STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

INQUIRY INTO EU RULES

SUBMISSION RECEIVED FROM PRESIDING OFFICER, NATIONAL ASSEMBLY FOR WALES

Thank you for your letter of 1 October 2013.

Formal responsibility for considering issues of subsidiarity relating to draft EU legislation currently rests with the Constitutional and Legislative Affairs Committee. Annex 1 sets out the relevant Standing Orders.

In order to ensure that the Constitutional and Legislative Affairs Committee fulfils its functions effectively, Assembly officials monitor all draft EU legislative proposals that apply to Wales on a systematic basis to check whether they raise any subsidiarity concerns. The way in which Assembly officials monitor these proposals is outlined below:

- the Assembly in the first instance is notified of all proposals published by the European Commission for consideration through the “batch list”. The Foreign and Commonwealth Office sends this document, on behalf of the UK Government, to our Research Service for information;
- the relevant UK Government department prepares its Explanatory Memorandum (EM) within 4 to 6 weeks of the initial notification by the Foreign and Commonwealth Office. Copies of each EM are sent to the Assembly via the Research Service;
- the Research Service filters the EMs received to check whether the proposal they relate to are “legislative” or “non-legislative” and whether they encompass issues which may be of interest to the Assembly (i.e. relating to devolved matters);
- those EMs that relate to proposals that are both “legislative” and deal with issues of interest to the Assembly are then checked further by officials from the Assembly’s Legal Services, Brussels Office and the Research Service to see whether they raise any potential subsidiarity concerns;
- if a proposal raises subsidiarity concerns, Assembly officials will alert the Constitutional and Legislative Affairs Committee, who will consider the relevant issues;
- in accordance with Standing Orders, the Committee may then make written representations to appropriate committees in the House of Commons or House of Lords, and lay these representations before the Assembly. Such representations may ask the relevant parliamentary committee to consider incorporating them into any reasoned opinion it submits to the European Commission;
- those proposals which are “legislative” and relate to devolved matters but raise no subsidiarity concerns are then collated in a monitoring report produced by the Research Service which is considered as a paper to note by the Constitutional and Legislative Affairs Committee during each term in an
Assembly year (Autumn [September–December], Spring [January–April] and Summer [May–August]).

In the Fourth Assembly, the Constitutional and Legislative Affairs Committee has made two written representations in accordance with the procedure set out in Standing Order 21.9, relating to proposals for a directive on public procurement (COM(2011)896) and an EC Regulation on high-speed electronic communications networks (COM(2013)147).

The Committee also wrote informally to the House of Commons’ European Scrutiny Committee about proposals for directives on tobacco and related products (COM(2012)0788) and alternative fuels infrastructure (COM(2013)0018).

There can often be tight deadlines for UK parliamentary committees to submit reasoned opinions to the Commission, which in turn can put pressure on the Constitutional and Legislative Affairs Committee to make written representations. Nevertheless, we believe that the existing system is working well. We will however continue to monitor it over the remainder of this Assembly.

The Constitutional and Legislative Committee’s subsidiarity role stems from a decision by the National Assembly’s Business Committee to mainstream European affairs across the work of all committees in the Fourth Assembly rather than having a dedicated European and External Affairs Committee.

The primary focus of the Assembly’s EU work is on engaging in the policy and legislative process on those areas falling with devolved competences as well as non-devolved matters having a particular relevance to Wales.

In practical terms, this EU engagement is undertaken through the Assembly’s five thematic committees, which have responsibility for both policy and legislation, and which lead on European issues falling within their remit. In addition to this, the Finance Committee also has an interest in EU-related matters particularly with regard to EU funding in Wales. This engagement includes the regular participation of European Commission officials, Welsh MEPs and other MEPs, the Welsh Committee of the Regions representatives, EU networks and other experts active at the EU level. Extensive use is made of video conference facilities to enable this to happen.

Annex 2 provides a list of the EU-related work that has been undertaken in Committees under the Fourth Assembly, as well as foreseen work (where already agreed) for 2014. The work includes dedicated inquiries on EU-related matters as well as integration of an EU (or international dimension) to other inquiries, for example looking at best practice or comparative approaches in other countries as part of an inquiry.

The highest level of activity falls within the scope of two Committees:

- Enterprise and Business Committee;
- Environment and Sustainability Committee.
This was anticipated when mainstreaming of EU affairs was introduced, and reflects the strong EU dimension to the work of these two Committees.

However, as Annex 2 shows, there is engagement across all Committees and the forward work planning process integrates consideration of EU priorities.

For example, the Committees are currently considering the European Commission’s Work Programme for 2014, based on a briefing from the Assembly’s EU Office, as well as other EU-related priorities for the coming year.

In addition to this, the Constitutional and Legislative Affairs Committee has over the past few months been undertaking an inquiry into the role of Wales in EU decision-making and it is due to report in early 2014.

An internal review of the Committee system was undertaken in the summer of 2012, which concluded that mainstreaming of EU affairs was working effectively. There are no plans in the foreseeable future to reconsider this approach.

I hope you find this information of use.

ROSEMARY BUTLER AM
PRESIDING OFFICER
NATIONAL ASSEMBLY FOR WALES
10 DECEMBER 2013
Annex 1: Extract from the National Assembly’s Standing Orders (October 2013)

Committee or Committees

21.1 In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that responsibility for the functions in Standing Order 21 is assigned to a committee or committees (referred to within Standing Order 21 as “a responsible committee”).

Functions

21.8 A responsible committee may consider draft European Union legislation relating to matters within the legislative competence of the Assembly or to the functions of the Welsh Ministers and of the Counsel General in order to consider whether it complies with the principle of subsidiarity.

21.9 If a responsible committee considers that draft European Union legislation does not comply with the principle of subsidiarity it may make written representations, on behalf of the Assembly, to the relevant committee of the House of Commons or the House of Lords with a view to having those representations incorporated into a reasoned opinion to be submitted by that committee to the relevant European Union authorities.

21.10 If a responsible committee makes written representations in accordance with Standing Order 21.9, it must lay a copy of those written representations before the Assembly.

21.11 A responsible committee may, to enable its functions under Standing Order 21.9 to be exercised during any non-sitting week, delegate those functions to the chair of the responsible committee who must, if they are exercised, report that fact to the responsible committee as soon as possible.
Annex 2: EU-related work in the Assembly’s Committees since 2011

Constitutional and Legislative Affairs Committee

– Inquiry into Wales’ role in the EU decision-making process
– Responsibility for Subsidiarity monitoring (includes termly report on Subsidiarity)

Environment and Sustainability Committee

– Proposed reforms to Common Agricultural Policy (CAP)
– Proposed reforms to the Common Fisheries Policy (CFP)
– Glastir (agri-environment scheme in Wales)
– Marine environment in Wales
– Coastal Protection in Wales
– Water Policy
– Energy Policy and Planning in Wales (included sessions on unconventional hydrocarbon extraction, fracking/shale gas)
– Invasive Alien Species (ongoing)
– Sustainable Land Management (ongoing)
– Waste and Resources (ongoing)
– Watching brief on a number of dossiers (e.g. Revision of Environmental Impacts Assessment Directive, Revision of EU legislation on organic production, animal health and plant welfare packages)
– Session with Rhodri Glyn Thomas AM in preparation of his report on State Aids to Fisheries and Aquaculture for the Committee of the Regions

Enterprise and Business Committee

– EU Structural Funds 2014-2020
– Horizon 2020
– Influencing the Modernisation of EU Procurement Policy
– Apprenticeships in Wales
– Youth Entrepreneurship
– International Connectivity through Welsh Ports and Airports
– TEN-T Guidelines and Connecting Europe Facility (CEF)
– Inquiry into the Welsh Government’s approach to the promotion of trade and inward investment (to be undertaken during first quarter of 2014)
– Inquiry into EU Funding 2014-2020 (to be undertaken during first half of 2014)

Finance Committee

– Effectiveness of European Structural Funding in Wales
– Inquiry into Finance Wales
– Session with Rhodri Glyn Thomas AM in context of his two reports for Committee of the Regions on synergies in EU, national and sub-national finance, and synergies in public and private finance (including the role of the European Investment Bank)
Health and Social Care Committee
– Residential care for older people in Wales
– Access to medical technologies in Wales (first half of 2014)

Children and Young People Committee
– Inquiry into adoption
– EU Update session 4 December 2013 to discuss priorities for EU-related work in the Committee during 2014

Communities, Equalities and Local Government Committee
– EU Update session 4 December 2013 to discuss priorities for EU-related work in the Committee during 2014