

**Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Invitation to submit written evidence for a Committee
Inquiry



May 2013

Dear Colleague

Inquiry into Wales' role in the EU decision-making process

1. The Constitutional and Legislative Affairs Committee has agreed to carry out an inquiry into Wales' role in the EU decision-making process.
2. The terms of reference for the Inquiry are to:
 - take expert evidence on how Welsh interests in devolved areas are currently represented in the EU decision-making process;
 - consider whether the current arrangements enable Wales to have an effective voice in the EU;
 - consider how Welsh interests are being incorporated into the UK Government's current 'Review of the Balance of Competences between the UK and the European Union'; and
 - make recommendations, if appropriate, regarding how Welsh interests in devolved areas are taken account of in the EU.
3. Ultimately, the purpose of the Inquiry is to consider and make recommendations about Wales' constitutional position in the EU and

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particularly how Wales is involved in the decision-making mechanisms at the EU level, rather than a more general discussion about the advantages and disadvantages the UK's membership of the EU.

4. Further background information can be found at Annexe 1 to this letter.
5. The Committee would welcome your views on these specific matters.
6. Responses, either in hard copy or electronically should be sent to the following address and arrive no later than 28 June 2013:

Gareth Williams
Constitutional and Legislative Affairs Committee
Tŷ Hywel
National Assembly for Wales
Cardiff Bay
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7. **Guidance on submitting written evidence** is attached at Annexe 2 to this letter.
8. If you would like any **further** information, please contact the Clerk, Gareth Williams on 029 2089 8008 or Ruth Hatton the Deputy Clerk on 029 2089 8019.

Yours sincerely

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

David Melding AM
Chair

Annexe 1 Background Information

1. The way in which the Welsh Government interacts with the UK Government in relation to EU policies in devolved areas is currently set out in a concordat contained in the **Memorandum of Understanding** ('MoU')¹ between the UK Government and the devolved administrations on the handing of the co-ordination of European Union policy issues. Specifically, the concordat covers:

- how information on European issues is shared between governments;
- how the UK's policy position in relation to European issues is formulated;
- protocol relating to the attendance of Ministers at the Council of Ministers;
- how European obligations are implemented by the UK and devolved governments; and
- issues relating to infraction proceedings.

2. These existing arrangements were challenged by the First Minister, in a speech made in March 2012 to the 'Wales and Changing Union' conference in Cardiff. He stated that:

It is worth also mentioning Europe...we hear a lot about the West Lothian Question...but there's a related question about Europe which I'm calling the Bridgend Question. Early in my ministerial career I spent many a long day and night, as Agriculture Minister, at the Council of Ministers. Now, there are 4 Agriculture Ministers in the UK and yet, at the Council of Ministers, the English Agriculture Minister casts a vote on behalf of all of us – whether the other 3 of us agree or not. Again, this seems increasingly unsatisfactory and unsustainable as time goes by...a revised way of dealing with EU business should also form part of our wider debate about the UK's future.²

3. He reiterated these views in a later speech to the London School of Economics on 8 November 2012:

The debate about the role of regions in the European Union has gone off the boil somewhat in recent years, largely – I suspect - because it has seemed marginal to the economic crisis. But I want to put down a marker.

Devolution at home needs expression at EU level where devolved vital interests are at stake. We have our own species of the West Lothian Question: the Minister responsible for Agriculture in England suddenly morphs into a UK Minister for Agriculture at the Council of Ministers in Brussels, exercising an effective veto on the views of his Scottish, Welsh and Northern Ireland counterparts. This is surely not sustainable. Pressure for independence is apparent in different parts of Europe – Scotland, Flanders, Catalonia and elsewhere – and we must find ways of including

¹ GOV.UK, Devolution of powers to Scotland, Wales and Northern Ireland, [Memorandum of Understanding](#), last updated 18 February 2013

² [The Rt. Hon. Carwyn Jones AM, First Minister, Wales and the Future of the United Kingdom. Speech to the Wales and the Changing Union Conference, 30 March 2012](#)

devolved governments more effectively in EU decision-making unless we wish to encourage the break-up of existing states into smaller units.³

4. In parallel to the First Minister's comments, in July 2012 the UK Government embarked on a large scale review of the way powers are shared between the UK and EU. In announcing the **Review of the Balance of Competences between the UK and Europe** to the House of Commons, the Foreign Secretary, the Rt. Hon William Hague MP, stated that:

The review will be an audit of what the EU does and how it affects us in the United Kingdom. It will look at where competence lies, how the EU's competences, whether exclusive, shared or supporting, are used and what that means for our national interest. These are issues that affect all EU member states and could have a bearing on the future shape of the EU as a whole.

The review will be a valuable exercise for deepening understanding in Britain of the nature of our relationship with the European Union and how it has evolved over time, and will provide a constructive and serious British contribution to the public debate across Europe about how the EU can be reformed, modernised and improved. The review will be taken forward in a comprehensive and analytical way, jointly co-ordinated by the Foreign and Commonwealth Office and the Cabinet Office, and the Minister for Europe and I will answer to Parliament for it.⁴

5. The accompanying Command Paper,⁵ laid in Parliament on the same day, presented an overview of how the review would be conducted. It stated that each UK Government departments will prepare reports on European issues and that the work will be done over the course of the following four semesters:

- autumn 2012 – summer 2013;
- spring 2013 – winter 2013;
- autumn 2013 – summer 2014; and
- spring 2014 – autumn 2014.

6. At the start of each semester, the relevant departments will launch calls for evidence setting out the scope of their work and requesting input from a range of interested parties, including members of the public with relevant expertise or experience. At the end of each semester, the reports will be published online.

7. The Command Paper states that 'The Devolved Administrations will be closely involved in the process' and a DEFRA consultation document associated with the review states that:

The review of the balance of competences is a UK Government initiative and this call for evidence is addressed to interested parties throughout the UK. The views of the devolved administrations will be an important factor; the issues should be examined from the point of view of the best interests of the UK as a whole, but the subject areas covered by the Animal Health, Welfare and Food Safety Review are devolved matters

³ Wales Online, [In full: First Minister's lecture to the LSE on the future of the Union](#), 8 November 2012

⁴ HC Debates, 12 July 2012, Col.468

⁵ [Review of the Balance of Competences between the United Kingdom and the European Union, Cm.8415, July 2012](#)

where the administrations in Scotland, Wales and Northern Ireland are responsible for the implementation of EU legislation.⁶

8. This further exchange took place following the Foreign Secretary's statement on the role of the devolved administrations in the review:

Stewart Hosie (Dundee East) (SNP): The Joint Ministerial Committee's memorandum of understanding on EU policy states:

"Ministers and officials of the devolved administrations should be fully involved in discussions within the UK Government about the formulation of the UK's policy position on all issues which touch on matters which fall within the responsibility of the devolved administrations."

I want to ask the Foreign Secretary two questions. First, was there any discussion at all with the devolved Administrations on the formulation of this review policy? Secondly, does he really think it adequate that Cardiff, Belfast and Edinburgh should be invited to submit evidence to the review? Does that meet the terms of the MOU, which states that the devolved Administrations should be "fully involved" in discussions on policies in which we have competence? He mentioned agriculture, fisheries and the environment: many of those matters are devolved.

Mr Hague: They will of course be involved in determining policy. I stress again that this is a review to establish a proper understanding of the use of EU competences and the balance of those competences with the powers of the United Kingdom. It will then be a matter for the political parties or the devolved Administrations to draw their policy conclusions from it. They will be involved in the way that has been set out in the memorandum. The commitment to undertake this exercise is in the coalition agreement; it is part of what the coalition Government said they would do at the beginning. That agreement is not qualified by, and cannot be diluted by, consultations with the devolved Administrations; we are empowered to do this as a coalition. Of course the devolved Administrations will be involved in determining policy, and I look forward to the representations that they make as part of the review.⁷

9. The First Minister made the following comments in response to the review in his speech to the London School of Economics on 8 November 2012:

The UK Government has set in train a review of the existing balance of competences between the EU and the UK, which is scheduled for completion in late 2014. The outcome of that review will no doubt inform the UK's negotiating position for a new relationship within the European Union ...

So far as the balance of competences is concerned, we would oppose "repatriation" of responsibility for investment in economic and social development: the Structural Funds have served Wales well, and, frankly, we would not be confident of the same degree of support if funding for this became a Treasury responsibility.⁸

⁶ Department for Environment, Food and Rural Affairs, [Call for evidence: Animal health, welfare and food safety review](#), November 2012, paragraph 6

⁷ HC Debates, 12 July 2012 Cols. 474-475

⁸ Wales Online, [In full: First Minister's lecture to the LSE on the future of the Union](#), 8 November 2012

Annexe 2

Guidance on written submissions

When preparing your submission, please keep the following in mind:

Information to include

As a general guide, written evidence should consist of a **self-contained document** accompanied by a covering letter. Evidence should be presented **as concisely as possible** (a good rule of thumb is that the memorandum should not exceed 6 pages of A4)

The **covering letter** should include:

- the **name and contact details** of the persons or organisation submitting the evidence;
- whether the evidence is submitted on behalf of an organisation, or as an individual;
- **any request to give oral evidence;**
- any request that the committee treat the whole, or part, of the written evidence as **confidential**, with reasons for the request.

(The National Assembly normally makes responses to public consultation available for public scrutiny and they may be seen and discussed by Assembly Members at Committee meetings.)

If you do not want your response or name published, it is important that you clearly specify this in your submission and your reasons for this. However you should be aware that it may not be given the same weight by the Committee when considering the evidence. You should also be aware that the information you have provided in your response to this consultation, including company information, may be published or disclosed in accordance with the Freedom of Information Act 2000.)

The **memorandum** should contain the following information:

- a **brief summary** of the main points made in the submission
- a **brief introduction** to the person or organisation submitting evidence, perhaps explaining their or the organisation's area of expertise
- any **factual information** the submitter has to offer from which the committee might be able to draw conclusions, or which could be put to other witnesses for their reactions
- any **recommendations for action** by the Government or others which the submitter would like the committee to consider for inclusion in its report to the Assembly.
- Your response should address the issues the Committee is considering in particular the matters set out in this invitation to submit evidence.

(You should be careful **not to comment on matters currently before a court of law**, or matters in respect of which court proceedings are imminent. If you anticipate such issues arising, you should discuss with the clerk of the committee how this might affect the written evidence you can submit.)

How to format your evidence

Some points to note:

- **Paragraphs should be numbered**, to assist the committee in referring to the submission during oral evidence.
- If you wish to include **supplementary material** with your memorandum—for example, leaflets, or articles from periodicals - ensure your memorandum is nevertheless self-contained.
- If your submission uses colour, it should still make sense when reproduced in black and white as Committee Members may make use of photocopied versions in Committee.
- If you are submitting your evidence electronically, your memorandum should be in **Microsoft Word, rich text or PDF format**.