

Cabinet Secretary for Justice
Neil Gray MSP



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Duncan Massey MSP
Convener
Economy, Tourism and Energy Committee

25 September 2026

Dear Duncan,

CYBER SECURITY AND RESILIENCE (NETWORK AND INFORMATION SYSTEMS) BILL

Thank you for your letter of 22nd September seeking further clarification regarding the Cyber Security and Resilience (Network and Information Systems) Bill on behalf of the Economy, Tourism and Energy Committee.

I would also like to take this opportunity to thank the committee for considering the supplementary legislative consent memorandum, particularly given the accelerated timeframe necessitated by UK Government's proposed changes failing to secure agreement during the Bill's passage through the House of Lords.

The Committee sought answers to the 4 questions addressed in turn below.

- 1. The Scottish Government previously withheld a recommendation on a number of clauses because they conferred powers on the Secretary of State that could be exercised in devolved areas without requiring the Scottish Ministers' consent. What has changed to persuade the Scottish Government that consultation arrangements provide an adequate safeguard, and why is it satisfied that those arrangements will remain effective in the future — including through future changes of UK Government — despite not being placed on a statutory footing?**

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Further discussions with UK Government took place over the summer and assurances were provided that directions, which may require regulators or regulated entities to take an action, will always be proportionate to the threat it seeks to mitigate. As these directions are made to mitigate national security threats, the directions will then be subject to UK parliamentary scrutiny.

As a competent authority, Scottish Ministers will be consulted as part of the statutory consultation regime within the Bill. However, there is no statutory obligation for UK Government to consult Scottish Ministers on any directions directed at the Drinking Water Quality Regulator for Scotland (DWQR).

Following discussions and correspondence with UK Government over the summer, UK Government has provided specific assurances that in practice the Secretary of State will seek to engage with Scottish Ministers before issuing any directions to the DWQR.

2. The supplementary LCM refers to assurances and practical arrangements agreed with the UK Government. Are those arrangements set out in writing and, if so, can they be shared with the Committee?

Baroness Lloyd of Effra CBE, Minister for Space, Cyber and Regulatory Reform provided assurances specifically relating to the powers to direct the DWQR through the correspondence with me on 13th August 2026 (Annex A). The letter also confirms the UK Government's position that the cyber security of the UK's essential services is ultimately a shared concern for both the UK and Scottish governments and wherever possible they will seek to take a joined-up response to the threats facing those services.

In terms of the practical arrangements, beyond existing COBR and SGORR arrangements for responding to national security incidents, the implementation of the Cyber Security and Resilience Bill will be the subject of a UK Government public consultation later this year. Scottish Government officials are working closely with UK Government to ensure that Scottish interests are appropriately represented and the practicalities of implementing the CRSB in an effective way are fully considered. We will seek to ensure that the practical arrangements for consulting Competent Authorities, including Scottish Ministers, on all aspects of the Bill are appropriate, effective and robust.

3. The supplementary LCM states that the Scottish Government is content to recommend consent to clause 41 because the power is "narrowly focused" and can be used only where necessary to address specific, urgent and significant national security threats and risks. Could you explain what is meant by "narrowly focused" in this context, what limits apply to the power, and provide examples of the circumstances in which it could be used to make consequential amendments to Acts of the Scottish Parliament?

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While clause 41 permits supplementary, incidental, transitional, or saving provisions in general, subsections (3) and (4) limit amendments to primary legislation (which includes an Act of the Scottish Parliament) to consequential provisions only. For example, it could be to amend references in primary legislation that are now out of date – e.g. if reference to the “NIS Regulations 2018” needs to be replaced by “Cyber Security and Resilience Bill” or another set of regulations. The provision cannot be used to amend policy.

- 4. Clause 45 could be used in relation to the Drinking Water Quality Regulator for Scotland, and the supplementary LCM states that the UK Government has provided assurances that the Scottish Ministers will be engaged before any direction is issued. Given the devolved nature of drinking water regulation, why is the Scottish Government satisfied that these non-statutory engagement arrangements provide sufficient protection for devolved decision-making, what opportunity would the Scottish Ministers have to influence or object to a proposed direction, and how does the Scottish Government consider this approach appropriately balances the need to respond quickly to national security threats with respect for devolved responsibilities?**

The Scottish Government works very closely with DWQR, including in response to cyber resilience, NIS regulations and incidents.

The UK Government position is that directions, which may require regulators or regulated entities to take an action, will always be proportionate to the threat it seeks to mitigate and will be subject to parliamentary scrutiny by UK Parliament. These provisions will only be used in the event of significant national security threats and are designed to ensure that powers are in place across all sectors and, where necessary, they can be used at pace.

The assurances provided by UK Government confirm that in practice the Secretary of State will seek to engage with Scottish Ministers before issuing any such directions to the DWQR. This engagement will allow for discussions to take place on whether directions are needed and, if necessary, on the most appropriate routes to direct DWQR. Where necessary, these discussions will also include consideration of the potential benefits of using powers available to Scottish Ministers through existing Scottish legislation to achieve the same outcome.

I hope this further clarification helps the committee in considering the LCM on 29 September.

NEIL GRAY

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ANNEX A - CORRESPONDENCE FROM BARONESS LLOYD OF EFFRA – 13 AUGUST 2026



Baroness Lloyd of Effra
Parliamentary Under-Secretary of State
Department for Digital, Culture, Media and Sport
22-26 Whitehall
London, SW1A 2EG

13th August 2026

Dear Neil,

Thank you for your letter of 5 June 2026. I am writing in my position as Parliamentary Under-Secretary of State within the Department for Digital, Culture, Media and Sport. I will continue to be the Minister for the Cyber Security and Resilience Bill (the Bill) for the remainder of its passage.

I am grateful for the continued engagement from your officials. I understand that the clarification provided to officials regarding clause 41 of the Bill, which may only amend consequential provisions, has been accepted. However, there remains one outstanding point regarding the power to direct regulators under Clause 43 of the Bill – particularly the Drinking Water Quality Regulator (DWQR) – which I am seeking to address in this letter.

The Bill's power to direct regulators has been designed as a backstop to the Network and Information Systems (NIS) framework, to enable the government to respond at pace where the UK's national security is threatened. There is a stringent test that must be met before the power can be used, and we do not foresee it being used often.

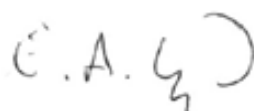
Whilst the Bill does not allow the Secretary of State to direct other ministers, it is right that all other NIS regulators are subject to this power without exception and without qualification. This is because the UK government is responsible for protecting the UK from national security risks, and there may be occasions where the NIS regulators are best placed to facilitate the government's immediate response to those risks e.g. by communicating or amplifying government guidance about the security protocols and postures that need to be adopted in the face of raised threat levels.

While it is important that the national security powers are correctly drawn to reflect the UK government's responsibility for safeguarding the UK, I can reassure you that in practice the Secretary of State will seek to engage with Scottish Ministers before issuing a direction to the DWQR. The cyber security of the UK's essential services is ultimately a shared concern for both the UK and Scottish governments and wherever possible we will seek to take a joined-up response to the threats facing those services.

I hope that you are content with this position. If you would like to meet to discuss, please contact my Private Office at: lloyd@businessandtrade.gov.uk.

I am copying this letter to the Secretary of State for Scotland.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'E.A. Lloyd' with a stylized flourish at the end.

Baroness Lloyd of Effra CBE

Minister for Space, Cyber, and Regulatory Reform