

Julie James MS

Minister for Climate Change

29 September 2023

Dear Julie

### Legislative Consent Motion on the Energy Bill

I am writing in relation to comments you made in Plenary on 12 September 2023 during the debate on a legislative consent motion for the Energy Bill. You stated:

*"Now, we could have put an LCM in at the beginning of September, but at that time we were having a correspondence with your committee and others about the fact that we kept putting multiple LCMs up on the same Bill. So, I do feel we're a little bit stuck between a rock and a hard place there. So, in trying to comply with the 'don't put 14 LCMs up on a single Bill', we've now fallen into the 'we didn't put one up fast enough' on the draft Bill. So, hands up, we didn't. But I do think, in fairness, we were actually trying to put an LCM that encapsulated the Bill as we thought it would be presented rather than a sequential set of LCMs."*

We do not consider that your remarks present an accurate picture of the position the Committee has adopted in relation to the scrutiny of legislative consent memoranda for UK Bills. Moreover, two matters are unclear to us: first, why the first memorandum was delayed by 49 weeks when you indicated you could have laid one in September 2022 and secondly, which correspondence you are referring to when you say "we were having a correspondence with your committee...".

Indeed, in our report on the Welsh Government's legislative consent memoranda on the Energy Bill we stated the following:

*"We would also have liked to consider the Minister's comments on laying multiple legislative consent memoranda on the same Bill. We have said previously that from the perspective of this Committee, which looks at legislative consent memoranda*



*on all UK Bills, delays in laying such memoranda reduces the amount of time we have to scrutinise and understand the Welsh Government's approach to a Bill."*

When making this point, we cited our 2021 report on the Legislative Consent Memorandum on the Leasehold Reform (Ground Rent) Bill, which included commentary on delays to the laying of the Memorandum at paragraphs 26 to 35. In particular paragraph 30 of that 2021 report states:

*"We have already dealt with multiple Welsh Government Legislative Consent Memoranda in respect of individual UK Government Bills and, having adapted successfully to the challenges this brings, have not found this approach to be incoherent or confusing."*

The 2021 report also drew attention to our letter to Business Committee in October 2021 which, amongst other things, highlighted our concerns at the impact delays in laying legislative consent memoranda can have on scrutiny of the Welsh Government.

We would also emphasise the importance of legislative consent memoranda being laid within or as close to the two week period as prescribed by Standing Orders. We are all aware of the challenges that the Senedd faces in having the time to scrutinise these memoranda effectively. This is why the Standing Orders prescribe the target of two weeks so that any such challenges are ameliorated and the Senedd has the time to assess, possibly take evidence and have a more informed debate. By delaying the formal laying of memoranda the role of the Senedd is undermined in the consent process.

Moreover, it would not be sensible to consider a legislative consent memorandum that covers a Bill and all amendments towards the end of the UK parliamentary process. Not only would it be outside the requirements of Standing Orders, it would leave virtually no time for any detailed scrutiny by the Senedd, or its committees, of law to be made in devolved areas that ordinarily the Senedd would itself expect to make. Such an approach would in effect relegate an already flawed way of law being made in devolved areas to a largely superfluous exercise, which would not be acceptable.

We have commented on the number of legislative consent memoranda being laid by the Welsh Government for some UK Bills. However, we have done so only to highlight the profound inadequacies of a different Parliament legislating for Wales on devolved matters.

Yours sincerely,

*Huw Irranca-Davies*

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Chair