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Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip
Minister for Social Justice and Chief Whip



Llywodraeth Cymru
Welsh Government

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

Jenny Rathbone MS
Chair, Equality and Social Justice Committee

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Dear Huw, and Jenny,

Thank you for the Committees report on the Legislative Consent Memorandum on the Victims and Prisoners Bill laid on 19 May 2023.

I note the four recommendations from your Legislation, Justice and Constitution Committee (LJCC) and the one recommendation from Equality and Social Justice Committee which I have responded to below:

Legislation, Justice and Constitution Committee

Recommendation 1. We consider that the clauses of the Bill set out in the Memorandum fall within a purpose within the legislative competence of the Senedd, as described in Standing Order 29, and therefore require the consent of the Senedd.

Response:

I welcome this recommendation from the Committee which affirms the position on competence set out in the Memorandum.

Recommendation 2. The Minister should clarify if the Welsh Government has held any discussions with the UK Government about clause 28 of the Bill and why there appears to be a difference in opinion as to whether the Senedd's consent should be sought for this clause.

Response:

I have discussed this with the UK Government, who have confirmed that they agree with my assessment that clause 28 of the Bill does not need Senedd consent and that the current

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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.

explanatory notes are inaccurate. They have committed to reviewing the wording in the explanatory notes which will accompany the Bill's final version to accurately reflect this.

Recommendation 3. The Minister should confirm or correct our understanding that the Welsh Government was not aware of the provisions included in Part 3 of the Bill about the parole system, the Parole Board or preventing prisoners serving a whole life order to enter into a marriage or civil partnership until the Bill was introduced to the UK Parliament.

Response:

I was not aware of the provisions included in Part 3 of the Bill despite my officials asking for early sight of the complete Bill on several occasions, including the day before the Bill was introduced to the House of Commons.

Recommendation 4. If the Welsh Government was not made aware of the provisions in the Bill about the parole system, the Parole Board or preventing prisoners serving a whole life order to enter into a marriage or civil partnership until the Bill was introduced to the UK Parliament, the Minister should clarify how and when these provisions were drawn to the attention of the Welsh Government by the UK Government and what explanation the UK Government provided about their inclusion.

Response :

My officials have been engaging with colleagues in the Ministry of Justice (MoJ) and my legal and policy leads with an interest in the Bill, on the clauses expected to be introduced as part of the Bill. However, my officials had not had sight of the final Bill as a whole or Explanatory Note prior to it being introduced, or that the Bill title and provisions had been changed to 'Victims and Prisoners Bill'.

The Committee may wish to note that the UK House of Commons Justice Committee were unsighted on the changes to the Bill. On 27 June 2023, the chair of the Justice Committee wrote to the Secretary of State for Justice and commented that *"By introducing two new substantive parts to the Bill that were not included in the original draft bill would appear to be evidence of a fairly dysfunctional policy process. We appreciate that these decisions were taken before you took up your post and welcome the open-minded tone of your speech on Second Reading. We hope that in the future the Government will approach pre-legislative scrutiny with a spirit that reflects the underlying purpose of the exercise, which is to enable Members with a special interest and expertise in justice issues to contribute to examine a Bill before it is formally introduced."*

The first time the changes were raised formally by the UK Government was through engagement on 29 March 2023, the day the Bill was introduced into the House of Commons. This was through an e-mail which advised *"The Bill has been expanded to introduce an Independent Public Advocate (Part 2) to support victims of major incidents and their families. It also introduces parole reforms to put public protection at the heart of decision-making (Part 3), and prohibits prisoners who are serving a whole life order from entering into a marriage or civil partnership (Part 4)."*

Equality and Social Justice Committee

Recommendation 1. We recommend that the Senedd withholds legislative consent in relation to the Victims and Prisoners Bill.

In addition, one Member objected in principle to any legislation affecting devolved Welsh matters being enacted via a UK Government Bill.

Response:

I welcome the Committees work and confirm that discussions will continue with the UK Government on the full detail of their proposals regarding the relevant clauses requiring an LCM before we provide further recommendations to the Senedd on consent.

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal stroke above the first letter of "Jane".

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