

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

2 August 2011

Dear Colleague

Inquiry into the Granting of Powers to Welsh Ministers in UK Laws

The Constitutional and Legislative Affairs Committee has agreed to carry out an inquiry into the practice of Acts of the UK Parliament conferring powers directly on Welsh Ministers as well as related issues such as the operation of Devolution Guidance Notes. It will also consider the practice of designating Welsh Ministers to make regulations to implement European Union obligations. The principle under investigation is whether the National Assembly should carry the sole responsibility for delegating such powers to Welsh Ministers.

Background

The positive referendum result of 3 March this year brought into force broad legislative competence for the National Assembly. This competence is set out in detail in Schedule 7 of the Government of Wales Act 2006. However, some significant pieces of legislation currently before the UK Parliament, such as the Public Bodies Bill, seek to delegate important powers to the Welsh Ministers. It is envisaged that Westminster legislation will continue to confer powers on Welsh Ministers without the direct involvement of the National Assembly, including in areas where legislative competence rests with the Assembly.

The Committee has agreed to look at how these arrangements operate. The Inquiry will look in particular at the application of the Memorandum of Understanding between the UK Government and the Devolved Administrations, at the technical guidance for Whitehall Departments set out in Devolution Guidance Notes and at the processes for agreeing legislative consent through Legislative Consent Motions.

The Committee will consider what lessons from experience so far can be applied to arrangements for delegating powers to Welsh Ministers in the future. The Committee will be guided by the general principle that powers should only be granted to Welsh Ministers in devolved areas with the informed consent of the National Assembly, which should be able to exercise appropriate scrutiny over the process concerned.

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Further background, which the Committee has considered, is set out in more detail in the attached paper prepared by the Assembly's Research Service.

Invitation to Submit Written Evidence

The Committee would welcome your views on:

- The extent of the current National Assembly scrutiny of delegated powers given to Welsh Ministers through provisions in UK Acts and through other statutory mechanisms;
- The extent to which the National Assembly is able to exercise robust scrutiny of such processes through its Standing Orders;
- The relevance of the UK Government's Devolution Guidance Notes in the light of recent Welsh constitutional developments;
- The procedures for Legislative Consent Motions compared to the position in the other devolved legislatures;
- any other matter relevant to the Inquiry.

Responses, either in hard copy or electronically, should be sent to the following address to arrive no later than by 30 September 2011:

The Committee Clerk
Constitutional and Legislative Affairs Committee
Tŷ Hywel
National Assembly for Wales
Cardiff CF99 1NA

e-mail: CLA.Committee@wales.gov.uk

The Committee will consider responses after the Assembly's summer recess.

Further background information on the Constitutional and Legislative Affairs Committee and **guidance on making a submission** is attached as an annex to this letter.

If you would like any further information or have any queries, please contact the Committee Clerk, Steve George on 029 2089 8242 or Olga Lewis the Deputy Clerk on 029 2089 8154.

Yours sincerely



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David Melding AM
Chair
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Annex

INQUIRY INTO THE GRANTING OF POWERS TO WELSH MINISTERS BY WESTMINSTER LAWS

Remit of the Constitutional and Legislative Affairs Committee

The Committee's remit is to carry out the functions of the responsible committee set out in Standing Order 21 and to consider any other constitutional or governmental matter within or relating to the competence of the Assembly or Welsh Ministers

Within this, the Committee considers the political and legal importance as well as technical aspects of all statutory instruments or draft statutory instruments made by the Welsh Ministers and reports on whether the Assembly should pay special attention to the instruments on any of the grounds set out in Standing Orders 21.2 and 21.3.

The Committee also considers and report on the appropriateness of provisions in Assembly Bills and UK Parliament Bills that grant powers to make subordinate legislation to the Welsh Ministers, the First Minister or the Counsel General.

Guidance on written submissions

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

Information to include

As a general guideline, 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 also 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**.