



Consultation into the new Wales Bill

A response from Wales Council for Voluntary Action

1. Wales Council for Voluntary Action (WCVA) is a registered charity and umbrella body working to support, develop and represent Wales' third sector at UK and national level. We have over 3,350 organisations in direct membership, and are in touch with many more organisations through a wide range of national and local networks. WCVA's mission is to provide excellent support, leadership and an influential voice for the third sector and volunteering in Wales.
2. WCVA is committed to a strong and active third sector building resilient, cohesive and inclusive communities, giving people a stake in their future through their own actions and services, creating a strong, healthy and fair society and demonstrating the value of volunteering and community engagement.
3. We welcome the opportunity to respond to the Constitutional and Legislative Affairs Committee's inquiry into the latest version of the Wales Bill as we firmly believe in a strong devolution model. We certainly feel that the new iteration of the Bill is a great improvement on the previous one.
4. We thank Cytun, Citizens Advice Cymru and Association of Voluntary Organisations Wrexham for contributing to our response.
5. WCVA had some concerns about the first version of the Bill, particularly on the lack of clarity of the Reserved Powers model, and potential restrictions on what the Welsh Government could or could not legislate on due to the 'necessity tests'.
6. We welcome the removal of the aforementioned necessity tests as we believe this ought to create a smoother path for the passing of legislation in future, although we note a similar concept remains where Welsh legislation touches on reserved powers or if it affects any matters beyond the Welsh border.
7. We note the introduction of Justice Impact Assessments to the Bill. In England, these are used to establish whether or not penalties introduced in new legislation are proportionate to the offence. WCVA is aware that in England JIAs are felt to be an administrative burden. This must be avoided, and the benefits and consequences clearly explained. WCVA is optimistic about the introduction of JIAs as we welcome additional scrutiny of the legislative process, but would not like to see unnecessary bureaucracy distracting organisations from their vital work.
8. We welcome the small increase in the number of issues devolved to Wales, such as powers over heritage railways, speed limits, income tax rates, coal mining licences and street trading.
9. However, there remain key reserved areas that we can envision clashing with Welsh Government legislation. For example, employment rights are a reserved

subject, prohibiting Welsh Government from passing legislation around that area even when relating to, for example, social welfare. Potentially, being unable to legislate around the social care workforce could clash with the aims of the Social Services and Wellbeing (Wales) Act.

10. To continue this example, Part 6 of the Social Services and Wellbeing (Wales) Act is concerned with looked-after and accommodated children; however care, supervision or protection of children remain on the reserved powers list. It is very easy to imagine a conflict in this area in future.
11. Similarly, the Assembly has powers over environmental nuisance, but anti-social behaviour remains reserved - potentially causing conflict were the Assembly wish to legislate around, for example, extreme noise and dog fouling.
12. There are other key reserved areas such as fundraising and criminal records which we would still like to see devolved to Wales. Wales is a unique landscape, and allowing Welsh Government to legislate in these fields would allow them to tailor legislation for the characteristics of the country - for example, these areas could then be subjected to Welsh language legislation, ensuring the sector and wider public can access them in their choice of language. However, we recognise the difficulties that devolution can pose to cross-border organisations, and urge clear guidance to be issued as new legislation becomes devolved.
13. We welcome that Welsh Ministers are able to make regulation implementing EU law, for as long as Britain remains within the EU, within devolved competencies without prior designation from the UK Government.
14. We welcome that the Assembly is able in the new Bill to legislate on Minister of the Crown functions.
15. We welcome that the Bill formally recognises 'a body of Welsh law' as part of the jurisdiction of England and Wales, and that the Secretary of State for Wales acknowledges that Welsh law needs 'distinct arrangements' around its jurisdiction. However, we recognise there may be cost implications to setting up these arrangements, and if so steps should be taken to not pass on these costs as the financial climate is already extremely difficult.
16. We note a Justice in Wales working group is to be set up to look at these arrangements. This is welcome, but it is concerning that Welsh Government were not invited to help set the group's Terms of Reference, nor will anyone from Welsh Government be among the people the group reports to. Instead, they are simply one of a list of representatives who will be among the group's membership.
17. We are pleased to note that greater clarity has been made on the subject of which public authorities are Welsh public bodies, and which are reserved authorities. However, there is now no longer an obligation for Ministers of the Crown to consult with Welsh Ministers on cross-border public authorities, potentially leading to a reduction in powers for Wales in the area of cross-border authorities.
18. Further to this, we welcome that amendments to the Equality Act of 2010 mean the Assembly is now able to legislate around equalities issues relating to Welsh public bodies without prior permission of the UK Government.

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