

The Welsh Government's Legislative Consent Memorandum on the Renters (Reform) Bill

May 2024



1. Background

The UK Government's Renters (Reform) Bill

1. The Renters (Reform) Bill¹ (the Bill) was introduced into the House of Commons and had its first reading on 17 May 2023. It had its second reading on 23 October 2023. A carry-over motion on the same day allowed the Bill to continue its progress into the next parliamentary session; as a consequence a Bill was introduced on 8 November 2023.² It is sponsored by the Department for Levelling Up, Housing and Communities.

2. The Explanatory Notes to the Bill provide the following overview:

"The Renters (Reform) Bill (the Bill) will support the government's manifesto commitment to deliver 'a better deal for renters', including by abolishing section 21 evictions and reforming landlord possession grounds. The objective of the Bill is to ensure private renters have access to a secure and decent home and that landlords retain the confidence to repossess their properties where they have good reason to."³

3. The long title to 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."⁴

4. At the time we agreed our report the Bill had completed its passage through the House of Commons and had received its first reading in the House of Lords.⁵

The Welsh Government's Legislative Consent Memorandum

5. 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

¹ [Renters \(Reform\) Bill, as introduced](#), (Bill 308)

² [Renters \(Reform\) Bill, as introduced](#), (Bill 4)

³ [Renters \(Reform\) Bill, Explanatory Notes](#) (Bill 4), paragraph 1

⁴ [Renters \(Reform\) Bill, as introduced](#), (Bill 4)

⁵ [Renters Reform Bill, as brought from the Commons](#), (HL Bill 74)

Wales for any purpose within the legislative competence of the Senedd or which modifies the Senedd's legislative competence.

6. On 27 June 2023, Julie James MS, the then Minister for Climate Change (the Minister) copied to us a letter to Rachel Maclean MP, Minister of State for Housing and Planning in the UK Government. In her letter the Minister explained that she had concluded that consent for the changes being made to Part 7 of the *Housing Act 1996* did not require the consent of the Senedd, as suggested by the UK Government. If the UK Government agreed with this analysis, the Minister asked for the Bill materials to be updated.⁶

7. On 25 October 2023, the Minister wrote to us explaining that her officials:

"... are engaging with UK Government to explore joint working to outlaw blanket "no DSS" and "no Children" practices in residential lettings in Wales. In my view, this would deliver a discrete policy objective that is desirable in Wales.

*I have asked officials to ensure the policy is implemented in a way which complements housing law in Wales, and in particular ensures consistency with the *Renting Homes (Wales) Act 2016*."*⁷

8. On 29 November 2023, the Minister wrote to the Llywydd about this work and the legislative consent memorandum that would be needed, saying:

*"The amendments which seek to introduce the ban on these practices into England and Wales were laid on 15 November. Legal analysis of the clauses pertaining to the ban have been completed, but these provisions were part of 182 amendments to the Bill. Some of the amendments could potentially require further legislative consent, and although legal analysis of the further amendments has begun, it is not going to be completed in time to meet the normal two-week Standing Order 29 deadline. I will endeavour to lay the Legislative Consent Memorandum as soon as possible."*⁸

⁶ [Letter from Julie James MS, the Minister for Climate Change to Rachel Maclean MP, Minister of State for Housing and Planning, UK Government](#), 27 June 2023

⁷ [Letter from Julie James MS, Minister for Climate Change](#), 25 October 2023

⁸ [Letter from Julie James MS, the Minister for Climate Change to the Llywydd](#), 29 November 2023

- 9.** On 30 January 2024, the Minister laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill.⁹
- 10.** The Business Committee agreed that the Local Government and Housing Committee, and the Legislation, Justice and Constitution Committee, should report on the Memorandum by 15 March 2024.¹⁰
- 11.** As a consequence of an invitation we made to the Minister to give evidence on the Memorandum on 11 March 2024 (see below), we requested an extension of the reporting deadline to 26 April 2024, which was agreed by the Business Committee.¹¹ The deadline was subsequently extended to 10 May 2024.¹²

Provision for which the Senedd's consent is required

- 12.** On its introduction the Bill consisted of 69 sections split into 5 Parts and 4 Schedules. Its substantive provisions applied to England only.
- 13.** In the Memorandum the Minister states:

"The UK Government tabled 186 amendments on 14 November (...) for consideration at House of Commons Committee Stage, which commenced on 14 November. 14 of the amendments make provision which fall within the legislative competence of the Senedd (...).

It was not possible to lay this memorandum within two-weeks of the amendments being laid under Standing Order 29.2. Although the amendments which specifically deal with the blanket ban ("no benefit claimants" and "no children") had been shared with the Welsh Government ahead of laying on 14 November 2023 and the competence analysis completed at that point, when the amendments were laid there were 186 amendments in total, a further 172 which required analysis to decide whether or not a legislative consent motion was required for those amendments too."¹³

⁹ Welsh Government, [Legislative Consent Memorandum](#), 30 January 2024

¹⁰ Business Committee, [Timetable for consideration: Legislative Consent Memorandum on the Renters \(Reform\) Bill](#), February 2024

¹¹ Business Committee, [Revised timetable for consideration: Legislative Consent Memorandum on the Renters \(Reform\) Bill](#), February 2024

¹² Business Committee, [Revised timetable for consideration: Legislative Consent Memorandum on the Renters \(Reform\) Bill](#), April 2024

¹³ Memorandum, paragraphs 3 to 4

14. The Minister also provides some general information about the amendments, saying:

“Amendments (...) will introduce a new Chapter 3 (in England) and Chapter 4 (for Wales) into Part 1 of the Bill. For Wales, the English and Welsh language texts of the Renting Homes (Fees etc.) (Wales) Act 2019 are being amended. 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 persons who would have children live with or visit them or who are benefits claimants and makes other provision about discrimination of that kind ('blanket ban').”¹⁴

15. The Minister adds:

“Most of the amendments being made to the Bill are intended to apply only to England. Following an approach by the UK Government, I was invited to make provision concerning prohibiting discrimination in relation to children or benefits status as outlined above in Wales.

To this end, the Bill proposes amendments to the Renting Homes (Fees etc.) (Wales) Act 2019 and the Renting Homes (Wales) Act 2016.”¹⁵

16. Paragraphs 13 to 29 of the Memorandum provide an overview of the provisions in the Bill following amendment which the Welsh Government believes trigger the requirement for the Senedd's consent, together with an analysis of why that consent is required.

The Welsh Government's position

17. The Minister sets out a range of reasons in the Memorandum for making provision for Wales in the Bill. The Minister states:

“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

¹⁴ Memorandum, paragraph 10

¹⁵ Memorandum, paragraphs 11 to 12

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, however, there are differences, 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.

The blanket ban will apply to all occupation contracts in Wales, in line with the principle underpinning the Renting Homes (Wales) Act 2016 and the 2016 Act is being amended to make new fundamental terms.

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.”¹⁶

18. In the Memorandum the Minister also provides the UK Government's view on the need for consent:

“The UK Government agree that consent is required. The UK Government Minister for Levelling Up, Jacob Young MP, wrote to the Minister for Climate Change to ask her to seek the consent of the Senedd on 14 November.”¹⁷

Evidence from the Minister

19. We considered the Memorandum at our meeting on 19 February 2024.¹⁸ In that meeting we agreed to invite the Minister to a meeting to discuss the

¹⁶ Memorandum, paragraphs 31 to 34

¹⁷ Memorandum, paragraph 30

¹⁸ [Legislation, Justice and Constitution Committee](#), 19 February 2024

Memorandum,¹⁹ and an evidence session was subsequently held on 11 March 2024.²⁰

Use of a UK Bill to make housing law for Wales

20. We asked the Minister why the Welsh Government has used a Bill introduced into the UK Parliament by the UK Government to amend two Senedd Acts. The Minister responded:

“So, the committee will, of course, be very familiar with our principles for using UK Bills and we think the circumstances here are entirely consistent with those. The existing UK Bill provision offers the opportunity to make a sensible and advantageous provision for Wales in circumstances where we would not be able to make such provision in anything like the timescale that this Bill affords us the opportunity to do. We've obviously considered whether we could bring the changes through a Senedd Bill, and that also includes working with the constraints we have, the number of officials we have, the lawyers we have and so on. The committee will be very well aware that we're working on a major homelessness Bill, a big reform Bill. I was very reluctant to take people off that. That is a Bill that's scheduled to come before the Senedd towards the end of this Senedd term, and time is of the essence with that Bill. This Bill appears to afford an opportunity to make a provision that is advantageous to Wales. It doesn't seem to disadvantage us in any way for doing this, and so we've taken the opportunity to do so.”²¹

21. We also sought to understand the approach being adopted by the Welsh Government, given that the Bill (if enacted) would not be part of the body of law that has been made in Wales. The Minister told us:

“I thought, given the anti-discrimination provisions of this Bill, they're completely in line with our policy objectives. (...) I mean, our position would always have been that this was not allowed under the Equality Act 2010, but it makes it very plain and

¹⁹ [Letter to Julie James MS, Minister for Climate Change](#), 22 February 2024; [Letter to Julie James MS, Minister for Climate Change](#), 5 March 2024

²⁰ [Legislation, Justice and Constitution Committee](#), 11 March 2024

²¹ [Legislation, Justice and Constitution Committee](#), 11 March 2024, RoP [6]

beyond argument, I guess. We would not have been able to do that in the timescale involved and I really did not want anyone in Wales to feel that they were disadvantaged by that, so I think, given the circumstances, we thought this was the best approach."²²

22. The Memorandum states that "the Bill is expected to receive Royal Assent in Spring".²³ We asked the Minister about this timing and she responded by saying:

*"Well, I mean, obviously, that's not a matter for me, unfortunately. I don't have any control of that (...) But, even if it were delayed, for example, to the summer, providing that there's not a UK general election, of course, we still couldn't possibly get this provision in place in that kind of timescale. I mean, just to be clear for the Senedd, if we were to try to do this, even if we could get the Senedd to agree that this was suitable for a fast-tracked or expedited Bill of some sort—which I'm sure you'll come on to, and we think we would struggle to persuade the Senedd of that—we're talking a long time off."*²⁴

23. We questioned why the Minister would come to a view that the Senedd would be hesitant to accept an expedited process for such a Bill and she replied:

*"According to the Welsh Government legislation handbook outline of what factors are considered for an expedited or fast-tracked Bill, we don't think this would meet the criteria. But, I mean, I'm quite happy to explore that."*²⁵

24. When we suggested that it was for the Senedd to take that decision rather than the Welsh Government, and also that an expedited Bill may get support, the Minister said:

"Well, that may well be the case, but we do have to have regard to our own legislative handbook in bringing it forward. And as I already said in answer to the Chair, that's not the only consideration; the other consideration is that we need to have the policy, legal and legislative counsel officials available in order to do this, and, frankly, we'd have to take those off doing

²² Legislation, Justice and Constitution Committee, 11 March 2024, RoP [9]

²³ Memorandum, paragraph 31

²⁴ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [11]

²⁵ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [14]

*the homelessness Bill and I'm very reluctant to do that (...) any slippage in the homelessness Bill will mean that it's lost, frankly, because it's right up against the edge of the Senedd, so I'm very, very reluctant to move resources from it."*²⁶

25. Towards the end of the evidence session the Minister told us she would rather legislate in the Senedd but added:

*"But it's a balance, isn't it? If this anti-discriminatory stuff goes through for England, then my assessment is it's probably four to five years off in Wales. That's a very substantial period of time for people to be at a disadvantage because we weren't able to get enough scrutiny through on a policy that I think is highly consensual and unlikely to be controversial across party lines. So, it's a balancing act, as always."*²⁷

26. When we challenged the Minister on her suggestion of a Welsh Government proposed Bill being four to five years away, she explained her reasoning:

*"I or whoever the Minister is at the time has to bid for the time in the Government programme, you have to bid for the resources in the Government programme, you have to compete with everybody else who's also trying to get their cherished policy processes through. There are always cherished policy things that we'd love to do. I could give you a list of 15 cherished policy positions I'd dearly love to get through the Senedd. You're part of that machine. My personal analysis, based on my own personal experience, is that you're probably that far off. A more forceful Minister with this further up their policy agenda might be able to do it quicker, but there's no way we'd do it at the speed we'd do it if we do it in this UK Bill."*²⁸

Intergovernmental working and the timeline of events

27. We noted that the Welsh Government were approached by the UK Government who asked whether the Welsh Government would like provisions to be included in the Bill for Wales around the discrimination of tenants claiming benefits and/or with children. We therefore asked the Minister how this type of

²⁶ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [16]

²⁷ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [112]

²⁸ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [115]

inter-governmental approach works in practice; this is not only because of its relevance generally to the legislative consent process but also because, in this case, a UK Bill is being used to make provision in a devolved area which has been the subject of three Senedd Acts (in 2016, 2019 and 2021). The Minister told us:

*"...obviously, our officials work closely with UK Government officials on all matters relating to housing, leasehold and so on. This is one of the (...) ragged edges of devolution, and so we work very carefully with the UK Government to make sure that we understand what's going on there. Here it was possible, we felt, to put a discrete, cherished policy aim in place rapidly, in circumstances where we wouldn't be able to do that in Wales."*²⁹

28. We also sought clarity around the timeline of events and when the Welsh Government was formally invited to make provision for Wales in the Bill. An official accompanying the Minister confirmed that:

*"...the original approach was in May—we were working with officials—but the official approach to agree that the legislative consent process should begin was in November, and, obviously, the legislative consent memorandum was then published in January."*³⁰

29. We also asked the Minister if she signed off the amendments related to Wales and devolved areas before they were tabled. She replied:

"Yes. So, just to be really clear, what happens is the UK Government asks us whether we want the provisions to—. So, provisions are tabled for England, we're approached to see whether we would like to work with them to make sure that there is a provision for Wales; Scotland will be in a similar position. This happens all the time on a huge number of Bills, and, for most of them, we'll say 'no', but for some of them we'll say 'yes'. And so an official will do an advice for me, saying, 'What do you think Minister? Do think we should or shouldn't do this?' And I will have said, 'Yes, I think it's worth exploring.' And then the amendments will explore the possibility. Sometimes that comes to something, sometimes it doesn't. And in this

²⁹ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [32]

³⁰ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [38]

case, it has come to something, and therefore we've gone through the process."³¹

30. We asked whether the initial contact in May 2023 between officials was via correspondence. An official accompanying the Minister said:

*"It wasn't correspondence. We have regular meetings with them, and certainly around that time, when we were discussing what was going on in each area, so it was more of a verbal talking about the provisions, and it was during that meeting that the first very informal approach was made from UK Government officials to Welsh Government officials."*³²

31. The Minister added that one of the reasons for the interest in the Bill "was not because of these blanket bans that we're discussing now" but the intention to ban no-fault evictions.³³ She explained:

*"... what they've done in the Bill is they've said they'd ban no-fault evictions, but in fact what they've done is put a whole series of no-fault eviction specific grounds into the Bill (...) So, we were very interested to see whether something would happen that would allow us to do something different in Wales than has hitherto been possible, and, in fact, actually, it's turned out not to be the case. So, that's why we were originally involved, and then this has come on later on."*³⁴

32. The Minister also told us:

*"Eventually, the UK Government asked us whether we'd be interested in being part of the amendments on blanket bans and so on. But that undoubtedly came out of an iterative conversation between the various officials."*³⁵

33. We probed matters relating to the approach adopted and we were advised that:

- Welsh Government officials were in contact with UK Government officials from May through to November 2023 to ensure that the

³¹ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [43]

³² Legislation, Justice and Constitution Committee, 11 March 2024, RoP [70]

³³ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [71]

³⁴ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [71]

³⁵ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [73]

amendments “worked for Wales before they were introduced in November”;³⁶

- the Welsh Government did not “specifically give policy instructions to lawyers” to write the amendments; that role was undertaken by their “counterparts in the UK Government” on behalf of the Welsh Government;³⁷
- Welsh Government officials did not “specifically provide speaking notes to UK Government Ministers” in relation to tabled amendments; this was left for UK Government officials to do.³⁸

34. In response to our questioning, the Minister undertook to provide a chronology of events.³⁹ It was received on 8 April 2024⁴⁰ and clarified some of the points raised in the evidence session.

35. In terms of the timing of the laying of the Memorandum, the Minister noted the significant number of amendments tabled, and that as well as the 14 amendments relating to blanket bans,⁴¹ they had to go through a further 172 amendments:

“... to be very sure that we didn't need an LCM for any of the other amendments, and obviously it takes a little bit of time to go through those amendments. So, the officials had to work through all of the amendments to make sure that there wasn't anything else that needed to be brought forward.”⁴²

36. The Minister also said that the Welsh Government had very little notice of those 172 amendments.⁴³ When we suggested the alternative approach of laying more than one legislative consent memorandum to give an early “heads-up” the Minister replied by saying:

“It's a consideration we always have to take into account, and it's a resource issue as well; the laying of an LCM isn't resource

³⁶ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [79]

³⁷ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [81]. See also footnote 41

³⁸ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [94 to 98]

³⁹ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [68 to 88]

⁴⁰ [Letter to Julie James MS, Minister for Climate Change](#), 19 March 2024; [Letter from Julie James MS, Cabinet Secretary for Housing, Local Government and Planning](#), 8 April 2024

⁴¹ Memorandum, paragraph 3; Legislation, Justice and Constitution Committee, 11 March 2024, RoP [33]

⁴² Legislation, Justice and Constitution Committee, 11 March 2024, RoP [104]

⁴³ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [106]

free. You're diverting somebody from the analysis in order to write the LCM provisions. So, there's always a weigh-up, isn't there, between those two things. I don't want to put them on the spot here, but officials will take an overview of the likelihood of them needing to do an LCM, and then try and weigh up the resource necessary for the analysis as against writing a series of sequential LCMs. I won't go through the argument we always have, but trying to hit the sweet spot of timing and not sequential LCMs is really difficult.”⁴⁴

Consolidation and accessibility of Welsh law

37. We also asked the Minister how the approach being taken is consistent with the Welsh Government's desire for consolidation of Welsh law and for a Welsh statute book. In response the Minister suggested that “a consolidation Bill is probably something that will be in contemplation” for housing law in the next Senedd because while “there is a growing body of law (...) here in Wales, (...) it still relies on other provisions inside the UK as well, so you'd still have to do a fairly good detective trail if you were going to have a look at it.”⁴⁵

38. When we asked specifically about how using a UK Bill to introduce the changes contributes to the overall accessibility of law, the Minister responded by saying:

“Well, it doesn't, does it? But it's an opportunity to put a discrete policy platform, which we have long wanted to do, in place rapidly. I didn't want to disadvantage the people of Wales in that.”⁴⁶

Scrutiny of devolved provision in the Bill

39. When we suggested that the use of a UK Bill and the consent process sits uneasily with the ambition to empower Welsh democracy,⁴⁷ the Minister indicated she was not arguing with that point⁴⁸ but said:

“I'm acutely aware of the difficulties of scrutiny of UK legislation. We're very keen to make sure that we can give as much

⁴⁴ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [108]

⁴⁵ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [8]

⁴⁶ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [30]

⁴⁷ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [21]

⁴⁸ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [22]

scrutiny as we're able to, given the circumstances, (...) but I think, given the policy aims of this, where we are in the legislative cycle and so on, we thought it was an opportunity we ought to take."⁴⁹

40. We noted that the Public Bill Committee in the House of Commons appears to have taken very limited evidence from Welsh stakeholders during its scrutiny and that Welsh MPs were not involved.⁵⁰ We asked the Minister for her observations on that point. She told us:

*"Obviously, I'm not in control of that process. As we've already discussed, I completely concur with the committee's view that better scrutiny would be better. If I'd been invited to appear in front of the committee there, I would have happily done so, for example, and we've done as much as we can on the inter-governmental side of that. It's a matter of some regret that we weren't able to get that specific Welsh scrutiny in place. But as I've said in earlier answers to the committee, because this lines up very much with our Renting Homes (Wales) Act 2016 and because this has been the direction of travel in Wales for some time, and because, actually, we think we could have enforced this albeit in a slightly more roundabout way through the Equality Act 2010, it doesn't bring that much of a change to Wales, really."*⁵¹

41. The Minister subsequently added:

*"For me, I think it's a matter of regret that we cannot get enough scrutiny into Bills passed at the UK level that affect Wales. It's genuinely a matter of regret. We try very hard to do that, so if at all possible—and not for the officials on this call—we try to brief Members of Parliament, for example, so that they can raise issues and all the rest of it."*⁵²

⁴⁹ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [24]

⁵⁰ [House of Commons Official Report, Public Bill Committee, Renters \(Reform\) Bill](#), Compilation of sittings

⁵¹ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [93]

⁵² Legislation, Justice and Constitution Committee, 11 March 2024, RoP [112]

Resources

42. In her evidence (see for example paragraphs 20 and 24 above) the issue of resources was raised by the Minister as part of her reasons for using a UK Bill. We therefore asked whether there was an issue with resources in her department. She replied:

“Well, not as the legislative programme pertains, but obviously we're at the mercy of what the UK Government brings forward, so it's opportunistic, if you like.”⁵³

43. The Minister also told us:

“You have to bear in mind as well that we don't necessarily staff up to look at UK Bills if we don't know they're coming forward or the timescale for them, so we have to move resources around rapidly in order to be able to accommodate an enormous Bill of that sort, to give officials the chance to properly scrutinise it. I'm very aware that the committees also need to have a chance to scrutinise it where at all possible. So, we do our best to hit the kind of perfect spot between us knowing what we're talking about and giving the committees the chance to question us about it.”⁵⁴

Financial implications and stakeholder engagement

44. In the Memorandum, the Minister states that no financial implications have been identified to date should the provisions in the Bill apply in Wales.⁵⁵ We asked the Minister to explain how she had come to that conclusion. She said:

“That's because our new Renting Homes (Wales) Act 2016, which is now in force, already has provisions in it to make sure that landlords are able to make tenants aware of any changes, so that's a normal and routine part of the operation of landlord-tenant provision in Wales, whereas it wouldn't have been in England. So, there's no additional or very minimal

⁵³ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [18]

⁵⁴ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [34]

⁵⁵ Memorandum, paragraph 36

additional work involved in that, so we don't think there's—. It's negligible, if any.”⁵⁶

45. The Minister indicated that a Wales-specific regulatory impact assessment had not been prepared.⁵⁷ When we asked about whether the UK regulatory impact assessment shows the effect of the provisions on Wales, she replied:

“Yes, we think it's sufficient for the purpose. And, as I say, because of the way that the renting homes Act works already in Wales, we think the impact of that is minimal—it's the policy aims achieved with minimal other impact. That's why we've decided to work with the UK Government on this aspect, in fact.”⁵⁸

46. We also asked whether the Welsh Government has undertaken any consultation with stakeholders in Wales in this context. The Minister said:

“No, we haven't specifically consulted on this context, although we have consulted widely on anti-discrimination measures for quite a considerable period of time, both before the renting homes Act, during the implementation period and post-implementation period. So, for example, we have the anti-racist Wales provisions, which we've consulted on, just as one example.”⁵⁹

47. We asked about consultation undertaken with stakeholders by the UK Government and whether it was relevant in the context of the provisions for Wales. The Minister said:

“Some of the stakeholder work across England and Wales would have fed into the original consultation process for this, and there would have been nothing stopping any Welsh individual or organisation responding to that. But I think we're basically putting this on the basis that we have a much better relationship with all of the sector stakeholders here in Wales, and we have representatives of landlords, agents, tenants and local authorities, for example, in our stakeholder groups, and we know that all of them are supportive of these amendments.”

⁵⁶ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [46]

⁵⁷ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [48]

⁵⁸ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [50]

⁵⁹ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [52]

So, although we've had no official consultation process, it's been discussed in our stakeholder groups and we've had no-one at all who has got any issue with it."⁶⁰

48. When we enquired why the UK Government consulted with bodies operating in Wales and England given that the Bill in its initial stages was an England-only Bill, the Minister said:

"Only because very large numbers of bodies operate in both (...) So, they wouldn't have specifically looked at Welsh-only individuals, just to be really clear, but quite a lot of them operate across England and Wales. So, as entities operating across England and Wales, they would have been included in an England-only consultation.

I just want to be clear with the committee: I'm not pretending that we've done a consultation that's adequate in Wales; we have not consulted, and that's because of the speed with which the amendments were introduced and the way that the process was done. But we have discussed it in our stakeholder groups. That isn't a consultation, I don't want to give that impression, but we have had informal discussions in the stakeholder groups, and we've encountered no-one who thinks that this isn't a good idea. But I'm not pretending to the committee in any way that that's a full consultation."⁶¹

Retrospectivity

49. We noted that some provisions in the Bill have retrospective effect⁶² and also the fact that in Wales, unlike England, criminal penalties apply. We therefore asked the Minister what assessment had been made of the retrospective impact of these provisions, and whether general legal principles were followed in terms of providing a retrospective element that is transparent and fair. The Minister responded by saying:

"... so we haven't done a specific assessment of the retrospectivity (...) of these provisions, but there's an obvious and pressing need for them to be retrospective, because otherwise

⁶⁰ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [54]

⁶¹ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [56 to 57]

⁶² Memorandum, paragraphs 18 and 34 to 35

they wouldn't apply to existing occupation contracts or any term in a superior lease or any mortgage term until those were renewed. (...) So, it's retrospectivity in a slightly odd sense; it simply means it's incorporated into all of the existing landlord and tenant arrangements immediately, rather than waiting for the renewal of the lease or the change of the mortgage (...) It would completely undermine the policy objective if the vast majority of people were excluded."⁶³

50. As regards enforcement, the Minister explained:

"To be really clear, we obviously won't be retrospectively trying to prosecute anyone for something that wasn't in place by then. The retrospectivity is simply to apply these provisions, from the point in time that they become law, to existing contracts. I'm doing this completely out of the air, for illustrative purposes only, but assuming that this becomes law on 1 May, then you'll be able to be prosecuted for not having complied with it from 1 May. You won't be able to be prosecuted for not having not complied with it on 29 April, just to be clear. The retrospectivity is that it will, however, apply to existing contracts."⁶⁴

51. The Minister also confirmed the steps that the Welsh Government would take to provide information for landlords and tenants about the retrospective nature of the changes⁶⁵ and indicated that she was comfortable that the introduction of retrospective changes would not give rise to legal challenge under human rights legislation.⁶⁶

2. Committee consideration

52. Following the evidence session with the Minister, a new First Minister was elected on 20 March 2024.⁶⁷ The Minister retained responsibility for the Memorandum as the Cabinet Secretary for Housing, Local Government and Planning (the Cabinet Secretary).

⁶³ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [59]

⁶⁴ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [91]

⁶⁵ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [63]

⁶⁶ Legislation, Justice and Constitution Committee, 11 March 2024, RoP [65]

⁶⁷ [Record of Proceedings](#), 20 March 2024

53. We considered our report at our meeting on 29 April 2024 and agreed it at our meeting on 7 May 2024.

Our view

54. We note the Welsh Government's assessment of the provisions within the Bill, following amendment, that require the consent of the Senedd, as set out in the Memorandum.

55. We also note that the UK Government agree that consent is required.

Conclusion 1. We consider that the amendments to the Bill as set out in the Memorandum fall within a purpose within the legislative competence of the Senedd, as described in Standing Order 29, and therefore require the consent of the Senedd.

56. We have consistently expressed our concern about the use of UK Bills in certain circumstances to make provision in devolved areas (whilst also recognising that there are occasions when it is sensible to use such Bills).⁶⁸

57. It is therefore regrettable that we find ourselves in the position of once again having to express concern about the Welsh Government's intention to use a UK Bill to make provision for Wales in a devolved area.

58. In this particular case, we find the use of a UK Bill to make law for Wales in the devolved area of renting homes policy to be objectionable because the Bill is being used to amend Acts of the Senedd passed in 2016 and 2019. The 2016 Act, which was amended by a further Senedd Act in 2021,⁶⁹ brought about the biggest change in housing law for decades.⁷⁰

59. Of particular concern to us is that a UK Bill is being used to amend Senedd Acts in order to create new criminal offences.⁷¹

Conclusion 2. We are concerned that the Welsh Government is undermining the Senedd as a legislature and the principle of devolution by seeking provision for Wales in the Renters (Reform) Bill to deliver its policy objectives on renting homes,

⁶⁸ Legislation Justice Constitution Committee, [Annual Report 2021/22](#), October 2022, paragraphs 48 to 59; Legislation Justice Constitution Committee, [Annual Report 2022/23](#), November 2023, paragraphs 87 to 105

⁶⁹ The Renting Homes (Amendment) (Wales) Act 2021

⁷⁰ Welsh Government, [Housing law is changing](#) [accessed 25 April 2024]

⁷¹ Memorandum, paragraphs 13, 14 and 32

instead of using a Welsh Government proposed Bill which would be scrutinised by the Senedd.

Conclusion 3. The Cabinet Secretary's arguments for using a UK Bill to legislate in relation to renting homes in Wales are not persuasive.

60. We explore the reasons for reaching these conclusions below.

61. We note the argument advanced by the Cabinet Secretary in relation to the former First Minister's principles⁷² for when consent to using provisions in UK Bills should be recommended, but have previously expressed our concerns with the application of these principles.⁷³

62. We are grateful to the Cabinet Secretary for providing the chronology of events leading up to the use of the Bill to supplement the evidence she provided on 11 March 2024.

63. Ascertaining this chronology is important for two reasons. First, to understand why there was a delay to the laying of the Memorandum, and secondly to help give an indication of how much time and resources the Welsh Government has spent on using a UK Bill to legislate for Wales. On this second point, it also helps us to consider, to some extent, whether that time and resource could be better utilised to legislate in the Senedd, notwithstanding that more resources may be required for the latter. We consider the delay to the laying of the Memorandum and the issue of resources later in this section.

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

64. On numerous occasions the Cabinet Secretary suggested that a UK Bill was used because of issues of timing. For example, she said that it would enable:

- the prompt delivery of a policy "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";

⁷² [Letter from the Counsel General and Minister for the Constitution](#), 22 October 2021, Annex B: Welsh Government's principles for UK Bills

⁷³ Legislation Justice Constitution Committee, Annual Report 2021/22, October 2022, paragraphs 51 to 52

- “the policy benefits to be delivered in Wales in an expedited manner and without impact on our wider legislative programme”;
- a “cherished policy aim” to be put in place rapidly in circumstances where “we wouldn't be able to do that in Wales”.

65. However, the Cabinet Secretary also provided evidence, in relation to the application of the *Equality Act 2010*, that is arguably inconsistent with this position. She told us that the Welsh Government position in relation to anti-discrimination measures “would always have been that this was not allowed under the Equality Act 2010, but it makes it very plain and beyond argument”, noting also that enforcement would have been possible “albeit in a slightly more roundabout way through the Equality Act 2010” and that “it doesn't bring that much of a change to Wales, really.”

66. The Minister would appear to be suggesting that the provisions being taken in the UK Bill were not absolutely necessary because the *Equality Act 2010* could be used as a means of taking action in circumstances where discrimination against renters becomes evident. We have not however been in a position to undertake an assessment of the 2010 Act in order to consider the validity of the Cabinet Secretary's comments.

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

67. Furthermore, the Cabinet Secretary told us that the Welsh Government has “consulted widely on anti-discrimination measures for quite a considerable period of time, both before the renting homes Act, during the implementation period and post-implementation period.”

68. It is therefore unclear why, if consultations took place *before* the introduction of Welsh Government proposed Bills on renting homes, relevant provision was not included in those Bills to make the position “plain and beyond argument” at that time.

69. This point is also relevant given that the Cabinet Secretary acknowledged that the use of a UK Bill did not contribute to the accessibility of law but was an opportunity to put in place rapidly a policy “which we have long wanted to do”.

70. In addition, we would highlight that, as the UK Parliament is in its fifth year, the Bill may fall if it has not completed its passage before a UK General Election is called, a risk that has been acknowledged by the UK Government.⁷⁴

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

71. We note the Cabinet Secretary's view explaining that an expedited legislative scrutiny process was not considered appropriate because it was not in line with the Welsh Government's own legislation handbook,⁷⁵ to which it has to have regard. We find this to be a weak argument.

72. In particular, it does not appear to us that the Welsh Government's handbook suggests a choice between using either an expedited legislative scrutiny process for a Senedd Bill or as an alternative, a UK Bill. It appears to us that the handbook considers the use of an expedited scrutiny process solely in the context of a Bill where the intention is to legislate in the Senedd.

73. However, as we noted during the evidence session with the Cabinet Secretary, the use of an expedited legislative scrutiny process in relation to a Bill coming before the Senedd should not be a matter solely for the government to determine but should be a consideration for the Business Committee (as a consequence of Standing Order 26.7).

74. As we have highlighted previously, one of the problems with the legislative consent process is that there is no role for the Senedd to influence the Welsh Government's decision on whether it should pursue provisions in a UK Bill in the first place.⁷⁶

75. In justifying her approach with the Bill, the Cabinet Secretary made a number of observations, which we wish to highlight specifically.

⁷⁴ BBC News, [Michael Gove can't guarantee no-fault eviction ban before election](#), 25 April 2024

⁷⁵ Welsh Government, [Legislation Handbook on Assembly Bills](#), May 2019

⁷⁶ Legislation Justice Constitution Committee, Annual report 2021/22, October 2022, paragraph 49

76. The Cabinet Secretary referred to the Bill providing “an opportunity to make a provision that is advantageous to Wales” and that “[i]t doesn't seem to disadvantage us in any way for doing this”. She also explained that the provisions are “completely in line with our policy objectives” and that the policy “I think is highly consensual and unlikely to be controversial across party lines”. The Cabinet Secretary also noted that the approach “lines up very much with our Renting Homes (Wales) Act 2016 and because this has been the direction of travel in Wales for some time (...) it doesn't bring that much of a change to Wales, really.”

77. All these perspectives, however, are those of the Welsh Government. It is not appropriate for the executive to be the sole arbiter of what is advantageous or of benefit to Welsh citizens or to speculate about the level of consensus and support amongst Senedd Members and stakeholders about the specifics of legislation without adequate evidence. In a parliamentary democracy we believe that the perspectives of the executive should be capable of being tested and challenged by the legislature, for example in relation to:

- whether the wording of legislation appropriately delivers the executive's policy intention;
- whether there are any unintended policy consequences of the legislation;
- whether the policy and wording of the legislation could be improved;
- whether the English and Welsh texts are consistent;
- how, in this case, the new legislative provisions work with and relate to renting homes legislation already made by the Senedd.

78. The legislative consent process offers neither the time nor the means for the Senedd to undertake that role as effectively as could be achieved if a Welsh Government introduces its own Bill.

Conclusion 4. Rather than seek provision in a UK Bill to deliver legislative objectives on its renting home policy, the Welsh Government should have introduced its own Bill to the Senedd and sought the use of an expedited legislative scrutiny process, if it was deemed necessary to introduce these provisions as a matter of urgency. While not ideal, an expedited scrutiny process would have been preferable to the use of a UK Bill because it would have allowed for more effective scrutiny of the legislation by Members of the Senedd

undertaking engagement with stakeholders, line by line scrutiny and the tabling of amendments, roles for which they were elected.

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

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

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

79. Our view about the effectiveness of scrutiny applies equally to the financial implications of the provisions included in the UK Bill. The Cabinet Secretary stated in the Memorandum that there would be no financial implications arising from the Bill. There was no information or analysis to support this assertion.

80. If the provisions had been included in a Welsh Government proposed Bill, a regulatory impact assessment would have been required in accordance with the Senedd's Standing Orders. By using a UK Bill, such an impact assessment has not been provided and so the ability of the Senedd to scrutinise the financial implications of legislation that will impact on the lives of citizens in Wales has been significantly hindered.

81. The Cabinet Secretary told us that the UK Government's regulatory impact assessment was "sufficient for the purpose" of showing the effect of the provisions in Wales, adding that "because of the way that the renting homes Act works already in Wales, we think the impact of that is minimal". The Cabinet Secretary added this was "why we've decided to work with the UK Government on this aspect, in fact."

82. However, the Bill as introduced was substantively an England-only Bill and we are unclear therefore why the Cabinet Secretary would believe that the impact assessment for the Bill would be sufficient for Wales when the relevant provisions in devolved areas were introduced by amendment at later stages in the UK

Parliament's legislative process. As far as we are aware, no regulatory impact assessment was attached to the tabled amendments.

Conclusion 5. In the absence of supporting evidence, we are sceptical of the Cabinet Secretary's view that there are no financial implications arising from the relevant provisions of the Bill as set out in the Memorandum.

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

83. We note the Cabinet Secretary's comments about the scrutiny of UK Bills that affect Wales, and that she would have appeared before a Public Bill Committee in the House of Commons if requested to do so.

84. How substantive devolved Welsh provisions in a UK Bill are scrutinised is a matter for the UK Parliament. However, the Welsh Government's participation in the legislative scrutiny process at Westminster in relation to devolved provisions in a UK Bill would be unusual and raises a number of important issues.

85. For example, taking account of the circumstances described by the Cabinet Secretary, in relation to the debates on the amendments that are the subject of this Memorandum, it is unclear how the UK Minister would have been in a position to answer any questions effectively during proceedings (had they been asked). This is because housing law has diverged significantly in the last ten years between Wales and England and, in our view, the UK Minister would not have been well placed to speak to amendments concerning a devolved policy area for which he is not responsible. Furthermore MPs from English constituencies in the Public Bill Committee may not have understood fully the different legal framework for housing in Wales. In itself, that could potentially raise questions about the effectiveness of the scrutiny being undertaken.

86. In addition, we note that policy instructions for the amendments were not prepared by Welsh Government officials, although they were involved in their development. While we note from the Minister's letter of 8 April 2024 that draft amendments were shared with the Welsh Government for consideration, the role of the Welsh Government's Office of the Legislative Counsel is not clear. The approach raises questions about whether the style of legislative drafting in both English and Welsh undertaken by Parliamentary Counsel for the UK Government is in line with the practice adopted by the Office of the Legislative Counsel given

that the provisions amend existing Senedd Acts that it was responsible for drafting initially. While we recognise that this may not be an issue of concern for the Bill and that the Office of the Legislative Counsel may have played a role, we believe there is merit in highlighting this point, not least because the Welsh Government has itself highlighted this as an issue recently in respect of a Bill introduced to the Senedd by a backbench Member of the Senedd.⁷⁷

87. We would also draw the Senedd's attention to another important and related point. A UK Parliament Bill inserting substantive provisions into a Senedd Act could also cause confusion around interpretation. While not relevant to this Bill as it only amends pre-2020 Senedd Acts, any post-2020 Senedd Acts are subject to the *Legislation (Wales) Act 2019* whereas UK Parliament Acts are subject to the *Interpretation Act 1978*. There is a need to be mindful that if a provision is inserted into a post-2020 Senedd Act by the UK Parliament, it may not be clear which interpretation Act would apply.

88. We note the Cabinet Secretary's comment that "it's a matter of regret that we cannot get enough scrutiny into Bills passed at the UK level". Respectfully, this should not be an issue because the place for scrutiny of legislative provisions in devolved areas is the Senedd rather than the UK Parliament.

89. On a number of occasions the Cabinet Secretary stated that resourcing issues were one of the reasons why it was not possible to pursue a Welsh Government proposed Bill that would be introduced into the Senedd; specifically because of the staff needed, the work being undertaken on a homelessness Bill, and concern about the impact on its legislative programme. The capacity and resources available to the Welsh Government to make legislation in devolved areas have been a matter of interest to the Committee during the Sixth Senedd, given the increasing use of UK Bills to legislate in devolved areas and comments made by the Welsh Government in respect of that position.

90. While the Cabinet Secretary is clear that resources have been an issue in this case, there are some observations we would wish to make.

91. It is apparent that the Welsh Government has the expertise and specialist staff required to prepare legislation in relation to renting homes policy because they have introduced three Bills to the Senedd on this subject in recent years that subsequently became Senedd Acts.

⁷⁷ Children, Young Person and Education Committee, [Written Evidence, ROE 24, Welsh Government](#), paragraph 2.1

92. We note the Cabinet Secretary's comments on consultation and agree that consultation has been inadequate, particularly as the Welsh Government does not appear to have sought the views of stakeholders on the provisions that have been inserted into the Bill by amendment. We acknowledge that the Welsh Government has consulted on anti-discrimination policy generally, but that is different from a Committee of the Senedd undertaking its own consultation, during the Stage 1 process on the actual wording of provisions and how a policy is translated into legislation. Such an issue would not have arisen if a Welsh Government proposed Bill had been used to deliver the Welsh Government's policy.

93. It is clear from the Cabinet Secretary's evidence, and subsequent letter of 9 April 2024, that discussions on UK legislation relating to renting homes policy were taking place prior to the Bill's introduction, and presumably, therefore, for some time.

94. In the Memorandum, the Minister states that the relevant amendments "had been shared with the Welsh Government ahead of laying on 14 November 2023 and the competence analysis completed at that point." The Welsh Government should have tabled a legislative consent memorandum at that point to enable the maximum amount of time for Senedd scrutiny.

95. It would appear that the laying of the Memorandum was delayed by over 2 months because the Welsh Government felt that it needed to consider whether a further 172 amendments required the consent of the Senedd.

96. We accept that such analysis would be required for those 172 amendments. We note that the Cabinet Secretary said that the Welsh Government had received very little notice of the anticipated laying of those 172 amendments. However, we are unclear why this was the case given the apparent close co-operation between the Welsh Government and the UK Government on other aspects of the Bill, and the fact that, on its introduction, the Bill's substantive provisions related to England only. As it transpired, the Welsh Government considered that none of these 172 amendments required the Senedd's consent and were therefore not included in the Memorandum.

97. In our view, the analysis of the 172 amendments should not have delayed the laying of the Memorandum. Any consent issues arising from an analysis of those 172 amendments should have been included in a supplementary legislative consent memorandum, a practice that has often been followed by the Welsh Government.

98. We have made our position clear to the Cabinet Secretary on unnecessary delays to the laying of legislative consent memoranda, for example in our report on a legislative consent memorandum on the Energy Bill.⁷⁸ We said that the Welsh Government must learn lessons from its handling of that Bill to ensure that what has happened does not happen again, and to ensure that the Senedd is presented in a timely manner with the necessary information it requires to perform its democratic role.

99. We drew attention to these issues recently in our report on the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Victims and Prisoners Bill, laid on the 29 April 2024.⁷⁹

100. As we said in that report, we acknowledge that the information included by the Welsh Government in any legislative consent memoranda laid before the Senedd can be affected by poor intergovernmental information. However, there is also a responsibility on the Welsh Government to ensure that the limited time available for scrutiny under the legislative consent process is not constrained further by unnecessarily delaying the laying of legislative consent memoranda.

101. On this latter point we note that, in seeking to defend the approach towards the delayed laying of the Memorandum, the Cabinet Secretary said:

*"...it's a resource issue as well; **the laying of an LCM isn't resource free.** You're diverting somebody from the analysis in order to write the LCM provisions. So, there's always a weigh-up, isn't there, between those two things. I don't want to put them on the spot here, but **officials will** take an overview of the likelihood of them needing to do an LCM, and then **try and weigh up the resource necessary for the analysis as against writing a series of sequential LCMs.** I won't go through the argument we always have, but **trying to hit the sweet spot of timing and not sequential LCMs is really difficult.**" [our emphasis]*

102. We consider the Cabinet Secretary's comments to be revealing and disconcerting. The laying of legislative consent memoranda should be guided by

⁷⁸ Legislation, Justice and Constitution Committee, [The Welsh Government's Legislative Consent Memoranda on the Energy Bill](#), September 2023. See also: [Letter from Julie James MS, Minister for Climate Change](#), 10 October 2023 and [Letter from Julie James MS, Minister for Climate Change](#), 12 December 2023

⁷⁹ Legislation, Justice and Constitution Committee, [The Welsh Government's Supplementary Legislative Consent Memorandum \(Memorandum No. 2\) on the Victims and Prisoners Bill](#), April 2024

the requirements of the Senedd's Standing Orders rather than a matter of convenience for the Welsh Government.

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

Conclusion 6. It is disappointing and frustrating to have to raise concerns about the timely laying of legislative consent memoranda yet again.

103. We note that, in seeking to defend the approach towards the delayed laying of the Memorandum, the Cabinet Secretary said "it's a resource issue as well; the laying of an LCM isn't resource free".

104. We are concerned that the Minister is suggesting that not only are there not the resources in the Welsh Government to legislate by introducing Bills into the Senedd but equally, a lack of resources may be impacting on the ability to lay legislative consent memoranda for UK Bills in a timely fashion to enable the Senedd to undertake even the minimal level of scrutiny afforded by the legislative consent process.

105. The issue of the capacity of, and resources available to, the Welsh Government to legislate and the role of its legislative programme continue to be matters of concern. In particular, we do not wish to see the use of UK Bills to legislate in devolved areas becoming the norm in certain circumstances, particularly because a need to legislate falls outside of the Welsh Government's pre-determined legislative programme in any one year.

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

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