

20/02/09

Consultation Response
SLC23 - Letter from Elfyn Llwyd



HOUSE OF COMMONS
LONDON SW1A 0AA

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Annwyl Janet

I thank you for your letter of the 28th January together with effectively the questionnaire on the current scrutiny of subordinate legislation and delegated powers.

I would respond to your numbered enquiries as follows:

(i) Discussions between Departments of State in Whitehall and their colleagues in Wales should begin at an early point, prior to the publication of the Government's draft legislative programme, so that opportunities for devolution of powers to the Welsh Assembly Government at a conveniently early point.

This would of course involve the Wales Office playing a more pro-active and greater roles in liaising with lead Departments in Whitehall to ensure that they are aware of the importance of working with the Welsh Assembly Government constructively and urgently, and also so that they are aware of the implication of devolution on the legislation being discussed.

The discussion should not just be concerned with whether similar powers in England and Wales should be created, but rather with alternative and creative ways in which devolution can be used to relate to and improve the lot of the people of Wales. This can only be achieved through the full involvement of Welsh Assembly Ministers in those discussions and the analyses, so that they can be given time to participate in the full legislative process and discuss and suggest legislation and possible transfer of powers that would be beneficial from a Welsh perspective.



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After the publication of the draft legislation programme, there should be regular meetings between members of both governments to ensure that power is transferred smoothly and in the intended fashion.

The early involvement of the Welsh Assembly Government in the process of legislation means that they can involve stakeholders in discussions and consultation before the legislation comes to the statute book and they can subsequently make prompt use of any additional powers.

Overall the process must be as transparent as possible at all times so as to avoid suspicion of backroom deals and to show that all avenues have been considered in the development of legislation relevant to Wales.

(ii) The Ministerial Statement written by the Secretary of State for Wales after this year's Queen's Speech led to confusion as there were retrospective changes made as to which Bills would impact upon Wales. It is of utmost importance for MPs and AMs to know as quickly as possible which Bills will impact upon Wales, and it is worrying that the Wales Office were unsure until the very last moment of which bills would be relevant.

It is important that full information of the effects of any changes made to legislation are made clear to MPs and AMs in as timely a manner as is possible. This would include the effects of all legislation, not just the effect of framework powers upon the Welsh Assembly Government's responsibilities.

A Wales Office or Welsh Assembly explanatory memorandum, written in co-ordination with the lead Department in Westminster, could give a fuller indication of expected changes and their effects, perhaps including any suggestions made by the relevant Welsh Assembly Government Minister as to how these powers will be utilised once created or transferred.

(iii) There is concern that Welsh interests are not fully represented in Public Bill Committees. However, the presence of one Welsh MP on the committee does not necessarily solve this, due to partisan interest or the unwillingness of the MP to consider issues on an all-Wales basis – after all, an interest in the Bill may well be a pre-condition to be willing to serve on the committee.

A Member of Parliament so appointed in this way should have prior All-Party agreement and a code of conduct or memorandum of understanding of the role which they should play in their scrutiny of the Bill.



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The implication of any Bills upon Wales should be raised by the Committee Chairman when discussing the Bill, whether or not any Welsh-based Members of Parliament are present or not.

(iv) Possible effects of Bills (and of any amendments) upon Wales should be flagged up by the relevant department or clerks and reported to the scrutiny committee in Cardiff, with the opportunity for members of the Public Bill Committee to meet with and discuss the Assembly scrutiny committee and report back on any concerns or issues that are raised.

(v) The House of Commons scrutiny committee for Department of Innovation Universities and Skills described consideration of the effect of the Draft Apprenticeships Bill on Wales as an “afterthought”. This is a serious and sad indictment of the position of Wales within the existing legislative process.

It is clear that there needs to be better quality dialogue between departments and Ministers in both Governments and this should begin at earlier point and be a regular occurrence.

I hope that the above will be of assistance to you in your deliberations.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Elfyn'.

ELFYN LLWYD
MP FOR MEIRIONNYDD NANT CONWY