

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Y Pwyllgor Craffu ar Waith y Prif Weinidog
Committee for the Scrutiny of the First Minister

Carwyn Jones AM
First Minister
Welsh Government

3 December 2012

Dear First Minister

Committee Meeting on 14 November 2012

On behalf of the Committee for the Scrutiny of the First Minister I should like to thank you and your officials for attending our first public meeting on 14 November and for what we considered to be a cooperative and constructive discussion.

Our conversation covered considerable ground in terms of strategic issues and also more specific points, which you agreed to consider further.

We have summarised those issues below, both as a record of the meeting and also so that we can monitor **the Welsh Government's** performance over time and follow up progress in the future. We should like you to respond to the points we have raised. Both our letter and your reply will be published on our website.

Bae Caerdydd
Cardiff Bay
CF99 1NA

Clerc/Clerk: Dr Siân Phipps, Ffôn /Tel: 029 2089 8582
E-bost /Email: FM.Scrutiny@wales.gov.uk

The Welsh Government's Legislative Programme (2011- 16)

Planning, coordination and timetabling of legislation

We welcome the interesting and candid paper that you provided for our scrutiny of your legislative programme.

We particularly welcome your comments during the meeting that it is **“exceptionally important** there is sufficient time to scrutinise legislation in order to ensure that the legislation is correct and robust”;¹ and that Stage 1 is **“an effective part of the scrutiny process”**.²

In your evidence to us you made two important commitments:

- a. To build sufficient flexibility into the legislative programme to cope with change and with new ideas for legislation that may emerge from outside the Welsh Government;³ and
- b. The capacity and capability of the civil service in Wales to deliver the legislative programme needs to be strengthened.⁴

In your response to this letter, we should like you to expand on these two points and suggest ways in which you expect progress to be achieved in this area.

Consultation and engagement

Your evidence paper acknowledged that the Welsh Government could have **done “more to engage with [stakeholders] at an earlier stage.”**⁵ We discussed this issue with you in some detail and you referred to the role of Green Papers, White Papers and Draft Bills in the consultation process. We particularly welcome your comment **that, “the intention is to ensure that there is as much opportunity as possible for members of the public to voice their views.”**⁶

¹ Record of Proceedings paragraph 12, 14 November 2012

² Record of Proceedings paragraph 20

³ Record of Proceedings paragraph 18

⁴ Welsh Government evidence paper paragraph 6

⁵ Evidence paper paragraph 10

⁶ Record of Proceedings paragraph 46

It would be helpful if you could provide us with further information on how the Government decides which consultation approach to take for each legislative proposal (e.g. a consultation document, Green Paper, White Paper or draft Bill).

We discussed how the Government weighed the evidence from its consultation processes; you agreed there was merit in differentiating between the views of individuals and organisations based in Wales and those outside Wales.⁷

When summarising consultation responses on proposed legislation, we should like you to consider making clear any difference between the views of individuals and organisations in Wales and opinions from outside Wales. That does not mean that the opinion of those outside Wales carries no weight, but it would enable the Government to give greater emphasis to what is said by those who will be most directly affected.

You also mentioned the role of Regulatory Impact Assessments in helping establish the costs of bringing forward and introducing legislation and that you were planning changes to the current process. We welcome your statements that the RIA will be as robust as possible; that it will not be seen as an optional extra; and that there needs to be as much faith as possible in the system.⁸

We should like you to explain how you think the Regulatory Impact Assessment system can be made more transparent. In particular, we should like to know how you propose working together with other stakeholders to achieve greater understanding over calculating the costs of implementing legislation; and how any discrepancies between **the Government's and other stakeholders'** calculations will be investigated.

Discussions with the UK Government

In response to our questioning you told us that the relationship between the Welsh Government and individual Whitehall departments “varies greatly” **and** that UK departments that deal with areas that are not devolved to Wales tend

⁷ Record of Proceedings paragraph 44

⁸ Record of Proceedings paragraph 52

to be far less effective in working with the Welsh Government than the departments that are used to dealing with devolved administrations.

We asked whether recent experiences with the Local Government Byelaws (Wales) Bill and its referral to the UK Supreme Court called into question the nature of the conferred powers model set out in Schedule 7 of the Government of Wales Act 2006. You agreed that the model contains contradictions, is not sustainable in the long term, and that you hoped that part 2 of the Silk commission will look at this in more detail.

We particularly welcome your comments that:

“It is in the interest not just of Wales and the Welsh Government but also the UK Government to have as much clarity as possible in the devolution settlement. No-one wants to spend time in the Supreme Court and no-one wants to spend time debating what the limits of the settlement are. At the end of the day, clarity means that both administrations are able to carry on in a far more coherent way.”⁹

We should like you to outline what steps the Welsh Government will take to resolve at an early stage any issues with the UK Government regarding the **Assembly’s** competence over Bills, and how the Government proposes to achieve greater clarity in the longer term.

Review and consolidation of Welsh law

You explained to us the Counsel General’s work in considering how to consolidate or simplify Welsh law and create a statute book for Wales. You said that there was no particular timescale for this work but you expected it to be done as soon as possible.¹⁰

Consolidating and simplifying the law for Wales is an important task. Two of the Bills already introduced by the Welsh Government are already seeking to consolidate existing law as it affects Wales. We should therefore like to see a specific timescale for the Counsel **General’s work.**

⁹ Record of Proceedings paragraph 80

¹⁰ Record of Proceedings paragraph 96

Post-legislative issues and implementation

We spent some time discussing the scrutiny of regulations and subordinate legislation. We accept your argument that it is necessary to have sufficient flexibility to amend regulations swiftly if necessary. You agreed with us, however, that it was a good idea for the Government to consider making regulations and Bills concurrently where possible.¹¹

We should like you to take forward the suggestion that wherever possible committees are able to scrutinise Bills and any accompanying regulations at the same time.

¹¹ Record of Proceedings paragraph 90

The Welsh Government's approach to promoting enterprise

Entrepreneurship in Wales

It was opportune that on the same day we were discussing with you the **Welsh Government's approach to promoting enterprise, the Wales** entrepreneurship conference was being held in City Hall, Cardiff.

You neatly summed up the issues surrounding enterprise when you told us that:

"I do not think that there is a lack of entrepreneurial talent in Wales, but people lack the confidence to start their own businesses."¹²

You expressed an interest¹³ in the idea of schools being encouraged to create social enterprises as a way of promoting an entrepreneurial culture among young people in Wales. We should be grateful if you could ask your Ministers to respond to this suggestion.

Social enterprises

We were encouraged by your statement that the social enterprise sector is of **"immense importance"**.¹⁴ We were also interested in your comment that you believe **that credit unions have "great scope to grow"**.¹⁵

Given your vision for the future potential of credit unions in promoting a more mutualised society in Wales, we should be grateful if you could provide us with a note on this.

You were also very interested in the idea of **social** enterprise zones,¹⁶ not necessarily geographical zones, but for growing certain sectors. For example, a social care enterprise zone could aim to overcome the impediments that exist to businesses operating in that particular sector.

We should like to see the Welsh Cooperative and Mutuals Commission being tasked with taking forward the concept of social enterprise zones.

¹² Record of Proceedings paragraph 111

¹³ Record of Proceedings paragraph 120

¹⁴ Record of Proceedings paragraph 143

¹⁵ Record of Proceedings paragraph 147

¹⁶ Record of Proceedings paragraph 153

Business support and creation

We discussed in some depth with you the role that the Welsh Government should have in creating the conditions that enable businesses to flourish. We were struck by your comment that:

“One area that could be fruitful for us in the future is to help our universities to encourage more spin-off businesses to be created around them. We have seen the model work in the US and we have seen it work in Cambridge. There is no reason why it cannot work for Welsh universities and we are seeing signs of that now.”¹⁷

Yet you also stated that, “our universities are not successful in bidding for the correct level of research funding that they should get, bearing in mind our population, and that must change.”¹⁸

Your evidence paper referred to the important role of the Welsh **Government’s science strategy** in enhancing the science and innovation base in Wales. We are also interested in the contribution of the arts, humanities **and social sciences to Wales’s wider development and the opportunities for** young people training in those disciplines to become entrepreneurs.

You said¹⁹ that you would be willing to consider a research strategy to **promote “non-science” areas of research and knowledge that create** jobs, Culture being one of them. We would welcome your further thoughts on taking this idea forward.

¹⁷ Record of Proceedings paragraph 163

¹⁸ Record of Proceedings paragraph 195

¹⁹ Record of Proceedings paragraph 199

In conclusion, we are grateful again for what was a very productive session on important strategic matters. We look forward to receiving your response to the points we have raised, and we shall write to you in due course regarding our next exchange in the spring term.

Yours sincerely

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

David Melding AM
Chair, Committee for the Scrutiny of the First Minister