



Cass Chideock
Deputy Director
Transparency Strategy
Cabinet Office
1 Horse Guards Road
London
SW1A 2HQ

Sent by email to: opendataconsultation@cabinet-office.gsi.gov.uk

27 October 2011

Our ref: MB/FM/6860/11

Dear Cass

Making Open Data Real: A Public Consultation

Thank you for your letter of 26 August 2011 inviting responses to the UK Government's 'Making Open Data Real' consultation.

The Welsh Government has for many years been committed to maximising openness in government and has established its policy in a Code of Practice on Access to Information. At the heart of this Code are eight principles, the details of which can be viewed at: <http://wales.gov.uk/publications/accessinfo/code/?lang=en> The information we routinely publish includes papers associated with Cabinet meetings and Ministerial Decision Reports.

You indicate that a White Paper is planned following the consultation and we are keen to understand what mechanisms you intend to use for driving forward the transparency agenda. In particular, as we have already mentioned to your team, the National Assembly has now acquired legislative competence in relation to access to information. Following the "yes" vote in the referendum on 3 March 2011, the "Assembly Act" provisions set out under Part 4 of the Government of Wales Act 2006 (GOWA 2006) came into force on 5 May 2011. This means that any Bill proposals, including amendments to provisions in Bills which are currently before Parliament should be considered in terms of the enhanced legislative competence that the National Assembly has acquired under Part 4 of GOWA 2006 and with reference to the subjects listed under Schedule 7. Under the "Public administration" subject in paragraph 14, the National Assembly has competence to legislate in relation to "access to information held by open access public authorities".

That competence is subject to restrictions. For instance, under Part 2 of Schedule 7 an Act of the National Assembly cannot modify (or confer power by subordinate legislation to

modify) the Data Protection Act 1998 or the Re-Use of Public Sector Information Regulations 2005. However, there is no such restriction in relation to either the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

The National Assembly's Standing Order 29.2 provides that a Legislative Competence Motion should normally be tabled no later than two weeks after amendments to Bills under consideration by the UK Parliament are tabled or agreed to.

Following the National Assembly acquiring competence in this area, it is essential for us to receive early notification of any legislative proposals that the UK Government wishes to develop in this area, in order that we may give full consideration to the policy that is to be adopted in relation to Wales.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

James Owen
Deputy Director – Expert Services