



Ein cyf/Our ref: MA - L/VG/0709/18

Lord James O'Shaughnessy  
Parliamentary Under Secretary of State for Health  
(Lords) Department of Health and Social Care  
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4 December 2018

Dear James,

Following our exchange of correspondence, officials have been in discussions relating to the Healthcare (International Arrangements) Bill. These discussions have mainly focused on regulations made under Clause 2 of the Bill, including the definitions set out in Clause 5. I have been concerned about the lack of recognition on the face of the Bill of the devolved nature of certain aspects of the provisions.

I understand your officials have suggested that the Bill be amended to include a statutory duty to consult Welsh Ministers where regulations under Clause 2 relate to devolved matters. This would include regulations which amend, repeal or revoke a Measure or Act of the National Assembly for Wales. I would note that any statutory instrument which amends Welsh primary legislation would of course also be subject to a Statutory Instrument Consent Motion in the Assembly, and it would be for the Welsh Government to decide whether to recommend that consent be given. This amendment would be underpinned by a memorandum of understanding setting out more detail as to how and when consultation would take place.

I would be content to recommend consent to the Bill on this basis, should the memorandum provide satisfactory assurance. In order to provide this assurance the memorandum would need to state that:

- Welsh Government would be consulted on the negotiation of agreements, with a role from the initial scoping through to the conclusion of a draft agreement;
- Welsh Government would be consulted on the initial development and subsequent drafting of regulations under the Bill which implement these agreements, with the UK Government making every effort to proceed by consensus with the devolved administrations. (Complying with the terms of the memorandum in this respect will of

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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.

course make it easier for the Welsh Government to recommend that Assembly consent is given under the SICM process); and

- Welsh Government would be consulted where an agreement applied to or had implications for Wales, and on regulations giving effect to that agreement.

Should a memorandum be agreed which is acceptable to both UK Government and Welsh Government, I would be happy to provide a supplementary memorandum to the National Assembly for Wales to recommend that consent is given to the Legislative Consent Motion.

I would be grateful if you could provide the clarification sought in my previous correspondence on your commitment that there will be no additional costs to the devolved administrations associated with this Bill.

I look forward to hearing back from you on the issues set out in this letter so that we that we can make swift progress on amendment of the Bill and the development of a memorandum of understanding.

I am copying this letter to the First Minister of Wales, the Secretary of State for Wales and the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office. I am also copying it to the Minister of State for Health, to the Scottish Government's Cabinet Secretary for Health and Sport, the Permanent Secretary at the Department of Health in Northern Ireland and the Head of the Northern Ireland Civil Service.

Yours sincerely,



**Vaughan Gething AC/AM**

Ysgrifennydd y Cabinet dros Iechyd a Gwasanaethau Cymdeithasol  
Cabinet Secretary for Health and Social Services