



Russell George MS
Chair, Health and Social Care Committee

SeneddHealth@senedd.wales

18 February 2022

Dear Russell

Thank you for the Health and Social Care Committee's report laid on 15 February on the Supplementary Legislative Consent Memoranda (Memoranda No. 2 and No. 3) (the SLCMs) on the Health and Care Bill (the Bill).

I note the Committee's comments on the Bill and the SLCMs laid on 17 December 2021 and 28 January 2022 respectively and welcome the Committee's confirmation that it has no objection to the Senedd giving its consent to the inclusion in the Bill of:

- Clauses 122–125 and amendments 231H, 231J, 231L, 313ZA, 313ZB, 313ZE, 313ZJ, 313ZK and 313ZM (Virginity testing and Hymenoplasty);
- Clause 143 (Medical Examiners);
- Amendments 312B, 312C, 312D, 313C and 314ZB (Mandatory Reporting);
- Clauses 88-94 and amendments 231C, 227A, 231A and 231B (Arm's Length Bodies (Transfer of Functions))

Please find my responses to your specific recommendations below.

Recommendation 1 – Clause 135 (Reimbursement to Community Pharmacies)

Before the Senedd is asked whether or not to give its consent to clause 135 (reimbursement to community pharmacies), the Minister for Health and Social Services should provide assurances that: these powers can and will only be used in circumstances where a pandemic or public health emergency has been declared; and that the use of such powers will be accompanied by appropriate and adequate remuneration and reimbursement for pharmacy contractors.

Response

These powers can be used in circumstances other than a pandemic or public health emergency, for example in relation to drugs and medicines where the Welsh Ministers consider a disease to be at risk of becoming a pandemic disease or which are used for vaccinating or immunising people against disease in general.

However, the Committee can be reassured clause 135 does not in any way change the existing arrangements for pharmacies to receive remuneration for services provided. The clause relates only to reimbursement of costs incurred by pharmacies in procuring medicinal products for use in vaccination and immunisation. In the situation to which the clause relates pharmacies will have incurred no costs in procuring the medicinal products and as such it would be inappropriate for them to be reimbursed costs.

I would further reassure the Committee that there is no intention to circumvent or undermine existing supply chain arrangements. Whilst these powers will primarily be used during a pandemic or public health emergency it would not be appropriate to close down the opportunity to use them in other limited circumstances.

In the last two influenza seasons the Welsh Government in partnership with other UK Governments, has secured additional supply of influenza vaccinations. This approach recognises that in some circumstances governments need to share procurement risks with independent contractors such as pharmacies and GPs. Had these additional supplies not been purchased by the Welsh Government, fewer people would have been vaccinated because orders placed by pharmacies and GPs were insufficient to meet demand. In the absence of these powers it was necessary for the additional stock to be sold into existing supply chain and for pharmacies to purchase them at their own financial risk. The powers contained in clause 135 could therefore be used to reduce financial risk for pharmacies and increase vaccination coverage in any influenza season.

Recommendation 2 - Clause 87: Medicines Information Systems

The Minister for Health and Social Services should set out the anticipated timescales for the development and agreement of the Memorandum of Understanding relating to medicine information systems, and should provide assurance that the MoU will be in place before the provisions come into force.

Response

The Memorandum of Understanding in relation to Medicines Information Systems is being progressed. The UK Government has stated that it will do its best to have the Memorandum in place before the provisions come into effect, but at the very latest in advance of drafting of regulations.

Recommendation 3. - Consequential Amendments (clauses 91, 144 and 149)

Before the Senedd is asked to decide whether to give its consent to the inclusion in the Bill of clauses 91, 144 and 149, the Minister for Health and Social Services should confirm that the UK Minister for Health has made the agreed statement in the House of Commons chamber.

Response

I can confirm that Edward Argar MP, the Minister of State for Health has, through Lord Kamall, made the Despatch Box Statement in relation to clauses 91 and 149, on how these powers might be used. The Statement was made in the House of Lords on 9 February. The Committee will wish to note that as stated in the LCM I laid on 1 September, the UK Government has not identified clause 144 as requiring the legislative consent of the Senedd and as such was not therefore included in the Despatch Box Statement.

Finally I note in relation to Medical Examiners, the Committee has concerns about the increasing use of LCMs as a mechanism for legislating on matters that are devolved to Wales (paragraph 30 refers). I would like to clarify that in relation to the particular case of clause 143 (Medical Examiners) it would not be possible for the Senedd to make equivalent provision for Wales in this area as the subject matter of Part 1 of the Coroners and Justice Act 2009 ("the 2009 Act"), where this provision will be inserted, is reserved by paragraph 167 of Schedule 7A to the Government of Wales Act 2006. Therefore, the Senedd could not legislate to insert equivalent provision to the new section 18B into the 2009 Act.

I trust this response will be helpful to the Committee in its consideration of the Legislative Consent Memoranda on the Bill.

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

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services