



Mark Drakeford AM
Chair
Health and Social Care Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Your ref:
Our ref: PO/RB/SG

3 December 2012

Dear Mark

Recovery of Medical Costs for Asbestos Diseases (Wales) Bill

I have written today to Mick Antoniw to confirm my view that, in accordance with section 110(3) of the Government of Wales Act 2006 (GoWA), the Recovery of Medical Costs for Asbestos Diseases (Wales) Bill, is within the legislative competence of the Assembly and I intend to make a statement to that effect upon the Bill's introduction.

However, my decision in this case was not straightforward. I have received advice that credible arguments can be made that a number of provisions of the Bill may not be within the Assembly's legislative competence. The decision I have made is, therefore, a finely balanced one in these areas.

I enclose for your information a summary of the issues I considered in reaching my view on legislative competence. I feel it is appropriate, and important, to share this with you, so as to recognise and facilitate the role of Assembly Members on your Committee in scrutinising the Bill. The lawyer and Clerk supporting the Committee in that scrutiny will be able to provide more detailed information on the issues.

Bae Caerdydd
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This is the first time we have taken the approach of revealing difficult issues of competence considered by me. It is also the first case that has thrown up such issues since the recent Supreme Court judgment. There are undoubtedly sensitivities arising from how the Assembly debates matters of legislative competence during the progress of a Bill. The staff supporting your committee will be able to advise you on these and I would, of course, be happy to discuss in person.

In the meantime, I am writing in similar terms to David Melding as Chair of the Constitutional and Legislative Affairs Committee.

I must stress that the advice I have received, and on which I have based my decision, is that the provisions of the Bill can legitimately be determined as being within the legislative competence of the Assembly. Nevertheless, I wish to ensure that the issues I have considered are shared with Committees so that further consideration can be given to them during scrutiny of the Bill, if Members so wish.

Financial Memorandum

Standing Orders also require me to decide whether the Bill will require a financial resolution. After considering the Explanatory Memorandum accompanying the Bill, I consider a financial resolution will be required for this Bill, in accordance with Standing Orders 26.69(ii) and 26.70.

Rosemary Butler AM, Presiding Officer