

**Julie James AS/MS**  
Ysgrifennydd y Cabinet dros Lywodraeth Leol, Tai a Chynllunio  
Cabinet Secretary for Housing, Local Government and Planning



Llywodraeth Cymru  
Welsh Government

Mike Hedges MS  
Chair of the Legislation, Justice and Constitution Committee  
Senedd Cymru  
Cardiff Bay  
Cardiff  
CF99 1SN  
[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

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Dear Mike

Thank you to the Committee for providing the report on the Legislative Consent Memorandum on the Renters (Reform) Bill.

As I confirmed in my Written Statement on 6 June ([Written Statement: Leasehold and Freehold Reform Act and the Renters \(Reform\) Bill \(6 June 2024\) | GOV.WALES](#)), the Renters (Reform) Bill fell at the dissolution of Parliament on 30 May. This, therefore, ended any requirement to seek the legislative consent of the Senedd.

I have provided a response to the recommendations contained within the report in the attached annex.

Yours sincerely

**Julie James AS/MS**  
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Cabinet Secretary for Housing, Local Government and Planning

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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.

## **Annex – Response to recommendations**

***Recommendation 1. When laying a legislative consent memorandum, the relevant Cabinet Secretary should include a timeline of relevant intergovernmental discussions and engagement that have taken place at official and Ministerial level.***

Welsh Government is committed to ensuring that legislative consent memoranda comply with the requirements of Standing Order 29 and enable effective scrutiny by Senedd Committees. Whilst legislative consent memoranda will frequently include summaries of inter-governmental engagement, the provision of such information will be impacted by the timing of memoranda, and the importance of respecting principles for intergovernmental relations including any necessary confidentiality.

***Recommendation 2. The Cabinet Secretary should clarify her comments about the Equality Act 2010 and accordingly, explain if, and how, provisions in that Act could be used to take action against discriminatory practices in the rented home sector (specifically against contract holders discriminated on the grounds that they have children or are claiming benefits) if the Bill had not been used to amend the Renting Homes (Wales) Act 2016 and the Renting Homes (Fees etc) (Wales) Act 2019.***

Recent court cases have held that policies such as ‘no DSS’ is unlawful indirect discrimination on the grounds of sex and disability, contrary to the Equality Act 2010 and are relevant in the context of residential lettings. The cases did not test age discrimination however age discrimination may be relevant if there is a restriction based on the age of a member of the household. Whether ‘no children’ policies may amount to prohibited conduct under the 2010 Act has not been tested in the courts and success would depend on whether a landlord can justify this as a proportionate means of achieving a legitimate aim.

The purpose of the provisions is to create offences where a landlord or their agent discriminates in relation to occupation contracts against persons who would have children live with or visit them or who are benefits claimants, and makes other provision about discrimination of that kind.

The amendments to the 2019 Act create offences (similar to what are in the 2019 Act for the prohibition of fees) and creates new fundamental terms in the 2016 Act and is the most appropriate way to achieve the policy aim and accords with existing housing legislation in Wales.

***Recommendation 3. The Cabinet Secretary should explain why equivalent or similar provisions included in the Bill could not have been included in the renting homes Bills that were scrutinised by the Senedd and subsequently passed as the Renting Homes (Wales) Act 2016, the Renting Homes (Fees etc) (Wales) Act 2019 and the Renting Homes (Amendment) (Wales) Act 2021.***

The 2016 Act did improve the position for contract-holders, in that it provided for the Welsh Ministers to make secondary legislation regarding what shall be supplementary terms of occupation contracts (with supplementary terms of standard contracts only being capable of being varied by agreement between the landlord and contract-holder) . The subsequently made Renting Homes (Supplementary Provisions) (Wales) Regulations 2022 included a term permitting the contract-holder to determine who lives in the dwelling.

However, in view of the increasing pressure on housing generally, particularly following the Covid-19 pandemic, it was judged reasonable to further strengthen the degree of protection in the manner proposed in the Renters (Reform) Bill by making the provision regarding children and benefit claimants a fundamental term that could not be varied any by creating criminal offences if there is discrimination in relation to children or benefits status.

***Recommendation 4. The Cabinet Secretary should identify the relevant section of the Welsh Government's legislation handbook which she used to help make her decision that an expedited legislative scrutiny process in the Senedd could not be used for a Welsh Government Bill on renting homes policy.***

Chapter 16 of the Legislation Handbook on Senedd Bills was considered in the decision-making process.

***Recommendation 5. The Cabinet Secretary should explain why the use of a UK Bill would appear to have taken priority over pursuing an expedited legislative scrutiny process for a Welsh Government proposed Bill.***

We did not consider these proposals to be suitable for an expedited Senedd Bill.

***Recommendation 6. When laying a legislative consent memorandum, the relevant Cabinet Secretary should explain in detail in that memorandum why the use of an expedited legislative scrutiny process for a Welsh Government proposed Bill is not being pursued instead of the use of a UK Government Bill to make provision in a devolved area.***

Legislative consent memoranda must explain whether it is appropriate for provision to be made, and for it to be made in a UK Bill. Whilst in certain situations that may include reference to alternative Senedd legislative solutions, that would depend upon the timing, the content, and the Welsh Government's positions on consent.

***Recommendation 7. For the provisions identified in the Memorandum, the Cabinet Secretary should lay before the Senedd a regulatory impact assessment akin to an assessment that would have been provided if the provisions had been included within a standalone Welsh Government proposed Bill.***

A supplementary legislative consent memorandum was required for amendments made at Report Stage. However, the Bill fell prior to completing its final stages in Parliament at 'wash up' before the general election was announced and the subsequent dissolution of Parliament..

***Recommendation 8. If a UK Bill is to be used to legislate in a devolved area, the Welsh Government must comply with Standing Order 29 and in accordance with that Standing Order must produce legislative consent memoranda normally within 2 weeks.***

I can confirm our commitment to complying with Standing Orders.

***Recommendation 9. The Welsh Government should explain how it will reduce its reliance on UK Bills in future and to ensure the Senedd's integrity as a legislature is retained.***

I do not agree with the premise that Welsh Government have a reliance on UK Bills. There have been instances, including this Bill, whereby we have recommended the Senedd consent to provision on the basis that it is both sensible and advantageous for Wales. However, there have also been numerous instances whereby we have opposed UK Bills making devolved provision for Wales, and for which the Senedd have refused consent. We will continue to work with Governments across the UK in ensuring that the Sewel Convention is strengthened.

***Recommendation 10. The Welsh Government should undertake a comprehensive review of how it uses its resources, with a view to ensuring that it has the capacity to legislate fully by introducing Bills to the Senedd and to reduce its reliance on UK Bills, such that the integrity of the devolution settlement is retained. It should report on the outcome of that review before the end of the Sixth Senedd.***

For the reasons set out in recommendation 9, I do not agree with the premise that Welsh Government have a reliance on UK Bills.