

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

July 2025



1. Background

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. The Bill was debated at second reading on 2 June 2025 and has been sent to a Public Bill Committee for scrutiny. At the time this report was agreed, Committee stage was expected to conclude by 8 July 2025.

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 Bill before the UK Parliament makes provision in relation to Wales that has regard to devolved matters.

6. On 11 March 2025, Ken Skates MS, the Cabinet Secretary for Transport and North Wales (the Cabinet Secretary), laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill.⁴

7. We published our report on the Memorandum (our first report) on 9 May 2025.⁵

¹ Bus Services (No. 2) Bill, as introduced[HL] (Bill 54)

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

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

⁴ Welsh Government, Legislative Consent Memorandum, The Bus Services (No. 2) Bill, March 2025

⁵ Legislation, Justice and Constitution Committee, Report on the Welsh Government's Legislative Consent Memorandum on the Bus Services (No. 2) Bill, May 2025

- 8.** Paragraphs 10 to 13 of our first report set out the provisions of the Bill which, at the time, the Welsh Government considered to require the Senedd's consent.
- 9.** Paragraphs 14 and 15 of our first report set out the Welsh Government's position on the Bill, as set out in the Memorandum.
- 10.** Our first report contained four conclusions and three recommendations.

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 2)

- 11.** On 23 May 2025, the Cabinet Secretary laid before the Senedd a Supplementary Legislative Consent Memorandum (Memorandum No. 2) in respect of the Bill.⁶
- 12.** The Business Committee agreed that the Legislation, Justice and Constitution Committee (the Committee) and the Climate Change, Environment and Infrastructure (CCEI) Committee should report on the Memorandum by 11 July 2025.⁷

Provisions for which the Senedd's consent is required

- 13.** Memorandum No. 2 lists provisions that were present in the Bill on its introduction to the UK Parliament, subject to one exception (see paragraph 18). The clause numbering reflects the Bill version as brought from the House of Lords.⁸
- 14.** As noted in our first report, 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.⁹ The Cabinet Secretary also stated:

"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

⁶ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Bus Services (No. 2) Bill, May 2025

⁷ Business Committee, Timetable for consideration: Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Bus Services (No. 2) Bill, June 2025

⁸ Bus Services (No. 2) Bill (Bill 229)

⁹ Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd, 5 March 2025

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.”¹⁰

15. 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.¹¹

16. On 25 March 2025, the Cabinet Secretary committed to laying a supplementary legislative consent memorandum on the remaining clauses that make provision in relation to Wales, that were not included in the original Memorandum.¹²

17. At paragraphs 11 to 13 of Memorandum No. 2, the Cabinet Secretary states:

“This supplementary LCM relates to provisions in the Bill as introduced. The provisions listed in this LCM should be read alongside the first LCM laid on 11 March 2025.

My officials continue to have discussions with DfT colleagues about whether amendments should be made in relation to these provisions, their application in Wales and their potential impact on the future delivery of the Bus Services (Wales) Bill, which is currently being considered by the Senedd.

In the meantime, I am laying this supplementary LCM in relation to those provisions in order to comply with SO29.”

¹⁰ Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd, 5 March 2025

¹¹ ~~Letter from the Llywydd to the Cabinet Secretary for Transport and North Wales~~, 14 March 2025

¹² ~~Letter from the Cabinet Secretary for Transport and North Wales to the Llywydd~~, 25 March 2025

18. At paragraphs 14 and 15 of Memorandum No. 2, the Cabinet Secretary sets out details of the clauses in the Bill (as introduced) that were not included in the Memorandum and for which the Senedd's consent is required. The clauses are:

- clause 22(6)(b)(i) and (ii) – Local government bus companies (clause 15 as introduced) (sub-paragraph (b)(ii) was added to the Bill via an amendment agreed at Report stage in the House of Lords¹³),
- clause 33 – Safeguarding duty: drivers of school services (clause 26 as introduced),
- clause 34 – Training about crime and anti-social behaviour (ASB) (clause 27 as introduced), and
- clauses 35 and 36 – Training about disability-assistance and disability-awareness (clauses 28 and 29 as introduced).

19. The Cabinet Secretary states in Memorandum No. 2:

*"I consider that these clauses trigger the legislative consent process set out in Standing Order 29 on the basis that they contain provision in relation to Wales that has regard to devolved matters (namely, the delivery of local bus services)."*¹⁴

20. With regards to the UK Government's views on the need for consent, the Cabinet Secretary states in Memorandum No. 2 that the UK Government is of the view that these provisions relate to reserved matters and therefore do not engage the legislative consent process. However, the Cabinet Secretary considers that "the stronger argument is that the clauses make provision in relation to devolved matters and thus require an LCM."¹⁵

The Welsh Government's position on the Bill

21. The Cabinet Secretary sets out the Welsh Government's position on the Bill and the clauses listed in Memorandum No. 2 in paragraphs 18 to 21. He states:

"Clause 22(6)(b) The purpose of this change is to clarify that the Transport Act 1985 does not geographically restrict where existing municipal bus companies, formed under Part IV of the

¹³ [Bus Services \(No. 2\) Bill \[HL\], Running list of all amendments on Report, Tabled up to and including 19 March 2025](#)

¹⁴ Memorandum No. 2, paragraph 15

¹⁵ Memorandum No. 2, paragraphs 16 and 17

Transport Act 1985, can operate services. Some of these companies had interpreted section 73(3)(a) as limiting their geographical scope of operations, when read with other provisions in the 1985 Act.

Clause 33 – I am of the view Officials [sic] that existing legislation and the Learner Travel Statutory Provision and Operational Guidance read together achieve a similar outcome to the provisions in clause 33.

Clauses 34-36 - The recently introduced Bus Services (Wales) Bill makes provision for local bus services contracts and permits. These will enable the Welsh Ministers to set training and safety requirements on operators of local bus services.

In light of the above, I want to have further discussions with UK government on these provisions, before sharing assessment as to whether these provisions are in Wales' best interest."

22. The Cabinet Secretary concludes:

*"Whilst I welcome the engagement of the UK Government to date in respect of application of the provisions in this Bill, further engagement will be required before I am able to confirm to the Senedd the suitability of provision for Wales. I will continue to monitor the Bill's developments and update the Senedd as appropriate."*¹⁶

2. Committee consideration

23. We considered Memorandum No. 2 at our meeting on 23 June 2025.¹⁷

24. We considered and agreed our report at our meeting on 30 June 2025.¹⁸

¹⁶ Memorandum No. 2, paragraph 23

¹⁷ ~~Legislation, Justice and Constitution Committee~~, 23 June 2025

¹⁸ ~~Legislation, Justice and Constitution Committee~~, 30 June 2025

Our view

Legislative consent

25. We note the Welsh Government's assessment of the clauses within the Bill that require the consent of the Senedd, as set out in Memorandum No. 2.

26. We also note the position of the UK Government as regards consent.

Conclusion 1. We agree with the Welsh Government's assessment, as set out in Memorandum No. 2, that clause 22(6)(b)(i) and clauses 33 to 36 require the consent of the Senedd in accordance with Standing Order 29. We do not agree with the Welsh Government's assessment that the Senedd's consent should be sought for clause 22(6)(b)(ii).

27. Clause 22(6)(b)(ii) disapplies section 73(3)(b) of the *Transport Act 1985* (the 1985 Act) in relation to money borrowed for the purpose of or in connection with a public transport company's provision of "local services". This will remove the restriction on existing local authority bus companies accessing private borrowing, where the money is borrowed for the purposes of, or in connection with, providing local bus services. It is our understanding that the removal of this restriction applies in relation to existing local authority bus companies in England only, courtesy of the new section 73(5B) which is to be inserted into the 1985 Act by clause 22(6)(b)(ii) of the Bill. It therefore does not apply to local authority bus companies in Wales. As such, we are unclear how clause 22(6)(b)(ii) makes provision in a way that engages Standing Order 29.

28. In our first report we concluded that clause 22 (now clause 26), which inserts new sections into the *Statistics of Trade Act 1947*, contains provision that has regard to devolved matters and, as such, the Senedd's consent should be sought for that clause.¹⁹ At the time of writing, the Cabinet Secretary has not responded to our first report, and we note that Memorandum No. 2 does not address clause 26 (as numbered in Bill 229).

Conclusion 2. We continue to hold the view that the Senedd's consent should be sought for clause 26 of the Bill (clause 22 of the Bill as introduced to the UK Parliament).

29. We also note that the UK Government is of the view that the Senedd's consent should be sought for clause 24(4) (information provided on registration

¹⁹ Legislation, Justice and Constitution Committee, Report on the Welsh Government's Legislative Consent Memorandum on the Bus Services (No. 2) Bill, conclusion 2

of local services).²⁰ This clause allows a traffic commissioner to provide information received by virtue of regulations made by the Welsh Ministers to the Secretary of State. The Cabinet Secretary is not seeking the Senedd's consent for clause 24(4).

30. We understand that the Welsh Ministers have the power to make regulations under sections 6 and 6I of the 1985 Act in relation to Wales. These powers relate to the registration of "local services". While we acknowledge that clause 24(4) does not affect these regulation-making powers directly, the provision does dictate what a traffic commissioner may do with information received by virtue of regulations made under those provisions. We also acknowledge that traffic commissioners are a reserved authority. However, given that clause 24(4) relates to an executive power of the Welsh Ministers, we would welcome an explanation from the Cabinet Secretary as to whether or not he considers that clause 24(4) makes provision in relation to Wales that has regard to devolved matters, and why the Senedd's consent is not being sought for clause 24(4).

Recommendation 1. The Cabinet Secretary should explain why the Senedd's consent is not being sought for clause 24(4) of the Bill.

31. Finally, we note that the Cabinet Secretary has concerns with clauses 33 to 36 of the Bill and how they interact with and may affect the Learner Travel Statutory Provision and Operational Guidance, published under the *Learner Travel (Wales) Measure 2008*, and the Bus Services (Wales) Bill, recently introduced to the Senedd. We further note that, in light of these concerns, the Cabinet Secretary plans to "have further discussions with UK government on these provisions, before sharing [*sic*] assessment as to whether these provisions are in Wales' best interest".

Recommendation 2. The Cabinet Secretary should provide an update to the Senedd as soon as possible on the discussions he has had with the UK Government about clauses 33 to 36.

The Welsh Government's approach to the Bill

32. As we note in Chapter 1 of our report, Memorandum No. 2 (in the main) relates to provisions that were present in the Bill on its introduction to the UK Parliament in December 2024. This means that there has been a delay of over

²⁰ Explanatory Notes to the Bus Services (No. 2) Bill (Bill 229), paragraph 446

five months between the Bill's introduction and the notification of these provisions in a legislative consent memorandum laid before the Senedd.

Conclusion 3. In his letter to the Llywydd on 25 March 2025, the Cabinet Secretary committed to laying a supplementary legislative consent memorandum listing the clauses in the Bill as introduced to the UK Parliament that make provision in relation to Wales and which were not included in the original Memorandum. We are unclear why Memorandum No. 2 was then not laid until 23 May 2025. This approach to the legislative consent process is disrespectful to the Senedd and an unwelcome situation which should not be repeated.

Ongoing matters of concern

33. Our first report contained three recommendations relating to the Welsh Government's approach to the Bill and the legislative consent process (recommendations 1 and 2), and the Bill's interaction with the Welsh Government's Bus Services (Wales) Bill (recommendation 3). We await the Cabinet Secretary's response to our first report.