

Elin Jones AM  
Llywydd and Chair of Business Committee

4 December 2019

Annwyl Lywydd

### **Draft Standing Orders for a Consolidation Bill procedure**

Further to my letter of 11 October 2019, we have now had the opportunity to consider the draft Standing Order for a Consolidation Bill procedure within the context of the Counsel General's **proposals for consolidation and codification**, following an evidence session with him on 18 November 2019. As a result, we wish to share with you some additional comments to be considered along with our original observations.

#### *Timetabling the scrutiny of Consolidation Bills*

Substantial time and effort has already been spent in preparing for the consolidation of planning law as it is applicable in Wales. The Law Commission for England and Wales took four years to undertake a **detailed review of planning law**, such is the breadth of that task. While providing an **interim response** to the Report in May of this year, we understand that the Welsh Government will not fully respond to the Law Commission's recommendations until the new year.

We believe that the time taken for the Law Commission to complete its work supports our view that the responsible committee should be afforded as much time as is needed to undertake thorough and robust scrutiny of any Consolidation Bill proposal. In our view, a sufficient period for scrutiny and appropriate resources are particularly vital if, as Standing Order 26C.17 suggests, the responsible committee will be tasked with considering whether the scope of the consolidation is appropriate, whether the relevant existing law has been included within the consolidation Bill, and whether the consolidation of those enactments is correct. Furthermore, the Counsel General told us that he accepted that the circumstances around where there may be a need to consolidate legislation urgently are difficult to describe, and we agree.

#### *Consolidation Bills in tandem*

In my previous letter, I drew attention to our initial views on the proposal for provisions consequential to the main purpose of consolidation to be included in a separate, second Bill. During our scrutiny session with the Counsel General on 18 November, we asked him



for his views on how consolidating in two parts would work in practice. While acknowledging that the proposal was “not entirely clear cut”, the Counsel General was firm in his view that it would not be appropriate for one Bill to pass if the other did not. While we can see no obvious procedural barrier within the draft Standing Orders to the concept of achieving consolidation in an area via two Bills progressing in parallel, we are mindful that this approach is innovative. For that reason we suggest that further, detailed consideration is given to this proposal in advance of the Standing Orders being finalised.

### *Guidance*

The guidance that will accompany the new Standing Orders for a Consolidation Bill procedure is going to be valuable to both Members and stakeholders in order to fully explain the process in an open and transparent way in an unfamiliar but important aspect of legislating. In my 11 October letter, I drew attention to a number of matters highlighted by the draft guidance which we believe require further attention and take this opportunity to reiterate those comments.

### *Reviewing the Standing Orders*

Embarking on the objective of consolidating Welsh law is a substantial task. We acknowledge the Counsel General’s comments that there will be a process of learning in the next Assembly term as the first Consolidation Bills are brought forward for scrutiny. For that reason we agree with the Counsel General that there should be a review of the Consolidation Bill procedure after the National Assembly has scrutinised the first Consolidation Bill, to ensure the Standing Orders and procedures more generally are fit for their intended purpose.

### *Other matters*

With regards to other matters raised by the Counsel General, including protecting the structure of Welsh law and the possibility of new processes for the scrutiny of subordinate legislation, we wish to draw to your attention to the [transcript of our 18 November meeting](#), in the event that these matters may be considered by the Business Committee in the near future.

Yours sincerely



**Mick Antoniw AM**

Chair

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

