

Report on the Health and Social Care (Quality and Engagement) (Wales) Bill

November 2019



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November 2019



About the Committee

The Committee was established on 15 June 2016. Its remit can be found at:
www.assembly.wales/SeneddCLA

Committee Chair:



Mick Antoniw AM
Welsh Labour

Current Committee membership:



Suzy Davies AM
Welsh Conservatives



Carwyn Jones AM
Welsh Labour



Dai Lloyd AM
Plaid Cymru



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1. Introduction

On 17 June 2019, Vaughan Gething AM, the Minister for Health and Social Services (the Minister) introduced the Health and Social Care (Quality and Engagement) (Wales) Bill (the Bill).

Introduction of the Bill

1. The Bill¹ was accompanied by an Explanatory Memorandum² (EM) and, on 19 June, the Minister issued a Statement of Policy Intent for Subordinate Legislation to be made under the Bill.³
2. The National Assembly's Business Committee referred the Bill to the Health, Social Care and Sport Committee on 21 May 2019, and set a deadline of 15 November 2019 for reporting on its general principles.⁴

Background

3. The EM notes that the Bill contains a number of provisions in respect of health and social care policy that “are intended to have a cumulative positive benefit for the population of Wales and to put in place conditions which are conducive to improving health and well-being”.⁵
4. The EM summarises the Bill's provisions as:
 - through a specific duty, placing quality considerations at the heart of all that is done by NHS bodies and the Welsh Ministers (in relation to their health functions). In this regard NHS bodies are Local Health Boards (LHBs), NHS Trusts, Special Health Authorities (not including cross-border special health authorities);

¹ Available on the National Assembly's [website](#)

² Welsh Government: [Explanatory Memorandum on the Health and Social Care \(Quality and Engagement\) \(Wales\) Bill](#), June 2019

³ Welsh Government, [Health and Social Care \(Quality and Engagement\) \(Wales\) Bill Statement of Policy Intent for Subordinate Legislation](#), June 2019 (Statement of Policy Intent)

⁴ Business Committee, [Report on the timetable for consideration of the Health and Social Care \(Quality and Engagement\) \(Wales\) Bill](#), June 2019

⁵ Explanatory Memorandum, paragraph 2

- placing a duty of candour on all NHS bodies at an organisational level, requiring them to be open and honest when things go wrong. In relation to the duty of candour NHS bodies are defined as LHBs, NHS Trusts, Special Health Authorities (including NHS Blood and Transplant in relation to its Welsh functions) and primary care providers in Wales in respect of the NHS services they provide;
- strengthening the voice of citizens across health and social services, further connecting people with the organisations that provide them with services; and
- strengthening the governance arrangements for NHS Trusts.⁶

The Committee's remit

5. The remit of the Constitutional and Legislative Affairs Committee (the Committee) is to carry out the functions of the responsible committee set out in Standing Order 21⁷ (with the exception of Standing Order 21.8⁸) and to consider any other constitutional, legislative or governmental matter within or relating to the competence of the National Assembly or the Welsh Ministers, including the quality of legislation.

6. In our scrutiny of Bills introduced in the National Assembly, our approach is to consider:

- matters relating to the competence of the National Assembly, including compatibility with the European Convention on Human Rights (ECHR);
- the balance between the information that is included on the face of the Bill and that which is left to subordinate legislation;
- whether an appropriate legislative procedure has been chosen, in relation to the granting of powers to the Welsh Ministers, to make subordinate legislation; and
- any other matter we consider relevant to the quality of legislation.

⁶ Explanatory Memorandum, paragraph 3

⁷ National Assembly for Wales, Standing Orders of the National Assembly for Wales, January 2019

⁸ Functions under Standing Order 21.8 are the responsibility of the External Affairs and Additional Legislation Committee

- 7.** We took evidence from the Minister at our meeting on 30 September 2019⁹.

⁹ Constitutional and Legislative Affairs (CLA) Committee, 30 September 2019, Record of Proceedings (RoP)

2. Legislative competence

General

8. We considered this Bill under the reserved powers model of legislative competence, as set out in section 108A of the *Government of Wales Act 2006* (the 2006 Act).

9. The Welsh Government is satisfied that the Bill is within the legislative competence of the National Assembly.^{10 11}

10. In her statement on legislative competence,¹² the Llywydd, Elin Jones AM, stated that in her view the provisions of the Bill would be within the legislative competence of the National Assembly.

Human rights

11. To be within the legislative competence of the National Assembly, section 108A(2)(e) of the 2006 Act requires all provisions of a Bill to comply with the European Convention on Human Rights (ECHR).

12. The Minister told us that he thought that the Bill:

“... is compatible with the convention on human rights and, as is usual, in the integrated impact assessment that’s been carried out, and that’s available publicly; it’s on the Welsh Government website.”¹³

Our view

13. We note the evidence from the Minister.

14. While chapter 8 of the EM includes a short discussion on impact assessments, it does not refer directly to the consideration of human rights. The chapter provides a link to a summary of how the Bill might impact on a number of areas¹⁴ but the summary also does not refer directly to human rights. Neither

¹⁰ Explanatory Memorandum, paragraph 5

¹¹ CLA Committee, 30 September 2019, RoP [8]

¹² Presiding Officer’s Statement on Legislative Competence: Health and Social Care (Quality and Engagement) (Wales) Bill, 17 June 2019

¹³ CLA Committee, 30 September 2019, RoP [8]

¹⁴ Explanatory Memorandum, paragraph 597; Welsh Government, Health and Social Care (Quality and Engagement) (Wales) Bill: impact assessment, June 2017

the summary itself, nor the webpage on which it is located provides any links to the impact assessments themselves.

15. We take the opportunity to re-iterate a conclusion made most recently in our reports on the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill¹⁵ and, earlier this week, on the National Health Service (Indemnities) (Wales) Bill¹⁶: it is important that full and thorough explanations of assessments undertaken in relation to human rights are available in Explanatory Memoranda that accompany Bills laid before the National Assembly.

¹⁵ Constitutional and Legislative Affairs Committee, [Report on the Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Bill](#), August 2019

¹⁶ Constitutional and Legislative Affairs Committee, [Report on the National Health Service \(Indemnities\) \(Wales\) Bill](#), November 2019

3. General observations

The need for legislation

16. The Bill proposes to introduce changes that will reframe the duty of quality on NHS bodies in Wales and the Welsh Ministers; place a duty of candour on all NHS bodies; strengthen the voice of citizens across health and social services; and strengthen the governance arrangements for NHS Trusts.¹⁷ For each of these aspects, the EM explains why change is needed and the risks if legislation is not made. We consider specific aspects on the need for legislation in Chapter 4 of this report.

Balance between what is on the face of the Bill and what is left to subordinate legislation

17. The Bill contains 28 sections divided into five Parts and three Schedules, and four powers for the Welsh Ministers to make subordinate legislation.

18. The delegated powers are summarised in Chapter 5 of the EM. As mentioned earlier in this report, the Welsh Government has also provided a Statement of Policy Intent.

19. We consider specific aspects on the balance of what is on the face of the Bill and what is left to subordinate legislation in Chapter 4 of this report.

¹⁷ Explanatory Memorandum, paragraphs 12-15

4. Specific observations including powers to make subordinate legislation

Part 2 – Improvement in Health Services

Background

20. Part 2 consists solely of section 2.

21. Section 2 sets out amendments to be made to the *National Health Service (Wales) Act 2006*. The amendments insert new sections into that Act, which impose a duty upon the Welsh Ministers to secure improvement in the quality of health services, in terms of the effectiveness and safety of health services and the experience of individuals to whom health services are provided. The Welsh Ministers must lay an annual report before the National Assembly detailing the steps they have taken to comply with their duty.

22. Section 2 also imposes similar duties on local health boards, NHS trusts and special health authorities (SHAs) (but not SHAs which operate on a cross-border basis). These bodies must publish annual reports on the steps they have taken to comply with their respective duties.

23. The EM states that “moving the focus away from the narrow interpretation of quality requires a step-change that will not be achieved by working within the existing legislative framework” and that “without a legislative change the desired effect of achieving a system wide approach to quality is unlikely”.¹⁸ It adds that legislation is needed to place a statutory duty of quality on the Welsh Ministers and to make provision for reporting duties, which are lacking from the current duty.¹⁹

Evidence

24. We asked the Minister why legislation is necessary in relation to the duty of quality and why it wasn’t sufficient to issue detailed guidance in relation to the existing duty under the *Health and Social Care (Community Health and Standards) Act 2003*. He said:

“The reason I think that legislation is desirable and necessary is that, in framing a broader duty of quality, we think we will make even more

¹⁸ Explanatory Memorandum, paragraph 42

¹⁹ Explanatory Memorandum, paragraph 44

progress ... Part of our challenge in the quality provision of health services is that the current duty, even with regulations or more guidance, doesn't apply to Ministers. So, it doesn't apply to, if you like, this leadership level of the health service. And we're also setting out some important aspects about reporting as well, to make sure that it isn't just that we frame the duty in a way where it's supposed to be central in decision making across the service, and having a more open way of doing so, but you'll be able to see a reporting period for each organisation and, indeed, Welsh Ministers, about how that duty's been applied, and I don't think we can do that by having guidance or regulations around the current duty as listed."²⁰

Our view

25. We note the Minister's reasons for including Part 2 in the Bill.

Part 3 – Duty of candour

Background

26. Part 3 (sections 3 to 11) makes provision for and about a duty of candour in respect of health services.

27. Section 3 of the Bill sets out when the duty of candour applies. Under section 3(1), the duty of candour is imposed on NHS bodies, namely local health boards, NHS trusts, SHAs and primary care providers (persons who provide general medical, dental, ophthalmic or pharmaceutical services on behalf of local health boards). The duty will arise when both of the following conditions are met:

- that a person (a service user) to whom health care is being or has been provided by the body has suffered an adverse outcome (subsection (2)); and
- that the provision of the health care was or may have been a factor in the service user suffering that outcome (subsection (3)).

28. Under section 4, regulations must be made by the Welsh Ministers which set out the procedural steps to be followed by an NHS body when the duty of candour applies to the body. A list of matters to be covered by the regulations is set out in sections 4(2) and 4(3), and provision is made in section 4(4) for the

²⁰ CLA Committee, 30 September 2019, RoP [11]

regulations to make “any other provision in respect of the candour procedure that the Welsh Ministers consider appropriate”. According to the EM, using regulations:

“... will enable the candour procedure to be kept in line with the procedure relating to complaints which is set out in regulations (the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 – it is intended that the candour procedure and the complaints procedure work together so that there is no duplication.”²¹

29. The regulations under section 4 are subject to the negative procedure because as stated in the EM they “will set out a technical procedure to be followed”.²²

30. Section 5 requires a primary care provider to prepare an annual report on whether the duty of candour has come into effect in relation to health care provided by the provider. The section sets out what information the report must contain (but it can include other information). By virtue of section 6, primary care providers are required to report to each local health board on behalf of which they provide health care services. In turn, each local health board must prepare a summary report.

31. Section 7 requires local health boards, NHS trusts and Welsh special health authorities (including NHS Blood and Transplant in relation to the exercise of its functions in Wales), as soon as practicable after the end of each financial year, to prepare an annual report on the duty of candour. It also makes provision about what that report must contain (but it can include other information). Under section 8, NHS bodies are required, where appropriate, to publish the reports prepared under section 7. In the case of a local health board, the report must include the summary prepared under section 6 of the reports provided to the local health board by primary care providers providing services on its behalf.

32. Section 9 provides that a report published under section 8 by an NHS body may not name certain individuals, while section 10 requires NHS bodies, in exercising functions relating to the duty of candour, to have regard to any guidance issued by the Welsh Ministers. The guidance is subject to no procedure.

²¹ Explanatory Memorandum, Chapter 5, pages 44-45

²² Explanatory Memorandum, Chapter 5, page 44

Evidence

33. We asked the Minister why the Bill does not include on its face what the duty of candour actually is and how it will work in practice. He told us:

“If you look at section 3 of the Bill as provided, we’ve set out first the different limbs of the test ... about someone being a service user, and the second is that there’s been a factor in someone suffering an adverse outcome, and that the level of harm or expected harm would have been more than minimal. So, actually, in terms of what’s on the face of the Bill, we have given some prescription around that, and in terms of then setting out the circumstances about what is more than minimal in the duty of candour, I think that is appropriately done by guidance ... the guidance allows you to have something that looks more like a book, that says, ‘Here is the range of circumstances where you consider it to be more than minimal’. And given the range of areas in which healthcare is provided ... I think it should be much more user friendly for the public, the service user, but also for staff within the service to understand whether the duty could or should have been triggered.”²³

34. We also explored why the Bill does not include any sanctions for failure to comply with the duty of candour, particularly when a fine or similar sanction exists in England. The Minister said that he did not intend to introduce a financial sanctions regime, stating:

“There are some philosophical differences between us and the current administration in England as to the use of fines as a mechanism to try and drive improvement. In this area, there have been a relatively small number of fines introduced since a similar duty was introduced in England ... I don’t think it necessarily means that organisations are more likely to comply if you have an element of financial sanctioning within it, because even if I then decided to fine groups of people, I would then have to decide what the level is, how to do it, set out a scheme for doing so ... I actually think that, if there’s a failure in the duty of candour... The regulator would be made aware, and it would be a factor in considering the status of the organisation.

... This is about having a more open culture where people recognise upfront in the conversation that takes place with staff and the public about where failings are taking place, because most people want an

²³ CLA Committee, 30 September 2019, RoP [13]

acknowledgement of that. Most people don't want to run action against the national health service ...

The other part that I touched on is the practical side of having to have a mechanism with appeals. Then you need to think about whether you're running a mechanism that actually soaks up more money than it's actually going to deliver. And I don't think you can make a case to say that having a financial fining, sanctioning regime would actually be the right thing to do to drive the sort of improvement you want, and I think it could well end up costing money, given the experience in England, where they have a very small level of sanctions being applied.”²⁴

35. He added:

“... we're not creating a new statutory tort, we're not changing the law of negligence. If someone were bringing a claim and they thought that there had been a breach of the duty, that might go towards evidence, but it won't change the test that exists about formal legal action being taken. This is, really, not about trying to create new offences, because it doesn't; it's not about trying to bolster the legal process for taking claims. It really is aimed at helping to move further forward the culture within the health service to be more open and to want to learn from mistakes where they do take place ... So, it's about what's gone wrong and why, how we learn from it, how we improve, and how we are much more honest at an earlier point with the public if that's happened.”²⁵

36. As regards why the affirmative procedure did not apply to regulations under sections 4(2), 4(3) and 4(4) of the Bill, the Minister said he expected to consult on the regulations, “certainly when we provide them for the first time” and that they would “largely be technical”, before adding that he had an open mind and would be interested in the views of the Committee.²⁶ He also acknowledged some novelty with the regulations to be made under section 4.²⁷

37. We also examined the issue of consistency in the application of the duty of candour for Welsh patients receiving treatment in Wales and England. The Minister told us that there is regular cross-border health and care provision, and a decision has been taken to apply the Welsh duty to provision in Wales and not to

²⁴ CLA Committee, 30 September 2019, RoP [15-17]

²⁵ CLA Committee, 30 September 2019, RoP [26]

²⁶ CLA Committee, 30 September 2019, RoP [63-65]

²⁷ CLA Committee, 30 September 2019, RoP [67]

have an overlap in terms of extending the Welsh duty on to English providers.²⁸ He said the reason was because “that would be a fruitful area for lawyers” and that he didn’t think “it would necessarily improve the quality of care and what individuals could expect to receive”.²⁹

38. We also explored with the Minister what would happen if reports were not prepared “as soon as practicable” in accordance with the relevant provisions of sections 5 to 8 of the Bill. In response, the Minister said:

“If someone doesn’t provide a report within a time frame, then that would obviously flag a range of concerns about how seriously the duty is being applied within that organisation. If any organisation, after the introduction of this new way of working, should the Assembly agree to it, didn’t provide a report in good time, it would be extraordinary if the regulators themselves did not take a greater interest and didn’t have a significant bearing on any escalation choice made by this or a future Minister.”³⁰

39. He also highlighted the importance of the guidance and its relevance to how the duty should be met.³¹

40. In the course of our evidence session the Minister explained how the regulations and guidance would work together, noting that that guidance would be used set out how and where the duty applies, what it looks like in practice, enabling it to be a descriptive and accessible source for staff and the public.³²

Our view

41. It is important that citizens are able to understand how law affects them and what rights the law gives to them.

42. While the Bill sets out the procedure to be followed when the duty of candour is triggered, it does not define on the face of the Bill, what the duty of candour means. As a consequence, citizens unfamiliar with such terminology may not understand how the Bill, if enacted, affects them.

²⁸ CLA Committee, 30 September 2019, RoP [46-47]

²⁹ CLA Committee, 30 September 2019, RoP [47]

³⁰ CLA Committee, 30 September 2019, RoP [21]

³¹ CLA Committee, 30 September 2019, RoP [21]

³² CLA Committee, 30 September 2019, RoP [31-33]

Recommendation 1. The Minister should, during the Stage 1 debate, explain why a definition of the duty of candour does not appear on the face of the Bill and in its absence, where citizens can therefore find information about its meaning.

43. We note the Minister's comments regarding why the Bill does not include provisions for sanctions for failure to comply with the duty of candour. We also note the comments made by the Minister in relation to cross-border provision.

44. With regards to the scrutiny procedure that will apply to regulations made under sections 4(2), 4(3) and 4(4) of the Bill, we note that, while the regulations will not be subject to the affirmative procedure, the Minister has said he expects to consult on the regulations when they are brought forward for the first time.

45. We further note the Minister's comments regarding the requirement in sections 5 to 8 of the Bill for primary care providers, local health boards, NHS trusts and Welsh special health authorities (including NHS Blood and Transplant in relation to its functions in Wales) to prepare an annual report on the duty of candour as soon as practicable after the end of each financial year. The Welsh Government should make it clear to these bodies that they will be expected to produce these reports within a timely manner.

Part 4 – The Citizen voice body for health and social care

Background

46. Part 4 of the Bill contains sections 12 to 21.

47. Section 12 and Schedule 1 establishes the Citizen Voice Body for Health and Social Care, Wales (the Body). It replaces Community Health Councils (which are abolished by section 21 of the Bill).

48. The general objective of the Body, in exercising its functions, is stated (in section 13) as being to represent the interests of the public in respect of health services and social services.

49. Under section 14, the Body must take steps to promote awareness of its general objective and functions, and publish a statement setting out how it proposes to promote its general objective and seek the views of the public for the purposes of its general objective.

50. Section 15 permits the Body to make representations to local authorities and NHS bodies on anything it considers relevant to the provision of health or social

services, and, where it does so, the local authority or NHS body must have regard to its representations.

51. Section 16 concerns advocacy services in respect of complaints, while sections 17 and 18 contain duties about promoting awareness and supplying information.

Evidence

52. We asked the Minister if the general objective in relation to the Body was broadly drawn deliberately and whether there were plans to issue any guidance. In responding the Minister said:

“I don’t intend to issue guidance to the citizen voice body as to how it should exercise its functions. There will be a remit letter, but no more than that. We’re deliberately looking to create a citizen voice body with much greater operational independence than the current community health council movement has. That’s why it’s deliberately drawn with the breadth that it is here.”³³

53. In terms of the breadth of the section, we asked how the Minister could be sure that the Body will have the right level of access to health and social services. In his response, the Minister advised that:

“... in sections 17 and 18, we talk about the duty to promote awareness of the activities of the citizen voice body, and the duty to supply information to the citizen voice body. I do expect us to provide some further guidance on what that will look like, again, to provide a description of how we expect people to interact with each other. You’ll also note the point in section 15 about making representations as well.”³⁴

54. He went on to say:

“We haven’t gone to the point of having on the face of the Bill a right to enter premises, because some of these premises will be somebody’s home. We already deliver healthcare in people’s homes, and we look to do more of it.

³³ CLA Committee, 30 September 2019, RoP [49]

³⁴ CLA Committee, 30 September 2019, RoP [52]

... we're looking to find a way through ... to think about how this would work in practice.”³⁵

55. As regards section 18 of the Bill and the duty to supply information to the Body, we asked what would happen if a local authority refused to supply information. The Minister said that he considered how to find a way forward on this point but was not “attracted to setting up a formal legal process” because “that automatically gets people into an adversarial relationship”, before indicating his intention to bring forward government amendments to try and set out a process to resolve the issue.³⁶

Our view

56. We note the Minister’s comments regarding the breadth of section 13 and how Part 4 of the Bill will operate. We understand that the Health, Social Care and Sport Committee is considering the policy impact of replacing Community Health Councils with the Body and how these policy issues are best reflected in the Bill.

57. We also note the Minister’s comments regarding section 18 and welcome his decision to bring forward amendments to this section to address the issue of a local authority refusing to supply information.

Part 5 – Miscellaneous and General

Background

58. Part 5 (sections 22 to 28) of the Bill contains a range of miscellaneous provisions.

59. In particular, section 26 provides the Welsh Ministers with a power to make regulations to make supplementary, incidental or consequential provision; or transitory, transitional or saving provision. Under section 26(1), the power can be exercised where the Welsh Ministers “consider it expedient or necessary for the purposes of the Act”. Section 16(2) includes the power to amend, repeal or revoke any enactment (a Henry VIII power³⁷) in order to make such provisions. Such regulations are subject to the negative procedure, unless the Henry VIII power is being exercised, in which case it is subject to the affirmative procedure.

³⁵ CLA Committee, 30 September 2019, RoP [53-54]

³⁶ CLA Committee, 30 September 2019, RoP [58]

³⁷ A Henry VIII power is a provision within a Bill that enables primary legislation to be amended or repealed by secondary legislation (e.g. statutory instrument), which may or may not be subject to the approval of the National Assembly.

60. The EM states that the regulations are appropriate to ensure:

“... that where amendments to other legislation are found to be necessary, to give full effect to this Bill, further primary legislation is not required.”³⁸

61. The statement of policy intent does not contain information explaining how the Welsh Ministers intend to use the powers.

Evidence

62. We questioned the Minister on the breadth of power under section 26 and why the term “expedient” is being used in section 26(1). He replied:

“Because different tests apply to what’s necessary and what’s expedient in legislation. The much stricter necessity test may mean that where we would commonly, regardless of our business around this table, recognise it may be positive in terms of meeting the purpose behind the Bill, or the Act as I hope it becomes, we may not nevertheless be able to get to meet the necessity test. So, we may end up having something that is unhelpful, and there’s general recognition of that, but not being able to resolve that. So, it’s a drafting point about the extent and the nature of powers, but it doesn’t give Ministers carte blanche to do whatever they feel like. There is, and you’ll understand this, a technical understanding of what ‘expedient’ actually means.”³⁹

63. The Minister did not agree that the use of the term “expedient” in section 26(1) provided for an excessive power. He added that “it’s not that unusual to have a power like this, but it is then about the way in which that power is exercised”, noting also that recent Bills and Acts have included similar powers.⁴⁰

64. The Minister also said:

“I wouldn’t agree with your characterisation of ‘expedient’ being whatever is convenient for the Government. That isn’t a technical understanding of what ‘expedient’ means—desirable, useful, or having a practical benefit. I think that goes well beyond just convenient for the Government ... Whichever Welsh Minister sought to exercise that regulation-making power would need the consent of the Assembly to

³⁸ Explanatory Memorandum, Chapter 5, page 45

³⁹ CLA Committee, 30 September 2019, RoP [69]

⁴⁰ CLA Committee, 30 September 2019, RoP [73-74]

do so in an affirmative motion in the Chamber. So, it's not quite the Government being able to do what it likes when it likes. I don't think that's a fair characterisation."⁴¹

65. When asked about how he intended to use the powers, the Minister said:

"No, we don't have any intention, and I'm not intending to try and store things up to try and use and try and amend under this process. This is part of—you'll understand this—the backstop that exists ... But that's why it's got an affirmative process around it. So, the Assembly has to positively agree to any changes made using the powers in this section."⁴²

Our view

66. We are concerned at the breadth of powers being taken by the Welsh Ministers under section 26.

67. We do not consider it appropriate for the Welsh Government to take broad regulation-making powers as part of a "backstop" approach to law-making, particularly when such powers could be used to amend or repeal primary legislation and where there is no clarity about if or how they will be used. Applying the affirmative procedure to such powers does not validate their use. Regulations are not capable of amendment and we do not consider that regulations capable of wide yet unspecified changes to primary legislation should be subject to a yes or no decision to approve or reject them.

68. We also note the comments of the Minister regarding the use of the term "expedient" in section 26(1). We regularly express concerns about the use of this and similar terms when applied to regulation-making powers, be it in government or non-government legislation.⁴³

69. It remains our position that the Welsh Ministers should adopt a more targeted approach rather than taking the widest powers available to them. We also believe that regulation-making powers should be taken for a clear purpose.

⁴¹ CLA Committee, 30 September 2019, RoP [76]

⁴² CLA Committee, 30 September 2019, RoP [88]

⁴³ CLA Committee, Report on the Abolition of the Right to Buy and Associated Rights (Wales) Bill, July 2017, paragraph 53 and recommendation 4; CLA Committee, Report on the Regulation of Registered Social Landlords (Wales) Bill, February 2018, recommendation 8; CLA Committee, Report on the Public Services Ombudsman (Wales) Bill, March 2018, paragraph 82 and recommendation 1.

Drawing powers too widely always runs the risk of them being used in the future in ways that were not originally intended or anticipated when the Bill was introduced.

Recommendation 2. The Minister should, during the Stage 1 debate, set out clearly and in detail how he intends to use the powers contained in section 26 of the Bill.

Recommendation 3. The Minister should table an amendment to the Bill to delete the words “or expedient” from section 26(1).