

Charles Walker MP  
Chair of the Procedure Committee  
House of Commons

15 January 2018

Dear Charles

### **Composite and Joint Statutory Instruments**

We often scrutinise as part of our formal role, composite and joint statutory instruments that have been laid before the National Assembly, as well as the House of Commons and House of Lords.

Such statutory instruments will impact on communities across Wales and they can relate to important areas such as the environment, health, social care and water supply and road traffic enforcement.

On every statutory instrument laid before the National Assembly, we are obliged by the requirements of our Standing Orders to report if such instruments are not laid in both the English and Welsh languages. Composite and joint instruments are always laid by the Welsh Ministers in English only and therefore we report to the National Assembly on that basis.

In a letter to our predecessor committee in November 2011, the First Minister said that composite instruments are laid only in English because the UK Parliament will not scrutinise general statutory instruments in languages other than English.



Recent examples of composite statutory instruments that we have scrutinised and that are not made bilingually, include:

- The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution (Amendment) Order 2017 (SI 2017 No. 959)

The Explanatory Memorandum that accompanied the Order stated that, “as a Composite Order, the Instrument will not be bilingual and this position has been confirmed previously by the First Minister, to the Constitutional and Legislative Affairs Committee.”

- The Water Abstraction (Transitional Provisions) Regulations 2017 (SI 2017 No. 1047)

The Explanatory Memoranda that accompanied this statutory instrument indicated that as it applies to both England and Wales, and is subject to approval by the National Assembly and by Parliament, it is therefore not considered reasonably practicable for it to be made bilingually.

We are also aware of composite statutory instruments laid before both the National Assembly and the UK Parliament in English only but which nevertheless do include some Welsh language text. For example, The Conservation of Habitats and Species Regulations 2017 (SI 2017 1012) and The Environmental Permitting (England and Wales) (Amendment) Regulations 2018 (not yet made).

In addition, we have become aware of a statutory instrument—the European Qualifications (Health and Social Care Professions) Regulations 2016 (SI 2016 No. 1030)—made by the UK Government that uses Henry VIII powers to amend a bilingual Act of the Assembly and as consequence contains many pages of Welsh language text.

Some of these instruments are therefore examples of the UK Parliament scrutinising statutory instruments that contain the Welsh language.



In the circumstances I would be grateful if you could confirm whether there are any barriers to bilingual joint or composite statutory instruments being laid in the House of Commons.

This is of course important in the context of the UK's exit from the EU and the scrutiny of subordinate legislation made by UK Ministers arising from the EU (Withdrawal) Bill, whether acting alone in devolved areas under Clause 7 powers or jointly with the Welsh Ministers in devolved areas under Schedule 2 powers.

I am sending similar letters to the Chairs of the Statutory Instruments Committee (House of Commons), the Secondary Legislation Scrutiny Committee (House of Lords) and the Joint Committee on Statutory Instruments.

I look forward to hearing from you soon.

Yours sincerely



**Mick Antoniw**  
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.  
We welcome correspondence in Welsh or English.

