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Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LA/06384/11

David Melding AM

Chair - Constitutional & Legislative Affairs Committee

committeebusiness@Wales.gsi.gov.uk

Dear David,

29 November 2011

Thank you for your further letter of 14 November about the above Statutory Instruments and in particular the use of article 5.

Whilst I can fully appreciate that the Committee has expressed an interest in any provision that may come forward under article 5 you will be aware that there are no formal procedures in place for it to scrutinise that provision. As I outlined in my earlier letter the committee would, of course, be free to offer comment and observation as part of any public consultation about the proposed use of the relevant powers.

The purpose of the Article 5 power is to allow the Welsh Ministers to make further provision which gives full effect to, or is supplementary to, provisions in the Order. Any substantial provisions relating to the assessment arrangements for children when they enter and leave the Foundation Phase would have to be contained in an Order which would be scrutinised by the National Assembly for Wales. Article 5, therefore, is intended to provide an appropriate administrative mechanism to give effect to or supplement what is in the Order.

This approach does not in any way diminish or disrespect the work of the Committee - indeed I would encourage the Committee to play a full part in any consultation - it does, however, respect the procedures which Parliament has deemed appropriate for this provision, which I also deem to be appropriate and proportionate. The Education Act 2002, under which these Statutory Instruments have been made, does not allow for any additional scrutiny procedures being applied prior to the powers in article 5 being used.

I therefore, feel it would not be appropriate to introduce a further administrative step which could not serve any purpose in respect of the scrutiny procedures.

Yours sincerely

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

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