



Ein cyf/Our ref: CG/PO/74/2023

Kevin Hollinrake MP
Parliamentary Under Secretary of State
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07 March 2023

Dear Kevin,

I am writing further to the First Minister's letter dated 16 January on the UK Government's Strikes (Minimum Services Levels) Bill.

We strongly oppose this Bill in Wales and note the significant opposition to it which extends beyond the Welsh Government, opposition parties and trades union. We are following the legislative scrutiny of the Bill and recognise the concerns raised by many peers during the Bill's 2nd reading in the House of Lords, including by eminent crossbenchers like Baron Judge, a former Lord Chief Justice for England and Wales. We hope the Bill will be defeated in the Lords and believe firmly that Ministers should not seek to take powers that impede the path to positive resolutions by making the right to withdraw labour illusory.

The draft Bill has already drawn criticism from the ILO and other nations and the Welsh Government deprecates in the strongest terms the attempt that is being made to impose deeply undemocratic provisions on services which are devolved to Wales. These services are overseen on the basis of mandates provided by the people of Wales and not the whim of a UK Secretary of State who is not answerable to that electorate on devolved matters. The Bill as drafted undermines the integrity of democratic devolution and should not bring devolved public services into scope.

There is no evidence the Bill will help resolve current disputes, but there is every indication it will do lasting damage to industrial relations across the UK and will interfere with devolved public services in Wales. We do not agree with your analysis that the UK Government is legislating solely within its reserved competence for employment rights and duties and industrial relations. The Bill clearly contains clauses that make provision with regard to the devolved matters of health, education, fire and rescue services and some transport matters.

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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 Bill also contains sweeping Henry VIII powers which allow consequential amendment to be made to legislation that concerns devolved matters. The power to make regulations enables amendment, repeal or revocation to an Act or Measure of Senedd Cymru. These matters are not merely incidental to the Bill and require the consent of the Senedd. To that end, we have laid a Legislative Consent Memorandum (LCM) in the Senedd. I am confident when the LCM is debated and voted upon in the coming weeks, we will see a clear demonstration of the Senedd's lack of consent for the Bill and its provisions with regard to devolved matters.

In many ways, your own consultation documents acknowledge the Bill makes provisions with regard to services which are fully devolved. For example, your consultation in respect of ambulance services says they are “run differently in England, Scotland and Wales and are the responsibility of the Scottish and Welsh Governments respectively” and that there are “implications of those differences for setting minimum service levels”. There is similar commentary in your consultation documents in respect of fire and rescue services and rail services. Across all these services, there are significant strategic and operational differences in Wales, and it is an affront to devolution that UK Ministers should exercise powers that will impact on these areas, without an electoral mandate or the consent of the Senedd.

The lack of detail in the Bill makes it difficult to set out with any precision the potential impact the Bill could have on services in Wales, but taking rail as an example, it's clear the options which are being looked at could see a disproportionately negative impact on some routes and areas. It's not hard to see how rail routes that are busier and viewed as more business critical will be prioritised at the expense of others, particularly those deemed to be in more peripheral parts of the UK.

As regards fire and rescue services, defining a “minimum service level” would need a full and detailed knowledge of local risks of fire and other incidents, including locations and facilities (like oil refineries, tall residential buildings and ports) which present higher or unusual risks; and of the current disposition and availability of crews, appliances and specialist assets available to respond to them. These factors vary considerably from one area to another, and indeed over time as many fire risks are seasonal. There would be particular problems in Wales given that most of the country is sparsely populated and served only by on-call firefighters who could not practically be subjected to a work notice, as they are not obliged to work in any event. It would be impossible to generalise about all of these factors at a GB-wide or indeed Wales-wide level, or to reduce it to a simple percentage of firefighting staff. Any Secretary of State who purported to make such a decision would be assuming considerable risks, including risks to life, as any such decision would be necessarily ill-informed and not reflective of local needs and capabilities.

We are not prepared to see these decisions play out in rail, in ambulance services and in fire and rescue – decisions which will ultimately be taken by a UK Minister divorced from the conditions and negotiations in Wales. Across all of the relevant services which are wholly – or partially devolved – the terms and conditions negotiated by Welsh public bodies are interwoven with the strategic and operational plans for the delivery of services which derive from programmes for government, developed on the basis of democratic devolved elections.

We are concerned that in practice, this Bill allows UK Ministers to take unpredictable decisions with far reaching consequences that could jeopardise negotiations. Any regulation that is made by a Secretary of State that interferes with industrial disputes within devolved public services could prolong action that would otherwise be resolved as a result of Wales level negotiations. The Bill only requires the Secretary of State to “consult such persons as

the Secretary of State considers appropriate” and does not stipulate any framework whatsoever to ensure that consultations are carried out with sufficient time and with the involvement of responsible parties such as employers and trades unions. Similarly, no route or role is provided for Welsh Ministers, even where they are responsible for the service in question rather than the Secretary of State.

The Welsh Government cannot take comfort from informal assurances offered by UK Ministers who may pledge to not make regulations that interfere with devolved public services. The UK Government made similar commitments in relation to the use of financial assistance powers during the passage of the UK Internal Market Bill. However, these powers are now being used on a systematic basis to allocate spending in relation to the levelling up agenda and which leaves Welsh communities and businesses severely worse off.

Given the views of the Welsh and Scottish Government’s on this Bill, I urge you to think again and to remove devolved public services from the scope of this Bill. It cannot be right that a UK Minister should be empowered to make regulations which will impact on the operations of devolved services, and which will have a deleterious impact on the partnership relationships we have, and which employers and trade unions have freely entered into.

Our strong and constructive relationships with employers and trade unions are based on good faith, mutual respect and trust, and they are essential to how we use our devolved responsibilities to run devolved services differently and in the collective interests of the people of Wales.

I am copying this letter to the Secretary of State for Wales, the Welsh Affairs Committee in the House of Commons, and the Legislation Justice and Constitution Committee in the Senedd.

Yours sincerely,



Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution