

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Committee Room 4, Tŷ Hywel	P Gareth Williams
Meeting date: 23 June 2025	Committee Clerk
Meeting time: 13.00	0300 200 6565
	SeneddLJC@senedd.wales

Hybrid

Public meeting

(13.00 – 14.25)

1 Introduction, apologies, substitutions and declarations of interest

(13.00)

2 Homelessness and Social Housing Allocation (Wales) Bill: Evidence session with the Cabinet Secretary for Housing and Local Government

Government

(13.00 – 14.00)

(Pages 1 – 54)

[Homelessness and Social Housing Allocation \(Wales\) Bill, as introduced](#)
[Explanatory Memorandum](#)

Jayne Bryant MS, Cabinet Secretary for Housing and Local Government

Sarah Rhodes, Deputy Director Housing Policy, Welsh Government

Hannah Fisher, Head of Homelessness Prevention Legislation, Welsh Government

Julie Stokes, Lawyer, Welsh Government

Attached Documents:

LJC(6)-20-25 – Paper 1 – Briefing Paper



LJC(6)-20-25 – Paper 2 – Letter from Cabinet Secretary for Housing and Local Government to the Local Government and Housing Committee, 19 May 2025

Break

(14.00 – 14.05)

3 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

(14.05 – 14.10)

(Pages 55 – 57)

Attached Documents:

LJC(6)-20-25 – Paper 3 – Draft report

Made Negative Resolution Instruments

3.1 SL(6)618 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2025

Affirmative Resolution Instruments

3.2 SL(6)619 – The Political Parties, Elections and Referendums Act 2000 (Exclusions and Variation of Campaign Expenditure Limits) (Wales) Regulations 2025

4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

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

(14.10 – 14.15)

5.1 SL(6)615 – The Senedd Cymru (Representation of the People) Order 2025

(Pages 58 – 59)

Attached Documents:

LJC(6)–20–25 – Paper 4 – Letter to the Cabinet Secretary for Housing and Local Government, 18 June 2025

6 Inter–Institutional Relations Agreement

(14.15 – 14.20)

6.1 Correspondence from the Welsh Government: Meetings of inter–ministerial groups

(Page 60)

Attached Documents:

LJC(6)–20–25 – Paper 5 – Letter from the Counsel General and Minister for Delivery: Inter–Ministerial Group on Justice, 17 June 2025

7 Papers to note

(14.20 – 14.25)

7.1 Correspondence from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip: The Welsh Government's response to the Committee's report on the Welsh Government's Legislative Consent Memorandum on the Border Security, Asylum and Immigration Bill

(Page 61)

Attached Documents:

LJC(6)–20–25 – Paper 6 – Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 17 June 2025

7.2 Correspondence from the Cabinet Secretary for Economy, Energy and Planning: The Welsh Government's response to the Committee's report on the Welsh Government's Supplementary Legislative Consent Memoranda (Memorandum No. 3 and Memorandum No. 4) on the Data (Use and Access) Bill

(Pages 62 – 64)

Attached Documents:

LJC(6)-20-25 – Paper 7 – Letter from the Cabinet Secretary for Economy, Energy and Planning, 17 June 2025

7.3 Correspondence and Written Statement by the Counsel General and Minister for Delivery: Draft Planning (Wales) Bill

(Pages 65 – 66)

Attached Documents:

LJC(6)-20-25 – Paper 8 – Letter from the Counsel General and Minister for Delivery, 18 June 2025

LJC(6)-20-25 – Paper 9 – Written Statement by the Counsel General and Minister for Delivery, 18 June 2025

8 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting
(14.25)

Private meeting

(14.25 – 15.15)

**9 Homelessness and Social Housing Allocation (Wales) Bill:
Consideration of evidence**

(14.25 – 14.35)

10 Statutory Instrument Consent Memorandum on the Legislative Reform (Disclosure of Adult Social Care Data) Order 2025

(14.35 – 14.40)

(Pages 67 – 70)

[Statutory Instrument Consent Memorandum](#)

[Statutory Instrument](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-20-25 – Paper 10 – Legal Advice Note

LJC(6)-20-25 – Paper 11 – Letter from the Cabinet Secretary for Housing and Local Government, 30 May 2025

11 Legislative Consent Memorandum on the Victims and Courts Bill

(14.40 – 14.50)

(Pages 71 – 74)

Attached Documents:

LJC(6)-20-25 – Paper 12 – Legal Advice Note

12 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Mental Health Bill: Draft report

(14.50 – 15.00)

(Pages 75 – 93)

Attached Documents:

LJC(6)-20-25 – Paper 13 – Draft report

LJC(6)-20-25 – Paper 14 – Welsh Government response to the Committee's report on the Welsh Government's Legislative Consent Memoranda on the Mental Health Bill, 13 June 2025

13 Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Bus Services (No. 2) Bill

(15.00 – 15.15)

(Pages 94 – 105)

Attached Documents:

LJC(6)-20-25 – Paper 15 – Legal Advice Note

Document is Restricted

Jayne Bryant AS/MS
Ysgrifennydd y Cabinet dros Lywodraeth Leol a Thai
Cabinet Secretary for Housing and Local Government



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref: MA-JB-0889-25

John Griffiths MS
Chair
Local Government and Housing Committee
Welsh Parliament
Cardiff bay
Cardiff
CF99 1SN

19 May 2025

Dear John,

Following the introduction of the Homelessness and Social Housing Allocation (Wales) Bill into the Senedd on 19 May 2025, please find attached a copy of the Statement of Policy Intent. This is provided to support the Committee's scrutiny of the Bill.

I look forward to providing evidence to the Committee on the 4 June.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely

A handwritten signature in black ink that reads "Jayne Bryant". The signature is written in a cursive, flowing style.

Jayne Bryant AS/MS
Ysgrifennydd y Cabinet dros Lywodraeth Leol a Thai
Cabinet Secretary for Housing and Local Government

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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.

Homelessness and Social Housing Allocation (Wales) Bill

Statement of Policy Intent for Subordinate Legislation

Introduction

This statement sets out the policy intention for subordinate legislation which Welsh Ministers would be empowered or required to make under the provisions of the Homelessness and Social Housing Allocation (Wales) Bill ('the Bill').

The statement has been prepared in order to assist relevant committees during the scrutiny of the Bill. It should be read in conjunction with the Bill, the Explanatory Memorandum and the Explanatory Notes. It may also be necessary to reference the Housing (Wales) Act 2014 ("the 2014 Act"), the Housing Act 1996 ("the 1996 Act") and the Social Services and Wellbeing (Wales) Act 2014.

Details of the Senedd procedure associated with each of these powers are set out in Chapter 5 of the Explanatory Memorandum and are not repeated in this document.

Overview of the Bill

The Bill reforms existing homelessness and housing legislation in Wales by amending Part 2 of the 2014 Act (Homelessness) and Part 6 of the 1996 Act (Allocation of housing accommodation) to enhance the prevention and relief of homelessness in Wales. In addition, the Bill amends Part 6 of the Social Services and Well-Being (Wales) Act 2014 to impose duties on the responsible local authority to ensure suitable accommodation is available for care leavers.

In summary, the Bill will:

- support earlier and more cost-effective homelessness prevention;
- strengthen targeted prevention measures for specific groups particularly at risk of homelessness;
- widen responsibility across the public sector for the identification and prevention of homelessness;
- improve the flow out of homelessness services by providing new powers around social housing allocation.

The subordinate legislation making powers included within the Bill are set out in the following tables, along with the reasons for these powers and the supporting policy intention.

The Welsh Government will work closely with stakeholders to develop the subordinate legislation.

Section	Form	Proposal and description of power	Procedure
6()	Regulations	Section 6(3) replaces section 75 of the 2014 Act in its entirety. As amended, section 75 imposes a duty on local housing authorities to ensure that suitable accommodation is available for applicants who are homeless or at risk of becoming homeless, provided they are eligible for assistance. This section also requires an applicant to have a local connection to a local authority in Wales in order to be entitled to the duty under section 75 unless the applicant is at risk of abuse or falls within a category of person prescribed in regulations. New section 75(5)(b) therefore enables Welsh Ministers to make regulations to prescribe categories of persons who would be exempt from the local connection test under section 75 and therefore be entitled to the duty under section 75.	Affirmative

Policy purpose and intent

The power enables Welsh Ministers to ‘prescribe categories of persons’ that would be exempt from the local connection test under section 75 of the 2014 Act which in turn determines that such persons would be entitled to the duty under section 75. This is considered suitable for regulations as flexibility is required to ensure entitlement to section 75 can be amended to reflect a changing geo-political context (e.g. the recent scheme to support those fleeing the war in Ukraine) and to ensure consistency between a number of different provisions in the Bill such as the conditions for local connection (at section 12(3)), conditions for a referral to another local authority (section 11(7)) and an exemption from a referral to another local authority (section 13(3)). The categories of persons that should be entitled to the section 75 duty may also need amending in future to ensure there are no unintended consequences or disadvantages to a particular group or groups. Any future changes would be developed with delivery partners.

The Senedd will be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
11(3)	Regulations	<p>Section 11(3) inserts new subsections (2) to (2B) into section 80 for 2014 Act which includes the provision for local connection referrals to occur before either a section 66 or 75 duty is accepted (section 66 is only in the context of someone in custody).</p> <p>New subsection (2)(b) of section 80 provides Welsh Ministers with a regulation making power to prescribe circumstances when the conditions for referral are met in relation to referral of a case prior to the local authority accepting a section 66 duty where a person in custody.</p>	Affirmative
11(3)	Regulations	<p>Section 11(3) inserts new subsections (2) to (2B) into section 80 for 2014 Act which includes the provision for local connection referrals to occur before either a section 66 or 75 duty is accepted (section 66 is only in the context of someone in custody).</p>	Affirmative

		New subsection (2A)(b) of section 80 provides Welsh Ministers with a regulation making power to prescribe circumstances when the conditions for referral are met in relation to referral of a case prior to the local authority accepting a section 75 duty.	
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Policy purpose and intent

These powers enable Welsh Ministers to prescribe other circumstances where conditions for a referral are met. This provides flexibility for Welsh Ministers to set any future rules or conditions, in addition to those already set out in section 80 of the 2014 Act, for determining who may be subject to a referral to another local authority. It will ensure consistency with the powers at section 6(4) in relation to entitlement to section 75 and section 13(3) which covers possible future exemptions to a referral. Future amendment to the referral conditions may be necessary to ensure there are no unintended consequences or disadvantages to a particular group or groups. Any future changes would be developed with delivery partners.

The Senedd will be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
12(2)	Regulations	Section 12(2) replaces 81(4) of the 2014 Act with a regulation making power. This power enables Welsh Ministers to make regulations to specify circumstances in which a local connection to an area can be established.	Affirmative

Policy purpose and intent

Section 81(2) of the Housing (Wales) Act 2014 provides that a person has a local connection with the area of a local housing authority in Wales or England if they are normally resident there, and residence is or was of the person's own choice; the person is employed there; because of family associations, or because of special circumstances. This local connection criteria is to be applied by a local housing authority under section 80 for determining whether an applicant can be referred to another authority in Wales or England. This local connection criteria will also now apply to cover the local connection test which forms part of the section 75 entitlement assessment.

Section 12(2) replaces section 81(4) of the 2014 Act with a power which enables Welsh Ministers to make regulations to specify circumstances:

- in which a person is or is not to be treated as normally resident in an area,
- in which residence in an area is or is not to be treated as of a person's own choice,
- in which a person is or is not to be treated as employed in an area,
- in which a person is or is not to be treated as having a family association with an area,
- that are or are not to be treated as special circumstances connecting a person to an area.

Welsh Ministers already have existing powers to specify two of these five circumstances by order, including: the circumstances by which a person is not to be treated as employed in an area; and, where a person's residence in an area is not to be treated as if a person's own choice. This provision allows the Welsh Ministers to define each of the criteria more precisely.

The Senedd will be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
13(2)	Regulation	Section 13(2) inserts new section 81A into the 2014 Act, which outlines which applicants are exempt from referral to another local authority in Wales or England. Section 81A(2)(b) provides Welsh Ministers with a power to make regulations to prescribe further categories of persons to be exempt from referral to another local housing authority in either Wales or England.	Affirmative

Policy purpose and intent

The power enables Welsh Ministers to prescribe further categories of persons to be exempt from a referral to another local authority in Wales or England. This is considered suitable for regulations as flexibility is required. The list of persons that should be exempt from referral may need to be added to in future in order to respond to any disadvantage experienced by certain groups, emerging need or to further develop reciprocal arrangements with English authorities in respect of particular groups. This power would need to align with the power within section 6(4) to ensure where someone is exempt from a referral, they are entitled to receive a section 75 duty in the local authority where they have presented, as well as the power at section 11(7) which gives Welsh Ministers the ability to define the conditions or prescribed circumstances for a referral to another local authority area.

The Senedd will be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
21(2)	Regulation	Section 21(2) inserts new section 94A (duty of a public authority to ask and act) and new section 94B (specified public authorities) into the 2014 Act. Section 94B(2) contains a regulation-making power to amend the list of specified public authorities in section 94B, which are subject to the duty in section 94A, by removing or adding persons, or a description of persons, or changing a reference to a person or description of persons..	Affirmative

Policy purpose and intent

The bodies to which the new section 94A duty to ask and act apply are listed in new section 94B (1). A power has been included (section 94B (2)) to allow Welsh Ministers to amend by regulations section 94A(1), to omit or add a reference to a person or a description of a person or to change a reference to a person or a description of a person in the future. This is considered suitable for regulations as flexibility is required. The list of those persons may need amending (to add or omit a specified person or change a description of a person) in the future to accommodate new or different persons.

Those regulations may include provision which would require the consent of a UK Minister of the Crown under the Government of Wales Act 2006 if the provision was included in an Act of Senedd Cymru. They may also include a provision which would require consultation with a UK Minister of the Crown under the Government of Wales Act 2006 if the provision was included in an Act of Senedd Cymru.

The Senedd will be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
21(3)	Guidance	Section 21(3) of the Bill amends section 98 of the 2014 Act to require the specified public authorities listed in new section 94B to have regard to guidance issued by Welsh Ministers when exercising their functions under new section 94A (duty of a public authority to ask and act).	No procedure

The provision at 21(3) places a requirement on the public authorities specified in section 94A to have regard to guidance issued by Welsh Ministers in relation to undertaking their duty to “ask and act” under section 94A. This will ensure that guidance issued which relates to the specific “ask and act” duty is considered by all specified public bodies while they perform their functions under section 94A.

Guidance is considered appropriate as it is intended to facilitate the application and implementation of new primary legislation. Guidance will be issued by the Welsh Ministers and is not subject to a Senedd procedure.

Section	Form	Proposal and description of power	Procedure
23(4)	Regulation	Section 23(4) of the Bill amends the Social Services and Well-being (Wales) Act 2014 to substitute the existing power in section 109(3) with a new power in section 109A to make regulations about the meaning of “suitable accommodation” for the purposes of the existing duty in section 109 to provide support for a category 2 young person and for the purposes of the new duty in section 108A (as inserted by section 23(2) of the Bill) to ensure that suitable accommodation is available for care leavers.	Negative

Policy purpose and intent

This power is necessary to ensure accommodation provided to young people as they transition from care to independent living is suitable to the needs of this group and allows flexibility for Welsh Ministers to respond to issues relating to accommodation supply or providers quickly, ensuring young people are not placed in unsuitable accommodation.

Section	Form	Proposal and description of power	Procedure
32(2)	Regulation	Section 95 of the HWA 2014 concerns the duty to co-operate. Section 32(2) of the Bill substitutes subsections (5)–(8) of section 95 of the HWA 2014 with new subsections (5)-(7). New subsection (5) contains an expanded list of persons subject to the duty to co-operate and new subsection (6) provides Welsh Ministers with a regulation-making power to amend that list by removing or adding persons, or a description of persons, or by changing a reference to a person or a description of a such persons.	Affirmative

Policy purpose and intent

Effective homelessness prevention requires a multi-agency approach. It is necessary for Welsh Ministers to retain the ability to amend the list of bodies subject to the duty to cooperate in order to respond to changing practice and support local authorities to call on relevant bodies for assistance to prevent homelessness.

Those regulations may include provision which would require the consent of a UK Minister of the Crown under the Government of Wales Act 2006 if the provision was included in an Act of Senedd Cymru. They may also include a provision which would require

consultation with a UK Minister of the Crown under the Government of Wales Act 2006 if the provision was included in an Act of Senedd Cymru.

The Senedd will be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
33	Guidance	<p>Section 33 inserts a new section 96A into the HWA 2014 which provides that a social landlord must comply with a request from a local authority to provide accommodation for a homeless applicant owed the main housing duty, within a reasonable period, unless there is a good reason for not complying. Further they must comply with a reasonable request for information relating to the local authority's functions under this section.</p> <p>Section 96A(6) provides a power for Welsh Ministers to issue guidance for social landlords on what constitutes a good reason for not complying, a reasonable period of time to comply and a reasonable request from a local authority to provide information.</p> <p>Section 96A(8) places a requirement on social landlords to have regard to</p>	No procedure

		guidance given under this section.	
33	Direction	Section 33 also inserts new 96B into the HWA 2014. Section 96B(5) provides a power for Welsh Ministers to direct social landlords to comply with a request by the local housing authority made under section 96A (see above) within such period as may be specified in the direction.	No procedure

Policy purpose and intent

The purpose of the power to issue guidance in section 96A(6) in relation to this new duty is to set out Welsh Ministers' expectations of what constitutes a good reason for a social landlord not to comply with a request from a local housing authority under section 96A, the period of time that a request must be complied with and what constitutes a reasonable request. Social landlords will then need to have regard to the contents of that guidance.

Guidance is considered appropriate as it is intended to facilitate the application and implementation of new primary legislation. This guidance will provide more detailed information to assist social landlords in understanding their obligations under section 96A. Guidance will be issued by the Welsh Ministers and is not subject to a Senedd procedure.

Under section 96B, should a social landlord not respond or not comply with this request within a reasonable time period and does not have a good reason for not complying, the local housing authority can refer the matter to the Welsh Ministers. New section 96B(5) provides a power for the Welsh Ministers to direct a social landlord to comply with a request where, following consideration of the case, they agree that the social landlord did not have a good reason not to comply or did not respond within a reasonable time period.

The purpose of this power is to provide Welsh Ministers with a dispute resolution mechanism, where local housing authorities and social landlords do not agree on the request made, or social landlords do not respond to the request, to take into account the factors and evidence provided, and to allow a direction to be made that must be complied with. Any such direction must be in writing and may be varied or revoked by later direction. A direction is enforceable by mandatory order on application by, or on behalf of, the Welsh Ministers or the local housing authority that made the referral.

The substance of the power to issue a direction is set out on the face of the Bill, is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.

Section	Form	Proposal and description of power	Procedure
35(4)	Regulations	<p>Section 35(4) of the Bill inserts new subsections (6A)–(6C) into section 160A of the Housing Act 1996 which, as amended, concerns the allocation of social housing only to eligible and qualifying persons. Subsection (6B) enables local housing authorities to decide what classes of persons are, or are not, qualifying persons, subject to the restrictions in section 160A (as amended) as well as under any regulations made by the Welsh Ministers under new subsection (6C). Subsection (6C) provides the Welsh Minister with a power to prescribe classes of persons who are, or are not, to be treated as qualifying persons, and to prescribe criteria that cannot be used by local housing authorities in deciding what classes of persons are not qualifying persons.</p>	Negative

Policy purpose and intent

Section 35 of the Bill amends section 160A of the Housing Act 1996. Section 160A currently requires a local housing authority to allocate accommodation only to eligible persons, as set out in that section. As amended, section 160A allows a local housing authority to decide and set their own rules about who are, or are not, 'qualifying persons' for an allocation of social housing. This discretion is subject to the restrictions on eligibility and qualification as provided for in subsections (3), (5), (7) (as amended) and new subsection (8A) as well as under any regulations made by the Welsh Ministers under new subsection (6C). The regulation making power in subsection (6C) allows the Welsh Ministers to prescribe classes of persons who are, or are not, to be treated as qualifying persons, and to prescribe criteria that cannot be used by local housing authorities in deciding what classes of persons are not qualifying persons.

This is considered suitable for regulations as flexibility is required to allow the Welsh Ministers to respond to future changes and evolving housing needs, and where necessary, provide safeguards to ensure eligible individuals in the most urgent housing need are not excluded.

As a negative procedure, the Senedd will not be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
38	Regulation	<p>Section 38 inserts new sections 160B to 160E into the Housing Act 1996 which relate to common housing registers and accessible housing registers. New section 160D(1) provides Welsh Ministers with a regulation making power to make provision for and in connection with common housing registers. to make The regulations may, in particular, make provision about:</p> <ul style="list-style-type: none"> (a) amending and removing entries in the register in respect of a person; (b) giving notice; (c) the information that may or must be included on the register; (d) requiring or authorising the disclosure of information contained on the register to a person or description of person specified in the regulations; 	Negative

		(e) conferring functions on local housing authorities in Wales.	
38	Regulation	<p>Section 38 inserts new sections 160B to 160E into the Housing Act 1996 which relate to common housing registers and accessible housing registers. New section 160E(2). provides Welsh Ministers with a regulation making power to make provision for and in connection with accessible housing registers. The regulations may, in particular, make provision about:</p> <p>(a) amending and removing entries in the register in respect of housing accommodation;</p> <p>(b) giving notice;</p> <p>(c) about the information that may or must be included on the register;</p> <p>(d) requiring or authorising the disclosure of information contained on the register to a person or description of person specified in the regulations;</p>	Negative

		(e) conferring functions on local housing authorities in Wales	
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Policy purpose and intent

The Bill requires that all local housing authorities in Wales must have and maintain:

- a Common Housing Register, that all providers of social housing must allocate social housing to, and;
- an Accessible Housing Register, of all accommodation held by all providers of social housing that have features that will enable them to allow disabled persons to live independently.

New section 160D(1) and 160E(2) (as inserted by section 38 of the Bill) will provide Welsh Ministers with regulation making powers to determine further requirements in relation to both Common Housing Registers and Accessible Housing Registers in relation to how entries are added, amended and removed from the register and what information may be included on the register. Regulations are required for this in order to provide flexibility in response to the varied approach of social housing registers and allocation systems across Wales and to ensure that any unintended consequences of the change can be rectified quickly if necessary.

As a negative procedure, the Senedd will not be provided the opportunity to scrutinise and vote on any proposed regulations.

Section	Form	Proposal and description of power	Procedure
41	Regulation	Regulation making power to make provision that is incidental or supplementary to any provision in the Bill or that is consequential on any provision in the Bill, and to make transitional provision, transitory provision or saving provision in connection with any provision of the Bill. This includes amending, repealing or revoking any primary or subordinate legislation (including any provision of this Bill) as long as they relate to one of the above provisions.	Affirmative unless amending secondary legislation then any regulations made under this section will be subject to the negative procedure.

Policy Purpose and Intent

These are standard Bill provisions to enable the Welsh Ministers to make supplementary, incidental, transitional or consequential amendments to primary and secondary legislation in order to give full effect to the Bill.

Transitional and savings provisions are often utilised to ensure smooth transition between existing and new regimes.

It is likely that we will need to utilise these powers. We will liaise with relevant stakeholders on the need for such provisions.

The Senedd will be provided the opportunity to scrutinise and vote on regulations which will amend the Bill unless these relate to amendments to secondary legislation.

Section	Form	Proposal and description of power	Procedure
42	Order	This section provides the Welsh Ministers with a power to commence the provisions of the Bill by an order. Transitional or saving provisions can be made in connection with the coming into force of the provisions.	No procedure

Policy Purpose and Intent

This is a standard Bill provision to enable Welsh Ministers to commence provisions as and when it is appropriate to do so.

Section 42(1) outlines which sections come into force the day following the day the Act receives Royal Assent, while section 56(2) provides which sections come into force two months after the Act receives Royal Assent. Section 41(2) provides for the other provisions to come into force on a day appointed by the Welsh Ministers by exercising this power to make an order. It is appropriate to commence provisions by an order as it will be necessary to ensure that implementation arrangements are in place before the sections come into force.

Statutory Instruments with Clear Reports 23 June 2025

SL(6)618 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2025

Procedure: Made Negative

These Regulations provide for up to £1,500 of a full-time undergraduate student's living costs loan (also known as a maintenance loan) for academic year 2025/26 to be cancelled in certain circumstances.

The cancellation will take effect from the day after the date on which the student's first loan repayment is received. It will not be in the form of a cash lump sum; rather the balance of an individual's loan will be reduced by the appropriate amount the day after a borrower's first repayment is made.

A student can only receive a partial cancellation once; they cannot receive a partial cancellation in respect of academic year 2025/26 if they have already received a cancellation in respect of any previous academic year. A student will not be entitled to a partial cancellation if there are any outstanding charges or penalties or they are in breach of their loan agreement or any regulations made under section 22 of the Teaching and Higher Education Act 1998.

Parent Act: Teaching and Higher Education Act 1998

Date Made: 03 June 2025

Date Laid: 05 June 2025

Coming into force date: 01 August 2025



Statutory Instruments with Clear Reports

23 June 2025

SL(6)619 – [The Political Parties, Elections and Referendums Act 2000 \(Exclusions and Variation of Campaign Expenditure Limits\) \(Wales\) Regulations 2025](#)

Procedure: Affirmative

These Regulations amend the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”).

Section 79 and paragraph 6 of schedule 9 of the 2000 Act impose campaign expenditure limits for political parties who are registered with the Electoral Commission and who are contesting a Senedd general election. As a result of Senedd reform the limits no longer operate as intended and these regulations amend schedule 9 to vary them. The Electoral Commission has consented to that amendment. Section 72 and schedule 8 set out which types of expenses should be regarded as a campaign expenses, and therefore subject to the limit, and which types of expenses should not. These Regulations amend schedule 9 to provide that security related expenses are not subject to the limit. The Electoral Commission recommend this amendment.

Parent Act: Political Parties, Elections and Referendums Act 2000, Senedd Cymru (Members and Elections) Act 2024

Date Made:

Date Laid:

Coming into force date: 04 July 2025



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**Legislation, Justice and
Constitution Committee**

Welsh Parliament
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0300 200 6565

Jayne Bryant MS
Cabinet Secretary for Housing and Local Government

18 June 2025

Dear Jayne

The Senedd Cymru (Representation of the People) Order 2025

At our meeting on 16 June 2025, the Committee considered your reply, dated 12 June 2025, to our letter of 4 June, and the Welsh Government's formal response to our report on The Senedd Cymru (Representation of the People) Order 2025 (the Conduct Order).

While the Committee welcomes the Government's detailed response to the points raised in the Committee's report, our letter to you asked for clarity on the process which led to the Conduct Order being laid before the Senedd containing the errors and inconsistencies we identified. Such clarity is not provided in your letter of reply to the Committee. This is disappointing.

In our letter to you the Committee acknowledged that the Conduct Order is large, but nonetheless expressed concern at the high number of defective drafting issues and instances where the English and Welsh language texts do not match. The Committee is now similarly concerned that you are proposing to address more than 20 points raised in our report via the correction prior to making process.

In a letter to the Committee in June 2024, the previous Counsel General said corrections would only be made to an instrument after its approval by the Senedd and prior to being signed into law by a Welsh Minister "when the error in question is very minor". The previous Counsel General also told the Committee that "there is the further safeguard that the instrument can only be made if it is approved (in the knowledge of the proposed correction) by the Senedd". On this matter, we acknowledge that you have drawn the proposed corrections to the attention of the Senedd.

However, while each error identified by the Committee and which you propose to correct prior to making may be “minor”, correcting more than 20 errors in an instrument after it has been approved by the Senedd is perhaps an unreasonable and inappropriate use of the correction prior to making process.

The previous Counsel General told the Committee that the Welsh Government’s view is that “a correction that substantively changes an instrument in any way (let alone changes the underpinning policy intention of that instrument), is not one which can be dealt with on making”. The Committee is unclear whether you have considered whether the total sum of each proposed correction amounts to substantially changing the instrument. Your statement that you “do not believe that any of the matters reported on by the Committee give rise to any issues that compromise the overall integrity of Order” is a different assessment as to whether the instrument scrutinised and approved by the Senedd is deemed to have been substantially changed before being signed into law.

Furthermore, having considered your proposed corrections, we also have concerns that some of them will not address the errors and issues we identified in our report. For example, in the Welsh version of the Conduct Order, it appears that the entire text of all the definitions need to be noted in English in rule 2(2) of the Election Petition Rules 1960 rather than only the defined terms themselves. Therefore, the Committee is unclear if the proposed changes to paragraph 2(1) of Schedule 9 to the Order are correct as they only change the defined terms rather than the entire definitions.

In your letter you confirm that the Senedd will be asked to consider the Order as laid on 8 July. The Committee would therefore welcome an urgent response to these matters.

In responding to the matters raised above, the Committee would also welcome clarification on the Welsh Government’s intentions regarding Automatic Voter Registration. The Committee is aware that a statement was due to be made to the Senedd this week.

I am copying this letter to the Rt Hon Eluned Morgan MS, First Minister of Wales, Julie James MS, Counsel General and Minister for Delivery, and the Rt Hon Elin Jones MS, Llywydd.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges
Chair

Agenda Item 6.1

Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery



Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

17 June 2025

Inter-Institutional Relations Agreement: Inter-Ministerial Group on Justice

I am writing in accordance with the inter-institutional relations agreement to notify you that the first meeting of the Inter-Ministerial Group on Justice since the change of government will be held on 3 July at the State Room of Dover House in London.

The meeting is due to be chaired by Lord Ponsonby, Parliamentary Under-Secretary of State in the Ministry of Justice, and I will be representing the Welsh Government in person. The meeting is likely to focus on a range of issues including prison capacity, court backlogs and caseloads, and legal aid.

I will provide an update after the meeting.

I am copying this letter to the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip.

Yours sincerely,

Julie James AS/MS

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery

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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.

Jane Hutt AS/MS
Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y
Trefnydd a'r Prif Chwip
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

Agenda item 7.1


Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of the Legislation, Justice & Constitution Committee

mike.hedges@senedd.wales

17 June 2025

Dear Mike,

I am writing to thank you and the members of the Legislation, Justice & Constitution Committee for the extensive work you have undertaken to date with regards to the development and progression of the UK Government's Border Security, Asylum and Immigration Bill.

Thank you for the work to date on producing the most recent report, titled '*The Welsh Government's Legislative Consent Memorandum on the Border Security, Asylum and Immigration Bill*'.

As the document makes no recommendations and the conclusions made in the report have already been addressed in previous correspondence, I will not respond on the entirety of the report but wanted to take this opportunity to reiterate how important the work of the Committee is *and* will continue to be as this Bill progresses through the House Of Lords and through Committee Stage.



Jane Hutt AS/MS

Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y Trefnydd a'r Prif Chwip
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

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Llywodraeth Cymru
Welsh Government

Ein cyf/Our Ref: MA/RE/1216/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
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17 June 2025

Dear Mike,

I am writing in response to the Legislation, Justice and Constitution Committee's reports on the Supplementary Legislative Consent Memorandums (SLCM) No.3 and No.4, laid in respect of the Data (Use and Access) Bill ("the Bill").

As you will be aware, the Senedd plenary debate for the Legislative Consent Motion on the Bill was held on 6 May 2025. My recommendation was that the Senedd give its consent for the relevant provisions within the Bill, and I am pleased that the motion was agreed. I have since laid a further SLCM (No.5) on 16 May 2025 regarding provisions within Part 3 of the Bill, which make supplementary provision to the clauses for which consent was previously sought.

I would like to thank the Committee for their consideration of the two Supplementary Memoranda No.3 and No.4. I have considered the conclusions set out in the report on SLCM No.3 and also the points highlighted in the report on SLCM No.4.

Legislative Consent

I am pleased that the Committee continue to agree with the Welsh Government's assessment of provisions within the Bill which require the consent of the Senedd, in accordance with Standing Order 29.

Part 3 of the Bill (National Underground Asset Register)

With regards to the National Underground Asset Register (NUAR) provisions, I note that the Committee welcomes amendment Gov 5 tabled on the 25 March 2025 and are also of the view that amendments Gov 1 - Gov 4 deliver an improvement to the Bill as introduced.

As I outlined during the motion debate, the legislative approach taken in Part 3 of the Bill as introduced, had caused the Welsh Government the most concern from a constitutional perspective. Of particular concern was the revocation of the Street Works (Records) (Wales) Regulations 2005 and extension of the equivalent regulations in England, the Street

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Works (Records) (England) Regulations 2002, to Wales. The amendments tabled to the NUAR provisions demonstrated a significant concession on the part of the UK Government and will ensure devolved interests remain protected in the development of further subordinate legislation surrounding the creation of the NUAR.

On the matter of how potential disagreements as to whether a provision made under Part 3A falls within the legislative competence of the Senedd, I can assure the Committee that the Welsh Government will continue to work closely with the UK Government at both official and Ministerial level throughout the legislative process and beyond, in order to address any potential areas of disagreement.

With regards to the consent provisions which have now been included in Part 3 of the Bill, I can also assure the Committee that the Welsh Government will write to relevant Senedd committees, informing them of an intention to consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales. This is in line with Inter-Institutional Relations Agreement and will include an explanation as to the rationale for the intention to consent. Where time allows, opportunity will of course be given to the Senedd to express a view prior to consent being formally given. A written Statement will then follow.

The Welsh Government has been working closely with the Geospatial Commission on the NUAR project for a number of years and we began piloting the NUAR here in Wales in 2021. Given the subject matter, I am content with regulation making powers being provided solely to the Secretary of State in relation to the NUAR.

Matters of concern in Parts 1 and 2 of the Bill which are not resolved

The Committee will be aware that UK Government's assessment of the need for legislative consent for Parts 1 and 2 of Bill differs to that of the Welsh Government. Whilst the Welsh Government did pursue amendments to provide Welsh Ministers with a formal role, we also recognised the argument put forward by UK Government on the extent to which they considered these provisions to be devolved. There was also recognition in the Welsh Government of the benefits that Part 1 and 2 provisions will bring to the people of Wales, particularly when delivered on a UK-wide basis. Having the same Smart Data regulatory regime apply across the UK will simplify operations and ensure that both consumers and businesses benefit, regardless of where they live or where they are based. Having a UK wide Code of Practice for sharing personal information for digital verification purposes will avoid any disparity of guidance. This will prevent confusion between public authorities in Wales and UK wide identity service providers, to whom they would be providing the information.

In Conclusion 6 of your report on SLCM (No.3), the Committee highlight that the Welsh Government's concerns regarding similar provisions in the previous UK Government's Data Protection and Digital Information (DPDI) Bill led the Welsh Government to recommend to the Senedd that consent be withheld. As I set out in the motion debate on 7 May, key to the recommendation that consent be withheld for the DPDI Bill was the approach taken in respect of the NUAR provisions. The Committee will recall that the removal of a devolved executive function from the Welsh Ministers, without agreement, was highlighted at the time as being completely inappropriate. Engagement with the current UK Government has resolved this issue and the amendments tabled to the NUAR provisions in Part 3 of the Bill demonstrate positive and constructive continued working with the new UK Government.

I can confirm that my recommendation that the Senedd gave its consent to the relevant provisions, was in recognition of the positive impacts of this Bill, including those which will be achieved as a result of provisions in both Part 1 and Part2, as well being in recognition of the constitutional safeguards introduced in Part 3.

UK-EU obligations

The responsibility for the renewal process for the UK data adequacy decisions sits with the EU Commission, who have recently proposed a six-month extension to its adequacy decisions. This is to provide time for the Commission to complete its review of data adequacy once the Bill has completed its passage through the UK Parliament. As such, the outcome of the data adequacy review will not be known until after the Bill has completed its passage

Both I and my officials have stressed the importance of retaining data adequacy to the UK Government prior to the Bill's introduction and throughout its passage through the UK Parliament. I can confirm that the Welsh Government will continue to raise concerns through the appropriate inter-governmental channels.

Overall concerns

As I wrote above, the legislative approach taken in Part 3 of the Bill as introduced had caused the Welsh Government the most concern from a constitutional perspective. It is my view that the amendments tabled to Part 3 of the Bill have addressed these concerns. Therefore, I do not agree with the Committee's view that there remain significant issues with the Bill's provisions as they relate to devolved matters.

I note the Committee's concerns regarding the provision of robust and timely information in legislative consent memoranda and I remain committed to enabling efficient discharge of the legislative consent process. Early engagement with the UK Government enabled both SLCM No.3 and SLCM No.4 to be laid as quickly as possible and in accordance with Standing Orders, in order to provide the Senedd Committee's with time to scrutinise them prior to the motion debate.

I hope this provides further clarity for the Committee.

Yours sincerely,



Rebecca Evans AS/MS

Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio

Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery



Mike Hedges MS, Chair
Legislation, Justice and Constitution Committee
Cardiff Bay
Cardiff, CF99 1SN

Llywodraeth Cymru
Welsh Government

18 June 2025

Annwyl Mike,

Planning (Wales) Bill

I have today published a copy of the current working draft of the Planning (Wales) Bill together with its Explanatory Notes and table of origins: [Draft Planning \(Wales\) Bill | GOV.WALES](#)

I hope your Committee will find these documents helpful ahead of the Bill's introduction into the Senedd in September 2025. At that time the Government will also introduce the Planning (Consequential Provisions) (Wales) Bill.

My officials are available to discuss these drafts with the Committee or its support staff if that would be helpful.

Yn gywir,



Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery

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Llywodraeth Cymru
Welsh Government

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **Draft Planning (Wales) Bill**

DATE **18 June 2025**

BY **Julie James MS, Counsel General and Minister for Delivery**

In April I set out the Government's intentions to bring forward legislation to consolidate the law on planning. The Planning (Wales) Bill and the Planning (Consequential Provisions) (Wales) Bill will be introduced into the Senedd in September 2025.

Ahead of that, I have today published the current working draft of the Planning (Wales) Bill and its Explanatory Notes. I hope these will be helpful Members and those with an interest in the planning system in Wales to become familiar with the legislation, ahead of the Senedd's formal scrutiny of the consolidation proposals.

Draft Planning (Wales) Bill: [Draft Planning \(Wales\) Bill | GOV.WALES](#)

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Mike Hedges MS
Chair
Legislation Justice and Constitution Committee
Senedd Cymru

Copied to:
Local Government and Housing Committee
Health and Social Care Committee

30 May 2025

Dear Mike,

I am writing to inform you that, in accordance with Standing Order 30A, I have laid a Statutory Instrument Consent Memorandum (SICM) in the Senedd in respect of the following UK Statutory Instrument laid before Parliament on 21 May 2025:

The Legislative Reform (Disclosure of Adult Social Care Data) Order 2025

The link to the SICM can be found here:

[The Legislative Reform \(Disclosure of Adult Social Care Data\) Order 2025](#)

I consider the Order to be a relevant statutory instrument because it makes provision in relation to Wales amending primary legislation, namely the Public Audit (Wales) Act 2004, within the legislative competence of the Senedd and which is not an incidental, consequential, transitional, transitory, supplementary or savings provision relating to matters that are not within the legislative competence of the Senedd.

I have released a written statement, which you can access [here](#).

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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.

I intend to table a motion for debate on this SICM.

Yours sincerely,

A handwritten signature in black ink that reads "Jayne Bryant". The signature is written in a cursive style with a large, prominent 'J' and 'B'.

Jayne Bryant AS/MS
Ysgrifennydd y Cabinet dros Lywodraeth Leol a Thai
Cabinet Secretary for Housing and Local Government

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Sarah Murphy AS/MS
Y Gweinidog Iechyd Meddwl a Llesiant
Minister for Mental Health and Wellbeing



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref : MA/SM/1042/25

Mike Hedges MS,
Chair, Legislation, Justice & Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
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13 June 2025

Dear Mike,

Thank you for your report on the Legislative Consent Memorandum for the Mental Health Bill received in April and my thanks for your agreement to a slight delay in our submission to you.

Please find attached the Welsh Government's response to these recommendations.

Yours sincerely,

A handwritten signature in black ink that reads "S. Murphy".

Sarah Murphy AS/MS
Y Gweinidog Iechyd Meddwl a Llesiant
Minister for Mental Health and Wellbeing

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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.

The Welsh Government's Legislative Consent Memoranda on the Mental Health Bill

Welsh Government response to the Legislation, Justice and Constitution Committee's report

June 2025

In April 2025, the Legislation, Justice and Constitution Committee submitted its report on the Welsh Government's Legislative Consent Memoranda for the Mental Health Bill. The report includes three conclusions and eight recommendations. This is the Welsh Government's response to those recommendations.

Introduction

The Mental Health Bill ("the Bill") was introduced in the House of Lords on 6 November 2024.

The UK Government's stated policy objectives are to modernise mental health legislation to give patients greater choice, autonomy, enhanced rights and support; and ensure everyone is treated with dignity and respect throughout treatment. The Bill also includes measures to improve the care and support of people with a learning disability and autistic people, reducing reliance on hospital-based care.

It contains a number of amendments to the Mental Health Act 1983 ("the Act"). The measures in this Bill are generally intended to strengthen the voice of patients subject to the Act. They add statutory weight to patients' rights to be involved in planning for their care, and to inform choices regarding the treatment they receive. The reforms will increase the scrutiny of detention to ensure it is only used when, and as long, as necessary. The Bill also seeks to limit the use of the 1983 Act to detain people with a learning disability and autistic people.

The Act provides the legal framework for the detention and compulsory treatment of individuals with mental disorders who may pose a risk to themselves or others. The primary focus of recent reforms to the Act has been Parts 2 and 3, which address civil patients (patients who are liable to be detained in hospital and who are not subject to the Act as a consequence of any involvement with the

criminal justice system) and offenders with mental disorders, respectively. Over two thirds of those detained under the Act are civil patients (under Part 2).

The last major amendment to the Act took place in 2007, introducing Community Treatment Orders (CTOs), Independent Mental Health Advocates (IMHAs), and modified detention criteria. Part 3 governs the treatment of offenders with relevant mental disorders, divided into restricted and unrestricted patients. Restricted patients, who pose a public safety risk, are under stricter controls by the Secretary of State for Justice, whereas unrestricted patients are treated similarly to civil patients, with fewer restrictions.

The latest reforms, which are being put forward in the Mental Health Bill introduced into Parliament in 2024, are based on the findings of the 2018 Independent Review of the Act, led by Professor Sir Simon Wessely. The review highlighted significant problems with the Act's application and culture, and it made 154 recommendations. The Westminster government accepted most of these recommendations and, following consultations and pre-legislative scrutiny, a draft Bill was introduced in 2022 and revised and introduced in 2024 to incorporate changes on the basis of the feedback received.

Given that the Act covers both reserved and devolved areas, there are well established partnership arrangements in Wales which support the safe operation of the Act, particularly where there is an interface between the justice system and the health system in Wales. The new Act, once it comes into force, will build on those established arrangements to ensure that its implementation is carried out smoothly and effectively.

In Wales, the Mental Health (Wales) Measure 2010 ("the Measure") is a unique piece of legislation designed to provide a legal framework to improve mental health services. Implementation of the services required by the Measure began, on a phased basis, in January 2012 and includes improved access to mental health services within primary care; care and treatment plans and care coordinators for everyone receiving secondary mental health services; self-referral back into mental health services for adults discharged from secondary mental health services; and extending the availability of independent mental health advocacy. The Measure aimed to improve access to support in primary care but also to strengthen the rights of people accessing mental health services, but who are not subject to the Act.

The Measure is primarily aimed at supporting earlier intervention and preventing escalation to more specialised services or detention under the Act.

The Act is primary legislation in England and Wales that governs the assessment, treatment and rights of individuals for people with a mental health disorder. The Act includes both reserved and devolved areas, and the interface between both – for instance between the criminal justice system and health services – means that a UK Bill is the appropriate mechanism to deliver these policy changes.

Given the mix of reserved and devolved areas in the Act and in this Bill, legislating on a Wales-only basis would not achieve the same policy intent across the justice and health systems as this UK Bill does. Where the Bill makes provisions that have regard to devolved matters, the consent of the Senedd has been sought.

Our Mental Health (Wales) Measure is Wales-only legislation and aims to set out how services need to work together to provide mental health support in the community. The Act is largely about compulsory powers and admission to, or discharge from, hospital.

Responses to the eight recommendations

Recommendation 1

The Committee recommends that

The Welsh Government should provide more detailed information outlining why it believes the consent of the Senedd is not required for clauses 9, 33, 47 and 48 of the Bill as introduced.

Response: Reject

I am of the view that the above clauses do not have regard to devolved matters and as such the consent of the Senedd is not sought in relation to these clauses.

For example, the purpose of clause 9 is to deal with the remission of, or where relevant, the release of, prisoners and detainees with severe mental health needs back to their place of detention when they no longer require treatment - highlighting the close interaction between devolved and reserved matters within this Bill. In this instance, it is my view that this does not have sufficient regard to devolved matters requiring the consent of the Senedd.

It is this approach that has ultimately led to the conclusions that the consent of the Senedd is not sought in respect of these clauses.

Financial Implications – None

Recommendation 2

The Committee recommends that

The Welsh Government should seek the Senedd's consent for clauses 9, 33, 47 and 48 of the Bill as introduced.

Response: Reject

As explained in my response to recommendation 1 above, I do not consider that the Senedd's consent is required in respect of the above clauses as they do not have regard to devolved matters.

Financial Implications – None

Recommendation 3

The Committee recommends that

The Minister should explain what consideration the Welsh Government gave to keeping the Senedd updated on the work it was undertaking in relation to the Bill, between publication of the UK Government's White Paper and the introduction of the Welsh Government's Legislative Consent Memorandum.

Response: Accept

During the consultation process on the White Paper, Welsh Government officials did receive and review consultation responses from Wales. However, the Bill was not included in the King's Speech in November 2023 and it did not feature in the legislative programme for that year. No further work was undertaken by officials on the UK Bill at that stage.

Financial Implications – None

Recommendation 4

The Committee recommends that

Given that that the Welsh Government appears to have been working with the UK Government on the Bill for at least four years, the Minister should explain why it has not been possible to introduce a Bill into the Senedd for scrutiny.

Response: Accept

As covered in the response to recommendation 3, work on the UK Bill ceased in November 2023.

In my responses to the Health and Social Care Committee, I was clear about why we should be working collaboratively with the UK Government on this UK Bill. The Act is primary legislation in England and Wales that governs the assessment, treatment and rights of individuals for people with a mental health disorder. The Act includes both reserved and devolved areas, and the interface between both – for instance between the criminal justice system and health services – means that, a UK Bill is the appropriate mechanism to deliver these policy changes.

Given the mix of reserved and devolved areas in the Act and in this Bill, legislating on a Wales-only basis would not achieve the same policy intent across the justice and health systems as this UK Bill does. Where the Bill makes provisions that have regard to devolved matters, the consent of the Senedd has been sought.

Financial Implications – None

Recommendation 5

The Committee recommends that

The Minister should explain how her approach of using a UK Government Bill to legislate in relation to mental health respects devolution.

Response: Accept

My approach of using this UK Government Bill and recommending consent is in line with our principles on UK Legislation and allows us to deliver positive provision in the best interests of Wales.

I have covered some of this in my response to recommendation 4. The Act applies where individuals need to be detained for urgent or emergency assessment and/or treatment, and the individual may not consent to that treatment. The latest published data shows that in 2021-22 there were 2,231 formal admissions to mental health hospital beds, and overall admissions continue to fall.

The Act includes powers for the police to detain individuals and there is also an interface with prisons and the wider criminal justice system – so it is clear why this needs to be legislated for at a UK level.

The Mental Health (Wales) Measure 2010 applies to a much broader cohort engaged with primary and secondary mental health services – Local Primary Mental Health Support Services alone received more than 6,200 referrals each month since the start of January 2023. We have introduced unique legislation in Wales which has improved support and safeguards for most people who come in to contact with our mental health services. The Act is concerned with compulsory powers for assessment and treatment across health services and the criminal justice system.

I recognise the Senedd is afforded less scrutiny through this approach, but I need to balance the consideration with the need to deliver positive change for Wales. Being part of this Bill ensures the people in Wales are being protected in the same way as those in England, thereby delivering key policy objectives in the area of mental health.

Financial Implications – None

Recommendation 6

The Committee recommends that

The Minister should list all the clauses in the Bill where the interrelationship between reserved matters and devolved matters is closely intertwined and explain that relationship in each case.

Response: Reject

The interrelationship between reserved matters and devolved matters is closely intertwined in many of the Bill's clauses.

I referred to clause 9 of the Bill as one such clause where the interaction between devolved and reserved matters is so closely intertwined but where I consider that the provision does not have regard to devolved matters requiring the consent of the Senedd.

There are many other examples of such clauses where the relationship is closely intertwined. For example (not exhaustive) clause 34 (transfers from prison to hospital: conditions); clause 35 (transfers from prison to hospital: time limits);

clause 47 (remand for a person's own protection etc); and clause 48 (removal of interim remand patients to and from Channel Islands or Isle of Man) (as at the Bill's introduction).

I have considered in each of these cases whether the clause has regard to devolved matters, and where I have concluded that they do, the consent of the Senedd has been sought.

Financial Implications -None

Recommendation 7

The Committee recommends that

The Welsh Government should seek the Senedd's consent for clause 53 of the Bill as introduced.

Response: Reject

No consent has been sought in relation to clause 53 as introduced as this is a technical provision clarifying commencement of the Bill rather than a substantive provision. The Senedd's consent has been sought in respect of the substantive provisions of the Bill which I have concluded have regard to devolved matters.

Financial Implications -None

Recommendation 8

The Committee recommends that

The Welsh Government should make representations to the UK Government to seek the Bill's amendment for the purposes of including commencement powers for the Welsh Ministers

Response: Reject

The commencement provision ensures that policy objectives under the Bill can be implemented by the UK Government. This avoids potential complexity and impracticality that may arise if separate commencement provisions were included in the Bill in relation to Wales, which does not appear necessary within the context of this Bill.

My officials continue to meet on a weekly basis with UK Government officials and have developed effective and collaborative working relationships. This will ensure that provisions are commenced at an appropriate time in Wales.

Financial Implications – None

Agenda Item 13

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

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