

# **Report on Legislative Consent Memorandum No. 3 for the Employment Rights Bill**

Date: July 2025

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## Conclusions and recommendations

### Conclusions

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## 1. Background

- 1.** The Employment Rights Bill (“the Bill”) was introduced into the House of Commons on 10 October 2024. It completed its passage through the House of Commons and was introduced into the House of Lords on 14 March 2025.
- 2.** On 5 December 2024, the Minister for Culture, Skills and Social Partnership (“the Minister CSSP”) laid a Legislative Consent Memorandum (“Memorandum No. 1”)<sup>1</sup> in respect of the Bill before the Senedd. He then laid a Supplementary Legislative Consent Memorandum (“Memorandum No. 2”)<sup>2</sup> on 19 December 2024. The Legislation, Justice and Constitution Committee<sup>3</sup>; Economy, Trade and Rural Affairs Committee<sup>4</sup>; and the Equality and Social Justice Committee<sup>5</sup> have previously published reports in relation to the LCM and SLCM.
- 3.** A further Supplementary Legislative Consent Memorandum (“Memorandum No. 3”)<sup>6</sup> was laid by the Minister CSSP on 1 April 2025. As the subject matter of Memorandum No. 3 fell within the remit of the Health and Social Care Committee, it was referred to us by the Business Committee with an initial reporting deadline of 27 June 2025. This was subsequently extended to 11 July 2025.
- 4.** The Committee considered Memorandum No. 3 at its meeting on 5 June 2025.<sup>7</sup> During that meeting, we heard oral evidence from the Minister for Children and Social Care (“the Minister CSC”), as the Minister with responsibility for social care in Wales.
- 5.** The Committee is aware that a Supplementary Legislative Consent Memorandum (Memorandum No.4) was laid by the Welsh Government on 8 July 2025, in advance of a debate on that Memorandum scheduled to take place on 15 July 2025. In the limited time between Memorandum No.4 being laid and the date for debate, the Committee has not been able to consider that Memorandum.

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<sup>1</sup> Legislative Consent Memorandum: Employment Rights Bill

<sup>2</sup> Supplementary Legislative Consent Memorandum (Memorandum No. 2): Employment Rights Bill

<sup>3</sup> ‘The Welsh Government’s Legislative Consent Memoranda on the Employment Rights Bill’, Report of the Legislation, Justice and Constitution Committee, March 2025

<sup>4</sup> ‘Report on the Legislative Consent Memorandum for the Employment Rights Bill’, Economy, Trade and Rural Affairs Committee, March 2025

<sup>5</sup> ‘Report on the Legislative Consent Memoranda on the Employment Rights Bill’, Equality and Social Justice Committee, March 2025

<sup>6</sup> Supplementary Legislative Consent Memorandum (Memorandum No.3): Employment Rights Bill

<sup>7</sup> Health and Social Care Committee, Record of Proceedings (RoP), 5 June 2025

**6.** We wish to express our frustration with the timings of Memorandum No.4. That Memorandum includes matters that are relevant to the subject responsibilities of this Committee and yet the timings are such that we have been unable to scrutinise it. This situation is totally unsatisfactory and could have been avoided, had the Welsh Government chosen a different approach to the delivery of this significant policy area, as we discuss in the Our View section of this report.

## 2. Memorandum No. 3

### Overview

**7.** Paragraphs 6 to 12 of Memorandum No. 3 summarise the Bill and its policy objectives. Briefly, the key provisions of the Bill cover:

- updating and enhancing existing employment rights and making provision for new rights;
- making provision for negotiating bodies in particular sectors;
- reforming certain aspects of trade union and industrial relations legislation; and
- creating new mechanisms for the enforcement of employment law.<sup>8</sup>

### Provisions for which consent is required

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**8.** Memorandum No. 3 relates to amendments that were agreed to the Bill during the Report Stage in the House of Commons. These amendments, which have regard to devolved matters, are now included in Chapter 2 of Part 3 to the Bill, which relates to social care workers.

**9.** The substantive amendment is amendment NC37, which inserts a new clause 36 into the Bill. Clause 36 provides the Welsh Ministers with a regulation-making power to establish a Social Care Negotiating Body for Wales, with the agreement of the Secretary of State. As set out in Memorandum No. 3, this Body is intended to “develop and agree Fair Pay Agreements in social care which would shape the terms and conditions of workers in the social care sector.”<sup>9</sup> Similar provision is made in relation to England and Scotland.

**10.** Memorandum No. 3 makes clear that the Social Care Negotiation Body for Wales:

*“would be able to deal with the remuneration, terms and conditions and any other specified matter relating to the employment of adult and children’s social care workers.”*

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<sup>8</sup> Memorandum No. 3, paragraph 8

<sup>9</sup> Memorandum No. 3, paragraphs 13-14

- 11.** This, it states, is distinct to the approach being taken in England to create an Adult Social Care Negotiation Body for England, and is intended to take account of the fact that, “unlike in England, adult and child social care are organisationally integrated in Wales”.<sup>10</sup>
- 12.** The power in new clause 36 for the Welsh Ministers to establish the new body cannot be exercised without the consent of the Secretary of State.
- 13.** The remainder of the amendments adapt existing clauses that originally governed an Adult Social Care Negotiating Body for England so that they now apply in relation to new bodies for England, Wales and Scotland.
- 14.** Further details about the amendments listed above are provided in paragraph 16 of Memorandum No. 3.

### **The Welsh and UK Governments’ view on consent**

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- 15.** Both the Welsh and UK Governments believe that consent is required for the amendments relating to a Social Care Negotiating Body for Wales, as they make provision in relation to Wales with regard to devolved matters.

### **Evidence from the Minister for Children and Social Care**

- 16.** Memorandum No. 3 states that the Welsh Government supports the Bill and the “broader ‘Plan to Make Work Pay’”. The Welsh Government believes that the provisions relating to a Social Care Negotiating Body in Wales will enable it to:

*“use the framework provided by the Employment Rights Bill in a manner that aligns with our social care policy agenda, commissioning model and funding arrangements.”*

- 17.** During our oral evidence session with the Minister CSC, we asked her why the Welsh Government supported the use of a UK Bill to make provision for a social care negotiating body, rather than bringing forward its own Bill.
- 18.** She told us that the Welsh Government had been “striving to promote fair work in the social care workforce for many years” but had not had the “legislative levers” to enforce any such agreements, as employment law is non-devolved. She said that being part of this legislation would enable the Welsh Government to:

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<sup>10</sup> Memorandum No. 3, paragraph 15



*“(...) continue to do the work that we're doing here in Wales on the social care workforce in the devolved setting, but have the security of employment legislation that is underpinned by enforcement action.”<sup>11</sup>*

**19.** She told us that strengthening the social care workforce “remains an absolute priority” and that the Welsh Government saw this Bill as “a vehicle that will enable us to do that.”<sup>12</sup>

**20.** The Minister argued that, although the Welsh Government could currently establish fair payment agreements, they would not be legally enforceable. By way of example, she cited the real living wage in social care in Wales, in place for the last three years. This, she said, was a voluntary agreement and not enforceable in the same way as the national minimum wage. She went on to say:

*“... if we get to a point where we have a legally enforceable condition, as it would be under the fair pay agreement, underpinned with a competence that we don't currently have, because it's a reserved matter, we think that that is a huge benefit to the social care workforce.”<sup>13</sup>*

**21.** The Minister also argued that there was a need to be “pragmatic about what is achievable, certainly in the time remaining in this Senedd term” and that, as the Bill related primarily to reserved employment law matters, the Welsh Government felt it offered the most coherent approach “to what we are seeking to do in this area anyway”, underpinned with legally enforceable rights.<sup>14</sup> In her view, this approach would enable the Welsh Government to make provision in this area quickly in a way which was aligned and co-ordinated across the UK.<sup>15</sup>

**22.** She did, however, acknowledge that the approach taken in the Bill created the potential for a “divergence of agreements across the three nations”, and that the Welsh Government’s starting position had been to have a negotiating body for the UK. She said the UK Government had not supported this position, as they did not want to be involved in devolved policy areas, and instead a ‘GB working group’ had been established, with representatives from Wales, Scotland and England. That group, she said, was:

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<sup>11</sup> RoP, 5 June 2025, paragraph 330

<sup>12</sup> RoP, 5 June 2025, paragraph 404

<sup>13</sup> RoP, 5 June 2025, paragraph 345

<sup>14</sup> RoP, 5 June 2025, paragraph 332

<sup>15</sup> RoP, 5 June 2025, paragraph 332

*"(...) talking through how we can ensure that we don't have those divergences that we don't want to see and that wouldn't be beneficial in either Scotland, Wales or England either (...). So, that work will be ongoing to, hopefully, prevent those unintended consequences."*<sup>16</sup>

## **Provisions requiring consent**

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**23.** Amendment NC37, which inserted new clause 36 into the Bill, gives the Welsh Ministers regulation-making powers to establish a Social Care Negotiating Body for Wales. Notably, in exercising this power, the Welsh Ministers are required to obtain the consent of the Secretary of State.

**24.** In Memorandum No. 3, the Minister CSSP states that, in his view, the requirement to obtain consent is unnecessary and he has informed the UK Government of that position.<sup>17</sup> He goes on to state:

*"Nonetheless, recognising the significant challenges the social care sector is facing in terms of fair pay, which in turn affects the delivery of critical services to our most vulnerable people, aligning enforcement powers and enabling a coordinated approach to the development of social care negotiating bodies and Fair Pay Agreements in this sector is critical.*

*In recognition of these factors, as well as to enable these provisions to be implemented as swiftly as possible, it is, in my view, appropriate to deal with these provisions in this UK Bill. The Bill is consistent with the Welsh Government's focus on fair work. Therefore, I recommend that the Senedd supports the proposals and gives its consent."*<sup>18</sup>

**25.** During our evidence session with the Minister CSC, we challenged her on whether the new clause 36 effectively undermined the devolution settlement by requiring the Welsh Ministers to obtain consent from the UK Government before being able to exercise powers in this area.

**26.** The Minister restated the Welsh Government's position that it did not believe the requirement for consent to be necessary. She said the Welsh Government had

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<sup>16</sup> RoP, 5 June 2025, paragraph 396

<sup>17</sup> Memorandum No. 3, paragraph 20

<sup>18</sup> RoP, 5 June 2025, paragraph 20

made, and continued to make, this point to the UK Government but had been unsuccessful, so far, in persuading the UK Government.

**27.** She told us that her “overriding concern (...) is that social care workers in Wales should not be disadvantaged by not being part of this legislation”.<sup>19</sup> As such,

*“(...) I had to make a decision, in the end, along with my colleagues the Minister for Culture, Skills and Social Partnership, and the Counsel General, about what the greater benefit to the social care workforce would be.”<sup>20</sup>*

*“I think you have to come to a position, at some point, about what is the greater good, and we believe that the greater good is to involve the social care workforce in Wales as part of this legislation so that we have legally enforceable rights in Wales. We don't believe it would be right to have those legally enforceable rights in Scotland and England and not have them in Wales.”<sup>21</sup>*

**28.** Stephen Layne, Welsh Government Deputy Director for Fair Work, told us that the Minister for CSPS had written to the UK Minister with responsibility for the Bill seeking a “Schedule 7B carve-out” which would “effectively (...) enable (...) the Senedd to remove the consent requirement at a later date.” He said that the Welsh Government was waiting for a response.<sup>22</sup>

**29.** The Minister confirmed that any carve-out that could be obtained would be a matter for a future Senedd. She said:

*“It is not something that we could do in this term of the Senedd to develop our own legislation. We just would not have the time. But a future Government may decide to develop legislation in this area, and then there would be the option of a carve-out if we can get agreement on that.”<sup>23</sup>*

**30.** Separately, clause 151 of the Bill provides the Secretary of State with the power to make consequential provisions in relation to the Bill. This includes a

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<sup>19</sup> RoP, 5 June 2025, paragraph 340

<sup>20</sup> RoP, 5 June 2025, paragraph 338

<sup>21</sup> RoP, 5 June 2025, paragraph 349

<sup>22</sup> RoP, 5 June 2025, paragraph 356

<sup>23</sup> RoP, 5 June 2025, paragraph 361

Henry VIII power which enables the Secretary of State to amend, repeal or revoke legislation, including an Act or Measure of the Senedd.

**31.** There is no mention of this provision in Memorandum No. 3 or in the previous memoranda for this Bill, and as such the Welsh Government's position on consent for this provision is unclear. The most recent Explanatory Notes to the Bill indicate that the UK Government does not consider that section 151 requires consent.

### **Engagement on the Bill**

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**32.** Memorandum No. 3 states:

*"Prior to the Bill's introduction and subsequently, constructive and regular engagement between the Welsh Government and the UK Government at Ministerial and official levels has taken place."*<sup>24</sup>

**33.** During our evidence session with the Minister CSC, we asked her what engagement the Welsh Government had undertaken to date with the social care sector and trade unions on the proposals in the Bill. She referred to the "well-established social partnership arrangements" with trade unions and employer representatives, including the social care fair work forum and the social care workforce partnership. She said:

*"That vehicle has enabled us to have regular updates with our stakeholders on progress, and the positive feedback that we've had from them has been one of the main factors in why we've decided to take the route that we have in terms of presenting this as an LCM, and seeking to be included in the legislation. It was very much the view of our stakeholders and our trade unions that we should do that. So, we have had very detailed conversations—as detailed as they can be, given the amount of information that we have got at this stage."*<sup>25</sup>

**34.** We also asked about the plans for future engagement, and whether the Welsh Government had set up a working group with sector representatives and trade unions to develop the policies around the Fair Pay Agreement process, similar to the group already established in England.

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<sup>24</sup> Memorandum No. 3, paragraph 10

<sup>25</sup> RoP, 5 June 2025, paragraph 364

**35.** The Minister stated that no formal progress had been made in setting up either a negotiating body or working groups in Wales because the Welsh Government believed the “right process here is to get the agreement of the Senedd first”. She argued that, whilst such work was already underway in England,

*“They don't have any kind of mechanisms in place at all in England for anything like the kind of partnership arrangements that we have in Wales, so we are in a better place.”<sup>26</sup>*

**36.** She told us that, following Senedd agreement, the Welsh Government:

*“will then be looking, through our existing partnership arrangements, as to how we can develop a negotiating body and any working groups that we will need to test out all of the things that are contained within the legislation and how we can best implement that here.”<sup>27</sup>*

**37.** In terms of a timeline for this work, she confirmed that “we haven’t got a timeline yet”.<sup>28</sup>

### **Financial implications and costs**

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**38.** Memorandum No. 3 states that there are no immediate financial implications, but that the Welsh Government will:

*“consider the financial implications of establishing a Social Care Negotiating Body for Wales before seeking to use powers conferred on Welsh Ministers to establish such a body.”<sup>29</sup>*

**39.** We asked the Minister about the Welsh Government’s expectations as to how the costs of the Bill should be met. She told us that funding “is absolutely a key element of this” and that it is “very much at the forefront of the discussions that we are having with the UK Government.” She said:

*“(…) as this is a piece of UK legislation, we would very much be expecting the UK Government to be providing financial support for its implementation.”<sup>30</sup>*

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<sup>26</sup> RoP, 5 June 2025, paragraph 366

<sup>27</sup> RoP, 5 June 2025, paragraph 366

<sup>28</sup> RoP, 5 June 2025, paragraph 367

<sup>29</sup> Memorandum No. 3, paragraph 19

<sup>30</sup> RoP, 5 June 2025, paragraph 380

**40.** She confirmed that discussions with the UK Government about funding included the additional element of fair pay agreements applying to children's social care in Wales as well as adult social care. She stated:

*"I can't give you an answer to that yet in terms of how much money the UK Government will be providing for this, but we fully expect and anticipate that this is a new piece of legislation that is about improving pay, and so we would be expecting the UK Government to fund that."*<sup>31</sup>

**41.** We questioned the Minister about Welsh impact assessments and the estimates she had made of the likely costs of the Bill for the Welsh Government, should the UK Government decide not to provide the funding for this policy. She told us:

*"(...) we haven't done the assessments yet. That will be done. We've looked at the UK Government's impact assessments for the Bill, but we need to do more work on this specifically in Wales to see what the impact of that is. We understand the importance of testing and the potential implications, and we are committed to evaluating that before we lay any regulations. So, this is an ever-moving feast at the moment, but we just haven't got there yet. We're still in the relatively early stages."*<sup>32</sup>

**42.** In terms of the likely increased costs for providers as a result of the Bill, and the likelihood of smaller businesses being more exposed to these costs, we asked the Minister how the Welsh Government intended to support providers and mitigate further market instability. She said:

*"(...) we do accept, of course, that this also does present some challenges to employers. (...) we are carefully going to be considering all of those potential impacts (...)"*<sup>33</sup>

**43.** She argued, however, that those providers "particularly some of these small third- and private-sector providers, will have a seat at the negotiating table, and so

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<sup>31</sup> RoP, 5 June 2025, paragraph 381

<sup>32</sup> RoP, 5 June 2025, paragraph 383

<sup>33</sup> RoP, 5 June 2025, paragraph 389

they will be part of reaching the agreements that we will seek to secure with the social care workforce.”<sup>34</sup>

**44.** She also cited the costs of not improving employment rights and pay in the sector, saying:

*“We know, over the years, how difficult it has been to recruit and retain people within the sector. We’ve done a huge amount of work in this area already, but we still know that it is an enormous challenge to keep people in the sector and to recruit them in the first place, despite a number of initiatives right the way across Wales.”*<sup>35</sup>

**45.** We asked the Minister how she intended to ensure that people who fully fund their own care and unpaid carers were not disadvantaged as a result of the Bill, given that the Bill’s impact assessment highlights that increased costs to providers will likely result in increased costs for those who pay for their own care. She told us:

*“We do understand the importance of how changes are going to impact on different parts of the sector, and that includes self-funders and unpaid carers, of course. So, as part of our ongoing engagement, the formal consultation that we’ll be involved in, and all the subsequent analysis that we’re going to be undertaking, we’re going to have to carefully consider all the specific impacts on all of these groups.*

*We give an absolute undertaking that we will be doing that, and (...) that’s why it’s so important that we get early clarification from the UK Government about the budget and about funding for this, so that we can plan effectively and ensure that the proposals are both fair and sustainable going forward.”*<sup>36</sup>

**46.** We also asked her about the assessments that had been made of the additional costs for Wales associated with the inclusion of children’s services in addition to adult services. She told us that this would be part of the Welsh Government’s ongoing assessment. She went on to say:

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<sup>34</sup> RoP, 5 June 2025, paragraph 389

<sup>35</sup> RoP, 5 June 2025, paragraph 388

<sup>36</sup> RoP, 5 June 2025, paragraph 391



*"I think the important thing to say in relation to that is that children's services generally have higher vacancy rates, and there are better terms and conditions generally in adult social care than there are in children's social care, and that potentially could exacerbate the problem if we don't address the entirety of the children and adult social care.*

*So, that was why it was a priority for us to include children's social care in that, recognising that what that may mean is that in future budgets, we might have to identify additional funding to cover the costs of children's social care."*<sup>37</sup>

## **Monitoring and evaluation**

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**47.** We asked the Minister how the Welsh Government intended to monitor and evaluate the effectiveness of any future regulations in this area. She confirmed that "robust monitoring and evaluation" would be undertaken and that this "will be done as part of the discussions for the establishment of the negotiating bodies."<sup>38</sup>

## **Our view**

**48.** There is much to support in terms of the principles behind this legislative consent memorandum. The recruitment and retention difficulties within the social care workforce in Wales are longstanding, and there is widespread agreement that improvements are needed to pay, and terms and conditions. There is also a consensus that there needs to be greater parity in social care with similar jobs in the NHS.

**49.** The adult social care workforce is facing severe staffing shortages, particularly since the pandemic. The most acute problems are in domiciliary care, where vacancies make up more than 37 per cent of the total vacancies in social care in Wales. In the children's sector, the challenge lies particularly in children's social work, with around 17 per cent of children's social workers employed by an agency.

**50.** Against this backdrop, we recognise the significance of the provisions in Memorandum No. 3 in providing a mechanism to negotiate for better pay, terms and conditions within the social care sector in Wales and, importantly, to underpin those Fair Pay Agreements with legally enforceable rights. Under those

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<sup>37</sup> RoP, 5 June 2025, paragraph 393

<sup>38</sup> RoP, 5 June 2025, paragraph 404



provisions, such agreements would be binding on social care employers, reflected in workers' contracts and enforceable in the same way as the minimum wage legislation.

**51.** Further, we welcome the success of the Welsh Government in advocating for the inclusion of children's services in the Bill, thereby enabling fair pay agreements to apply across adult and children's social care in Wales.

**52.** However, we have a number of concerns that we wish to draw to the attention of the Welsh Government, and we have set these out below.

### **The use of a UK Bill for this policy**

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**53.** The establishment of a negotiating body for adult and children's social care in Wales is a significant area of policy. The Minister told us that strengthening the social care workforce remains a priority for the Welsh Government and that work has been ongoing for many years to promote fair pay in that workforce.

**54.** Given these long-standing commitments in this significant policy area, it is disappointing that the Welsh Government has not brought forward its own Bill, rather than relying on a UK Bill. Such an approach would have enabled it to set out its policy in detail, both for public consultation and for the full and rigorous consideration of the Senedd.

**55.** The use of a UK Bill instead has the effect of severely limiting the opportunities for stakeholders in Wales to be involved in the legislative process, and for the Senedd to examine the policy in detail.

**56.** Whilst we note the Minister's evidence that the Welsh Government lacks the legislative competence to provide for legally enforceable rights in relation to fair pay agreements, we also note that similar limitations apply to the real living wage, which is a voluntary agreement that has been in operation for a number of years. We believe the Welsh Government could have chosen a similar route for the creation of a negotiating body for social care in Wales, establishing it by means of a Welsh Bill and then seeking the use of a UK Bill in a more limited way to provide legally enforceable rights. We believe this approach would have been preferable.

**57.** Following on from this, we are concerned that any future delivery of this significant policy will be by means of regulations. We believe that the establishment of a statutory body responsible for the remuneration, terms and conditions of the social care sector in Wales would be more appropriately

delivered through a Welsh Bill. We ask the Minister to set out why she believes it is appropriate for this policy to be delivered via regulations.

**Recommendation 1.** The Minister for Children and Social Care should set out why she believes it is appropriate for the establishment of a Social Care Negotiating Body for Wales to be delivered via regulations.

### **Provisions requiring consent**

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**58.** We have serious concerns about the requirement for the Welsh Government to obtain the consent of the Secretary of State before being able to exercise its regulation-making powers to establish a social care negotiating body for Wales under new clause 36.

**59.** We believe that the exercise of powers conferred on the Welsh Ministers in devolved areas should not be restricted by any requirement to seek the consent of the UK Government. As such, we support the Welsh Government's position that such consent is unnecessary, particularly within the largely devolved area of health and social care. We believe this provision should be removed from the Bill, and that the Welsh Government should pursue all the available options to ensure this is done.

**60.** We note that the efforts of the Welsh Government to persuade the UK Government to remove this consent requirement have been unsuccessful so far. We would like to better understand the objections of the UK Government, and ask the Minister to write to us about this.

**61.** We note the Welsh Government is waiting for a response from the UK Government about its request for a 'Schedule 7B carve out'. We ask that the Minister keeps us updated with any developments in this area.

**Recommendation 2.** The requirement for the Welsh Ministers to obtain Secretary of State consent before exercising its regulation-making powers under new clause 36 should be removed from the Bill, and the Welsh Government should pursue all the options available to it to ensure this is done, including continuing to press the UK Government for its removal.

**Recommendation 3.** The Welsh Government should keep the Committee updated on any developments with its request for a 'Schedule 7B carve out' relating to the requirement for Secretary of State consent in the exercise of powers under new clause 36.

**Recommendation 4.** The Minister for Children and Social Care should write to us to set out the reasons given by the UK Government for maintaining the requirement for the Welsh Ministers to obtain the consent of the Secretary of State in exercising their regulation-making powers under new clause 36.

**62.** In relation to the Henry VIII power provided for in section 151 of the Bill, we note that the Legislation, Justice and Constitution Committee has addressed this matter in its report<sup>39</sup> on Memorandum No. 3 and made two recommendations to the Welsh Government, which we support.

### **Financial implications and costs**

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**63.** There is clearly much work to be done by the Welsh Government in preparing, financially, for the creation of a social care negotiation body in Wales. The Minister has confirmed that, as yet, no assessments of the cost of implementation have been made, and there seems to be no clear idea about the level of funding that will be made available by the UK Government.

**64.** Little seems to have been done to assess the impact of the likely increased costs for providers as a result of the new section 36 of the Bill, or to consider the support that might be made available, particularly to smaller businesses, to mitigate further market instability. Similarly, the impact on people who pay for their own care and unpaid carers also has yet to be assessed in detail.

**65.** Funding will be a key element to the successful implementation of new section 36 of the Bill. Whilst we welcome the Minister's undertaking that these financial assessments will be made before any regulations are laid, we are concerned that so little preparatory work has been undertaken, and that so little seems to be known about the accompanying funding from the UK Government. We note that discussions are underway with the UK Government, and we ask the Minister to keep us updated with their progress.

**Recommendation 5.** The Minister for Children and Social Care should write to us on a six-monthly basis to provide an update on the progress of discussions with the UK Government about the funding that will be made available for the implementation of the provisions in the Bill that are the subject of Memorandum No. 3.

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<sup>39</sup> *The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Employment Rights Bill*, Legislation Justice and Constitution Committee, June 2025, paragraphs 30 to 31, including recommendations 1 and 2

## Engagement

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**66.** We note the Minister's evidence that there are well established social partnership arrangements in Wales with trade unions and employer representatives. However, we have some concerns that no formal progress has been made in establishing the working groups necessary for the exercise of the regulation making powers in the new section 36 of the Bill, and that the Welsh Government has no timeline for this. We ask that the Minister writes to us to set out the process that will be followed to establish the necessary working groups, and a timeline for this.

**Recommendation 6.** The Minister for Children and Social Care should write to us within 6 months to set out the processes the Welsh Government will follow in setting up working groups for the establishment of a social care negotiating body for Wales, and a timeline for this work.

## Potential for policy divergence

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**67.** We recognise that the arrangements in the Bill for three separate negotiating bodies within the UK gives rise to the potential for divergence of agreements across the three nations. As such, we were pleased to hear the Minister's evidence that Wales is represented on the GB Working Group, and that the group was considering this issue specifically with a view to avoiding any unintended consequences. We ask that the Minister updates us periodically on the progress of discussions within the GB Working Group.

**Recommendation 7.** The Minister for Children and Social Care should update the Committee periodically on discussions within the GB Working Group about the establishment of negotiating bodies for social care in the three nations, and any agreements arising from those discussions.

## Conclusion

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**68.** As a Committee, we believe that Memorandum No. 3 and the arrangements in the Bill for the establishment of a social care negotiating body for Wales are far from satisfactory, and we have outlined our concerns above.

**69.** We fully support the principle of strengthening the social care workforce in Wales, and improving the pay and terms and conditions of those who work in this vital sector. A majority of us support this legislative consent memorandum as a means of achieving this. A minority of us, however, feel that the lack of financial

planning and preparedness, and the wider constitutional issues identified above mean they cannot support Memorandum No. 3.

**Conclusion 1.** A majority of the Committee sees no reason that the Senedd should not support Supplementary Legislative Consent Memorandum No. 3 for the Employment Rights Bill.