

ELLS(2)-04-06 (p3)

Date:	Thursday 2 March 2006
Time:	2:00pm – 4:30pm
Venue:	National Assembly Building

Protocol for Handling Scrutiny of Secondary Legislation

Purpose

1. To consider a protocol for the Committee's handling of secondary legislation.

Background

2. Under Standing Order 9.8 (i) Subject Committees are responsible for advising:

"... on proposed primary, secondary and European legislation affecting Wales, including performing its functions under Standing Order 24."

3. A number of Subject Committees have adopted protocols setting out the arrangements that will apply when they are considering secondary legislation. A similar protocol for the ELLS Committee to consider is attached at Annex 1. If the Committee is content, this protocol will apply for the remainder of this Assembly.

Recommendation

4. That the Committee approves the protocol for handling secondary legislation.

Steve George

Committee Clerk

Annex 1

Education, Lifelong Learning and Skills Committee

Protocol for Handling Scrutiny of Secondary Legislation

1. The Committee needs to be aware at an early stage of proposed subordinate legislation. The Minister will provide a rolling schedule of proposed secondary legislation each term and may provide updates in her regular report to the Committee.
2. Wherever possible, especially with secondary legislation resulting from new primary legislation, the Committee should have the opportunity to consider the proposals in the form of a proposed draft Order before the formal Standing Order 24 procedure starts. The Committee will identify those items it wishes to scrutinise before the formal Standing Order 24 procedure starts and inform the Minister and the Business Committee of its intention.
3. Draft, or proposed draft, Orders coming before the Committee should have the proposed explanatory memorandum to assist the Committee's understanding of the Assembly Government's intentions. The Committee should have adequate time to examine the proposals and, so that it uses its time effectively in Committee, members should give prior notice of any amendments, or other comments or queries they propose. This will enable the Minister to prepare a response to them in time for the meeting. The following is a model timetable:

Committee meeting	Wednesday or Thursday
Proposed draft Order circulated to Committee members	Friday two weeks before the meeting
Amendments proposed by Members notified to the Minister and Committee Clerk	Midday, Friday before the meeting

4. Discussion on the proposed draft during the meeting will be limited to notified amendments, comments or queries or any points of clarification. At the meeting the Minister will respond formally to the Committee, setting out which amendments she is disposed to accept and the reasons for rejecting any amendments the Committee has recommended.

5. Following the meeting the Chair of the Committee will write to the Minister with a report setting out the Committee's recommendations. This report will be laid before the Assembly and made available to the Business Committee.

7. It would be helpful to members if the process for notifying members of a draft Order under Standing Order 24.2 were strengthened by the Minister notifying Committee members specifically, through the Clerk, when draft Orders that the Committee has considered as proposed drafts are published under Standing Order 24.2. It is important that Committee members are able to examine any alterations that may have been made in the interim as a result of consultation or changes in the Assembly Government's policy. Members may then decide whether to seek an opportunity to discuss the changes.

8. Should it be decided after consideration by the Business Committee under Standing order 24.6 that the Orders should return to the Committee, a similar process would apply with members giving prior notice of any proposed amendments to the Minister and the Clerk by midday on the Friday before the meeting.

9. A flow diagram is attached at Annex 2.

Education, Lifelong Learning and Skills Committee

2 March 2006

Annex 2

Flow diagram of the protocol