

Eluned Morgan MS
Minister for Health and Social Services
Welsh Government

08 November 2021

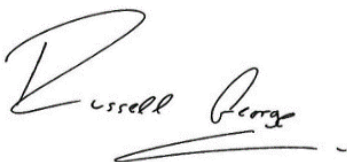
Dear Eluned

Legislative Consent Memorandum for the Health and Care Bill

Thank you for your letter dated 19 October 2021, responding to the Committee's initial questions about the Legislative Consent Memorandum for the Health and Care Bill. The Committee considered your letter alongside evidence from stakeholders on 4 November. As the Business Committee has extended our reporting deadline to 16 December 2021, we agreed to write to you to seek further information and updates on the matters set out in the annex to this letter before we finalise our report.

To enable us to consider your views in line with the reporting deadline set by the Senedd's Business Committee, it would be helpful to receive your response no later than **Thursday 18 November**.

Yours sincerely



Russell George MS

Chair, Health and Social Care Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Annex

To inform the Health and Social Care Committee's scrutiny of the Legislative Consent Memorandum ("the LCM") on the Health and Care Bill ("the Bill"), we would welcome your views on the matters listed below.

Consequential powers, and consultation with the Welsh Ministers on the exercise of powers

We note that a number of the outstanding issues outlined in the LCM relate to whether Welsh Ministers should be consulted or required to consent before powers under the Bill are exercised by the Secretary of State, and to the inclusion in the Bill of powers to make consequential amendments to Welsh legislation.

1. Please provide an update on your discussions with the UK Government on these matters, including any amendments the UK Government has agreed to bring forward, or any assurances you have received in relation to the proposed use of these powers.

Clause 85: medicines information systems

While we recognise that there are merits in a UK-wide medicine registry, it is vital that there are sufficient safeguards in place to protect Welsh patients' personal and medical data, and ensure that it is used appropriately. We note that you have proposed to the UK Government that the Bill should be amended to put in place an alternative arrangement for Wales under which Welsh patient data is collated by a suitable digital authority, which would then provide the UK-wide system with such information as was required for the specific purpose of the registry.

2. Please provide an update on your discussions with the UK Government, including whether the concerns you have outlined in respect of overlap with data gathering in Wales, any proposed alternative arrangements, provision for the use of data by Welsh Ministers, and the potential for inappropriate use of Welsh patient data have been resolved.

Clauses 86-92: Arm's Length Bodies Transfer of Functions

We note you have requested that the Welsh Ministers and Welsh bodies should be "carved out of the clause 90 provision" which gives the Secretary of State powers to transfer property, rights and liabilities to the Welsh Ministers or Welsh NHS trusts.

3. Please provide further information about why you are seeking this carve out, and what the implications would be if such a carve out is not secured.

Clause 120: International healthcare arrangements

In your letter you note that you have concerns in respect of the power in clause 120 for the Secretary of State to confer functions on and/or delegate functions to the Welsh Ministers and public authorities in Wales, but that you are hopeful that agreement can be reached on alternative wording.

4. Please provide an update on your discussions with the UK Government, including whether you have secured agreement for an amendment to be brought forward, and what the implications for Wales will be if no change to the wording is made.

Clause 123 : Regulation of health care and associated professions

We have heard from a number of regulators that while they are broadly supportive of clause 123, they have concerns about whether there is sufficient clarity about how the provision will be implemented, in particular the criteria that will underpin decisions and the consultation that will take place. The evidence we have received is available on [our website](#).

We recognise that implementation of the provision is largely a matter for the UK Government, however the vital role that professional regulation plays in ensuring that our health and social care services are safe means that there must be clarity for the public and the health and social care workforce about these matters.

5. Please outline the Welsh Government's view on the concerns raised by stakeholders about a lack of clarity on how clause 123 will be implemented.
6. Please also explain what involvement or engagement you expect for the Welsh Government in the anticipated UK Government review of which professions require regulation.

Financial implications

7. Please provide an update on whether you have received assurance from the UK Government that the costs falling to Wales as a result of the Bill will be met by the UK Government, and on the discussions between officials about the appropriate reimbursement mechanism.

Supplementary LCM

We note that you are seeking an amendment to the Bill in respect of medical examiners, and that such an amendment, and other amendments proposed, would be subject to a supplementary LCM.

8. Please indicate when you anticipate such a supplementary LCM might be brought forward.
9. We would also welcome further information about the amendment you are seeking in respect of medical examiners, including why you are seeking its inclusion in UK legislation rather than Welsh legislation.