

The Welsh Government's Legislative Consent Memorandum on the Bus Services (No. 2) Bill

May 2025



1. Background

The Bus Services (No. 2) Bill

1. The Bus Services (No. 2) Bill¹ (the Bill) was introduced into the House of Lords, and had its first reading, on 17 December 2024. It is sponsored by the Department for Transport.

2. The Explanatory Notes to the Bill state:

*"The Bus Services (No. 2) Bill brings forward primary legislative measures intended to support the government's commitment to deliver better buses."*²

3. The long title to the Bill states that it is a Bill to:

*"Make provision about local and school bus services; and for connected purposes."*³

4. The Bill completed its passage through the House of Lords on 29 April 2025, and had its first reading in the House of Commons on 30 April. At the time this report was agreed, a date for second reading was yet to be confirmed.

The Welsh Government's Legislative Consent Memorandum

5. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant UK Bill makes provision in relation to Wales that has regard to devolved matters.

6. As noted above, the Bill was introduced into the House of Lords on 17 December 2024. On 5 March 2025, Ken Skates MS, the Cabinet Secretary for Transport and North Wales (the Cabinet Secretary), wrote to the Llywydd stating that the initial competency analysis by the UK Government was that all elements of the Bill were reserved and the legislative consent process would not be engaged. However, the Cabinet Secretary also confirmed that Welsh Government officials had since noted that measures in the Bill do apply or have some effect in regard to Wales.⁴ The Cabinet Secretary also stated:

¹ The Bus Services (No. 2) Bill, as introduced

² Explanatory Notes to the Bus Services (No. 2) Bill, as introduced

³ The Bus Services (No. 2) Bill, as introduced, page 1

⁴ Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd, 5 March 2025

*"I intend to have discussions with the UK Minister to determine the appropriateness of the effect. Whilst those conversations are ongoing, I will not bring forward an LCM in relation to the provisions which may be disapplied for Wales. I will of course confirm with the Senedd the outcome of those discussions and any amendments made, including through the legislative consent process where relevant. Notwithstanding these discussions, we do expect limited provision to remain in this Bill which will require the Senedd's consent, and I will be bringing forward an LCM on that basis. This is expected to be incidental impact as a result of the nature of cross-border bus services and does not amount to substantive provision for Wales."*⁵

7. The Llywydd responded to the Cabinet Secretary on 14 March 2025, expressing concern at the Cabinet Secretary's decision not to include provisions in a legislative consent memorandum which may later be disapplied in relation to Wales. The Llywydd noted that Standing Orders require a member of the government to lay a memorandum where any UK Government Bill makes "relevant provision" on its introduction into the first House. This includes provisions which may later be disapplied in relation to Wales during the Bill's passage through the UK Parliament. The Llywydd also noted that, if following discussions between the Welsh and UK governments the Bill is amended, a supplementary legislative consent memorandum would be expected to be laid in accordance with Standing Orders.⁶ The Llywydd added:

*"I am also concerned that an LCM relating to the Bill that does not include some relevant provisions may have an impact on the Senedd's ability to effectively scrutinise the Bus Services (Wales) Bill during its early stages. Standing Order 29.3 requires the memorandum to set out whether the government considers it appropriate for relevant provision to be made by means of the Bill, and this may provide important contextual information for the Senedd when it comes to consider the general principles of the Bus Services (Wales) Bill."*⁷

⁵ Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd, 5 March 2025

⁶ ~~Letter from the Llywydd to the Cabinet Secretary for Transport and North Wales~~, 14 March 2025

⁷ Letter from the Llywydd to the Cabinet Secretary for Transport and North Wales, 14 March 2025

8. On 11 March 2025, the Cabinet Secretary laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill, the details of which are set out below in paragraphs 10 to 15.⁸

9. The Business Committee agreed that the Legislation, Justice and Constitution Committee and the Climate Change, Environment and Infrastructure Committee should report on the Memorandum by 9 May 2025.⁹

Provision for which the Senedd's consent is required

10. The Memorandum laid by the Cabinet Secretary relates solely to clause 23 (Powers of inspectors) of the Bill.

11. Clause numbering in the Memorandum reflects the version of the Bill as amended in Lords' Grand Committee, published on 13 February 2025.¹⁰

12. The Welsh Government's assessment is that the consent of the Senedd is required for clause 23.

13. The Cabinet Secretary states in the Memorandum that "the UK Government is of the view that this provision relate [sic] to reserved matters and therefore do [sic] not engage the Legislative Consent Motion process in the Senedd."¹¹

The Welsh Government's position

14. In paragraphs 12 to 15 of the Memorandum, the Cabinet Secretary outlines the Welsh Government's position on the inclusion of clause 23 in the Bill:

"The provision does not affect an operator's ability to appoint inspectors on their local bus services (i.e. that has one or more stopping places in Wales). However, the conduct of inspectors of cross-border services, while in England or in Wales, may in some circumstances be regulated by the Secretary of State under section 24 of the Public Passenger Vehicles Act 1981, as amended by clause 23 (provided that the inspector was authorised to act as such by an English transport authority).

⁸ Welsh Government, Legislative Consent Memorandum, The Bus Services (No. 2) Bill, March 2025

⁹ Business Committee, Timetable for consideration: Legislative Consent Memorandum on the Bus Services (No. 2) Bill, March 2025

¹⁰ The Bus Services (No. 2) Bill, as amended in Grand Committee

¹¹ Memorandum, paragraph 11

It will continue to be the case that local authorities in Wales cannot appoint "inspectors" for the purposes of section 24 of PPVA unless they do so in their capacity as PSV operator in relation to particular services.

I am not concerned about the impact of this provision on bus services in Wales because they will not change operators' ability to appoint inspectors in Wales.

The interconnected nature of the transport system in Wales and England means there will inevitably be a cross over in interests. However, in the case of clause 23 it does not seek to make provision for Wales, but it will impact a devolved matter, i.e. local bus services."¹²

15. The Cabinet Secretary concludes that it is appropriate to deal with this provision in the Bill and he recommends that the Senedd supports the proposal in clause 23 and gives its consent.¹³

2. Committee consideration

16. At our meeting on 10 March 2025¹⁴ we considered the initial correspondence from the Cabinet Secretary to the Llywydd in relation to the Bill¹⁵. We considered the response¹⁶ from the Llywydd to the Cabinet Secretary at our meeting on 17 March 2025¹⁷, and considered the Cabinet Secretary's further letter¹⁸ at our meeting on 31 March 2025¹⁹.

17. We considered the Memorandum at our meeting on 6 May 2025, and we agreed our report at the same meeting.²⁰

¹² Memorandum, paragraph 12 to 15

¹³ Memorandum, paragraphs 17 to 18

¹⁴ ~~Legislation, Justice and Constitution Committee~~, 10 March 2025

¹⁵ Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd, 5 March 2025

¹⁶ Letter from the Llywydd to the Cabinet Secretary for Transport and North Wales, 14 March 2025

¹⁷ ~~Legislation, Justice and Constitution Committee~~, 17 March 2025

¹⁸ Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd, 25 March 2025

¹⁹ ~~Legislation, Justice and Constitution Committee~~, 31 March 2025

²⁰ ~~Legislation, Justice and Constitution Committee~~, 6 May 2025

Our view

Legislative consent

18. As noted above in paragraph 10, the Memorandum relates solely to clause 23 of the Bill.

19. We note the Welsh Government's assessment that clause 23 requires the consent of the Senedd, as set out in the Memorandum.

20. We further note the Cabinet Secretary's statement in the Memorandum that the UK Government is of the view that clause 23 relates to reserved matters. However, it is our understanding that, while the UK Government's Explanatory Notes to the Bill conclude that clause 23 does not require a legislative consent motion to be passed by the Senedd, the UK Government considers that clause 23 does not relate to a reserved matter. Rather, it appears to be the view of the UK Government that, while clause 23 extends and applies to England, Scotland and Wales, it applies only in respect of persons authorised to act as inspectors by authorities in England²¹. It is not clear why the reasoning given by the Cabinet Secretary in the Memorandum differs to that given in the Bill's Explanatory Notes.

Conclusion 1. We agree with the Welsh Government's assessment, as set out in the Memorandum, of the provision within the Bill which requires the consent of the Senedd in accordance with Standing Order 29; but this is subject to our views set out in conclusion 2.

21. In our view, there are other provisions in the Bill that apply in relation to Wales and which have regard to devolved matters.

22. In his letter to the Llywydd on 25 March 2025, and as regards his initial decision that he would not be laying a legislative consent memorandum "in relation to the provisions which may be disapplied for Wales", the Cabinet Secretary stated:

"Upon further reflection, I have decided to lay a SLCM on the remaining clauses of the UK Bill that make provision in relation to Wales, in order to allow the Senedd the opportunity to effectively scrutinise those provisions. Discussions are ongoing with UK Government over the appropriateness of the provisions"

²¹ Explanatory Notes, paragraph 333

*having effect in relation to Wales, and I will of course, confirm with the Senedd the outcome of those discussions."*²²

23. At the time of writing and agreeing our report, a supplementary legislative consent memorandum detailing the provisions mentioned by the Cabinet Secretary in his letter has not been laid before the Senedd.

24. It is our understanding that clause 22 (Information obtained under Statistics of Trade Act 1947), clause 26 (Safeguarding duty: drivers of school services), clause 27 (Training about crime and anti-social behaviour), clause 28 (Training about disability), and clause 29 (Training about disability: further provisions) include provisions that have regard to matters devolved to Wales. We acknowledge that these may be the provisions which are to be the subject of a supplementary legislative consent memorandum yet to be laid by the Cabinet Secretary. Nonetheless, we consider that these clauses should be drawn to the Senedd's attention at the earliest opportunity.

Conclusion 2. We consider that clauses 22, 26, 27, 28, and 29 of the Bill contain provision that has regard to devolved matters and, as such, the Senedd's consent should be sought for these clauses.

Delegated powers

25. We acknowledge that the Bill does not confer delegated powers on the Welsh Ministers.

26. However, we note that clause 23 extends existing regulation-making powers available to the Secretary of State in section 24 of the 1981 Act.

27. Furthermore, clauses 27 and 29, which we consider make provision that has regards to devolved matters, also confer new regulation-making powers on the Secretary of State.

The Welsh Government's approach to the Bill and the legislative consent process

28. We highlight in Chapter 1 of our report that, while the Bill was introduced into the UK Parliament on 17 December 2024, the Cabinet Secretary did not lay the Memorandum until 11 March 2025. We also highlight in earlier paragraphs

²² [Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd](#), 25 March 2025

that the Memorandum relates to only a single clause in the Bill despite there being other provisions in the Bill that impact on devolved matters.

29. As stated by the Llywydd in her letter to the Cabinet Secretary dated 14 March 2025, under Standing Order 29 the Cabinet Secretary is required to lay a legislative consent memorandum that specifies the extent to which a Bill makes (or would make) relevant provision, in order to allow the Senedd the opportunity to scrutinise those provisions. The Llywydd highlights that this includes provisions which may be disapplied in relation to Wales during the Bill's passage through the UK Parliament. We agree with the Llywydd that it is concerning that the Cabinet Secretary took the decision not to include such provisions in the Memorandum.²³

30. In addition, while we note the reasoning put forward by the Cabinet Secretary to the Llywydd for the delay in bringing forward a legislative consent memorandum, we find the explanation concerning for a number of reasons.

31. In his letter to the Llywydd on 5 March 2025 the Cabinet Secretary stated:

"The UK Government introduced their Bus Services (No 2) Bill (the Bill) to the House of Lords, on 17 December 2024. At the same time Wales has been working on the introduction of its own Bus Services (Wales) Bill in the Senedd in March 2025.

My officials have been working with UK Government officials to determine where there may be cross-over and where there may be divergence. The UK bill was introduced at pace with the intention of applying in England only. The initial competency analysis by the UK was that all elements were reserved and no Legislative Consent Memorandum was required.

*Up to now I have only received Ministerial correspondence from Simon Lightwood MP, Minister for Local Transport about the Bill's introduction, there has been no other correspondence on specific details."*²⁴

32. The Welsh Government's plans for reforming bus services in Wales have been known since the publication of its White Paper "One Network, One Ticket, One

²³ Letter from the Llywydd to the Cabinet Secretary for Transport and North Wales, 14 March 2025

²⁴ Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd, 5 March 2025

Timetable", published in 2022.²⁵ This was followed by confirmation in the Welsh Government's Programme for Government Annual Report 2024 that the Government was progressing its "transformative bus legislation".²⁶

33. It is unclear to us from the Cabinet Secretary's letter when Welsh and UK government officials began discussing cross-over and divergence in the two governments' legislative proposals.

34. If discussions began in advance of the UK Government introducing its Bill to the UK Parliament, the Cabinet Secretary has not sufficiently described those discussions or explained in the Memorandum how that Bill relates and/or impacts on the Welsh Government's bill.

35. Equally of concern to us is the possibility that these discussions did not begin until after the UK Government's Bill was introduced to the UK Parliament. Given the Welsh Government's legislative plans have been in the making for three years, the UK Government progressing "at pace" legislative reform proposals which have cross-border implications and without speaking with Welsh Government counterparts signals a poor intergovernmental relationship.

36. We are also uneasy about the Cabinet Secretary's statements that "The initial competency analysis by the UK was that all elements were reserved and no Legislative Consent Memorandum was required" and "My officials have noted that some measures in the UK Bill do apply or have some effect in regard to Wales."

37. These statements suggest that the Welsh Government relies on the UK Government's legislative competence assessment when a Bill is being prepared for introduction to the UK Parliament, rather than the Welsh Government undertaking its own assessment which takes into account the requirements of Standing Order 29.

Conclusion 3. Standing Order 29 places obligations on the Welsh Government to bring forward legislative consent memoranda when the requirements of that standing order are met. Given that it is the Welsh Government that is accountable to the Senedd, the Welsh Government should not rely on a UK Government assessment of whether the consent of the Senedd should be sought for a Bill (or provisions within a Bill) introduced to the UK Parliament.

²⁵ Welsh Government, One network, one timetable, one ticket: planning buses as a public service for Wales, March 2022

²⁶ Welsh Government Annual Report 2024, July 2024

Recommendation 1. For Bills introduced to the UK Parliament that fall within his remit and responsibilities, the Cabinet Secretary should ensure that Welsh Government officials undertake the assessment of whether a Bill's provisions have regard to devolved matters and therefore engage Standing Order 29, rather than relying on an analysis of legislative competence carried out by the UK Government.

Recommendation 2. The First Minister should ensure that the Welsh Government undertakes the assessment of whether a Bill introduced to the UK Parliament has regard to devolved matters and therefore whether or not it engages Standing Order 29, rather than relying on an analysis of legislative competence carried out by the UK Government.

The Welsh Government's Bus Services (Wales) Bill

38. On 31 March 2025, 20 days after the Cabinet Secretary laid the Memorandum before the Senedd, the Cabinet Secretary introduced the Bus Services (Wales) Bill to the Senedd.²⁷

39. The Bus Services (Wales) Bill will establish “a new legislative framework to support the delivery of local bus services as part of a wider “one network, one timetable, one ticket” reform of public transport in Wales”.²⁸

40. We acknowledge that the Bill which is the subject of the Memorandum largely applies in relation to England only. However, the Memorandum does not comment on the extent to which the Bill may impact on the Welsh Government's own Bill and its proposed reform to local bus services in Wales.

Conclusion 4. We agree with the Llywydd that omitting some relevant provisions from the Memorandum may have an impact on the Senedd's ability to effectively scrutinise the Bus Services (Wales) Bill during its early stages.²⁹

Recommendation 3. The Cabinet Secretary should explain, in the supplementary legislative consent memorandum due to be laid before the Senedd, whether and how the Bill impacts on the Welsh Government's own Bus Services (Wales) Bill.

²⁷ ~~Bus Services (Wales) Bill~~

²⁸ Bus Services (Wales) Bill, ~~Explanatory Memorandum~~, paragraph 1.1

²⁹ Letter from the Llywydd to the Cabinet Secretary for Transport and North Wales, 14 March 2025