

## **LEGISLATION COMMITTEE MEETING**

### **MINUTES:**

**Date:** 5 November 2002

**Time:** 9:00 a.m.

**Venue:** Committee Room 1, National Assembly Building

### **Attendance:**

Mick Bates (Liberal Democrat)

Rosemary Butler (Labour)

Ann Jones (Labour)

Dr Dai Lloyd (Plaid Cymru)

Owen John Thomas (Plaid Cymru)

### **Officials**

John Turnbull Legal Adviser

Huw Rowlands Legal Adviser

Olga Lewis Committee Clerk

Simon Thwaite Deputy Committee Clerk

**Apologies for absence:** Ron Davies, Pauline Jarman and Karen Sinclair.

### **Item 1: Minutes of the previous meeting and matters arising: LEG-21-2002(min)**

1.1 The Committee agreed the minutes of the meeting held on 29 October 2002.

### **Item 2: Chair's Report**

2.1 The Chair stated that as the Committee was visiting the Office of the Counsel General that morning, they should move on with the Orders straight away.

### **Item 3: Assembly Orders for Consideration**

#### **LC553 - The Local Authorities (Operation of Different Executive or Alternative Arrangements) (Wales) Regulations 2002**

3.1 Mr Turnbull presented the report to the Committee. The Regulations will be made under the Standard Procedure.

3.2 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Regulations on any grounds specified in Standing Order 11.5. The Legal Advisers had the opportunity to see an early draft and identified a number of points which had been taken into account in the final draft.

3.3 The Committee's report to the Assembly on the Regulations is attached as LC553 (Report).

#### **LC554 - The Abortion (Amendment) (Wales) Regulations 2002**

3.4 Mr Turnbull presented the report to the Committee. The Regulations will be made under the Standard Procedure.

3.5 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Regulations on any grounds specified in Standing Order 11.5. However, the Committee did make two observations which they felt should be recorded in their report.

3.6 The Committee's report to the Assembly on the Regulations is attached as LC554 (Report).

#### **Item 4: Visit to the Office of the Counsel General**

4.1 The Chair reminded the Committee that at the meeting of the Legislation Committee 9 July 2002 a general question was raised regarding the procedure of drafting statutory instruments, given the fact that laid orders still seemed to contain typographical errors. The Chair proposed to organise a visit to the OCG to understand the process of the legislative drafting, in the light of this concern.

4.2 In accordance with this decision, following the discussion of Statutory Instruments Members visited the Office of the Counsel General for a briefing as to the process of Assembly Legislation Drafting.

4.3 At the office of the Counsel General the Members were met by Assistant Counsel General Ms Angela Parkes, Senior Assembly Counsel Mr Gwyn O Griffiths, Assembly Counsel Ms Catrin Huws and Senior Executive Officer Mr Alun Jenkins.

4.4 Ms Angela Parkes thanked the Legislation Committee delegation for devoting their time and interest to the work of the OCG. She said that the OCG was grateful for constructive criticism and stressed that the process of legislation drafting was a team work, the Legislation Committee being part of this team. After giving an overview of work of the Office of Counsel General and explaining the role of the Legislation Management Unit Ms Parkes told the Committee about the system of stages in legislation drafting. Statutory Instruments reached the Legislation Committee at the end of this process at stage ten.

4.5 Mr Gwyn O Griffiths told the delegation about the drafting process itself. The process of drafting started when the reasons for drafting Statutory Instruments had been identified and the OCG had received instructions for policy to be developed. The requested legislation could either follow other legislation made by Whitehall or it could be drafted "from scratch". The difficulties faced by the lawyers were the combination of speed with which they had to create legislation in order to meet tight deadlines and the thoroughness of the preparation of the Statutory Instruments. There was not always time to show draft legislation to the Legal Adviser to the Legislation Committee for checking beforehand. Thus errors sometimes still slipped in unnoticed.

4.6 A question was raised regarding the opportunities open to the Assembly Members to alter legislation. It was explained that the process of consideration of proposed policy was often done beforehand by the Minister and officials. Another question concerned the working of the regulatory impact assessment. It was clarified that lawyers were not involved in that process. There was an inquiry regarding the frequency of requests made by clients to draft in a way which would not be within the primary legislation. It was explained that this did not happen very often.

4.7 The process of co-drafting of legislation simultaneously both in English and Welsh was explained to the delegation. This process involved two original texts rather than the translation of one text into another language. It was mentioned that all co-drafted statutory instruments were checked by translators, whose role changed to that of editors.

4.8 A question was raised regarding the costs and length of the process of co-drafting. It was noted that the co-drafting process was longer and it involved two lawyers' working time. The resulting legislation, however, was prepared extremely thoroughly and

potentially should have fewer errors. Difficulties in co-drafting legislation included the necessity to employ bilingual lawyers who would become accustomed to this way of preparation of statutory instruments. The OCG hoped that keeping in touch with the Universities would help them to develop their staff and establish an approved terminology and expressions.

4.9 The Chair of the Legislation Committee reminded that the National Assembly for Wales had a great desire eventually to have all its legislation co-drafted and on behalf of the Committee commended the work of the OCG on co-drafting of Statutory Instruments. It was decided to prepare a letter to the Counsel General to this effect. **Action: Legal Adviser/Clerk**

#### **Item 5: Any Other Business and Date of Next Meeting**

5.1 The next meeting would be held on 12 November 2002.