

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref JMEWL/4025/21

Jayne Bryant MS
Chair Children, Young People and Education Committee
Senedd Cymru
SeneddChildren@senedd.wales

25 November 2021

Dear Jayne,

Thank you for your letter of 19 November concerning the supplementary Legislative Consent Memorandum (Memorandum No.2) (SLCM No.2) for the UK Government's Skills and Post-16 Education Bill ("the Bill") laid on 29 October. You raised queries relating to the provision made by clauses 1 and 4 and by clause 25 of the Bill to which I have provided a response below.

Clauses 1 (Local Skills improvement plans) and 4 (interpretation)

The amendments made to clauses 1 and 4 of the Bill at House of Lords Report stage on 12 October had the effect of potentially increasing the possibility of Welsh institutions being subject to the duties in respect of local skills improvement plans (LSIPs) for England. The amendments to clause 1 limit the education and training within scope of the LSIP duties to "English funded" post-16 technical education and training. However, the amendments to clause 4 which define "English funded" include student support provided by the Secretary of State. It is my view that the combined effect of these amendments could potentially result in the courses of Welsh institutions, undertaken by English domiciled students in receipt of UK Government student support, being considered as being "material" to the skills needs of a local area in England. The Bill provides that where post-16 technical education which is material to local area in England then institutions providing that education are to be subject to the LSIP duties set out in clause 1(3), 1(4) and 1(5). The inclusion of financial support for students in the definition of "English funded" provision is of particular concern as this approach potentially brings a wide range of post-16 education and training offered by Welsh institutions within scope of the LSIPs duties.

My officials have been engaged with officials at the UK Government Department for Education for several months and have had productive discussions regarding the application of clauses 1 and 4 to Welsh institutions. The amendments brought forward by the UK Government for consideration at Lords Report stage were an improvement compared to the Bill as introduced insofar as they established a nexus to the funding of post-16 provision by the Secretary of State. However, the amendments did not adequately address the

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Jeremy.Miles@llyw.cymru
Correspondence.Jeremy.Miles@gov.wales

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.

fundamental issue of concern, namely the imposition of statutory duties on Welsh institutions which I do not consider to be either necessary or proportionate. The issue of proportionality and the likelihood of Welsh institutions delivering post-16 technical education that is considered to be “material” to a local area in England were raised by my officials when they had sight of draft amendments in early October. However, the timetable for the UK Government finalising their amendments for Report stage did not allow for a full analysis or redrafting of the amendments ahead of their tabling.

I wrote to the Secretary of State for Education on 29 October setting out my concerns, noting that LSIPs are for the purpose of post-16 education being available to meet skills needs of employers in specified areas of England and that the imposition of legal duties on Welsh institutions in respect of these plans is unnecessary. I informed the Secretary of State that I would like to see amendments brought forward to remove Welsh institutions from the LSIP duties.

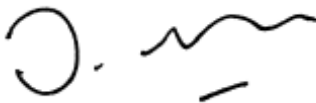
Discussions have been ongoing at official level and much progress has been made in recent weeks to address my concerns. I am pleased to be able to inform you that the UK Government has tabled amendments for consideration at Commons Committee Stage. Those amendments address my concerns and are available here: [skills.pbc.rm.1124.fm \(parliament.uk\)](https://skills.pbc.rm.1124.fm/parliament.uk). I intend to lay a further supplementary LCM as soon as possible to reflect these amendments.

Clause 25 (Institutions within the further education sector: procedure for designation)

Clause 25 was added to the Bill at Report stage in the House of Lords. The amendments tabled by the UK Government on 24 November for House of Commons Committee Stage seek to remove this clause from the Bill.

I am also copying this letter to the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely,

A handwritten signature in black ink, consisting of a large 'J' followed by a wavy line and a short horizontal stroke.

Jeremy Miles AS/MS

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