

Carl Sargeant AC/AM  
Ysgrifennydd y Cabinet dros Gymunedau a Phlant  
Cabinet Secretary for Communities and Children



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA(L)CS/0269/17

Lynne Neagle AC/AM  
Chair – Children, Young People and Education Committee  
[SeneddCYPE@assembly.wales](mailto:SeneddCYPE@assembly.wales)

30<sup>th</sup> April 2017

Dear Lynne

Thank you for your letter of 12 April on behalf of the Children, Young People and Education Committee, seeking clarification of our position on the Legislative Consent Memorandum for the Prisons and Courts Bill.

In preparing the memorandum, we did consider whether to seek consent for clauses 8, 15-20 and Schedule 1 of the Bill, as well as clauses 4-6, but we concluded that this was not necessary. Our view was that to fall within Standing Order 29, the National Assembly should have enough competence to pass a coherent legislative proposal which could achieve substantially the same effect as the provisions of the UK Government's Bill. We were not convinced that this was the case.

Although these clauses do in part relate to the protection, well-being and care of children, they confer upon the Prisons and Probation Ombudsman considerably broader functions which are not devolved (for example, in relation to deaths in criminal justice institutions). Whilst the Assembly may have legislative competence to create an ombudsman for Wales, that ombudsman would only be able to carry out very limited functions specifically in relation to deaths of children in a secure children's home. As this would only be a very small part of the wide range of functions placed on a statutory footing by the UK Government's Bill, we do not believe the Assembly could achieve substantially the same effect as these provisions. We were not therefore persuaded of the necessity to seek consent for these clauses. We accept, however, that this is not clear cut and that arguments could be made both ways. We all agree that clauses 8, 15-20 and Schedule 1 do relate, at least in part, to the protection, well-being and care of children in Wales.

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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.

The UK Government has now confirmed that the Bill will not be progressed within this Parliament due to the General Election, so there will be no need for the plenary debate scheduled for 9 May. Should these provisions be introduced in any future Bill, we will give careful consideration to which clauses may need the consent of the National Assembly.

Yours sincerely

A handwritten signature in black ink, appearing to be 'CS', written in a cursive style.

**Carl Sargeant AC/AM**  
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Cabinet Secretary for Communities and Children