

Jocelyn Davies AC/AM
Y Dirprwy Weinidog dros Dai
Deputy Minister for Housing



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Our ref: LF/JAD/006/08

Leanne Wood AM
Chair
Proposed Affordable Housing LCO Committee
Cardiff Bay
Cardiff
CF99 1NA

4 March 2008

Dear Leanne,

Thank you for the further opportunity of presenting evidence to the Committee on the Affordable Housing LCO on 26 February.

At its meeting on 26 February, the Committee asked about the position if the Westminster Government proposed to legislate to narrow one of the Assembly's competences and I undertook to write to clarify the position.

The Government of Wales Act 2006 did not affect the UK Parliament's sovereignty and power to legislate for Wales on all issues. However, in accordance with established principle, the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature.

It was therefore considered appropriate to develop a convention in relation to the Assembly where a UK Parliament Bill proposed to make certain provision in respect of the Assembly's legislative competence under GOWA 2006. Whilst this convention is not enshrined in legislation, it is incorporated into the Memorandum of Understanding between the UK Government and the devolved administrations¹ and is the subject of extensive guidance, notably the UK Government's Devolution Guidance Notes.

In accordance with paragraph 17 of Devolution Guidance Note 9 (a copy of which is published on the Ministry of Justice's website, along with the Memorandum of Understanding referred to above) if any provision of a UK Parliamentary Bill is either on matters within the legislative competence of the Assembly or would have a negative effect on that competence (including removal of some aspect of the Assembly's legislative competence or modification of the legislative competence in a way that is considered to be

negative), the Welsh Ministers will need to obtain the consent of the Assembly. This is reflected in the Assembly's Standing Order 26. A Legislative Consent memorandum must be laid before the Assembly no later than 2 weeks after the Bill has been introduced into the

¹ See, for example, paragraph 13 of the "Memorandum of Understanding and Supplementary Agreements" which was presented to Parliament by the, then, Deputy Prime Minister by Command of Her Majesty in December 2001.

first House of Parliament. A legislative consent memorandum must summarise the policy objectives of the Bill, specify the extent to which the Bill makes (or would make) relevant provision (i.e. provision in relation to Wales) and explain whether it is considered appropriate for that provision to be made and for it to be made by means of the Bill.

When a legislative consent memorandum is laid, the Assembly Government must at the same time table a legislative consent motion which must seek the Assembly's agreement to the inclusion of the relevant provision(s) in the Bill. The Assembly must consider a legislative consent motion which has been tabled.

In the event that consent is refused, the UK Government would, subject to collective agreement being secured, table an appropriate amendment removing the relevant provisions.

This requirement for consent similarly applies to any Government amendments to Bills that would make provision on matters within the Assembly's legislative competence or would have a negative effect on that competence..

I hope that this clarifies the position and if you have any further queries, please let me know.

Yours Sincerely

A handwritten signature in blue ink that reads "Jocelyn Davies". The signature is written in a cursive, flowing style.

Jocelyn Davies AM