

**Constitutional Affairs Committee**  
**Y Pwyllgor Materion Cyfansoddiadol**



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

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John Griffiths AM  
Counsel General & Leader of the  
Legislative Programme  
Welsh Government  
Tŷ Hywel  
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Dear John,

We met on 7 July to discuss your review of the Welsh Government's Legislative processes and procedures. I thought it might be helpful if I summarised some of the main issues that the Constitutional Affairs Committee has been concerned about, some of which we covered at our meeting. This is not an exhaustive list of issues nor is it in any particular order of priority.

#### **Forward Work Programme for Subordinate Legislation**

The Committee is completely demand led in relation to scrutiny of subordinate legislation. Recognising that any forward look would not be 100% accurate, it would still be helpful, particularly to the Committee's advisers, to have some early indication of when SIs are likely to arrive. This would allow the Committee to plan its workload and agendas more effectively, particularly when it is also considering business other than subordinate legislation.

#### **Draft Statutory Instruments**

The Committee would like to be notified of consultations on draft Statutory Instruments. You helpfully indicated at our meeting that you did not see why the Committee could not in future be notified proactively on such consultations. This would help the Committee and its advisers get a better and earlier understanding of SIs and could also help avoid the Committee reporting adversely later.

#### **Legislative Consent (Sewel) Motions**

I am sure you will agree that there is currently only the most cursory scrutiny of Legislative Consent Motions (LCMs) in Plenary. You outlined some of the timing difficulties that the Welsh Government can face in considering LCMs. Nevertheless, the Standing Orders of the Scottish Parliament require Committee consideration of LCMs prior to consideration by the Parliament as a whole. In the light of this it is difficult to understand why similar provisions could not be made for Committee scrutiny in the Assembly.

### **Westminster Bills**

There is currently a real scrutiny gap for Westminster Bills that confer powers on Welsh Ministers or the Assembly. Very often these Bills confer substantial powers without any scrutiny, or often even any discussion, in the Assembly. It would be very helpful if you could consider mechanisms that ensure, as far as practicably possible, that legislation that affects the Assembly is actually scrutinised in the Assembly.

### **The UK Government's Legislative Programme**

We intend shortly to invite the Secretary of State for Wales to attend a meeting of the Committee to answer questions on how the UK Government's Legislative Programme will impact on Wales and the Assembly. It would also be helpful to know whether the Welsh Government has any plans for a more proactive approach to providing Committees with information on how it is engaging with Whitehall on legislative priorities.

### **Explanatory Memoranda (for SIs).**

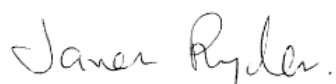
These are (at best) variable in quality and content. The Committee will be looking to draw up guidance for Government officials on the information that the Committee needs in Explanatory Memoranda (EM) to help it consider items of subordinate legislation. I was grateful for your assurance that, when we have finalised our guidance, you will ensure that Welsh Government officials involved in preparing EMs will take the Committee's guidance into account. In the meanwhile, it would be helpful, if officials could be reminded that EMs should, as far as possible, try to explain rather than confuse and should be written in plain English or Welsh where at all possible.

### **Review of Standing Orders**

Finally, as you will be aware, the Business Committee is consulting on a review of Standing Orders for the fourth Assembly. The Committee will be giving its views on the review to the Business Committee in due course. This is likely to include suggestions for changes to Standing Orders that take account of anomalies that we have identified in our review of scrutiny of subordinate legislation as well as other suggestions for change. I will ensure that you receive a copy of our response to the Business Committee when it is available.

I am copying this to other Members of the Constitutional Affairs Committee and to the Presiding Officer, as Chair of the Business Committee, for information.

Yours sincerely,



**Janet Ryder AM**

Chair, Subordinate Legislation Committee