

Rt Hon Elin Jones MS

Y Llywydd and Chair of the Business Committee

10 May 2024

Dear Llywydd

### Review of Standing Order 29

I write further to your letter of 20 March 2024 to my predecessor, in which you confirmed that Standing Order 29.1 will be considered as part of the Business Committee's planned work in relation to the legislative consent process.

At its meeting on Tuesday 7 May 2024, my Committee considered the Welsh Government's supplementary legislative consent memorandum (Memorandum No. 2) on the Criminal Justice Bill. As part of that consideration, we again noted – with some concern – that in determining whether a Bill's provisions require the Senedd's consent, different tests are currently being applied within the Senedd, the Welsh Government and the UK Government respectively.

In the initial legislative consent memorandum that was laid on 29 January 2024, it was stated that *"these provisions fall outside of the legislative competence of the Senedd and an LCM does not need to be laid in relation to them"*. In both the legislative consent memorandum and subsequent supplementary memorandum, the Welsh Government's position was that consent was required because the provisions were conferring reserved functions on devolved Welsh authorities. However, this is not what is required by the 'purpose test' set out in Standing Order 29.1, which provides that a legislative consent memorandum must be laid where a UK Bill makes provision in relation to Wales:

- (i) for any purpose within the legislative competence of the Senedd (apart from incidental, consequential, transitional, transitory, supplementary or savings provisions relating to matters that are not within the legislative competence of the Senedd); or
- (ii) which modifies the legislative competence of the Senedd.

We are concerned that the approach being taken by the Welsh Government is leading to confusion as to the basis on which the consent of the Senedd is actually being sought. Where it is apparent that the 'purpose test' in Standing Order 29.1 has not been met, it is unclear why the legislative consent process is being engaged.

We acknowledge that work has begun on reviewing the Standing Order, but wish to reinforce the need for the Business Committee to review and, if necessary, reform Standing Order 29.1 to ensure it is fit for purpose.

To enable my Committee to meet the reporting deadline set by the Business Committee, I would be grateful if you could respond with your view on the matters we raise by 17 May 2024.

You will also wish to be aware that we are likely to write again about Standing Order 29 following the publication of our report on the Welsh Government's Legislative Consent Memorandum on the Renters (Reform) Bill.

Yours sincerely,

A handwritten signature in black ink that reads "S. Murphy". The signature is written in a cursive style with a long, sweeping tail on the letter 'y'.

Sarah Murphy  
Chair