

Supplementary Legislative Consent Memorandum

Children's Wellbeing and Schools Bill

Background

1. This memorandum has been lodged by Jenny Gilruth MSP, Cabinet Secretary for Education and Skills, in accordance with Rule 9B.3.1(c) of the Parliament's Standing Orders. It should be read in conjunction with the Scottish Government's previous legislative consent memorandum (LCM) on this Bill. The Bill is available on the UK Parliament website via this link: [Children's Wellbeing and Schools Bill - Parliamentary Bills - UK Parliament](#).

2. The Children's Wellbeing and Schools Bill ("the Bill") was introduced by the UK Government in the House of Commons on 17 December 2024.

Content of the Bill

3. The policy intention underpinning the Bill as introduced is to break the link between young people's backgrounds and their future success. It puts in place a package of support to drive high and rising standards throughout the education and care systems so that every child can achieve and thrive. It protects children at risk of abuse, stopping vulnerable children falling through cracks in services, and delivers a core guarantee of high standards with space for innovation in every child's education.

4. The Bill makes provisions about the safeguarding and welfare of children; support for children in care or leaving care; regulation of care workers; regulation of establishments and agencies under Part 2 of the Care Standards Act 2000; employment of children; breakfast club provision and school uniform; attendance of children at school; regulation of independent educational institutions; inspections of schools and colleges; teacher misconduct; Academies and teachers at Academies; repealing section 128 of the Education Act 2002; school places and admissions; establishing new schools; and connected purposes.

5. While this is an overview of the Bill, the two areas in respect of which the Scottish Parliament has granted its consent for provisions to extend to Scotland are community-based accommodation (clause 11), and child employment (clause 27).

6. On 26 June 2025, the Scottish Parliament agreed to the motion [S6M-18081](#) on legislative consent relating to the UK Government's Children's Wellbeing and Schools Bill ("the Bill"): "That the Parliament agrees that the relevant provisions of the Children's Wellbeing and Schools Bill, introduced in the House of Commons on

17 December 2024, and subsequently amended, affecting child employment and community-based and secure accommodation, so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

7. The provisions proposed a statutory mechanism for children from Scotland to be placed in new care settings in England which will provide an alternative to traditional secure accommodation. These will be community-based care settings which can provide for both deprivation and restriction of liberty measures, as required to keep children and others safe.

8. Amendments made to Scottish legislation via the Bill (clause 11) will update the definition of “secure accommodation” in respect of England. In particular, they will revise definitions in section 93 of the Children (Scotland) Act 1995 and section 202(1) of the Children’s Hearings (Scotland) Act 2011 to bring them into alignment with section 25 of the Children Act 1989 (“the 1989 Act”), as amended by the Bill. The amended section 25 will permit children to be deprived of their liberty in the new, community-based care settings where appropriate. This will have the effect that where a child could otherwise be placed from Scotland into secure accommodation in England, there will be an option for them to go to a community-based care setting.

9. Further to the provisions outlined at paragraphs 7-8, agreement has been reached with UK Government counterparts that it would be appropriate for the Scottish Ministers to have powers to make regulations to make provision that is consequential on clause 11 (use of accommodation for deprivation of liberty), insofar as such provision would be within the legislative competence of the Scottish Parliament.

Provisions which require the consent of the Scottish Parliament

10. This supplementary LCM has been lodged in accordance with Rule 9B.3.1(c) of the Parliament’s Standing Orders, as a result of the amendment mentioned above, which inserts a new [clause after clause 64 of the Bill](#), being tabled by the UK Government.

Provision within this supplementary LCM

11. On 8 July 2025, the UK Government officials wrote to Scottish Government officials in the Scottish Government’s Youth Justice and Secure Accommodation team to highlight ongoing discussions with Welsh Government colleagues, regarding an amendment giving the Welsh Ministers a power to make consequential amendments in areas devolved to Senedd Cymru. Subsequently, for consistency, agreement was given by the Cabinet Secretary for Education and Skills that a parallel power should be granted to the Scottish Ministers giving them the power to make provision that is consequential on clause 11 (use of accommodation for deprivation of liberty) insofar as this would be within the legislative competence of the Scottish Parliament, should this be required in the future.

12. As agreed by the UK Government, this amendment engages the legislative consent process as it modifies the executive competence of the Scottish Ministers.

Reasons for recommending legislative consent

13. The Scottish Government is recommending that the Parliament consent to this provision to allow flexibility to make amendments to devolved legislation in the future, should they be required in consequence of clause 11.

14. Consenting to this supplementary LCM would create parity with the Welsh Government's approach, ensuring Scottish Ministers have parallel powers to those of the Welsh Ministers in respect of clause 11.

Consultation

15. Given the extremely narrow scope of the provision being proposed by this supplementary LCM, and that there was wider engagement on all of the provisions included in the original LCM, it was not deemed proportionate to undertake further consultation.

16. Scottish Government policy officials will continue to engage as necessary, with relevant stakeholders, including Social Work Scotland, COSLA, and the Children and Young People's Commissioner Scotland, throughout passage of the Bill.

Financial implications

17. There are no intended financial implications arising from this provision. Policy teams will continue to monitor throughout implementation.

Conclusion

18. The Scottish Government recommends that the Parliament consents to the relevant provision (a new clause inserted after clause 64), as amended, in this Bill giving the Scottish Ministers the power to make regulations to make provision that is consequential on clause 11 (use of accommodation for deprivation of liberty, which will become section 11 if the Bill is passed in its current form). This would provide flexibility should future changes to devolved legislation be required, providing consistency with powers for the Welsh Ministers, and ensuring that the Scottish Ministers propose changes to Parliament rather than the UK Secretary of State in Westminster.

Draft motion on legislative consent

19. The draft motion, which will be lodged by the Cabinet Secretary for Education and Skills, is:

“That the Parliament agrees that the relevant provisions of the Children’s Wellbeing and Schools Bill, introduced in the House of Commons on 17 December 2024, and subsequently amended, relating to the new clause to be inserted after clause 64, which grants powers to the Scottish Ministers to make provision that is consequential on devolved aspects of clause 11 (Use of accommodation for deprivation of liberty), so far as it alters the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Scottish Government
January 2026

This Supplementary Legislative Consent Memorandum relates to the Children's Wellbeing and Schools Bill (UK legislation) and was lodged with the Scottish Parliament on 21 January 2026

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