

Huw Irranca-Davies
Chair, Constitutional and Legislative Affairs
Committee

14 July 2016

Dear Huw,

Consideration of the Financial Implications of the Wales Bill

At our meeting on 6 July 2016, the Finance Committee considered the financial implications of the Wales Bill and the Presiding Officer's letter of 5 July 2016 to all Welsh Members of Parliament proposing a series of amendments to the Bill.

There are a number of provisions in the Bill that were of interest to the Committee, in particular *Clause 12 Financial control, accounts and audit*. The Committee considers there are eight main issues in relation to the financial provisions, and for your information I attach these as Annex A.

We discussed the removal of a referendum requirement to devolve Welsh rates of income tax. The Presiding Officer's proposed amendment would make the Treasury power conditional on consent by way of a resolution of the Assembly. The Committee discussed whether this resolution should be subject to a supermajority and we believe this is an important area that your Committee should give consideration to as well as the use of the supermajority for other matters of significant importance.

The Committee were also interested in the borrowing powers provisions available to the Welsh Government. The Wales Act 2014 gives the Welsh Government borrowing powers to invest in capital projects. From 2018, Welsh Ministers will be able to borrow up to £500m to invest in devolved areas of responsibility. The 2014 Act also provides for up to £500m of borrowing to support revenue spending to help manage budgetary fluctuations that may occur as a result of tax devolution.

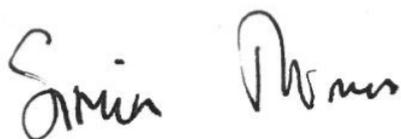


Our predecessor Committee had raised the issue of borrowing powers and how the Government has less borrowing ability than local authorities in Wales. We would hope this would be revisited in this Bill.

Unfortunately due to the timetable for consideration of the Bill by the House of Commons, the Committee felt its scrutiny has been curtailed and our ability to influence the passage of the Bill has been limited, but we hope our consideration will be useful to the Constitutional and Legislative Affairs Committee.

I am copying this letter to Alun Cairns MP, Secretary of State for Wales and we look forward to the outcome of your Committee's inquiry.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Simon Thomas". The signature is written in a cursive, slightly slanted style.

Simon Thomas AM
Chair



Clause 12 Financial control, accounts and audit

Additional protection regarding authorisation and use of resources

Although the Wales Bill provides safeguards covering preparation of appropriate accounts and audit arrangements, it does not provide:

- that funds can only be issued from the Welsh Consolidated Fund (WCF) in accordance with legislation or authorisation by the Assembly
- for the use of such resources are limited to the purpose for which they are authorised.

Provision for bodies indirectly funded from WCF to be held accountable

There is no provision for:

- subsequent Welsh legislation being able to make provision for persons, whose funding is derived from the WCF but not drawn down directly from it (e.g. grants), being made accountable for these funds.

Although current Westminster and Welsh legislation provides for bodies such as Commissioners, Welsh Government Sponsored Bodies (WGSB), NHS bodies, Local Government bodies, lack of provision could cause some difficulties if the Assembly wished to legislate on such matters and should be included to strengthen the Assembly's position.

Schedule 7B General Restrictions

Secretary of State for Wales consent

Schedule 7B Paragraph 7(5)(b) means the Assembly will require consent from the Secretary of State for Wales for provisions in Welsh legislation which are incidental to or consequential on provisions which relate to budgetary procedures or devolved taxes. It is unclear as to why consent is necessary given this will have no impact beyond the Assembly's financial procedures and should be removed.

Schedule 7B Paragraph 7(6) defines budgetary procedures. The inclusion of this paragraph needs to be clarified.

Composition of Committee with oversight of Auditor General

Schedule 7B Paragraph 5(6) allows for the conferral of functions of oversight of the Auditor General on an Assembly Committee (currently Finance Committee). Such a Committee would be subject to the same restrictions on composition as are currently set for the Audit Committee (PAC) in section 30 of GOWA 2006.



Given that the Bill will allow the Assembly to modify section 30 these provisions of Schedule 7B are unnecessarily restrictive and should be removed.

Competence to add to list of 'relevant persons' – payments into and out of the WCF

Schedule 7 Paragraph 7(7) includes a list of “relevant persons” which are directly funded from the WCF. The Assembly should be able to add but not remove from this list so it could enable a body independent of Welsh Government to also be financially independent where appropriate. This would need to be amended in GOWA 2006 via the Wales Bill. Similarly the Assembly should be able to legislate in respect of persons liable to make payment into the Fund.

Suggested amendments to GOWA 2006 clauses via Wales Bill

Legislative budget

The Wales Act 2014 allows the Assembly to move to a legislative budget. Section 124 of GOWA 2006 enables the Assembly to change its future budget arrangements without the need for further amendments by Act of Parliament. Consequently, a legislative budget will not require a budget resolution and so 'resolution' should be removed from Section 124 and appropriate consequential amendments made to sections 125 to 128.

Examinations by Comptroller and Auditor General

GOWA 2006 Section 136 gives the Comptroller and Auditor General access to devolved Welsh public bodies for auditing purposes by the UK Parliament. This has not been used to date and such a provision is not required in Scotland or Northern Ireland.

Given that the Welsh Government and Assembly are separate entities it could be argued this provision is no longer required for Wales and should be omitted with appropriate consequential amendments made to the National Audit Act 1983.

GOWA 1998 - clauses outstanding

Although Clause 12 of the Wales Bill makes provision for the Assembly to legislate on audit arrangements, the Assembly would still not be able to legislate on the Auditor General's powers to conduct value for money audits. Sections 145 and 145A in GOWA 1998, which make provisions for the Auditor General's powers to conduct value for money audits, cannot be amended because they are currently protected under Schedule 7 of GOWA 2006.



This restricts the Assembly from creating a standardised set of value for money audit provisions across all devolved public bodies. To ensure the possibility of consistent provisions for value for money audits, there should be the ability to amend Sections 145 and 145A in GOWA 1998.

