

Elin Jones AM
Llywydd and Chair of Business Committee

13 January 2020

Annwyl Lywydd

Withdrawal of statutory instruments

On 6 January 2020, the Constitutional and Legislative Affairs Committee considered the letter from Lesley Griffiths AM, the Minister for Environment, Energy and Rural Affairs, to you dated 11 December 2019 relating to The Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2019 (the Order).

The Order was approved by the National Assembly in Plenary on 26 November 2019. The Minister has indicated in her letter that the Welsh Government intends to withdraw the Order because, following the Plenary session, it became apparent that an error in the Order meant that it did not include provision for it to come into force.

We understand the Welsh Government's position that it would be illogical for the Order to be signed into law when it is not possible for it to come into force.

Having consulted the relevant standing order – Standing Order 27.11 – we are of the view that the wording is not as clear as it could be. While we believe that it is reasonable for our standing orders to facilitate the withdrawal of some statutory instruments by the Welsh Government, we do not think it is appropriate to allow it do so unilaterally where a statutory instrument has received approval by the Assembly.

In our view, the Welsh Government should only in certain circumstances seek to withdraw a statutory instrument, and those circumstances should not include instances where an instrument has been approved by the Assembly.

We are aware that officials in the Welsh Government and Assembly Commission have been in discussion about this Order over the Christmas recess period. I am also aware that, at the point of writing, the Minister has not yet sought to withdraw the Order nor lay a replacement order.



Whatever approach the Welsh Government decide upon we believe that, subject to your views on the interpretation of Standing Order 27.11, it may be appropriate to review the wording and application of this particular Standing Order.

Yours sincerely

A handwritten signature in black ink, reading 'Mick Antoniw', with a horizontal line underneath the name.

Mick Antoniw AM

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.

