

Rt Hon Elin Jones MS

Y Llywydd and Chair of the Business Committee

16 July 2024

Dear Elin,

The legislative consent process

Thank you for your letter of 24 June in reply to my letter of 5 June in respect of the legislative consent process, which we considered at our meetings of 1 July, 8 July and 16 July 2024.

We are grateful to you for acknowledging that the issues raised in our recommendations in respect of legislative consent memoranda highlight a potential need for a full review of the legislative consent process and Standing Order 29.

We agree with your view that there will be a need to engage with a range of stakeholders both inside of and external to the Senedd as part of such a review. We also note your belief that the Legislation, Justice and Constitution Committee would be well placed to undertake this work, subject to it having the capacity to do so.

However, after careful consideration, we respectfully do not believe that this Committee would be best placed to undertake this work. There are a number of factors that have contributed to us reaching this view.

As you state in your letter, the Business Committee would continue to have the role of considering and taking forward any changes to Standing Orders as a result of this work, in accordance with its role and previous precedent.



With this in mind, we believe that recommendations for change made by the Business Committee, or preferably by a separate Committee with responsibility for considering matters relating to the practice and procedure of the Senedd, would command more authority than recommendations made by this Committee. We believe that a procedure committee, similar to the procedures committees of the Houses of Parliament, and the Standards, Procedures and Public Appointments Committee of the Scottish Parliament, would have both the capacity and the authority to make evidence-based recommendations for reform to the practice and procedure of the Senedd. While we recognise that the Business Committee decided in July 2021 not to include procedures within the remit of another committee, we believe there would be merit in reconsidering this position as undertaking a full procedural review now would complement other work to prepare for the Seventh Senedd as a consequence of Senedd reform.

In reaching this view, we are also mindful that our predecessor Committee was not successful in persuading the Business Committee to take forward proposed changes to Standing Orders on significant matters, for example, in relation to scrutiny procedures for section 116C Orders in Council and consolidation bills. We have also not been able to persuade the Welsh Government to accept recommendations which could lead to revisions being made to Standing Orders. Most recently, the Welsh Government did not appear to endorse recommendations 1, 6 and 8 of our report on the Welsh Government's Legislative Consent Memorandum on the Renters (Reform) Bill, which could have led to some of the changes we would like to see. This is relevant given that the Business Committee operates by means of weighted voting, and so the Trefnydd can exercise a significant influence in the Committee's decision-making. We feel therefore that our time would be more productive holding the Welsh Government to account for its actions on matters within our remit.

In addition, while we have taken a strong interest in how legislative consent memoranda should be scrutinised, we are not the only committee with experience of the legislative consent process. Again, we believe that the Business Committee or a procedure committee would be better placed to coordinate the range of views expressed following a consultation, to which the Legislation, Justice and Constitution Committee would likely respond.

Furthermore, you will also no doubt be aware of the broadness of our remit as a Committee, which includes our role in considering all subordinate legislation, Bills and legislative consent memoranda laid before Senedd. You will appreciate that our ability to conduct work on our own initiative is therefore already limited, and therefore conducting a comprehensive review of the legislative consent process in the Senedd will very likely limit it further still. In addition, while the anticipated timeframe for the completion of this review is unclear, we are also mindful of the possibility that this Committee will be the responsible committee for the scrutiny of a number of bills on the Welsh Government's recently announced Legislative Programme. For these reasons, we believe that our capacity to undertake a timely review – so that any changes can be implemented ahead of the seventh Senedd – is likely to be restricted.

We are of course grateful to you for seeking our view on this matter, and would be very grateful to be consulted again in the future as your consideration continues.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges

Chair

