

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Lleoliad:
Ystafell Bwyllgora 2 – y Senedd

Dyddiad:
Dydd Mercher, 4 Mawrth 2015

Amser:
09.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



I gael rhagor o wybodaeth, cysylltwch â:

Sarah Beasley

Clerc y Pwyllgor

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Agenda

Cyfarfod preifat cyn y prif gyfarfod (9.00 – 9.15)

1 Cyflwyniad, ymddiheuriadau a dirprwyon

2 Bil Llywodraeth Leol (Cymru): Sesiwn dystiolaeth 3 – yr undebau

(09.15 – 10.15) (Tudalennau 1 – 34)

Unsain

Dominic Macaskill, Rheolwr Rhanbarthol, Pennaeth Llywodraeth Leol

GMB

Mike Payne, Swyddog Gwleidyddol Rhanbarthol

Uno'r Undeb

John Toner, Swyddog Rhanbarthol ar gyfer Abertawe

Egwyl (10.15 – 10.30)

3 Bil Llywodraeth Leol (Cymru): sesiwn dystiolaeth 4 – Panel Annibynnol Cymru ar Gydabyddiaeth Ariannol (10.30 – 11.15) (Tudalennau 35 – 37)
Richard Penn, Cadeirydd, Panel Annibynnol Cymru ar Gydabyddiaeth Ariannol

4 Papurau i'w nodi (Tudalennau 38 – 71)

5 Cynnig o dan Reol Sefydlog 17.42 (vi) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

6 Y Bil Llywodraeth Leol (Cymru): trafod y dystiolaeth a gafwyd yn sesiynau 3 a 4 (11.15 – 11.30)

7 Y Bil Rhentu Cartrefi (Cymru): ystyriaeth bellach o ddull craffu'r Pwyllgor (11.30 – 12.00) (Tudalennau 72 – 74)

Mae cyfyngiadau ar y ddogfen hon



Communities, Equality and Local Government Committee

Scrutiny of the Local Government (Wales) Bill

UNISON submission

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UNISON welcomes the opportunity to comment on the Local Government (Wales) Bill, on behalf of our members employed in Local Government.

UNISON is the largest Local Government trade union in Wales organising over 50,000 members across 22 local authority based branches.

Summary

The Minister for Public Services laid the Local Government (Wales) Bill before the National Assembly for Wales on Monday 26th January 2015.

At the same time he issued a written statement which outlined his rejection of the voluntary merger prospectus he had received.

This piece of legislation outlines the procedures for any authorities going down the route of merger; sets out the legislation for the transition committee arrangements, the electoral arrangements, the remuneration arrangements and restraints for any future merging authorities.

This Bill will enable the biggest changes to local government in Wales for twenty years. The responsibility falls upon the National Assembly for Wales to scrutinise this legislation effectively to ensure that the merger process removes as much uncertainty as possible from the thousands of people working in local authorities across Wales as well the millions who rely on the services they provide.

General Overview

The Welsh Government has recently completed a White Paper consultation on the establishment of a Public Services Staff Commission. UNISON submitted a response to this White paper. UNISON argues strongly that there should be a Public Services Staff Commission/er with statutory powers established as soon as possible.

Paragraph 3.116 of the Williams Report states that:

“...austerity is likely to continue for at least the next decade, as we explained in our introduction. As matters stand, local authorities will be unable to offset such pressures with the scale of long-term savings that merger is very likely to bring. So the choice becomes either one of prolonged and ultimately unsustainable cuts to frontline jobs and services; or investing in a reformed structure which will yield significant long-term savings and so mitigate the need for service cuts. In our view that is no choice at all: it is infinitely preferable to invest in a public sector that is fit for the future and to protect front-line jobs and services than to allow public services to decay and decline to the point of failure.”ⁱ

UNISON remains concerned for our members that, unless a whole-Wales public sector approach can be taken to look at the shape of public services and the workforce required to deliver them, we will face year on year mass redundancies

leading to eventual local government reorganisation and the services left to deliver by the new authorities will be unrecognisable from those that the public rely on today.

The Local Government (Wales) Bill does not introduce any requirements for a Public Services Staff Commission/er to oversee the merger process, leaving the individual transition committees, individual authorities and the Independent Remuneration Panel to address issues of pay without any recourse to either the recognised trade unions or to a Public Services Staff Commission/er.

Section 28 of the Bill which details the requirements for Pay Policy Statements is explored further below.

Last year statutory guidance was re-issued on the Code of Practice on Workforce Matters (commonly referred to as the Two-Tier Code) by the Welsh Government. This Code covers all aspects of the public service and relates to protection for employees who find themselves working for part of the public service that is 'outsourced'. It provides a level of protection unfound in any other part of the United Kingdom and we have warmly welcomed the commitment of the Welsh Government to the public service workforce when they re-issued the Code.

Unfortunately, the powers available to the Welsh Government mean that local government only have to 'have regard to' this Code, unlike the ability of the Welsh Government to be able to ensure that the NHS 'must' follow the Code. This has meant, in our experience, a number of authorities ignoring the spirit in which the Code was issued.

We urge the National Assembly for Wales and the Welsh Government to include a reference to the Two Tier Code in this legislation to put local government on the same legal footing as the NHS with regard to this document thus ensuring that local authorities cannot wriggle out of implementing it.

As stated in our response to the Reforming Local Government White Paper, UNISON would like to reiterate that there is no need for moving powers and responsibilities centrally. By retaining current powers and responsibilities and by expanding their remit, Local Authorities will become more accessible, democratic and accountable. However, with any additional powers or responsibilities must come appropriate funding.

Whilst the Welsh Government is cutting funding to public services and the cuts, largely dictated by the Coalition Government in Westminster, have resulted in highly constrained resources for Welsh local authorities. Mergers, whether voluntary or otherwise, should not become a short-sighted approach to coping with reducing budgets.

Wales cannot have world class facilities in one sector and inadequate servicing in another - there needs to be a consistent approach across the board which provides a commitment to public sector staff. The costs of mergers, whether voluntary or otherwise, should be classified as a new burden on local authorities and therefore fully funded by the Welsh Government - not taken from Local Government budgets at the detriment of local services.

Specific Sections of the Bill

Section 4: Consultation before making merger application

UNISON supports a statutory commitment to consultation before voluntary mergers are undertaken. This section outlines the key individuals and organisations that will be consulted as part of any voluntary proposals to pursue merger under this Bill.

UNISON believes that community groups and local organisations should be continually briefed on the timetable and reorganisation of Local Government so that they are fully aware of all events.

While this section relates to the voluntary mergers and we understand that there are currently no voluntary mergers going ahead, the wording of Section 4.1 (g) has caused us and other TUs extreme concern.

Sub section (g) states that the local authority must consult “*any organisation representing staff employed by any of the principal local authorities which has asked to be consulted*”. The explanatory notes of the Bill make it clear that the intention of this sub-section is for the authorities to consult with ‘any trade unions or other organisations representing staff employed by....’

UNISON and the wider trade union movement has long fought for (and continues to fight for in many workplaces) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions and this clause does not acknowledge this fact, allowing for local authorities to by-pass the recognised workplace trade unions.

UNISON has raised this matter with the Minister for Public Services directly since the publication of the Bill and has sought an oral commitment that a Government amendment will be tabled to address our concerns.

Section 10 (6) sets out that TUPE will apply in relation to the voluntary mergers and to a transfer made under the merger regulations whether or not the transfer is a relevant transfer for the purposes of those regulations. This section is welcomed.

As stated above UNISON welcomes the Welsh Government’s reissuing of the Code of Conduct for Workforce Matters which sets out to prevent the establishment of two

tier workforces delivering public services that have been transferred out of the public sector.

In order to address UNISON's concern that currently Local Authorities only have to have consideration of this Code and are not bound to apply it. UNISON would therefore like to see the Welsh Government extend legislation to make the application of this Code mandatory for all Local Authorities, not just Health bodies.

So, in addition to where Section 10 makes reference to the Transfer of Undertakings (Protection of Employment) Regulations 2006, provision for the statutory application of the Code of Conduct for Workforce Matters with regards to local authority mergers, made as a result of this legislation, should be included.

Section 13 sets out the functions of the transition committees including recommendations on:

1(a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority;

1(b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority's functions effectively as from the time when it assumes them, and

1(c) any other purposes that the Welsh Minister may specify by directions.

As stated in the general overview above, we are looking to the Public Services Staff Commission/er to take a wider look at workforce planning across the public sector and to play a specific role in local government reorganisation that is not recognised in this section of the legislation.

It is essential a new Clause is introduced to provide statutory provision for a Public Sector Staff Commission/er to advise on the workforce matters that directly arise out of any voluntary or forced local government merger. Most of the 22 local authorities in Wales have completed the Single Status negotiations and have introduced pay and grading structures and those outstanding will be completed before any mergers are undertaken. As such, the Public Sector Staff Commission should be tasked with advising on a pathway that leads towards a common framework within the public sector in Wales that supports and enables the objective of service integration.

Within the above context, a Public Sector Staff Commission/er should advise on a single pay and grading structure for local government in Wales and arrangements for sector wide bargaining for common terms and conditions within the framework established by the National Joint Council.

Sections 28 and 35 deal with Pay policy statements and the extension of the functions of the Independent Remuneration Panel (IRP) to enable them to make recommendations with regard to these statements.

The publication of a pay policy statement can better inform the wider general public as to the remuneration of the local government workforce, particularly highlighting the differences between the lowest paid officers and local authority chief executives. In our response to the Reforming Local Government White Paper, UNISON expressed support for “the attempt to ensure openness and transparency” in relation to pay and recruitment.

Mergers between local authorities, whether voluntary or otherwise, can lead to increases in privatisation and outsourcing of public services to private corporations. Section 28 should be expanded to cover the services merged authorities may provide via provision of contract with another public, private or third sector service provider. This will ensure transparency across all public services and uphold the principles behind Section 28 across all local authority public services.

UNISON has, however, had very little engagement with the preparation of pay policy statements in accordance with the Localism Act 2011 and are, therefore, unsure of the full implications of this section on our members. At the time of writing, UNISON and the other trade unions are exploring the relationships between our existing bargaining arrangements, the requirements of this Bill, the Independent Remuneration Panel and our preferred all-Wales Public Services Staff Commission model.

The proposals for an expanded IRP are new to the trade union movement and we are, at the current time, unsure as to their full implications upon our members. As previously stated, we have initial concerns that the expansion of the IRP will undermine the work of the Public Services Staff Commission/er and lead to fragmentation of the arrangements for local authority merger in relation to workforce matters – something we have strongly argued against. We have read with interest the cost implications outlined in the Regulatory Impact Assessment for the extended IRP.

20 February 2015

**GMB –
Britain’s
General Union
Response to:**



**Welsh Governments
Consultation Document on**

Local Government (Wales) Bill 2015

Date of issue: 26th January 2015

Action Required: Responses by 23rd February 2015

Date of Submission: 23rd February 2015

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GMB response to Welsh Government: Local Government (Wales) Bill 2015.

BACKGROUND

The Local Government (Wales) Bill will enable the biggest changes to local government in Wales for twenty years. The responsibility falls upon the

National Assembly for Wales to scrutinise this legislation effectively to ensure that the merger process removes as much uncertainty as possible from the thousands of staff who work for local authorities across Wales as well as for the millions of people in our communities who rely on the services that they provide.

General overview

The Welsh Government has recently completed a White Paper consultation on the establishment of a Public Services Staff Commission. The Wales TUC submitted a joint response on behalf of all of the trade unions involved in the Workforce Partnership Council – the social partnership structure for the public services in Wales. The Trade Union Movement argues strongly that there should be a Public Services Staff Commission/er with statutory powers established as soon as possible. The GMB and its sister Trade Unions have been arguing for this for well over 12 months as a response to ever-declining financial settlements and the concurrent push for public service reform.

Paragraph 3.116 of the Williams Report states that:

“...austerity is likely to continue for at least the next decade, as we explained in our introduction. As matters stand, local authorities will be unable to offset such pressures with the scale of long-term savings that merger is very likely to bring. So the choice becomes either one of prolonged and ultimately unsustainable cuts to frontline jobs and services; or investing in a reformed structure which will yield significant long-term savings and so mitigate the need for service cuts. In our view that is no choice at all: it is infinitely preferable to invest in a public sector that is fit for the future and to protect front-line jobs and services than to allow public services to decay and decline to the point of failure.”¹

We remain concerned for our members that unless a whole-Wales public sector approach can be taken to look at the shape of public services and the workforce planning required to deliver them, then we will face year on year redundancies, leading to eventual local government reorganisation and the services left to deliver by the new authorities will be unrecognisable from those that the public want and rely upon today.

The Local Government (Wales) Bill does not introduce any requirements for a Public Services Staff Commission/er to oversee the merger process, leaving the individual transition committees, individual authorities and the Independent Remuneration Panel to address issues of pay without any recourse to either the recognised trade unions or to a Public Services Staff Commission/er.

Section 28 of the Bill which details the requirements for Pay Policy Statements is explored further below.

However as a general point, at this stage, I would like to flag up the need to look to protect and enhance the position of Councils that have completed Job

Evaluation/Single Status and or have also implemented the Living wage. A Staff Commission/er could ensure that there is not a retrograde step in this regard, but could look to apply a consistent approach across from the old to the new Authorities. In addition, a Staff Commission/er could ensure that the legal requirement for Equal Pay is applied across Local Government in Wales and thereby reduce the threat for further equal pay claims being made, especially where those authorities that have completed Job Evaluation/Single Status negotiations, merge with ones that have not yet completed this task.

The other general observation from the GMB relates to statutory guidance re-issued by the Welsh Government last year – the Code of Practice on Workforce Matters (commonly referred to as the Two-Tier Code). This Code covers all aspects of the public service and relates to protection for employees who find themselves working for part of the public service that is ‘outsourced’. The Code provides a level of protection unfound in any other part of the United Kingdom and we have warmly welcomed the commitment of the Welsh Government to the public service workforce when they re-issued the Code.

Unfortunately, the powers available to the Welsh Government mean that local government only has to ‘have regard to’ this Code, unlike the ability of the Welsh Government to be able to ensure that the NHS ‘must’ follow the Code. This has meant, in our experience, a number of authorities ignoring the spirit in which the Code was issued.

We urge the National Assembly for Wales and the Welsh Government to include a reference to the Two Tier Code in this legislation to put Local Government on the same legal footing as the NHS with regard to this document thus ensuring that local authorities cannot wriggle out of implementing it.

Specific Sections of the Bill

The specific sections of the Bill that we intend to concentrate on in our written evidence are set out below. We will be happy to explore these issues further in our oral evidence as well as take any questions on other aspects that Assembly Members may feel affect our membership.

Section 4: Consultation before making merger application

While this section relates to the voluntary mergers and we understand that there are currently no voluntary mergers going ahead, the wording of Section 4.1 (g) has caused the GMB extreme concern.

Sub section (g) states that the local authority must consult “*any organisation representing staff employed by any of the principal local authorities which has asked to be consulted*”. The explanatory notes of the Bill make it clear that the intention of this sub-section is for the authorities to consult with ‘any trade unions or other organisations representing staff employed by....’

The GMB and the trade union movement has long fought for (and continues to fight for) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions via the appropriate National collective Bargaining arrangements, and this clause does not acknowledge this fact, thereby potentially allowing for local authorities to by-pass the recognised workplace trade unions in this process.

We have raised this matter with the Minister for Public Services directly since the publication of the Bill and have sought an oral commitment that a Government amendment will be tabled to address our concerns.

Section 10 (6) sets out that TUPE will apply in relation to the voluntary mergers and to a transfer made under the merger regulations whether or not the transfer is a relevant transfer for the purposes of those regulations. This section is welcomed.

Section 13 sets out the functions of the transition committees including recommendations on:

1(a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority;

1(b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority's functions effectively as from the time when it assumes them, and

1(c) any other purposes that the Welsh Minister may specify by directions.

As stated in the general overview above, we are looking to the Public Services Staff Commission/er to take a wider look at workforce planning across the public sector and to play a specific role in local government reorganisation that is not recognised in this section of the legislation.

Sections 28 and 35 deal with Pay policy statements and the extension of the functions of the Independent Remuneration Panel (IRP), to enable them to make recommendations with regard to these statements. We currently have very little engagement with the preparation of pay policy statements in accordance with the Localism Act 2011 and are, therefore, unsure of the full implications of this section on our members. At the time of writing, we are exploring the relationships between our existing National Collective bargaining arrangements, the requirements of this Bill, the Independent Remuneration Panel and our preferred all-Wales Public Services Staff Commission model. (We would welcome further clarity upon this point, and opportunity for response if necessary, as the bill progresses)

The proposals for an expanded IRP are new to the trade union movement and we are, at the current time, unsure as to their full implications upon our members. As previously stated, we have initial concerns that the expansion of the IRP will undermine the work of the Public Services Staff Commission/er and lead to fragmentation of the arrangements for local authority merger in relation to workforce matters – something we have strongly argued against.

We have read with interest the cost implications outlined in the Regulatory Impact Assessment for the extended IRP.

The final question for the Committee on Section 28 is – is 42 days long enough to enable certainty for staff about arrangements for the new authorities in the event of mergers being imposed rather than volunteered for? We reach no conclusion on this but it is an area that we will continue to monitor closely.



Local Government (Wales) Bill

Unite Wales response



Background

The Local Government (Wales) Bill will enable the biggest changes to local government in Wales for twenty years. The responsibility falls upon the National Assembly for Wales to scrutinise this legislation effectively to ensure that the merger process removes as much uncertainty as possible from the thousands of people working in local authorities across Wales as well as the working for the millions who rely on the services they provide.

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We have raised this matter with the Minister for Public Services directly since the publication of the Bill and have sought an oral commitment that a Government amendment will be tabled to address our concerns.

Section 10 (6) sets out that TUPE will apply in relation to the voluntary mergers and to a transfer made under the merger regulations whether or not the transfer is a relevant transfer for the purposes of those regulations. This section is welcomed.

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Sections 28 and 35 deal with Pay policy statements and the extension of the functions of the Independent Remuneration Panel (IRP) to enable them to make recommendations with regard to these statements. We have very little engagement with the preparation of pay policy statements in accordance with the Localism Act 2011 and are, therefore, unsure of the full implications of this section on our members. At the time of writing, we are exploring the relationships between our existing bargaining arrangements, the requirements of this Bill, the Independent Remuneration Panel and our preferred all-Wales Public Services Staff Commission model.

The proposals for an expanded IRP are new to the trade union movement and we are, at the current time, unsure as to their full implications upon our members. As previously stated, we have initial concerns that the expansion of the IRP will undermine the work of the Public Services Staff Commission/er and lead to fragmentation of the arrangements for local authority merger in relation to workforce matters – something we have strongly argued against. We have read with interest the cost implications outlined in the Regulatory Impact Assessment for the extended IRP.

The final question for the Committee on Section 28 is – is 42 days long enough to enable certainty for staff about arrangements for the new authorities in the event of mergers being imposed rather than volunteered for? We reach no conclusion on this but it is an area that we will continue to monitor closely.

Submitted by Paddy McNaught at Unite Wales
Contact details – paddy.mcnaught@unitetheunion.org



Local Government (Wales) Bill

Communities, Equality & Local Government Committee

Written Evidence from the Independent Remuneration Panel for Wales

The Independent Remuneration Panel for Wales (IRPW) has considered the Local Government (Wales) Bill and has agreed the following as written evidence to the Communities, Equality and Local Government Committee concentrating on those sections of the Bill that have implications for the Panel's work and its future functions.

About the Independent Remuneration Panel for Wales

The Panel is independent of central and local government and was established to determine the range and levels of allowances payable by county and county borough councils to their councillors and co-opted members with voting rights. The Panel's remit was extended under the Local Government (Wales) Measure 2011 to include the remuneration of members of national park authorities, fire and rescue authorities, and community and town councils in Wales. The Panel consists of a Chair, appointed by the Minister and four other members. The Panel must produce an annual report setting out its remuneration framework every year, and may produce supplementary reports at any time.

Section 63 of the Local Government (Democracy) (Wales) Act 2013 amended the 2011 Measure by inserting section 143A which enables the Panel to take a view and make recommendations, in relation to Principal Councils and Fire and Rescue Authorities, on anything in their Pay Policy Statement which relates to the salary of a Head of Paid Service. Principal Councils and Fire and Rescue Authorities are obliged to then have regard to any recommendation the Panel makes in relation to what is in their Pay Policy Statement concerning Chief Executives' pay.

The current Panel members, both individually and collectively, have considerable experience and knowledge of local government in Wales both as officials and as elected members and have appreciate the wider implications of the Local Government (Wales) Bill.

Implications of proposed mergers on remuneration of elected members

The Bill's proposal to enable mergers of the existing 22 Principal Councils has potentially significant implications for the remuneration generally of councillors and, in particular, of those holding senior positions in the new authorities. At this stage the likely size (in terms of councillor numbers) of each of the merged councils has not been determined although the Panel has assumed that there is likely to be a reduction from the current total of 1254 councillors.

The Panel has analysed the populations and revenue budgets of the new authorities as proposed by the Williams Commission. This analysis indicates that there will be considerable and significant variations in the size of authorities with populations ranging from over 470,000 to just over 100,000 and revenue budgets (based on current estimated figures) ranging from over £600m to £230m.

The Panel would need to take these variations into account when considering the appropriate levels of remuneration of leaders, members of the executive and other senior post-holders as there will be significant differences in the levels of responsibility. The outcome of reviews to be undertaken by the Local Democracy and Boundary Commission for Wales and the resultant representation ratio of members to electorate could also impact on the Panel's consideration of appropriate remuneration. The Panel will also continue to have regard to affordability and reasonableness in all its determinations.

It is not inconceivable that in future the IRPW might have to consider bespoke remuneration frameworks for each council once the Bill has been implemented and the Panel is ready to respond to these issues when the detailed decisions about the size of councils and electorates emerge. To develop and maintain individual frameworks would increase the workload of the Panel considerably and the provision for increasing the Panel's membership from five to six in Section 36 of the Bill is welcomed by the Panel.

The salaries of Chief Executives and Chief Officers of the proposed shadow authorities

The Panel notes the intention to extend the current powers in respect of salaries of Heads of Paid Service (Chief Executives) and Chief Officers to the shadow authorities. If it is considered appropriate to develop/extend the powers of the IRPW in this way, it will be important to examine the skill set of the Panel members to ensure that there is the necessary capacity to undertake this wider role. Once again, taking these extra responsibilities into account, the IRPW welcomes Section 36 of the Bill which would increase its membership from five to six, particularly given the far greater number of officers for which the Panel would become responsible in relation to their salaries.

Diversity within council membership

The Panel's visits during 2013 to each principal council in Wales demonstrated that there are major issues in respect of diversity in the representative role. The current balance of gender, age and ethnicity is clearly not representative of the population of Wales or of individual local authority areas. We recognise that this is not unique to local government, but the proposed reform provides an opportunity to influence this situation.

The Panel supports the proposals at Section 37 of the Bill and considers that the survey of local authority candidates is a will provide useful benchmarking data regarding diversity in local government in wales.

Richard Penn
Chair of the Independent Remuneration Panel for Wales

Eitem 4

4 Mawrth 2015 – Papurau i'w nodi

Rhif papur:	Mater	Oddi wrth	Cam gweithredu
Papurau cyhoeddus i'w nodi			
5	Bil Llywodraeth Leol (Cymru)	Gweinidog Gwasanaethau Cyhoeddus	Gwybodaeth ychwanegol yn dilyn y cyfarfod ar 5 Chwefror 2015.
6	Bil Rhentu Cartrefi (Cymru)	Y Gweinidog Cymunedau a Threchu Tlodi	Datganiad o Fwriad Polisi
7	Memorandwm Cydsyniad Deddfwriaethol ar Fil Troseddu Difrifol Llywodraeth y DU	Y Fonesig Rosemary Butler, Llywydd	Hysbysiad am benderfyniad y Pwyllgor Busnes mewn perthynas â'r Memorandwm Cydsyniad Deddfwriaethol.
Papurau preifat i'w nodi			
8	Bil Llywodraeth Leol (Cymru)	Gwasanaethau Cyfreithiol, Comisiwn y Cynulliad	Nodyn cyngor cyfreithiol ar y Bil Llywodraeth Leol (Cymru)

Leighton Andrews AC / AM
Y Gweinidog Gwasanaethau Cyhoeddus
Minister for Public Services



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: LF-LA-0195-15

Christine Chapman AM
Chair of the Communities, Equality and Local Government Committee,
National Assembly for Wales,
Cardiff Bay,
Cardiff,
CF99 1NA

Dear Christine,

23 February 2015

During my attendance at Committee on 5 February 2015, in which I provided evidence on the Local Government (Wales) Bill 2015, I agreed to provide the following additional information:

- an outline timetable for the cycle of elections proposed under the Local Government Reform Programme; and
- a note on why the completion of community reviews is not scheduled ahead of the Local Democracy and Boundary Commission for Wales (LDBCW) conducting its electoral arrangements reviews of proposed new Principal Areas.

I attach at Annex 1 the proposed timeline for Local Authority elections, including detail of the wider governmental elections.

Annex 2 provides information on the proposed process of electoral arrangements reviews to be conducted by the LDBCW in relation to proposed new Principal Areas, and the conduct of community reviews. It further provides an explanation as to why community reviews are not scheduled to take place ahead of the electoral arrangements reviews of proposed new Principal Areas.

Best wishes,
Leighton Andrews

Leighton Andrews AC / AM
Y Gweinidog Gwasanaethau Cyhoeddus
Minister for Public Services

Reforming Local Government – Proposed Timeline for Elections

2015	
May	<i>General Election</i>
Nov	Local Government (Wales) Bill 2015 - Royal Assent
2016	
March	Regulations made for establishment of transition committees for voluntarily merging authorities
May	<i>National Assembly elections / Police and Crime Commissioner elections</i>
Autumn	Local Government (Wales) Bill 2017 – introduction
2017	
January	Regulations made for establishment of transition committees for authorities merging under 2017 Bill
1 April	Voluntary mergers – shadow authorities established (comprising all members of merging authorities)
May	<i>Elections to continuing authorities (5 year term) and authorities merging under the 2017 Bill (3 year term)</i>
Autumn	Local Government (Wales) Bill 2017 – Royal Assent
2018	
1 April	Voluntary mergers – vesting day for new authorities
May	<i>Elections to voluntarily merging authorities</i>
May	<i>European Elections</i>
2019	
May	<i>Elections to shadow authorities merged under the 2017 Bill</i>
2020	
1 April	Authorities merged under the 2017 Bill – vesting day
May	<i>General Election</i>
2021	
May	<i>National Assembly elections / Police and Crime Commissioner elections</i>
2022	
May	<i>Elections to all authorities</i>

Local Government (Wales) Bill

Note on (i) The procedure for Electoral Arrangements Reviews of proposed new Principal Areas to be conducted by the Local Democracy and Boundary Commission for Wales; and (ii) Community reviews

(i) Conduct of Electoral Arrangements Reviews for proposed new Principal Areas

1. The procedure by which the Local Democracy and Boundary Commission for Wales (the Commission) is required to conduct an initial review of the electoral arrangements for a proposed new Principal Area is set out in sections 16 to 22 of the Local Government (Wales) Bill ("the Bill") as introduced.
2. The procedure set out in the Bill is based, as far as it is appropriate, on that set out in the Local Government Democracy (Wales) Act 2013 for the Commission's conduct of electoral arrangements reviews of the existing 22 Principal Local Authorities.
3. The Commission may not conduct an initial review of the electoral arrangements of a proposed new Principal Area on its own initiative. The Commission may start work on an initial review only on receipt of a direction to do so from the Welsh Ministers. Section 16, which empowers the Welsh Ministers to issue a direction to the Commission, will be in force from the day following that on which the Bill receives Royal Assent. A direction requiring the Commission to conduct an initial review of a proposed new Principal Area must specify the date by which the Commission must make its report containing final recommendations for the electoral arrangements of the proposed new Principal Area or Areas described in the direction.
4. Before conducting an initial review, the Commission is required to make mandatory consultees and interested parties aware of the review and of any directions issued by the Welsh Ministers in respect of that review.
5. The mandatory consultees for an initial review are:

The councils of the merging Local Authorities covered by the review;
Any Community Councils in the proposed Principal Area covered by the review;
and
Such other persons as may be specified by the Welsh Ministers in the direction to conduct the initial review.
6. As part of the pre-review process, the Commission must consult the mandatory consultees on the procedure and methodology it intends to follow; in particular, how it proposes to determine the appropriate number of councillors for the proposed new Principal Area.
7. The Commission will then proceed to develop its proposals for the electoral arrangements. In so doing, the Commission must consult the mandatory

consultees and any other persons considered appropriate by the Commission and must conduct such investigations as the Commission considers appropriate. At the conclusion of this process, the Commission must prepare and publish a report of draft proposals for consultation. The consultation must last for a period of not less than 6 weeks and not more than 12 weeks.

8. The Commission must have regard to representations received during the consultation period. Having considered all representations, the Commission must prepare and publish a final report with recommendations for the electoral arrangements and submit this to the Welsh Ministers. The final report must also contain details of the review and consultation undertaken and of any changes to the proposals made in light of the representations received, with an explanation of why the changes were made.
9. Publication of the final report triggers a further consultation period of six weeks. When this has ended the Welsh Ministers may make regulations to implement the recommendations as set out in the report or with modifications. Before making the regulations, the Welsh Ministers may also request further information about the recommendations from the Commission.

Community Reviews

10. The Local Government Democracy (Wales) Act 2013 (“the 2013 Act”) places a duty upon Principal Councils to keep their community areas under review. The procedure for community reviews is set out in the 2013 Act and is not amended by the Bill.
11. Community reviews may be conducted by a Principal Council, or the Principal Council may reach agreement for the Commission to conduct the community reviews on its behalf. In undertaking community reviews, Principal Councils are required to bring the reviews to the attention of mandatory consultees and interested parties, and must report on any community review activities to the Commission every ten years. Local Authorities must consult on draft proposals and consider all representations prior to making final proposals. The final report and recommendations is submitted to the Commission for consideration. After a six week consultation period, the Commission may make an order to implement the recommendations as set out in the report or with modifications agreed by the Principal Council.
12. Under the 2013 Act, the Commission is required to prepare a programme of electoral reviews for each existing Principal Area at least once in every 10 year period, beginning from September 2013. A Principal Council must have regard to the Commission’s 10 year programme when deciding when to undertake its community review.
13. The Commission’s current ten-year programme of electoral reviews for existing Principal Local Authorities has been suspended pending the reform of local government.

14. There are presently two Principal Council community reviews under consideration by the Commission (Flintshire and Rhondda Cynon Taf) and four Principal Councils at various stages of community reviews (Cardiff, Carmarthenshire, Monmouthshire and Neath Port Talbot).
15. Principal Councils take approximately two years on average to conduct a full community review. The Commission, if it agrees with the recommended boundaries and decisions of the Council, takes six months on average to prepare and make an Order.

Timeframe for Review of electoral arrangements reviews for proposed new Principal Areas under the Bill

16. Under current arrangements, the Commission allocates at least 18 months to complete its stages for each electoral arrangements review of a Principal Area. The timeframe is to allow sufficient time for investigation, engagement with stakeholders, consultation on the draft report and time to consider and process representations. It is anticipated the same timeframe will apply to reviews of proposed new Principal Areas under the Bill.
17. Similarly, under current arrangements, the Welsh Ministers generally allow 3 months from receipt of a final report (with recommendations) from the Commission to the making of the electoral arrangements order. This encompasses the 6-week period for representations (which starts on the date of receipt) and the time needed for drafting, processing and approving the necessary order. Whilst their purpose and effect is the same, electoral arrangements reviews under the Bill will be given effect by way of regulations as opposed to order. This has no practical or procedural implications, but simply reflects the current approach to the provision of subordinate legislative powers in Assembly Bills.
18. Once the electoral arrangements regulations are made, it will fall to the electoral registration officers in the Principal Local Authorities concerned to make the necessary administrative changes at the local level to implement the new arrangements. Political parties will also need to start work on their candidate selection procedures on the basis of the new arrangements. Our experience is that electoral registration officers and political parties need some 6 months to translate the new warding arrangements into practice.

Other Considerations

19. The Bill, when passed, will enable the Welsh Ministers to direct the Commission to prioritise the sequence in which the proposed new Principal Areas are reviewed.
20. In preparation for reviewing proposed new Areas, the Commission is looking at timetable options but the final timetable will be dependant upon a map of proposed merged authorities and directions from the Welsh Ministers.

21. The proposed time frame in the Bill does not allow for merging Principal Councils to conduct community reviews ahead of electoral arrangements reviews by the Commission. However, the policy intention, as set out in the White Paper - Reforming Local Government - Power to Local People, is that all Local Authorities will need to conduct community reviews by 2022.

Lesley Griffiths AC / AM
Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LF-LG-0215-15

Christine Chapman AM
Chair
Communities, Equality and Local
Government Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

JA February 2015

Dear Christine

Renting Homes (Wales) Bill

Following the introduction of the Renting Homes (Wales) Bill into the National Assembly for Wales on 9 February 2015, please find attached a copy of the Statement of Policy Intent regarding the subordinate legislation powers in the Bill. This is provided to support the Committee's scrutiny of the Bill.

I am copying this letter to the Chair of the Constitutional and Legislative Affairs Committee.

Regards

Lesley Griffiths AC / AM
Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty



Llywodraeth Cymru
Welsh Government

Renting Homes (Wales) Bill

Policy intent for subordinate legislation made under the Bill

February 2015

POLICY INTENT FOR PROPOSED SUBORDINATE LEGISLATION TO BE MADE UNDER THE RENTING HOMES (WALES) BILL 2015

1. This document describes the policy intention and direction proposed by the Welsh Ministers using the powers in the Renting Homes (Wales) Bill.
2. The Bill brings together and modernises the existing and complex legislation for renting a home into one new piece of legislation. In doing so, it aims to improve the arrangements. It proposes two main types of occupation contract, which will replace existing forms of occupation arrangements. The principal aspects of these new occupation contracts, the “key matters” and “fundamental terms”, will be set out on the face of the Bill. Supplementary terms will be set out in regulations made by the Welsh Ministers, with additional terms negotiated and agreed by landlords and contract-holders.
3. Key matters will cover, for example, the address of the property, the level of rent and the rental period. Fundamental terms set out the primary rights and responsibilities under the contract and will cover, for example, the requirement to provide a written statement of the contract and the process for ending the contract. Supplementary terms, which will be set out in regulations to be made by the Welsh Ministers, will relate to other rights and responsibilities that apply under the contract.
4. Because the Bill proposes to change, consolidate and update substantial and complex areas of housing legislation, it provides the Welsh Ministers with the powers necessary to implement such legislation. These powers will allow the Welsh Ministers to set out supplementary terms of occupation contracts, to prescribe matters of procedural detail and, importantly, to be able to respond promptly to the need for changes in such matters if circumstances change in the future. In most cases, the powers replicate those in the existing legislation, which is being replaced by the Bill. The powers are also closely aligned with the powers proposed by the Law Commission in its draft Bill (Volume 2 of its Renting Homes 2006 Final Report).
5. With the exception of the power to commence the remaining provisions of the Act, which is by way of order (section 254(2)), the powers within this Bill are regulation making powers. The Welsh Government has undertaken to consult on the regulations relating to supplementary provisions (section 23(1)). In relation to other subordinate legislation, the precise nature and extent of consultation will be determined by reference to the subject matter of the legislation.
6. This statement should be read in conjunction with the Bill and Explanatory Memorandum, as published on introduction.

REGULATIONS RELATING TO:	Bodies to be considered Community Landlords.
SECTION	Section 9(6)
DESCRIPTION OF THE POWER/REGULATION	
Provides the Welsh Ministers with a power to amend section 9, that is, the list of “persons” (individuals, authorities or bodies) defined as “community landlords” under the Bill. This is to enable the Bill to reflect changes in housing practice in the future.	
WHY THE REGULATION POWER IS REQUIRED	
<p>Future housing practice or legislation may require the definition or description of community landlords under the Bill to be changed. This is necessary as a person defined as a community landlord is required to issue a secure contract by default. For landlords other than community landlords, referred to as “private landlords” under the Bill, the standard contract is the default. This power will therefore enable the Welsh Ministers to ensure any wider changes in the law regarding the provision of social rented housing are reflected in the definition of a community landlord. For example, section 80(3) of the Housing and Regeneration Act 2008 changed, in England, the description “registered social landlord” to “private registered provider of social housing”. Since some social housing in Wales is provided by English-based providers, any further such change will need to be reflected in the definition of community landlord under the Bill. The affirmative procedure is appropriate for this power as the definition of what does or does not constitute a community landlord under the Bill has a significant impact on the rights of those who rent their home, as it will determine their right to either a secure or standard contract.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention of the power is to ensure landlords who might be required to issue secure contracts in the future are included within the definition of a community landlord. There is the possibility that new providers of social housing may need to be defined as community landlords. In such a scenario, we would wish to act swiftly to ensure individuals are provided with secure contracts as soon as possible.</p>	

REGULATIONS RELATING TO:	Determination of fundamental provisions
SECTION:	Section 22(1)&(2)
DESCRIPTION OF THE POWER/REGULATION	
<p>Section 22(1) provides the Welsh Ministers with a power to make regulations as to whether a provision made by other legislation is, or is not, a “fundamental provision” of an occupation contract. Section 22(2) enables the Welsh Ministers to make regulations regarding whether a fundamental provision must be incorporated as a fundamental term in an occupation contract and, if it must be incorporated, whether it can be modified. Where such regulations make changes to the Renting Homes (Wales) Act they will be subject to the affirmative procedure. Otherwise the negative procedure would apply.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>Allows the Welsh Ministers to ensure fundamental provisions reflect future changes in legislation and housing practice. Should future housing legislation require a matter to be included in an occupation contract this power will enable that to be achieved in a timely manner.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention is to provide the ability to react swiftly to future legislation which affects Renting Homes occupation contracts. The ability to incorporate future housing legislation which might affect occupation contracts is essential for the contracts to remain effective.</p> <p>The power under Section 22(2) complements the power provided under 22(1). For example, if future legislation requires the creation of a new fundamental provision, it is essential that determination over its incorporation into occupation contracts, and whether it can be subject to modification, is also provided for.</p>	

REGULATIONS RELATING TO:	Determination of supplementary provisions
SECTION:	Section 23(1)
DESCRIPTION OF THE POWER/REGULATION	
Creation of supplementary provisions to be incorporated as terms of occupation contracts.	
WHY THE REGULATION POWER IS REQUIRED	
<p>In line with the Law Commission’s recommendations, while the essential rights and obligations will be represented by fundamental provisions, other more practical matters are dealt with through supplementary provisions prescribed by the Welsh Ministers in regulations. Supplementary provisions will be incorporated into occupation contracts as supplementary terms.</p> <p>Examples of supplementary terms would be a requirement for the contract-holder to pay the council tax, to maintain a garden, take care of the dwelling and check smoke alarms are working and return keys to the landlord at the end of the contract. The landlord and contract-holder are free to agree that a supplementary provision should not be incorporated as a term or be incorporated with modifications.</p> <p>Prescribing supplementary provisions through regulations will enable the Welsh Ministers to ensure occupation contracts remain current and respond to changes to future legislation and housing practice. The power requires the Welsh Ministers to consult stakeholders before making regulations determining supplementary provisions.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention is to ensure the terms of occupation contracts remain current and reflect changes in housing practice. For example, if there was to be a substantial alteration to the funding of local government, then the contractual term requiring the contract-holder to pay the “council tax” may need to be changed. It would not be appropriate for such a change to require the making of primary legislation. The intention of the requirement to consult is to ensure the proposed supplementary provisions accurately describe the matter to be addressed and are readily understandable.</p>	

REGULATIONS RELATING TO:	Prescribing model written statements of contracts
SECTION:	Section 29(1)
DESCRIPTION OF THE POWER/REGULATION	
<p>In line with the Law Commission's recommendations, this power enables the Welsh Ministers to prescribe model written statements of contracts for use by landlords and contract-holders as the basis for the occupation contracts provided for under the Bill.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>The Bill requires landlords to issue written statements of the occupation contract within 14 days of the contract-holder occupying the dwelling (this allows for initial occupation on the basis of a verbal contract only, for example in response to an emergency). The written statement must include the relevant key matters, fundamental terms, supplementary terms as well as any additional terms.</p> <p>The power to issue model written statements of contracts will assist landlords in complying with their obligations. There are a number of model written statements of contracts which it is proposed will be prescribed under this power:</p> <ul style="list-style-type: none"> • Secure contract - community landlord • Fixed term standard contract (less than seven years) • Fixed term standard contract (seven years or more) • Periodic standard contract • Introductory standard contract • Prohibited conduct standard contract • Supported standard contract <p>However, these will need to be updated in a timely manner if changes are made to a supplementary term as a consequence of regulations made under section 23(1).</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The intention is to ensure model written statements of contracts can be readily updated as required. This will assist landlords in complying with their obligations under the new legislation.</p>	

REGULATIONS RELATING TO:	Explanatory information which must be contained in written statements
SECTION:	Section 32(4)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to specify explanatory information which must be contained in written statements.	
WHY THE REGULATION POWER IS REQUIRED	
<p>The fundamental and supplementary terms in occupation contracts will be drafted as clearly as possible. However, it is necessary for the written statement to include explanatory information about any matters that are prescribed to assist the reader. For example, the illustrative model contracts prepared by the Law Commission included a note explaining the contract-holder did not need to pay a day's rent for each day the landlord was late in providing the written statement of contract. Explanatory information may also be used to sign-post the reader to sources of other relevant information or advice. Such explanatory notes will vary over time, not least as a consequence of changes to supplementary terms as a consequence of the power in section 23(1).</p>	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to help ensure landlords and contract-holders understand the terms of the occupation contract.	

REGULATIONS RELATING TO:	Required information relating to deposit schemes
SECTION:	Section 45(3)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to specify what information must be given to the contract-holder (or any person who paid the deposit on his or her behalf) to comply with section 45(2)(b) regarding deposit schemes.	
WHY THE REGULATION POWER IS REQUIRED	
<p>This power reflects current arrangements in respect of tenancy deposits and will enable the Welsh Ministers to update the required information to be provided following changes in legislation and housing practice. The current Housing (Tenancy Deposits) (Prescribed Information) Order 2007 is an example of the kind of information that will be required, and includes:</p> <ul style="list-style-type: none"> • the amount of the deposit paid; • the address of the property to which the tenancy relates; • the name, address, telephone number, and any e-mail address or fax number of the landlord; and • the circumstances when all or part of the deposit may be retained by the landlord, by reference to the terms of the tenancy. 	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the information which must be provided to a contract-holder regarding the safeguarding of his or her deposit can be readily updated..	

REGULATIONS RELATING TO:	Prohibited conduct definition
SECTION:	Section 56
DESCRIPTION OF THE POWER/REGULATION	
<p>This power enables the Welsh Ministers to amend section 55 in respect of what constitutes anti-social behaviour and other prohibited conduct.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>This power was recommended by the Law Commission. It will allow the definition of prohibited conduct to be swiftly updated by the Welsh Ministers, ensuring new forms of anti-social behaviour, domestic abuse or other negative behaviours can be captured by the definition.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The intention here is to provide the Welsh Ministers with the ability to react in a timely manner to emerging forms of anti-social behaviour, domestic abuse or other negative behaviours not falling within the current definition. The nature of such behaviours can evolve rapidly and it is important for occupation contracts to be capable of being updated accordingly, thus remaining an effective tool against current and future forms of anti-social behaviour and domestic abuse.</p>	

REGULATIONS RELATING TO:	Sub-occupation and the variation of time periods relating to exclusion of contract-holder by sub-holder after abandonment
SECTION:	Section 68
DESCRIPTION OF THE POWER/REGULATION	
<p>Allows the variation of time periods in sections 66 and 67. Section 66(11) provides for a four-week warning period for the contract-holder, during which the sub-holder is required to make inquiries to be satisfied the contract-holder no longer considers himself or herself to be a party to the head contract and the sub-occupation contract. Section 67(2) provides for variation of the six-month period during which the contract-holder can apply for a remedy to the court on the grounds he or she had not abandoned the contracts and there is good reason for a failure to respond or the sub-holder had not acted in accordance with the requirements.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>The provisions in the Bill are aligned with the recommendations of the Law Commission. However, as an entirely new area of law, it is considered important to have the ability to vary the relevant time periods in the light of experience.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention here is, through the monitoring of implementation, to ensure both the four-week warning period and six-month remedy period are appropriate. It is important for the Welsh Ministers to have the ability to act swiftly should changes be necessary.</p>	

REGULATIONS RELATING TO:	Fitness for human habitation
SECTION:	Section 94
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to prescribe matters or circumstances to consider in determining whether premises are fit for human habitation.	
WHY THE REGULATION POWER IS REQUIRED	
These matters will be prescriptive and detailed in nature and are better suited to regulations than the face of the Bill.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to set out the matters to be considered in determining whether a dwelling is fit for human habitation. This may include referring to existing guidance on the 29 hazards listed under the Housing Health and Safety Rating System, which include excess cold, mould, carbon monoxide, pests, fire and electrical hazards. This power will enable the Welsh Ministers to specify in regulations additional matters which are considered to make a dwelling unfit for habitation. In exercising the power under section 94(1), the Welsh Ministers may prescribe matters and circumstances by reference to any regulations made under section 2 of the Housing Act 2004. The power will ensure all such guidance can be kept up to date.	

REGULATIONS RELATING TO:	Notice periods in relation to withdrawal from the contract by joint contract-holders
SECTION:	Sections 112 and 131
DESCRIPTION OF THE POWER/REGULATION	
This power enables the Welsh Ministers to prescribe supplementary provisions specifying a minimum period of notice required to be given by a joint contract-holder who wishes to withdraw from either a secure or standard contract (sections 112 and 131 respectively).	
WHY THE REGULATION POWER IS REQUIRED	
In line with the Law Commission's recommendations, this will enable the notice periods to be altered should this prove necessary in the light of experience.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention here is, through the monitoring of implementation, to ensure the required notice period is appropriate. It is important for the Welsh Ministers to have the ability to act swiftly should change be necessary.	

REGULATIONS RELATING TO:	Landlord's review of a decision to give notice requiring possession under introductory and prohibited conduct standard contracts
SECTION:	Section 199(5)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give a notice requiring possession.	
WHY THE REGULATION POWER IS REQUIRED	
To set the detailed requirements and procedure for the review of the landlord's decision. The regulations will be administrative in nature and are better suited to subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here reflects existing arrangements in relation to landlord reviews, for example under section 125B of the Housing Act 1996 which provides a regulation making power in relation to the procedure to be followed in connection with reviewing a landlord's decision to extend an introductory tenancy. Regulations here will largely be administrative, for example setting out requirements in relation to the person(s) to adjudicate, the right to an oral hearing, and permitted attendees/representatives.	

REGULATIONS RELATING TO:	Safeguarding of property remaining in the dwelling following abandonment
SECTION:	Section 217(1)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to make provision relating to the safeguarding of property remaining in the dwelling of an abandoned property when a contract ends under section 216.	
WHY THE REGULATION POWER IS REQUIRED	
The regulations will be administrative in nature and are appropriate for subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to set out within the regulations the proper treatment of the former contract-holder's property following possession under the abandonment procedure. Any regulations might, for example, set out the time periods for which such property must be kept and how the proceeds of sale of any property may be treated by the landlord in offsetting any monies owed by the contract-holder.	

REGULATIONS RELATING TO:	Relevant periods of time in relation to abandonment by the contract-holder.
SECTION:	Section 219
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend the relevant time periods under sections 216 and 218 in relation to abandonment.	
WHY THE REGULATION POWER IS REQUIRED	
<p>Allows the variation of time periods for the purposes of sections 216 and 218. Section 216 provides for a four-week warning period for the contract-holder, during which the landlord is required to make inquiries to be satisfied the contract-holder has abandoned the dwelling. Section 218 provides for variation of the six-month period during which the contract-holder can apply for a remedy to the court on the grounds he or she had not abandoned the dwelling and there is good reason for a failure to respond or the landlord had not acted in accordance with the requirements. It will be important to monitor the time periods with regard to abandonment, ensuring that the stated periods work from both the perspective of landlord and contract-holder.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention here is to ensure both the four-week warning period and six-month remedy period are appropriate. It is important for the Welsh Ministers to have the ability to act swiftly should changes be necessary. The appropriateness of these periods will be monitored as part of the evaluation of the Bill.</p>	

REGULATIONS RELATING TO:	Relevant periods of time in relation to the exclusion of joint contract-holders.
SECTION:	Section 225
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend relevant periods of time in relation to the exclusion of joint contract-holders under sections 221, 222, 223 and 224.	
WHY THE REGULATION POWER IS REQUIRED	
It will be important to monitor the time periods with regard to joint contract-holder exclusion and termination of warning notices, given by both landlord and joint contract-holders.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to monitor the implementation of such warning notice periods to ensure they remain fair for both landlord and joint contract-holder. It is considered the periods as they currently stand are fair to both landlord and contract-holder but it is important that the ability to act swiftly is maintained in such an important area.	

REGULATIONS RELATING TO:	Prescription of the form for notices and documents required
SECTION:	Section 233(3)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to prescribe the form for notices and documents required or authorised under the Bill.	
WHY THE REGULATION POWER IS REQUIRED	
Various provisions in the Bill require notices to be given by either landlord or contract-holder. To assist both parties with issuing notices which comply with the requirements this power enables the Welsh Ministers to prescribe the form of these notices. These will also require periodic adjustment and updating to remain current.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to facilitate the contractual relationship between the parties to an occupation contract by making available template notices in the correct form, which may change over time as a consequence of other changes, such as applicable time periods.	

REGULATIONS RELATING TO:	Supplemental, incidental, consequential, transitory, transitional or saving provision.
SECTION:	Section 252(1)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to make supplemental, incidental, consequential, transitory, transitional or saving provision.	
WHY THE REGULATION POWER IS REQUIRED	
The power is needed for the purpose of giving full effect to any provision of the Renting Homes (Wales) Act or in consequence of any such provision.	
POLICY INTENTION OF THE REGULATIONS	
To enable effective implementation.	

REGULATIONS RELATING TO:	Consequential amendments, modifications, repeals and revocations of, an enactment other than a provision of this Act.
SECTION:	Section 253(2)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to make consequential amendments to, and modifications, repeals and revocations of, an enactment other than a provision of this Act.	
WHY THE REGULATION POWER IS REQUIRED	
The power is needed to enable consequential changes, etc. to be made to existing legislation to give full effect to the provisions of the Act.	
POLICY INTENTION OF THE REGULATIONS	
To enable effective implementation.	

REGULATIONS RELATING TO:	Commencement
SECTION:	Section 254(2)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to provide for commencement of the remaining provisions of the Act.	
WHY THE REGULATION POWER IS REQUIRED	
Part 11 of the Bill comes into force on the day on which the Act is passed. The remaining provisions of the Act come into force on a day appointed by the Welsh Ministers by order. This power is necessary to bring those provisions that do not come into force upon passing of the Act into force in a planned manner to ensure the Act is brought fully into force.	
POLICY INTENTION OF THE REGULATIONS	
To enable effective implementation.	

REGULATIONS RELATING TO:	Supported housing, obtaining consent for notice of extension
SECTION:	Schedule 2 Paragraph 15(10)
DESCRIPTION OF THE POWER/REGULATION	
This enables the Welsh Ministers to make regulations relating to paragraph 15(5), which prevents landlords from giving a notice of extension without a local authority's consent, and in particular the procedure for obtaining consent.	
WHY THE REGULATION POWER IS REQUIRED	
To set out the detailed procedure for obtaining local authority consent to issue a notice of extension. The regulations will be administrative in nature and are better suited to subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to set out the procedures to be followed in obtaining local authority consent to extend a supported housing contract. Such regulations will be similar to existing regulations around landlord reviews, for example those issued under section 125B of the Housing Act 1996. These regulations will be administrative and will ensure correct procedure is followed in the granting of local authority consent. Regulations could include, for example, ensuring the appropriate person is making the decision to grant consent.	

REGULATIONS RELATING TO:	Schedule 2 amendments
SECTION:	Schedule 2 Paragraph 17
DESCRIPTION OF THE POWER/REGULATION	
Schedule 2 sets out types of tenancies and licences which would not normally be an occupation contract under the Bill (exceptions to section 7). Paragraph 17 of Schedule 2 provides a power for the Welsh Ministers to amend Schedule 2.	
WHY THE REGULATION POWER IS REQUIRED	
In line with the Law Commission's recommendations, this power is required to enable the Welsh Ministers to amend Schedule 2 to reflect changes in the provision of housing.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the list of excluded tenancies and licences can be updated in a timely manner.	

REGULATIONS RELATING TO:	Prescription of designated course
SECTION:	Schedule 3 Paragraph 10(2)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to prescribe a "designated course" for the purposes of this paragraph.	
WHY THE REGULATION POWER IS REQUIRED	
These regulations will be wholly administrative and appropriate for subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention is to ensure that designated courses reflect any changes within education legislation, allowing for the inclusion (or removal) of relevant courses. It will be important to act in a timely manner to ensure the appropriate form of occupation contract is issued.	

REGULATIONS RELATING TO:	Determination of key workers
SECTION:	Schedule 3 Paragraph 15(3)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to make regulations on the determination of key workers for the purposes of this paragraph.	
WHY THE REGULATION POWER IS REQUIRED	
Regulations may set out whether a contract holder is a key worker. This is to ensure community landlords are able to appropriately house key workers under a standard contract, rather than a secure contract.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the definition of what constitutes a key worker remains current.	

REGULATIONS RELATING TO:	Schedule 3 amendments
SECTION:	Schedule 3 Paragraph 17
DESCRIPTION OF THE POWER/REGULATION	
Schedule 3 sets out those circumstances in which community landlords will not be required to issue a secure contract, for example for introductory purposes, the provision of accommodation to key workers or the provision of accommodation to homeless persons. The power enables the Welsh Ministers to amend Schedule 3.	
WHY THE REGULATION POWER IS REQUIRED	
In line with the Law Commission's recommendations, this power is required to enable the Welsh Ministers to amend Schedule 3 to reflect changes in the provision of housing.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the list of exceptions under which community landlords are not required to issue a secure contract can be updated in a timely manner.	

REGULATIONS RELATING TO:	Power to amend period required for a notice of extension with regard to introductory standard contracts
SECTION:	Schedule 4, Paragraph 3(7)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend the time within which a notice of extension must be given to a contract-holder, and provides that the power in section 253(2) includes power to make consequential amendments to Schedule 4.	
WHY THE REGULATION POWER IS REQUIRED	
This power is required to ensure the period within which a notice of extension must be given remains appropriate.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the notice period can be amended in a timely manner should this prove necessary.	

REGULATIONS RELATING TO:	Procedure to be followed in connection review of a landlord's decision to extend the introductory period
SECTION:	Schedule 4, Paragraph 4(7)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give notice of extension of an introductory standard contract.	
WHY THE REGULATION POWER IS REQUIRED	
To prescribe the procedure to be followed for the review of a landlord's decision to extend the introductory period. This reflects existing legislation in section 125B of the Housing Act 1996, which provides a regulation making power in relation to the procedure to be followed in connection with a landlord's review under section 123B of the 1996 Act, in extending an introductory tenancy. The regulations may, for example, set out details in relation to the persons to adjudicate, the right to an oral hearing, permitted attendees, postponement and adjournment. The regulations will be administrative in nature and are better suited to subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the procedures relating to the review of a landlord's decision are kept up to date, reflecting changing housing practice.	

REGULATIONS RELATING TO:	Conferring powers and imposing duties on scheme administrators with regard to deposit schemes
SECTION:	Schedule 5 Paragraph 1(6)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to impose powers and duties on scheme administrators with regard to deposit schemes.	
WHY THE REGULATION POWER IS REQUIRED	
This carries forward an existing power under section 212 of Housing Act 2004. The regulations will be administrative in nature making them appropriate for subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to ensure the correct operation of the deposit scheme. Regulations may, for example, set out details regarding how deposits must be administered.	

REGULATIONS RELATING TO:	Power to change the notice period for extending prohibited standard contracts
SECTION:	Schedule 7 Paragraph 4(7)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend the time within which a notice of extension must be given to a contract-holder in the probation period, and provides that the power in section 253(2) includes power to make consequential amendments to Schedule 7.	
WHY THE REGULATION POWER IS REQUIRED	
This power is required to ensure the period within which a notice of extension must be given remains appropriate.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the notice period can be amended in a timely manner should this prove necessary.	

REGULATIONS RELATING TO:	Prescription for the procedure to be followed in reviewing a landlord's decision to extend the prohibited standard contract
SECTION:	Schedule 7 Paragraph 5(7)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give notice of extension of a prohibited conduct standard contract.	
WHY THE REGULATION POWER IS REQUIRED	
Allows the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give notice of extension.	
POLICY INTENTION OF THE REGULATIONS	
To set out detailed procedures for the review of a landlord's decision. This reflects existing legislation around landlord reviews, for example section 125B of the Housing Act 1996, which provides for regulation making powers in relation to a landlord review in extending an introductory tenancy. The regulations may, for example, set out details in relation to the persons to adjudicate, the right to an oral hearing, permitted attendees, postponement and adjournment. The regulations will be administrative in nature and are better suited to subordinate legislation.	

REGULATIONS RELATING TO:	Rent assessment with regard to certain converted contracts
SECTION:	Schedule 11 Paragraph 16(2)
DESCRIPTION OF THE POWER/REGULATION	
<p>The Welsh Ministers are required to make provision enabling the contract-holder under a relevant converted contract, following receipt of a notice under section 104 or 123, to apply to a prescribed person(s) for a determination of the rent for the dwelling. The rent is to be determined in accordance with prescribed assumptions and will be the rent for the dwelling under the contract (unless the landlord and contract-holder agree otherwise). Relevant converted contracts are those to which section 13 of Housing Act 1988 applies (increases of rent under assured periodic tenancies).</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>This requires the Welsh Ministers to make regulations in respect of application to a prescribed person for determination of rent and for the rent to be determined in accordance with prescribed assumptions.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention is to preserve an existing right under section 13 of Housing Act 1988. In 2013-14, six such applications were heard by a Rent Assessment Committee of the Residential Property Tribunal for Wales.</p>	

Y Fonesig Rosemary Butler AC
Dame Rosemary Butler AM



Christine Chapman AC
Cadeirydd
Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
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27 Chwefror 2015

Amryl Christine

Yn ystod ei gyfarfod yr wythnos hon, trafododd y Pwyllgor Busnes bapur gan y Llywodraeth ynghylch Memorandwm Cydsyniad Deddfwriaethol Atodol (Memorandwm Rhif 4) mewn perthynas â Bil Troseddu Difrifol Llywodraeth y DU.

Mae'r Memorandwm yn ymwneud â gwelliannau i'r Bil yn ymdrin â cham-fanteisio'n rhywiol ar blant a dyletswydd ar bersonau sy'n gweithio mewn proffesiwn a reoleiddir i hysbysu'r heddlu o anffurfio organau rhywiol merched. Cytunodd y Rheolwyr Busnes mai i'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol y mae testun y Memorandwm Cydsyniad Deddfwriaethol yn fwyaf perthnasol.

Gan fod y Bil mewn cyfnod hwyr iawn o ran ei daith drwy'r Senedd ac oherwydd y cyfyngiadau amser, cytunodd y Pwyllgor Busnes i beidio â chyfeirio'r Memorandwm Cydsyniad Deddfwriaethol at bwyllgor i graffu arno a nododd y byddai'r Llywodraeth yn amserlennu'r Memorandwm ar gyfer dadl yn y Cyfarfod Llawn ar 3 Mawrth 2015. Fodd bynnag, gan fod testun y Memorandwm yn dod o fewn cylch gwaith y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol, rwy'n ysgrifennu i dynnu eich sylw at y Memorandwm, rhag ofn y dymuna'r Pwyllgor drafod y materion a gaiff eu cwmpasu gan y Memorandwm mewn unrhyw ffordd.

Rwyf hefyd yn anfon copi o'r llythyr hwn at Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol i nodi penderfyniad y Pwyllgor Busnes.

Rosemary

Rosemary Butler AC, Llywydd
Cadeirydd, Pwyllgor Busnes

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

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Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Eitem 7

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon