

**Constitutional and Legislative Affairs Committee
Inquiry into Making Laws in the Fourth Assembly
ML6 – Flintshire County Council**

Response to Consultation on Welsh Assembly Law Making

General questions

1. The policy reasons for legislation are principally a matter for the law makers appointed to fulfil that role. However, there needs to be a clear evidence base for legislation and the scrutiny of that evidence must demonstrate a clear need for the law proposed.

Legislative drafting is more a matter of technical and professional expertise and solid sounding boards exist within the relevant professional bodies such as Lawyers in Local Government to advise on drafting problems and pitfalls. These bodies bring together the views of a wide number of professionals/experts in the field and collectively many years of experience of interpreting and applying legislation in practice. The benefit of that experience is freely available to the Assembly. More use could be made of the existing consultation processes with the responses to consultation listened to especially on points of detail on the drafting. There are also difficulties experienced in obtaining clarity of advice on the interpretation of draft/final legislation/guidance.

2. No views one way or the other.
3. In general Explanatory Memoranda are useful.
4. No views.
5. No views.
6. Sometimes the quality of legislation seems to bear no resemblance to the gestation period. That is to say that slow Bills can still contain drafting errors or poor drafting.
7. No views.
8. No views.
9. No views.
10. There is a need for a more effective system of Regulatory Impact Assessments with a more realistic appraisal of the likely cost of the proposed legislation. As discussed with WLGA and Solace combined progress on the agreed steps for an improved and more inclusive approach should be accelerated. There needs to be a recognition of the additional burden and an appropriate source of funding for any new duties whether that be through taxation or charging service users. Charging powers need to reflect the true cost of delivering a service and so should enable at the very least full cost recovery for services that do not receive public subsidy.

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General Observations

Often legislation is made to address a problem in one or a few Councils. More consideration should be given to addressing the problems in the few Councils rather than imposing legislation on all Councils. The complex legal provisions concerning the appointment of Overview & Scrutiny Chairs contained in Sections 66 to 75 of the Local Government (Wales) Measure is an example of this. Flintshire had always complied with the guidance in relation to Overview & Scrutiny Chairs but now has to follow a complex process for such appointments. The views Flintshire expressed on the draft proposals did not lead to any change in the final version of the legislation. The complex provisions make no allowance for those members who are not aligned to any political group.

Similarly the Council's Constitution Committee have been critical of the complex and detailed provisions relating to Family Absence for Members. When consulted the Council had made the point that the provisions needed to be as simple as possible. In practice there has never been a problem in Flintshire over family absence particularly bearing in mind Section 85 of the Local Government Act 1972 allowing a Member to be absent from meetings for up to 6 months without reason and longer if the Council is satisfied with the reason given.

It is hoped the above response to questions and observations are of assistance to your committee.