

# Online Safety Bill Legislative Consent Memorandum No 5

June 2023

The Culture, Communications, Welsh Language, Sport, and International Relations Committee considered the Welsh Government's Legislative Consent Memorandum on the Online Safety Bill<sup>1</sup> at its meeting on 14 June 2023.

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<sup>1</sup> All documents can be found [on the website](https://www.senedd.wales).



## 1. Introduction

- 1.** The Welsh Government laid a Legislative Consent Memorandum (“the LCM”) on 30 March 2022 under Standing Order 29.2.
- 2.** The Business Committee referred the LCM to this Committee and to the Legislation, Justice and Constitution Committee to consider, with a reporting deadline of 21 July 2022. The Committee reported on that LCM on 24 June 2022.
- 3.** The Welsh Government laid a Supplementary LCM on 28 September 2022. The Business Committee referred the Supplementary Memorandum to this Committee and to the Legislation, Justice and Constitution Committee. The Committee reported on that Supplementary LCM on 15 December 2022.
- 4.** The Welsh Government laid Supplementary LCM (“Memorandum No.3”) on 8 November 2022. The Business Committee referred Memorandum No.3 to this Committee and to the Legislation, Justice and Constitution Committee with a reporting deadline of 16 February 2023.
- 5.** The Welsh Government laid Supplementary LCM (“Memorandum No.4”) on 21 December 2022. The Business Committee referred Memorandum No.4 to this Committee and to the Legislation, Justice and Constitution Committee with a reporting deadline of 2 March 2023. The Committee reported on Memorandum No.3 and No.4 on 13 February 2023.
- 6.** On 18 May 2023, an amendment was tabled to the Bill at the Committee Stage in the House of Lords which introduced a new offence of encouraging or assisting the serious self-harm of another person by means of certain specified forms of communication. Following the tabling of this amendment, on 1 June 2023 the Welsh Government laid Memorandum No. 5.
- 7.** On 6 June 2023, the Business Committee referred the LCM to this Committee and the Legislation, Justice and Constitution Committee with a reporting deadline on 26 June 2023.

## 2. Our approach

- 8.** The Committee considered Memorandum No.5 at its meeting on 14 June 2023. Given the nature of the provisions for which consent is sought, the Committee did not seek evidence in relation to this memorandum.

### 3. The UK Online Safety Bill and the Legislative Consent Memorandum

**9.** The Online Safety Bill (“the Bill”) was introduced in the House of Commons on 17 March 2022 and is sponsored by the Department for Digital, Culture, Media and Sport.

**10.** The long title of the Bill, as introduced, states that it is a Bill to:

*“Make provision for and in connection with the regulation by OFCOM of certain internet services; for and in connection with communications offences; and for connected purposes.”*

**11.** The Bill completed its passage through the House of Commons on 17 January 2023 and moved to the House of Lords for its first reading on 18 January 2023. The Bill is currently at Committee stage in the House of Lords.

**12.** The Welsh Government laid Memorandum No. 1 on 30 March 2022, Memorandum No. 2 on 28 September 2022, Memorandum No. 3 on 8 November 2022 and Memorandum No. 4 on 21 December 2022. Memorandum No’s. 1 to 4 have been considered by the Committee.

**13.** On 18 May 2023 an amendment was tabled to the Bill at the Committee Stage in the House of Lords which introduced a new offence of encouraging or assisting the serious self-harm of another person by means of certain specified forms of communication. Following the tabling of this amendment, on 1 June 2023 the Welsh Government laid Memorandum No. 5.

**14.** A detailed summary of the Bill’s provisions has been set out in detail in previous Memoranda (namely No.1 and No.3).

### 4. Provisions for which consent is sought

**15.** Standing Order 29 provides that the Welsh Ministers must lay a legislative consent memorandum where a UK Bill makes provision in relation to Wales:

- a. 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

- b. which modifies the legislative competence of the Senedd.

**16.** The amendment described in paragraph 6 above has been inserted into the Bill after clause 164, creating a new offence of encouraging or assisting the serious self-harm of another person by means of certain specified communication set out in the provision.

**17.** Paragraphs 18 and 19 of Memorandum No. 5 state that:

*“Whilst internet services, postal services, and telecommunications are reserved, the Senedd has competence in relation to other forms of communications outside those contexts, which fall within the scope of the offence (for example, communication in person, showing of a communication to a person, and published material by any means other than electronic means). Therefore, consent is required for these provisions.*

*Schedule 14 is amended to make consequential amendments in relation to the new offence. To the extent that those consequential amendments relate to the offence by means of communications within the Senedd’s competence, consent is also required.”*

## 5. Reasons for making provisions for Wales in the Bill

**18.** The reasons given by the Minister for making provisions for Wales in the Bill are set out in paragraphs 20 and 21 of Memorandum No. 5:

*“The provisions within the Bill, which impose duties on internet service providers in relation to online safety and confer powers and impose duties on OFCOM, relate to the reserved matter of ‘internet services’.*

*The safety and wellbeing of people is a shared responsibility and a duty that falls to both the UK Government and the Welsh Government. We acknowledge that a UK-wide Bill is the most effective and proportionate legislative vehicle to deliver*

*consistent regulation of internet providers that will protect the people of Wales.”*

## 6. Financial implications

**19.** Paragraph 23 of Memorandum No. 5 states that there are no financial implications for Wales in relation to the Bill.

## 7. Committee consideration

**20.** Paragraph 22 of Memorandum No. 5 states that the UK Government agrees that the provisions which are the subject of the Memorandum engage the LCM process.

**21.** The Committee agrees with the Welsh Government that, insofar as the proposed provisions are not related to electronic communications, consent is required for those provisions.