

Agenda – Equality and Social Justice Committee

Meeting Venue:

Committee Room 5 (Ty Hywel)

Meeting date: 23 February 2026

Meeting time: 13.30

For further information contact:

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**** At its meeting on 9 February 2026 the Committee resolved under SO 17.42(vi) to exclude the public from its meeting on 23 February 2026 ****

Pre-meeting

(13:15–13:30)

1 Introductions, apologies, substitutions and declarations of interest

(13:30)

2 Post-legislative scrutiny of Future Generations Act: consideration of draft report

(13:30–14:30)

(Pages 1 – 60)

3 Legislative consent measure: Armed Forces Bill: consideration of legal advice note

(14:30–14:45)

(Pages 61 – 81)

Aled Evans, Legal Services, Senedd Commission



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LEGISLATIVE CONSENT MEMORANDUM

ARMED FORCES BILL 2026

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru¹ if a UK Parliamentary Bill makes provision in relation to Wales that has regards to devolved matters.
2. The Armed Forces Bill (“the Bill”) was introduced in the House of Commons on 15 January 2026. The Bill can be found at: [Armed Forces Bill](#)

Policy Objective(s)

3. The UK Government’s stated policy objectives are:
 - To renew the Armed Forces Act 2006 and so continue in force primary legislation governing the Armed Forces
 - to put the Armed Forces Covenant fully into law
 - to establish the Defence Housing Service to improve the availability and quality of defence housing
 - to make provision about service in the Reserve Forces and expand the pool of Reserves
 - to make provision about the Service Justice System
 - to make provision about visiting forces
 - to make provision about the defence functions of the Oil and Pipelines Agency
 - to make provision about the protection of military remains.

Summary of the Bill

4. The Bill is sponsored by the Ministry of Defence (MOD).
5. The key provisions of the Bill cover:
 - Renewing the Armed Forces Act 2006 for a further five years (until 2031)
 - Expanding the Armed Forces Covenant legal duty of due regard to UK and Devolved Governments
 - Creation of a new Defence Housing Service to improve quality and supply of defence housing

¹ Please note in accordance with Welsh Government policy we refer to the legislature in Wales as “Senedd Cymru” on first use and “the Senedd” thereafter unless the context stipulates otherwise.

- Creation of a new authorisation regime for countering drone activity on the defence estate
- Protection from sexual and violent behaviour, stalking and harassment
- Support for victims of service offences
- Investigation, arrest and charging
- Duties and powers of commanding officers.
- Service courts
- Driving disqualification
- Rehabilitation of offenders
- Armed Forces Commissioner
- Reserve Forces
- Visiting forces
- Ministry of Defence Police
- There are a number of miscellaneous provisions such as creating legal powers to detain service persons overseas in cases of mental disorder and automatically designating all military shipwrecks as protected places.

In particular the Bill seeks to:

- Bring UK departments and Devolved Governments into the scope of the Covenant due regard duty, extending the existing duty that currently applies in Wales to local authorities, health and education bodies
- Extend the duty to additional policy areas (relevant matters) specifically: childcare, education and training, employment, health and social care, housing, social security benefits, personal taxation, criminal justice, transport, pensions, immigration and citizenship, and Armed Forces compensation
- Change the existing duty from applying to a number of 'specified matters' within a relevant function eg. 'Homelessness' within the Housing function, to a broader definition with no specified matters eg. 'relevant housing function'
- Make provision that when exercising the function, the assessment of disadvantage arising for service people from membership / former membership, of the armed forces is to be assessed by reference to others in comparable circumstances who are not service people. This will now be set out in primary legislation
- Amend the regulation making power of the SoS from the existing power to only allow addition of functions and persons or bodies, to allowing also the removal or modifying of matters and persons
- Establish a new body - the Defence Housing Service - as a key part of the Defence Housing Strategy 2025. Its role is to improve the availability and quality of defence housing, regenerate or develop land used for defence purposes, support the development of service communities, and promote their continued wellbeing.
- Give Defence personnel powers to use approved equipment to detect, prevent and defeat drone related offences at Defence sites.

- Modernise and improve victim support in the Service Justice System (SJS). Ensure the SJS is able to protect victims of the most serious offences from further harm: Improve the effectiveness/efficiency of the SJS.
- Align legislation on public protection for those sentenced to imprisonment by Service Courts for certain serious offences e.g. serious violent offences and coercive control, so they are subject to Multi-Agency Public Protection Arrangements in the same way as those in the civilian criminal justice system.
- Extend the remit of the Armed Forces Commissioner to cover the Royal Fleet Auxiliary
- Replace the Reserve Forces and Cadets Associations with a new national non-departmental public body that will take on its functions.
- Expand the pool of Reserves; Enable seamless transfer between regular and reserve forces; Give the Secretary of State power to authorise recall for warlike operations that are being prepared or conducted.
- Remove the Votes A reporting requirements to Parliament in respect of reserve forces and commitments.
- Enable the Ministry of Defence Police (MDP) to deal with offences that cross national borders.
- Enable service personnel (or civilian personnel subject to service discipline) to be detained when their mental health poses significant risk to themselves or others whilst deployed overseas.
- Amend the Oil and Pipelines Act 1985 to expand the energy sources and fuels in relation to which the Oil and Pipelines Agency may exercise its defence-related functions.

Engagement with the UK Government

6. My officials have had early, consistent and positive engagement with officials in the Ministry of Defence as the Bill has developed.
7. The UK Minister for Veterans and People wrote to the Cabinet Secretary for Transport and North Wales on 24 April 2025 outlining the UK proposals to extend the legal duty of due regard to UK departments, the Devolved Governments and public bodies already in scope of the current duty. A trilateral was also held with the Scottish Government Minister for Parliamentary Business and Veterans and UK Minister for Veterans and People where the proposals were discussed.
8. The Minister for the Armed Forces wrote to the First Minister on 6 January ahead of the Bill's introduction, and 21 January, outlining the UK Government's devolution analysis.

Provisions in the Bill for which consent is required

9. The Bill's provisions impose functions on several Devolved Welsh Authorities (Welsh Ministers, Welsh local authorities, education and health bodies) and/or has regard to devolved matters. The provisions

relate to the operation of Welsh public services and the matters that those public bodies should consider when exercising their functions (albeit some of these relate to reserved matters such as immigration, taxation and criminal justice).

10. The Senedd's consent is required for the provisions relating to the following clauses:

Clause 2 – Armed Forces Covenant

11. This clause extends the existing legal duty of due regard to Welsh Ministers who will be required to have due regard to the covenant principles when exercising public functions in relation to a specified matter. Local authorities, education bodies and health bodies in Wales are already subject to this duty in specified areas of health, housing and education. The specified matters subject to the extended duty include a number of devolved policy areas, for instance, transport. Guidance may be issued by the Secretary of State in relation to the covenant duty. The Secretary of State must consult the Welsh Ministers prior to issue of such guidance so far as it relates to devolved Welsh functions. The Secretary of State is given a regulation making power to amend the bodies and functions caught by the duty. Before doing so the Secretary of State must consult the Welsh Ministers, insofar that the regulations contain provisions that are within 'Welsh devolved competence'. The regulations are subject to the negative procedure. These provisions confer reserved functions on devolved Welsh authorities and the Welsh Ministers and therefore require an LCM.

Clause 3, Schedule 1 - Defence housing and other property

12. Clause 3 together with Schedule 1 establishes the Defence Housing Service ('DHS') to improve the supply and quality of defence housing and manage related properties. Its functions include improving defence housing and managing land used for defence purposes. The DHS can generate income from properties and must comply with agreements with the Secretary of State. Compulsory purchase powers are granted to acquire land for defence housing. The granting of compulsory purchase powers to the DHS requires an LCM as it is a function of the Welsh Ministers to enable bodies to compulsorily acquire land in the housing area.

Clause 9 – Assessment etc. of risks posed by certain offenders

13. This clause will align legislation on public protection for those sentenced to imprisonment by Service Courts for certain serious offences e.g. serious violent offences and coercive control, so they are subject to Multi-Agency Public Protection Arrangements (MAPPA) in the same way as those in the civilian criminal justice system. These provisions confer reserved functions on devolved Welsh authorities by virtue of the MAPPA requirements and therefore require an LCM.

Clause 10 – Victims of service offences

14. This clause provides for a Code of Practice to be issued by the Secretary of State for those providing support to victims of service offences. The Code of Practice relates to the service justice system which is a defence matter and reserved under Schedule 7A to the Government of Wales Act 2006. However, this could have impact on devolved authorities that are providing support. To the extent that this confers reserved functions on devolved Welsh authorities an LCM is required.

Clause 25 – Guidance of exercise of criminal jurisdiction

15. This clause creates a new statutory duty on the Secretary of State to issue guidance to providers of victim services in the service justice system regarding concurrent jurisdiction. The clause provides that *“any person who has functions of a public nature relating to victims of alleged conduct of the kind mentioned in subsection (1), or any aspect of the criminal justice system, must have regard to guidance under this section where— the person is exercising such a function, and the guidance is relevant to the exercise of that function.”* Such functions are likely to include devolved Welsh authorities meaning an LCM is required.

Clause 37, Schedule 6 – Reserve Forces and Cadets Association

16. This clause inserts a new section 111A into the Reserve Forces Act 1996 and abolishes the Associations established under section 110 of that Act. Section 111A creates a new body corporate, the Reserve Forces and Cadets Association. Schedule 6 sets out the detail of the new body. The legislation specified that the boards of the Associations established under section 110 of the Reserve Forces Act 1996 include representatives from local authorities. To the extent that this clause modifies functions of devolved Welsh authorities an LCM is required.

Clause 50 – Interpretation

17. To the extent that this clause contains provisions relevant to clauses identified as requiring an LCM it has regard to devolved matters.

Clause 52 – Extent in the United Kingdom

18. To the extent that this clause contains provisions relevant to clauses identified as requiring an LCM it has regard to devolved matters.

Clause 54 – Commencement and transitional provisions

19. To the extent that this clause contains provisions relevant to clauses identified as requiring an LCM it has regard to devolved matters.

UK Government view on the need for consent

20. The UK Government's devolution analysis concludes that consent is required for **Clause 2 – Armed Forces Covenant**. I agree with this assessment and given the extent that these provisions confer reserved functions on devolved Welsh authorities and the Welsh Ministers, an LCM is required.
21. The UK Government are not seeking an LCM on any other provision within the Bill. However, my view is that consent is also required in relation to clause 3, 9, 10, 25, 37, 50, 52, and 54, Schedule 1 and Schedule 6 for the reasons outlined above in paragraph 11 to 19.

Reasons for making these provisions for Wales in the Armed Forces Bill

22. Support for the UK Armed Forces Community involves both reserved and devolved areas. Welsh Government supports extension of the Armed Forces Covenant and strengthening support for the Armed Forces community. Welsh Government has been committed to the principles of the Armed Forces Covenant and has developed policies which are consistent with that commitment including:
 - Funding Armed Forces Liaison Officers (AFLOs), who support local authorities to uphold the principles of the Covenant;
 - Funding the Veterans NHS Wales mental health service for ex-Armed Forces personnel;
 - Delivering the Supporting Service Children in Education Cymru (SSCE) project, supporting Armed Forces children.
23. It is appropriate to use this UK Bill to make these provisions rather than utilising a Senedd Bill as they fall beyond the legislative competence of the Senedd. The provisions made in the Bill relate to the reserved matter of defence.
24. However, an LCM is nonetheless required as a number of provisions in the Bill confer, remove or modify functions of the Welsh Ministers and/or Devolved Welsh Authorities (DWAs) or otherwise have regard to devolved matters as detailed above.
25. I consider it to be in Wales' best interests for such provision to be included in this UK Bill. Inclusion will help ensure a level of consistency across the UK with regard to implementation of the Covenant and embedding the legal duty further, whilst still allowing devolved services and provision to implement additional policy to support the Armed Forces community.

Financial implications

26. The costs of implementation within Wales will need to be met from within existing budgets. There is no funding from UK Government to the Devolved Governments associated with this Bill and its implementation. This is similar to the 2022 Armed Forces Act which placed a duty of due regard on local authorities, local health boards and schools in Wales. UK Government in its Explanatory Memorandum identifies a potential implementation cost for UK Government Departments at somewhere between £307k and £1.5 million.

Conclusion

27. I support this Bill and would recommend the Senedd consents to its provisions. However, given the anticipated UK Parliamentary timetable of the Bill, it is likely that a legislative consent debate on this Bill would, based on our established approach on seeking to schedule such debates after the Committee Stage in the Second House, take place in the next Senedd Term.

Ken Skates MS
Cabinet Secretary for Transport and North Wales
27 January 2026