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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA - L/CG/0176/19

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales

13 February 2019

Dear Mick,

I am writing to set out the Welsh Government's initial views on the Senedd and Elections (Wales) Bill to inform the Committee's scrutiny at Stage 1, which in turn will inform the Government's consideration of potential amendments we may table at Stage 2.

I am pleased that the Welsh Government has been able to provide assistance to the Llywydd in developing the franchise provisions in the Bill, given the links with our own forthcoming legislation about local government elections, and I am grateful to have had the opportunity to discuss some of the other provisions in the Bill with the Llywydd during their development.

As I said in Plenary in response to the Llywydd's statement, the Welsh Government is very supportive of the main aims of the Bill as we see them: to rename the institution to reflect its status, to extend the franchise, and to clarify the rules about disqualification. Our specific observations on the Bill's provisions are set out below.

Part 2 – Name of the National Assembly for Wales

The Bill provides that the Assembly be renamed via two different provisions in similar terms, one of which is an amendment to s1(1) of the Government of Wales Act 2006 (GoWA) so that it would read:

“(1) There is to be an Assembly for Wales to be known as the Senedd.
(1A) The Senedd may also be known as the Welsh Parliament”.

The Welsh Government is concerned that this change could add to, rather than reduce, the confusion which already exists about the names of our institutions, which is extremely important given that the proposed amendments are to our key constitutional statute. We are also concerned that the use of “Senedd” alone without any other indication of its territorial connection to Wales may give rise to accessibility issues.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Our preference would be to amend s1(1) of GoWA to avoid the risk of confusion, so that it would read:

“(1) There is to be a parliament for Wales to be known as [x].”

Although we recognise that the name of our parliament is a matter for the Assembly as a whole to decide, we consider that “Senedd Cymru” and “Welsh Parliament” would have the advantage over “Senedd” that they would address our second concern about territorial connection as the Scottish Parliament and the Dáil Éireann do.

Part 3 – Elections

The Welsh Government fully supports the proposed extension of the franchise to 16 and 17 year olds. Our policy position is that the franchise for Assembly elections should be consistent with that we intend to extend for local government elections. To that end, we would wish to see this Bill include within the franchise foreign nationals who are legally resident in Wales.

We are working with the Assembly Commission to consider what arrangements will be necessary to ensure extension of the franchise for devolved elections is successful. These will include research, communication and educational material. We anticipate the need to establish a Welsh Government External Board of advisors to help with this work, and the Commission will be key partners in helping us to shape this work.

Careful handling of the messaging in the communication and education campaigns will be necessary to minimise confusion for the electorate if Assembly and local government franchises do diverge.

In addition, we support the principle of prisoner voting and look forward to receiving the report of the Equality, Local Government and Communities Committee to further inform our thinking on this.

Now that the Assembly has legislative competence in relation to devolved elections and referendums, its financing and accountability relationship with the Electoral Commission needs to be placed on a formal footing. We stand ready to work with the Llywydd, as Member in Charge, the Electoral Commission and HM Treasury, in the light of Stage 1 scrutiny, to explore whether amendments could be brought forward to achieve this, which would supersede and replace the current proposed duty in the Bill to consider reform of oversight of the work of the Electoral Commission in relation to devolved Welsh elections and referendums.

Part 4 – Disqualification

The Welsh Government fully supports the policy intention of clarifying which persons/offices are disqualified from membership, and which are disqualified from candidacy. We are undertaking detailed analysis of these provisions to satisfy ourselves that they eliminate complexity as far as possible, and that we are comfortable with the policy rationale for any changes to eligibility from existing law. I would welcome the Committee’s views on these matters, particularly given its and its predecessor’s previous work in this area.

Part 5 – Miscellaneous

We note that most of the provisions in this Part of the Bill are internal matters for the Assembly Commission and the Assembly rather than the Government.

However, the Bill does in this Part make provision for the Welsh Ministers to implement recommendations for reform of electoral law made by the Law Commission.

We do not believe it is appropriate to take forward Law Commission recommendations, or to create an expectation about them, in this way, and we have concerns about the drafting of the current provisions in respect of their interaction with existing powers and with powers relating to local government elections.

Instead, we consider that Law Commission recommendations for reform of electoral law or any law should, if these are supported by the Welsh Government, generally be introduced using primary legislation under expedited procedures. Work is well advanced on the development of a fast-track, flexible procedure for consolidation Bills and in due course we would like to explore a similarly expedited process for law reform bills which go beyond consolidation, as recommended by the Law Commission themselves in their report on the form and accessibility of law.

I hope that these reflections are helpful. I am copying this letter to the Llywydd, as Member in Charge, and to the Chair of the Finance Committee. I look forward to working with you all on this Bill during its passage through the Assembly.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Jeremy Miles', written in a cursive style.

Jeremy Miles AM

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