

# Wales Council for Voluntary Action

Supporting charities, volunteers and communities

## 11. Campaigning and influencing

### 11.2 Introduction to Welsh devolution and the Government of Wales Act 2006



#### Overview

This information sheet will outline the history of devolution in Wales, introduce the basic features of the Government of Wales Act 2006 and consider why this is important for the third sector in Wales.

#### History of devolution

Most people view Welsh devolution as a very recent phenomenon. However, administrative devolution began in the early twentieth century with the creation of separate Welsh departments within the existing Ministries for Education, Agriculture, Insurance and Health. A Minister for Welsh Affairs co-ordinated a wide range of functions that were transferred to Cardiff between 1951 and 1964. It was in 1964 that the Welsh Office was established and the first Secretary of State for Wales was appointed. The Welsh Office continued to grow and further functions were transferred up to the 1990s when a step-change occurred.

In 1997 the UK Government published a White Paper called 'A Voice for Wales' which proposed a National Assembly for Wales. This was supported by Welsh people in a referendum later that year and resulted in the passing of the Government of Wales Act 1998 and the

establishment of the National Assembly for Wales in May 1999.

The Assembly was established as a single corporate body with some powers and responsibilities transferred from the Secretary of State for Wales. These limited powers allowed the Assembly to make general rules and regulations (known as subordinate legislation) under existing UK Acts of Parliament and decide on policy priorities in Wales, but it could not make its own laws (known as primary legislation) or raise its own taxes.

However, devolution has been an ongoing process in Wales and in 2002 the First Minister established the independent 'Richard Commission' to review, amongst other things, the scope of the Assembly's powers. The Commission reported in 2004 and made a number of recommendations including full legislative powers for the Assembly. This prompted the next phase of devolution in the form of the 'Better Governance for Wales' White Paper which became the 'Government of Wales Bill 2005' and subsequently the 'Government of Wales Act 2006' which came into force in May 2007. This Act by no means implemented all of the recommendations of the Richard Commission report but it did signal a

significant new phase of further devolution for Wales.

## **The Government of Wales Act 2006**

This Act is an interim step in the devolution story for Wales, transforming governance arrangements, enhancing legislative powers and making provision for further devolution in future. There are four main changes brought about by the Act:

### **1. *The separation of National Assembly for Wales from the Welsh Assembly Government***

This splits the previous corporate entity of the National Assembly for Wales into two separate bodies - the Welsh Assembly Government (the executive) and the National Assembly for Wales (the legislature).

Briefly, the Welsh Assembly Government (WAG) consists of the Ministers - a bit like the Cabinet of the UK Government. The Ministers are drawn from the political party (or parties) in power and they hold what were previously the executive powers of the pre-2006 Act Assembly.

The National Assembly for Wales comprises the 60 elected Assembly Members and they have the power to scrutinise the decisions and policies of the WAG and hold Ministers to account, as well as acting as the legislative body to approve certain types of Welsh legislation. A separate Information Sheet discusses the differences between these two bodies in more detail.

### **2. *Further limited legislative powers given to the National Assembly for Wales***

The National Assembly for Wales can now make its own legislation on certain devolved matters. Wales still does not have full law-making powers and can only do what is permitted under the 1998 and 2006 Acts. The Assembly can only legislate in areas that have been specifically devolved from the UK Parliament.

There are 20 devolved policy areas (called 'Fields') in which Wales may be able to legislate. These Fields are contained within Schedule 5 of the 2006 Act. Laws (known as 'Assembly Measures') can only be made on specifically defined sub-topics (called 'Matters') and the Assembly must first obtain the legal power (known as 'Legislative Competence') from the UK Parliament to legislate in one of the devolved areas before being able to make laws. Further information on the complexities of these legislative powers is contained in separate Information Sheets.

It is useful to stress that whilst this means Wales can potentially make laws in many different areas, it does not mean it can make laws in all areas, and there are still many areas that have not been devolved. This means that the UK Parliament at Westminster is still the sole legislator in areas including defence, foreign affairs, fiscal, monetary and economic policy, broadcasting, social security, immigration, employment law, policing and criminal law.

### **3. *Changing the voting system to prevent constituency candidates also standing as regional list candidates***

The Act reforms part of the electoral arrangements by stopping Assembly Member candidates from putting their names forward for election in one of the 40 constituency seats *and* as a candidate for one of the 20 regional seats. A candidate can now only put their name forward for one or the other.

### **4. *Provision for a Parliament subject to a referendum***

The 2006 Act represents a further stage in Welsh political devolution and also makes provision to move to an Assembly with full primary law-making powers in future, but only if the following conditions are satisfied:

- two-thirds of the Assembly Members support such a move;
- there is a majority vote in favour in both the House of Commons and the House of Lords
- a majority yes vote is achieved in a Welsh referendum on the subject

The WAG has established the All Wales Convention to prepare the ground for a possible referendum on full law-making powers for the National Assembly. It will engage with the public across Wales to facilitate a debate about the success of the current powers and the potential case for moving forward to full powers. For more information on the work of the All Wales Convention, visit [www.allwalesconvention.org](http://www.allwalesconvention.org)

## **The third sector and the Government of Wales Act 2006**

The new Act provides the third sector with significant new opportunities to have its voice heard on issues that matter to it and the people it works with and represents. Now that the Assembly has new law-making powers it should also be more accountable to the people of Wales for the legislation it makes.

In order to make sound policies and laws, the Assembly needs to hear from its citizens. The third sector is uniquely placed with its front-line experience and expertise to bring forward robust evidence to influence the laws that are made. The legislative processes have created a range of opportunities to influence, for example: liaising with the relevant Minister, Assembly Member, or Committee; contributing to pre-legislative consultation; inputting to the legislative scrutiny process; and using the public petitions process.

Opportunities for the sector to influence are highlighted and explored in the Information Sheets relating to different aspects of the legislative process.

## Further information

**Voices for Change Cymru** is a WCVA project supported by the Big Lottery Fund. There are now more opportunities than ever to make your voice heard and this project provides services to help third sector organisations influence policy and legislation at local and national levels.

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[www.voicesforchangecymru.org.uk](http://www.voicesforchangecymru.org.uk)

### Welsh Assembly Government

[www.wales.gov.uk](http://www.wales.gov.uk)

### National Assembly for Wales

[www.assemblywales.org](http://www.assemblywales.org)

### Government of Wales Act 2006 – full text

[www.opsi.gov.uk/acts/acts2006/ukpga\\_20060032\\_en\\_1](http://www.opsi.gov.uk/acts/acts2006/ukpga_20060032_en_1)

### Disclaimer

The information provided in this sheet is intended for guidance only. It is not a substitute for professional advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.

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Produced by WCVA, County Voluntary Councils and Volunteer Centres.  
**Last Updated:**30/03/2009