

Report on the Legislative Consent Memorandum on the British Sign Language Bill

April 2022

1. Background

1. This report considers the Welsh Government's Legislative Consent Memorandum (the LCM) on the British Sign Language Bill (the Bill). The LCM was laid before the Senedd on 8 March 2022 by the Minister for Social Justice, Jane Hutt MS.
2. The Business Committee referred the LCM to the Equality and Social Justice Committee and the Legislation, Justice and Constitution Committee, with a reporting deadline of 26 May 2022. The deadline was subsequently changed to 26 April 2022.

2. The Legislative Consent Memorandum

3. Paragraphs 3 to 8 of the LCM summarise the Bill and its policy objectives. Paragraphs 9 to 10 of the LCM set out the Welsh Government's assessment of the provisions in the Bill for which consent is required. Paragraph 11 sets out the reasons why provision is being made for Wales in the Bill.
4. Paragraph 12 of the LCM states that there are no financial implications for Wales as a result of the Bill.
5. The LCM concludes with the Minister's view that it is appropriate to deal with the provisions noted in the Bill "as the Bill's promotion of equality of opportunity is commensurate with our own position and offers no direct interference with devolved functions." She adds:



"I therefore recommend the Senedd gives its consent to these provisions being included in the Bill."¹

3. Provisions in the Bill for which consent is sought

6. The LCM states that Clauses 1, 2 and 3 of the Bill require the consent of the Senedd. Those clauses are summarised below:

Clause 1: Recognition of British Sign Language

7. Clause 1 recognises that British Sign Language is a language of England, Wales and Scotland. The provision makes it clear that the Bill does not intend to affect the operation of any enactment or rule of law; in particular, the recognition does not affect the framework of protections provided by the Equality Act 2010 (including the duty to make reasonable adjustments).

Clause 2: Duty of Secretary of State to report on British Sign Language

8. Clause 2 places a duty on the Secretary of State to report describing what UK Ministerial Departments have done to promote or facilitate the use of British Sign Language in their communications with the public.

9. The clause provides that the Secretary of State must not collect, or include in the report, information about any communication made by a relevant government department so far as that communication relates only to Wales and does not relate to reserved matters.

10. The Welsh Government is not subject to the reporting duty.

Clause 3: Guidance on use of British Sign Language

11. Clause 3 requires the Secretary of State to issue guidance on the promotion and facilitation of British Sign Language. It provides that the guidance will be focused on the use of the language in the public sector. However, the clause goes on to state that there could be general information describing the grammatical form and linguistic approach to British Sign Language, alongside descriptions of challenges experienced by British Sign Language users which may be of wider interest.

¹ Welsh Government, Legislative Consent Memorandum, British Sign Language Bill, paragraph 13

12. The clause provides that the guidance must not include advice or material which relates only to Wales and does not relate to reserved matters.

13. The LCM notes:

*"All the provisions relate to the 'equal opportunities' reservation in Schedule 7A of the Government of Wales Act 2006 but fall within the exception of the 'promotion of equality of opportunities'. We therefore consider these provisions, to be within the legislative competence of the Senedd. As such, it is considered the legislative consent of the Senedd is required in respect of all of the above provisions."*²

4. Reasons for making these provisions in the Bill

14. The LCM states:

*"The promotion of equal opportunities is a duty that falls to both the UK Government and the Welsh Government. The Welsh Government formally recognised British Sign Language as a language in its own right in January 2004, but this does not have legal effect. The Bill does not affect the operation of any enactment or rule of law and it does not place any obligations on the Welsh Government or other devolved Welsh Authorities. The provisions in the Bill will benefit the people of Wales by facilitating the use of British Sign Language by United Kingdom Government departments, who exercise their reserved functions in Wales. The Bill gives legal effect to British Sign Language as a language in Wales through imposing duties and obligations on reserved authorities and there would be nothing to prevent the Senedd from legislating in a similar way to impose similar duties and obligations on devolved Welsh Authorities."*³

5. Committee consideration and conclusion

15. We considered the LCM at our meeting on 25 April 2022.⁴

² Welsh Government, Legislative Consent Memorandum, British Sign Language Bill, paragraph 10

³ Welsh Government, Legislative Consent Memorandum, British Sign Language Bill, paragraph 11

⁴ [Equality and Social Justice Committee, 25 April 2022](#)

16. We note the provisions for which consent is being sought. Further, we note the Welsh Government's reasons for making these provisions in the Bill, in particular that the Bill's promotion of equality is commensurate with the Welsh Government's own position.

17. One Member expressed concern about the principle of legislation which will apply in Wales being enacted via a UK Government Bill rather than a Welsh Government Bill. A majority of the Committee has no objection to the agreement of the Motion.