

**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM
(MEMORANDUM NUMBER 2)**

CRIMINAL JUSTICE BILL

1. This supplementary legislative consent memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO 29.2 requires a LCM to be laid before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Criminal Justice Bill (“the Bill”) was introduced in the House of Commons on 14 November 2023. An LCM was laid on 29 January 2024.
3. On 20 December 2023, the UK Government tabled a first tranche of amendments. These amendments did not require an LCM nor did they fall within devolved matters. The UK Government tabled a second tranche of amendments on 9 January 2024 for consideration during the Commons Committee Stage (published on 10 January). Three of these amendments engage the LCM process and this supplementary LCM (Memorandum No 2) sets out the Welsh Government’s position. The UK Government tabled a third tranche of amendments on 18 January which do not engage the LCM process.
4. Officials were unable to meet the standard two-week deadline for this SLCM. Given the scale and complexity of the Bill, officials have needed time to discuss the amendments across relevant Welsh Government areas as well as with UK Government colleagues and trusted partners such as the Welsh Local Government Association, Policing in Wales and the Wales Safer Communities Network. Given the fast-moving nature of this Bill, we only saw the amendments themselves on the date they were laid by the UK Government, which has also had an impact on timescales. Although I recognise the impact on scrutiny timescales, in practice it was necessary to have these conversations with partners to come to a suitably considered and reasoned position for this SLCM.

Policy Objective(s)

5. The Bill includes a wide range of measures impacting on areas such as knife crime, drug testing on arrest, anti-social behaviour, serious and organised crime, Violence Against Women Domestic Abuse and Sexual Violence, prison capacity and the sentencing process. It also includes the successor legislation for the Vagrancy Act 1824, and a new duty of candour for policing. This SLCM does not relate to all these matters.
6. The clauses referred to in this SLCM are as set out in the Bill as tabled on 9 January, with the amendment paper published on 10 January which can be found at: [criminal_rm_pbc_0110.pdf \(parliament.uk\)](https://www.parliament.uk/criminal_rm_pbc_0110.pdf)

Changes to the Bill since the laying of the LCM (dated 29 January) – amendment agreed at House of Commons Committee stage

7. Since the Bill was introduced on 14 November 2023, three amendments were laid which engage the LCM process.
8. Gov 70 would amend Clause 43 ('nuisance begging prevention orders') of the Bill. Clause 43 would grant local authorities and police officers powers to apply for prevention orders. The amendment would make a minor technical amendment to this clause to reflect correct terminology for making an application to the magistrates' court under its civil jurisdiction, i.e. properly "a complaint", for nuisance begging prevention orders.
9. Gov 77 would amend Clause 56 ('nuisance rough sleeping prevention orders') of the Bill. Clause 56 would grant local authorities and police officers powers to address nuisance rough sleeping. This amendment would make a minor technical amendment to reflect correct terminology for making an application, to the magistrates' court under its civil jurisdiction, i.e. properly "a complaint", for nuisance rough sleeping prevention orders.
10. NC22 would insert a new clause 'Dispersal powers: extension to local authorities' into the Bill that would amend the Anti-social Behaviour, Crime and Policing Act 2014. Currently, only police officers may exercise dispersal powers under section 35 of the 2014 Act. This amendment would enable local authorities to also exercise the dispersal powers.
11. These amendments to existing Bill clauses and the insertion of a new clause impose functions on local authorities in Wales, which are devolved Welsh authorities, and engage the LCM process on that basis. The UK Government agree with this assessment.

Welsh Government Position on the Amendments tabled on 9 January 2024

12. The Welsh Government is withholding its position on Gov 70 and Gov 77, insofar as they relate to local authorities, until further information is provided by the UK Government. This is on the same rationale as set out for Clause 43 on Begging and Clause 56 on Rough Sleeping in the LCM laid on 29 January. We continue to have substantive concerns with the overarching approach to begging and rough sleeping set out in the Bill provisions, and it would not be appropriate to consent to these amendments whilst those concerns remain. Engagement with the UK Government continues on these clauses and I will update the Senedd as this engagement continues.
13. On NC22, we recommend the Senedd should consent to this amendment insofar as it makes changes with respect to Devolved Welsh Authorities. We have discussed this proposal with the Welsh Local Government

Association and Wales Safer Communities Network who have highlighted some concerns – particularly on how the safety of local authority officers issuing an order will be secured, and whether there will be sufficient enforcement resource in place to make the additional powers impactful in practice. We have raised these concerns with the Home Office who have provided reassurance on these issues. Given that the amendment engages the consent process only insofar as it confers reserved functions on Devolved Welsh Authorities, we think it is appropriate on balance to recommend consent. We will continue to highlight the concerns raised by partners through our engagement with the UK Government on the Bill and its implementation.

Financial implications

14. There may be financial implications, but the position will not be clear until the measures in the Bill are implemented.

Conclusion

15. The Welsh Government is withholding its position on Gov 70 and Gov 77, insofar as they relate to local authorities, until further information is provided by the UK Government.
16. For NC22, whilst there is devolved subject matter involved, it is unlikely the provision could be replicated in a Senedd Bill. Given that, and the assurances by the Home Office that the necessary statutory guidance will be provided on these issues, we recommend the Senedd consents to this amendment.

Lesley Griffiths MS
Cabinet Secretary for Culture and Social Justice
2 April 2024