



## Consultation into the Draft Wales Bill

### A response from Wales Council for Voluntary Action

1. Wales Council for Voluntary Action (WCVA) is a registered charity and umbrella body working to support, develop and represent Wales' third sector at UK and national level. We have over 3,350 organisations in direct membership, and are in touch with many more organisations through a wide range of national and local networks. WCVA's mission is to provide excellent support, leadership and an influential voice for the third sector and volunteering in Wales.
2. WCVA is committed to a strong and active third sector building resilient, cohesive and inclusive communities, giving people a stake in their future through their own actions and services, creating a strong, healthy and fair society and demonstrating the value of volunteering and community engagement.
3. We welcome the opportunity to respond to the Constitutional and Legislative Affairs Committee's inquiry into the draft Wales Bill as we firmly believe in a strong devolution model.
4. WCVA has concerns on the workability of the reserved powers model, as it appears to make it more difficult for the Welsh Assembly to legislate than currently, therefore not supporting the devolution process as against strengthening it.

**The extent to which the proposed reserved powers model of legislative competence is clear, coherent and workable, and will provide a durable framework within which the Assembly can legislate.**

5. It should be noted that during the 1997 referendum on devolution, the public voted for a system in which the Welsh Assembly could make laws on the 20 areas it would have powers over - the Conferred Powers model. The Reserved Powers model, however, says the Welsh Assembly can legislate on anything not already reserved by the UK Government. This is a significant change: given the number of reservations making the scope for legislation in Wales narrower than is first apparent, meaning more powers will remain with Westminster.
6. Schedule 7b Paragraph 8 extends the protection of existing functions of UK Ministers, from being able to be modified or stopped by Welsh Assembly legislation without the consent of UK Government, to include the consent of UK Government Departments and public authorities. This could prevent the Welsh Assembly from legislating in several areas without the consent of UK Government - for instance, the Welsh Language (Wales) Measure 2011 requires local authorities to offer services in Welsh, but future amendments or similar new legislation would now appear to require the consent of the UK Government. This issue causes confusion as to what is devolved and what is not, and could prevent the Welsh Assembly from making even routine reform.

7. On the subject of clarity, it was raised with us by our membership that there was no Easy Read version of the draft Wales Bill, making it very difficult for some to understand the implications of this legislation and have their say. WCVA believes it is vital for democracy that important documents such as this are accessible to all, and hope that this is borne in mind and addressed in future.

**The extent to which the proposed new framework changes the breadth of the Welsh Assembly's competence to make laws.**

8. New restrictions on modifying 'private law' and 'criminal law' under Schedule 7b will make creating new legislation very difficult, as enforcing obligations will always require the use of these.
9. These restrictions include the Welsh Assembly being unable to alter law 'unless necessary'. However, what is defined as 'necessary' is unclear. This is likely to cause conflict and potential court cases on the definition of 'necessary' and whether the Welsh Assembly has gone beyond 'unless necessary'.
10. The tests around the definition of 'Welsh Public Authority' make it difficult to ascertain exactly what a Welsh public authority is. This is likely to cause concern to many, for instance regarding the roles of the Public Services Ombudsman or the Auditor General for Wales.
11. The proposed new framework could lead to the Welsh Assembly being unable to legislate on matters it previously usefully could, benefitting Wales and its people. For instance, the Human Transplantation (Wales) Act 2013 would struggle to be passed under the draft Wales Bill because the Human Tissue Authority regulates in both England and Wales. Previously the Assembly could legislate on its role in Wales without Westminster's permission, but the Human Tissue Authority now falls outside the definition of a 'Welsh Public Authority' due to its role in England.
12. Further, regarding Welsh language; WCVA has reservations over a large range of subjects, including fundraising and criminal records which are of particular interest to the third sector, as well as railways, tribunals and broadcasting. As Welsh language is embedded in all activity across Wales it is of concern as to how the Welsh Assembly will be able to enact Welsh language measures in these areas.

**The proposals for the Welsh Assembly to gain powers over its functioning (for example in relation to its name, the number of Welsh Assembly Members and electoral powers for the Assembly).**

13. We welcome the proposals giving the Welsh Assembly power over its constitution, voting age and voting system. WCVA believes these elements are essential for the democratic process in Wales, enabling the participation of its communities and citizens and a healthy civil society.

**The additional powers to be given to the Welsh Ministers, especially to make subordinate legislation.**

14. WCVA welcomes the proposal for Welsh Ministers to be able to legislate in areas around energy and transport. This will be imperative in aiding Welsh Ministers to

meet obligations around greenhouse gas emissions and carbon budgets outlined in the Environment Bill. It will also allow Ministers to support pioneering initiatives around community energy and sustainable transport that will contribute to the goals for a resilient Wales, a Wales of cohesive communities and a prosperous Wales as outlined in the Well-Being of Future Generations (Wales) Act.

**The proposals included in relation to the permanence of the Welsh Assembly and Welsh Government.**

15. WCVA welcomes the proposals that make the Welsh Assembly a permanent part of UK constitution arrangements.

**The proposals included in relation to the convention about the UK Parliament legislating on devolved matters.**

16. Clause 2 of the bill proposes inserting that the UK Parliament ‘will not normally legislate with regard to devolved matters without the consent of the Assembly’.

**The implications of the draft Bill for the constitution of the United Kingdom.**

17. Clause 30 allows the Secretary of State to amend, revoke and modify enactments in primary legislation, including Welsh Assembly legislation. This requires approval by both Houses of Parliament - but not the Welsh Assembly itself. We don't believe that alterations or revoking of Welsh legislation should be taken entirely out of the hands of the Assembly.

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