

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair of the Legislation, Justice and Constitution Committee

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27 July 2022

Dear Huw,

I would like to thank you and the Committee Members for your consideration of the Legislative Consent Memorandum (LCM) laid before the Senedd in respect of the UK Government's Online Safety Bill.

I welcome the report published by the Committee on the 28 June and am pleased that the Committee agreed with the assessment of the provisions within the Bill that require the consent of the Senedd and that it is appropriate for the Bill to make provision for Wales.

I note in your report that the view of the Committee was that the Memorandum should have made reference to the fact that the regulation-making power provided to Welsh Ministers in clause 175(5) of the draft Bill is subject to the draft affirmative procedure.

The rationale for use of the affirmative procedure provided by the Department for Digital, Culture, Media and Sport and the Home Office to the Delegated Powers and Regulatory Reform Committee was as follows:

- *341. This delegated power is considered necessary to allow the legislation to be updated to address changes in the education system. These are Henry VIII powers and as such the draft affirmative procedure is most appropriate. The draft affirmative procedure will offer a high level of parliamentary scrutiny and oversight while still ensuring that Ministers or Departments can keep the legislation up to date.*
- *342. Removing, adding or amending Schedule 1 Part 2 could increase regulatory burdens on a particular description of education or childcare. It is therefore important that Parliament and the respective devolved administrations have the opportunity to debate such changes to the scope of the regulatory framework.*

I therefore think that it is appropriate that the regulation making power conferred on Welsh Ministers under clause 175(5) of the Bill is subject to the draft affirmative procedure.

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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.

This power enables Welsh Ministers to amend the list of Welsh education and childcare providers (found in Part 2 of Schedule 1) who will be exempt from regulation under the Bill. The Henry VIII power enables the amendment of primary legislation using subordinate legislation, which may affect the application of provisions in the Bill relating to devolved matters. Given the nature of Henry VIII powers it is considered that they should be subject to sufficient Senedd scrutiny. Therefore, the affirmative procedure is suitable.

I trust that this letter provides the Committee with the additional information they require.

Yours sincerely



Julie James AS/MS
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