

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 27 January 2020

Meeting time: 14.30

For further information contact:

Gareth Williams

Committee Clerk

0300 200 6362

SeneddCLA@assembly.wales

1 Introduction, apologies, substitutions and declarations of interest
14.30

**2 Instruments that raise issues to be reported to the Assembly
under Standing Order 21.2 or 21.3**
14.30–14.35

Affirmative Resolution Instruments

**2.1 SL(5)488 – The Sustainable Drainage (Enforcement) (Wales) (Amendment)
Order 2020**

(Pages 1 – 7)

CLA(5)–04–20 – Paper 1 – Report

CLA(5)–04–20 – Paper 2 – Regulations

CLA(5)–04–20 – Paper 3 – Explanatory Memorandum

3 Paper(s) to note

14.35–14.40

**3.1 Letter from the Minister for International Trade and the Welsh Language:
Ministerial Forum for Trade**

(Page 8)

CLA(5)–04–20 – Paper 4 – Letter from the Minister for International Relations
and the Welsh Language, 23 January 2020

**3.2 Letter from the Counsel General: Joint Ministerial Committee (EU
Negotiations)**

(Page 9)



CLA(5)-04-20 – Paper 5 – Letter from the Counsel General, 23 January 2020

4 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

14.40

5 Wales' Changing Constitution: Key issues

14.40-14.55

(Pages 10 – 28)

CLA(5)-04-20 – Paper 6 – Key issues paper

CLA(5)-04-20 – Paper 7 – Letter to the First Minister, 23 January 2020

6 Committee on Assembly Electoral Reform: Consideration of response

14.55-15.00

(Pages 29 – 50)

CLA(5)-04-20 – Paper 8 – Draft response

CLA(5)-04-20 – Paper 9 – Letter from the Chair of the Committee on Assembly Electoral Reform, 16 December 2019

CLA(5)-04-20 – Paper 10 – Letter to the Chair of the Business Committee, 24 May 2018

CLA(5)-04-20 – Paper 11 – Extracts from *Making Laws in Wales* report, October 2015

Date of the next meeting – 3 February 2020

SL(5)488 – The Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2020

Background and Purpose

This Order amends The Sustainable Drainage (Enforcement) (Wales) Order 2018 to provide for an unlimited fine for the offences set out in article 21 of that Order when such offences are being dealt with in the Magistrates' Court.

Procedure

Affirmative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:

Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

This Order was originally approved by the Assembly in Plenary on 26 November 2019 but could not be made as it did not contain a commencement provision. It was re-laid on 14 January 2020.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

16 January 2020



Draft Order laid before the National Assembly for Wales under paragraph 14(5)(b) of Schedule 3 to the Flood and Water Management Act 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2020 No. (W.)

WATER INDUSTRY, WALES

**The Sustainable Drainage
(Enforcement) (Wales)
(Amendment) Order 2020**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sustainable Drainage (Enforcement) (Wales) Order 2018 (S.I. 2018/1182 (W. 241)) in order to provide for an unlimited fine for the offences set out within article 21 of that Order.

The Welsh Ministers' Code of Practice on the carrying out of regulatory impact assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.

Draft Order laid before the National Assembly for Wales under paragraph 14(5)(b) of Schedule 3 to the Flood and Water Management Act 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2020 No. (W.)

WATER INDUSTRY, WALES

**The Sustainable Drainage
(Enforcement) (Wales)
(Amendment) Order 2020**

Made

*Coming into force on the day after the day on
which it is made*

The Welsh Ministers, in exercise of the powers conferred by section 32 of, and paragraph 14 of Schedule 3 to, the Flood and Water Management Act 2010⁽¹⁾, make the following Order.

In accordance with paragraph 14(5)(b) of Schedule 3 to that Act, a draft of this instrument has been laid before and approved by, a resolution of the National Assembly for Wales.

Title and commencement

1.—(1) The title of this Order is the Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2020.

(2) This Order comes into force on the day after the day on which it is made.

(1) 2010 c. 29. The Welsh Ministers are the Minister in relation to drainage systems in Wales by virtue of paragraph 4(a) of Schedule 3. There are amendments to Schedule 3, none of which are relevant to this Order.

**Amendment of the Sustainable Drainage
(Enforcement) (Wales) Order 2018**

2. In article 21 of the Sustainable Drainage
(Enforcement) (Wales) Order 2018(1), omit “not
exceeding £20,000”.

Name

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

Date

(1) S.I. 2018/1182 (W. 241).

Explanatory Memorandum to The Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2020

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2020.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

14 January 2020

1. Description

1.1 Schedule 3 of the Flood and Water Management Act 2010 (the 2010 Act) relates to provisions for sustainable drainage (SuDS). These include the establishment of a SuDS Approving Body (SAB) to be set up within the local authority alongside their lead local flood authority (LLFA) duty. SAB approval will be required before construction of drainage systems can commence on new and redeveloped sites.

1.2 The Sustainable Drainage (Enforcement) (Wales) Order 2018 (“the 2018 Order”) provides for the enforcement of breach of the approval required (“the requirement for approval”) under paragraph 7(1) of Schedule 3 to the 2010 Act in relation to drainage systems for construction work.

1.3 Article 21 of the 2018 Order provides for an offence of failure to comply with a temporary stop notice, enforcement notice or stop notice.

1.4 The Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2020 amends the financial limit of the fine on summary conviction in order to bring the offences into line with the availability of unlimited fines to Magistrates’ Courts brought about by Legal Aid Sentencing and Punishment of Offenders Act 2012.

1.5 The amendment does not increase the level of fine that can be imposed for these offences but will affect the Magistrates’ Court’s decision as to whether its sentencing powers are sufficient to pass sentence itself or to send the case to be sentenced in the Crown Court which has the power to pass an unlimited fine (the Crown Court retains its power to impose unlimited fines for these offences). Cases can still be sent to the Crown Court in accordance with the relevant guidelines made by the Sentencing Guidelines Council if appropriate.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 This order replaces the draft The Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2019 which, although approved by the National Assembly for Wales, was not made as it could not be brought into force due to a drafting error.

3. Legislative background

3.1 This order is made exercising the powers conferred by sections 32 and 48(2) of, and paragraphs 4(a) and 14 of Schedule 3 to, the Flood and Water Management Act 2010.

3.2 In accordance with paragraph 14(5)(b) of Schedule 3 to that Act this instrument follows the Assembly’s affirmative procedure.

4. Purpose and intended effect of the legislation

4.1 Article 21 of the 2018 Order limits the fines that can be passed in a summary case for the offence of failing to comply with a temporary stop notice, enforcement notice or stop notice to a maximum of £20,000.

4.2 The 2018 Order was drafted before s.85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) commenced but was not put into force until after the commencement and so was not caught by that provision. LASPO removed the upper limit on fines that Magistrates' Courts could pass for almost all offences.

4.3 In order to provide consistency with other offences of a similar nature, this Order amends The Sustainable Drainage (Enforcement) (Wales) Order 2018 in order to provide for an unlimited fine for the offences set out within article 21 of that Order when being dealt in the Magistrates' Court. This amendment means the Magistrates' Court would be able to pass an unlimited fine so has power to sentence a greater range of cases. The amendment is consistent with the wording inserted into other legislation by LASPO.

5. Consultation

5.1 As the Order provides a technical amendment which does not reflect a change in the Welsh Government's policy and does not increase sentencing levels, a formal public consultation did not take place.

6. Regulatory Impact Assessment (RIA)

6.1 As a result of the negligible impact of the amendment to the 2018 Order on services in Wales, a regulatory impact assessment has not been undertaken.

7. Competition Assessment

7.1 Not applicable

8. Post implementation review

8.1 Not applicable

Agenda Item 3.1

Eluned Morgan AC/AM
Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol
Minister for International Relations and the Welsh Language



Llywodraeth Cymru
Welsh Government

David Rees AM
Chair of External Affairs and Additional Legislation Committee
National Assembly for Wales
Cardiff Bay
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Mr Mick Antoniw AM
Chair of Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

SeneddCLA@assembly.wales

23 January 2020

Dear Chairs,

I am writing under the inter-institutional relations agreement to inform you that a meeting of the Ministerial Forum for Trade will take place on 23 January.

I anticipate that the meeting will cover trade policy. I will be reiterating the Welsh Government's position that Devolved Administrations views must be taken into account when developing negotiating positions.

I will write you again following the meeting.

Yours,

Eluned Morgan AC/AM
Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol
Minister for International Relations and the Welsh Language

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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.

Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Agenda Item 3.2



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales,
Cardiff
CF99 1NA

23 January 2020

Dear Mick,

I am writing to inform you, as per the inter-institutional relations agreement that on Tuesday 28 January 2020, we will host the Joint Ministerial Committee (EU Negotiations). The meeting will discuss EU negotiations and the intergovernmental relations review (IGRR).

I will continue to call for the Devolved Administrations to be represented in UK negotiating teams and stress our commitment to ensure that UK negotiating positions should not normally be advanced with the EU, without the agreement of the Devolved Governments for those matters within our competence. I will call for the IGRR dispute resolution proposals to be finalised, so that negotiation objectives, and the role of the Devolved Governments in negotiations, can be fully clarified.

I am copying this letter to the Chair of the External Affairs and Additional Legislation Committee (EAAL).



Jeremy Miles AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Ministe

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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.

Agenda Item 5

By virtue of paragraph(s) vi of Standing Order 17.42

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Mark Drakeford AM
First Minister

23 January 2020

Dear Mark

Thank you for appearing before the committee on 13 January 2020 to give evidence on our current inquiry, Wales' Changing Constitution, and for extending the session to allow us to scrutinise your Legislative Consent Memorandum (LCM) on the European Union (Withdrawal Agreement) Bill.

The session was valuable in terms of informing our inquiry and our consideration of the LCM but there are a number of issues on which we would be grateful for further clarification.

Intergovernmental agreements

During our evidence session we raised the role of intergovernmental agreements entered into by the Welsh Government as part of the making of UK Brexit-related legislation. It may be helpful if I set out the background to our concerns.

European Union (Withdrawal) Act 2018

In October 2019, we wrote to the Counsel General about a range of issues including the use of intergovernmental agreements. In his response of 27 November 2019, the Counsel General set out how the Welsh Government considers the intergovernmental agreement related to the European Union (Withdrawal) Act 2018 has brought benefits to the Assembly's ability to legislate. However, as a result of this agreement, and by permitting the UK Government to make a significant number of regulations in devolved areas, a section 109 Order under the Government of Wales Act 2006 is now required to amend Schedule 7B to that Act, to address the impact on and risk to the National Assembly's legislative competence.



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We acknowledge the commitment in the Trefnydd's letter of 17 December 2019 to provide an update on progress regarding the section 109 Order and look forward to hearing how it will address the concerns that we have raised on these matters.

Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 (formerly the Healthcare (International Arrangements) Bill)

In January 2019, we published our report *The Welsh Government's Legislative Consent Memorandum on the Healthcare (International Arrangements) Bill*. Recommendations 1 and 3 related to Ministerial consent arrangements and notification to the Assembly about consent decisions. Vaughan Gething AM, the Minister for Health and Social Services, set out the Welsh Government's response on 12 February 2019. In considering the Welsh Government's response to our report at our meeting on 18 February 2019, we were asked not to publish a draft Memorandum of Understanding between the Welsh and UK Governments, which was used to explain why recommendations 1 and 3 were being rejected. In a letter of 18 February 2019, the Minister explained that the request not to publish the draft Memorandum of Understanding was in line with paragraph 7 of the *Inter-Institutional agreement between the National Assembly for Wales and the Welsh Government*, which refers to the Assembly recognising and respecting the need for confidential inter-governmental discussion between governments. There was insufficient time for the Committee to scrutinise a revised supplementary LCM which included the final Memorandum of Understanding before the relevant Legislative Consent Motion was debated on 12 March 2019.

Agriculture Bill

Although the UK Government's Agriculture Bill did not complete its passage through the UK Parliament prior to the 2019 General Election, we did scrutinise two Legislative Consent Memorandums related to the Bill and issued two reports. In our first report, *The Welsh Government's Legislative Consent Memorandum on the Agriculture Bill* published in January 2019, we noted that the Welsh Government had entered into a bilateral agreement with the UK Government as a means of resolving a dispute over whether consent was required for the inclusion of a particular clause in the Bill. Recommendation 9 of our report stated:

"The Cabinet Secretary should explain to this Committee why it may not be necessary to amend clause 26 of the UK Agriculture Bill to resolve the issues that have been of concern to the Welsh Government. In so doing, the Cabinet Secretary should explain whether the intergovernmental agreement she spoke of would, in effect, allow UK Ministers to act in devolved areas without any scrutiny by the National Assembly."

Our second report in June 2019, *The Welsh Government's Legislative Consent Memorandum (Memorandum No 2) on the Agriculture Bill*, expressed concern at the delay in responding to our first report, as well as highlighting serious concerns with the use of the bilateral agreement. On 25 July 2019, after our last meeting of the summer



term, Lesley Griffiths AM, the Minister for Environment, Energy and Rural Affairs responded to our reports and in respect of recommendation 9 stated above:

“I have secured the strongest possible role for the Welsh Ministers in the use of the powers and I no longer consider it necessary to amend the Bill. Subordinate legislation on devolved matters will continue to be laid before the Assembly for scrutiny in the usual way.”

The use of intergovernmental agreements

In his letter to us of 27 November 2019 the Counsel General, told us:

“Intergovernmental agreements are by their nature, and should remain, the responsibility of the relevant executives, and should not be subject to consent by legislatures. The Welsh Government enters into a range of agreements, both legally binding and non-legally binding, and it would not be constitutionally appropriate given the separation of powers for the Assembly to consent to those, although of course Members can and do scrutinise them.

Where intergovernmental agreements are linked to primary legislation for which the Assembly’s consent is sought, we would anticipate that consideration of the relevant intergovernmental agreement would be part of the Assembly’s consideration. Furthermore, we would anticipate ongoing Assembly scrutiny of the operation of intergovernmental agreements under the mechanisms agreed in the inter-institutional agreement between the Assembly and the Welsh Government.”

The comments of the Counsel General and the approach adopted in relation to the Healthcare and Agriculture Bills highlight a lack of clarity around when the Welsh Government believe it is appropriate for committees to engage in scrutiny of intergovernmental agreements linked to primary legislation. In our evidence session you acknowledged that scrutiny of intergovernmental agreements was “post-event”.

During the evidence session we asked, why, when governments can’t agree on provisions in UK Bills that would be subject to Assembly consent, is it appropriate to use intergovernmental agreements in their place, which then won’t be subject to Assembly consent. This question arose, in particular, as a result of our scrutiny of the Agriculture Bill. We also asked whether the use of intergovernmental agreements therefore provide an incentive for the UK Government not to include legally binding provisions in UK Bills, and you indicated that you understood why these concerns might arise.

Intergovernmental agreements have become of considerable interest and concern to us because they cover the UK Government making regulations in devolved policy areas, which are then subject to formal scrutiny by the UK Parliament rather than the National Assembly. The role of Assembly committees in scrutinising regulations and associated policy on these devolved issues effectively amounts to post-event representation rather



than influencing thinking or decision-making by reporting to the Assembly on the regulations in question.

We therefore welcome your offer of considering how the National Assembly could play a greater role in scrutinising intergovernmental agreements and any further thoughts you have on their continued use and duration, particularly as the majority of UK-wide common frameworks will also be underpinned by such agreements.

Regulations under the European Union (Withdrawal Agreement) Bill

The European Union (Withdrawal Agreement) Bill provides the Welsh Ministers with a number of regulation-making powers. During the evidence session, we asked to what extent has the Welsh Government assessed the need for regulations to be made by the Welsh Ministers under the Bill, in particular under the following clauses: 4, 12-14, 19 and 22.

The First Minister told the Committee that the powers under clause 4 are ones that the Welsh Government has currently no plans to use. In terms of the others, he said that they are all matters that are going to be subject to further discussion between the UK Government and the European Union during the implementation period and it is therefore difficult to see at this point in the process the extent to which Welsh Ministers might need to use their powers because “we do not know enough about the way in which citizenship rights for example will be the subject of further refinement between the UK and EU” during the next 12 months.

In order to inform our preparatory work, we would be grateful if you could provide the Committee with your assessment of the volume of and timescales for subordinate legislation expected to be made under these clauses of the European Union (Withdrawal Agreement) Bill and whether the Welsh Government intends to make its own regulations or consent to statutory instruments made by the UK Government.

Statutory Instrument Consent Memorandums (SICMs)

We have clearly disagreed over the requirements set out in Standing Order 30A. Irrespective of our differing views on this point, it is correct to say that the UK Government has amended primary legislation in devolved areas with the agreement of the Welsh Government and without the consent of the National Assembly. However, we very much welcome the letter of 17 December from Ken Skates AM, Minister for Economy and Transport Minister stating that as the majority of the programme to correct the statute book has been substantially completed, “the time is right to ... revert to the normal procedure whereby Welsh Government table Motions for SICMs”. During our evidence session we sought a commitment that the Welsh Government will table motions for SICMs each time the UK Government uses its powers under the European Union (Withdrawal Agreement) Bill to amend primary legislation in devolved areas, so that the Assembly can formally consent. In response you committed to tabling motions as far as is reasonably practicable.



We would be grateful if you could clarify the circumstances in which it may not be practicable to table such motions and have a short debate on them, particularly when the volume of SICMs is relatively small (some 20 over the last 14 months).

We would also be grateful if you could confirm that your commitment will apply in respect of the UK Government using powers derived from all Brexit-related Acts of the UK Parliament.

Clause 38 of the European Union (Withdrawal Agreement) Bill

During the evidence session, we started to explore clause 38 of the European Union (Withdrawal Agreement) Bill about parliamentary sovereignty but ran out of time. I would therefore be grateful for your observations on clause 38 and in particular its implications for the existing constitutional framework of the United Kingdom.

Yours sincerely

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AM
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.



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Committee Chairs
National Assembly for Wales

16 December 2019

Dear Chair,

Committee on Assembly Electoral Reform

As you will be aware, the **Committee on Assembly Electoral Reform** was established by the National Assembly for Wales in September 2019 with a remit to examine the recommendations of the **Expert Panel on Assembly Electoral Reform**. I am writing to invite your views on the potential implications for Assembly committees of any change in the size of the Assembly.

In particular, we would welcome the views of your Committee on:

- Whether the current size of the Assembly has given rise to any implications or limitations for your Committee's work or the way in which you approach policy, legislative and financial scrutiny of the issues within your remit.
- How any recent or anticipated changes to the Assembly's powers or responsibilities, or the broader constitutional context, might affect your Committee's remit or how you undertake your role.
- Any implications an increase in the size of the Assembly might have for the work of Assembly committees, including the support services they receive.

We would also welcome information about how your Committee assesses the impact of its scrutiny work, and examples of effective scrutiny or missed opportunities. It would be helpful to receive your response **by Monday 27 January 2020**.



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I will be making an oral statement in Plenary on Wednesday 8 January 2020 to provide an update on the Committee's work. In the meantime, if you have any questions about the work of the Committee, or would find it helpful to meet to discuss these issues, please contact the Committee clerk, Helen Finlayson, at seneddreform@assembly.wales or on 0300 200 6341.

Yours sincerely,



Dawn Bowden AM
Chair, Committee on Assembly Electoral Reform

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Elin Jones AM
Llywydd
Chair, Business Committee

24 May 2018

Annwyl Lywydd,

Thank you for your letter of 9 May 2018 regarding the size of the Constitutional and Legislative Affairs Committee and changes needed to Standing Orders as a result of the scrutiny of subordinate legislation arising from the European Union (Withdrawal) Bill. We considered the issues raised by your letter on 14 and 21 May.

As you allude to in your letter, our Committee has traditionally worked in a non-partisan way, a point highlighted in our predecessor Committee's legacy report. We have regularly made recommendations on all Bills and reported on the merits of Statutory Instruments without the Committee's composition reflecting the Assembly's party balance. This has, in our view, become one of the great strengths of the Committee and has resulted in improvements to legislation based on constitutional and legislative principle.

We understand that it is likely the sifting process for the Assembly Committee will be made binding in the Bill, as recommended by this Committee and reflected already in the Bill for Westminster Committees. We also understand that the process in Westminster will be conducted by a politically balanced committee and the constitutional and political implications of this will need to be explored.

While we are not opposed in principle to change, we believe that the reasons for change to the existing size of the Committee need to be based on sound reasoning and the implications of such a change clearly understood. In this regard we make the following observations:

- the Committee size has fluctuated between four and five members in the Fifth Assembly;
- with five members, two independent members sat on the Committee;



- we acknowledge that with a fifth member, concerns about quorum when members are absent are reduced;
- any change to six or more members may change the culture of the Committee;
- attending the Committee would not be optional – ad hoc attendance would not be acceptable;
- before moving to a larger committee size, there would need to be a commitment that six members would be available to attend in our regular Monday slot and any additional slots required to scrutinise the increase in Brexit-related subordinate legislation;
- a disagreement in the Committee, of whatever size, about whether the affirmative procedure should be attached to an instrument, would not prevent an Assembly Member from tabling a motion to annul that instrument in order to facilitate a debate on the floor of the Chamber;
- our request (of 12 April) to consider primary legislation relates only to one Bill – the Welsh Government’s Legislation (Wales) Bill - which we believe concerns matters of constitutional and legislative principle rather than matters of policy; nevertheless we recognise that Business Committee has previously adopted the principle, in most cases, that voting on Bills in committees should reflect the political balance of the Assembly;
- should the Committee be asked to consider a Bill related to Assembly reform, our expectation is that such a request would relate to Stage 1 only as Stage 2 would be conducted by a Committee of the Whole Assembly; rather than increase the size of our Committee for this purpose, another approach may be to set up a new committee for Stage 1 only which incorporates the existing CLA Committee membership but meeting in a different time-slot;
- we would see merit in exploring the possibility of weighted-voting reflecting the political balance of the Assembly, but recognise that this would require careful thought as it may have a number of knock on-effects including inter alia (i) all parties are not currently represented on the Committee, and (ii) the number of independent Members.



If you were in a position to provide more information about what specific roles the Business Committee envisages our Committee undertaking on primary legislation in the future, we would be able to provide a more informed response at the earliest opportunity.

Our ongoing work on operational matters related to the EU (Withdrawal) Bill is considering procedures for the scrutiny of subordinate legislation, including the adequacy and suitability of the relevant existing Standing Orders to deliver the changes needed. It is our intention to report on these matters towards the end of June. This report is also likely to cover other matters related to the Bill and the Intergovernmental Agreement, such as notifying the Assembly of actions taken by the Welsh and UK Governments in devolved areas and the circumstances under which consent is provided to the UK Government to act in devolved areas.

Yours sincerely,



Mick Antoniw

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.



By virtue of paragraph(s) vi of Standing Order 17.42

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