

# **Enterprise and Learning Committee**

## **Welsh Assembly Government**

Review of the Handling of the Proposed (Highways And Transport) Legislative Competence Order.

### **Introduction**

1. This Paper presents evidence to the Enterprise and Learning Committee for its review into the handling of the Proposed (Highways and Transport) Legislative Competence Order (LCO), as proposed by the Enterprise and Learning Committee.
2. This paper sets out the history and actions that have been undertaken in order to deliver the Legislative Competence Order.

### **Background**

3. The call for legislative competence in this area originated from a petition submitted to the Petitions Committee of the National Assembly of Wales by Sustrans, the sustainable transport charity. Sustrans submitted the proposal on behalf of a range of organisations who, for a range of environmental, health, recreational and economic reasons, wanted to see a network of cycling and walking routes created and maintained by highway authorities across Wales.
4. The Petition was referred to the Assembly's Enterprise and Learning Committee who, on the basis of its consultation with stakeholders and its scrutiny of witnesses, concluded that sufficient powers were not coherently in place to enable a network of routes to be developed or managed. The current framework of powers does not ensure the provision of networks of routes that cross local authority boundaries.
5. The Enterprise and Learning Committee laid a proposed Legislative Competence Order before the Assembly on 4 June 2009. The proposed Order sought to extend the legislative competence of the Assembly to include the provision by highway authorities of routes, principally for pedestrians and cyclists.
6. The proposed Order will enable the Assembly to consider legislation that could vary the powers and duties of public highway authorities in relation to the provision of routes for use solely or principally by any one or more of the following: pedestrians; cyclists; persons on horseback or leading a horse. This will enable the Assembly to legislate in these areas. Currently the Welsh Ministers have extensive executive functions in relation to highways and transport but the Assembly has no corresponding legislative competence.
7. Conferring this competence on the Assembly would allow it to consider the most appropriate legislative framework for Wales. It would enable Assembly

Committees, Assembly Members or the Welsh Assembly Government to propose legislation that could:

- enable the current legislative framework to be consolidated and clarified in one national network;
- develop clear and transparent lines of responsibility towards the provision and maintenance of walking, cycling and horse riding routes by highway authorities;
- propose guidance on the management of shared use paths to ensure the requirements of vulnerable users are taken into account;
- impose a duty on highway authorities to cooperate across administrative boundaries to develop and maintain walking, cycling and horse riding routes;
- propose national standards of design, construction and maintenance.

8. This is the first Legislative Competence Order to be proposed by an Assembly Committee and also the first to come directly from the Assembly's petitions process. The Welsh Assembly Government agreed to support this proposed LCO and to facilitate its progress through the Parliamentary process.

### **Taking the LCO Forward**

9. Work began on taking forward the proposed LCO in April 2010.
10. A joint working group consisting of officials from the National Assembly for Wales and the Welsh Assembly Government have worked closely together in order to progress this work. Lawyers and officials from both organisations worked closely together to further develop the proposed Order and accompanying Explanatory Memorandum. Agreement was reached on the content of the LCO with counterparts across the Welsh Assembly Government with an interest in the LCO.
11. I subsequently wrote, in July 2010, to the Secretary of State for Transport and the Secretary of State for Wales, informing them of our intention to seek to extend the competence of the National Assembly for Wales. I also wrote to the Chair of the Enterprise and Learning Committee to inform him that I had written to the UK Government. My officials then initiated a process of discussion with colleagues in a number of Whitehall departments and the Wales Office on the policy and legal position.
12. In-depth discussions have been held with regard to the content of the proposed LCO and the Explanatory Memorandum in the intervening months, and the documents were amended as a result. In December last year the documentation was finally agreed by officials from all Government Departments.
13. I am pleased to inform you that the proposed LCO and Explanatory Memorandum have been referred to the Wales Office for approval by the UK Government.

## **Next steps**

14. Subject to the agreement of the UK Government the LCO will be laid before Parliament for Pre-Legislative Scrutiny by the Welsh Affairs Committee and the Lords Constitution Committee. Once the UK Cabinet has agreed the proposed LCO I will write to the Chair of the Enterprise and Learning Committee enclosing a copy of the proposed LCO which will then be presented to Parliament. The Welsh Affairs Committee has recently commenced pre-legislative scrutiny of the proposed Organ and Tissue Donation LCO. We would hope that there will be sufficient time for the Welsh Affairs Committee to scrutinise both LCOs before the dissolution of this Assembly to enable them both to receive formal approval by the National Assembly for Wales prior to dissolution.

**Ieuan Wyn Jones AM**

**Deputy First Minister and Minister for the Economy and Transport**

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