

Mick Antoniw AC/AM
Y Cwnsler Cyffredinol/Counsel General



Y Swyddfa Breifat

12 DEC 2016

PO 127

Private Office

Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref
Elin Jones AC/AM
Llywydd
National Assembly for Wales
Cardiff
CF99 1NA

12th December 2016

Dear Elin,

CODES OF WELSH LAW

In June this year the Law Commission published its report, *Form and Accessibility of the Law Applicable in Wales*. I have today written to the Chairman of the Law Commission providing the Welsh Government's Interim Response to that Report, and I attach a copy of my letter for your information.

Tomorrow I will be making an Oral Statement to the Assembly setting out the Welsh Government's intentions to undertake a pilot programme during 2017 for consolidation, codification and better publication of Welsh law. This pilot will enable the Government to start work on this important area, but without committing us to a long term position which could be unsustainable from a resource perspective, or indeed impractical from a legislative and constitutional position.

Although this will be a time limited pilot, there is still much work that can be done. This work, however, is not in my view a matter for the Government to pursue alone. I hope very much that we will be able to work in partnership with the Assembly, its Committees and Members who have for some time been concerned about the issues raised in the Law Commission's report.

One specific issue that is likely to require immediate attention is the development of an appropriate Assembly procedure that while transparent will facilitate the promotion of consolidation bills. Both the Constitutional and Legislative Affairs Committee and the Business Committee recommended that suitable procedures be developed during the last Assembly. At the time the Welsh Government indicated that we would prefer to wait until the Law Commission reported and we had the chance to consider their recommendations, before we engaged with the process of developing and changing Standing Orders on this matter.

The Welsh Government agrees with the Law Commission that for consolidation and codification to work effectively, suitable procedures within the Assembly need to be in place to support this work. This is of course, however, a matter for you and for the Assembly as a whole to decide.

Following my announcement tomorrow to the Assembly, I hope that we can begin a process of co-operation not only on procedural matters (vital though they are) but also on the process of codifying the law more generally. I have discussed this with the Leader of the House, and my officials stand ready to work with Commission staff to begin this process if you are content. I would be grateful also if you could spare the time to meet in person to discuss our intentions, and what part the Assembly could play.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mick Antoniw', with a large, stylized flourish at the end.

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Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref
The Right Honourable Lord
Justice Bean
Chairman
Law Commission of England
and Wales
1st Floor, Tower
52 Queen Anne's Gate
London SW1H 9AG

12th December 2016

INTERIM RESPONSE TO FORM AND ACCESSIBILITY OF THE LAW APPLICABLE IN WALES

Firstly may I reiterate my thanks, on behalf of the Welsh Government, to you and to Nicholas Paines QC and the Public Law Team for the work undertaken to produce your Report on the form and accessibility of Welsh law. I am grateful also to your predecessor, Lord Justice Lloyd Jones, for his personal interest and commitment to the project. This letter is the Welsh Government's Interim Response to that Report, issued in accordance with the Protocol between the Law Commission and the Welsh Ministers (July 2015).

The Report responds to concerns that have been raised for many years about the complexity of the law in Wales (and the UK more generally) and the state of the statute book. The Law Commission's conclusions that a sustained, long term programme of consolidation and codification of Welsh law would deliver clear societal and economic benefits, certainly accords with the Welsh Government's own views that action is required to ensure the laws of Wales are accessible. Taking action will also make our work in developing new laws – and in scrutinising them – considerably more straightforward and therefore more efficient.

I am therefore pleased to advise the Welsh Government will be undertaking a pilot programme during 2017 for consolidation, codification and better publication. We believe a form of codification to be a necessary part of ensuring the law is published together in a single place and in an accessible manner. During the pilot we will be looking at different options for what a 'Code' amounts to, consider what can be achieved during the timeframe with the scarce resources we have available and consider the extent to which stakeholders and society more generally consider our initiatives to be of benefit. The success (or otherwise) of the pilot will be evaluated before decisions can be taken as to whether a long term commitment can be made.

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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The Welsh Government agrees with the Law Commission that for consolidation and codification to work effectively, suitable procedures with the Assembly need to be in place to support this work. For this reason I have today written to the Llywydd indicating the Government's wish to work with the Assembly, its Committees and Members. In my view it is imperative we all agree an appropriate way to scrutinise the Bills that the Government will need to bring forward. I have copied this letter to the Llywydd and will also be making it available to all Assembly Members.

The Welsh Government welcomes the consideration by the Law Commission of ways of improving the approach to law making, including the Report's consideration of legislative standards. This is a matter which I will be considering further during the pilot period, and I expect that by the time of the Welsh Government's final response to the Report next year, I will be in a position to inform you of our position.


You will be aware that the Welsh Government has recently consulted on its proposals for the Government's long term vision for the Welsh language. We are currently considering the many responses received, and those views will shape the new strategy for the Welsh language that will come into force from April 2017. Our response to the Law Commission's recommendation 24, that the Welsh Government be formally recognised as responsible for the standardisation of Welsh language legal terminology, will be considered within that context. We are also concerned that we maintain the same flexibility that we have with the English language when drafting the Welsh language text of Bills.

We will also work closely with colleagues in the National Archives who are responsible for the operation and maintenance of publication through legislation.gov.uk. I am pleased the Law Commission sees value in both that website, and our own Cyfraith Cymru/Law Wales site; the Welsh Government is keen to see more work done to ensure primary and secondary legislation published on legislation.gov.uk, in both Welsh and English, is brought up to date and is accessible. We believe both sites have a key role in meeting the needs of users in Wales. This letter is, therefore, also being copied to the Queen's Printer, Carol Tullo.

The Law Commission has rightly identified there are resource implications in pursuing a programme of consolidation and codification, and in improving the publication and promulgation arrangements for legislation. Very careful consideration and evaluation needs to be given to any commitment to these initiatives, given our scarce resources and other priorities.

I look forward to continuing to work with the Law Commission on the detail of the Report, and other projects, including the *Planning Law in Wales* project you are also undertaking which of course forms part of the codification initiative.

Yours sincerely,



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