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Inquiry into scrutiny of subordinate legislation and delegated powers

Thank you for your letter of 18 December, seeking clarification following my written evidence to your Committee's inquiry into the scrutiny of subordinate legislation and delegated powers.

I am happy to provide further written evidence to your Committee as part of your inquiry, focusing on the handling of Parliamentary Bills and liaison between the UK Government and Welsh Assembly Government.

As I mentioned previously, UK legislation remains vitally important for Wales. That is why, as the Secretary of State for Wales, I will continue to work with colleagues in the Welsh Assembly Government to ensure that there are provisions within UK Bills that reflect the needs of the people of Wales.

I am copying this letter to Carwyn Jones AM for information.

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I shall address in turn each of the issues raised:

Devolving powers to the National Assembly for Wales and Welsh Ministers

i) Are you able to explain why the National Assembly is not required to give its consent to provisions that add to the legislative competence of the Assembly nor where Bills contain provisions that affect the functions of Welsh Ministers?

ii) Your evidence refers to Devolution Guidance Note 9 (DGN 9). This states that Departments should approach the Welsh Assembly Government to gain the consent of the National Assembly for Wales 'when appropriate' (paragraph 7 DGN 9)

iii) Are there any circumstances apart from when Standing Order 26 applies when it would be appropriate for the Welsh Assembly Government to gain the consent of the Assembly?

- The position was clearly set out in the Government of Wales Act 2006 and agreed by Parliament.
- The National Assembly's Standing Orders and DGN 9 are designed to operate within the framework established by the Government of Wales Act 2006. You refer to paragraph 7 of DGN9 – paragraph 17 sets out more fully the appropriate consent requirements. We believe that this reflects the appropriate balance between Welsh Ministers and the Assembly in terms of the agreements required. The Welsh Assembly Government and its Ministers are of course accountable to the National Assembly as regarding how they have handled those agreements and the decisions reached.

UK Legislative Programme

iv) What steps do you as Secretary of State for Wales take to ensure that the views from Wales are taken into account by the UK Government following the consultation, in particular in relation to potential changes to the legislative or executive competence in Wales?

- My officials provide me with a summary of responses sent to me direct from the people of Wales on the draft consultation on the UK legislative programme. Such responses are then fed into the overall summary made by the Leader of the House of Commons, which is then published. I also represent the interests of Wales within the UK Government, including at Cabinet and Cabinet committee meetings and in bilateral exchanges with my Cabinet colleagues. My membership of Legislation Committee is particularly significant in this regard as that is the Committee that oversees the Government's legislative programme.
- In addition to the influence we bring to bear at Ministerial level, my officials work closely with UK Government colleagues and the Welsh Assembly Government to facilitate discussions and ensure that Welsh interests and views are fully taken into account as Bills develop.

v) When and how is the Welsh Assembly Government consulted on the draft legislative programme?

vi) How are the views of the Welsh Assembly Government represented to the UK Government?

- Paragraph 4 of DGN9 makes clear that we expect the Welsh Assembly Government to be consulted from an early stage on the development of relevant legislative proposals. Following the publication of the UK draft legislative programme, the Wales Office continues to work with colleagues in the Welsh Assembly Government in facilitating discussions on proposed Bills of interest. In terms of formal contacts, I write to the First Minister to invite bids for “Wales only” Bills. The Leader of the House of Commons also writes to the First Minister informing him of the draft legislative programme on publication.
- Many of the early discussions take place between officials as the implications for Wales are considered. There will then often be exchanges at Ministerial level to agree provisions for Wales. These arise before, during and after publication of the draft programme.

vii) Do you think it would be appropriate for you to seek the views of the National Assembly at the draft programme stage?

- The UK Government welcomes comments from all interested parties and the National Assembly is free to provide comments either directly to the Leader of the House of Commons or to myself.

viii) Do you have any views on how this might be addressed, and whether it would be the responsibility of the UK Government or the Welsh Assembly Government to flesh out the details contained in the legislative programme?

- Following the Queen’s Speech, I make a Written Ministerial Statement to Parliament setting out which Bills in the programme contain or are likely to contain Welsh provisions. I also have a statutory duty {Section 33 of GOWA 06} to consult the National Assembly on the UK Government’s legislative programme. It is often difficult to give detailed information until the relevant Bill is published, particularly at the time of the publication of the draft programme as many proposals are still in development or under discussion.

Information sharing

ix) Do you have any views on how this gap in information might be addressed, and whether it would be the responsibility of the UK Government or the Welsh Assembly Government to provide further information on how Welsh Ministers may use the powers devolved to them in UK Bills?

- Where appropriate a table is drawn in the explanatory notes to each Bill setting out where there is substantial devolved executive or legislative competence. We are encouraging the use of such tables in order to improve understanding of how individual Bills will impact on Wales. How powers devolved to Welsh Ministers might be used is a matter for Welsh Ministers.

Liaison between the Welsh Assembly Government and the UK Government in relation to UK Bills

x) How does the Wales Office monitor whether UK Government Departments are adhering to Devolution Guidance Note 9 ?

- The Wales Office has a team responsible for the Legislation and Programme Management of UK Bills. Part of the remit of this team is to have regular meetings with the Legislation Secretariat within the Cabinet Office and Bill Managers both in Whitehall and the Welsh Assembly Government. Compliance with DGN9 is assessed through these meetings. The team also provides general guidance and delivers presentations for UK departments on the handling of Bills which affect the responsibilities of the Welsh Ministers or the National Assembly for Wales.