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Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

22 November 2021

Dear Huw

Thank you for your letter of 15 October regarding further matters the Committee would like to raise on the Legislative Consent Memorandum on the Professional Qualifications Bill.

I would also take this opportunity to thank you and the Committee for your consideration of these important matters. I have brought the Committee's report to the attention of Lord Grimstone as it is vital that the UK Government fully understands the concerns we have with the Bill.

In response to your specific questions:-

Recommendation 4 in our report asked you to explain why concurrent regulation-making powers are appropriate for this Bill given that the exercise of such powers may not give the Senedd the opportunity to scrutinise such regulations. While we acknowledge your statement that "Our starting point is that concurrent functions are not appropriate for this Bill", we would welcome your clarification as to why it is appropriate that the Senedd is bypassed when secondary legislation may be made in relation to the regulation of professional qualifications which are devolved.

It is not my intention to deny the Senedd the opportunity to scrutinise secondary legislation made in relation to devolved areas, and I acknowledge conclusion 1 in the Committee's report which sets out your concerns on the role of the Senedd in this matter. I would again reiterate my position that there should be no concurrent powers in this Bill. However, if the UK Government persist in including these powers, then I shall continue to seek an amendment that requires the Secretary of State or Lord Chancellor to obtain consent from Welsh Ministers before making regulations in devolved areas. If this is successful, then as per the Welsh Government's concurrent powers guidance, which has been shared with the Committee, I will write to the relevant Senedd committees to inform them of any intention to consent to the UK Government exercising the concurrent plus power in relation to Wales, and where time allows I will provide an opportunity for the Senedd to express a view before I give consent.

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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.

Recommendation 7 in our report asked that you seek an amendment to the effect that clause 14(5) is removed from the Bill. Again, while we accept that the Counsel General and Minister for the Constitution has exchanged correspondence with the UK Government Minister on this issue, we would welcome your clarification as to whether you will formally Jeremy Miles MS Minister for Education and Welsh Language seek the amendment to the Bill as set out in the recommendation. In requesting this clarification, we are mindful of your definitive response to recommendation 6 in which you have clearly stated that an amendment will be sought to the effect that the powers in the Bill cannot be used by UK Ministers to make regulations that amend the Government of Wales Act 2006

The UK Government has made it clear that it will extend the Welsh Ministers' executive competence in clause 14 as far as the Senedd's legislative competence, including the ability to make regulations which modify the functions of reserved authorities with UK Government consent, but no further. We accept this position, and also accept that clause 14(2) and clause 14(5) together have the effect of aligning legislative and executive competence in this way. Therefore I will not be seeking an amendment to remove clause 14(5).

However, I still have significant concerns with the Bill as currently drafted, and on 28 October I wrote to Lord Grimstone to ask that the UK Government table an amendment to ensure that the powers in the Bill cannot be used by UK Ministers to make regulations that amend the Government of Wales Act 2006. I also asked for an amendment which would provide for a specific carve out from the Minister of the Crown consent requirements in paragraph 11 of Schedule 7B to the Government of Wales Act.

Yours sincerely,



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