

Leighton Andrews AC / AM
Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref CLA31
Ein cyf/Our ref LA/06014/11

David Melding AM
Chair - Constitutional and Legislative Affairs Committee

committeebusiness@Wales.gsi.gov.uk

4 October 2011

Acu David,

CLA31 – the National Curriculum (Assessment Arrangements on Entry to the Foundation Phase) (Wales) Order 2011

And;

CLA32 – the National Curriculum (End of Foundation Phase Assessment Arrangements and Revocation of the First Key Stage Assessment Arrangements) (Wales) Order 2011

Thank you for your letter of 27 September when you provided the Constitutional and Legislative Affairs Committee reports on the above Statutory Instruments.

I note that the Committee agrees that the power in article 5 of the National Curriculum (Assessment Arrangements on Entry to the Foundation Phase) (Wales) Order 2011 and in the National Curriculum (End of Foundation Phase Assessment Arrangements and Revocation of the First Key Stage Assessment Arrangements) (Wales) Order 2011 is within the scope of section 108(11) of the Education Act 2002. I also note that the inclusion of the article 5 power in an order setting out assessment arrangements for the National Curriculum is not unusual. For example, this power is included in the National Curriculum (Key stage 2 Assessment Arrangements) (Wales) Order 2004 (S.I. 2004/2915) and also the National Curriculum (Key stage 3 Assessment Arrangements) (Wales) Order 2005 (S.I. 2005/1393). Indeed, earlier orders (now revoked) made under the Education Reform Act 1988 and the Education Act 1996 setting out the assessment arrangements for the Key Stages in the National Curriculum also contained this provision. I am not aware that the inclusion of this power in such orders has not been subject to similar comment previously.

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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I note you state that whilst the use of the power is not unusual, you consider the power is itself unusual and therefore important. Whilst I agree the power is important and not that common, I would draw your attention to the fact that there is similar power for the Secretary of State to make such provision in section 87(11) and (12) of the Education Act 2002. In light of the above I consider the use of the power in the Order to be appropriate.

I do not currently have any plans to make use of the powers under article 5, but any future provision made under the power will be published on the internet.

Yours sincerely


Leighton Andrews AC / AM
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Minister for Education and Skills