

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Crime and Policing Bill

November 2025



1. Background

1. The Crime and Policing Bill¹ (the Bill) was introduced into the House of Commons on 25 February 2025. It is sponsored by the Home Office.
2. According to its long title, the Bill makes provision in the following areas:
 - anti-social behaviour, offensive weapons, offences against people (including sexual offences), property offences, the criminal exploitation of persons, sex offenders, stalking and public order;
 - powers of the police, the border force and other similar persons;
 - confiscation;
 - the police;
 - terrorism and national security, and about international agreements relating to crime;
 - the criminal liability of bodies; and
 - for connected purposes.²
3. The Bill completed its passage through the Commons on 18 June 2025. It subsequently received its First and Second Reading in the House of Lords³, and entered Lords Committee Stage on 10 November 2025.

The Welsh Government's Legislative Consent Memorandum

4. Standing Orders 29.1 and 29.2 provide that the Welsh Ministers must lay a legislative consent memorandum where a UK Bill makes provision in relation to Wales that has regard to devolved matters (relevant provision).

¹ Crime and Policing Bill, as introduced (Bill 187)

² Crime and Policing Bill, as introduced

³ Crime and Policing Bill, as brought from the Commons (HL Bill 111 (*Corrected*))

- 5.** On 28 March 2025, Jane Hutt MS, Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, laid before the Senedd a legislative consent memorandum⁴ (the Memorandum) in respect of the Bill.⁵
- 6.** We reported on the Memorandum on 5 June 2025.⁶ Within our report, we agreed with the Welsh Government's assessment of the clauses of the Bill which require the Senedd's consent⁷, but recommended that the Cabinet Secretary should provide more clarity about her statement in the Memorandum that she considers that it is "in Wales' best interests" to include provision within the legislative competence of the Senedd in this Bill, introduced to the UK Parliament, and not in a Bill to be considered by the Senedd.⁸
- 7.** We also recommended that the Cabinet Secretary should set out:
- the Welsh Government's position in respect of the provisions in the Bill which confer powers on the Welsh Ministers and UK Government Ministers to make regulations for the purpose of implementing an international agreement relating to sharing information for law enforcement purposes (the I-LEAP provisions), and
 - the preferred outcome of the Welsh Government's engagement with the UK Government in respect of these clauses.⁹
- 8.** Furthermore, we recommended that the Cabinet Secretary should provide further information as to why the Welsh Government had not, at the time of reporting, been able to reach agreement with the UK Government in respect of these clauses.¹⁰
- 9.** The Welsh Government responded to our report on 15 July 2025. In its response, it said that the provisions in the Bill cover both devolved and reserved matters and being part of the Bill "ensures the people in Wales are being

⁴ Welsh Government, Legislative Consent Memorandum: Crime and Policing Bill, 28 March 2025

⁵ Welsh Government, Legislative Consent Memorandum: Crime and Policing Bill, 28 March 2025, paragraph 41

⁶ Legislation, Justice and Constitution (LJC) Committee, The Welsh Government's Legislative Consent Memorandum on the Crime and Policing Bill, June 2025

⁷ LJC Committee, The Welsh Government's Legislative Consent Memorandum on the Crime and Policing Bill, June 2025, Conclusion 1

⁸ LJC Committee, The Welsh Government's Legislative Consent Memorandum on the Crime and Policing Bill, June 2025, Recommendation 1

⁹ LJC Committee, The Welsh Government's Legislative Consent Memorandum on the Crime and Policing Bill, June 2025, Recommendation 2

¹⁰ LJC Committee, The Welsh Government's Legislative Consent Memorandum on the Crime and Policing Bill, June 2025, Recommendation 3

protected from serious violence and antisocial behaviour.” It also said that agreement had been reached with the UK Government in respect of the I-LEAP provisions, and that the Welsh Government’s position in respect of these provisions is captured in a supplementary legislative consent memorandum (see the next section).¹¹

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

10. On 2 July 2025, the Cabinet Secretary laid a supplementary legislative consent memorandum (Memorandum No. 2) in respect of amendments to the Bill tabled for consideration at Commons Report Stage.¹²

11. The Business Committee agreed that the Legislation, Justice and Constitution Committee should report on Memorandum No. 2 by 10 October 2025.¹³ The deadline for reporting was later extended to 21 November 2025.¹⁴

Update on position since the publication of the Memorandum

12. As stated at paragraph 9 of this report, in Memorandum No. 2 the Cabinet Secretary provides an update in respect of the I-LEAP provisions in the Bill:

“Following official engagement, I am now satisfied with the approach and able to recommend the Senedd supports these provisions. Whilst this is a departure from our usual principle as regards concurrent powers, I recognise the limitations of the powers in their context, the intersect with devolved and reserved subject matters, and the UK’s legitimate positions as regards international obligations.”¹⁵

¹¹ Welsh Government, [The Welsh Government’s Legislative Consent Memorandum on the Crime and Policing Bill: Response to the LJC Committee report](#), 15 July 2025

¹² Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 2\): Crime and Policing Bill](#), 2 July 2025

¹³ Business Committee, [Timetable for consideration: Supplementary Legislative Consent Memorandum \(Memorandum No. 2\) on the Crime and Policing Bill](#), July 2025

¹⁴ Business Committee, [Revised timetable for consideration: Supplementary Legislative Consent Memorandum \(Memorandum No. 2\) on the Crime and Policing Bill](#), September 2025

¹⁵ Memorandum No. 2, paragraph 10

Provisions for the which the Senedd's consent is required

13. The Cabinet Secretary states in Memorandum No. 2 that the Minister of State for Policing and Crime Prevention wrote to her on 10 June 2025 outlining new measures that would apply to Wales.¹⁶

14. She states that the UK Government tabled amendments to the Bill (as amended at Public Bill Committee¹⁷) for consideration at Report Stage¹⁸; amendments which were subsequently agreed¹⁹. Although the majority of these amendments do not make relevant provision²⁰, the Cabinet Secretary states that the following amendments have regard to devolved matters, and as such require the Senedd's consent:

- new clause OPC²¹ 192 (Threatening, abusive or insulting behaviour towards emergency workers);
- new clause OPC 194 (Threatening or abusive behaviour likely to harass, alarm or distress emergency workers);
- new clause OPC 195 (Interpretation of new clauses OPC 192 and 194);
- clause 112 of the Bill as amended at Commons Committee Stage (clause 90 as introduced) as amended by OPC 180, OPC 181, OPC 182, OPC 183, OPC 184, OPC 187, OPC 225, OPC 226: Memorials.²²

15. The Cabinet Secretary states that consent is required for new clauses OPC 192, OPC 194 and OPC 195 because they contain provision for a purpose within the legislative competence of the Senedd.²³ She also states that the changes to clause 112 of the Bill as amended at Public Bill Committee (clause 90 as introduced):

“... expand or potentially expand the offence of climbing on a war memorial to other memorials. The amendments remove the reference to ‘war’ and provide the Secretary of State may add other memorials to the list of memorials currently listed in

¹⁶ Memorandum No. 2, paragraph 9

¹⁷ Bill 235

¹⁸ Memorandum No. 2, paragraph 3

¹⁹ Crime and Policing Bill, **Report Stage Decisions**, 18 June 2025

²⁰ Memorandum No. 2, paragraph 3

²¹ While not explained in Memorandum No. 2, “OPC” numbers are reference numbers assigned to the amendments by the Office for Parliamentary Counsel prior to their formal publication.

²² Memorandum No. 2, paragraphs 11 to 14

²³ Memorandum No. 2, paragraph 13

the Bill. The offence is not confined to a protest context and the historic environment falls within the legislative competence of the Senedd."²⁴

UK Government view on the need for consent

16. The Cabinet Secretary states that the UK Government agrees that amendments OPC 192, OPC 194 and OPC 195 require the consent of the Senedd.²⁵

17. She however states that the UK Government is of the view that the remaining amendments, as set out above, do not require consent. The Cabinet Secretary believes that the "stronger argument" is that these amendments have regard to devolved matters.²⁶

Financial implications

18. The Cabinet Secretary states that there are no financial implications to the Bill "at this time".²⁷

The Welsh Government's position

19. The Cabinet Secretary sets out her reasons for making provision for Wales in the Bill:

"In my view, it is appropriate to deal with these provisions in a UK Bill as they cover both devolved and reserved matters and our inclusion in this UK legislation enables policy objectives to be most effectively achieved. The new provisions would ensure that emergency workers in Wales received the same protection as counterparts in England. This provision aligns with the vision to make Wales an anti-racist country as set out by the Welsh Government's Anti-Racist Wales Action Plan, as well as the well-being goal of Wales being a more equal nation as put in place by the Well-being of Future Generations (Wales) Act 2015.

Emergency workers targeted due to their sexual orientation, transgender identity and disability would not be covered by this change. By only providing protections for two of the five strands

²⁴ Memorandum No. 2, paragraph 14

²⁵ Memorandum No. 2, paragraph 15

²⁶ Memorandum No. 2, paragraph 16

²⁷ Memorandum No. 2, paragraph 20

covers in UK hate crime laws, it should be noted that this provision does widen existing disparities, as reviewed and highlighted in detail by the Law Commission in its 2021 report on hate crime laws.

It should also be noted that the Public Order Act 1986 also covers the stirring up of hatred on the basis of sexual orientation. It is unclear why this protected characteristic has not been included alongside race and religion.”²⁸

20. The Cabinet Secretary concludes by recommending that the Senedd supports the proposals in the Bill and gives its consent.²⁹

Correspondence with the Cabinet Secretary

21. We wrote to the Cabinet Secretary on 29 September 2025 in respect of the Welsh Government's position in relation to the I-LEAP provisions in the Bill.³⁰ The Cabinet Secretary responded on 21 October 2025.³¹

22. We sought further clarity from the Cabinet Secretary as to why, at the time of the laying of the Memorandum, she was not in a position to recommend that the Senedd should consent to these provisions. She told us that, at that time:

“... discussions with the UK Government and associated analysis were ongoing. I was keen to ensure this did not further delay the laying of the LCM, hence the position was outlined as such in the LCM.”³²

23. The Cabinet Secretary said that, following these discussions, she was:

“... satisfied that the UK Government's approach was based upon a credible position relating to the implementation of international agreements rather than a disregard for devolution. We continue to support the devolution of justice in its entirety, as recommended by the Commission on Justice in

²⁸ Memorandum No. 2, paragraphs 17 to 19

²⁹ Memorandum No. 2, paragraph 23

³⁰ Letter to the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 29 September 2025

³¹ Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 21 October 2025

³² Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 21 October 2025, response to question 1a

*Wales. I consider this to be an issue of limited devolved application, and with limited constitutional risk."*³³

24. The Cabinet Secretary also explained the reasons for the Welsh Government's departure from its usual principles³⁴ as regards concurrent powers by agreeing to the UK Government's approach:

*"The implementation of the relevant international obligations here will involve a mixture of devolved and reserved technical and operational matters, with the details having been mandated at an international level. In this context there is therefore limited flexibility available to the Welsh Ministers."*³⁵

25. We asked the Cabinet Secretary to clarify the intended meaning of her statement, contained in Memorandum No. 2, that the Welsh Government recognises "the UK's legitimate positions as regards international obligations". In response, she stated:

*"Whilst I am unable to disclose the specific nature of discussions with the UK Government, it is clear that there is a need to ensure compliance with international obligations from the point they enter into force across the UK. The UK Government position on the ratification of treaties is explored in further detail in the FCDO guidance on treaties and MOUs."*³⁶

26. Finally, we asked whether the Welsh Government had sought consent mechanisms for the Welsh Ministers within these provisions, in line with its aforementioned principles. The Cabinet Secretary responded:

"The general approach set out in our principles was explored, together with the UK Government position on international obligations, as outlined above. As such, I agreed that there was a need to ensure a UK-wide approach, and that any

³³ Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 21 October 2025, response to question 1c

³⁴ Welsh Government, Principles on UK legislation in devolved areas, December 2024

³⁵ Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 21 October 2025, response to question 2

³⁶ Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 21 October 2025, response to question 3

constitutional risks involved with a concurrent powers approach here were limited."³⁷

2. Committee consideration

27. We considered Memorandum No. 2 at our meeting on 22 September 2025³⁸ and considered the correspondence received from the Cabinet Secretary on 3 November 2025.³⁹

28. We agreed our report on 10 November 2025.⁴⁰

Our view

Provisions requiring consent

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

30. 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, of the amendments to the provisions within the Bill which require the consent of the Senedd in accordance with Standing Order 29.

I-LEAP provisions

31. Following our exchange of correspondence with the Cabinet Secretary (as detailed in the previous section), we note the explanation provided by the Welsh Government for the inclusion of concurrent powers in the Bill with no associated consent mechanisms for the Welsh Ministers.

32. We highlight that the approach taken by the Welsh Government in respect of these provisions does not align with its principles on UK legislation in devolved areas. We believe that Memorandum No. 2 should have provided a clear and

³⁷ Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, 21 October 2025, response to question 4

³⁸ ~~Legislation, Justice and Constitution Committee~~, 22 September 2025

³⁹ ~~Legislation, Justice and Constitution Committee~~, 3 November 2025

⁴⁰ ~~Legislation, Justice and Constitution Committee~~, 10 November 2025

more definitive rationale for this departure from the principles, including the reasons for why no consent mechanisms were sought.

33. While there may be limited flexibility in this case for the ways in which the Welsh Ministers may exercise the powers conferred on them – because of the need to comply with international obligations – we believe that as a matter of principle delegated powers in devolved areas must be conferred on the Welsh Ministers alone. In this case, we see no barriers preventing the Welsh Ministers from exercising powers in devolved areas alongside Ministers in other governments of the United Kingdom, while maintaining a UK-wide approach that is compliant with international obligations.

34. We note that this is in the context of the role of international obligations in Wales's devolution settlement. The *Government of Wales Act 2006* places explicit duties on the Welsh Ministers to observe and comply with international obligations, as does the Welsh Government's own Ministerial Code⁴¹.

Conclusion 2. We believe that the powers in the Bill in devolved areas should be conferred on the Welsh Ministers alone, including with respect to the implementation of international obligations.

35. We also acknowledge the Cabinet Secretary's decision to not further delay the laying of the Memorandum in March 2025 while discussions with the UK Government in respect of these provisions were ongoing.

36. However, the reasons for why such discussions were still ongoing many weeks after the Bill had been introduced are unclear to us, and is a matter of concern in the context of intergovernmental relations. We therefore believe that the Cabinet Secretary should provide further information about the level of engagement between the UK Government and the Welsh Government in respect of this Bill during its development and up to the date of its introduction.

Recommendation 1. The Cabinet Secretary should provide further details about the Welsh Government's engagement with the UK Government in respect of the Bill during the period of its development, including when this engagement started.

⁴¹ Welsh Government, *Ministerial Code*, paragraph 1.5 [updated 12 September 2025]

“OPC” references

37. Memorandum No. 2 refers to new clauses of the Bill, and amendments to existing clauses, by their “OPC” references. While not explained in Memorandum No. 2, these numbers are those assigned by the Office for Parliamentary Counsel prior to their formal publication. For this reason, they do not provide an accessible means of identifying which provisions in tabled amendments require the Senedd’s consent. We therefore reiterate our position, set out in respect of other memoranda laid by the Welsh Government⁴², that memoranda laid under Standing Order 29 should make clear reference to amendments as published.

⁴² See, for example, paragraph 51 of our May 2025 [report on the Welsh Government’s Supplementary Legislative Consent Memoranda \(Memorandum No. 2 and Memorandum No. 3\) on the Product Regulation and Metrology Bill](#).