

David Melding AM
Chair
Constitutional & Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

11 November 2015

Draft Wales Bill

Dear David

I am writing with the Public Accounts Committee observations on the Draft Wales Bill which was considered at Committee on 3 November.

Whilst Members welcome a change from a conferred powers model of devolution to a reserved powers model, we are concerned that the legislative arrangements set out in the draft Bill would constrain the Assembly when legislating.

The Committee noted the 10 proposed tests for competence found in clause 3 of the Bill and noted that, while some of these tests exist currently, there are others that are new, or elements of those tests that are new, that do not flow inevitably from a reserves powers model and which would constrain the Assembly more than at present – for example the ‘new necessity tests’ – which in essence roll back competence. The Committee is not content with this potential reduction in the Assembly’s legislative competence.

Concern was also expressed about the definition of Welsh public authorities (Clause 218 of Schedule 7A) within the draft Bill. These provisions appear to present scope for discussion as to whether public bodies that could be considered integral parts of the Welsh public sector are excluded from the definition of ‘Welsh public authority’. Such an exclusion would seem to arise in the case of bodies with general or supplementary powers that are not confined to ‘only in relation to Wales’ and examples include local health boards and the Wales Audit



Office powers under the provision of services under section 19 of the Public Audit (Wales) Act 2013. The Committee feels that clarity would be desirable on this point.

With regard to the provisions of the draft Bill relating to the “audit” committee. The Committee agrees that the provision which requires the Assembly to have an audit committee should remain and also agree that arrangements for the Chair and membership of the audit committee should be within the competence of the Assembly, as proposed in the draft Bill. However, the Committee believes that the current restrictions on the Chair and membership of the Committee are appropriate and should remain.

The Committee notes that the draft Bill provides that the restrictions on the membership of a committee having oversight of the AGW/WAO remain unamendable. When Schedule 7 of GOWA was amended by the Budget Responsibility and National Audit Act in relation to oversight and supervision of the AGW, it inserted provisions relating to the membership and chairmanship of the committee to which such functions were delegated. Whilst we agree that the current arrangements for membership of the ‘oversight’ committee are appropriate, the Committee believes that there should be a consistent approach with regards to the treatment of the ‘oversight’ and audit committees and that both should be a matter for the Assembly to determine.

Section 136 of GOWA confers on the Comptroller and Auditor General the power to examine the use of resources (payments in and out of the Welsh Consolidated Fund) and report to the House of Commons. This provision was originally included in the Government of Wales Act 1998 as the Assembly was a single corporate body. Given the separation of the legislature and the executive in 2006, the fiscal powers contained in the Wales Act 2014 and the fact that these powers have never been used, there appears to be little justification for the retention of this power.

Yours sincerely,

Darren Millar AM

Chair

CC: Dame Rosemary Butler AM, Presiding Officer

