

Elin Jones AM  
Llywydd  
Chair, Business Committee

12 April 2018

Annwyl Llywydd,

### **Assembly Procedure for Section 116C Orders in Council**

Thank you for your letter of 1 March 2018, which the Committee considered at its meetings on 12 and 19 March.

We note the background you provided to us in relation to the three options you have considered and we note the intention of the Business Committee to proceed with Option C.

We would be grateful for clarification on the principle underlying Option C. Our reading of the proposals suggests that under Option C, scrutiny by Assembly Committees will be of draft Orders, unless they undertake a consultation on the UK Government consultation referred to in the February Business Committee paper (paragraph 6, BC(5)07-18(p6)). As draft Orders are not amendable, any report of an Assembly Committee would then inform a "take it or leave it motion" to approve a draft Order, meaning any recommendations of a Committee could not be incorporated into revisions to that draft Order.

Related to this issue, we note from your letter that the Welsh Government considered Option A to be problematic. It would also be helpful to have further information about why Option A was not considered worth pursuing. This is because it incorporates proposed Orders in the process and would therefore represent a stronger approach to scrutiny than Option C.

However, if the intention remains not to include proposed Orders in the process, we consider that it would be worth considering an alternative option, namely, to consider creating a new Standing Order 25A to deal with Section 116C Orders in Council. We



believe this would sit more comfortably within the current structure of Standing Orders and would offer a clearer, neater and more accessible way to proceed.

It would mean that Standing Orders that relate to the acquisition of legislative competence (i.e Standing Orders 25 and 25A), would sit before those related to utilising that competence to make law (Standing Orders 26A, 26B and 26C) and not come within the ambit of Standing Order 27, which relates to subordination legislation made as a result of powers delegated from the National Assembly to the Welsh Ministers.

Yours sincerely,

A handwritten signature in black ink, reading "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

**Mick Antoniw**

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

