

Lesley Griffiths AC / AM
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business



Llywodraeth Cymru
Welsh Government

Rt Hon Damian Green MP,
Minister of State for Policing and
Criminal Justice,
Home Office,
2 Marsham Street,
London SW1P 4DF.

11 October 2013

Dear Damian

Anti-social Behaviour, Crime and Policing Bill

Thank you for your letter of 7 October.

I appreciate your response to a number of points I raised in earlier correspondence to the Minister for Crime Prevention. However, I am disappointed you have proceeded to lay the amendment in the form you originally proposed. My proposal was designed to offer a reasonable alternative on which we could work together.

I am surprised you feel able to state you have a definite view on the meaning of the current exception. The UK Government's evidence to Part II of the Commission on Devolution in Wales drew attention to your uncertainty on the interpretation of the exception. Paragraph 17.33 of the UK Government evidence states:

"...Paragraph 12 of Schedule 7 to GoWA specifies anti-social behaviour orders as an exception to the Assembly's legislative competence in respect of local government. The exception is unclear to the extent it could be interpreted as referring to an order under s1 of the Crime and Disorder Act 1998 or alternatively could be interpreted more broadly as a restriction on the Assembly's powers to legislate in the field of anti-social behaviour generally."

In view of this, it is also surprising you feel certain no Legislative Consent Motion is required. Given the uncertainty as to the meaning of the exception, it follows that upon one of the possible interpretations, an LCM would definitely be required as a result of the modification to the exception you propose.

I find the reference to future-proofing the exception perplexing. Having raised this issue with the Silk Commission which is expected to report by next spring, I cannot see why it would be necessary to future-proof the exception in this Bill.

I am also disappointed that you are seeking to take this forward in a manner which excludes the National Assembly for Wales' scrutiny. As I have mentioned previously, it would be more appropriate to deal with amendments to Schedule 7 through an Order in Council under section 109 of the Government of Wales Act, as this would allow scrutiny by both the Assembly and Parliament.

I am clear the modification you propose will significantly reduce the Assembly's legislative competence, therefore, I will be laying an LCM and motion for the Assembly's consideration. The Welsh Government will not support the motion and if it is not passed by the Assembly we will write to you to ask you act in accordance with the well-established convention the UK Government should not legislate in devolved areas for Wales without the Assembly's agreement.

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

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Lesley Griffiths AC / AM

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