

SOME QUESTIONS AND ANSWERS ABOUT THE NATIONAL ASSEMBLY FOR WALES COMMISSION

1. Why does there need to be a Commission?

This is a requirement of the Government of Wales Act 2006.

2. Why was there no need for a Commission under the previous Government of Wales Act 1998?

The original Government of Wales Act 1998 established the National Assembly for Wales as a single legal entity - a "body corporate" - under whose umbrella both parliamentary and governmental functions were exercised. Being a body corporate meant that in law it continued to exist even at election times when there were no Assembly Members.

3. How did the Government of Wales Act 2006 change things?

The 2006 Act formally separated the two roles (parliamentary and governmental) and created separate legal entities to carry them out. Because the Assembly consists of a group of Members holding office for a limited period (from election until dissolution), it means that the Assembly is not a permanent, continuing body capable of entering into long-term contracts and owning property. The 2006 Act therefore created the Commission as a permanent legal entity (a body corporate) which can do so.

4. Do other parliamentary bodies have similar arrangements?

Yes. There is a House of Commons Commission, a Scottish Parliamentary Corporate Body and a Northern Ireland Assembly Commission. Each of these fulfils a similar role to that of the National Assembly for Wales Commission, although there are some differences in the range of functions which they carry out.

5. What are the functions of the Commission?

The main role of the Commission, as set out in the Act, is to provide the Assembly with the property, staff and services required in order to enable the Assembly to function.

6. Who are the members of the National Assembly for Wales Commission?

The Commission consists of the Assembly's Presiding Officer plus four other Assembly Members, one nominated by each of the four party groups represented in the Assembly.

7. Does the membership of the Commission change?

Yes, but the Commission itself continues, in law, to exist. In addition, the Act provides for members of the Commission to continue in office until replaced *after* an election. So there is never a period when the Commission would be unable to take decisions because it had no members.

8. Are the members of the Commission delegates of the party groups which nominated them?

Members of the Commission hold a statutory office. Although (with the exception of the Presiding Officer, who holds office *ex officio*) they are nominated by their respective party groups they are not delegates or representatives of those groups and, whilst they are entitled to take account of the views of their colleagues, they are expected to exercise independent judgement and to take decisions in the interests of the Assembly as a whole.

9. What is the difference between the Commission and a committee of the Assembly (such as the former House Committee whose role had some similarities to that of the Commission)?

The position of the Commission is quite different from that of a committee. A committee can only act insofar as it has been delegated the power to do so by the Assembly. The Commission is a separate body from the Assembly and has its own distinct set of statutory powers and legal constraints.

10. How does the Commission reach its decisions?

Although like any other similar body the Commission would be expected always to try to reach a consensus, in the event of a division of opinion decisions may be taken on the basis of a simple majority.

11. Does the Assembly have any control over the way in which the Commission exercises its powers?

The Act and the Standing Orders provide the Assembly with two reserve powers of control over the Commission.

Firstly, the Assembly may, by motion, give the Commission instructions ("special or general directions") in relation to the Commission's functions. These could require the Commission to take a particular course of action although they could not require the Commission to act unlawfully (for example in a way which was contrary to European law).

Secondly, the Assembly may, by motion, remove all or any of the current Commissioners (other than the Presiding Officer, who is a member of the Commission as long as he or she holds that office).

12. Are there other ways in which the Commission is held to account?

The Commission's budget proposals are scrutinised by the Finance Committee, laid before the Assembly with a detailed explanation and subject to a vote by the whole Assembly. The Commission is also held to account for the services it provides through scrutiny by Assembly Committees including Audit and Equality of Opportunity. The Assembly Commission remains accountable on matters of detail to the Assembly through correspondence and through oral questions. Commissioners respond to oral questions in full meetings of the Assembly. Members can also table questions for written answer. Papers and minutes of Commission meetings are published on our website and can be found [here](#).

13. What legal restrictions apply to the way in which the Commission acts?

The Government of Wales Act 2006 lays down a number of principles which the Commission must apply in carrying out its work, including equality of opportunity, the promotion of sustainable development and treating the Welsh and English languages on a basis of equality. However, it is also subject to the general legal duties which apply to all bodies as well as to some particular duties which apply to public authorities. These particular duties include the duty to comply with the Human Rights Act 1998 and with the Freedom of Information Act 2000.

14. What is the relationship between staff and the Commission?

One of the main functions of the Commission is to employ staff, whose function is to provide support both to the Commission itself and also, in accordance with the arrangements made by the Commission, to the Assembly. Part of the support they give to the Commission is to keep Commissioners informed of the various legal duties which they have to comply with and to advise them as to what they need to do in order to meet those duties.

15. What is the role of the Clerk of the Assembly?

The Clerk of the Assembly is also the Commission's Chief Executive and is the person answerable to the Commission for the effectiveness of the service which staff provide to the Commission and to the Assembly. The Clerk is also the principal accounting officer for the Commission.

16. What does the "principal accounting officer" do?

Since the Commission spends public money, it is subject to the system of accounting officers. The accounting officer has responsibility for ensuring that tax-payers' money is spent in accordance with the principles of "regularity" and "propriety", in other words in accordance with the law and with rules designed to ensure that it is spent appropriately and transparently.

17. What happens if a body such as the Commission appears to the accounting officer to be proposing to act in a way which is irregular or improper?

The accounting officer (in this case the Clerk) is the servant of the Commission and it is the Commission which decides what action to take and not the Clerk. However, the Clerk would be obliged, in such a case, to give formal advice to the Commission that the action was contrary to the principles of regularity or propriety and to ask the Commission to give a written direction to the Clerk to implement the decision in question. This would safeguard the Clerk from personal liability although the Clerk would still be required to bring the matter to the attention of the Auditor General for Wales.