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Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
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Llywodraeth Cymru
Welsh Government

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Dear Christine

Renting Homes (Wales) Bill

During my appearance at the Committee on 30 September, I agreed to set out my intention for the regulations to be made setting out matters in connection with fitness for human habitation. I have listened very carefully to the concerns expressed by Members. I want to assure the Committee I am fully committed to raising standards and to addressing the poor quality of some rented housing, notably in the private rented sector.

Whilst the Welsh Housing Quality Standard already applies to social housing, there is no equivalent arrangement applying in relation to the private rented sector. Therefore, whilst the regulations to be made under the Renting Homes Bill will apply to all landlords, I would expect the greatest impact and thus greatest benefits to tenants, to be in the private rented sector where some of the worst conditions are to be found. This complements the action we are taking as a Government to improve the practices of private landlords and lettings agents through Part 1 of the Housing (Wales) Act 2014.

My ambition is to achieve, within the private rented sector the type of improvements we have seen in social housing as a result of the Welsh Housing Quality Standard. However, it would not be appropriate to apply the Standard arbitrarily, as some requirements will not be relevant, such as those relating to roads, street lighting and other elements of the wider community. The regulation-based approach under section 94 of the Bill will enable action to be targeted to best effect.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The Bill requires landlords to ensure properties they rent out are fit for human habitation at the start of an occupation contract and throughout its duration. In the Bill as introduced, the focus of the regulations was to set out matters and circumstances to which regard must be had in determining fitness, in particular, by reference to the matters which are addressed by the Housing Health and Safety Rating System. These are considered by Local Authorities when assessing whether a property contains any Category 1 or 2 hazards, and which can result in an Improvement Notice being issued to the landlord. It was felt this approach captures the range of issues which determine whether or not a property is fit for human habitation. However, in response to the concerns raised by Members during Stage 1, I tabled amendment 21. This amendment, which was passed at the Committee's meeting on 30 September, broadens the scope of the regulations which can be made under section 94.

Amendment 21 ensures any matter arising due to a failure by a landlord to comply with the landlord's repairing obligation under section 92 (the requirement to keep dwellings in repair) may be taken into account in determining fitness for human habitation. Furthermore, the amendment ensures requirements can be imposed to prevent a dwelling being unfit for human habitation. The amendment also provides for a dwelling to be deemed unfit if the requirements imposed are not complied with.

This regulation-making power, as amended, will enable the Welsh Ministers to progressively raise the standard which constitutes fitness for human habitation. It will also enable those matters constituting fitness to be updated to reflect experience of the new legislation in practice, changing technology or other circumstances or matters which may arise.

As indicated above, in making regulations under section 94, the Welsh Ministers may prescribe matters and circumstances by reference to any regulations made under section 2 of the Housing Act 2004. The current regulations under this section relate to the 29 hazards listed under the Housing Health and Safety Rating System. The 29 hazards, grouped according to the type of health requirement, are set out for information in Appendix 1.

For each of the 29 hazards, the current guidance includes a section on preventative measures, which can reduce the risk of the hazard materialising. These measures, together with reference to other sources such as relevant British Standards and Building Regulations, will provide the starting point for drafting regulations setting out matters to be taken into account to determine fitness for human habitation.

In some cases, there will be a need to provide for additional requirements. For example, the preventative measures relating to fire (hazard 24) include having the electrical installation regularly checked and tested. However, in line with the commitment given to the Committee, the broader scope of the regulations made under section 94, as amended, will enable the regulations to go further. The Government's intention is they will stipulate how frequently electrical testing must be carried out, for example every five years, as well the qualification of the person carrying out the test. It is envisaged other relevant guidance, such as the LACORS (Local Authorities Coordinators of Regulatory Services) Fire Safety Guidance, which addresses the installation of smoke detectors and other fire safety measures, would also inform the development of the regulations.

Similarly, the preventative measures in the current guidance relating to carbon monoxide and fuel combustion products refer to there being "properly sited and maintained carbon monoxide detectors of a suitable type". It is envisaged the regulations would go further by stating the number and nature of detectors which should be fitted according to the type of appliances in the dwelling, as well as the requirements for testing.

Whilst the initial objective of the regulations will be to tackle the most serious issues affecting people's health, my policy intention is to progressively raise the requirements and extend their application to achieve a much wider reach.

As I know the Committee would expect, I intend to consult fully on the regulations. I attach great importance to stakeholder engagement, and input to inform the regulations will be essential to an efficient and effective approach to achieving our desired goals. The final detail of the regulations will, of course, be subject to the outcome of consultation with stakeholders. However, I hope the indication of the matters to be addressed within the regulations is helpful and demonstrates the Government's commitment to improving standards across the rental sector.

Subject to the Assembly passing the Bill, work will begin early next year on drafting the regulations. I anticipate the regulations will be brought forward by the Government early in the next term for the Assembly to consider. This will ensure the regulations are in place in advance of the new legislation being implemented. As indicated in Committee on 30 September, I am content for the making of the regulations to be subject to the affirmative procedure and I will bring forward a suitable amendment to this effect at Stage 3.

I trust this provides the Committee with a clear indication as to how I see the regulations determining fitness for human habitation being developed. The approach will be progressive, responding first to the most pressing concerns and subsequently being updated, and updated, as requirements and expectations evolve.

Regards
Lesley

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Appendix 1 – The 29 hazards under the Housing Health and Safety Rating System

PHYSIOLOGICAL REQUIREMENTS

Hygrothermal Conditions

1. Damp and mould growth
2. Excess cold
3. Excess heat

Pollutants (non-microbial)

4. Asbestos; manufactured mineral fibres
5. Biocides (chemicals used to treat timber and/or mould growth)
6. Carbon monoxide and fuel combustion products
7. Lead
8. Radiation
9. Uncombusted fuel gas
10. Volatile organic compounds

PSYCHOLOGICAL REQUIREMENTS

(Space, Security, Light and Noise)

11. Crowding and space
12. Entry by intruders
13. Lighting (including natural)
14. Noise

PROTECTION AGAINST INFECTION

Hygiene, Sanitation and Water Supply

15. Domestic hygiene, Pests and Refuse
16. Food safety
17. Personal hygiene, Sanitation and Drainage
18. Water supply

PROTECTION AGAINST ACCIDENTS

Falls

19. Falls associated with baths etc.
20. Falling on level surfaces
21. Falling on stairs etc.
22. Falling between levels

Electric Shocks, Fires, Burns and Scalds

23. Electrical hazards
24. Fire
25. Flames, hot surfaces etc.

Collisions, Cuts and Strains

26. Collision and entrapment
27. Explosions
28. Position and operability of amenities
29. Structural collapse and falling elements