



Ein cyf/Our ref: MA/LG/1410/22

Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee

Paul.davies@senedd.wales

28 April 2022

Dear Paul,

Thank you for your letter of 30 March, regarding the Supplementary Legislative Consent Memorandum (Memorandum No 2) on the Animal Welfare (Kept Animals) Bill ("the Bill").

I would like to thank the Committee for its scrutiny of Memorandum No 2 and I have noted its conclusion and recommendations. In your letter, you have drawn my attention to the Committee's views from Paragraph 76 onwards, and the request for further information in Paragraph 80.

May I firstly offer my sincerest apologies to the Committee for our failure to provide a final version of Memorandum No 2 before 3 March when the relevant amendments were tabled on 10 November 2021. I regret the Senedd scrutiny Committees were not provided with sufficient time to consider a final version of Memorandum No 2. The volume and complexity of the amendments tabled for consideration at House of Commons Committee Stage hampered our efforts.

I fully acknowledge the importance of full and effective scrutiny by the Senedd of legislation where the Senedd is being asked to agree to the UK Parliament legislating on its behalf in areas of devolved competence. I will endeavour to ensure any further Legislative Consent Memoranda on the Bill is accurate and laid before the Senedd within a reasonable period.

The Bill is complex but has real value for Wales and we have been working in partnership with the UK Government on much needed animal welfare reforms which are a priority for the Welsh Government.

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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.

Overall, I welcome the Committee's comments in relation to the benefits of legislating on a UK-wide basis for a consistent approach to animal welfare. The First Minister's principles for legislating in UK Bills make it clear we follow the principle that primary legislation in devolved areas should be enacted by the Senedd. However, the principles also acknowledge there are, and will continue to be, circumstances in which it is sensible and advantageous if provision, which would be within the Senedd's legislative competence, is sought for Wales in UK Parliament Bills, with the consent of the Senedd, and such provision will not infrequently include conferring new delegated powers on the Welsh Ministers.

My support for the inclusion of devolved provision in this Bill aligns with those principles as taking provision in a UK Bill will enable pragmatic solutions to be reached in a timely fashion, while simultaneously respecting the legislative competence of the Senedd through the legislative consent process.

In relation to Part 1 of the Bill on Primates, I agreed the application of these provisions ought to extend to Wales as the legislative proposal is appropriate for Welsh circumstances and bringing forward similar provisions in the Senedd could not have been achieved in a timely way. It will enable closer alignment on enforcement, especially on the borders.

We are committed to not creating loopholes in this type of legislation whereby owners of primates can cross borders to avoid the licensing requirements. Inclusion of Wales in the Bill ensures this would be avoided. While the Bill itself sets out clear requirements in relation to the licensing standards; applications process; roles and responsibilities, the powers for the introduction of secondary legislation to provide for a licensing scheme for primates (kept in a domestic setting) rest with Wales.

My officials will continue to work closely with their Defra counterparts in relation to the Welsh Ministers' powers to commence provisions in Part 1 with a view to establishing an appropriate date for the introduction of a licensing scheme for primates (kept in a domestic setting). In terms of the precise commencement date in respect of Part 1 and whether the provisions will be commenced in England and Wales on the same date, this is a matter that will be kept under review

You asked for further information on our approach to consulting on licence conditions and supporting Local Authorities with implementing the new licensing regime for primates. You also asked whether or not we have plans to apply Part 1 of the Act to other wild animals, in accordance with the powers in clause 22. Firstly, we have no immediate plans to apply clause 22 to other wild animals. However, this clause will future proof the legislation and enable it to be utilised should there be either scientific or moral and ethical reasons to extend a licensing scheme to other wild animals kept in a domestic setting.

In relation to our approach to consulting and supporting Local Authorities, consultation is ordinarily undertaken on any new regulations in line with our consultation policy and this commitment will be met in full. My officials have strong working arrangements with the key animal welfare third sector organisations via the Animal Welfare Network Wales and the Companion Animal Welfare Group Wales. They also work closely with the Local Authority Enforcement Project led by Trading Standards Wales and will be engaging with them throughout the process of defining, refining and enforcement of a licensing scheme for Wales.

The Local Authority Enforcement Project itself is funded by the Welsh Government and was established, originally, to support the enforcement of the regulations relating to dogs across Wales. Its role has now been expanded to support the vision in both our Programme for Government and the Animal Welfare Plan for Wales to introduce a national model of licensing and enforcement for animal welfare.

Finally, on Part 1, the Welsh Ministers will determine the commencement date for Part 1 of the Bill in relation to Wales.

The Rt. Hon. Lord Goldsmith of Richmond Park wrote to me, on 25 April, to formally offer to extend the pet abduction offence to Wales and also to respond to my letter of October last year to the Secretary of State for Environment, Food and Rural Affairs regarding Part 2 of the Bill (dogs attacking or worrying livestock) and the UK Government's assessment of legislative competence in relation to those provisions. It remains the UK Government's position that Part 2 of the Bill relates to the reserved matter of dogs dangerously out of control, and Lord Goldsmith has confirmed the UK Government does not intend to transfer the powers in Part 2 to the Welsh Ministers insofar as they relate to Wales. I will need some time to consider next steps regarding this matter and the offer to extend the pet abduction offence to Wales. I will write to update the Committee on the outcome of both matters.

In addition to the views of the Committee you have also drawn to my attention paragraphs 51 and 52 of the Committee's Report which refers to the statement in Memorandum No 2 that consent is *not* required in relation to clause 51 of the Bill, namely the provisions which amend the Government of Wales Act 2006 in relation to concurrent functions. I agree, in accordance with Standing Order 29.1 (ii), consent *is* required for any provision which, in relation to Wales, modifies the legislative competence of the Senedd. With thanks to the Committee, and on this basis, a Legislative Consent Memorandum including this issue will therefore be laid in due course.

Committee stage in the House of Commons concluded on 1 November 2021, but no further stages for consideration of the Bill were scheduled. On 25 April the House of Commons agreed a carry-over motion on the Bill. The Bill will therefore progress into the next Parliamentary session.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd