

PARLIAMENTARY BUREAU

LEGISLATIVE CONSENT MEMORANDUM – ONLINE SAFETY BILL (UK LEGISLATION)

Introduction

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

Online Safety Bill

2. The Online Safety Bill was introduced in the House of Commons on 17 March 2022.

3. An LCM was lodged by Keith Brown MSP, Cabinet Secretary for Justice and Veterans, on 31 March 2022.

4. The Bill establishes a new regulatory regime to address illegal and harmful content online. This includes regulation of providers of user-to-user internet services (such as Facebook, Twitter, Youtube and Instagram which enable the publication and sharing of user-generated content) and search services which enable users to search multiple websites and databases. The Bill gives Ofcom regulatory powers in respect of these services.

5. The LCM indicates that the Scottish Government intends to lodge a motion seeking the Scottish Parliament's consent to the UK Parliament legislating on devolved matters in this Bill.

Designation of lead committee

6. There are two clauses in the Bill that require legislative consent: clause 175, which would exempt specified educational settings from the Bill's provisions and; clause 176, which gives Scottish Ministers power to amend the Bill's list of child sexual exploitation and abuse offences that qualify as "priority illegal content" that internet service providers must pro-actively remove. As such, the LCM engages the remit of three committees.

Criminal Justice Committee

The remit of the Criminal Justice Committee includes "*to consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Veterans*". As clause 176 involves consideration of criminal offences, and other elements of the Bill impose a criminal law regime, the remit of this committee is engaged.

Education, Children and
Young People Committee

The remit of the Education, Children and Young People Committee includes “*to consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Skills*”. This encompasses matters within the responsibility of the Minister for Children and Young People. The relevant provisions of the Bill are aimed at protecting children online. Child protection is within the responsibility of the Minister for Children and Young People. As such, the remit of this committee is engaged.

Equalities, Human Rights and
Civil Justice Committee

The remit of the Equalities, Human Rights and Civil Justice Committee includes “*to consider and report on matters relating to civil justice falling within the responsibility of the Cabinet Secretary for Justice and Veterans*”. The Bill sets up both a civil and criminal law regime relating to online safety, as such, the remit of this committee is also engaged.

7. It is considered that the Criminal Justice Committee has the primary interest in the Bill.

8. The LCM will also be considered by the Delegated Powers and Law Reform Committee in regard to the provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

Recommendation

9. The Bureau is invited to consider recommending to the Parliament by motion that it agrees, under Rule 9B.3.5, to designate the Criminal Justice Committee as the lead committee to consider and report on the LCM.

10. A draft motion is provided below.

Parliamentary Business Team
April 2022

Draft Parliamentary Bureau motion on the Online Safety Bill (UK Legislation):

Designation of Lead Committee – That the Parliament agrees that the Criminal Justice Committee be designated as the lead committee in consideration of the legislative consent memorandum in relation to the Online Safety Bill (UK Legislation).