

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet
dros Newid Hinsawdd a Materion Gwledig
**Deputy First Minister and Cabinet Secretary for
Climate Change and Rural Affairs**



Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of the Legislation, Justice and Constitution Committee

SeneddLJC@senedd.wales

27 November 2025

Dear Mike,

Following your letter dated 6 November regarding the Public Office (Accountability) Bill (“the Bill”) Legislative Consent Memorandum, please find my responses to your questions set out in Annex A to support your scrutiny.

I note, and appreciate, the extension agreed by your office in this particular case. I hope you find my response helpful.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping loops and strokes, representing the name of the sender.

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

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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.

Annex A

Senedd consent

1. The UKG shared their LCM analysis with my officials after introduction of the Bill. In turn, the UKG considered the LCM that was laid before the Senedd and subsequently reviewed part of their analysis in light of it. My officials continue to liaise with UKG on matters relating to legislative competence.

Power to make subordinate legislation

2. I consider the procedure for clause 15(4) provides appropriate scrutiny and note that it is aligned with the procedures the Bill imposes in relation to equivalent regulations made by the Secretary of State. It will be subject to the new Part 2A of the Legislation (Wales) Act 2019 which will implement new Senedd scrutiny procedures and makes no provision for an enhanced affirmative procedure.

Development of the Bill

3. Differences in territorial extent reflect the positions taken by UKG which was not based on significant engagement with me or Welsh Government officials. The Bill reflects some of the challenges and complexities of including or extending equivalencies within Scotland or Northern Ireland where devolution settlements differ.
 - a. Clause 11 – the UK Government believes this clause should be amended so as to apply to Wales, Scotland and Northern Ireland. My officials are in active discussion with the UK Government about this proposal having received the formal invitation for it to extend to Wales on the 11th November. It was not applied to Wales (or the other devolved Governments) as it was a very late inclusion to the Bill without detailed discussion with the devolved Governments. I consider it appropriate to deal with these provisions in this UK Bill to reduce complexity, maximise the clarity and coherence of the law, and allow for a consistent approach across the UK.
 - b. First, as set out in your letter, the LCM only identifies clause 12 as being within the legislative competence of the Senedd. In respect of that clause, I take your point that the Scotland and Northern Ireland equivalents are not in the list in paragraphs 1 and 2 of Schedule 4 of the Bill (Ministers) and paragraphs 4 and 5 (Legislatures). However, as set out in the LCM, I believe that clauses 12 and 13 and Schedule 4 should apply in Wales. Clause 12 creates an offence of committing a seriously improper act whilst holding a public office, but this is to replace the existing common law offence of misconduct in public office that is abolished by clause 16 of this Bill. It would be appropriate to retain this comparable position. Clause 13 is a new offence (breach of duty to prevent death and serious injury) but is a fundamental element given the Bill's origins and nature.

The UK Government have not provided detail as to why the equivalent roles in Scotland and Northern Irish devolved legislatures and administrations are not included in the list of holders of public office in Schedule 4 of the Bill, but I will raise this issue with the UKG if that would be of assistance.

- c. Whilst the Welsh Ministers have repeatedly raised the issue of Senedd members' limited privilege with the UK Government, discussions have not been held between the UK and Welsh Government about addressing that issue in this Bill. This is because the matter is very likely outside the scope of the Bill. Therefore, using this Bill as a vehicle to move towards equality of privilege between Members of the UK Houses of Parliament and Members of the Senedd is not considered feasible.

Consultation

4. As this is a UK Bill, consultation on it is ultimately a matter for the UKG.

Paragraph 32 of the Explanatory Notes sets out details of some official publications regarding the misconduct in public office offence. The Committee on Standards in Public Life (CSPL) recommended that this "*offence be put on a statutory basis; that consent of the DPP should be required to prosecute the offence; and that there may be challenges in defining the boundaries of public office*".

Paragraph 33 states that "*The Joint Committee on Parliamentary Privilege considered the work of the CSPL and noted the high level of support for the proposals to put the offence on a statutory basis*".

In addition, paragraph 34 states that "*The Law Commission carried out a review of corruption more generally in the late 1990s. their recommendations relating to corruption were largely but not wholly adopted in the Home Office's 2003 draft Corruption Bill (which was never enacted)*".

Since engagement with UKG officials began in March, my officials have regularly stressed the importance of UK Government officials engaging with Welsh stakeholders. I understand victims, and families of victims, of the Hillsborough disaster were consulted by the UK Government but I do not have the details of that process. Neither Welsh Government officials nor other Welsh Government representatives were invited to be part of this engagement. On this basis I understand engagement with Welsh stakeholders to be minimal.

My officials have not undertaken any formal consultation with Welsh stakeholders because the legislation is UK Government legislation and so any such exercise might well become unworkable if run by the Welsh Government. Nevertheless, my officials have discussed the Bill with relevant stakeholders and in some appropriate fora. Discussion with UKG officials on how we might improve the approach are ongoing.

Discussions with Scottish and Northern Ireland policy counterparts

5. There have been regular discussions with policy leads in Scotland and Northern Ireland. Where possible and appropriate, Welsh Government and the other devolved Governments are keen to establish consistency. Both Scotland and Northern Ireland have indicated their support in principle for the extension of Clause 11. Scotland and Northern Ireland officials share a number of our broader concerns relating to interpretation and engagement.

Issues requiring clarification

6. Several issues require clarification from the UK Government before the devolved governments decide whether to include these elements in the wider Bill. Some have related to more general implementation elements, but these have predominantly been related to interpretations of definitions included in the Bill, where differences in devolved approaches might indicate the application or capture of individual's or authorities not necessarily intended to be captured. My officials have been engaging closely with UKG officials and a number of more detailed meetings with respective lawyers have been arranged to clarify the position and expectation. Relevant discussions are ongoing.

Definition

7. Whilst it would not be appropriate (and might involve the disclosure of legal advice) to give specific examples, some of the issues revolve around the scope Schedule 4.

Existing codes

8. I understand that existing Codes will need amendment if the Bill is enacted (such as the Local Government Code). The Civil Service Code will be updated by the UKG given the Civil Service is a reserved matter. Officials will need to review and consider existing Codes to see if they need amendment or if new Codes will be needed as a result of the Bill's provisions to ensure compliance. I presume that public bodies in other parts of the UK will need to undertake similar amendment processes. There is minimal concern at this stage as the Bill allows the flexibility to build on and amend existing provisions which should minimise confusion.

UKP legislating for Wales

9. The statement quoted from the LCM was intended to indicate that the Welsh Government did not want Wales to be without the important legal mechanisms and protections afforded by the Bill, not to imply that all parts of the Bill apply equally to all parts of the UK. In any event, it is appropriate to legislate for Wales in this Bill because it provides the best opportunity to implement important legal protections for Wales (as explained in the LCM).