

Huw Irranca Davies AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Tŷ Hywel,
Cardiff Bay CF99 1NA

28 September 2016

Dear Huw

Wales Bill

Thank you for your letter of 18 July seeking the Culture, Welsh Language and Communications Committee's views on the Wales Bill.

The Committee received a briefing from the Assembly's Legal Advisers on the implications of the Bill and the specific reservations that are of relevance to the work of the Committee. Annexed to this letter for your information is a list of those reservations and a description of the impact they may have on the Assembly's legislative competence.

The Committee was also aware of concerns that the Welsh Language Commissioner conveyed to the Secretary of State for Wales about the Bill's impact on the Assembly's ability to legislate on the Welsh language. On 14 September, we took oral evidence from the Commissioner's senior staff about the Commissioner's concerns. I attach the Commissioner's letter of 14 July to Alun Cairns, the response she received from the Parliamentary Under Secretary of State, Guto Bebb MP, and subsequent correspondence between them. The transcript of our session with the Commissioner's staff has been published online.

The Committee considered the Bill again at our meeting on 22 September. Members expressed a number of concerns about the Bill as it currently stands.



On the issues raised by the Welsh Language Commissioner, the Committee was content that the Bill would not retrospectively affect the working of the Welsh Language (Wales) Measure 2011. However, the Committee was concerned that the Bill may constrain the Assembly's ability to legislate in these areas in future and that the effect of the Bill in this area is to remove a degree of the competence that the Assembly currently has. Our understanding is that if the Welsh Language Measure is amended in any way in the future, after the Wales Bill is enacted, the powers of the Assembly to legislate in this area may be limited. This is very concerning indeed.

In relation, to the requirement to seek consent from the UK Government for in relation to imposing Welsh language duties on UK public bodies, a Member of the Committee suggested that some sort of 'de minimis' exception might usefully be included in the Bill.

Members also expressed concern about the broadcasting reservation. The Committee accepts that broadcasting is currently an exception in the Government of Wales Act 2006. However, the new reservation seems to also include the BBC as a specific additional reservation, the reasons are not entirely clear. This seems to go further than the current exception and does not take account of wider moves toward the BBC, and other public service broadcasters, being publicly accountable to the National Assembly. It also suggests that the new reservation would include all BBC activity not just that related to broadcasting. We were also concerned at the inclusion of 'other media' in the reservation. Again, this appears to have the effect of narrowing our current competence beyond broadcasting.

On a broader point, Committee Members were very concerned that the effect of any reservation should be to reduce the Assembly's current legislative competence. It may be timely to point out that the 2011 referendum provided the Assembly with its current powers and that the Bill should not, as a matter of principle, provide fewer or diminished powers than were voted for by the people of Wales in the referendum. Indeed, it may be helpful to insert in to the Bill a clause confirming that the new settlement is not intended to reduce the range or scope of powers devolved to Wales.



I hope this is helpful. I am copying this to the Secretary of State for Wales and to the Welsh Language Commissioner for information.

Yours sincerely

Bethan Jenkins

Bethan Jenkins AM

Chair



ANNEXE - TABLE OF RESERVATIONS WHICH ARE OF MOST RELEVANCE TO THE COMMITTEE

Reservation – Section and number	Description	Impact of the reservation on the Assembly’s legislative competence
B16, 54 and 55	54 Classification of films and video recordings (including video games) 55 Licensing of– the provision of entertainment, and late night refreshment.	Wording slightly different from current exception; slight reduction in competence. “Video games” is not currently included as an exception.
B17, 56	The sale and supply of alcohol	Wording slightly wider than current exception but effect likely to be equivalent.
B18, 57	Betting, gaming and lotteries	Unchanged.
B22, 61–62	Charities and fund–raising	Not currently an exception from competence so appears to produce a reduction in competence.
J6, 153–155	Reservations concerning Health and safety – including fire safety (save for the promotion of fire safety otherwise than by prohibition or regulation).	Wording wider than current exception; effect in practice unclear , especially when combined with another restriction on competence.
K1, 156 and	Broadcasting and other media;	Wording wider than current exception; effect



157	the BBC.	in practice unclear .
K2, 158	Public lending right	Unchanged.
K3, 159	Government indemnity scheme for objects on loan	Unchanged.
K4, 160	Property accepted in satisfaction of tax and the disposal of such property	Wording wider than current exception – reduction in competence.
K5, 161	Safety of sports grounds	Not currently an exception from competence – reduction in competence.

