

Rebecca Evans AC/AM
Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol
Minister for Social Services and Public Health



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-L/RE/0144/17

Huw Irranca-Davies AM
Chair of the Constitutional and Legislative Affairs Committee
National Assembly for Wales
Ty Hywel,
Cardiff Bay
Cardiff
CF99 1NA

18 April 2017

Dear Huw,

Public Health (Wales) Bill

Thank you for your letter dated 29 March.

I recognise the intention behind the Committee's recommendation and am in full agreement that compliance with human rights obligations is of the utmost importance. However, my view remains that a specific amendment to refer in general terms to compliance with Convention rights on the face of the Bill would be unnecessary and inappropriate, given the existing overarching statutory duty that a public authority is under in respect of human rights obligations, and the specific restraints in the Bill directed at the exercise of enforcement functions. I am mindful of the need to use legislation to impose specific obligations or otherwise change the law; and not to make superfluous provisions, which have the potential to cast doubt on the overall coherence of the law, and on the operation of specific restraints on the use of the powers.

Specifically, a series of safeguards have already been included on the face of the Bill in relation to how powers of entry and inspection are to be exercised by authorised officers. These provide additional protection for homeowners and ensure that powers of entry are exercised in an appropriate and proportionate manner. By way of example, amendments were agreed at Stage 2 proceedings on 23 March which provide that if the occupier of premises is present when a warrant is being executed, the authorised officer will need to provide their name, documentary evidence that they are an authorised officer, and supply the occupier with a copy of the warrant.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

It is my view that the insertion of specific, practical safeguards such as this is a more focused and sustainable method of protecting individual rights than a more general reference to human rights obligations which would replicate the existing duty of enforcement authorities to act compatibly with Convention rights under section 6 of the Human Rights Act 1998 (“the HRA duty”) in the performance of their functions.

In addition, I brought forward amendments at Stage 2 in direct response to the Committee’s earlier recommendation that it should explicitly state on the face of the Bill that public bodies will be the enforcement authorities for Part 2 of the Bill. These amendments go a step further than the Committee’s original recommendation by explicitly naming the enforcement authorities – namely local authorities for all premises and vehicles, and involvement of the police in relation to vehicles as they have the power to stop private vehicles. These amendments ensure that only organisations who are already bound by and well versed in the HRA duty will be the enforcement authorities.

There is already well-established general guidance in place under the *Code of practice for the exercise by police of statutory powers of entry, search and seizure (PACE Code B)*, which applies both to the police and to local authority officers investigating offences, and places clear emphasis on acting in accordance with the Human Rights Act 1998. I am also content to confirm that when preparing specific guidance on enforcement powers under Part 2 of the Bill, we will take the opportunity to remind enforcement authorities of the need for them to act in accordance with their existing obligations under human rights legislation, and for them to provide appropriate training to enforcement officers.

I am copying this response to Dr Dai Lloyd AM, Chair of the Health, Social Care and Sport Committee.



Rebecca Evans AC / AM

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