



Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee

07 January 2022

Dear Huw,

With sincere apologies this letter was originally written on 2 December 2021 but due to an oversight, was never issued. At the time of drafting, this letter answered the two recommendations in the Committee's report on supplementary LCM (No 2) on the Police, Crime, Sentencing and Courts Bill, published on 25 November.

As this letter is now out of date, I am still issuing it as formality.

On 7 January 2022 I issued another letter to yourself along with supplementary LCM No 4 which provides the most up to date position in relation to the Bill.

I write in relation to the report published by the Legislation, Justice and Constitution on 25 November regarding the Supplementary Legislative Consent Memorandum (SLCM) on the Police, Crime, Sentencing and Courts Bill laid on 5 November.

I note your two recommendations and have answered them as set out below.

*Recommendation 1. The Minister should, in advance of the debate on the relevant consent motion, clarify why Memorandum No. 2 on the Bill did not refer to clauses 7 and 8, and also explain how clause 17 relates to "clauses 9 and through to 22" as stated in Memorandum No. 2.*

Answer:

An error occurred when drafting the Supplementary Legislative Consent Memorandum (SLCM). The SLCM should have stated that given the agreed amendment to clause 17 we considered that clauses 7 to 22 of the Bill as amended required the legislative consent of the Senedd, and those clauses should have been referenced as clauses which I recommend the Senedd gives its consent.

The Legislative Consent Memorandum (LCM) laid on 28 May recommended that the legislative consent of the Senedd be withheld to 9, 17 and 18 as these clauses did not adequately take into account the devolved nature of those clauses, namely allowing the Secretary of State to impose a function upon Devolved Welsh Authorities ("DWAs"). The

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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.

same LCM recommended the legislative consent of the Senedd be given to clauses 7, 8, 10-16 and 19-22 as these clauses do not impose functions on DWAs.

The amendment laid at House of Lord's Committee Stage relating to clause 17 requires the Secretary of State to obtain the consent of Welsh Ministers prior to using the power to direct Devolved Welsh Authorities. Given the amendment, we are now satisfied that the package of measures contained in clauses 7-22 provides appropriate protection and safeguards in terms of the interaction with DWAs and other devolved issues and I now recommend the consent of the Senedd should be given to clauses 7-22 of the Bill.

We anticipate there are likely to be further changes to the Bill, including further amendments to the serious violence duty clauses, as well as the introduction of entirely new provisions. We understand that amendments may continue to be tabled as late as 4 January. Officials will continue to ensure that the Committee and the Senedd is provided with information about the ever changing provisions of this Bill in accordance with the requirements of SO 29 so they have the fullest picture at the time of the debate in relation to those provisions that are considered to be within the legislative competence of the Senedd.

*Recommendation 2. The Minister should, in advance of the debate on the relevant consent motion, make the Welsh Government's position clear on the clauses of the Bill which require the consent of the Senedd, and:*

- *the clauses for which it is recommending consent; and*
- *the clauses for which it is not recommending consent.*

Answer:

We are making the following recommendations on the clauses of the Bill as amended following Lords Committee Stage:

**The Welsh Government is recommending consent for the following clauses:**

Part 1 – Clause 1 Police Covenant

Part 1 – Clause 2 Increase in penalty for assault on emergency workers

Part 2 – Clauses 7-22 Serious Violence Duty;

Part 2 – Clauses 23-35 Offensive Weapons Homicide Review;

Part 2 – Clauses 36-37, & 41-43 Extraction of Information from Electronic Devices

Part 3 – Clause 61 Intentionally or recklessly causing public nuisance

**The Welsh Government is recommending consent is withheld for the following clauses:**

Part 2 – Clause 47 Criminal Damage to Memorials: mode of trial

Part 3 – Clauses 56, 57 & 60 Public Order

Part 4 – Clause 63 Unauthorised encampments (Offence relating to residing on land without consent in or with a vehicle)

As noted above, this Bill is an ever changing and given the likely last tabling date of 4 January, the full picture of the Bill will remain uncertain until very close to the Senedd debate and as such the Welsh Government's recommendations about consent may remain uncertain until that time.

A handwritten signature in black ink, reading "Jane Hutt". The signature is written in a cursive style with a large initial 'J' and a small blue dot above the 't' in 'Hutt'.

**Jane Hutt AS/MS**

Y Gweinidog Cyfiawnder Cymdeithasol  
Minister for Social Justice