

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:

Committee Room 2, Senedd

Meeting date: 7 May 2024

Meeting time: 09.00

For further information contact:

P Gareth Williams

Committee Clerk

0300 200 6565

SeneddLJC@senedd.wales

Hybrid

Public meeting

(09.00 – 09.15)

1 Introductions, apologies, substitutions and declarations of interest

(09.00)

2 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

(09.00 – 09.05)

3 Inter-Institutional Relations Agreement

(09.05 – 09.10)

3.1 Correspondence from the Welsh Government: Inter-Ministerial Groups

(Pages 1 – 2)

Attached Documents:

LJC(6)-14-24 – Paper 1 – Letter from the Cabinet Secretary for Culture and Social Justice: The Safety, Security and Migration Interministerial Group, 30 April 2024

LJC(6)-14-24 – Paper 2 – Letter from the Cabinet Secretary for Culture and



Social Justice: The Culture and Creative Industries Inter-Ministerial Group, 30 April 2024

3.2 Correspondence from the Cabinet Secretary for Climate Change & Rural Affairs: The Movement of Goods (Northern Ireland to Great Britain) (Animals, Feed and Food, Plant Health etc.) (Transitory Provision and Miscellaneous Amendments) Regulations 2024

(Pages 3 – 4)

Attached Documents:

LJC(6)-14-24 – Paper 3 – Letter from the Cabinet Secretary for Climate Change & Rural Affairs, 30 April 2024

3.3 Correspondence from the Minister for Mental Health & Early Years: The Health Claims (Revocation) Regulations 2024

(Pages 5 – 6)

Attached Documents:

LJC(6)-14-24 – Paper 4 – Letter from the Minister for Mental Health & Early Years, 1 May 2024

4 Papers to note

(09.10 – 09.15)

4.1 The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Victims and Prisoners Bill

(Pages 7 – 13)

Attached Documents:

LJC(6)-14-24 – Paper 5 – Supplementary Legislative Consent Memorandum

4.2 Correspondence from the Culture, Communications, Welsh Language, Sport, and International Relations Committee to the First Minister of Wales: Annual scrutiny

(Pages 14 – 15)

Attached Documents:

LJC(6)-14-24 – Paper 6 – Letter from the Culture, Communications, Welsh

Language, Sport, and International Relations Committee to the First Minister of Wales, 30 April 2024

- 5 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting**
(09.15)

Private

(09.15 – 10.40)

- 6 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Victims and Prisoners Bill**
(09.15 – 09.25)

- 7 Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Criminal Justice Bill**

(09.25 – 09.35)

(Pages 16 – 27)

Attached Documents:

LJC(6)-14-24 – Paper 7 – Legal Advice Note

LJC(6)-14-24 – Paper 8 – Letter from the Minister of State for Crime, Policing and Fire, 29 April 2024

LJC(6)-14-24 – Paper 9 – Letter to the Secretary of State for the Home Department, 19 March 2024

- 8 Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Data Protection and Digital Information Bill**

(09.35 – 09.55)

(Pages 28 – 47)

Attached Documents:

LJC(6)-14-24 – Paper 10 – Legal Advice Note

LJC(6)-14-24 – Paper 11 – Letter to the First Minister of Wales, 15 March 2024

LJC(6)-14-24 – Paper 12 – Letter to the Minister of State for Data and Digital Infrastructure, 15 March 2024

9 Legislative Consent Memorandum on the Renters (Reform) Bill:

Draft report

(09.55 – 10.10)

(To Follow)

Attached Documents:

LJC(6)-14-24 – Paper 13 – Draft report

10 Welsh Government Draft Budget 2024–25: Draft correspondence to the Finance Committee

(10.10 – 10.20)

(To Follow)

Attached Documents:

LJC(6)-14-24 – Paper 14 – Draft letter

11 International Agreements

(10.20 – 10.30)

(Pages 48 – 59)

Attached Documents:

LJC(6)-14-24 – Paper 15 – Research Briefing

12 Forward Work Planning

(10.30 – 10.40)

(Pages 60 – 71)

Attached Documents:

LJC(6)-14-24 – Paper 16 – Forward Work Programme

Lesley Griffiths AS/MS
Ysgrifennydd y Cabinet dros Ddiwylliant a Chyfiawnder
Cymdeithasol
Cabinet Secretary for Culture and Social Justice

Agenda Item 3.1


Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: Safety, Security and Migration IMG

Sarah Murphy MS
Chair
Legislation, Justice, and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

30 April 2024

Dear Sarah

**Inter-Institutional Relations Agreement: Safety, Security and Migration
Interministerial Group**

In accordance with the Inter-Institutional Relations Agreement, I am informing you a meeting of the Interministerial Group for Safety, Security and Migration will be held on Tuesday 7th May from 3pm to 4:15 pm. The meeting will take place virtually and will be chaired by the Home Secretary.

It has been agreed the meeting will focus on the UK Government's Illegal Migration Bill, asylum dispersal and the recently published report on the cap on safe and legal migration routes. This will be followed by a discussion on the recent net migration reforms.

In line with the agreement, a communique will be published following the meeting and I will notify you of this in due course.

I am copying this letter to Jenny Rathbone MS, Chair of the Equality and Social Justice Committee.

Yours sincerely



Lesley Griffiths AS/MS
Ysgrifennydd y Cabinet dros Ddiwylliant a Chyfiawnder Cymdeithasol
Cabinet Secretary for Culture and Social Justice

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

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

Lesley Griffiths AS/MS
Ysgrifennydd y Cabinet dros Ddiwylliant a Chyfiawnder
Cymdeithasol
Cabinet Secretary for Culture and Social Justice



Llywodraeth Cymru
Welsh Government

Sarah Murphy MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

30 April 2024

Dear Sarah

Inter-Institutional Relations Agreement: Inter-ministerial Group (IMG) for Culture and Creative Industries

In accordance with the inter-institutional relations agreement, I wish to notify you of the inaugural meeting of the Culture and Creative Industries Inter-Ministerial Group (IMG), which will take place virtually on 2 May 2024.

The IMG meeting will be chaired by the UK Government Department for Digital, Culture, Media and Sport. The meeting will likely cover the Creative Industries Sector Vision, upcoming major cultural events and current creative & cultural sector issues.

I will provide an update after the meeting.

I am also copying this letter to Rebecca Evans MS, Cabinet Secretary for Finance, Constitution and Cabinet Office, the Rt Hon Elin Jones MS Llywydd and the Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Yours sincerely,

Lesley Griffiths AS/MS
Ysgrifennydd y Cabinet dros Ddiwylliant a Chyfiawnder Cymdeithasol
Cabinet Secretary for Culture and Social Justice

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Our ref/ein cyf: MA/HIDCC/5032/24

Sarah Murphy MS
Chair, Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

30 April 2024

Dear Sarah,

I am writing to inform the Committee of my intention to consent to the UK Government making and laying the Movement of Goods (Northern Ireland to Great Britain) (Animals, Feed and Food, Plant Health etc.) (Transitory Provision and Miscellaneous Amendments) Regulations 2024 ('the 2024 regulations').

We have received a letter from the Rt Hon Lord Benyon, the then Minister for Biosecurity, Marine and Rural Affairs, asking for consent to these Regulations. The Regulations intersect with devolved policy and will apply to Wales. The Regulations will extend to England, Scotland, and Wales and a similar request for consent has been sent to Scottish Ministers.

The Regulations will be made in exercise of the powers conferred under:

- Section 8C(1) of, and paragraph 21(a) of Schedule 7 to, the European Union (Withdrawal) Act 2018

The purpose of the 2024 Regulations is to preserve and sharpen the benefits of unfettered market access for qualifying Northern Ireland goods by applying the regime of sanitary and phytosanitary ("SPS") controls to non-qualifying goods entering Great Britain ("GB") from Northern Ireland ("NI"), as applied to European Union ("EU") / European Economic Area ("EEA") goods under the Transitional Staging Period. The 2024 Regulations make consequential amendments to the qualifying Northern Ireland goods definition referenced in existing legislation.

The Regulations do not commit Welsh Ministers to adopting any future UK Government position on biosecurity. The Regulations do not diminish or undermine the powers of Welsh Ministers in any way.

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

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for this instrument to apply to Wales as there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single instrument. I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

I have written similarly to Paul Davies MS, the Chair of the Economy, Trade and Rural Affairs Committee.

Yours sincerely



Huw Irranca-Davies AS/MS

Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Cabinet Secretary for Climate Change and Rural Affairs

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Jayne Bryant AS/MS
Y Gweinidog Iechyd Meddwl a'r Blynyddoedd Cynnar
Minister for Mental Health & Early Years

Agenda Item 3.3


Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-JB-5117-24

Sarah Murphy MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
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SeneddLJC@senedd.wales

1 May 2024

Dear Sarah,

The Health Claims (Revocation) Regulations 2024

I am writing to inform the committee of Welsh Ministers intention to consent to the UK Government making and laying the Health Claims (Revocation) Regulations 2024 (the Regulations). The Regulations will be made using powers in Section 14 of The Retained EU Law (REUL) (Revocation and Reform) Act (the REUL Act).

The Regulations will revoke legislation identified as redundant following the UK's exit from the EU, which was not included in Schedule 1 of the REUL Act. Revocation of these instruments will have no policy effect in Wales and will reduce unnecessary complexity in the statute book.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the UK Government to legislate on a GB-wide basis. This approach would ensure redundant legislation is revoked equally across the nations to which they applied.

The Regulations will be laid before the UK Parliament in June 2024.

I have written similarly to Russell George MS, chair of Health and Social Care Committee and Buffy Williams MS, chair of the Children, Young People and Education Committee.

Yours sincerely,



Jayne Bryant AS/MS
Y Gweinidog Iechyd Meddwl a'r Blynyddoedd Cynnar
Minister for Mental Health & Early Years

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Agenda Item 4.1

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (NUMBER 3)

VICTIMS AND PRISONERS BILL

1. This supplementary legislative consent memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO 29.2 requires a LCM to be laid before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Victims and Prisoners Bill (“the Bill”) was introduced in the House of Commons on 29 March 2023. An LCM was laid on 19 May 2023 and can be found at [LEGISLATIVE CONSENT MEMORANDUM \(senedd.wales\)](#). A Supplementary LCM was laid on 15 April 2024 and can be found at [SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM \(NUMBER 2\) VICTIMS AND PRISONERS BILL \(senedd.wales\)](#).
3. On 9 and 16 April, the UK Government tabled further amendments to the Bill. Some of these amendments engage the LCM process as set out in SO 29.2, and these are considered in this SLCM.
4. Two new clauses have been added to the Bill at Lords Report stage on a duty for specified public authorities to co-operate with the Victims’ Commissioner and on a requirement for the Secretary of State to publish and implement a strategy for mandatory training to be provided to those who have obligations under the Victims’ Code, as a result of successful opposition amendments (amendments [57](#) and [58](#) respectively).
5. My officials have discussed these amendments with UK Government colleagues, and I understand the UK Government is still considering its position on both of them. Given the distinct possibility of future government amendments in relation to these clauses, this SLCM does not consider the new clauses created by amendments 57 and 58. I will address these clauses once there is a settled UK Government position and any government amendments in relation to the clauses have been tabled.
6. The clauses referred to in the SLCM are as set out in the Bill as published on 25 March 2024, which can be found at: [Victims and Prisoners Bill \(parliament.uk\)](#).

Policy Objective(s)

7. The UK Government’s stated policy objectives are to deliver on three key manifesto commitments; to pass and implement a Victims’ Code into law, to reform the parole system, and to establish an Independent Public Advocate to support victims of a major incident. Additionally, the Bill seeks to introduce changes which aim to strengthen the operation of the Parole Board and ensure public confidence in the system. The Bill will prohibit

prisoners who are serving a whole life order from entering a marriage or civil partnership while in prison; seeks to codify guidance for roles that support victims and establishes a body to administer the compensation scheme for victims of the infected blood scandal.

Summary of the Bill

8. The Bill is sponsored by the Ministry of Justice (the MoJ).
9. The Bill makes provision about victims of criminal conduct and others affected by criminal conduct; about the appointment and functions of individuals to act as advocates for victims of major incidents; about reforms to the parole system; about the membership and functions of the Parole Board; to prohibit certain prisoners from forming a marriage or civil partnership; and for connected purposes.

Changes to the Bill since the laying of the SLCM (Memorandum No 2) which engage the LCM process.

Part 1 - Clauses 1 to 4, 11, 26 and 27 – Victims’ Code

10. The UK Government made several amendments to Clauses 2 to 11, which relate to the Victims Code, at Lords Report stage. The relevant amendments for the purposes of this SLCM are:
 - a. Clarify that the Victims’ Code issued under Clause 2 is directed at persons exercising functions of a public nature relating to victims or any aspect of the criminal justice system.
 - b. Clarify the principles that must underpin the Victims Code.
 - c. Require the Secretary of State, when considering whether to make different provision in the Victims’ Code for victims of different descriptions, to have regard to the particular needs of victims who are under the age of 18 or who have protected characteristics.
 - d. Require the Secretary of State to consult the Commissioner for Victims and Witnesses and the Welsh Ministers when preparing or revising the victims’ code.
 - e. Require persons specified in the Victims’ Code to provide services in accordance with it, unless they have good reasons not to, and to have procedures for dealing with complaints.
 - f. Replace references to “children” in clause 11 with references to under-18s (the original LCM noted in relation to Clause 11, an LCM is required but that any decision regarding consent should mirror the decision for clauses 1, 2 & 3).
 - g. Requires the Secretary of State to consult the Commissioner for Victims and Witnesses before issuing guidance under Clause 11 of the Bill on raising awareness of, and reviewing compliance with, the Victims’ Code.
11. As stated in LCM (Memorandum No 1) and SLCM (Memorandum No 2) these clauses require consent on the basis that safeguarding, support

and information services to victims are areas within the Senedd's legislative competence.

Part 1 - Clause 15 – Victims of criminal conduct: Guidance about specified victim support roles

12. The UK Government laid amendments to Clause 15 at Lords Report Stage to clarify the meaning of “children” for the purposes of guidance issued under Clause 15 and to require the Secretary of State to consult the Welsh Ministers about guidance to be issued under Clause 15, so far as it relates to a matter, provision about which, would be within the legislative competence of the Senedd.
13. As stated in LCM (Memorandum No 1) and SLCM (Memorandum No 2), this clause requires consent on the basis that it makes provision with regard to welfare and safeguarding, which are devolved matters. It also requires devolved Welsh authorities with relevant functions to have regard to the Secretary of State's guidance. As such these provisions are “relevant provisions” for the purposes of SO29.

Part 2 - Clauses 28 and 30 plus new review clause - Victims of major incidents:

14. The UK Government laid amendments to Clauses 28 and 30 of the Bill at Lords Report stage, which would require the Secretary of State to consult the Welsh Ministers before declaring an incident that occurs in Wales to be a major incident in relation to the requirement to appoint an advocate and before appointing an advocate in respect of a major incident that occurs in Wales.
15. There is a further amendment, after clause 39, that requires the Secretary of State to review the operation of Part 2 of the Bill in the period of 18 months following the first time an advocate is appointed under clause 30. The Senedd could make similar provision requiring this of the Welsh Ministers in relation to an advocate for victims in Wales.
16. As stated in LCM (Memorandum No 1) and SLCM (Memorandum No 2), these clauses require consent on the basis that they concern the devolved area of the provision of support services, signposting, advocating and dissemination of information. In addition, they put reporting and review requirements on the Advocate for victims of major incidents and the Secretary of State that could be replicated for Wales in an Act of the Senedd.

Part 3 and the Schedule – Infected Blood Compensation Authority

17. The UK Government laid amendments to Part 3 of, and the Schedule to, the Bill which would replace the existing Clause 40 and insert a series of new clauses. The purpose of the new clauses is to make provision about the establishment of an arm's length body, the Infected

Blood Compensation Authority (IBCA), to administer an infected blood compensation scheme, as well as making interim payments.

18. The provisions require the UK Government to make regulations to establish an infected blood compensation scheme for making payments to eligible persons. The regulations may include matters such as eligible persons, payments, procedure for making applications and reviews and appeals.
19. There is also a requirement that the UK Government makes interim payments of £100,000 to the estates of people infected by contaminated blood products who have died, and were registered with the Infected Blood Support Schemes, or its predecessor schemes, where an interim payment has not already been made.
20. The clauses further contain provision relating to a duty of relevant persons (listed) to cooperate with the IBCA, and a power for the UK Government to make arrangements for the provision of advice and assistance to applicants under the scheme.
21. The amendments include a Schedule which contains further detail on the constitution of the IBCA, a power for the UK Government to make transfer schemes with relevant persons for the purpose of transferring to the IBCA such property, rights and liabilities of a relevant person (which includes WMs and certain NHS bodies in Wales) as they consider appropriate for the purposes of enabling the IBCA to carry out its functions, as well as the tax treatment for those schemes. The final part of the Schedule concerns consequential amendments and includes a power for the Welsh Ministers to make consequential amendments by regulations which are within the legislative competence of the Senedd.
22. The legislative competence analysis has considered the extent to which a Welsh compensation body could be established in relation to Wales. Therefore, it does not directly consider clause 40 of the Bill which establishes a body on a four nations basis as this would be outside competence; alternatively, it considers a provision which could achieve substantially the same effect in Wales i.e., one which establishes a Welsh compensation body.
23. Part 3 of and the Schedule to, the Bill is within the legislative competence of the Senedd, with the exception of paragraph 21 of the Schedule relating to tax treatment of transfer schemes. The ex-gratia support scheme in Wales is run by the Welsh Infected Blood Support Scheme (WIBSS) and was set up using the Welsh Minister's health powers contained in the NHS (Wales) Act 2006.

UK Government view on the need for consent

24. The UK Government agree consent is required for the amendments tabled with relation to Clauses 15, 28, 30 and to Part 3 of, and Schedule to, of the Bill.
25. The UK Government does not agree consent is required for the amendments tabled with relation to Clauses 1-4, 11, 26 and 27.

Welsh Government Position on the Bill following Amendments tabled at Lords report stage - Amendments to which I recommend the Senedd gives consent.

Part 3 and the Schedule – Infected Blood Compensation Authority

26. We support these provisions extending to and applying in Wales. The Welsh Government recognises the benefit and importance in taking these clauses forward so the provisions will apply at the same time across the UK to ensure that those who have received infected blood products receive compensation. A four-nations approach is preferred to ensure there is equality of provision. Welsh Government officials have worked with the UK Government and the other devolved nations in preparing the clauses.

27. As part of the work the UK Government has included two statutory consent requirements. This means the consent of the Welsh Ministers is needed before the Secretary of State/Minister for the Cabinet Office can add any new devolved bodies to the list of bodies required to cooperate with the IBCA (what would be clause 46 of the Bill) and the consent of the Welsh Ministers is required before any transfer schemes can be made by the UK Government which transfer such property, rights and liabilities of the Welsh Ministers and Welsh NHS Trusts/Special Health authorities as considered appropriate for the purposes of the IBCA carrying out its functions (paragraph 20 of the Schedule). Whilst the Welsh Government acknowledges that such transfers are necessary to ensure the operability of the IBCA, the requirements will ensure that the Welsh Ministers consent must be obtained for any such transfers to take place.

28. We are therefore supportive of the inclusion of the amendments in the Bill and recommend consenting to the provisions.

Welsh Government Position on the Bill following Amendments tabled at Lords report stage - Amendments to which I recommend the Senedd does not give consent

Part 1 - Clauses 1 to 4, 11, 26 and 27 – Victims' Code

29. Although we support the policy intention of bringing the Victims' Code into law, there are outstanding constitutional issues with the amended clauses.

30. The amendments would now require the Secretary of State to consult with the Welsh Ministers in the process of making or amending the Victims' Code. As noted previously the Senedd could not replicate the Victims' Code provisions in full, however given the impact on devolved subject matter, it remains essential that an appropriate recognition for devolved principles can be achieved.

Part 1 - Clause 15 – Victims of criminal conduct: Guidance about specified victim support roles

31. The amendments made to the clauses do not fully resolve the issues previously raised. Although we support the policy intention of providing clearer guidance on support roles for victims of VAWDASV and of criminal conduct more broadly, there are substantial constitutional issues with the amended clause.

32. Although the amendments provide that the Secretary of State must now consult the Welsh Ministers about guidance to be issued under Clause 15, so far as it relates to a matter, provision about which, would be in the legislative competence of the Senedd, our position remains that it would not be appropriate for these powers to be exercised solely by the Secretary of State in relation to Wales.

Part 2 - Clauses 28 and 30 plus new review clause - Victims of major incidents:

33. The amendments made to clauses 28 and 30 provide that the Secretary of State must consult the Welsh Ministers before declaring a major incident in Wales and before appointing an advocate for victims to such a major incident. There is also a new clause to provide for a review by the Secretary of State of the operation of the advocate.

34. However, these amendments do not fully resolve the issues previously raised. Part 2 of the Bill does not include provisions for the consent of the Welsh Ministers to be required in the declaration of a major incident in Wales and in the appointment and deployment of the advocate for victims of a major incident in Wales. It is within the legislative competence of the Senedd to legislate for an advocate for victims in Wales, and we also believe that notwithstanding this legislation, the Welsh Ministers would be able to appoint a non-statutory advocate following an incident in Wales under existing powers. The Welsh Government therefore believes that failure to include a requirement for the Welsh Ministers to grant consent for the appointment of an advocate in the Bill means that the Senedd should not give consent to these provisions.

Financial implications

35. There may be financial implications, but this will not be clear until the measures in the Bill are implemented.

Conclusion

36. Part 3 of the Bill is welcome and is in line with our policies. I am recommending the Senedd gives consent to this Part of the Bill, as listed in paragraph 26-28.
37. However, I recommend the Senedd withhold its consent in relation to the amendments and provisions listed in paragraphs 29-34.
38. We continue to discuss these clauses with the UK Government, and remain optimistic about the possibility of a compromise on these clauses which respects the Senedd's legislative competence and the Welsh Ministers' executive powers.

Lesley Griffiths MS
Cabinet Secretary for Culture and Social Justice

—
**Culture, Communications, Welsh Language,
Sport, and International Relations
Committee**

Vaughan Gething MS
First Minister
Welsh Government

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30 April 2024

Annual scrutiny

Dear Vaughan

I would like to take this opportunity to congratulate you on your recent appointment as First Minister.

You will be aware, of course, that the Committee's international relations remit includes scrutiny of the Welsh Government's international activity and how it is resourced.

As a Committee, we look forward eagerly to a number of key milestones being reached in the time that remains before the end of the Sixth Senedd, including the implementation review of the UK-EU Trade and Cooperation Agreement, the renewal of the Wales-Ireland Shared Statement and Joint Action Plan, and the soft "refresh" of the Welsh Government's International Strategy, as outlined by the former First Minister.

We would welcome the opportunity to explore these, as well as other topical international issues with you at our annual scrutiny session on 19 June 2024.

I would like to take this opportunity to wish you well in your new role, and we look forward to working with you on international relations during the remainder of this Senedd term.

I am copying this letter to the Chairs of the Legislation, Justice and Constitution Committee and the Economy, Trade and Rural Affairs Committee for their information.

Yours sincerely,



Delyth Jewell MS
Committee Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 7

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted



Huw Irranca-Davies MS
Welsh Government
5th Floor, Tŷ Hywel
Cardiff Bay
CF99 1NA

DECS Reference: MIN/1113079/24

29 April 2024

Dear Huw,

Thank you for your letter of 19 March to the Home Secretary following the Legislation, Justice and Constitution committee considering a joint letter from homelessness charities in Wales about their concerns on the nuisance rough sleeping measures in the Criminal Justice Bill. I am replying as the Minister of State for Crime, Policing and Fire and I am sorry for the delay in responding to your letter.

The UK Government agrees nobody should be criminalised for simply being destitute or sleeping rough. That is why we are committed to bringing into force the repeal of the outdated Vagrancy Act 1824. We have made the unprecedented commitment to end rough sleeping within this Parliament and have embarked on a strategy to shift the focus to prevention and move vulnerable individuals into multi-agency support. I know the Welsh Government shares this aim and have produced the Ending Homelessness Action Plan 2021-2026 and Home Office officials continue to engage closely with officials from the Welsh Government on these measures.

Rough sleeping is a complex issue requiring a multi-agency approach with appropriate wrap around support required to help address the complex vulnerabilities people sleeping rough can have. As such, the relevant provisions in the Criminal Justice Bill will be supported by guidance highlighting that local authority outreach and engagement remain as the first step in getting people away from sleeping on the streets. These tools support a staggered, multi-agency approach to enforcement where that is necessary, as per the principles set out in the joint National Police Chiefs' Council and Crisis guidance at: <https://www.crisis.org.uk/media/245310/from-enforcement-to-ending-homelessness-full-guide.pdf>.

There is already a lot of good practice between local authorities, police and other partners in addressing begging and rough sleeping in both England and Wales that can be built on. However, we also recognise that everyone has the right to go about their business without being unduly impeded and that communities have the right to feel safe.

Some instances of rough sleeping are linked to nuisance behaviours such as causing damage, disruption and distress. Where these anti-social behaviours occur, we must consider the rights of other members of the community and ensure local authorities and the police are able to appropriately intervene to address the issue, prevent or stop the nuisance caused and can also help the individual, where appropriate, into relevant

support services. Local authorities and police have told us that where a person refuses appropriate offers of support that enforcement can encourage people into accepting the help available.

We continue to look at ways to improve the drafting of these provisions, to ensure that they are tightly and narrowly drawn and to be clear that engagement and support is first and criminal sanctions are a final resort.

I do hope this provides some reassurance that our intention has never been to criminalise rough sleeping and we remain committed to ensuring these provisions are properly targeted and can both protect the public and help direct rough sleepers into relevant support.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C. Philp', written in a cursive style.

Rt Hon Chris Philp MP

The Rt Hon James Cleverly MP
Secretary of State for the Home Department

19 March 2024

Dear James

The Criminal Justice Bill

At our meeting of the Legislation, Justice and Constitution Committee on 11 March 2024 we considered a [joint letter](#) from homeless charities and housing organisations which operate in Wales in respect of the Criminal Justice Bill. Those organisations raised with us their concerns – which they described as grave concerns – in respect of the Bill's clauses on nuisance begging and nuisance rough sleeping.

We note from the Bill's [Explanatory Notes](#) that you consider the Senedd's legislative consent process to be engaged in relation to a number of its clauses, including clauses 38 to 47, 51 to 60, 63 and 64 which make provision in relation to nuisance begging and nuisance rough sleeping.

Due to the gravity of the concerns raised with us, I would be grateful if you could address the specific points which the organisations raise, including:

- the measures are "dehumanising" and "could not be further from the general direction of travel in Wales", as outlined in Welsh Government's ending homelessness action plan and White Paper on ending homelessness in Wales;
- "fining or moving people on who have nowhere to go does not solve homelessness"; and
- the clauses will "cause people who are sleeping rough to be displaced into less safe areas" and will "create a break down in trust between people forced to sleep on the streets and the organisations and authorities that can provide them with support".

Please could you respond to this letter by Wednesday 10 April 2024.

I am copying this letter to John Griffiths MS, Chair of the Local Government and Housing Committee, and Jane Hutt MS, Minister for Social Justice and Chief Whip.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair

Agenda Item 8

By virtue of paragraph(s) vii of Standing Order 17.42

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Rt Hon Mark Drakeford MS
First Minister of Wales

15 March 2024

Dear Mark

Report on the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Data Protection and Digital Information Bill

Thank you for your letter dated 8 March 2024, which we considered at our meeting on 11 March, responding to our report on the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Data Protection and Digital Information Bill (report on Memorandum No. 3). We welcome the responses you have provided to the recommendations in our report on Memorandum No. 3.

This letter will arrive with you shortly before your planned resignation as the First Minister of Wales. I would like to take the opportunity to thank you for your engagement with the Committee in respect of the significant and important matters which fall within our respective responsibilities.

Your letter raises a number of issues on which we would be grateful to receive further clarity and detail. As such, we look forward to receiving a response from your successor to the questions in the Annex at the earliest opportunity and in good time to assist our consideration of any further supplementary legislative consent memoranda for the Bill.

I am copying this letter to the Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair



Question 1. On the subject of legislative consent, to date we have held opposing views on whether the purpose of clauses 74 and 78 (clauses 54 and 56 as introduced) relating to Digital Verification Services (DVS) make provision within the legislative competence of the Senedd. The Welsh Government remains of the view that these provisions are within the Senedd's legislative competence, in so far as these clauses relate to devolved matters of public services, economy and business. You also state that:

"Indeed, on 6 February Julia Lopez MP, Minister of State for Data and Digital Infrastructure, wrote to update me on their own devolution analysis on this Part of the Bill. Previously their position had been that provisions within this Part of the Bill were reserved under the internet services reservation and therefore did not require consent of the Senedd. Her letter noted that under the Welsh Devolution Guidance Note consent should be sought when conferring or imposing reserved functions on a devolved Welsh authority. She added that as a result, whilst UKG maintain that these functions are reserved, UKG are now of the view that agreement should be sought for clause 74 and clause 78(3)."

a) Please would you share with us the correspondence received on 6 February 2024 from Julia Lopez MP, the Minister of State for Data and Digital Infrastructure.

Your letter highlights the continued view of the UK Government that clauses 74 and 78 are reserved. However, you also explain that it is the UK Government's Devolution Guidance Note, **Parliamentary and Assembly Primary Legislation Affecting Wales**, which includes a requirement for consent to be sought when provisions in a Bill confer or impose *reserved* functions on a devolved Welsh authority. This appears to be a different requirement to that of the Sewel convention, which recognises that the UK Parliament will not normally legislate in relation to Wales in regard to *devolved* matters. It also differs from the requirements of the Senedd's Standing Orders, specifically Standing Order 29.1 which states that, for the purpose of engaging Standing Order 29, a "relevant Bill" must make provision for any purpose "within the legislative competence of the Senedd" (or modify the Senedd's legislative competence).

b) We would welcome your views on the different criteria and approaches that appear to be applied by the UK Government, the Welsh Government and the Senedd's Standing Orders when assessing whether a Bill's provisions require the Senedd's legislative consent.

Question 2. Recommendation 2 in our report on Memorandum No. 3 reiterates a recommendation we had previously made in our **first report**, that we should be provided with the Welsh Government's assessment of the devolved implications of the regulation-making powers in Part 3 of the Bill. While we acknowledge that the response provided sets out a factual explanation about the regulation-making powers in Part 3, we do not consider that it provides an assessment of their devolved

implications. Please would you provide details of any devolved implications of the regulation-making powers given to the Secretary of State and the Treasury in Part 3 of the Bill.

Question 3. In response to recommendation 3 in our report on Memorandum No. 3, which relates to your “constitutional policy concerns” with the National Underground Asset Register (NUAR) provisions in the Bill, you state that you wrote to the Minister of State on 23 January 2024 setting out the Welsh Government’s concerns around the UK Government’s proposed legislative approach and the impact of the NUAR provisions on Welsh Ministers’ powers.

a) Please would you share with us the correspondence sent on 23 January 2024 to the Minister of State for Data and Digital Infrastructure.

b) In her letter on 6 February 2024, did the Minister of State address the Welsh Government’s concerns regarding the NUAR provisions? If not, have the concerns been addressed in subsequent correspondence (i.e. the 1 March 2024 letter referred to in the responses to recommendations 8 and 10) or is the Welsh Government still awaiting a response on this matter?

Question 4. In response to recommendation 8 and recommendation 10 in our report on Memorandum No. 3, you refer to correspondence received from the Minister of State on 1 March 2024 in respect of the UK Government declining to share with the Welsh Government a copy of its risk assessment on the potential impact of the Bill on the UK’s EU data adequacy decision, and in respect of the UK Government’s engagement with the European Commission on the Bill. Please would you share with us the correspondence received on 1 March 2024.

Julia Lopez MP

Minister of State for Data and Digital Infrastructure

15 March 2024

Dear Julia

The Data Protection and Digital Information Bill

At our meeting of the Legislation, Justice and Constitution Committee on 11 March 2024 we considered a letter dated 8 March 2024 from the Rt Hon Mark Drakeford MS, the First Minister of Wales, in which he responds to my Committee's report on the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Data Protection and Digital Information Bill (report on Memorandum No. 3).

The letter raises a number of matters on which we would be grateful to receive further clarity. Any detail that you would be able to provide would be very helpful to my Committee as we consider the Welsh Government's legislative consent memoranda for the Bill. Given our work is time-critical and linked to the Bill's passage through the UK Parliament, we would welcome a response by 25 April 2024.

I am copying this letter to the Senedd's Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Yours sincerely,



Huw Irranca-Davies

Chair

Annex

Question 1. On the subject of legislative consent, to date we have held opposing views to the Welsh Government on whether the purpose of clauses 74 and 78 (clauses 54 and 56 as introduced) relating to Digital Verification Services (DVS) make provision within the legislative competence of the Senedd. In his letter to us on 8 March 2024, the First Minister confirmed that the Welsh Government remained of the view that these provisions are within the Senedd's legislative competence, in so far as they relate to the devolved matters of public services, economy and business. The First Minister also told us:

"Indeed, on 6 February Julia Lopez MP, Minister of State for Data and Digital Infrastructure, wrote to update me on their own devolution analysis on this Part of the Bill. Previously their position had been that provisions within this Part of the Bill were reserved under the internet services reservation and therefore did not require consent of the Senedd. Her letter noted that under the Welsh Devolution Guidance Note consent should be sought when conferring or imposing reserved functions on a devolved Welsh authority. She added that as a result, whilst UKG maintain that these functions are reserved, UKG are now of the view that agreement should be sought for clause 74 and clause 78(3)."

a) To assist our understanding, please would you share with us the correspondence you sent to the Welsh Government on 6 February 2024.

In his letter, the First Minister highlights your continued view that clauses 74 and 78 are reserved. However, the First Minister also explains that it is the UK Government's Devolution Guidance Note, Parliamentary and Assembly Primary Legislation Affecting Wales, which includes a requirement for consent to be sought when provisions in a Bill confer or impose *reserved* functions on a devolved Welsh authority. This appears to be a different requirement to that of the Sewel convention, which recognises that the UK Parliament will not normally legislate in relation to Wales in regard to *devolved* matters. It also differs from the requirements of the Senedd's Standing Orders, specifically Standing Order 29.1 which states that, for the purpose of engaging Standing Order 29, a "relevant Bill" must make provision for any purpose "within the legislative competence of the Senedd" (or modify the Senedd's legislative competence).

b) We would welcome your views on the different criteria and approaches that appear to be applied by the UK Government, the Welsh Government and the Senedd's Standing Orders when assessing whether a Bill's provisions require the Senedd's legislative consent.

Question 2. In response to recommendation 3 in our report on Memorandum No. 3, which relates to the Welsh Government's "constitutional policy concerns" with the National Underground Asset Register (NUAR) provisions in the Bill, the First Minister states that he wrote to you on 23 January 2024 setting out the Welsh Government's concerns around the UK Government's proposed legislative

approach and the impact of the NUAR provisions on Welsh Ministers' powers. Have you responded to the Welsh Government's concerns and, if so, will you share the correspondence with us? If not, when do you anticipate that you will respond to the Welsh Government?

Question 3. In response to recommendation 8 in our report on Memorandum No. 3, the First Minister told us that the Welsh Government has not received a copy of the UK Government's risk assessment on the potential impact of the Bill on the UK's EU data adequacy decision and that you had declined to share it because it is important for UK Government officials to be able to conduct candid discussions during the policy-making process. You will be aware that there may be implications for Wales should the adequacy decision be lost. Please would you share with us the correspondence you sent to the First Minister on 1 March 2024 and/or further explain your decision not to share your risk assessment with the Welsh Government.

Agenda Item 11

By virtue of paragraph(s) vii of Standing Order 17.42

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Agenda Item 12

By virtue of paragraph(s) ix of Standing Order 17.42

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