

David Melding AM  
Chair  
Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Your ref:  
Our ref: PO/RB/CD

15 January 2016

Dear David

Thank you for your letter of 16 October 2015 regarding your Making Laws in Wales Report.

The Business Committee has now had an opportunity to consider the recommendations relevant to its remit, and our response is found at Annex A.

Yours sincerely



**Dame Rosemary Butler AM  
Presiding Officer  
Chair, Business Committee**

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**Croesewir gohebiaeth yn y Gymraeg neu Saesneg/We welcome correspondence in Welsh or English**

**Business Committee Response to the Constitutional and Legislative Affairs Committee Report ‘Making Laws in Wales’**

**1. Explanatory Memoranda**

**Recommendation 4.** *We recommend that the Business Committee should prepare proposals to amend Standing Order 26.6 to require Explanatory Memoranda to:*

- (i) state whether a Bill was published as a draft in full or in part, and if in part, which parts;*
- (ii) a detailed synopsis of how a Bill introduced has been amended from a draft Bill, and the reasons for any changes adopted;*
- (iii) the reasons, if relevant, for not publishing a Bill in draft.*

**Recommendation 19.** *We recommend that the Business Committee reviews the requirements of Standing Order 26.6 before the Fifth Assembly and in particular considers:*

- (i) including a requirement that the Member in charge signposts where precisely in the Explanatory Memorandum the Standing Order requirements can be found (for example, by means of an appropriate index);*
- (ii) the suggestions made by the Auditor General for Wales about how Standing Order 26.6(vi) could be improved to provide clearer financial information;*
- (iii) including a requirement that the Member in charge of a Bill explains how they have taken account of the human rights convention in preparing the Bill;*
- (iv) including a requirement that the Member in charge of a Bill provides a table of derivations.*

**Recommendation 20.** *We recommend that the Business Committee prepares proposals to amend the Assembly’s Standing Orders to require Keeling Schedules to accompany a Bill on introduction (where it proposes to amend existing primary legislation).*

Business Committee Response: The Business Committee welcomes these recommendations and intends to give further consideration to their effect. The Committee has asked the secretariat to bring forward detailed proposals for consideration early in 2016, at which point the Committee will decide whether or not proposals for change should be put before the Assembly.

## 2. By-passing Stage 1

***Recommendation 26.*** *We recommend that the Business Committee reviews the adequacy of the procedure that permits the by-passing of Stage 1 scrutiny and the procedure that allows the use of Welsh Government Emergency Bills. In particular it should consider:*

*(i) a requirement for the Business Committee to publish the reasons for its decision under Standing Order 26.9 to permit a Bill to bypass Stage 1 scrutiny in committee, within 2 working days of making that decision;*

*(ii) a requirement that, in tabling a motion proposing that a government Bill be treated as a government Emergency Bill under Standing Order 26.95, the Member in charge must lay a statement explaining why it should be treated as such and the costs and other consequences of not doing so.*

Business Committee Response: The Business Committee welcomes this recommendation and intends to give further consideration to its effect. The Committee has asked the secretariat to bring forward detailed proposals for consideration early in 2016, at which point the Committee will decide whether or not proposals for change should be put before the Assembly.

## 3. Length of Stage 1

***Recommendation 21:*** *We recommend that the Business Committee, following an appropriate period of time in the Fifth Assembly, reviews the need for a minimum period to be included in Standing Orders for the scrutiny of Bills at Stage 1.*

Business Committee Response: The Business Committee will recommend to its successor committee, via its Legacy Report, that it conducts such a review during the 5<sup>th</sup> Assembly.

#### 4. Report Stage

*Recommendation 22.* Given that the Assembly is a unicameral legislature, we recommend that the Business Committee prepares proposals to amend the Assembly's Standing Orders to provide a compulsory Report Stage for the scrutiny of every Bill, unless the Assembly, by resolution on a two-thirds majority, decides otherwise.

Business Committee Response: The Business Committee welcomes this recommendation and intends to give further consideration to its effect. The Committee has asked the secretariat to bring forward detailed proposals for consideration early in 2016, at which point the Committee will decide whether or not proposals for change should be put before the Assembly.

#### 5. Purpose and Effect of Amendments

*Recommendation 24:* We recommend that further work is undertaken by the Business Committee to inform consideration of amending Standing Orders to require that all amendments tabled to a Bill (including Welsh Government amendments) are accompanied by text that explains their purpose and effect.

Business Committee Response: The Business Committee welcomes this recommendation and intends to give further consideration to its effect. The Committee has asked the secretariat to bring forward detailed proposals for consideration early in 2016, at which point the Committee will decide whether or not proposals for change should be put before the Assembly.

#### 6. Consolidation and Law Commission Bills

*Recommendation 4.* We recommend that the Business Committee commits to preparing a Standing Order on consolidation Bills, ideally in time for the Fifth Assembly. The aim of the Standing Order should be to provide expedited passage for Bills which are certified by Legislative Counsel as not involving any substantive change of law.

*Recommendation 5.* We recommend that the Business Committee explores the scope for a simplified procedure for law reform Bills implementing Law Commission reports.

Business Committee Response: When the Business Committee considered its programme for reviewing Standing Orders in May 2013, it agreed to introduce a procedure for the consideration of Consolidation Bills, along with procedures for Private and Hybrid Bills.

The Secretariat has drawn up a draft procedure which has been shared with Government officials for comments. However, in the meantime the Welsh Government has commissioned the Law Commission to carry out an advisory project on The Form and Accessibility of the Law Applicable to Wales. The project will be looking at Assembly processes and procedures as part of its work, and as a result, it would seem sensible to await the project's findings before any Assembly procedure for considering Consolidation Bills is drawn up.

The Business Committee therefore agrees to this recommendation in principle, and will recommend that the 5<sup>th</sup> Assembly's Business Committee should consider Consolidation and Law Commission Bills as soon as possible after the Law Commission has reported.

## 7. Member Bills

*Recommendation 30: We recommend that the Business Committee reviews the process for Member Bills taking account of the evidence we have received from Assembly Members and their suggestions for improving the process.*

Business Committee Response: The Business Committee will recommend to its successor committee, via its Legacy Report, that this recommendation be taken forward in the 5th Assembly.

## 8. Committee Structure

*Recommendation 31: We recommend that the Business Committee in considering the committee structure to be adopted in the Fifth Assembly should:*

- *consider a range of options identifying the pros and cons of each;*
- *take account of the practical experiences of Assembly committees;*
- *publish a report of its deliberations including its final recommendation.*

Business Committee Response: The Business Committee will recommend to its successor committee, via its Legacy Report, that this recommendation be taken forward in the 5th Assembly.