



October 2009

Dear Sir / Madam

Consultation on *The National Assembly for Wales (Legislative Competence) (Education) Order 2010*

1. As part of our legislative scrutiny, the National Assembly for Wales' Legislation Committee No.4 is calling for evidence on the [The National Assembly for Wales \(Legislative Competence\) \(Education\) Order 2010](#) relating to School Governance.

[What is a Legislative Competence Order?](#)

2. A Legislative Competence Order ("Order") is a 'subordinate' piece of legislation which transfers specific powers from the UK Parliament to the National Assembly.

3. In practice, this means that each new Order will add a new matter (or matters) into the relevant field in [Schedule 5 to the Government of Wales Act 2006](#), providing the National Assembly with the power to make Measures (laws) within the policy areas defined by the matter.

4. In the Assembly, there will be a two stage process for considering an Order, involving:

- i) the scrutiny of a proposed Order by a committee; and
- ii) the approval, by the Assembly, of a draft Order.

**What does this Legislative Competence Order seek to achieve?**

5. *The National Assembly for Wales (Legislative Competence) (Education) Order 2010* proposes enhancing the National Assembly's current legislative competence by inserting 3 new matters into Field 5 of Schedule 5 to the Government of Wales Act 2006:

- i) **Matter 5.2A (education and training):** Conduct and governance of schools maintained by local education authorities, including the allocation of functions, property, rights and liabilities relating to such schools.
- ii) **Matter 5.2B (education and training):** Securing collaboration between persons or bodies with functions relating to schools maintained by local education authorities.
- iii) **Matter 5.2C (education and training):** The following activities by persons or bodies with functions relating to schools maintained by local education authorities—
  - (a) establishment of bodies—
    - (i) to carry out activities relating to education and training, or
    - (ii) to exercise functions on behalf of local education authorities;
  - (b) involvement with bodies mentioned in paragraph (a).

6. The Explanatory Memorandum that accompanies the proposed Order states that:

“The evidence is that the effectiveness of governing bodies varies and the training available to governors is uneven, with weaknesses in consistency of approach, availability and take-up by governors.

This proposed LCO will provide the Assembly with competence in relation to school governance. The Assembly now has competence for much of the education law. School governance underpins and relates to how schools work and what they do. It is thus a core part of the law for education. Gaining competence for school governance and the other topics dealt with in this draft Order would therefore allow the Assembly to consider legislation including the potential consolidation of education law for Wales”.

#### What is the committee’s role?

7. The role of Legislation Committee No. 4 is to consider and report on the proposed Order (the first part of the two stage process outlined in paragraph 4 above). In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the general principles of the proposed Order and whether legislative competence in the area identified in Matters 5.2A, 5.2B and 5.2C be conferred on the Assembly; and
- ii) whether the terms of the proposed Order are too broadly or too narrowly defined.

## How you can help - the consultation questions

8. Further details of the proposed Order and the accompanying Explanatory Memorandum can be found on the National Assembly's website at:  
<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-legislative-competence-orders/bus-legislation-lco-sg.htm>
9. A statement about the proposed Order was made by the Minister for Children, Education, Lifelong Learning and Skills in Plenary on 20 October. A transcript of a debate on this statement can be found on the National Assembly's website at:  
<http://www.assemblywales.org/bus-home/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=148570&ds=10/2009#4>
10. The Committee would like to invite you to submit written evidence to assist in its scrutiny of the proposed Order. In particular, we would welcome your views on the questions listed in Annex 1.
11. If you wish to submit evidence, please send an electronic copy of your submission to [legislationoffice@wales.gsi.gov.uk](mailto:legislationoffice@wales.gsi.gov.uk) and entitle the e-mail *Consultation - Education Order*.
12. Alternatively, you can write to:  
Owain Roberts, Deputy Committee Clerk, Legislation Office, National Assembly for Wales, Cardiff Bay, CF99 1NA.
13. Submissions should arrive by Tuesday, 24 November 2009. It may not be possible to take into account responses received after this date.
14. Further information on the legislative process can be found at:  
<http://www.assemblywales.org/bus-home/bus-legislation/bus-legislation-guidance/bus-legislation-guidance-measures.htm>
15. When preparing your submission, please keep the following in mind:
  - your response should address the issues before the Committee. Please reference your response using the title applied above;
  - the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings;
  - **If you do not want your response or name published, it is important that you clearly specify this in your submission and your reasons for this.** However you should be aware that it may not be given the same weight by the Committee when considering the evidence. You should also be aware that the information you have provided in your response to this consultation, including company information, may be published or disclosed in accordance with the Freedom of Information Act 2000 (FOIA);

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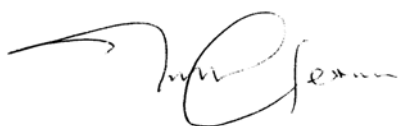
E-bost / E-mail: [legislationoffice@wales.gsi.gov.uk](mailto:legislationoffice@wales.gsi.gov.uk)

- please indicate whether you are responding on behalf of an organisation, or as an individual; and
- please indicate whether or not you would be prepared to give oral evidence to the Committee.

16. The Committee welcomes contributions in English and Welsh and will consider responses to the written consultation during the autumn term.

17. If you have any queries, please contact Gareth Williams, Committee Clerk on 029 2089 8008 or Owain Roberts, Deputy Clerk on 029 2089 8101.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Michael German', with a stylized flourish at the end.

**Michael German AM**  
**Committee Chair**

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*The National Assembly for Wales (Legislative Competence) (Education) Order 2009*

Consultation Questions

1. What are your views on the general principle that legislative competence in the areas identified in Matters 5.2A, 5.2B and 5.2C be conferred on the National Assembly?
2. What are your views on the terms of the proposed Order? For example, are they too narrowly or too broadly drawn?
3. Do you have any additional comments relating to the proposed Order?