

**Y Pwyllgor Menter a Busnes
Enterprise and Business Committee**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Rt Hon Carwyn Jones AM
First Minister
Welsh Government
Tŷ Hywel
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11 July 2013

Dear First Minister

Legislative Consent Memorandum for the Intellectual Property Bill

On 4 June the Business Committee referred the above Legislative Consent Memorandum (LCM) to the Enterprise and Business Committee for consideration.

The LCM draws the Assembly's attention to the Intellectual Property Bill, which is currently before Parliament. Clause 19 of the Bill proposes amending the Freedom of Information Act 2000 by inserting a new exemption, which will enable public authorities to withhold information in response to a request, where it relates to a continuing programme of research that is intended for future publication.

The Committee considered the LCM at its meeting on 26 June and agreed that I should write to you setting out some of the issues that were of concern to Members and asking for further information on a number of matters.

Concern was expressed that there does not appear to have been any public consultation on the proposed exemption and, therefore, any opportunity for alternative views to be taken into account. In particular, Committee Members noted that higher education bodies in Wales do not appear to have submitted any views on the exemption. It is not clear whether this is because they are broadly content or because the opportunity has simply not arisen.

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Members noted that the exemption appears to be very widely drawn, which gives rise to concerns about how the exemption might work in practice. Although the exemption would need to meet the public interest test, Members wondered whether the proposal could have the unintended consequence of providing a much wider exemption than is intended?


The relationship between research projects and commercial interests in those projects also raised questions about the ethical and practical implications of whether information would be exempt from disclosure. Although the exemption might offer some protection to commercial interests it is not clear what the long-term implications of this might be in practice.

The Committee would be grateful for your views on these matters and specifically would like more information on the following matters:

- The definition of “pre-publication research”, including whether it is confined to intellectual property or whether it has a wider interpretation;
- Clarity on the wider implications of the exemption and how it would operate in practice;
- The long-term implications of the exemption;
- Whether there is any way of measuring or evaluating wider views on the exemption (from public and commercial interests).

The Committee hopes that you will be able to respond in time to inform the plenary debate on the LCM, which I understand is currently scheduled for 1 October.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nick Ramsay'. The signature is fluid and cursive, with the first name 'Nick' written in a smaller, more compact script and the last name 'Ramsay' written in a larger, more prominent cursive style.

Nick Ramsay AM
Chair