

DP 558/08-07

Rt Hon Rhodri Morgan AM
First Minister/Prif Weinidog Cymru



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Cardiff: Bay
Cardiff CF99 1NA
029 2089 8782
GTN 1208

Bae Caerdydd
Caerdydd CF99 1NA
029 2089 8782
GTN: 1208

Fax/Ffacs:: 029 2089 8198

Email/Ebost: rhodri.morgan@wales.gsi.gov.uk

Our ref/Ein Cyf: FM 5237/03
Your ref/Eich Cyf: POH/239/03

Rt Hon Peter Hain MP
Wales Office
Gwydyr House
Whitehall
London
SW1A 2ER

26 June 2003

Dear Peter

PRIMARY LEGISLATION FOR WALES

I am writing in response to your letter of 12 June, which we discussed in our bilateral on 16 June. You have invited me to set out the Welsh Assembly Government's bids for primary legislation over the coming period. You will appreciate that implementation of our Manifesto commitments is a key consideration here, and I refer to a number of these below. I am pleased to note that provisions already in the Water Bill currently before Parliament will enable us to meet the commitment to improve flood management in Wales.

For session 2003-04, we attach particular importance to two Bills, currently out for pre-legislative scrutiny, being included in the programme. These are the Public Audit (Wales) Bill, which has been well received, and the Housing Bill, which is an England and Wales Bill. That Bill contains powers which will enable us to introduce a new licensing scheme for rental accommodation in Wales, which is a Manifesto commitment. It does not, at present, include powers to enable us to designate new areas of housing pressure where the Right to Buy can be suspended, as our Manifesto proposes. Although we have been able to take some action using existing powers in relation to housing in rural areas, difficulties in securing affordable housing are not confined to rural areas alone, and in some urban areas key workers are experiencing particular problems in obtaining affordable accommodation. The Bill already includes a number of provisions modifying the Right to Buy, but we will need to seek agreement from UK Ministers to include additional provisions for the



BUDDSODDWR MEWN POBL
INVESTOR IN PEOPLE

necessary powers, so that our Manifesto commitment can be met. I hope we can count on your support for that; we believe that amendments along the lines proposed could enhance the supply of affordable housing in high demand urban areas.

Looking now at the longer term, you stressed, when we spoke, the need for the Assembly to indicate a clear order of priority for our various proposals. I am setting these out below in the order of importance which we attach to each of them.

Our first priority is the **Transport (Wales) Bill**, for which we bid in an earlier round. I note that you have already asked for this to be published in draft for pre-legislative scrutiny during the 2003-04 session, and I confirm that we would wish to proceed in this way for that Bill. Assembly officials are already in detailed discussions with Alistair Darling's in DfT about our proposals. Following a consultation exercise later this year, we expect to have the outstanding policy issues resolved by Christmas, and would be in a position to let Parliamentary Counsel have Instructions by the end of February 2004. Subject to Counsel's other commitments, this would lay the way open for pre-legislative scrutiny to begin during May 2004 and be brought to a conclusion in the early autumn. Subject to the outcome of that scrutiny, we would expect the Bill to be ready for Introduction at the beginning of the 2004-05 session. I should note here that this timetable has considerable attractions for us in that the powers it would provide for the Assembly would give us a sound legal basis for the provision of revenue funding for the Ebbw Valley railway during 2005-06, which is a Manifesto commitment.

Next, we seek drafting approval for the **Public Services Ombudsman (Wales) Bill**. We have not formally asked for this Bill previously, but the proposal is one with which you will be familiar, as the Wales Office and the Assembly conducted a joint consultation exercise on it at the beginning of this year. We are committed to a second consultation exercise on a number of detailed issues; the timetable for that should allow for policy questions to be resolved by early in 2004, and again we should be in a position to let Parliamentary Counsel have Instructions by the end of February 2004. All being well, Counsel would be able to let us have a draft Bill soon after Easter 2004.

What happens thereafter would be a matter for you. I would like to think that this technical and non-controversial Bill might be fitted into the second half of the 2003-04 session, although you were doubtful about whether that could be done. If we are looking at the 2004-05 session for this Bill, it would coincide with our Transport Bill proposal (if accepted). I can see that this might very well present problems for Don Touhig, and I ask you to consider whether the Ombudsman Bill might be a Lords starter in 2004-05, proceeding through the House of Lords at the same time that Don would be taking the Transport Bill through the Commons.

However that may be, I do wonder whether, since the Bill would follow two full rounds of consultation, there would be any real need for the usual pre-legislative scrutiny exercise on it. I bear in mind that if our Transport Bill proposal is accepted, both Don and the Welsh Affairs Committee would be heavily involved in pre-legislative scrutiny on that Bill in the summer of 2004, and it would make little sense to schedule two such scrutiny exercises at the same time. If you were minded to accept the suggestion that this Bill be a Lords starter, and if pre-legislative scrutiny is still thought necessary, it might be undertaken by a Lords Committee, perhaps.

Our third proposal is for an **Education (Miscellaneous Provisions) Bill**. This was the subject of an earlier bid. I confirm that we would like to have drafting approval for this Bill in the 2003-04 session. The precise content of this Bill would depend on the outcome of the forthcoming Higher Education Bill, but we should be looking to legislate on such matters as planning powers for the HE sector in Wales, the legislative underpinnings of the Assembly Learning Grant for HE students, and technical changes relating to the staffing and operations of the two constituent bodies of the original ELWa. If we are able to proceed with this Miscellaneous Provisions Bill, we will first need to undertake a consultation exercise on the future status of ESTYN, but we would expect to be able to let Parliamentary Counsel have Instructions in time for a Bill to undergo pre-legislative scrutiny next summer and be ready for Introduction at the beginning of the 2004-05 session.

Our fourth priority is for a **Tourism Accommodation (Registration) Bill**. The introduction of a registration scheme was a Manifesto commitment, and therefore one which we will need to ensure is in place by 2007, earlier if possible. Our proposal is for an enabling Bill which would confer on the Assembly the powers necessary to put such a scheme in place through subordinate legislation; to meet the Manifesto timetable and allowing for the time needed for the subordinate legislation, we need to have secured the necessary powers not later than the summer of 2006. This proposal could therefore wait until the 2005-06 session if necessary, but there would be clear advantages in proceeding more quickly if we can. A working group is developing the detail of the proposals now, and we would expect to be able to Instruct Counsel for the Bill during the first part of 2004, with a view to the Bill being ready for Introduction in November 2004 if a slot is available in the programme then.

Finally, there is the proposal for a **Bill to establish a Commissioner for Older People in Wales**. This again is a Manifesto commitment. Detailed work on the policy will be beginning soon and it is unlikely that a Bill would be ready for Introduction before the 2005-06 session. If we are to have the Commissioner in place with statutory powers by 2007, we will certainly need to secure a place for this Bill in the programme for 2005-06, or failing that a very early slot in 2006-07. I am putting this down as a marker rather than expecting early action now.

Your letter asks whether there is any Government legislation on which we can piggy-back any of these proposals. I have already mentioned the Housing Bill as a means of securing the additional powers we need to fulfil Manifesto commitments relating to Housing. The HE Bill provides a possible vehicle in respect of some of the provisions in the Education (Miscellaneous Provisions) Bill, although I accept that you have some concerns already about the length of that Bill and were not encouraging about our securing further provisions in it. As for the other Bills, we are not aware here of any proposed Government legislation which would provide us with opportunities to take forward our plans.

I hope this sets out the Welsh Assembly Government's proposals in sufficient detail for your immediate purposes; our officials naturally stand ready to provide yours with further information as necessary. I look forward to hearing from you in due course as to when and how these proposals might be taken forward.

Finally, may I take the opportunity to remind you that earlier this year I wrote to you about the motion adopted by the Assembly calling for powers to restrict smoking in public places. In reply you said that you were unable to provide an immediate substantive response but would be consulting your colleagues in the UK Government. It would be helpful if you could

now tell me what attitude the UK Government takes to this proposal or, if you are not yet in a position to do that, to let me know when you expect to be able to do so.

Yours

Alvord