

Julie James MS,
Minister for Climate Change

28 February 2022

Dear Julie

Statutory instruments made under the Renting Homes (Wales) Act 2016

We considered six sets of Welsh Government regulations made under the *Renting Homes (Wales) Act 2016* (the 2016 Act) at our meeting on 31 January 2022 (items 3.1, 4.1-4.4 and 4.6). We are grateful for the relevant government responses received, which we considered at our meeting on 7 February (items 5.1-5.5).

We make the following comments, in light of (among other things) these two stated aims of the 2016 Act:

- providing a clearer, more logical, legal framework, which reflects fairness and equality;
- providing greater understanding by landlords and tenants of their respective rights and responsibilities.¹

In so doing, we recognise that we are not the Senedd Committee which holds responsibility for considering the Welsh Government's policy on housing in Wales.

The Renting Homes (Supported Standard Contracts) (Supplementary Provisions) (Wales) Regulations 2022 and the Renting Homes (Supplementary Provisions) (Wales) Regulation 2022

We reported that these Regulations do not set a timescale during which landlords must take action in response to comments made by contract-holders about inventories. Your response defends that

¹ These, and other aims, are set out in paragraph 8 of the Explanatory Memorandum to the 2016 Act.

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policy by reference to things that are “likely” to happen, things that are “unlikely” to happen and things that “could” happen. This appears to leave significant scope for uncertainty, and it is unclear to us how this fits in with the aims of the 2016 Act.

The Renting Homes (Explanatory Information for Written Statements of Occupation Contracts) (Wales) Regulations 2022

We reported on the lack of clarity of a landlord’s liability to pay compensation where the landlord is late in providing a contract-holder with a written statement. You accept that the position could be clearer but that you will only address that lack of clarity the next time it becomes necessary to amend the Regulations. There is no way of knowing when this will be. Given we believe the lack of clarity to be an important issue, we are concerned that it remains unaddressed. Again, we refer back to the aims of the 2016 Act.

We also reported on the lack of clarity regarding the legislative basis for requiring a landlord to comply with specific restrictions in order to give notice under section 173 of the 2016 Act. You helpfully explained that consequential amendments will be made to the *Housing Act 2004* and the *Housing (Wales) Act 2014*. However, had you originally made reference to these future amendments (for example, in the Explanatory Memorandum), this would have helped our scrutiny considerably.

The Renting Homes (Model Written Statements of Contract) (Wales) Regulations 2022

We reported that the model written statement of a fixed term standard occupation contract for a term of less than seven years does not expressly provide for a space for the term of the contract to be included. Your response says that the term of the contract could be set out in several places, but that you accept this could be made clearer.

We remind you that the Explanatory Memorandum to these Regulations says:

“The purpose of the Model Written Statements Regulations is to provide model written statements that encourage consistency in the way written statements are drafted, and provides a reliable aid for the creation of written statements that are compliant with the legal requirements of the 2016 Act.”

You will also be aware of section 32(2) of the 2016 Act, which says that written statements must set out the terms of the contract addressing key matters. The term of a contract is one of a handful of key matters. All other key matters are expressly dealt with in the model written statement, but the key matter of the term of the contract is not. We are particularly concerned that this is not being dealt with as a matter of priority.



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Delayed implementation

More generally, we are concerned that it has taken over five years since the 2016 Act received Royal Assent for these regulations to be made in order to implement detailed policy on renting homes.

Should appropriate timetabling opportunities arise, we believe that there would be merit in the 2016 Act being subject to post-legislative scrutiny to learn lessons not only about the reasons for the delay in implementing the regulations but also in determining the practical impact of that delay, and, now they have been made, their impact in delivering improvements for citizens.

I am therefore copying this letter to the Chair of the Local Government and Housing Committee, not only to draw their attention to the outcome of our scrutiny of the regulations, but also in light of our comments about post-legislative scrutiny.

I look forward to receiving a response to the points we raise in due course.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies

Chair

