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Eich Cyf:/Your ref:

20th September 2007

Ms Sarah Beasley
Deputy Committee Clerk
Legislation Office
National Assembly for Wales
Cardiff Bay
CF99 1NA

Consultation EPWM Committee

Dear Sarah

I wish to respond to the letter of Alun Ffred Jones AM, of July 2007, inviting evidence to be submitted on the Proposed Environmental Protection and Waste Management LCO. I write as the Chair of the Welsh Association of Chief Police Officers, and as such this response should be taken to represent the views of the whole police service in Wales.

Comment is invited on three questions in particular:

1. The terms of the proposed Order in my view do allow for implementation of the policy agenda on waste management and environmental protection. However while the wording of proposed Matter 6.2 "*Environmental protection, including*" is not ambiguous, further explanation may be thought by the Committee to be beneficial in order to generate certainty of intention. In our view the comma after the word protection allows a broad interpretation; others may differ.

Schedule 7 of the parent Act sets out, in effect, the current boundaries of the devolution settlement – those matters in which the Assembly would be competent if the Part IV powers had been activated. Subject 6 is headed 'Environment' and is specified, starting '*Environmental protection, including ...*'. Parliament has already stated in principle, therefore, that it is prepared to see responsibility for the environment transferred to the Assembly to the extent set out in Schedule 7 (and there are no 'exceptions' listed); this would closely mirror the existing situation in Scotland.

In the view of the police it would be very helpful to clarify that it is the Assembly's intention to seek legislative competence over the whole range of environmental protection, specifically including biodiversity (and not just over pollution, nuisance and hazardous substances) because the police in Wales have already identified a range of improvements to conservation and biodiversity legislation that would be of great assistance in the more rapid and effective achievement of the Assembly's Environmental Strategy. At present the police service experiences great difficulty getting Parliamentary time to improve legislation applicable to Wales on the conservation of biodiversity (despite a sympathetic ear from Defra); the result of this is that the law relating to the conservation of biodiversity is now significantly better in Scotland than it is in England and Wales – due entirely in our view to clever use of the legislative competence of the Scottish Parliament.

This can be dealt with either by amending the proposed Order to be more explicit (see answer to Q3, below), or by making the intended wide scope of Matter 6.2 very clear during proceedings of the Assembly process, in Committee or Plenary. I presume that an entirely unambiguous Order would be the better course of action constitutionally.

2. The exceptions listed are appropriate.
3. In our view the terms of the Order, while technically satisfactory, may be drafted too narrowly. A form of wording to make clear that all aspects of environmental protection are included, especially the protection and enhancement of biodiversity, and of natural habitats and species, would be preferable for the avoidance of later doubt. The purpose of any clarified or expanded wording would be to give the Assembly competence over the contents of, for instance, the Wildlife and the Countryside Act 1981 is in dire need of full review that it is unlikely to receive from Westminster, but which has already been delivered in Scotland.

Matter 6.2 might therefore be re-worded to say something like: “*All forms of environmental protection and enhancement, including ...* [wording here to make clear that the whole of Subject 6 of Schedule 7 is intended to be included, or if that is not acceptable, at least the words...”*nature conservation, protection of natural habitats, biodiversity.*”]

The police service in Wales has watched with dismay and envy the ability of the Scottish Parliament to act decisively in this field. Our mature and extremely close working relationship with the Countryside Council for Wales (better than anything seen elsewhere in the UK, including Scotland), should give the Assembly confidence that broader legislative competence in environmental protection would be fully exploited by the relevant agencies in pursuit of the policies of the Assembly and the Government of Wales. This is timely opportunity, and a change worth making in the interests of the future better governance of Wales.

I hope these comments are useful. I would be very keen to give further evidence to the Committee if requested, verbally or in writing. If I can assist in any way at all, please do not hesitate to contact me.

Yours sincerely



Richard Brunstrom
Chief Constable/Prif Gwnstabl