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Dear Carl

### **Proposed Local Government (Wales) Measure**

Thank you for attending the Committee's meeting on 13 October to give oral evidence about the proposed Local Government (Wales) Measure.

You will recall that Committee Members were concerned at the number of areas where the Government is seeking powers that it either has no intention of using at present or that are to be held as reserve powers. Section 6 of your paper to the Committee indicated that of the 23 subordinate legislation powers you are seeking, 16 fall into one of these two categories.

As agreed, I would be grateful if you could provide further information on the reasons behind seeking each of these powers as well as an explanation of why it would not be possible to have provisions on the face of the Measure that achieve the same effect. You also agreed to provide us with examples of similar powers that are already available to Welsh Ministers.

I would also be grateful if you could clarify the reasons behind the choice of procedure in Sections 10, 116 and 143.

Section 10 (1) of the proposed Measure not only allows the Welsh Ministers to make regulations regarding standing orders relating to staff provided by the head of democratic services, but under Section 10 (1) (b) "to make other modifications of the authority's standing orders". This power is wider than the current power provided by Section 8 of the Local Government and Housing Act 1989 Act, and would appear to allow Welsh Ministers to make any modification of the Authority's standing orders. You propose that the negative procedure be used for any such regulations.

Section 116 of the Proposed Measure introduces a new Section 27M into the Local Government Act 1972 to enable the Welsh Ministers by order to alter the

thresholds for the various establishment and dissolution procedures in relation to community councils introduced by the Measure. This power appears to give Ministers a very wide discretion to set thresholds, including the possibility of setting thresholds in such a way that it could be argued that decisions could be heavily skewed toward a particular desired outcome. You propose that the affirmative rather than a super affirmative procedure be used for any such regulations.

Section 143 allows Welsh Ministers to make regulations modifying legislation to include Acts of Parliament to remove or alter statutory impediments from accredited community councils and to place impediments in the way of unaccredited community councils. The Committee's view is that the affirmative regulation procedure is usually appropriate for so called Henry VIII powers unless there are good reasons for not doing so. However, it is proposed that the negative procedure be used in this case without any clear explanation of why that procedure, rather than the affirmative procedure is appropriate.

Finally, Section 55 of the proposed Measure enables local authorities to make arrangements to delegate to non-executive members the authority to exercise functions of the executive. Welsh Ministers will be enabled to make an order to exclude any functions from being delegated or to place limitations on the extent to which a function may be exercised. I would be grateful if you could provide us with examples of the sort of functions that you envisage might be excluded. Given the broad power that this gives to local authorities, the Committee would also welcome your views on whether the Welsh Government is prepared to give consideration to including a non-exhaustive list of excluded functions on the face of the Measure.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in cursive script that reads "Janet Ryder".

**Janet Ryder AM**  
Chair, Constitutional Affairs Committee