



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Rt Hon Paul Murphy MP
Office of the Secretary of State for Wales
Gwydyr House
Whitehall
London
SW1A 2ER

Y Gwir Anrh yr Arglwydd Elis-Thomas AC,
Llywydd
The Rt Hon the Lord Elis-Thomas AM,
Presiding Officer

17 October 2008

Dear Paul

I feel that I must write to you about the contents of the Report from the Welsh Affairs Select Committee (WASC) on the Proposed Housing Order since you referred it for scrutiny¹. WASC in this Report has decided to adopt a restrictive approach to the transfer of powers to NAW. I do not address policy issues which are not for me, but I must emphasise my constitutional concerns about the whole approach as evidenced by this Report.

WASC appears to believe that it is appropriate for it to recommend restricting the scope of a Proposed Order to ensure that NAW should not seek to legislate in future in a way that appears to go beyond the specific intention of the current Welsh Government.

It also seems to assert the view that legislating by framework powers in UK Bills is somehow constitutionally more appropriate than seeking powers by Proposed Orders, as specifically legislated for by Parliament in GoWA 2006.

¹ The proposed National Assembly for Wales (Legislative competence) (Housing) Order 2008, HC 812

Bae Caerdydd
Caerdydd
CF99 1NA

Cardiff Bay
Cardiff
CF99 1NA

Ffôn • Tel: 029 2089 8911
Ffacs • Fax: 029 2089 8117

Ebost • Email: Dafydd.Elis-Thomas@wales.gov.uk



WASC's assumption that its function should extend to questioning whether a Proposed Measure is consistent with the framework of Government policy or its attempt to scrutinise the 'effectiveness' of a Proposed Measure is an intervention which is contrary to my reading of Devolution Guidance Notes and repeated assurances given by successive UK and Welsh Ministers in debates in Parliament and NAW. As I have emphasised previously WASC's approach is seriously at variance with that of the House of Lords Constitution Committee, which can only lead me to ask which approach is closer to the intention of Parliament when it legislated, and whether WASC's approach is motivated by a principled constitutional approach to making devolution work, to which we are both committed?

Yours sincerely

Y Gwir Anrh yr Arglwydd Elis-Thomas AC, Llywydd
The Rt Hon the Lord Elis-Thomas AM, Presiding Officer

Bae Caerdydd
Caerdydd
CF99 1NA

Cardiff Bay
Cardiff
CF99 1NA

Ffôn • Tel: 029 2089 8911
Ffacs • Fax: 029 2089 8117

Ebost • Email: Dafydd.Elis-Thomas@wales.gov.uk

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh