

# Report on the Legislative Consent Memorandum for the Renters' Rights Bill

January 2025

## 1. Background

**1.** The Renters' Rights Bill ("the Bill") was introduced in the House of Commons on 11 September 2024. The Bill had its first reading in the House of Commons on 11 September 2024 and its second reading on 9 October 2024. The Ministry of Housing, Communities and Local Government is sponsoring the Bill.

**2.** The long title of the Bill states that it is a Bill to:

*"Make provision changing the law about rented homes, including provision abolishing fixed term assured tenancies and assured shorthold tenancies; imposing obligations on landlords and others in relation to rented homes and temporary and supported accommodation; and for connected purposes."*

**3.** Standing Order 29 provides that the Welsh Ministers must lay a Legislative Consent Memorandum ("LCM") where a UK Bill makes provision in relation to Wales:

- i. for any purpose within the legislative competence of the Senedd (apart from incidental, consequential, transitional, transitory, supplementary or savings provisions relating to matters that are not within the legislative competence of the Senedd); or
- ii. which modifies the legislative competence of the Senedd.



4. Jayne Bryant MS, Cabinet Secretary for Housing and Local Government, (“the Cabinet Secretary”) laid a Legislative Consent Memorandum on 26 September 2024 (“the LCM”).

5. On 1 October 2024, the Business Committee referred the LCM to the Local Government and Housing Committee (“the Committee”) and the Legislation, Justice and Constitution Committee for consideration, with a reporting deadline of 29 November 2024. On 5 November 2024, the Business Committee agreed to extend the reporting deadline until 10 January 2025.

## 2. The LCM

6. Paragraphs 3 to 11 of the LCM summarise the Bill and its policy objectives.

### Provisions for which consent is sought

7. Paragraphs 12 to 26 of the LCM list the clauses that Welsh Government say require the Senedd’s consent under Standing Order 29.

### Provisions requiring consent

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8. Chapter 4 in Part 1 of the Bill relates only to Wales and amends both the Renting Homes (Fees etc.) (Wales) Act 2019 and the Renting Homes (Wales) Act 2016. Paragraph 6 of the LCM states that Welsh Government worked with the UK Government to tailor the rental discrimination provisions to Wales, in the course of the passage of the previous Renters (Reform) Bill.

- a. New Part 2A is inserted into the 2019 Act creating an offence for a landlord or person acting or purporting to act on a landlord’s behalf from discriminating in relation to occupation contracts against (a) persons who would have children live with or visit them or (b) persons who are benefits claimants, and makes other provision about discrimination of that kind (‘blanket ban’).
- b. The 2016 Act is amended so that the prohibition on children and benefit claimants is made a fundamental term for all occupation contracts.

9. Part 1 Chapter 4 Clauses 42 and 43 insert a new Part 2A into the Welsh and English texts respectively of the Renting Homes (Fees etc.) (Wales) Act 2019 concerning the blanket ban. The provisions ban landlords or persons acting or

purporting to act on a landlord's behalf from adopting certain discriminatory practices which make it harder for people who have children (or have children visit them) or who are benefits claimants, to enter into an occupation contract. A summary of those provisions is provided below. New Part 2A contains new sections 8A to 8J to prohibit discrimination relating to children and benefits status:

- **8A (Prohibition of discrimination relating to children)** – new section 8A(1) creates an offence for a 'relevant person' in relation to a dwelling that is to be the subject of an occupation contract (a) on the basis that a child would live with or visit a person at the dwelling if the dwelling were the person's home to prevent the person from enquiring whether the dwelling is available for rent, accessing information about the dwelling, viewing the dwelling to consider whether to seek to rent it or obtaining the grant, renewal or continuance of an occupation contract in respect of the dwelling; or (b) to apply a provision, criterion, or practice in order to make people who would have a child live with or visit them at the dwelling less likely to obtain the grant, renewal or continuance of an occupation contract in respect of the dwelling than people who would not.
  - It is a defence for the relevant person to prove the conduct is a proportionate means of achieving a legitimate aim (subsection (2)).
  - It is also a defence for the relevant person to prove the prospective landlord (subsection (3)) or a superior landlord is insured under a contract of insurance to which section 8H does not apply and which contains a term which requires the insured to prohibit a contract-holder from having a child live with/visit them at the dwelling or requires the landlord to restrict the circumstances in which a contract-holder may do so and the conduct is a means of preventing the prospective landlord from breaching that term.
  - A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- **8B (Prohibition of discrimination relating to benefits status)** – new section 8B(1) creates a similar offence for a relevant person as section 8A(1), but on the basis a contract-holder is a benefits claimant.

- There is a defence for the relevant person to prove the prospective landlord or a superior landlord is insured under a contract of insurance to which section 8H does not apply and which contains a term which requires the insured to prohibit a contract-holder of the dwelling from being a benefits claimant, and the conduct is a means of preventing the prospective landlord from breaching that term (subsection (2)).
  - A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- **8C (Exception for publication of advertisements etc)** - new section 8C creates an exception for publication of advertisements so conduct does not constitute an offence under section 8A(1) or section 8B(1) if it consists only of publishing adverts or disseminating information, providing a means by which a prospective landlord can communicate directly with a prospective contract-holder, providing a means by which a prospective contract-holder can communicate directly with a prospective landlord, or things of a description specified for the purposes of this section in regulations.
- **8D (Continuing breach of prohibition after fixed penalty)** - new section 8D provides that a person commits an offence if a fixed penalty notice has been given to the person under section 13 of the 2019 Act for an offence under Part 2A and the conduct continues after 28 days from when notice was given under section 13.
- **8E (Repeated breach of prohibition after fixed penalty)** - new section 8E provides that a person commits an offence if a fixed penalty notice has been given under section 13 for an offence under Part 2A and the person commits another offence within 5 years from when the notice under section 13 was given.
- **8F (Terms in superior leases relating to children or benefits status)** - new section 8F provides that terms in superior leases are not binding if they require a tenant under that inferior lease to prohibit a contract-holder from having a child live with or visit them at the dwelling or restrict circumstances in which a contract-holder may have a child live with/visit them at the dwelling. The lease continues, so far as practicable, to have effect in every other respect.

- This does not apply if the requirement is a proportionate means of achieving a legitimate aim or the landlord under the lease or superior landlord is insured under an insurance contract to which section 8H does not apply and where there is a term requiring the insured to prohibit a contract-holder from having a child live with/visit them at the dwelling or restrict circumstances in which a contract-holder may have a child live with or visit them at the dwelling and the requirement is a means of preventing the insured from breaching that term.
  - The provisions are reflected in relation to benefits claimants.
- **8G (Terms in mortgages relating to children or benefits status)** - new section 8G provides that terms in mortgages are not binding if they require the mortgagor to prohibit a contract-holder from having a child live with/visit them at the dwelling or restrict the circumstances in which a contract-holder may have a child live with/visit them at the dwelling. The mortgage continues, so far as practicable, to have effect in every other respect.
  - The provisions are reflected in relation to benefits claimants.
- **8H (Terms in insurance contracts relating to children or benefits status)** - new section 8H provides that terms in insurance contracts are not binding if they require the insured to prohibit a contract-holder from having a child live with/visit them at the dwelling or restrict the circumstances a contract-holder may have a child live with/visit them at the dwelling subject to an occupation contract. The insurance contract continues so far as practicable, to have effect in every other respect. This section applies to insurance contracts entered into or whose duration was extended on/after the day on which this section comes into force.
  - The provisions are reflected in relation to benefits claimants.
- **8I (No prohibition on taking income into account)** - new section 8I ensures that nothing in new Part 2A prohibits taking a person's income into account in considering whether that person would be able to afford to pay rent under an occupation contract.

- **8J (Interpretation of Part 2A)** provides definitions and interpretation of the new Part 2A.

**10.** Part 1 Chapter 4 Clause 44 'Amendment of short title of the Renting Homes (Fees etc.) (Wales) Act 2019' amends the short title of the Renting Homes (Fees etc.) (Wales) Act 2019 in both the Welsh and English language texts to include "discrimination" to reflect the changes made by clauses 42 and 43. The amended title will read the Renting Homes (Fees, Discrimination etc.) (Wales) Act 2019.

**11.** Part 1 Chapter 4 Clause 45 'Amendments of the Renting Homes (Wales) Act 2016 regarding discrimination' amends the Welsh and English language texts of the Renting Homes (Wales) Act 2016 to insert a new Chapter 6A to prohibit landlords in Wales from stopping a contract-holder from having children live with or visit them or claiming benefits. It also amends sections 30, 54 and Schedule 1 to the 2016 Act. New Chapter 6A inserts section 54A and 54B into both the Welsh and English language texts of the 2016 Act. It makes the prohibition on children/benefits claimants a fundamental term for all occupation contracts.

**12.** Part 1 Chapter 4 Clause 46 'Power of Welsh Ministers to protect others' provides that the Welsh Ministers may by regulations prohibit a discriminatory rental practice in relation to which Welsh Ministers are satisfied that the victims of that practice are significantly less likely to obtain the grant, renewal or continuance of occupation contracts than other people. There are consultation requirements on Welsh Ministers before making such regulations. A Statutory Instrument containing such regulations will be made under the affirmative procedure (see clause 138).

**13.** Part 1 Chapter 4 Clause 48 'Regulations' provides that regulations under the new section 8C (Exception for publication of advertisements etc) of the Renting Homes (Fees, Discrimination 20 etc.) (Wales) Act 2019 or under clause 46 above may only make provision which would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.

**14.** Part 4 Chapter 1 Clause 102 'Unlicensed HMOs and houses: offences' amends sections 72 and 95 of the Housing Act 2004, which provide that offences are committed by a person having control of or managing a property, which is a HMO or subject to selective licensing, who does not have the required license. Currently only persons managing or having control of such a property are within the scope of these offences. The Explanatory Notes state that:

*“in practice superior landlords are unlikely to be caught, even if they are closely involved with the property. Immediate landlords may too, exceptionally, not fall with the definition of a person managing or having control of the property”.*

**15.** The amendment therefore expands the offences so that an offence is also committed by the immediate landlord or licensor of the tenants and any superior landlord or licensor.

**16.** Part 4 Chapter 1 Clause 103 ‘Service of improvement notices on landlords and licensors’ amends paragraph 2 of Schedule 1 to the Housing Act 2004 so that local housing authorities can serve improvement notices for hazards on a landlord, licensor, superior landlord or superior licensor if they consider that such a person ought to take the action specified in the notice.

**17.** Part 5 Clause 137(1), (3) and (7) ‘Regulations’ provides that a power to make regulations under the Bill includes a power to make supplementary, incidental, transitional or saving provision, including for the regulations to apply in relation to occupation contracts granted, renewed or continued, or advertising begun, before the date on which the regulations come into force and so has retrospective effect. A statutory instrument under section 46 containing regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru (affirmative procedure).

**18.** Part 5 Clause 138 ‘Power of Welsh Ministers to make consequential provision’ confers a power on the Welsh Ministers to make provision by regulations (consequential on Part 1) to an Act or Measure of Senedd Cymru passed before the Renters’ Rights Act or an Act passed before this Act or later in the same session of Parliament as this Act. The power to make regulations includes a power to make supplementary, incidental, transitional or saving provision, including for the regulations to apply in relation to occupation contracts granted, renewed or continued, or advertising begun, before the date on which the regulations come into force. Regulations may only make provision which would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd. A statutory instrument containing (whether alone or with other provision) regulations under this section that amend or repeal provision made by an Act or Measure of Senedd Cymru, or by an Act, may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru (affirmative procedure). Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru (negative procedure).

**19.** Part 5 Clause 142 (3) 'Commencement' confers a power on the Welsh Ministers to commence Chapter 4 to the Renters' Rights Act by statutory instrument.

**20.** Part 5 Clause 145(1) and (4) 'Transitional provision' confers a power on the Welsh Ministers to make transitional or saving provision in connection with the coming into force of any provision of Chapter 4 in Part 1. That includes a power to provide for a provision of Chapter 4 to apply in relation to occupation contracts granted, renewed or continued, or advertising begun, before the date on which the provision comes into force and may apply to occupation contracts before the date on which the provisions comes into force.

### Provisions in respect of which it is unclear why consent is required

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**21.** Part 1 Chapter 1 Clause 29(2) and (4) to (10). Clause 29 provides the Secretary of State with powers to introduce regulations to amend other legislation or the effect of private instruments so that they operate to comply with the changes to the assured tenancies system made by Part 1 Chapter 1 of the Bill. However, as acknowledged by Paragraph 11(a) of the LCM, the assured tenancy regime is no longer applicable in Wales, as assured tenancies were converted to occupation contracts by the Renting Homes (Wales) Act 2016, with effect from 1 December 2022.

**22.** Specifically, Clause 29(2), in respect of which consent is sought, grants the power to make regulations in relation to a ground in Schedule 2 to the Housing Act 1988. That schedule contains the grounds for possession of dwelling-houses let on assured tenancies. As above, assured tenancies no longer exist in Wales and a separate system of termination provisions is in place.

**23.** Part 2 Chapter 2 Clause 70(3)(b) and (5) 'Housing activities under social rented sector scheme'. Clause 70 makes amendments to Schedule 2 of the Housing Act 1996 which concerns housing complaints in the social rented sector. Social landlords must be members of a Government approved social landlord redress scheme, the only approved scheme currently being the Housing Ombudsman.

**24.** The Explanatory Notes to the Bill indicate that this provision does not apply to Wales and the LCM process is not engaged. Paragraph 33 of the LCM simply states that "it is the Welsh Government's opinion that consent is required for these changes". Paragraph 40 states:



*“Despite the fact that applies to a dwelling in England, it is the view of the Welsh Government that the amendment to paragraph 10 of Schedule 2 to the Housing Act 1996 is not consequential on the new PRS landlord ombudsman service but is substantial because it applies in relation to a number of homes in Wales”.*

## Delegated powers

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**25.** The Bill contains delegated powers to make subordinate legislation. All powers are conferred on the Welsh Ministers in relation to Wales, save for the power given to Secretary of State referred to above.

## Reasons for making these provisions for Wales in the Renters' Rights Bill

**26.** Paragraphs 34 to 40 of the LCM set out the reasons why provision is being made for Wales in the Bill. The Cabinet Secretary notes:

*“In my opinion, seeking the application of the blanket ban provisions to Wales in a UK Bill would allow me to deliver a discrete policy aim promptly, within an extremely shorter timeframe than would otherwise be possible if we were to seek to achieve the same aim via legislation in the Senedd. The Bill is expected to receive Royal Assent in Spring. Making provision in this manner therefore enables the policy benefits to be delivered in Wales in an expedited manner and without impact on our wider legislative programme.*

*The blanket ban provisions broadly follow the UK Government's provisions for England and Scotland, however, there are some important differences in how the changes are achieved in England and Wales, for example, enforcement will be via the criminal law rather than via a civil penalty for breach of the blanket ban. This is to ensure consistency with existing Welsh legislation, i.e. the Renting Homes (Wales) (Fees etc.) (Wales) Act 2019 where there are offences for charging tenants fees unless they are permitted.*

*The ban will apply to all occupation contracts in Wales, in line with the principle underpinning the Renting Homes (Wales) Act*

2016. The 2016 Act is being amended to make new fundamental terms to reflect the blanket ban.

*There is a pressing need for the provisions in the Bill to have retrospective effect in that there is an urgent social need for the provisions to apply to existing occupation contracts, leases and mortgage terms in order for contract-holders and prospective contract-holders to benefit from the blanket ban. Without such provision, the main policy objective could be undermined and/or its benefits postponed for many years in respect of dwellings subject to such terms.*

*The benefit to contact-holders who are or may be on benefits or who have or may have children, as well as the societal benefits of such persons being able to find appropriate housing more easily and not have to rely on homelessness assistance from local councils far outweigh the disadvantage to mortgagees and landlords of making provision with retrospective effect. In addition, it will avoid the injustice of a two-tiered system that would operate for many years to come with only new occupation contract-holders having the benefit of the blanket ban protection.*

*The provisions in relation the Housing Act 2004 require local housing authorities, for properties that are neither flats nor subject to HMO or selective licensing, to enforce against, or serve improvement notices for hazards on the 'person having control' of or the 'person managing' the property. Currently it may not always be possible to serve such notices on certain people with an interest in the property – for example, superior landlords in rent-to-rent arrangements. The intention is to allow local housing authorities to serve improvement notices on the person best placed to ensure remedial action is taken in respect of the hazard. In some cases, this could be the superior landlord. This ensures that a local authority can take action against a superior landlord if it is clear that they are the person in control.*

*Despite the fact that applies to a dwelling in England, it is the view of the Welsh Government that the amendment to paragraph 10 of Schedule 2 to the Housing Act 1996 is not*

*consequential on the new PRS landlord ombudsman service but is substantial because it applies in relation to a number of homes in Wales.”*

## Financial implications

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**27.** At paragraph 41 of the LCM the Welsh Government states that:

*“No financial implications have been identified to date should these provisions apply in Wales.”*

## 3. Committee consideration

**28.** We initially considered the LCM at our meeting on 23 October 2024. We agreed to write to the Cabinet Secretary to request further information on a number of issues. We considered the Cabinet Secretary's response at our meeting on 14 November 2024. We acknowledge the Cabinet Secretary's evidence to the Legislation, Justice and Constitution (“LJC”) Committee on 18 November.

**29.** We noted that the main reason given in the LCM for making these changes using a UK Bill is expediency. We asked the Cabinet Secretary to explain why, given the significant delays in enacting the provisions in this Bill, she believes expediency to be a valid reason for using the LCM approach. In response, the Cabinet Secretary stated that “expediency remains a valid reason for seeking to introduce these provisions in Wales through a UK Government Bill, as the current estimate is that this Bill will receive Royal Assent sometime next year”. The Cabinet Secretary added that the Welsh Government:

*“could not introduce a Senedd Bill and achieve Royal Assent within the same period without having a serious impact on the current legislative programme.”*

**30.** We noted that the LCM describes the changes to both the Renting Homes (Wales) Act 2016 and the Renting Homes (Wales) (Fees etc.) (Wales) Act 2019 as “a discrete policy aim”. However, the Bill goes further than the rental discrimination provisions. Moreover, the rental discrimination provisions are far-reaching (e.g. impacting insurance and mortgages) and create a new criminal offence for landlords in Wales. We asked the Cabinet Secretary to clarify the Welsh Government's plans for implementation of the changes and were told that there

will be “some lead-in time” before commencement of the relevant provisions for landlords and agents to prepare.

**31.** We are aware that the position on sanctions and enforcement differs between England and Wales. Breaches in England will be a civil offence with a fine of up to £7,000. Breaches in Wales and Scotland will be subject to criminal sanctions. We asked the Cabinet Secretary to confirm whether the Welsh Government intends to maintain its position that criminal enforcement is the preferred approach and, if so, why. The Cabinet Secretary explained that “criminal enforcement is the preferred approach as it reaffirms the gravity of the situation should a landlord behave in a discriminatory way” and added:

*“Evidence of criminal behaviour, such as a criminal conviction, can potentially result in the removal of the ability of a landlord or agent to be able to operate as a licensed person in Wales, which could have severe financial implications for their business which would go beyond a court imposed fine.”*

**32.** We also asked the Cabinet Secretary to provide further information on the data available regarding how many tenants are currently in occupation contracts that prevent them from claiming benefits or having children at the properties. The Cabinet Secretary confirmed that the Welsh Government does not have data on current occupation contracts which may contain discriminatory clauses and that it has not consulted on these changes. The lack of consultation was acknowledged again by the Cabinet Secretary in evidence to the LJC Committee who added that there was “nothing that would’ve stopped any Welsh organisation from taking part” in the UK consultation.<sup>1</sup>

**33.** Clause 46 would enable the Welsh Ministers, through regulations, to add to the groups of people protected from rental discrimination. We noted the consultation requirements on Welsh Ministers before making such regulations and that a Statutory Instrument containing such regulations will be made under the affirmative procedure. We asked the Cabinet Secretary to set out how the Welsh Government envisages using this power and the groups likely to be added. In response, the Cabinet Secretary told us that commencement of clause 46 and the exercise of the power “will be kept under review.” The response explained that exercising the power would enable the Welsh Government to “bring in additional cohorts should there be evidence of discrimination which goes further than those currently identified in the Renters’ Rights Bill.” The

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<sup>1</sup> Legislation, Justice and Constitution Committee, Record of Proceedings 18 November 2024, paragraph 108

Cabinet Secretary told the LJC Committee that she could not “speculate how and when that [power] would be used”.<sup>2</sup>

**34.** We noted that clause 47 grants similar regulation-making powers to the Secretary of State, but that an LCM has not been deemed as needed for this provision. The Cabinet Secretary explained that a regulation-making power for the Secretary of State has been included should a change be needed which falls outside of the legislative competence of the Senedd. The Cabinet Secretary told us that consent is not being sought for clause 47 as “the clause re-affirms that the Secretary of State can make provisions in relation to areas where the Welsh Government do not have devolved powers.” The Cabinet Secretary told the LJC Committee that an example of this “might be if a provision were to relate to, for example, the financial services reservation.”<sup>3</sup> The requirement to consult with relevant stakeholders would extend to the Secretary of State should they wish to use these powers.

**35.** Clause 70 makes amendments to Schedule 2 of the Housing Act 1996 which concerns housing complaints in the social rented sector. Social landlords must be members of a UK Government approved social landlord redress scheme, the only approved scheme currently being the Housing Ombudsman. We noted that the Explanatory Notes to the Bill indicate that this provision does not apply to Wales and the LCM process is not engaged, however paragraph 33 of the LCM states that the Welsh Government’s opinion is that consent is required for these changes. Paragraph 40 goes on to state:

*“Despite the fact that applies to a dwelling in England, it is the view of the Welsh Government that the amendment to paragraph 10 of Schedule 2 to the Housing Act 1996 is not consequential on the new PRS landlord ombudsman service but is substantial because it applies in relation to a number of homes in Wales”.*

**36.** We noted that paragraph 40 states that the change applies to dwellings in England but also that it applies to a number of homes in Wales; we therefore sought clarity on the reasons for consent being sought, particularly as the

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<sup>2</sup> Legislation, Justice and Constitution Committee, Record of Proceedings 18 November 2024, paragraph 93

<sup>3</sup> Legislation, Justice and Constitution Committee, Record of Proceedings 18 November 2024, paragraph 95

Housing Ombudsman only deals with complaints about social housing in England.

**37.** The Cabinet Secretary confirmed that there are a small number of English-based Registered Providers who own and rent social housing stock in Wales and that the Housing Ombudsman can investigate complaints about social housing providers who operate across the Welsh border. The Cabinet Secretary's response explained:

*"The amendments relate to the devolved matter of housing, as far as they relate to RPs with housing stock in Wales and will affect tenants in Wales of such social housing. Whilst the amendments will have minor impact given the small number of England-based RPs with social housing stock in Wales, the amendments nonetheless relate to the devolved matter of housing."*

**38.** Similarly, clause 29(2) provides the Secretary of State with powers to introduce regulations to amend legislation or the effect of private instruments so that they operate to comply with the changes to the assured tenancies system made by Part 1 Chapter 1 of the Bill, specifically in relation to a ground for possession in Schedule 2 to the Housing Act 1988. However, as acknowledged by paragraph 11(a) of the LCM, the assured tenancy regime is no longer applicable in Wales so it is unclear why this clause requires consent. We asked the Cabinet Secretary to clarify the reasons for consent being sought. Her response explained:

*"some housing legislation still cross-refers to legislation that links to the assured tenancy regime despite there currently being no assured tenancies in Wales following the implementation of Renting Homes. As an example, Schedule 12 of the Renting Homes (Wales) Act 2016 refers to various grounds under the Housing Act 1988 if the tenancy were an assured tenancy before the appointed day. A landlord may claim possession of a dwelling in relation to a converted contract which was an assured tenancy using any of the grounds referred to in paragraphs 28 and 29. These provisions remain unchanged by the Renters' Rights Bill (see paragraph 50 of Schedule 2)."*

**39.** We also noted that the Bill contains some England only provisions which relate to issues we considered as part of our recent work on the private rented sector.

**40.** The Bill includes some provisions in relation to pets, for example clause 10 grants a right to request permission to keep a pet, which a landlord cannot unreasonably refuse and that these will apply in England only. We asked the Cabinet Secretary to explain why similar measures were not included for Wales or if there is any intention to introduce those at a later stage. The Cabinet Secretary told us that the UK Government did not extend an invitation for inclusion in the provisions regarding pets and referred to the White Paper on securing a path towards Adequate Housing, including Fair Rents and Affordability, which contains the Welsh Government's proposals to support people renting with pets.

**41.** The Bill would bring an end to 'no fault' evictions in England, subject to exceptions, using section 21 notices, while such evictions are possible in Wales with 6 months' notice under section 173 of the Renting Homes (Wales) Act 2016. As we stated in our recent report, we would not want tenants in Wales to be worse off than tenants in England. We asked the Cabinet Secretary to outline how the situation in Wales will differ from England if the Bill is passed and the Welsh Government's intentions for no fault evictions in light of these reforms for England.

**42.** In response, the Cabinet Secretary told us that the Welsh Government would "keep a watching brief" on how the changes in England develop. Her response noted that the provisions for England would still enable landlords to evict tenants in some circumstances, such as should they wish to house a relative or sell the property and that some of the grounds for eviction give "extremely short notice periods". The Cabinet Secretary reaffirmed her belief that the extended notice periods is the right approach for tenants in Wales.

## **Our view**

**43.** We note that the provisions in this Bill largely mirror those in the previous UK Government's Renters (Reform) Bill which fell as a result of the UK General Election in July 2024. We reported on the LCM for that Bill in May 2024.

**44.** The Renters' Rights Bill contains significant provisions relating to devolved matters which will impact renters and landlords in Wales. Given the importance of these provisions, it is disappointing that the Welsh Government has chosen

the LCM route of legislating for these changes rather than bringing forward its own Bill. We feel that the LCM approach to legislating disadvantages Senedd Members as we are not afforded the same opportunities for scrutiny as we are for Bills introduced by the Welsh Government. Had the provisions in this Bill been brought forward by the Welsh Government, we would have been able to undertake more in depth scrutiny of these, including gathering the views of stakeholders.

**45.** One of the main concerns we have previously raised relating to the LCM process is the lack of specific consultation with Welsh stakeholders on legislation being made for Wales. We believe that consulting with relevant stakeholders is a crucial element of making effective policy and legislative provisions, we are therefore concerned at the missed opportunity of using the expertise of those in the sector to help shape the legislation.

**46.** We support the policy objectives of this legislation. As we stated in our recent report on the private rented sector, we are very concerned by the discrimination faced by some people in their attempts to secure accommodation in the private rented sector. It is crucial that the private rented sector should be available to everyone who needs to use it.

**47.** We acknowledge that, given the current demand for rental properties, prohibiting these discriminatory practices may not result in significantly more tenancies being offered to people with children or benefit claimants, however the changes will mean they would be eligible to apply. The key route to eradicating discrimination is to increase housing supply. As we recommended in our report on social housing supply, we believe that the Welsh Government should aim for social housing to comprise a critical mass of at least 20 per cent of the housing stock, and up to a third in the longer term.

**48.** We note that the provisions in the Bill relating to pets do not extend to Wales. As stated in our report on the private rented sector, we are very concerned by the high number of properties that are advertised as not allowing pets and feel strongly that tenants should not be put into such a situation of having to relinquish a pet in order to move in to a new property. We acknowledge that the White Paper on Adequate Housing, Fair Rents and Affordability includes proposals to address the potential barriers that tenants with pets currently face when trying to have access to the private rental market, by allowing landlords to charge an insurance premium to cover pet-related damage. However, we do not believe that these proposals go far enough and would like to see Welsh tenants afforded the same rights as those living in



England. Given the unlikelihood of the Welsh Government bringing forward its own legislative proposals before the end of this Senedd term, we believe that the Cabinet Secretary should seek an amendment to the Bill to extend the provisions relating to pets to Wales.

**Recommendation 1.** The Welsh Government should seek an amendment to the Renters' Rights Bill to extend the provisions relating to pets to Wales.

**49.** We previously reported on the LCM for the Renters (Reform) Bill in May 2024. In that report we noted the rationale set out by the Welsh Government for using a UK Government Bill to make these legislative changes to Wales, and acknowledged the benefits of being able to make these legislative changes quickly. We noted the Welsh Government's belief that the LCM route would be more expedient than bringing forward Senedd legislation and also the former Cabinet Secretary's comments in relation to the Welsh Government's resources and capacity to bring forward its own Bill. However, we were mindful of delays to the Bill's progression and the potential of the Bill not being passed ahead of the UK General Election.

**50.** By the time this report is published in January 2025, eight months will have passed since we published our original report and the provisions relating to discrimination are yet to be made. Such a delay highlights the disadvantages around relying on another Parliament to legislate on behalf of Wales.

**51.** Despite the significant concerns we have outlined around the approach taken by the Welsh Government, we recognise the importance of legislating quickly to prevent Welsh tenants facing discrimination when applying for rental properties. Given that the Welsh Government is unlikely to bring forward its own legislation before the end of this Senedd term, using the UK Government's Bill to legislate appears to be the swiftest means of achieving this aim. We therefore recommend the Senedd should grant its consent for the UK Government to legislate on these devolved matters.

**Recommendation 2.** The Senedd should grant its consent for the UK Government to legislate on the devolved matters of the Renters' Rights Bill.