

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 5) on the Social Housing (Regulation) Bill

February 2023



1. Background

The UK Government's Social Housing (Regulation) Bill

1. The Social Housing (Regulation) Bill¹ (the Bill) was introduced into the House of Lords on 8 June 2022. It is sponsored by the Department for Levelling Up, Housing and Communities.

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

"to make provision about the regulation of social housing; about the terms of approved schemes for the investigation of housing complaints; and for connected purposes."

3. The Bill completed its passage through the House of Lords on 31 October 2022. Committee Stage in the House of Commons was completed on 29 November. Report stage is due to begin on 1 March 2023.

The Welsh Government's Legislative Consent Memorandum and Supplementary Legislative Consent Memoranda (Memorandums No. 2, No. 3 and No. 4)

4. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant UK Bill makes provision in relation to Wales for any purpose within the legislative competence of the Senedd or which modifies the Senedd's legislative competence.

5. On 18 August 2022, Julie James MS, Minister for Climate Change (the Minister), laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill.²

6. On 5 October 2022, the Minister laid before the Senedd a Supplementary Legislative Consent Memorandum (Memorandum No. 2) in respect of the Bill following amendments in the House of Lords.³

7. We reported on these Memoranda on 22 November 2022.⁴

¹ [Social Housing \(Regulation\) Bill, as introduced](#) (HL Bill 21)

² Welsh Government, [Legislative Consent Memorandum, Social Housing \(Regulation\) Bill](#), August 2022

³ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 2\), Social Housing \(Regulation\) Bill](#), October 2022

⁴ Legislation, Justice and Constitution Committee, [The Welsh Government's Legislative Consent Memoranda on the Social Housing \(Regulation\) Bill](#), November 2022

8. Paragraphs 10 to 16 and 19 to 22 of that report set out the clauses of the Bill which, at the time, the Welsh Government considered to require the Senedd's consent, and identified where disagreement existed between the Welsh and UK Governments.

9. Paragraphs 17 and 23 of that report set out the Welsh Government's position on the Bill, as set out in the Memorandum and Memorandum No. 2.

10. On 17 November 2022 the Minister laid before the Senedd a further Supplementary Legislative Consent Memorandum⁵ (Memorandum No. 3) in respect of amendments tabled for consideration at Lords Report Stage.

11. On 6 December 2022 the Minister laid before the Senedd a further Supplementary Legislative Consent Memorandum⁶ (Memorandum No. 4) in respect of amendments tabled for consideration at Commons Committee Stage, which took place on 29 November.

12. We reported on these Memoranda on 13 January 2023.⁷

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 5)

13. On 15 February 2023, the Minister laid before the Senedd an additional Supplementary Legislative Consent Memorandum (Memorandum No. 5) in respect of the Bill.⁸

14. The Business Committee agreed that the Local Government and Housing Committee and the Legislation, Justice and Constitution Committee should report on Memorandum No. 5 by 27 February 2023.⁹

⁵ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 3\), Social Housing \(Regulation\) Bill](#), November 2022

⁶ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 4\), Social Housing \(Regulation\) Bill](#), December 2022

⁷ Legislation, Justice and Constitution Committee, [The Welsh Government's Legislative Consent Memoranda \(Memoranda No. 3 and No. 4\) on the Social Housing \(Regulation\) Bill](#), January 2023

⁸ Welsh Government, [Legislative Consent Memorandum \(Memorandum No. 5\), Social Housing \(Regulation\) Bill](#), February 2023

⁹ Business Committee, [Timetable for consideration of the Supplementary Legislative Consent Memorandum \(No. 5\) on the Social Housing \(Regulation\) Bill](#), February 2023

Update on the position since the publication of the Memorandum and the Supplementary Legislative Consent Memoranda (Memoranda No. 2, No. 3 and No. 4)

15. Paragraph 19 of Memorandum No. 5 provides an update on the position since the publication of the earlier legislative consent memoranda and confirms that, following House of Commons Committee stage, a further 39 UK Government amendments have been tabled.

The Welsh Government's position on the amendments made to the Bill for which consent is required

16. Paragraphs 20 to 25 of Memorandum No. 5 set out the Welsh Government's view on the amendments made to the Bill for which consent is required.

17. The tabled amendments relate to the following provisions in the Bill:

- New Clause 'Power of housing ombudsman to issue guidance to scheme members' (NC 2);
- New Clause 'Action after inspection' (NC 3);
- New Clause 'Secretary of State's duty to give direction about providing information to tenants' (NC 4);
- clause 12 (Moratorium on disposal of land) (clause 11 as introduced);
- clause 22 (Standards relating to information and transparency) (clause 17 on introduction, clause 19 at House of Lords Committee stage);
- Schedule 5 (Minor and consequential amendments and transitory provision).

The Welsh Government's conclusions in Memorandum No. 5

18. In paragraphs 26 to 31 of Memorandum No. 5 the Minister sets out her reasons for making provision for Wales in the Bill and her conclusions on the latest tabled amendments.

19. The Minister states:

"I continue to believe that it is appropriate to deal with these provisions in this UK Parliament Bill given the small numbers of social housing stock in Wales owned or managed by an England based RP, and that the Bill as a whole as it is expected to be composed following UK Government amendments proposed for Commons Report stage, is positive for those tenants in Wales.

*I therefore recommend that the Senedd grants its consent to the Bill as UK
Ministers propose to amend it at Commons Report Stage."*¹⁰

¹⁰ Memorandum No. 5, paragraphs 30 and 31

2. Committee consideration

20. We considered Memorandum No. 5 at our meeting on 27 February 2023.¹¹

21. Given the Welsh Government's proposal to hold a debate on the relevant consent motion for the Bill on 28 January 2023, and taking into account the reporting deadline set by the Senedd's Business Committee, we also agreed our report on 27 February 2023.

Our view

22. We note that Memorandum No. 5 concerns amendments tabled at House of Commons Report Stage to clauses 12, 22 and Schedule 5, and the addition to the Bill of three new clauses.

23. We acknowledge that the Welsh Government considers that the Senedd's consent is required for the amendments to clauses 12, 22 and Schedule 5 and for new clauses relating to a power of the housing ombudsman to issue guidance to scheme members, action after inspection, and the Secretary of State's duty to give direction about providing information to tenants.

24. We note that one of the amendments to Schedule 5 – UK Government amendment 35 – clarifies that various powers and duties (i.e. new powers and duties to process information which are inserted into Part 2 of the *Housing and Regeneration Act 2008*) do not operate to require or authorise the processing of information that would contravene data protection legislation. The Minister considers that this amendment requires the consent of the Senedd. However, we consider that this amendment relates to the reserved matter of data protection and it does not therefore require consent.

Conclusion 1. We agree, subject to one exception, with the Welsh Government's assessment that the new clauses and amendments to existing clauses and Schedules listed in Memorandum No. 5 fall within a purpose within the legislative competence of the Senedd, as described in Standing Order 29.

25. We note that this is the fifth legislative consent memorandum laid by the Welsh Government for the Bill, demonstrating the extent to which the Bill introduced to the UK Parliament has both changed since its introduction and the extent to which such changes impact on devolved areas.

¹¹ Legislation, Justice and Constitution Committee, 27 February 2023

26. While we welcome the Welsh Government's action to lay Memorandum No. 5 before the Senedd within a few days of the relevant amendments being tabled in the UK Parliament, our consideration of all the memoranda for this Bill serves to highlight the profound inadequacies of enabling a different parliament to legislate for Wales on devolved matters.

27. We note that, today, further amendments have been tabled to the Bill which may also impact on devolved areas and therefore engage the legislative consent process.