

Jane Hutt AS/MS
Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y
Trefnydd a'r Prif Chwip
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-JH-0452-25

Buffy Williams MS
Chair, Children, Young People and Education Committee

Jenny Rathbone MS
Chair, Equality and Social Justice Committee

02 April 2025

Dear Buffy and Jenny

Thank you for your letter of 20 March, setting out questions from your two Committees in relation to the Border Security, Asylum and Immigration Bill LCM. I am aware of a separate letter from the Chair of the Legislation, Justice and Constitution Committee which asks a similar question to your sixth question. I am responding in my capacity as Cabinet Secretary for Social Justice and also on behalf of the Minister for Further and Higher Education, as the Welsh Minister who has laid this LCM.

What are your views on clause 38 and whether there are any concerns about the remaining provisions set out in the Illegal Migration Act 2023 and elements of the Nationality and Borders Act 2022?

As noted in the LCM, we are pleased that clause 38 will repeal the aspects of the Illegal Migration Act 2023 which we believe relate to devolved children's social care. Supporting this repeal will give effect to the previously expressed will of Senedd Members (under the relevant Illegal Migration Act LCMs) regarding the previous UK Government legislation in this area.

Our concerns about the Nationality and Borders Act 2022, which were also set out in a [related LCM](#), remain. We remain of the view that Senedd Cymru already legislated in regard to support for unaccompanied children in Wales through the Social Services and Wellbeing (Wales) Act 20214 and the Welsh Government position in relation to the age assessment of unaccompanied asylum seeking children is set out in our Age Assessment Toolkit. We would like to see the related provisions repealed in time.

The wider provisions within both the Nationality and Borders Act 2022 and Illegal Migration Act 2023 relate to reserved functions and obligations. We engage closely with UK Government counterparts to try to ensure we can apply our Nation of Sanctuary policy to its fullest extent within the Immigration Rules and processes established by the UK Government.

What are your views on the retrospective nature of clause 51?

The Clause seeks to address the possible historic lack of legal vires for fees charged throughout the UK by way of provision included in the Bill at clause 51. This clause also

addresses the historic legal vires for the Home Office Visas and Nationality Service (a reserved matter) and the Department for Education non-UK Early Years Qualifications Recognition Service applicable to England.

The UK ENIC Service users, which includes those in Wales, will incur no additional burden from this measure. This is justified as a proportionate means of achieving the legitimate aims of ensuring that the legislative position is clear and certain.

The UK ENIC Service has been managed by Ecctis Ltd on behalf of the UK Government since at least 2014. The retrospective legislation mitigates the risk that service users who have been charged fees would bring restitution claims against the UK Government, which could result in those historic costs being transferred to the taxpayer.

What discussions have you had with the 17 organisations in Wales with active membership of the UK ENIC Service?

The UK Government leads a UK ENIC Stakeholder reference group, including representatives from sector bodies and end user groups from across the UK. Welsh Government officials also attend. No separate Welsh Government discussions have been held with the 17 organisation in Wales with active membership of the UK ENIC Service

Discussions between Devolved Governments and UK Government officials are ongoing with a view to strengthen Devolved Government oversight of the new UK ENIC contract (operational from 28 March 2025), specifically the establishment of a new oversight group that will regularly meet to scrutinise and monitor the service. To support Welsh Government understanding of current and future trends concerning the international comparisons of qualifications, organisations in Wales with active membership of the UK ENIC Service will be invited to share their views with Welsh Government officials in advance of these meetings.

Have you sought any clarification about how the issues addressed in clause 51 arose in the first place and whether the Home Office is conducting a review of the situation?

During the process of re-procuring the UK ENIC service in 2024, the Department of Education identified a possible lack of legal vires for the fees charged by the service provider. The Department for Education informed Devolved Governments of the issue and have been in regular contact since.

Have you received an estimate for the volume and value of fees charged without statutory authority and the impact this has had on people living in Wales?

During 2024 there were over 700 enquiries to the UK ENIC service made by Welsh member organisations - the majority of which came from Welsh universities. During the period 2022 – 2024 there were over 1400 applications to UK ENIC from individuals living in Wales. There will be a much larger number of individuals applying from overseas intending to study or work in Wales.

The impact on service users from Wales is that they will not incur any additional financial burden from Clause 51 and will be unable to recover fees paid for the services in the past. Service users previously charged have received the benefit of the intended service.

Why are you not seeking consent for clause 53 of the Bill? Clause 53 contains a regulation making power for the Secretary of State to make consequential provision. These regulations may amend, repeal or revoke any enactment. Clause 53(3)(c) states that “enactment” includes an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru.

Clause 53 was not included in the LCM as it is a narrow power which is restricted to making required amendments to existing legislation as a direct consequence of the provisions of the Bill coming into force. This power will primarily be used in relation to reserved subject matters, as the majority of the Bill is outside legislative competence.

I hope these responses assists the Committees in considering the LCM.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a horizontal line above the first few letters.

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