

Response to Inquiry into Making Laws in the Fourth Assembly

Drafting techniques

- 1. Overall, is it your impression that legislative drafting for the National Assembly broadly complies with best practice for legislative drafting within the United Kingdom?**

The drafting of legislation and the policy development process which precedes it should include relevant stakeholders at an early stage. In particular, early consultation with inspection, audit and regulation bodies regarding legislation which impacts on the remit of work covered by such bodies is essential to avoid potentially embarrassing amendments to draft legislation having to be made in later proceedings

- 2. As a general rule, are there specific respects in which the quality of legislative drafting for the National Assembly appears particularly admirable?**

No comment

- 3. As a general rule, are there specific causes for concern in the quality of legislative drafting for the National Assembly?**

No comment

- 4. As a general rule, do Bills of the National Assembly appear to be drafted with the aim of making them reasonably accessible to, and intelligible by, the appropriate target audiences for each Bill?**

No comment

- 5. Is there reason to differentiate in your answers to Questions 1 to 4 between Bills and amendments drafted by the Welsh Government and other Bills and amendments?**

No comment

- 6. As a general rule, is the drafting style of Bills, and amendments, brought before the National Assembly in accordance with best modern practice?**

No comment

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- 7. In particular, is the practice in relation to any of the following matters particularly admirable, or a cause for concern?**
- a. the use of plain language;**
 - b. the avoidance of archaic or redundant expressions;**
 - c. gender-neutrality;**
 - d. translation;**
 - e. length of sentences;**
 - f. complexity of sections and subsections;**
 - g. the use of statements of purpose;**
 - h. the use of overview provisions;**
 - i. the division of Bills into Parts and Chapters;**
 - j. the use of different kinds of heading;**
 - k. the use of Schedules;**
 - l. numbering and lettering notation;**
 - m. other aspects of Bill structure;**
 - n. the use of examples in legislative text;**
 - o. the use of exceptions, provisos and savings;**
 - p. the use of tables, formulae, and diagrams;**
 - q. the incorporation of inert material or material not appearing to be intended to have legislative effect;**
 - r. the use of free-standing legislation, and legislation which operates by reference to other legislation;**
 - s. the use of textual amendment of other legislation.**

No comment

- 8. In general, do Bills before the National Assembly appear to follow equivalent or similar Acts of Parliament or other enactments:**
- a. to the extent appropriate;**

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b. more than is appropriate;

c. less than is appropriate?

No comment

9. Are there significant differences, as a general rule, between the quality of the drafting style of Bills and amendments presented by the Welsh Government and other Bills and amendments?

No comment

10. Are there specific Bills before the Fourth Assembly which particularly illustrate, or provide significant exceptions to, any of the answers given in Questions 1 to 9 above?

No comment

11. In general, are appropriate opportunities taken for the consolidation of legislation, whether as a separate exercise or in the course of making new substantive legislation?

No comment

12. What impact does legislative competence appear to have on the form of, or techniques used in, the drafting of Bills?

No comment

13. To what extent does that impact reflect the model of legislative competence adopted by the Government of Wales Act 2006?

No comment

14. Might a different model have advantages or disadvantages in relation to the form of, or techniques used in, the drafting of Bills?

No comment

Policy development and explanation

15. As a general rule, is there evidence to show that the processes for policy development lead to Bills being brought into the National Assembly with a properly constructed and tested policy?

No comment

16. In particular—

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- a. do the processes for consultation in the development of policy appear to be appropriate and effective?
- b. do the processes for impact assessment appear to be appropriate and effective?
- c. are the policy purposes of legislation accurately and sufficiently explained to Assembly Members and to the public?

No comment

- 17. Are there appropriate and effective mechanisms for determining whether the policy underpinning a legislative proposal is accurately and effectively addressed by the form of the legislation proposed?**

No comment

- 18. In general, do the Explanatory Memoranda provided with Bills serve the purpose for which they are designed?**

No comment

- 19. In particular, is the practice in relation to any of the following matters particularly admirable, or a cause for concern?**

- a. the length of Explanatory Memoranda;
- b. the inclusion of background policy material;
- c. the use of examples to illustrate the intended effect of provisions;
- d. the use of tables, diagrams and other illustrations.

No comment

- 20. Are there significant differences, as a general rule, between the quality of Explanatory Memoranda for Bills presented by the Welsh Government and other Bills?**

No comment

- 21. Are there specific Bills before the Fourth Assembly which provide particular illustrations of, or significant exceptions to, any of the answers given to Questions 15 to 20 above?#**

No comment

Balance between primary and secondary legislation?

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- 22. Overall, does primary legislation passed by the National Assembly in the Fourth Assembly appear to strike the correct balance between detail on the face of the Act and powers to make subordinate legislation?**

No comment

- 23. Overall, where powers are granted to make subordinate legislation do they appear to be subjected to an appropriate level of scrutiny by the National Assembly?**

No comment

- 24. Is the use of Henry VIII Provisions (powers for subordinate legislation to amend Acts) broadly satisfactory, or does it give rise to causes for concern?**

No comment

- 25. Are there appropriate and effective arrangements for explaining and justifying the taking of powers to make subordinate legislation?**

No comment

- 26. What principles should the National Assembly apply in considering the appropriate balance between detail on the face of Bills and powers to make subordinate legislation?**

No comment

- 27. How can those principles be applied effectively in practice?**

No comment

Assembly scrutiny

- 28. As a general rule, are appropriate and effective arrangements made for the pre-legislative scrutiny of draft legislation?**

No comment

- 29. As a general rule, is scrutiny at Stage 1 sufficient and effective for probing the fundamental policy objectives of legislation before the National Assembly?**

No comment

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30. Could more effective use be made of the optional Report Stage following Stage 3?

No comment

31. Do the existing Standing Orders of the National Assembly provide sufficient and effective opportunities for the amendment of Bills?

No comment

32. Does existing practice within the National Assembly make effective use of opportunities for the amendment of Bills?

No comment

33. Are the arrangements for expedited processing of emergency Bills efficient and effective?

No comment

34. What arrangements, if any, should be made for formal post-legislative scrutiny of legislation passed by the National Assembly?

No comment

35. Does the experience of the Fourth Assembly suggest that the present capacity of the Welsh Government to bring forward legislation is:

- a. sufficient;**
- b. insufficient; or**
- c. unnecessarily large?**

No comment

36. Does the experience of the Fourth Assembly suggest that the present capacity of the National Assembly to process Government legislation is:

- a. sufficient;**
- b. insufficient; or**
- c. unnecessarily large?**

No comment

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37. Does the experience of the Fourth Assembly suggest that the present capacity of the National Assembly to propose and process legislation other than Government legislation is:

- a. sufficient;**
- b. insufficient; or**
- c. unnecessarily large?**

No comment

38. Do any aspects of the Welsh Government's management of its legislative programme appear particularly admirable or to give cause for concern?

No comment

39. Have there been any particular successes in the National Assembly's ability to pass Acts acquired under the Government of Wales Act 2006?

No comment

40. Have there been any particular causes for concern in the National Assembly's ability to pass Acts acquired under the Government of Wales Act 2006?

No comment

41. What other comments would you like to make about the passing of Acts by the National Assembly?

No comment