with very little change since they were brought into force. Whilst functions were transferred to Welsh Ministers in 2012 our focus to date has been on technical changes such residential sprinklers, banning combustible materials and energy performance. The Building Safety Bill (BSB) therefore provides necessary improvements to a system found wanting in a way that puts control firmly in the hands of Welsh Ministers and the Senedd rather than, as you note, something imposed on us. In addition the bill, likely to receive royal assent next year, which will mean the opportunity to bring forward the necessary changes to the building control system can be made earlier than would be possible for the Building Safety Senedd bill.

There are other good reasons for taking the opportunity the BSB presents. The building control system is based on a common approach with England towards regulatory bodies - Local Authorities and the private sector Approved Inspectors. The industry operates either

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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.

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side of the border. The BSB will establish a more robust oversight of both with, for the first time, expectations of competence and standards of performance by the Building Safety Regulator in England. It is therefore crucial that steps are taken in Wales to ensure a level of commonality so that organisations and staff can continue to work across both administrations.

The Bill is bringing greater accountability into building work, with a set of dutyholders across the construction process. These are people who will take clear responsibility for the work, and will be based on the UK system overseen by the Health and Safety Executive for The Construction (Design and Management) Regulations 2015 CDM regulations. This addresses a key 'Hackitt' criticism about the lack of clarity of where responsibilities sit and what competence needs to be demonstrated by client, designer and contractor in taking on those responsibilities. It is our view that a common approach, as is the case with the CDM regulations, would be beneficial and should not be delayed.

The Building Act was drafted in 1984, the BSB will make improvements to the drafting, bringing it up to date in its operation, language and accessibility. These improvements will help all users of the Act, and while they could be brought forward through Welsh legislation they are changes that we believe are necessary irrespective of the legislative route chosen.

The construction industry is gearing up in terms of culture, capacity and competence for the changes the bill proposes. Using the bill as a vehicle for change in Wales means we will benefit from the energy being directed to improvement which runs the risk of being diluted were the opportunity for earlier action not be taken.

To be clear, every provision applicable to Wales in the bill is both a reflection of our view of the necessary changes and the criticisms of the independent report but in a way appropriate to our needs. A good example of this is our decision not to create a new regulatory body as proposed for England but to extend existing functions of local authorities.

It is important to note that the bill will need secondary legislation to have effect. The regulations we subsequently bring forward will be subject to consultation and engagement according to our principles and procedures.

I know the LCM process has to deal with legislation ranging from the straight forward to the complex and that something as comprehensive as the BSB is both technical and complex. I would like to offer to meet with the committee and for my officials to provide as many technical briefing sessions as the committee feels necessary to give the opportunity to understand the detail of what the bill proposes. In addition if the committee wishes I will ask my officials to include the justification for the delegated powers the bill proposes. I would be happy to support a proposal to the Business Committee for extending the deadline for reporting on the LCM if that would help the Committee.

Yours sincerely



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