

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	P Gareth Williams
Meeting date: 29 November 2021	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

Remote – Supplementary pack

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

5.5 Correspondence from the Minister for Education and Welsh Language: Supplementary Legislative Consent Memorandum on the Skills and Post-16 Education Bill

(Pages 1 – 4)

Attached Documents:

LJC(6)-21-15 – Paper 21 – Letter from the Minister for Education and Welsh Language to the Children, Young People and Education Committee, 25 November 2021

LJC(6)-21-15 – Paper 22 – Letter from the Children, Young People and Education Committee to the Minister for Education and Welsh Language, 19 November 2021

10 Supplementary Legislative Consent Memorandum: Advanced Research and Invention Agency Bill

15.15 – 15.25 (Pages 5 – 14)

[Supplementary Legislative Consent Memorandum – Advanced Research and Invention Agency Bill](#)

[Report on the Welsh Government’s Legislative Consent Memorandum on the Advanced Research and Invention Agency Bill](#)



Attached Documents:

LJC(6)-15-21- Paper 17 - Legal advice note



Ein cyf/Our ref JMEWL/4025/21

Jayne Bryant MS
Chair Children, Young People and Education Committee
Senedd Cymru
SeneddChildren@senedd.wales

25 November 2021

Dear Jayne,

Thank you for your letter of 19 November concerning the supplementary Legislative Consent Memorandum (Memorandum No.2) (SLCM No.2) for the UK Government's Skills and Post-16 Education Bill ("the Bill") laid on 29 October. You raised queries relating to the provision made by clauses 1 and 4 and by clause 25 of the Bill to which I have provided a response below.

Clauses 1 (Local Skills improvement plans) and 4 (interpretation)

The amendments made to clauses 1 and 4 of the Bill at House of Lords Report stage on 12 October had the effect of potentially increasing the possibility of Welsh institutions being subject to the duties in respect of local skills improvement plans (LSIPs) for England. The amendments to clause 1 limit the education and training within scope of the LSIP duties to "English funded" post-16 technical education and training. However, the amendments to clause 4 which define "English funded" include student support provided by the Secretary of State. It is my view that the combined effect of these amendments could potentially result in the courses of Welsh institutions, undertaken by English domiciled students in receipt of UK Government student support, being considered as being "material" to the skills needs of a local area in England. The Bill provides that where post-16 technical education which is material to local area in England then institutions providing that education are to be subject to the LSIP duties set out in clause 1(3), 1(4) and 1(5). The inclusion of financial support for students in the definition of "English funded" provision is of particular concern as this approach potentially brings a wide range of post-16 education and training offered by Welsh institutions within scope of the LSIPs duties.

My officials have been engaged with officials at the UK Government Department for Education for several months and have had productive discussions regarding the application of clauses 1 and 4 to Welsh institutions. The amendments brought forward by the UK Government for consideration at Lords Report stage were an improvement compared to the Bill as introduced insofar as they established a nexus to the funding of post-16 provision by the Secretary of State. However, the amendments did not adequately address 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.

fundamental issue of concern, namely the imposition of statutory duties on Welsh institutions which I do not consider to be either necessary or proportionate. The issue of proportionality and the likelihood of Welsh institutions delivering post-16 technical education that is considered to be “material” to a local area in England were raised by my officials when they had sight of draft amendments in early October. However, the timetable for the UK Government finalising their amendments for Report stage did not allow for a full analysis or redrafting of the amendments ahead of their tabling.

I wrote to the Secretary of State for Education on 29 October setting out my concerns, noting that LSIPs are for the purpose of post-16 education being available to meet skills needs of employers in specified areas of England and that the imposition of legal duties on Welsh institutions in respect of these plans is unnecessary. I informed the Secretary of State that I would like to see amendments brought forward to remove Welsh institutions from the LSIP duties.

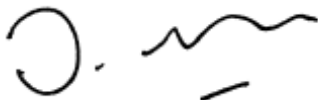
Discussions have been ongoing at official level and much progress has been made in recent weeks to address my concerns. I am pleased to be able to inform you that the UK Government has tabled amendments for consideration at Commons Committee Stage. Those amendments address my concerns and are available here: [skills.pbc.rm.1124.fm \(parliament.uk\)](https://skills.pbc.rm.1124.fm/parliament.uk). I intend to lay a further supplementary LCM as soon as possible to reflect these amendments.

Clause 25 (Institutions within the further education sector: procedure for designation)

Clause 25 was added to the Bill at Report stage in the House of Lords. The amendments tabled by the UK Government on 24 November for House of Commons Committee Stage seek to remove this clause from the Bill.

I am also copying this letter to the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely,

A handwritten signature in black ink, consisting of a large 'J' followed by a wavy line and a short horizontal stroke.

Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

Jeremy Miles MS

Minister for Education and Welsh Language

Dyddiad | Date 19 November 2021

Pwnc | Subject: Skills and Post 16 Education Bill supplementary LCM

Dear Jeremy,

We considered this supplementary LCM at our Committee meeting on 18 November. We have a number of queries to help inform our consideration.

As the Committee must report on this LCM by 15 December we would appreciate a response as soon as possible, and no later than Friday 26 November, to enable us to consider it at our meeting on Thursday 2 December.

Clauses 1 (Local Skills improvement plans) and 4 (interpretation)

Paragraph 15 of the SLCM notes that the amendments made to clauses 1 and 4 of the Bill "have potentially increased the possibility of Welsh institutions being subject to the duties in respect of local skills improvement plans for England". As there is no further detail in the SLCM as to how, in practice, the amendments will potentially have this effect, can you provide us with this?

In your previous correspondence with the Committee you indicated that productive discussions at officials' level were undertaken in relation to amendments to these clauses of the Bill. The SLCM confirms that the amendments which have been made do not address your concerns. Are you able to explain why such discussions have resulted in amendments being made to the Bill which do not address your concerns? Can you confirm whether further discussions are ongoing with the Department of Education and if so whether they are likely to result in further amendments being made to the Bill which will address your concerns?

Can you also provide clarity as to the detail of amendments that you would need to see made to the Bill in order to recommend that the Senedd gives its consent to clauses 1 and 4 of the Bill?

New clause 25 [Provision of opportunities for education and skills development]

We noted that a new clause 25 has been inserted into the Bill. This clause provides that any person of any age has the right to free education on an approved course up to Level 3 supplied by an approved provider of further or technical education, if they have not already studied at that level; and that funding must be provided to the approved provider for that purpose. It also imposes requirements on employers in relation to spending funds for people on apprenticeships who are under the age of 25.

Although the Explanatory Notes note that this clause is intended to apply to people in England, this is not reflected on the face of the Bill. Can you confirm whether you consider that the new clause 25 of the Bill requires the legislative consent of the Senedd and if not, why not?

I look forward to receiving your response.

Yours sincerely,



Jayne Bryant MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

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