

Report on the Legislative Consent Memoranda for the Levelling-up and Regeneration Bill

13 February 2023

1. Background

1. The Levelling-up and Regeneration Bill ("the Bill") was introduced in the House of Commons on 11 May 2022.
2. Standing Order 29 provides that the Welsh Ministers must lay a Legislative Consent Memorandum ("LCM") where a Bill makes provision in relation to Wales:
 - (i) for any purpose within the legislative competence of the Senedd (apart from incidental, consequential, transitional, transitory, supplementary or savings provisions relating to matters that are not within the legislative competence of the Senedd); or
 - (ii) which modifies the legislative competence of the Senedd.
3. Standing Order 29.2(i) states that the LCM must be laid no later than two weeks after introduction. However the LCM for the Bill was not laid until 28 September 2022.
4. The Minister for Climate Change wrote to the Llywydd on 24 May, explaining that due to the very limited engagement by the UK Government prior to the Bill's introduction and the complexity of the Bill, it took time to fully consider the devolution consequences of what is being proposed and consequently it was not possible to lay the LCM within the normal two-week deadline.



5. On 4 October the Business Committee referred the LCM to the Local Government and Housing Committee ("the Committee"), the Legislation, Justice and Constitution Committee, the Climate Change, Environment and Infrastructure Committee, and the Economy, Trade and Rural Affairs Committee for consideration, with a reporting deadline of 8 December.
6. We first considered the LCM at our meeting on 27 October and decided to write to the Minister asking for more information on two areas within our remit. We received a response on 10 November, providing further information in relation to the discussions with the UK Government in relation to the clause on vagrancy and begging and on the financial implications of the Bill. This letter also stated an intention to lay a revised LCM.
7. On 22 November, Business Committee agreed to extend the reporting deadline to 16 February 2023. The revised LCM was laid on 28 November and a supplementary LCM ("the SLCM") was laid on 30 November, with the same reporting deadline of 16 February.
8. We considered the revised LCM and the SLCM at our meeting on 14 December.
9. Our consideration of the memoranda focused only on the provisions within our remit, namely clause 186 (Review of governance etc of RICS) and clause 187 (Vagrancy and begging) of the Bill as introduced. Therefore, we have not considered whether the Senedd should grant consent for the other clauses included in the memoranda.

2. Committee consideration

Original LCM

10. We initially considered the original LCM at our meeting on 27 October.
11. We noted that clause 186 of the Bill falls within the legislative competence of the Senedd. Clause 186 relates to the review of the governance etc of the Royal Institution of Chartered Surveyors ("RICS"). RICS is a professional body for surveyors operating with a Royal Charter. Clause 186 will enable the Secretary of State to commission periodic reviews of RICS.
12. The Minister for Climate Change states in the LCM:

"I support the inclusion of clause 186 as this supports the improvement of RICS, which will in turn assists in improving building safety in Wales. RICS has

*members across the UK (and internationally) and I consider including this review provision in this Bill is appropriate given their remit."*¹

13. We noted that clause 187 of the Bill, which relates to vagrancy and begging, was a placeholder provision therefore it was not yet clear whether or not it was a relevant provision for the purposes of Standing Order 29. The LCM stated that clarity was being sought in relation to clause 187 as the application table in the Annex to the Explanatory Notes stated that it did not apply to Wales, however, as originally drafted the Secretary of State's powers to make regulations were not limited to England only.

14. We discussed that we would not be in a position to make a decision on legislative consent until clause 187 was replaced by a substantive provision and clarity given on its application. We decided to write to the Minister for Climate Change seeking an update as to any discussions that had taken place with the UK Government regarding clause 187.

15. In the same letter, dated 1 November, we asked the Minister for her views on the financial implications of the Bill for Wales. We noted that the LCM stated:

*"The UK Government identify the overall Bill will have financial implications for the public sector, including local government, central government and the Planning Inspectorate. The UK Government identifies these costs will all be balanced by efficiency savings."*²

16. However the LCM made no reference to the Welsh Government's views on the financial implications.

17. In her response to our letter, the Minister stated that her officials had been "proactively and regularly liaising with their counterparts in the UK Government to understand the UK Government's intention" for clause 187.³

18. With regards to the financial implication of clause 186 relating to RICS, the Minister's response states that "there are no costs to Wales".⁴

19. The Minister also stated in the letter her intention to lay a revised LCM.

¹ Welsh Government, Legislative Consent Memorandum Levelling-up and Regeneration Bill, 28 September 2022

² Welsh Government, Legislative Consent Memorandum Levelling-up and Regeneration Bill, 28 September 2022

³ Local Government and Housing Committee, 16 November 2022, Correspondence between the Chair and the Minister for Climate Change in relation to the Levelling-up and Regeneration Bill LCM, Paper 8

⁴ Local Government and Housing Committee, 16 November 2022, Correspondence between the Chair and the Minister for Climate Change in relation to the Levelling-up and Regeneration Bill LCM, Paper 8

Revised LCM and SLCM

- 20.** The revised LCM was laid on 28 November, followed by the SLCM on 30 November.
- 21.** We considered these at our meeting on 14 December.
- 22.** In the revised LCM, the Minister for Climate Change reiterates her support for the inclusion of clause 186 relating to the review of the governance etc. of RICS in the Bill.
- 23.** Paragraphs 65 – 73 of the revised LCM set out the Welsh Government’s analysis of the financial implications of this Bill for Wales. As stated in the Minister’s letter to the Committee, according to the revised LCM “there are no costs to Wales” as a result of this clause.⁵
- 24.** The SLCM states that the UK Government tabled several government amendments to the Bill for consideration at Commons Report stage. Two of these government amendments result in the omission from the Bill of clause 187 (Vagrancy and begging), which fell within the legislative competence of the Senedd. This means that the provision no longer engages the LCM process.⁶

3. Committee view

- 25.** Following the revised LCM and SLCM, most Members of the Committee feel that they are able to recommend that the Senedd gives it consent to clause 186 of the Bill. However, the Committee is not in a position to make a recommendation on any of the other provisions in the Bill which fall within the legislative competence of the Senedd.
- 26.** One Member of the Committee, Mabon ap Gwynfor, disagrees with the majority view and believes that consent should not be granted. The Member believes that the Bill takes powers away from Wales and that the short amount of time allocated to the legislative consent process is insufficient to scrutinise the impact of the provisions on Wales.

⁵ Welsh Government, Revised Legislative Consent Memorandum Levelling-up and Regeneration Bill, 25 November 2022

⁶ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No.2) The Levelling-Up and Regeneration Bill, 30 November 2022
