

Jane Hutt MS
Minister for Social Justice

22 September 2021

Dear Jane

Legislative Consent Memorandum: Police, Crime, Sentencing and Courts Bill

At our meeting on Monday, 20 September, we considered the Welsh Government's Legislative Consent Memorandum on the UK Government's Police, Crime, Sentencing and Courts Bill. There are a number of issues on which the Committee requires further information. Given our reporting deadline of 14 October 2021, we would be grateful to receive a response from you by noon on 30 September 2021.

Question 1: Justification for seeking the consent of the Senedd in respect of the following clauses is provided briefly in paragraphs 9 and 10 of the Memorandum:

Clause 1 (Police Covenant);

Clause 2 (Increase in penalty for assaults on emergency workers);

Clauses 7-8, 10-16, 19-22 (Functions relating to serious violence); and

Clauses 23-35 (Offensive weapons homicide review).

Please could you provide additional detail to explain and clarify why the Senedd's consent should be sought for these provisions?

Question 2 Paragraphs 13 and 14 of the Memorandum state that the Welsh Government will recommend that the Senedd refuses to give consent to clauses 9, 17 and 18 of the Bill. This is due to a concern that the provisions would allow the Secretary of State to issue directions for the purposes of enforcing the serious violence duty, which could potentially include issuing directions on devolved



matters which fall within the remit of devolved Welsh authorities. Please can you clarify which devolved matters you are referring to?

Question 3: Please can you explain why the Welsh Government believes the following clauses are within the legislative competence of the Senedd and, in addition, explain why the Senedd should give its consent to these clauses:

Clauses 36-37 and 40-41 (Extraction of information from electronic devices); and
Clause 43 (Pre-charge bail).

Question 4: Please can you explain why clauses 38 and 39 are not mentioned in the Memorandum, given that they are part of the suite of provisions that deal with extraction of information from electronic devices (which the Welsh Government consider require consent)?

Question 5: Please can you explain why the Welsh Government believes clause 42 (authorised persons) is within the legislative competence of the Senedd and clarify whether it considers that the Senedd should give its consent to that clause?

Question 6: Please can you explain why the Welsh Government considers the effect of clause 46 (Criminal damage to memorials: mode of trial) would be to increase the potential sentence for criminal damage to life imprisonment in circumstances where the defendant intended or was reckless as to danger to life? The Committee has received advice that this offence is indictable only and already therefore attracts a maximum penalty of life imprisonment under section 4(1) of the *Criminal Damage Act 1971*.

Question 7: In the Memorandum, the Welsh Government recommends that the Senedd *grant* consent to clause 59 (Causing public nuisance), and *withhold* consent to clauses 61 to 63 (Unauthorised encampments). Please can you explain why the Welsh Government believes all four clauses require consent?

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

I look forward to receiving your response by 30 September.

Yours sincerely,



Huw Irranca-Davies
Chair