Welsh Parliament
Legislation Committee

The Welsh Government's Legislative Consent Memorandum on the Armed Forces Bill

October 2026

1. Background

The UK Government's Armed Forces Bill

1. The Armed Forces Bill[1] (the Bill) was originally introduced into the House of Commons on 15 January 2026.[2] The Bill did not complete its journey through the UK Parliament before the end of the 2024-26 parliamentary session. It was subject to a carry-over motion on 26 January 2026, and the Bill was reintroduced for the 2026-27 session on 14 May 2026, following the King's Speech. It is sponsored by the Ministry of Defence.

2. The long title of the Bill states that it is:

> *"A Bill to continue the Armed Forces Act 2006; to amend that Act and other enactments relating to the armed forces; to make provision about the reserve forces; to make provision about visiting forces; to make provision about the Ministry of Defence Police; to make provision about the defence functions of the Oil and Pipelines Agency; to make provision about the protection of military remains; and for connected purposes."*[3]

3. The Bill as reintroduced is in the form it had reached at the end of the 2024-26 parliamentary session, reflecting any amendments that had been agreed up to that point. Amendments to the Bill that had been tabled but not agreed during committee stage were not incorporated into the Bill as reintroduced. These amendments remain outstanding, to be dealt with by Parliament in this session.

4. At the time of writing, the Bill had completed Committee stage in the House of Lords. Report stage has been scheduled to begin on 20 October 2026.[4]

The legislative consent process

5. Standing Orders 29.1 and 29.2 provide that the Welsh Government should lay a legislative consent memorandum when a UK Bill makes provision in relation

[1] **Armed Forces Bill [HC 3]**
[2] UK Parliament, **Armed Forces Bill**
[3] **Armed Forces Bill [HC 3]**
[4] UK Parliament, **Armed Forces Bill: Stages**

to Wales that has regard to devolved matters (relevant provision). The memorandum should normally be laid no later than 2 weeks after:

- a Bill that makes relevant provision is introduced into the UK Parliament; or
- any amendment(s) is/are agreed that make relevant provision that goes beyond the limits of any consent previously given by the Senedd; or
- any amendment(s) is/are tabled by a Minister of the Crown (or with the Minister of the Crown's support) that would make relevant provision that goes beyond the limits of any consent previously given by the Senedd.[5]

Legislative consent activity during the Sixth Senedd

6. During the Sixth Senedd, the then Welsh Government laid a Legislative Consent Memorandum[6] (the original Memorandum) on the Bill as introduced on 27 January 2026. The Business Committee referred the original Memorandum to the Equality and Social Justice Committee and Legislation, Justice and Constitution Committee, with a reporting deadline of 20 March 2026.[7]

7. The Sixth Senedd's Legislation, Justice and Constitution Committee laid its report on the original Memorandum on 17 March 2026.[8] The Welsh Government did not respond to that report. A legislative consent motion was not tabled prior to the dissolution of the Senedd on 8 April 2026 and so no vote took place in the Sixth Senedd.

2. The Welsh Government's Legislative Consent Memorandum

8. On 23 June 2026, Sioned Williams MS, the Deputy First Minister and Cabinet Minister for Social Justice and Equality (the Deputy First Minister), laid before

[5] Welsh Parliament, **Standing Orders**, April 2026
[6] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 27 January 2026
[7] Welsh Parliament, **Legislative Consent: Armed Forces Bill (2024-26)**
[8] Legislation, Justice and Constitution Committee, **Report on the Welsh Government's Legislative Consent Memorandum on the Armed Forces Bill**, 17 March 2026

the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill as reintroduced on 14 May 2026.[9]

9. In July 2026, the Business Committee agreed that the Legislation Committee (the Committee) and the Equality, Human Rights and Social Justice Committee should report to the Senedd by 23 October 2026.[10] On 15 September 2026, the Business Committee agreed a new reporting deadline of 9 October 2026.[11]

Provision for which the Senedd's consent is sought

The Welsh Government's view on consent

10. The Deputy First Minister sets out that the Senedd's consent should be sought for the following clauses of the Bill:

Armed Forces Covenant: clause 2

Defence housing and other property: clause 3, Schedule 1

Assessment etc. of risks posed by certain offenders: clause 9

Victims of service offences: clause 10

Guidance of exercise of criminal jurisdiction: clause 25

Reserve Forces and Cadets Association: clause 37, Schedule 6

Interpretation: clause 50

Extent in the United Kingdom: clause 52

Commencement and transitional provisions: clause 54[12]

[9] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026
[10] Business Committee, **Timetable for consideration: Legislative Consent Memorandum on the Armed Forces Bill**, 16 June 2026
[11] Business Committee, **Revised Timetable for consideration: Legislative Consent Memorandum on the Armed Forces Bill**, 15 September 2026
[12] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraphs 7 to 20

11. A summary of the purpose and effect of the parts of the Bill that the Welsh Government believes require the consent of the Senedd begins at paragraph 8 of the Memorandum.[13]

12. In the Memorandum, the Deputy First Minister also considers the UK Government amendments re-tabled to the Bill (as outlined in paragraph 3). She concludes that the following amendments meet the test in Standing Order 29:

> **Amendment 33:** Guidance on exercise of criminal jurisdiction (clause 25)
>
> **Amendment 48:** Commencement and transitional provision (clause 54)
>
> **Amendments 49, 50, 51, 52 and 54:** Defence housing and other property (clause 3 and Schedule 1)

13. A summary of the purpose and effect of these amendments begins at paragraph 18 of the Memorandum.[14]

The UK Government's view on consent

14. The Deputy First Minister sets out that the UK Government believes that consent is required for clause 2 (Armed Forces Covenant) only.[15]

15. Therefore, the UK Government does not agree with the Welsh Government that consent is required for clauses 3 (and Schedule 1), 9, 10, 25, 37 (and Schedule 6), 50, 52, 54 and for amendments 33, 48, 49, 50, 51, 52 and 54.

The Welsh Government's engagement with the UK Government

16. The Deputy First Minister states that Welsh Government officials have had "early, and helpful engagement with officials in the MOD [Ministry of Defence]

[13] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraphs 7 to 17
[14] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraphs 18 to 20
[15] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraphs 21 to 22

as the Bill was developed. This positive engagement has continued following the Bills [SIC] passage through parliament and its re-introduction."[16]

Delegated powers in the Bill

17. The Bill does not confer regulation-making powers on the Welsh Ministers. However, the Bill does contain a number of provisions which confer regulation-making powers on the Secretary of State. Some of these are delegated through clauses which are relevant for the purpose of the legislative consent process, as set out below:

Provision(s)	Power	Exercisable by	Scrutiny procedure
Clause 2 (new section 343AZA: Guidance)	To issue guidance in relation to the covenant duty	Secretary of State. The Secretary of State must consult the Welsh Ministers prior to the issue of such guidance so far as it relates to devolved Welsh functions	No procedure. The power is currently subject to the draft affirmative procedure. Clause 2(7) removes that requirement (see paragraph 20).
Clause 2 (new section 343AZA: Guidance)	To specify the date on which the guidance relating to the covenant duty comes into force	Secretary of State. The Secretary of State must consult the Welsh Ministers prior to the issue of such guidance so far as it relates to devolved Welsh functions	Negative resolution procedure
Clause 2 (new	To amend by regulations the	Secretary of State. The	Draft affirmative procedure[17]

[16] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraph 6
[17] UK Government, **Armed Forces Bill: Supplementary Delegated Powers Memorandum**, 14 July 2026, page 3

sections 343AZA and 343AZB of the Armed Forces Act 2006)	bodies and functions caught by the duty (Welsh Ministers, local authorities, education and health bodies in Wales are specified persons subject to the duty)	Secretary of State must consult the Welsh Ministers if the regulations contain provisions that are within Welsh devolved competence	

18. The Deputy First Minister notes in the Memorandum that the Welsh Government has requested that "any changes to the scope of the Bill or statutory guidance be subject to the consent of Welsh Ministers rather than consultation." She commits to updating the Senedd once further engagement on this has taken place.[18]

19. The House of Lords' Delegated Powers and Regulatory Reform (DPRR) Committee has reported on the Bill, with explicit reference to the powers in clause 2.[19] Clause 2 amends the *Armed Forces Act 2006* (the 2006 Act) in relation to the Armed Forces Covenant. Specifically, it broadens the provisions in the 2006 Act and brings national authorities within the scope of the duty when they exercise functions of a public nature that relate to specified matters.

20. Under the 2006 Act, the Secretary of State may issue guidance to public bodies in relation to their duties under the Armed Forces Covenant. This guidance is currently subject to the draft affirmative procedure. However, clause 2(7) removes that requirement, so that the power to issue guidance is not subject to any parliamentary procedure. One of the justifications provided by the UK government for the change in procedure is that the power "contains a duty to consult the devolved administrations prior to issuing guidance insofar as it concerns devolved functions".[20]

21. The DPRR Committee concludes that the justifications set out by the UK Government for this change in procedure are "unconvincing", arguing that:

[18] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraph 9
[19] Delegated Powers and Regulatory Reform Committee, **Armed Forces Bill**
[20] UK Government, **Armed Forces Bill: Supplementary Delegated Powers Memorandum**, 14 July 2026, paragraph 20

> *"... the duty to consult devolved administrations and parliamentary scrutiny are aimed at different things. We do not consider that consultation can be viewed as a substitute for parliamentary scrutiny ...*
>
> *We therefore recommend that regulations that bring into effect guidance about the performance by Ministers and public bodies of the duty to have regard to the Armed Forces Covenant principles should remain subject to the draft affirmative procedure and, accordingly, that clause 2(7) should be omitted from the Bill."*[21]

The Welsh Government's position as set out in the Memorandum

22. The Deputy First Minister states that she is supportive of "the principles of the Bill". She states:

> *"It is appropriate to use this UK Bill to make these provisions as they fall beyond the legislative competence of the Senedd. The provisions made in the Bill relate to the reserved matter of defence. Nonetheless an LCM is required as a number of provisions in the Bill confer, remove or modify functions of the Welsh Ministers and/or Devolved Welsh Authorities (DWAs) or otherwise have regard to devolved matters as detailed above."*[22]

23. However, in line with the other legislative consent memoranda laid by the Welsh Government during the summer 2026 Senedd term, the Memorandum does not include a recommendation on whether the Senedd should grant consent:

> *"I will continue to monitor and provide updates on this Bill's passage through Parliament. I will bring forward a recommendation to the Senedd on whether to give consent to the*

[21] Delegated Powers and Regulatory Reform Committee, **Armed Forces Bill**, paragraph 39
[22] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraph 24

> *Bill once Welsh Government has analysed the wider impact of the UK legislative programme for Wales."*[23]

24. In correspondence dated 24 September, the Deputy First Minister confirmed that she would be recommending that the Senedd gives its consent to the relevant provisions in the Bill:

> *"... I can confirm that I will be including a recommendation for consent in the Motion that I will lay ahead of the 13 October debate. This follows correspondence with UK Government Ministers and reassurances given regarding the Bill."*[24]

3. Committee consideration

25. We considered the Memorandum at our meeting on 13 July 2026.[25]

26. On 14 July 2026, the Welsh Government released a Written Statement entitled 'Principles on UK Legislation in Devolved Areas'.[26] This statement, and the associated principles themselves (the Welsh Government's Principles), are directly relevant to our consideration of the Memorandum.

27. We agreed our report at our meeting on 28 September 2026.[27]

The legislative consent process

28. The Memorandum was laid on 23 June 2026, a little over five weeks after the re-introduction of the Bill to the UK Parliament. Of the 15 memoranda laid to date by the Welsh Government, none were laid within the two-week deadline set out in Standing Orders.

[23] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraph 26
[24] **Letter from the Deputy First Minister and Cabinet Minister for Social Justice and Equality**, 24 September 2026
[25] **Legislation Committee**, 13 July 2026
[26] Welsh Government, '**Written Statement: Welsh Government Principles on UK Legislation in Devolved Areas**', 14 July 2026
[27] **Legislation Committee**, 28 September 2026

29. During general scrutiny on 21 September 2026, the Cabinet Minister for Government Effectiveness and the Constitution highlighted challenges that the Welsh Government can face in relation to the legislative consent process:

> *"One other point I'd make is that there are certain things that are within our gift. The choice of the UK Government about when to produce legislation and how effectively they've co-operated with us in terms of their timetables is another matter, which I have little ability to influence wholly at the moment. Again, I have raised some of these issues with Hamish Falconer, my opposite number in the Cabinet Office in the UK Government, and there is at least an acknowledgement of the issues and a stated desire to work together. So, I hope that'll be reflected in practice too."*[28]

30. In a response to our question about the volume of forthcoming legislative consent memoranda, the Cabinet Minister for Government Effectiveness and the Constitution stressed that the timing of the King's Speech (on 13 May 2026) was "particularly difficult, given the establishment of the Senedd and the new Government." However, he went on to state that he is "hoping to make better progress in meeting the fortnight deadline in the future."[29]

31. In the Memorandum, the Deputy First Minister does not provide a recommendation as to whether the Senedd should consent to the relevant provisions in the Bill. Instead, she states that she will bring forward a recommendation once the Welsh Government has analysed the wider impact of the UK legislative programme for Wales.[30]

32. As we have previously highlighted,[31] we are unclear why the wider impact of the UK legislative programme would influence a recommendation from a Welsh Minister on an individual Bill. We therefore wrote to the First Minister seeking clarity on this important issue. The Counsel General responded on behalf of the First Minister, and told us:

[28] **Legislation Committee, Record of Proceedings, 21 September 2026, paragraph 35**
[29] **Legislation Committee, Record of Proceedings, 21 September 2026, paragraph 137**
[30] Welsh Government, **Legislative Consent Memorandum on the Armed Forces Bill**, 23 June 2026, paragraph 26
[31] Legislation Committee, **Report on the Welsh Government's Legislative Consent Memorandum on the Public Office (Accountability) Bill**, September 2026

> *"The Welsh Government recognises the importance of providing the Senedd with clear recommendations on legislative consent memoranda at the earliest opportunity to support effective scrutiny. (...)*
>
> *The approach taken at the start of this Senedd term reflected the particular circumstances of the King's Speech announcing a new UK Government legislative programme coinciding with the formation of the new Welsh Government.*
>
> *Legislative consent memoranda were laid as soon as possible. Whilst there were delays in a number of areas, including as a result of late engagement by the UK Government, we were keen to ensure that Committee consideration of legislative consent memoranda was not unduly delayed by the formation of an overarching Welsh Government position on UK legislation. Recommendations were not included in the LCMs whilst the Welsh Government was developing and agreeing its Principles on UK Legislation in Devolved Areas. This was intended to ensure a coherent, cross-programme approach to legislative consent decisions, with recommendations on individual Bills being informed by a consistent framework rather than in isolation.*
>
> *You will be aware that on 14 July we published our **Principles on UK Legislation in Devolved Areas**."*[32]

4. Our view

Legislative consent

33. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd, as set out in the Memorandum. We also note the UK Government's view that the provisions in clause 2 only require the consent of the Senedd.

[32] **Letter from the Counsel General**, 28 August 2026

Conclusion 1. We agree with the Welsh Government's assessment, as set out in the Memorandum, of the provisions within the Bill which require the consent of the Senedd in accordance with Standing Order 29.

The legislative consent process

The absence of a recommendation on consent

34. We note that the Deputy First Minister intends to include a recommendation for consent in the motion to be tabled ahead of the legislative consent debate, scheduled for 13 October 2026. We also note that the Deputy First Minister will give this recommendation as a result of "reassurances" she has received from the UK Government.

35. As we have previously noted,[33] the Welsh Government's view on whether the Senedd should grant consent to the relevant provisions in a Bill is an important part of the legislative consent process and assists Senedd Committees in coming to an informed view on a legislative consent memorandum.

36. In that context, confirmation from the Deputy First Minister about her views on consent is welcome. However, the rationale underpinning that confirmation is absent from her 24 September letter. The letter references "reassurances given regarding the Bill", but does not set out what those reassurances are, nor to which concerns they relate. The Deputy First Minister has come to a view based on information that has not been shared with other Members of the Senedd; that information should be shared with Members Senedd in a timely fashion to assist them as they come to a view on how to vote in the debate on the consent motion.

Recommendation 1. The Deputy First Minister should write to all Members of the Senedd at the earliest opportunity, in advance of the Senedd's debate on the legislative consent motion, to set out sufficient information about the concerns she raised with the UK Government, and the reassurances she received in response, to which she refers in

[33] Legislation Committee, **Report on the Welsh Government's Legislative Consent Memorandum on the Public Office (Accountability) Bill**, September 2026

her 24 September letter, to enable all Members of the Senedd to make an informed decision about how to vote on the legislative consent motion.

Conclusion 2. We do not accept that a Welsh Government decision to carry out an analysis of the impact of the UK Government's legislative programme as set out in a King's Speech is an acceptable reason for not including a consent recommendation in an individual Bill.

Recommendation 2. If the Welsh Government is unable to confirm its recommendation on consent in a first legislative consent memorandum laid before the Senedd, it must set out clearly the reasons. Consideration of the wider implications of a King's Speech should not be used as a reason to withhold a view on consent in relation to a specific Bill.

Adherence to the two-week deadline for laying legislative consent memoranda

37. We note that the Memorandum was laid a little over five weeks after the re-introduction of the Bill to the UK Parliament.

38. This Bill - as with a number of others triggering the legislative consent process during the first few months of the Seventh Senedd - was introduced very soon after the Welsh Government was formed. We note the reflections of the Cabinet Minister for Government Effectiveness and the Constitution about the challenges of the timing of the King's Speech, and acknowledge that this may have had implications for the ability of the Welsh Government to adhere to the two-week deadline set out in Standing Orders for laying a legislative consent memorandum. In principle, we consider that analysing the relevant provisions of a Bill and coming to a view on consent so soon after the establishment of a new government is a reasonable example of where the two-week deadline may be difficult to meet.

39. However, we do not feel that these extenuating circumstances apply in relation to this Memorandum for the following reasons:

- Officials working under the previous Welsh Government had already carried out a legal analysis of the provisions in the Bill listed in paragraph 10. This analysis was set out in the legislative consent memorandum laid in relation to the Bill at the end of the Sixth Senedd.

- As set out from paragraph 34 above, the Memorandum does not set out a recommendation from the Deputy First Minister about whether the Senedd should grant its consent to the Bill.

40. On balance, therefore, it is not clear to us why the Welsh Government was unable to meet the two-week deadline set out in Standing Order 29 in relation to this Memorandum.

Conclusion 3. We see no reason why the Memorandum could not have been laid within two weeks of the introduction of the Bill, as set out in Standing Order 29.

Recommendation 3. The Deputy First Minister should clarify why she was unable to lay the Memorandum within the two-week deadline as set out in Standing Order 29.2.

Recommendation 4. The Welsh Government should make every effort to observe the two-week deadline for the laying of legislative consent memoranda, as set out in Standing Order 29.2.

Delegated powers

41. The Bill confers powers on the Secretary of State to act in devolved areas with a duty to consult, rather than to secure the consent of, the Welsh Ministers. We note the Deputy First Minister's view that the powers in clause 2 should be subject to the consent of the Welsh Ministers.

42. We also note, however, that the Welsh Government's Principles state clearly that delegated powers should be "conferred on the Welsh Ministers alone". Given the nature of these powers, we are unclear why the Deputy First Minister is not seeking amendments to the Bill to confer these powers (insofar as they relate to devolved Welsh functions) on the Welsh Ministers alone or, at the very least, on the Secretary of State and the Welsh Ministers concurrently, alongside appropriate consent mechanisms, as set out in the Welsh Government's Principles.

Recommendation 5. The Deputy First Minister should clarify, with explicit reference to the Welsh Government's Principles on UK Legislation in Devolved Areas, whether she has sought amendments to

confer the delegated powers in clause 2 either on the Welsh Ministers alone, or on the Secretary of State and the Welsh Ministers concurrently, with appropriate consent mechanisms.

43. Notwithstanding the above, if the delegated powers in clause 2 are to be conferred on the Secretary of State, it is our view that they should be subject to a duty to obtain the consent of the Welsh Ministers, rather than a duty to consult them.

Conclusion 4. We agree with the Deputy First Minister that, if the delegated powers are to be conferred on the Secretary of State alone, they should be subject to the consent of the Welsh Ministers.

44. As a point of principle, we expect that the Senedd should be updated on the Welsh Government's negotiations with the UK Government in sufficient time to be considered by Members in advance of the debate on the legislative consent motion.

Recommendation 6. The Deputy First Minister should update the Senedd on the outcome of her negotiations with the UK Government about the delegated powers in the Bill. The update should be provided in sufficient time for Members to consider it in advance of the Senedd's debate on the legislative consent motion.

45. We note - and draw the Senedd's attention to - the views of the DPRR Committee about clause 2(7), which would mean that the power to issue guidance relating to the Armed Forces Covenant is no longer subject to any parliamentary scrutiny procedure. We also note the UK Government's justification of the removal of that scrutiny power by reference to the Secretary of State's duty to consult the Welsh Ministers.

Recommendation 7. In light of her ongoing discussions with the UK Government about the delegated powers in clause 2 and the UK Government's views about additional safeguards provided by the duty to consult the Welsh Ministers in that clause, the Deputy First Minister

should set out her views of the UK Government's proposals to remove the requirement for guidance relating to the Armed Forces Covenant to be subject to the draft affirmative procedure.

46. We ask that the Deputy First Minister responds in writing to the recommendations and conclusions we make in this report.