

**Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee**

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales

Jane Hutt AM
Minister for Finance and Leader of the
5th Floor
Tŷ Hywel
Cardiff Bay
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24 October 2012

Dear Jane

**Public Service Pensions Bill: Legislative Consent Memorandum –
Invitation to give evidence to the Constitutional and Legislative Affairs
Committee**

The Constitutional and Legislative Affairs Committee considered the Legislative Consent Memorandum for the Public Service Pensions Bill at its meeting on 22 October 2012.

The Committee noted that the Memorandum made no mention of the provisions in the Bill that refer to the powers of Welsh Ministers in relation to the fire and rescue services, nor to those that affect the pension arrangements of members of the Welsh Language Tribunal.

The latter was of particular concern as the Committee's attention was drawn to the contrast between Schedules 5 and 7 to the Government of Wales Act 2006. Schedule 7 contains a specific exception under 'Economic development' for 'Occupational and personal pension schemes', to which the only carve-outs are for Assembly members, the First Minister, Welsh Ministers, the Counsel General or deputy Welsh Ministers and schemes for or in respect of members of local authorities. These are the schemes referred to in your LCM.

Schedule 5, on the other hand, contained no such exception, so that the Assembly was able to legislate for pensions for members of the Welsh Language Tribunal as a matter incidental to its competence to promote and facilitate the use of the Welsh language.

Section 16 of the Bill, and Schedule 5 to it, appear to have the effect of preventing the Welsh Ministers from making the arrangements approved by the Assembly in paragraph 6 of Schedule 11 to the Welsh Language Measure.

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The exception that appears in Schedule 7 to the Government of Wales Act 2006 will prevent the Assembly legislating to make alternative arrangements, whether consistently with the Pensions Bill or otherwise.

Furthermore, Matter 12.16 in Schedule 5 to the 2006 Act gave the Assembly legislative competence not merely in relation to members of local authorities, but also of National park authorities and fire and rescue authorities. This competence too appears to have been lost in the transition from Part 3 to Part 4 of the 2006 Act.

Members of the Committee are therefore likely to wish to explore with you

- why these matters were not referred to in the LCM;
- what arrangements are now proposed for the pensions of members of the Welsh Language Tribunal;
- whether it was intended that the Assembly should have a more limited competence under Schedule 7 than under Schedule 5, and if so, why;
- if not, what is being done to seek to restore that competence, and whether the present Bill provides an opportunity to do so.

In addition, the Bill also includes provisions that may affect the Remuneration Board's ability to revise or remake the Assembly Members' pension scheme in future, or at least affect the Board's thinking. As you are aware, the Board is currently consulting on issues and options prior to a full review of Assembly Members' pension arrangements. The Committee may, therefore, also wish to take your mind on the potential impact on the work of the Board and whether the Assembly Commission should have the opportunity to take a view formally on the Memorandum before it is considered in Plenary.

It may be that these are all matters that could be cleared up in correspondence. However, given the relative lack of time for these points to be clarified before the Committee is required to report to the Assembly, it would be helpful if you could attend the Committee's meeting on Monday 5 November 2012 at 2:30pm to discuss the matters set out above. I do not envisage the Committee requiring more than 30 minutes of your time on this occasion.

I would be grateful if your officials could liaise with the Deputy Clerk of the Committee Olga Lewis (tel: 02920 898154) with regards to the practical arrangements.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Melding', with a long horizontal flourish extending to the right.

David Melding AM
Chair