

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video conference via Zoom	P Gareth Williams
Meeting date: 22 May 2023	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest
(13.30)

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

(13.30 – 13.35)

(Page 1)

Attached Documents:

LJC(6)-16-23 – Paper 1 – Draft report

Made Negative Resolution Instruments

2.1 SL(6)355 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2023

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

(13.35 – 13.40)

Made Negative Resolution Instruments



**3.1 SL(6)356 – The Public Procurement (International Trade Agreements)
(Amendment) (Wales) Regulations 2023**

(Pages 2 – 4)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-16-23 – Paper 2 – Draft report

Composite Negative Resolution Instrument

**3.2 SL(6)358 – The Education (Student Finance) (Miscellaneous Amendments)
Regulations 2023**

(Pages 5 – 7)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-16-23 – Paper 3 – Draft report

LJC(6)-16-23 – Paper 4 – Written statement by the Minister for Education and
Welsh Language, 12 May 2023

**4 Instruments that raise issues to be reported to the Senedd under
Standing Order 21.7**

(13.40 – 13.45)

4.1 SL(6)357 – School Admission Appeals Code

(Pages 8 – 16)

[Code](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-16-23 – Paper 5 – Draft report

5 Inter-Institutional Relations Agreement

(13.45 – 13.50)

**5.1 Correspondence from the Counsel General and Minister for the Constitution:
Inter-Ministerial Group on Justice**

(Page 17)

Attached Documents:

LJC(6)-16-23 – Paper 6 – Letter from the Counsel General and Minister for the Constitution, 15 May 2023

**5.2 Correspondence from the Minister for Climate Change: Transport and Works
(Applications, Objections and Inquiries Procedure) (Amendment) Rules 2023**

(Pages 18 – 19)

Attached Documents:

LJC(6)-16-23 – Paper 7 – Letter from the Minister for Climate Change, 16 May 2023

**5.3 Correspondence from the Counsel General and Minister for the Constitution:
Inter-Ministerial Standing Committee**

(Page 20)

Attached Documents:

LJC(6)-16-23 – Paper 8 – Letter from the Counsel General and Minister for the Constitution, 17 May 2023

**5.4 Correspondence from the Minister for Economy: Inter-Ministerial Group for
Trade**

(Page 21)

Attached Documents:

LJC(6)-16-23 – Paper 9 – Letter from the Minister for Economy, 18 May 2023

6 Papers to note

(13.50 – 13.55)

**6.1 Correspondence to the Counsel General and Minister for the Constitution:
The Retained EU Law (Revocation and Reform) Bill**

(Pages 22 – 26)

Attached Documents:

LJC(6)-16-23 – Paper 10 – Letter to the Counsel General and Minister for the Constitution, 16 May 2023

- 6.2 Correspondence from the Minister for Climate Change: Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No. 2) Regulations 2023**
(Pages 27 – 28)

Attached Documents:

LJC(6)-16-23 – Paper 11 – Letter from the Minister for Climate Change, 18 May 2023

- 6.3 Correspondence from the Chair of the Local Government and Housing Committee to the Llywydd: Legislative Consent Memorandum on the Illegal Migration Bill**
(Pages 29 – 30)

Attached Documents:

LJC(6)-16-23 – Paper 12 – Letter from the Chair of the Local Government and Housing Committee to the Llywydd, 18 May 2023

- 6.4 Correspondence from the Minister for Health and Social Services: Welsh Government's response to the Committee's report on the Health Service Procurement (Wales) Bill**
(Pages 31 – 34)

Attached Documents:

LJC(6)-16-23 – Paper 13 – Letter from the Minister for Health and Social Services, 18 May 2023

- 7 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting**
(13.55)

- 8 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Levelling-up and Regeneration Bill: Draft report**
(13.55 – 14.05) (Pages 35 – 52)

Attached Documents:

LJC(6)-16-23 – Paper 14 – Draft report

LJC(6)-16-23 – Paper 15 – Letter from the Minister for Climate Change, 25 April 2023

LJC(6)-16-23 – Paper 16 – Letter from the Chair of the Local Government and Housing Committee to the Llywydd, 18 May 2023

9 Inquiry into UK–EU governance – consideration of terms of reference

(14.05 – 14.15)

(Pages 53 – 65)

Attached Documents:

LJC(6)-16-23 – Paper 17 – Inquiry into UK–EU governance paper

LJC(6)-16-23 – Paper 18 – Evidence to the House of Lords External Affairs Committee

Statutory Instruments with Clear Reports 22 May 2023

SL(6)355 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2023

Procedure: Made Negative

These Regulations provide for up to £1,500 of a full-time undergraduate student's living costs loan (also known as a maintenance loan) for academic year 2023/2024, to be cancelled in certain circumstances. This will not be in the form of a cash lump sum; rather the balance of an individual's loan will be reduced by the appropriate amount the day after a borrower's first repayment is made.

A student can only receive a partial cancellation once. They cannot receive a partial cancellation in respect of academic year 2023/24 if they have already received a cancellation in respect of any previous academic year. A student will not be entitled to a partial cancellation if there are any outstanding charges or penalties or if they are in breach of their loan agreement or any regulations made under section 22 of the Teaching and Higher Education Act 1998.

Parent Act: Teaching and Higher Education Act 1998

Date Made: 02 May 2023

Date Laid: 05 May 2023

Coming into force date: 01 August 2023



Agenda Item 3.1

SL(6)356 – The Public Procurement (International Trade Agreements) (Amendment) (Wales) Regulations 2023

Background and Purpose

These Regulations amend various United Kingdom public procurement regulations for the purpose of implementing the procurement chapters of two Free Trade Agreements entered into by the United Kingdom, one with Australia (the “UK-Australia FTA”) and the other with New Zealand.

The Regulations also make the following general amendments to public procurement regulations to ensure compliance with commitments made in the UK-Australia FTA:

- the introduction of a rule that, where the value of a procurement cannot be estimated, the procurement is to be treated as having been valued at the relevant threshold for that type of procurement (including special provision for situations in which the value of one or more lots cannot be estimated);
- the removal of the possibility of using a prior information notice or periodic indicative notice as the call for competition; and
- a prohibition on contracting authorities and utilities from terminating contracts in a manner that circumvents obligations in the UK-Australia FTA.

The Regulations also make provision for transitional arrangements.

The Regulations apply in relation to devolved Welsh authorities and come into force on 26 May 2023.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following 3 points are identified for reporting under Standing Order 21.2 in respect of this instrument.



1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulations 2(7) and (8)(b) of the subject Regulations seek to omit the following text from regulations 27(4) and 28(6) of the Public Contracts Regulations 2015 respectively:

*“which was not itself used as a means **for** calling for competition” [emphasis added].*

However, the relevant text in each of regulations 27(4) and 28(6) to be omitted appears to be:

*“which was not itself used as a means **of** calling for competition”.*

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulations 4(11)(b)(ii), (15)(a)(ii), (18)(c)(ii), (20)(b) and (22)(b) omit regulations 52(23)(b), 65(2)(b), 73(5)(b), 91(1)(b) and 105A(3)(b) respectively from the Utilities Contracts Regulations 2016.

In each case, the omitted provision comprises a sub-paragraph followed by a conjunction (“or” or “and”). However, the regulations do not provide for those conjunctions to be omitted along with the relevant sub-paragraph.

3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 5(2) specifies the circumstances in which a procurement is deemed to have commenced for the purposes of the transitional provision in regulation 5(1).

However, the regulation does not clarify whether the specific circumstances listed in sub-paragraphs (a)-(c) of paragraph (2) are intended to operate cumulatively, or as alternatives, in order for the transitional provision in paragraph (1) to have effect.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

These Regulations amend, and come into force on the day after, equivalent regulations being made by the UK Government. The Explanatory Memorandum to these Regulations notes that,

“This is so as to ensure that the changes being made by the UK Government regulations for contracting authorities which are not devolved Welsh authorities and those being made by the Welsh Ministers in relation to devolved Welsh authorities, together result



in a co-ordinated set of amendments to the existing underpinning procurement legislation.”

Welsh Government response

A Welsh Government response to the technical reporting points is required.

Legal Advisers

Legislation, Justice and Constitution Committee

17 May 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

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Legislation, Justice and Constitution Committee

SL(6)358 – The Education (Student Finance) (Miscellaneous Amendments) Regulations 2023

Background and Purpose

The Education (Student Finance) (Miscellaneous Amendments) Regulations 2023 (“the 2023 Regulations”) make miscellaneous amendments to legislation governing student finance.

Regulation 2 amends the Education (Student Loans) (Repayment) Regulations 2009 (the “Principal Regulations”), which make provision for the repayment of income contingent student loans in England and Wales.

Regulation 2(2) makes provision for a temporary reduction of the interest rate on plan 2 (undergraduate) loans specified in regulation 21A and plan 3 (postgraduate degree loans) specified in regulation 21B of the Principal Regulations. The temporary interest rate reduction will also apply to new plan 5 (undergraduate) loans (see regulation 21C of the Principal Regulations), which will be issued in relation to courses commencing on or after 1st August 2023. The interest rate is set at 7.1% for the period beginning with 1st June 2023 and ending with 31st August 2023. After that date, the interest rate will revert to the original rates specified in the Principal Regulations.

The 2023 Regulations also insert a new formula for the calculation of the fixed instalment rate applicable to plan 3 (postgraduate) loans. Further technical amendments are also made to the Principal Regulations.

In addition, the 2023 Regulations make further technical amendments on an England only basis in relation to certain England only subordinate legislation.

Procedure

Negative

The Regulations were made by both the Welsh Ministers and the Secretary of State, before being laid before both the Senedd and the United Kingdom Parliament.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd. The United Kingdom Parliament can also annul the Regulations, in accordance with the rules for annulment that apply to the United Kingdom Parliament.

Technical Scrutiny

1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

These Regulations have been made as a composite instrument, meaning the Regulations have been: (a) made by both the Welsh Ministers and the Secretary of State, and (b) laid before



both the Senedd and the United Kingdom Parliament. As a result, the Regulations have been made in English only.

The Explanatory Memorandum explains that:

"As the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually. Therefore, the 2023 Regulations are made in English only."

Merits Scrutiny

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy to be of interest to the Senedd

We note that there has been no consultation on these Regulations. In particular, we note the following in the Explanatory Memorandum:

"No consultation has been undertaken."

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy to be of interest to the Senedd

We note that there has been no regulatory impact assessment on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

"In line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation, an RIA has not been produced."

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

16 May 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

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Legislation, Justice and Constitution Committee



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Student loan interest rates**

DATE **12 May 2023**

BY **Jeremy Miles MS, Minister for Education and Welsh Language**

The Welsh Government must ensure that interest rates on student loans do not exceed the prevailing market rate.

We have acted several times in the past two years to cap the rate on student loans to protect students. Most recently, I made an announcement on 8 February 2023 to confirm a cap at 6.9% for another three months from 1 March 2023. These caps were also announced by UK Government for English students.

As interest rates remain high, the rate on loans taken out by undergraduate students since 2012, and by postgraduate students, will be capped at 7.1% between 1 June 2023 and 31 August 2023. Further rate caps may be applied if the prevailing market rate continues to be below student loan interest rates after that date.

Changes to interest rates do not affect monthly student loan repayments, which are charged as a fixed proportion of income. Loan repayments are income contingent. Students repay their loan only if they earn above a threshold, and remaining debts are written off after thirty years.

Living costs should never be a barrier to studying at university, which is why the Welsh Government provides the most generous living costs grants in the UK. Welsh students have less to repay on average than their English peers. The Welsh Government also provides a debt write-off of up to £1,500 for each borrower entering repayment, a scheme unique in the UK.

Agenda Item 4.1

SL(6)357 – School Admissions Appeals Code

Background and Purpose

The School Admission Appeals Code, which was issued in 2013, has been revised to reflect the changes made by the Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023 (“the 2023 Regulations”) that came into force on 3 May 2023.

The 2023 Regulations amended the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (“the 2005 Regulations”) to include an option for admission appeals to be undertaken remotely, as well as in person, or a mixture of both. They codify certain temporary arrangements that were introduced in response to the coronavirus pandemic.

The 2023 Regulations apply to both types of admission appeal hearings dealt with under the 2005 Regulations; namely appeals against an admission authority’s refusal to admit a child and appeals by governing bodies against a local authority’s decision to admit a child who has been permanently excluded from two or more schools.

This Code also includes some technical amendments which reflect legislative changes since the previous code was issued in 2013.

Procedure

Draft Negative.

The Welsh Ministers have laid a draft of the Code before the Senedd. If, within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the draft being laid, the Senedd resolves not to approve the draft Code then the Welsh Ministers must not issue the Code.

If no such resolution is made, the Welsh Ministers must issue the Code (in the form of the draft).

Scrutiny under Standing Order 21.7

The following point is identified for reporting under Standing Order 21.7 in respect of this code:

1. The Committee has identified a substantial number of errors in the Code which are listed in the Annex to this report. In particular, there are several significant inconsistencies between the meaning of the English and Welsh texts which could lead to the code being interpreted incorrectly by the reader.



Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

17 May 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

Welsh Parliament

Legislation, Justice and Constitution Committee

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School Admissions Appeals Code

LJC Draft Report: Annex

Substantive errors

1. The Code contains references to “(date)” (at pages 1 and 2) and “[HTML]” (at pages 27, 37 and 49) where those placeholders have been left in and the relevant date/link has not been inserted.
2. In the Introduction, in paragraph 1.1, “LAs” is used from the beginning without having been first defined in the Code.
3. In paragraph 3.4, in the final bullet point, in the Welsh text, the words “in writing” have been translated as “drwy lythyr” which literally means “by letter”. The same thing occurs elsewhere in the translation of “in writing” in paragraphs 6.1, 7.2 and 7.11 of the Code. Later in Annex D, in paragraph D.3, there is also an instance where “in writing” has been translated as “ar bapur” which is an idiom that can mean “in writing” but literally means “on paper”. Elsewhere in the Code, the Welsh text has translated “in writing” more literally as “yn ysgrifenedig” in the majority of the paragraphs where the phrase is used. It is true that the Code does refer to decision letters as a means of notification, but it might not be appropriate to use phrases which mean “by letter” or “on paper” in the Welsh text as they could be viewed as appearing to limit the ways of notification or communication when that isn’t expressly stated in those paragraphs. It also means that there isn’t a way of distinguishing between “by letter” and “in writing” when it is expressly stated in the English text, if the same translation is used in the Welsh text for both those phrases.
4. In paragraph 4.13, in the Welsh text, in the penultimate sentence, the word that corresponds to “must” in the phrase “this **must** be explained to the appellant” isn’t shown in red font in the translation. This is significant as the red coloured font is used to show guidelines of the Code that must be followed as explained in paragraph 1.3.
5. In paragraph 5.12, in the Welsh text, in the first bullet point, the word “prejudice” has been translated as “niweidio”. But the word “prejudice” has been translated elsewhere throughout the Code using various forms of “anfantais” in the same context. It is therefore inconsistent with the rest of the Code and suggests to the reader of the Welsh text that “prejudice” has a different meaning in this paragraph.
6. In paragraph 6.14, in the second bullet point, the Welsh text has incorrectly translated “**un**reasonably” as meaning “**re**asonably”. Therefore, the English and Welsh text are directly contradictory.
7. In paragraph 7.2, the Welsh text doesn’t appear to convey the same meaning in relation to the time allowed for an appeal. The English text states that an appeal against a decision must be made “**not later than the fifteenth** school day after the day it is given notice”. It appears to include the fifteenth school day in the time allowed for making the appeal but the Welsh text states that it must be made **before the fifteenth** school day (“**cyn** y pymthegfed diwrnod ysgol”) which wouldn’t include that day in the time allowed. Furthermore, the English text is more precise in stating that the number of school days is calculated from “after **the day** it is given notice” whereas the Welsh text is more vague by stating that it begins after it is given notice (“**ar ôl** iddo gael rhybudd”). This could be interpreted as meaning that the number of days is calculated as beginning from the same day it is given notice or from the following day. It might also be worth reviewing the



translation of paragraph 7.3 to reflect any changes made to paragraph 7.2 in the light of these comments.

8. In paragraph A.25, there is a difference between the English and Welsh texts as the word “should” is missing from the opening words of the translation. In addition, in the English text, the word “should” appears in a different shade of blue in the opening words when compared with its appearance in later example of “should” in the second bullet point of the English text.

Further errors

9. On page 2, in the Welsh text, the term that corresponds to “Action Required” isn’t correctly aligned with the related text on the right-hand side. In addition, all of the terms listed on the left-hand side in the English text are spelt with capital first letters for each word other than “Additional copies”. In the Welsh text, only the first words of those terms are capitalised.
10. On page 3, in the Contents pages, under paragraph 4, and later in the actual heading above paragraph 4.13, in the English text, “Representation” is spelt with a capital first letter in the heading “Attendance and Representation”. But it is spelt with a lower case first letter in the main body of paragraphs 4.13 to 4.16 under the heading, and in the corresponding Welsh text. In the other headings only the first letters of the first words are spelt with a capital letter, so it is also inconsistent with the approach taken in the other headings.
11. On page 4, in the Contents pages, under Annex A, the entries for “Equality Act 2010” and “Human Rights Act 1998” and their respective page numbers are missing from the Welsh translation.
12. On page 4, in the Contents pages, in the Welsh text, a few of the entries in Annex A and Annex C aren’t correctly aligned in the list so they appear further left – e.g., the entries that correspond to “Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (as amended)” and “Restrictions on the scope of admissions appeals as a result of statutory Infant class size limits”.
13. On page 6, in the Summary, the Education (Admission Appeal Arrangements) (Wales) (Amendment) Regulations 2023 are defined as “the 2023 Regulations”. However, the definition isn’t used in the Summary. Later in the Introduction on page 7, in paragraph 1.2, the title of that SI is repeated in full on the first occasion before the definition is used within that sentence. As a result, there doesn’t seem to be any purpose in defining the SI in the Summary and it would make more sense for the definition to appear in brackets after the first reference in paragraph 1.2, or simply to use the phrase “those Regulations” rather than “the 2023 Regulations” in paragraph 1.2.
14. In the Introduction, in paragraph 1.1, “the 1998 Act” appears in blue text with a hyperlink in the Welsh text unlike the English text. These differences occur regularly throughout the Code.
15. In the Introduction, in paragraph 1.1, there are spaces between the section, subsection, paragraph and sub-paragraph numbers in the reference, “section 88 (1) (a) (ii)” but it should be referenced as “section 88(1)(a)(ii)” without spacing.
16. In paragraph 1.4, the significance of the phrases “should” and “should not” are explained for the purposes of the guidelines. The terms are shown in a blue coloured font when they are used for this purpose in the English text. However, the Welsh text has used a different coloured blue font for the corresponding terms in the translation of this paragraph.



Furthermore, the translation then varies throughout the Code between the different coloured blue fonts when using the words that correspond to “should”/ “should not” – compare for example paragraphs 1.4 and 1.7. In addition, the blue coloured fonts are sometimes used for hyperlinked references to legislation which adds to the confusion as to the significance of the colour of the text in the translation. A few practical examples of the mixing of the blue fonts colours in the Welsh text include but aren’t limited to paragraphs 4.15 and 4.18, and footnotes 3 and 7. In places, the English text also uses different blue font colours for “should”/ “should not” and the hyperlinked references to legislation which further compounds the problem.

17. In paragraph 2.1, and throughout the rest of the Code, the Welsh translation varies in whether “practice” (“arfer”) is to be treated as a masculine or feminine noun. As a result, the Welsh text varies in the translation of “good practice” between “arfer **dda**” and arfer **da**”. The translation should be consistent throughout the Code – see paragraphs 2.1 and 2.11 for “arfer da” and paragraphs 2.19, 4.6, and 4.11 for “arfer dda”. (It is also mutated as a feminine noun in paragraph 1.4 as “arfer wael” is the translation for “bad practice”).
18. On page 10, in footnote (3) for paragraph 2.1, in the English text, the first, second and third lines all incorrectly end with a full stop in the middle of the titles of the SIs. There is also an incorrect “and the” rather than “, the” in the third line, and in the fourth line of the English text there should be a space between “(Wales)” and “(Amendment)”.
19. In paragraph 2.3, in the first and second bullet points, the abbreviation “LA” is incorrectly abbreviated as “**All**” rather than as “**ALI**” in the corresponding Welsh text.
20. In paragraph 2.5, the reference should say “paragraphs 2.2 **and** 2.3” rather than “2.2 **to** 2.3” as they are consecutive paragraphs.
21. In paragraph 2.10, there is a slight difference between the English and Welsh texts where “relevant court rulings and guidance” has been paraphrased as meaning “relevant court rulings and **latest** guidance”.
22. In paragraph 2.13, a capital first letter has been used for “**R**egulations” but this is normally done in legislation when referring to a specific set of Regulations. Elsewhere in the Code, such as in paragraphs 3.2 and C.18, a lower case first letter has been used for the spelling of “regulations” when referring to sets of regulations in general rather than a specific set of Regulations.
23. From paragraph 4.9 onwards, in the Welsh text there is a slight difference in how the phrase “the timetabled admissions process” has been translated from a grammatical point of view. In paragraph 5.21 it has been translated as “y broses **dderbyn** a amserlennwyd” but in paragraphs 4.9, 4.10, 4.12 and 6.1 it has been translated as “y broses **derbyn** a amserlennwyd” without the soft mutation. There should be a consistent approach throughout the Code.
24. In paragraph 4.11, in the second sentence, there is a slight difference between the English and Welsh texts, as the word “appeal” in the phrase “**appeal** panel members” is missing from the Welsh translation.
25. In paragraph 4.16, the Welsh text has used a capital letter for “member” in the phrase that corresponds to “**m**ember of the Senedd” where the English text has a lower case first letter.
26. On page 20, in footnote (9) for paragraph 4.13. there is a reference to “paragraphs A15 to **A23**” but this appears to be incorrect and should state “paragraphs A15 to **A22**” ?



27. In paragraph 5.4, there is an incorrect reference to “paragraph 5.3 **and 5.4**”. This requires explanation as to the intended correct reference that should be found here. In addition, the reference should use a plural noun “paragraphs” if it refers to several paragraphs.
28. In paragraph 5.12, in the first bullet point, the reference “paragraphs 5.19 **to** 5.20” should use a conjunction “and” rather than “to” as they are consecutive paragraphs – “paragraphs 5.19 **and** 5.20”.
29. In paragraph 5.18, in the English text, in paragraph (a), the second paragraph appears aligned slightly further left than the later paragraphs within paragraphs (b) and (c). In the Welsh text all of the corresponding paragraphs in (a), (b) and (c) are aligned much further left in the text.
30. In paragraph 5.26, the reference “paragraphs 5.17 **to** 5.18” should use a conjunction “and” rather than “to” as they are consecutive paragraphs – “paragraphs 5.17 **and** 5.18”.
31. In paragraph 5.36, in the Welsh text, the word “Education” is missing from the translation of the title of the Act – “the **Education** Act 1996”. In addition, in the reference “paragraphs 3.51 **and** 3.52”, the translation has conveyed the meaning as “**to**” rather than “and”.
32. In paragraph 5.40, the abbreviation for individual development plan is included in brackets “IDU” after the term on the first occasion, but isn’t actually used in the Code. Presumably, this is to aid the reader rather than for the intention of using it as a definition in the Code.
33. In paragraph 5.42, in the English text, “Disability Discrimination” appears spelt with capital first letters and a single quotation mark at the beginning and double quotation marks at the end. In the Welsh text, the corresponding words aren’t capitalised and there aren’t any quotation marks around them. It doesn’t appear to be a publication but rather a section on the EHRC website, so it follows that the words should simply be incorporated into the sentence without capital letters and quotation marks in the English text as well.
34. In paragraph 6.1, the phrase “**five** working days” is used, where the number of days is expressed by the word “five”. Elsewhere in the Code, numerals rather than words are used in both languages for expressing the number of working days in a similar context (e.g., paragraphs 4.3, 4.4 and 4.23).
35. In paragraph 6.10, there is a slight difference between the Welsh and English texts where the word “panel” is missing from the translation of the phrase “different **panel** members”.
36. In paragraph 7.1, there is a reference to “the 1998 Act and paragraph 2(2) of Schedule 2 to the 2005 Regulations” at the end of the sentence which is all underlined and has a hyperlink. In the English text, the entire reference is shown in a blue font colour which is used for actions that should be taken. In the corresponding Welsh reference, only the words that correspond to “the 1998 Act” are underlined with a hyperlink, and they are shown in a different light blue font colour.
37. In paragraph 7.4, it refers to child looked after by “a Welsh LA”. It is only time that “Welsh LA” rather than “LA” is used in the Code.
38. In paragraph 7.5, in the English text, the first letter in the reference “**s**ection 95(2)” isn’t coloured blue and underlined, and the corresponding Welsh text is coloured a different shade of blue. In addition, in the Welsh text, “the 1998 Act” has also been coloured blue and underlined even though this doesn’t occur in the English text. These problems occur throughout the Code in various places in relation to the formatting differences between the language texts.



39. On page 36, in footnote 26 for paragraph 7.4, “Regulation” should be spelt with a lower case first letter as it is referring to a specific individual regulation rather an entire set of Regulations.
40. In the heading of Annex A, in the English text, there is a colon after “Admission appeals” but there is a hyphen in the corresponding Welsh text.
41. In Annex A, in paragraph A.5, there is a reference to “section 94” but it doesn’t add “of the 1998 Act” unlike all the other references in paragraphs A.3 to A.13.
42. In Annex A, in paragraph A.7, in the second bullet point, there is an error in the English text which states “made on or behalf of” when the intention appears to be to state “made by or on behalf of”. The Welsh translation has assumed that it should say “made by or on behalf of” and has translated it as having that meaning.
43. In Annex A, in several places, the references to “the 1998 Act” have been shown in blue font and underlined in the Welsh text although that hasn’t been done in the English text. For examples, see paragraphs A.6, A.8, A.9 and A.13.
In addition, in the English text, the reference to “the 1998 Act” has been shown in blue font, underlined and with a hyperlink in paragraph A.12 although this hasn’t been done for all of the earlier references to that Act.
44. In Annex A, in paragraph A.13, in the Welsh text, the word that corresponds to “year” in “year group” has been shown in a light blue colour, underlined, and with a hyperlink although it doesn’t occur in the English text. This is addition to the other formatting differences that have already been mentioned in relation to this paragraph.
45. In paragraph A.15, there is a significant difference between the English and Welsh texts as the words “and victimisation” are missing from the translation.
46. In paragraphs A.18 and A.20, the words “victimise” and “victimisation” occur in the English text, and they have been included in the Welsh text. However, they have been translated differently as “trin [person] yn annheg” and “erledigaeth” in those paragraphs. They do appear to refer to the same concept in law and therefore they should be consistent regarding their terminology. The Welsh Government’s terminology website does suggest “erledigaeth” as the preferred term with a status B for “victimisation”.
47. In paragraph A.19, in the Welsh text, there appears to be a minor grammatical error where “having a religious character” has been translated as “rhai â chanddynt gymeriad crefyddol”. However, there shouldn’t be a circumflex above the “a” in the words “rhai â chanddynt”.
48. In paragraph A.21, in the English text, the sentence doesn’t make sense as it states “is available the from the”. The corresponding Welsh text does make sense and has translated the meaning as “available from the”.
49. In Annex B, in paragraph B.5, in the first bullet point of the final words, the English text states “have understood the reasons for the decision, **which must** be expressed clearly and concisely (in writing)”. The Welsh text interprets “which must” as referring to “the decision”, and if that is the intention of the English text, the translation is correct. But, if the English text is referring to “the reasons” then the translation has misinterpreted the English text and is incorrect.
50. In Annex C, in paragraphs C.9 and C.15, there are references to “paragraphs 5.17 to 5.18”. But they should use the conjunction “and” rather than “to” as they are consecutive paragraphs.
51. In Annex C, in paragraphs C.9 and C.16(a), in the English text, there is a slight inconsistency where the word “met” is used in relation to the conditions referred to in paragraphs C.6 and



- C.7. But, in paragraphs C.6 and C.7, the panel must be satisfied that the conditions “apply” rather than are “met”. The Welsh translation of those paragraphs is consistent and uses the word “apply” in all of those paragraphs.
52. In Annex C, in paragraph C.17, in the final sentence of the Welsh text, the words “bydd eu” have become merged as “byddeu” which doesn’t make sense.
 53. On page 49, in footnote (33) for paragraph C.18, there are opening brackets before the words “within the meaning of” but there aren’t any closing brackets in the footnote.
 54. On page 49, in footnote (34) for paragraph C.18, there are square brackets around the words “child arrangements” in the phrase “a [child arrangements] order”.
 55. In Annex D, in paragraph D.3, in the Welsh text, the translation of the publication “The Equal Treatment Bench Book” is in the blue font colour used for things that “should” be done, underlined and hyperlinked unlike in the English text.
 56. In Annex E, it states that “Guidance is available on the EHRC’s website” but the link is to the EASS website. I understand that the EASS is an independent advice service and that it isn’t operated by the EHRC. Therefore, this would appear to be incorrect, and should say “the EASS website. In addition, it appears as though a bullet point could be missing before the information about the EASS.
In the Welsh text, there is also a typographical error in the translation of the name of the Equality Advisory and Support Service in the website link where the letter ‘h’ is missing in “Cyngori” which should be spelt “Cyng~~h~~ori”. Furthermore, the text of the name of that Service appears in different font colours in the Welsh text and the English texts. There are also different words in brackets after the name of the Service in the link in the Welsh and English texts. The Welsh text has “(custhelp.com)” but the English text has “(equalityadvisoryservice.com)”.
 57. In Annex F, the “Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 (“the 2011 Regulations”)” and “Guidance: The Equality Act 2010 (Disabled School Pupils) (Wales) Regulations 2021 [HTML] | GOV.WALES” appear in blue coloured text, underlined and with a hyperlink unlike the other related documents listed in the Annex.
 58. In Annex F, in the English text, the case “R (ota I) v The Independent Appeal Panel of St Edward’s College [2001] ELR 542” doesn’t appear to be in the correct place as it should appear before the case beginning “R (ota K and S)” to be in the correct order.
 59. In the Glossary, in the English text, in the entry for “Admission Authority”, the second sentence appears in a different font size to the rest of the entries – size 11 rather than 12.
 60. In the Glossary, in the entry for “Admission round (normal)”, in the English text, “Foundation” has been spelt with a capital first letter in the words “Foundation school” but is spelt with a lower case first letter in the Welsh text. The Welsh text appears to be correct in this instance.
 61. In the Glossary, in the Welsh text, in the entry that corresponds to “Infant class size limit”, a word is missing after “of the 1998 Act” with the result that the translation doesn’t make sense. The Welsh word “yn” should appear after “o Ddeddf 1998” to complete the meaning of the sentence.
In addition, in the English text of that entry a longer part of the sentence appears in blue, underlined and with a hyperlink compared with the Welsh text.
 62. In the Glossary, in the entry for “Looked after children”, in the English text, the words in the term “Previously Looked after Children” are all spelt with capital first letters. But only the first word of the term is spelt with a capital letter in the later entry for that term in the



Glossary. In the Welsh text it is spelt consistently with only the first letter capitalised in both places.

63. In the Glossary, in the entry for “Oversubscription” there is a slight difference between the Welsh and English text. In the English text, it refers to “the school’s published admission number”, but the Welsh text has the meaning “the admission number published on the school’s website”. In addition, in the Welsh text, it could be argued that it would have been sufficient to put “Goralw” in the heading without the additional explanation, as the entry itself provide an explanation of the meaning of “Goralw” (“Oversubscription”). It also means that if anyone searches for the term “goralw” in the Glossary it will not be found under the letter “g” because the heading begins with the first letter of the explanation “Mwy o...” which doesn’t seem helpful to the reader.



Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Ein cyf/Our ref: CG/PO/143/2023

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

15 May 2023

Inter-Institutional Relations Agreement: Inter-Ministerial Group on Justice

I am writing in accordance with the inter-institutional relations agreement to notify you that the inaugural meeting of the Inter-Ministerial Group on Justice will be held on 24 May at the Ministry of Justice Offices in Petty France, London.

The meeting is due to be chaired by Lord Bellamy KC, Parliamentary Under-Secretary of State for Justice and I will be representing the Welsh Government in person. The meeting is likely to focus on a range of issues relating to the Victims Bill currently passing through Parliament, Prisons, Court Recovery, Legal Aid, Human Rights and Retained EU Law.

I will provide an update after the meeting.

I am copying this letter to the Minister for Social Justice and Chief Whip.

Yours sincerely,



Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Mick.Antoniw@llyw.cymru
Correspondence.Mick.Antoniw@gov.Wales

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Agenda Item 5.2

Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/JJ/1298/23

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

16 May 2023

Dear Huw,

I am writing to inform the Committee of the intention to agree to the UK Government making and laying the Transport and Works (Applications, Objections and Inquiries Procedure) (Amendment) Rules 2023 (“the Amendment Rules 2023”).

The Amendment Rules 2023 would make changes to the process for submitting and processing applications for Orders under the Transport and Works Act 1992 (“the TWA”), as set out in the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (“the 2006 Rules”) and the Transport and Works (Inquiries Procedure) Rules 2004 (“the 2004 Rules”), to remove reliance on paper documents and to enable the use of electronic methods of communication and submission.

The TWA is, in the main, an Act which enables the Secretary of State (“SofS”) to make Orders relating to, or to matters ancillary to, the construction or operation of railways, tramways and other guided transport systems. It also enables the SofS to make Orders relating to works interfering with public rights of navigation.

The Welsh Ministers may exercise, among other things, the power to make Orders under the TWA in Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (“the TFO”).

The 2006 Rules

The functions of the SofS, namely the relevant rule-making powers under s.6, 7(4) and 10 of the TWA, under which the 2006 Rules are made, were not transferred by the TFO. Therefore, the Welsh Ministers do not have the ability to amend or make rules under the relevant rule-making powers.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

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Article 5 and Schedule 2 of the TFO provide that those functions of the SofS, so far as they are exercisable in relation to Wales, can be exercised only with the agreement of the Welsh Ministers. This includes the relevant rule-making powers under the TWA. So, the agreement of the Welsh Ministers is legally required before the changes to the 2006 Rules, as proposed in the Amendment Rules 2023, can be made.

The 2004 Rules

The 2004 Rules are made under section 9 of the Tribunals and Inquiries Act 1992 (“the TIA”). Section 9(7) of the TIA provides that in the application of section 9 to inquiries held in Wales by or on behalf of the Welsh Ministers, the power in subsection (1) to make rules is exercisable by the Welsh Ministers (and not by the Lord Chancellor). Consequently, any amendments made to the 2004 Rules in respect of inquiries held in Wales by or on behalf of the Welsh Ministers will need to be made by the Welsh Ministers. At this stage the Welsh Government is not legislating to make amendments to the 2004 Rules.

The Amendment Rules 2023 amend both the 2006 Rules and 2004 Rules. However, for the reasons detailed above, the amendments to the 2004 Rules will apply to England only. The amendments to the 2006 Rules will apply in England and Wales.

The proposed minor changes to the 2006 Rules accord with the Welsh Government’s wider agenda to streamline consenting processes and would have environmental benefits by removing the need to provide paper documents for TWA applications.

The Amendment Rules 2023 do not have implications for the Programme for Government.

I will update the Committee when the Amendment Rules 2023 have been agreed.

Yours sincerely,



Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 5.3

MICK ANTONIW AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: CG/PO/146/2023

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

17 May 2023

Inter-Institutional Relations Agreement: Inter-Ministerial Standing Committee

I am writing, in accordance with the inter-institutional relations agreement to notify you of the fourth meeting of the Inter-Ministerial Standing Committee, which will take place later today.

The Standing Committee will be chaired by the Secretary of State for Levelling Up, Housing and Communities (and Minister for Intergovernmental Relations). I will represent the Welsh Government at the meeting.

In this virtual meeting I anticipate the discussion will focus on UK legislation, Investment Zones, and Common Frameworks.

I will provide an update after the meeting.

I have also copied this letter to the Finance Committee and the Economy, Trade and Rural Affairs Committee.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Mick.Antoniw@llyw.cymru
Correspondence.Mick.Antoniw@gov.Wales

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Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Agenda Item 5.4



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair of Legislation, Justice and Constitution Committee
SeneddLJC@assembly.wales

Paul Davies MS
Chair of Economy, Trade, and Rural Affairs Committee
SeneddEconomy@senedd.wales

18 May 2023

Dear Paul, Huw,

I wanted to let you know, per the inter-institutional relations agreement, that a meeting of the Inter-Ministerial Group for Trade is scheduled for 25th May 2023.

The agenda will include:

- an update on the UK-India Free Trade Agreement Negotiations
- an update on US State Memorandum of Understandings (MoUs), and
- an update on the UK-Canada Free Trade Agreement Negotiations

I will update you further following the meeting.

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

YPCCGB@llyw.cymru PSCGMET@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Mick Antoniw MS
Counsel General and Minister for the Constitution

16 May 2023

Dear Mick

The Retained EU Law (Revocation and Reform) Bill

At this week's meeting we discussed the latest developments surrounding the Retained EU Law (Revocation and Reform) Bill and last week's announcement by the UK Government regarding the Bill; in particular we discussed its new position on the retained EU law to be revoked at the end of 2023.

We appreciate that developments with the Bill appear to be moving at a fast pace and we are further mindful that intergovernmental discussions about the Bill have not been optimal to date.

Nonetheless, given the significance of the recent developments, there are a number of matters which will be of great importance to the Senedd, not least if Members of the Senedd are asked to make a further consent decision linked to the Bill following amendments at House of Lords' Report Stage.

We ask that the questions we raise below are addressed in the further supplementary legislative consent memorandum we anticipate you will lay before the Senedd. We would also welcome confirmation in correspondence to us that this has been actioned.

I am copying this letter to the Llywydd, Chair of the Business Committee.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

ANNEX

Amendment to clause(1) of the Bill removing the current 31 December 2023 sunset date for retained EU law and instead providing that retained EU law to be revoked is listed in a new Schedule

Question 1: What is the Welsh Government's view of the new approach proposed by the UK Government?

Question 2: Did the UK Government consult the Welsh Government on this new approach before tabling the relevant amendments for Lords' Report Stage? If so, were any matters and/or concerns raised by the Welsh Government taken on board by the UK Government?

Question 3: Does the list of retained EU law to be revoked, as set out in the new Schedule amendment, include instruments in devolved areas?

Question 4: What is the Welsh Government's view of the list of retained EU law set out in the new Schedule amendment?

Question 5: To what extent did the Welsh Government and UK Government work together on the list of retained EU law in the new Schedule amendment?

Question 6: Does the Welsh Government have concerns about anything listed or not listed in the new Schedule amendment?

Amendment replacing subsections (3) and (4) of clause 1 with a new regulation-making power for both the Welsh Minsters and the UK Minsters to exclude retained EU law listed in the Schedule from revocation (regulations to be subject to the affirmative procedure to be made by 31 October 2023)

Question 7: Did the UK Government consult the Welsh Government about this amendment and giving this power to the Welsh Ministers?

Question 8: What is the Welsh Government's view on the timescales involved in reviewing the Schedule list and laying any necessary regulations before the Senedd for scrutiny and approval before the expiration date of 31 October 2023?

Question 9: How and when would the Welsh Government go about using this power?

Question 10: To what extent will the Welsh Government and the UK Government work together on identifying and excluding retained EU law from the Schedule list? How will disagreements, if they arise, be resolved?

The sunseting of directly effective rights and obligations (the repeal of section 4 of the European Union (Withdrawal) Act 2018) remains 31 December 2023

Question 11: What does the Welsh Government consider to be the impact of this sunseting of directly effective rights and obligations? Will it impact on the exercise of the new regulation-making power to be included in new clause 1(3), and on the power to restate, reproduce, revoke, replace or update in clauses 13 to 17?

Question 12: Amendment 15 will require the Welsh Ministers to make a statement to the Senedd before the end of October 2023 of any right, power, liability, obligation, restriction, remedy or procedure that will fall at the end of December 2023, and would give the Senedd the opportunity to resolve that any such rights etc be retained. What is the Welsh Government's view of amendment 15 being agreed?

Powers in the Bill to restate, reproduce, revoke, replace or update have not been changed

Question 13: What is the Welsh Government's view of the fact that the powers in clauses 13 to 17 of the Bill to restate, reproduce, revoke, replace and update retained EU law have not been changed?

Question 14: Does the Welsh Government anticipate that the UK Government will use the clause 15 powers to revoke or reform further areas of retained EU law before the end of this year? If so, is the Welsh Government engaged in any discussions on this, and does it know if such future regulations are likely to cover devolved areas?

Question 15: Does the Welsh Government intend to use any powers provided to it in the Bill to revoke, amend, replace or update any Senedd made or devolved retained EU law by the end of this year?

Concurrent powers remain in the Bill

Question 16: What is Welsh Government's current position on the use of concurrent powers by UK Ministers on matters which are devolved to Wales?

Question 17: In what circumstances, if any, would the Welsh Government be content for the UK Government to make regulations under the Bill in devolved areas?

Amendments to clauses 20 and 23 - consequential, transitional, supplementary etc powers will be given to the Welsh Ministers

Question 18: Did the UK Government consult the Welsh Government before giving these powers to the Welsh Ministers?

Question 19: The power in clause 20 includes the express power to amend the Bill itself. Does the Welsh Government intend to use this power?

General matters

Question 20: What is the Welsh Government's general view of the Bill as amended at Lords' Report Stage?

Question 21: What is the Welsh Government's revised strategy for dealing with the Bill in light of amendments agreed in the House of Lords to the Bill?

UK Government Department for Business and Trade, Smarter Regulation to Grow the Economy policy paper

Question 22: Was the Welsh Government consulted on the development of the UK Government's Smarter Regulation to Grow the Economy policy paper?

Question 23: What are the Welsh Government's views on the proposals contained in the paper?

Question 24: What is the Welsh Government's view on the new criteria set out in the paper for the reform or removal of legislation "no longer fit for purpose"?

Question 25: What is the Welsh Government's view on the addition of reviewing domestic regulation in addition to regulations which originated from the EU?

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 6.2

Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
Cardiff Bay
Cardiff
CF99 1SN

18 May 2023

Dear Huw

I write to you in relation to the rapidly escalating violence in Khartoum and across Sudan which began on 15 April 2023. You will be aware that the UK Government has recently led an evacuation exercise which has led to more than 2,000 people being returned to the UK, from Sudan, through a series of military flights. Further to this, the UK Government has agreed to make changes to the way it applies the habitual residence test for people evacuated from the violence in Sudan and these changes will require an urgent response to ensure parity of response in Wales.

The UK Government has recently brought forward emergency legislation which disapplies the habitual residence test, which is used to stop someone who has a right to enter the UK from claiming benefits immediately after their arrival, for British Nationals, others not subject to immigration control (or treated as such), and anyone with immigration leave and recourse to public funds evacuated from the conflict in Sudan. Disapplying the habitual residence test will give those arriving in the UK from Sudan immediate access to benefits, including housing and homelessness assistance.

Currently the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 do not give British nationals or those not subject to immigration control, any exemption from the habitual residence test should they also wish to access public funds. I have therefore, instructed my officials to undertake the necessary actions to reflect the UK Government legislative change in Wales. This is necessary to align the housing rules in Wales and to maintain the Welsh Government's commitment as a nation of sanctuary. You will be aware that normally this process would take one to three months to complete but, given the seriousness of the emerging situation, it is necessary to expedite the process.

The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No. 2) Regulations 2023 ["the amending Regulations"] are being drafted for the purpose of giving people who have been affected by the violence in Sudan eligibility to housing and homelessness services in Wales and waives the habitual residence test. Due to the urgency of this situation, I would be grateful if the Committee would give early consideration and provide an urgent report on the amending Regulations in time for a plenary debate on 6 June 2023.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I would like to thank the Committee in advance for their assistance in providing support to these arrangements, which will allow people fleeing the violence in Sudan an opportunity to seek housing or homelessness assistance in Wales without undue delay.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive style with a large initial 'J'.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Elin Jones MS
Y Llywydd
Chair, Business Committee

18 May 2023

Annwyl Lywydd,

Legislative Consent Memorandum for the Illegal Migration Bill

You will be aware that on 25 April, the Business Committee agreed to invite the Local Government and Housing Committee, the Equality and Social Justice Committee and the Legislation, Justice and Constitution Committee to consider the Legislative Consent Memorandum on the Illegal Migration Bill (the "LCM"), with a reporting deadline of 15 June. The LCM was subsequently also referred to the Children, Young People and Education Committee.

We considered the LCM at our meeting on 11 May. The LCM states that clauses 19 and 20 require consent because they relate to the devolved matter of social care, which is not within the Committee's remit. These clauses could place duties on local authorities in Wales. If passed, the Bill would give the Home Secretary powers to provide or arrange for the provision of accommodation to unaccompanied children who meet certain conditions under the Bill, and to transfer such children from Home Office accommodation into local authority care, and vice versa. Clause 19 enables these provisions to be extended to Wales without the requirement for Senedd consent.

We discussed whether to report on the LCM and decided against doing so, mainly because the provisions of the Bill fall outside of the Committee's remit. Even though the Bill enables provisions to be extended to Wales and by virtue may place duties on local authorities, it would be unreasonable for the Committee to consider every UK or Senedd Bill that places duties on, or transfers powers to, Welsh local authorities.

In addition, during our discussions, the Chair of the Children, Young People and Education Committee, who is also a member of our Committee, confirmed that her committee would most likely be undertaking work on the LCM. We also understand that it will be considered by two other

committees: the Equality and Social Justice Committee and the Legislation, Justice and Constitution Committee. On that basis, and for the other reasons outlined above, we have decided not to report on this LCM.

I am copying this letter to the other committees the LCM has been referred to for information.

Yours sincerely

A handwritten signature in black ink that reads "John". The letters are cursive and connected.

John Griffiths MS

Chair, Local Government and Housing Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Agenda Item 6.4

Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair,
Legislation, Justice and Constitution Committee

SeneddLJC@senedd.wales

18 May 2023

Dear Huw,

I refer to the Legislation, Justice and Constitution Committee's report published on the 25 April with their findings and recommendations as part of Stage 1 scrutiny of the Health Service Procurement (Wales) Bill.

I outlined my responses to the Committee's recommendations as part of the General Principles debate on the Bill in Plenary on the 9 May, where I also gave a commitment to provide a full written response. This can be found at Annex A.

I would like to reiterate my thanks to the Committee for scrutinising the Bill and its supporting documentation.

Yours sincerely



Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Eluned.Morgan@llyw.cymru
Correspondence.Eluned.Morgan@gov.wales

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ANNEX A

HEALTH SERVICE PROCUREMENT (WALES) BILL

WELSH GOVERNMENT RESPONSE TO THE LEGISLATION, JUSTICE AND CONSTITUTION COMMITTEE'S STAGE 1 SCRUTINY REPORT 25 APRIL 2023.

Recommendation 1: The Minister should table an amendment to the Bill to alter the heading of the new section 116A of the National Health Service (Wales) Act 2006, to be inserted by section 2 of the Bill, to clarify that the provisions of the Procurement Bill, once enacted, may be disapplied in respect of health services procurement undertaken by NHS organisations and local authorities in Wales.

Response: NOT ACCEPTED

I understand why the Committee has raised this issue in relation to specifically referencing local authorities in the heading of the new section, which is to be inserted into the Procurement Act 2023.

When developing the Bill we were cognisant that the wording should seek to mirror the approach and powers being taken by the UK Government's Department of Health and Social Care for their Provider Selection Regime, and that the wording should demonstrate that the powers being sought by the Welsh Ministers are identical to those for a Minister of the Crown in the preceding clause.

Also, we were mindful that local authorities procure a wide range of goods and services outside of 'health services' as defined by the Bill. Specifically referencing local authorities in the heading of the new section could in effect be interpreted that the proposed health service procurement regime has a wider application for local authorities; causing confusion and implying that the disapplication power applies to all services procured by local authorities.

The Bill makes it clear that local authorities are named as a 'relevant authority' under section 10A(6) of the National Health Service (Wales) Act 2006, as is to be inserted by section 3 of the Bill.

It is for these reasons that I do not accept recommendation 1 from the Committee.

Recommendation 2: The Minister should share for public consultation draft versions of regulations to be made under the new section 10A of the National Health Service (Wales) Act 2006, to inform their further development ahead of the laying of regulations subject to the draft affirmative procedure in the Senedd.

Response: NOT ACCEPTED

We are fully committed to undertaking a public consultation on the operational principles to inform the development of future regulations for the proposed new health service procurement regime.

As a result, the regulations will be directly developed in partnership with the 'relevant authorities' as defined in the Bill, including NHS Wales, local authorities, and other relevant stakeholders. This stakeholder engagement will take place through various routes; including dialogue with representative organisations and the establishment of working groups to develop and refine the regulations.

We are also mindful that we need to align with the changes being brought about by the introduction of the Provider Selection Regime in England at the earliest opportunity, to minimise the time gap and associated risks of having two differing health service procurement regimes in place between England and Wales.

Undertaking a public consultation on the draft regulations (in addition to the consultation programmed for the development of the regulations), will have limited operational benefit, and place a considerable time delay on the implementation of the new health service procurement regime in Wales and alignment with the proposed procurement regime changes in England.

I do not feel additional consultation processes over and above those already committed to are necessary, and therefore do not accept recommendation 2 from the Committee.

Recommendation 3: The Minister should table an amendment to the Bill to require that regulations under the new section 10A of the National Health Service (Wales) Act 2006 shall not be made until 60 days have elapsed since the laying of draft regulations.

Response: NOT ACCEPTED

As detailed above in my response to recommendation 2 from the Committee, we are mindful that we need to align with the proposed changes being brought about by the introduction of the Provider Selection Regime in England at the earliest opportunity. The future regulations will follow the government's default timeline for the scrutiny for laying regulations which is 20 days via an affirmative procedure; providing the Senedd with the appropriate timeframe to scrutinise the regulations prior to voting on whether to approve them.

Placing additional timescales for Senedd scrutiny of the regulations will delay the introduction of the proposed new health service procurement regime in Wales. This requirement could also impede our ability to respond to any changes to the Provider Selection Regime regulations brought forward by Department of Health and Social Care in a timely way in the future, creating the risk of a future misalignment in the health service procurement regimes between England and Wales.

As such, I do not accept recommendation 3 from the Committee.

Recommendation 4: The Minister should table an amendment to the Bill to provide that the Welsh Ministers must consult such other persons as they consider appropriate in preparing regulations to be made under the new section 10A of the National Health Service (Wales) Act 2006, to be inserted by the Bill.

Response: ACCEPTED IN PRINCIPLE

Recommendation 4 from the Committee in respect of consultation crosses over with recommendation 5 from the Health and Social Care Committee, both of which seek an amendment to the Bill to place a duty on Welsh Ministers to consult in respect of the future regulations.

As stated above, we are fully committed to undertaking a public consultation on the operational principles to inform the development of future regulations for the proposed new procurement regime.

However, I note the comments from both Committees and the desire to fully ensure that appropriate individuals and groups are formally offered the opportunity to input into the process of preparing the regulations.

Therefore, whilst I am unable to fully accept the suggested wording set out in recommendation 4 of the Legislation, Justice and Constitution Committee's report and recommendation 5 of the Health and Social Care Committee's report, I am happy to accept in principle the recommendations and will seek to bring forward an amendment at Stage 2 which places consultation on the development of the regulations on the face of the Bill.

Recommendation 5: The Minister should table an amendment to the Bill to provide that the Welsh Ministers must consult such other persons as they consider appropriate in preparing guidance about complying with regulations made under section 10A of the National Health Service (Wales) Act 2006, to be inserted by the Bill.

Response: NOT ACCEPTED

Following on from my response to recommendation 4 above, I am committed to bringing forward an amendment in relation to consultation in respect of the development of regulations.

The regulations will be developed in cooperation with relevant authorities, and consequently, will inform the subsequent guidance which explains the requirements in those regulations.

Furthermore, we need to ensure we have an approach that will be flexible and agile and allow changes to the guidance in an appropriate and timely manner to ensure we have a regime that is fit for purpose, reflects best practice, ongoing stakeholder and user feedback and to react to any changes brought about by the proposed Provider Selection Regime once operational in England.

As such, I do not consider it practical or necessary to undertake a formal consultation on the preparation of the guidance to comply with the regulations.

Therefore, I do not accept recommendation 5 from the Committee.

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Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/JJ/1145/23

Huw Irranca-Davies MS
Chair of the Legislation, Justice and Constitution Committee
Welsh Parliament

SeneddLJC@senedd.wales

25 April 2023

Dear Huw,

Many thanks to you and the Legislation, Justice and Constitution Committee members for considering the Legislative Consent Memoranda (initial Memorandum, revised memorandum, and Memorandum No. 2) in respect of the UK Government's Levelling-up and Regeneration Bill (the Bill).

I welcome the report published by the Committee on 24 February noting your request for a response to the recommendations. I apologise for the delay in providing this response.

Recommendation 1. The Minister should confirm whether the clauses identified in paragraph 59 of the revised Memorandum require the consent of the Senedd and, if not, why the Welsh Government has a different view from the UK Government.

The clauses identified in paragraph 59 of the revised Memorandum do not constitute a 'relevant provision' on the basis that they fall within the exception set out in Standing Order 29.1(i). That is, that they are incidental or consequential amendments (to retain the existing legislative position) to a reserved position (in this case a provision which applies only in relation to England). As such they do not require the consent of the Senedd. The UK Government is in agreement that the provisions do not modify the executive competence of the Welsh Ministers or the legislative competence of Senedd Cymru. I apologise if their inclusion as 'other amendments' in paragraph 59 of the revised Memorandum has caused confusion.

Recommendation 2. The Minister should explain why she is seeking amendments to the Bill to seek executive powers for the Welsh Ministers in relation to planning data provisions and environmental outcome reports rather than negotiating that those provisions apply to England only.

I have previously identified that the provisions in respect of planning data provisions and environmental outcome reports are potentially beneficial, and I was open to persuasion on their application to Wales.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I stand by this position. The position of Environmental Impact Assessment (EIA) in Wales is currently very complicated, with the relevant EU Directives governing this area currently implemented through a complex range of different methods, including primary legislation and Statutory Instruments made under section 2(2) of the European Communities Act 1972 (ECA) on an England and Wales, or Wales only basis, and under existing powers, such as section 71A of the Town and Country Planning Act 1990 (the TCPA). The system is complicated because EIA covers a very large number of policy areas, ranging from planning, water, marine through to agriculture and transport. More importantly the legislation is unable to adapt to changing circumstances as the majority of these policy areas do not have primary legislation to enable their future amendment. Therefore, what we have now, is what we have. It is also worth noting that there may be limited powers to preserve and assimilate retained EU law in devolved areas by virtue of the powers in the UK Government's Retained EU Law (Reform and Revocation) Bill. However, these powers are complex and limited in scope and time, and they may not provide an ability to amend upon expiry of the powers. The Bill is currently progressing through Parliament and is subject to change.

Whilst the majority of policy areas are clearly within devolved competence, there are other aspects of the current EIA regime that relate to reserved matters and are therefore dealt with by the UK Government on an England and Wales basis, for example in relation to nationally significant infrastructure projects and national security. If a Senedd Cymru Bill were to seek to make such provision, consideration would need to be given as to the extent that the reservation was engaged.

On this basis my officials have been engaging with the UK Government over what would be required to make the provisions acceptable and realise benefits to Wales. Of course, should those benefits not be realised I would seek to have the provisions apply in England only.

Recommendation 3. The Minister should clarify whether it would be possible for the Welsh Government to bring forward its own Bill covering planning data provisions and / or environmental outcomes reports, and if not what the barriers are to such an approach.

The Welsh Government would be able to bring forward primary legislation covering planning data provisions and / or environmental outcomes reports.

The legislative programme is set by the First Minister's statement announcement. The Counsel General has also announced the programme to improve the accessibility of Welsh Law. Under these programmes, we are currently progressing the Infrastructure Consenting Bill and the Planning Consolidation Bill. The Infrastructure Consenting Bill is very narrow in scope focusing on simplifying the consenting process for specified types of major on and offshore infrastructure and so could not accommodate the changes across so many different policy areas. The Planning Consolidation Bill can only consolidate the legislation under the remit of standing order 26C, therefore also preventing the inclusion of these provisions.

Recommendation 4. The Minister should provide an update on who, in Wales, the Welsh Government considers could be a 'relevant planning authority' for the purposes of Chapter 1 of Part 3 of the Bill.

The definition of a 'relevant planning authority' will apply in two situations in Wales. The first is in relation to non-devolved matters. Regulations affecting planning data, made under the Bill provisions, could be applied to local planning authorities and Natural Resources Wales as they undertake their consultee role, responding to Nationally Significant Infrastructure Projects under the Planning Act 2008.

In the second situation 'relevant planning authority' would refer to public authorities that have functions under Part 5 of the Bill on introduction (now Part 6). Functions may mean either preparing Environmental Outcomes Reports (EORs), contributing to such reports or considering them alongside an application for a permission, consent or other approval.

EORs are proposed as a replacement for Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA). As Clause 120 of the Bill (as introduced) seeks to prevent regression in environmental protection, it is anticipated that regulations made by the Secretary of State to define which public authorities have functions under the new regime would mirror those authorities currently engaged.

Across most of the sectors to which EIA applies, Natural Resources Wales and the Welsh Ministers would fall under the definition of 'relevant planning authority'. Other bodies falling under the definition in specific sectors would be local authorities and national park authorities, internal drainage boards, harbour authorities and community councils.

The public authorities currently engaged with SEA and would therefore be likely to fall under the definition 'relevant planning authority' would be those preparing relevant plans and programmes. These are plans and programmes which set the framework for future development consents in a number of policy areas: agriculture; forestry; fisheries; energy; industry; transport; waste management; water management; telecommunications; tourism; town and country planning; and land use.

Recommendation 5. The Minister should clarify what is meant by the sentence “We will work with the UK Government to ensure all relevant Wales only legislation is also included” in paragraph 13.1 of her letter of 25 November 2022. In so doing, she should explain the practical effect of the change she appears to be seeking to clause 130 of the Bill (as introduced).

Clause 130 as introduced (now clause 152) defines the existing environmental assessment legislation that transposes or incorporates the SEA and EIA Directive. Clause 127 as introduced (now clause 149) ensures that EOR legislation made under this part is able to interact with existing environmental assessment legislation, as well as the Habitats Regulations subject to non regression provisions. Clause 120 as introduced (now clause 142) enables regulations to be made only if satisfied that making the regulations will not result in environmental law providing an overall level of environmental protection that is less than that provided by environmental law at the time this Act is passed.

As the provisions seek non-regression of existing law it is considered important that the level of environmental protection set by Welsh law is maintained. This would be achieved by ensuring it was referenced in clause 130 of the Bill (as introduced).

Recommendation 6. The Minister should clarify whether she has sought to reverse the provision in clause 128(2) (as introduced) omitting section 71A of the Town and Country Planning Act 1990, which includes the current executive power of the Welsh Ministers to make provision in respect of the consideration of the likely environmental impacts of proposed development. If not, the Minister should explain the reasons why.

In line with the response to recommendation 2, should the proposals not realise benefits in Wales I would seek the application of the provision to England only.

Recommendation 7. The Minister should state whether clause 112 (as introduced) and amendment NC60 (Street votes: community infrastructure levy) will have an impact on the drafting of the Consolidation Bill on planning law which we are aware the Welsh Government is preparing for introduction to the Senedd.

These clauses make technical and clarifying legal amendments only. The forthcoming Planning Consolidation Bill will consolidate the law that affects Wales at the time of introduction. If clause 112 (as introduced) and amendment NC60 (Street votes: community infrastructure levy) are included in the Bill at Royal assent, it is anticipated they will be subsumed into our Planning Consolidation Bill.

Recommendation 8. The Minister should provide the Committee with an update regarding her negotiations with the UK Government about all provisions of the Bill for which she is recommending consent is withheld.

I wrote to Dehenna Davison MP Minister for Levelling Up on 19 December outlining my firm view that on Part 1, any actions to deliver against these missions could interfere significantly with the policy objectives of the Welsh Government. The letter also included a request to discuss the matters in person. This request was accepted and the Minister for Social Justice attended a meeting on 22 March at which she reiterated our opposition to the provisions.

While we have recommended withholding consent for the provisions relating to planning data and EOR in Chapter 1 of Part 3 and Part 5 (now Part 6) respectively, we have maintained the line with UK Government that if equivalent regulation making powers were offered for the Welsh Ministers we would re-consider our position. This is because the approach could simplify consenting procedures for a range of projects, however without sight of detailed drafting it has not been possible to consider whether the provisions would be appropriate for Wales.

On introduction, the planning data and EOR provisions were drafted as regulation making powers for the Secretary of State only, with prior consultation with the Welsh Ministers. This provides no constitutional protection, hence my recommendation. The UK Government have subsequently provided draft clauses that offer both the Welsh Ministers and the Secretary of State to make regulations. These powers can also be exercised jointly. However, the Secretary of State retains the constrained power to make provision in devolved areas, following consultation with the Welsh Ministers. The proposed draft clauses have not been formally laid. The draft clauses remain unacceptable as they also do not provide sufficient constitutional protection and do not adhere to the Cabinet principles on concurrent powers. At the meeting on the 22 March, draft text providing for equivalent powers was offered, however this is yet to be received.

Yours sincerely,



Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Elin Jones MS
Y Llywydd
Chair, Business Committee

18 May 2023

Annwyl Lywydd,

Supplementary Legislative Consent Memorandum (Memorandum No 3) for the Levelling-up and Regeneration Bill

You will be aware that the Local Government and Housing Committee has been considering legislative consent memoranda in relation to the Levelling-up and Regeneration Bill and that we published a report on the original, revised and supplementary memoranda on 13 February.

On 25 April, Business Committee agreed to invite us, and three other committees, to consider Supplementary Legislative Consent Memorandum (No.3) ("SLCM No.3") and to report by 22 May. The deadline was subsequently extended to 5 June.

We considered SLCM No.3 at our meeting on 11 May and decided not to report on it. In our [report](#) on the original, revised and supplementary memoranda, we stated that "our consideration of the memoranda focused only on the provisions within our remit" and that we were "not in a position to make a recommendation on any of the other provisions in the Bill which fall within the legislative competence of the Senedd". The amendments detailed in SLCM No.3 relate to environmental outcomes reports which do not fall within the Committee's remit. On that basis, and the fact that it has been referred to other committees which may have a greater interest in these amendments, we decided not to report on the memorandum on this occasion.

I am copying this letter to the Legislation, Justice and Constitution Committee; the Economy, Trade and Rural Affairs Committee; and the Climate Change, Environment and Infrastructure Committee.

Yours sincerely

John

John Griffiths MS

Chair, Local Government and Housing Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



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Submission to the European Affairs Committee's call for evidence:

The future UK-EU relationship

October 2022

The Senedd's Legislation, Justice and Constitution Committee considers matters in relation to Wales's external affairs, including the governance and implementation of UK-EU agreements.

This submission to the House of Lords European Affairs Committee outlines the key issues we as a Committee have identified during our scrutiny of the UK-EU relationship to date.

We were established as a committee in June 2021. Our scrutiny of UK-EU relations has allowed us to reach some early conclusions, set out in this response. The basis of our conclusions are necessarily limited to the information obtained by the Committee throughout its first year of operation.

Alongside other Senedd committees, we have experienced the challenge of navigating the post-Brexit UK-EU relationship. We also acknowledge that, while some aspects of the Welsh Government's relationship with Europe, the EU and the UK Government on these matters has undoubtedly evolved over the last 15 months, the role of the devolved nations in UK-EU structures is not yet clear and the transparency of these structures and intergovernmental work related to the UK-EU relationships needs urgent improvement.



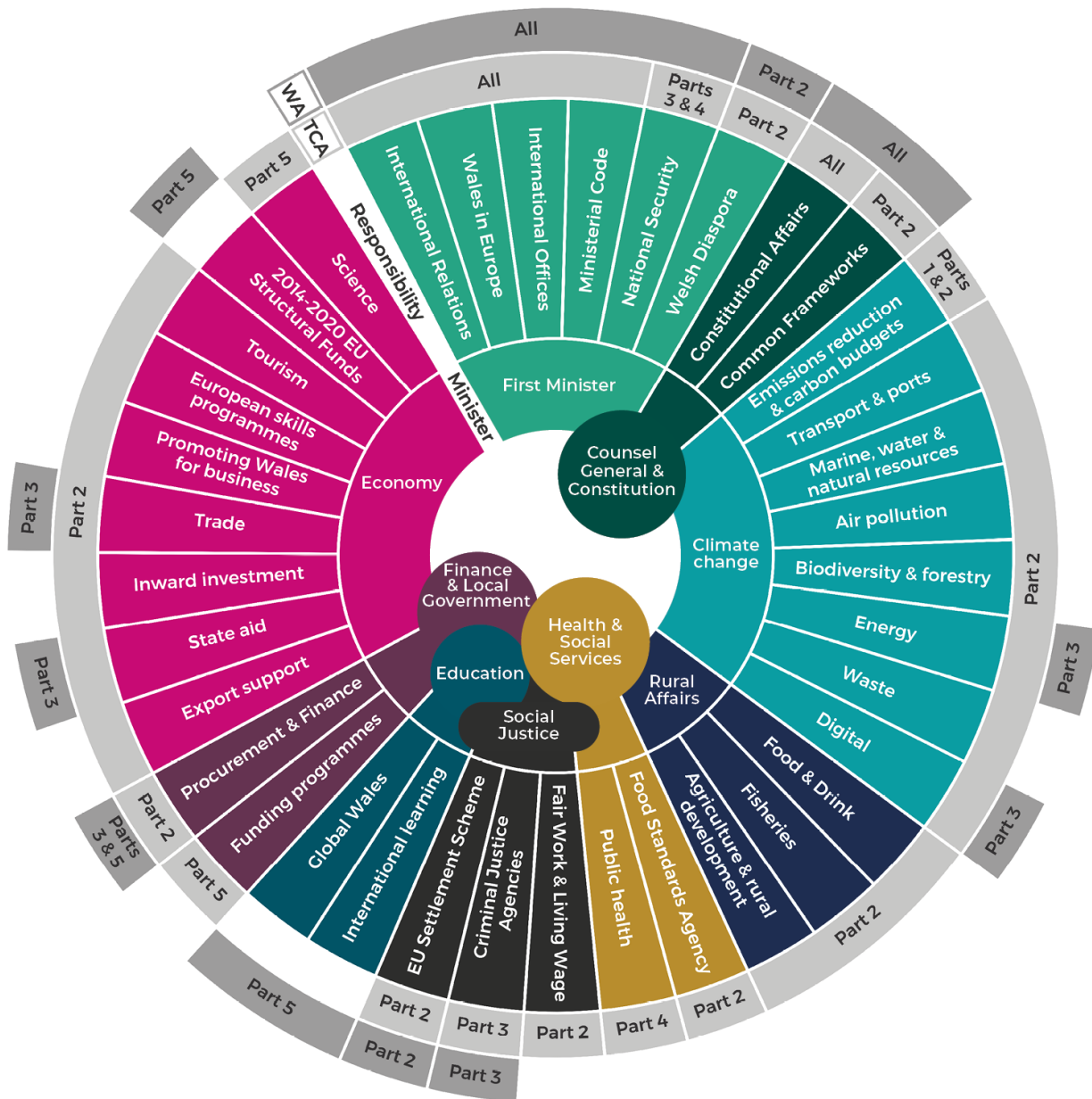
1. Representation

In May 2021, the then UK Government's [Lord David Frost wrote](#) to the devolved governments to set out how he intended to involve them in UK-EU forums established by both agreements.

The letter confirmed that most forums would be co-chaired by officials from the corresponding lead Whitehall Department, supported by Lord Frost's Cabinet Office team, but that devolved governments could attend where items of devolved competence are on the agenda. However, this is subject to the final discretion of the UK co-chair. Preparation for such meetings should also involve representatives from the devolved governments "as a matter of normal practice."

The Welsh Government does not attend all Withdrawal Agreement and Trade and Cooperation Agreement (TCA) meetings. Where it does attend, Ministers and Welsh Government officials attend as observers.

We believe that observer status does not reflect the range and importance of duties placed upon the Welsh Government by both agreements. The [infographic below](#) shows each Welsh Government Minister and where their responsibilities intersect with the main parts of the Trade and Cooperation Agreement (TCA) and/or Withdrawal Agreement (WA).



Both treaties are highly complex and contain cross-cutting elements. This infographic has been created by **Senedd Research for the purpose of illustrating the Welsh Government Minister with lead responsibility for each main area.*

Withdrawal Agreement

The Welsh Government does not attend the Withdrawal Agreement's Joint Committee nor its Specialised Committee meetings. The First Minister and Minister for Economy have requested to attend when matters relating to Northern Ireland are discussed, given their implications for Welsh ports. In November 2021, the First Minister confirmed this request had been denied.

The Minister for Social Justice has also advised that she meets fortnightly with the UK Government to discuss citizens' rights and the EU Settlement Scheme.

Conclusion 1: We share the Welsh Government's concerns that its request to attend meetings where matters which could directly impact Wales are discussed has been denied.

Trade and Cooperation Agreement

Partnership Council

The Welsh Government has expressed discontent with its observer status at the Partnership Council, the TCA's oversight body. Following its first meeting in June 2021, the Welsh Government's Minister for Economy, Vaughan Gething, wrote to Lord Frost describing this as a "deeply unsatisfactory" position which the "Welsh Government cannot credibly support". Both the Minister for the Economy and the First Minister have requested they attend future meetings as full participants.

We have previously expressed our disappointment that Welsh Ministers are not able to contribute on issues of importance to Wales at meetings, including those which fall within devolved competence. We agree with the Welsh Government that this position is deeply unsatisfactory and warrants urgent attention.

Conclusion 2: We share the Welsh Government's concerns relating to its observer status at the Partnership Council, and call on the UK Government to urgently reconsider supporting its request to attend future meetings as full participants.

TCA Committees

The Welsh Government has attended most TCA Committee meetings. The Welsh Ministers or their officials have attended most meetings, regardless of whether the subject is in a devolved or reserved area. The Welsh Government has explained to us that it does have "a more active" role at the TCA's committee on regulatory cooperation because it falls within devolved competence. This includes preparing materials and agendas, minutes and associated materials.

Parliamentary Partnership Assembly (PPA)

As you will be aware, the first meeting of the Parliamentary Partnership Assembly (PPA) took place in May 2022. The Senedd was represented by one of our members, Alun Davies MS, and a member of the Economy, Trade and Rural Affairs Committee, Sam Kurtz MS. They attended as observers.

In a letter to the Chair of the UK Delegation to the PPA following that meeting, our Chair expressed a hope that Members of the Senedd will be able to make a positive contribution when devolved matters are discussed at future meetings. We believe that the full involvement of the devolved legislatures and our colleagues in the PPA will enrich and enhance the important discussions taking place.

Outside of the role of the devolved legislatures in the formal meetings we look forward to building the relationship between the UK delegation to the PPA and the Senedd.

Conclusion 2: We believe that observer status for the devolved legislature representatives is unsatisfactory and that the further active participation of devolved legislature representatives in these meetings will enrich the discussions taking place. We also believe that the potential for interparliamentary cooperation between officials as it relates to PPA meetings should be explored.

Domestic Advisory Groups and civil society

As you will be aware, the TCA establishes mechanisms for the EU and UK to engage civil society jointly and in their own capacity, including establishing Domestic Advisory Groups. The UK has announced membership of its Domestic Advisory Group, with some Welsh representation. The First Minister told us the Welsh Government does not know how many Welsh bodies submitted expressions of interest for membership. This is because a number of submissions did not give permission for their information to be shared outside the UK Government.

The First Minister recently provided his view on the operation of Domestic Advisory Groups, including that the Welsh Government is able to suggest agenda items and will stay in “active contact” with stakeholders representing Welsh interests.

Conclusion 3: Based on the limited information available to us, we are concerned as to the extent to which Wales is represented in the UK’s Domestic Advisory Group.

Conclusion 4: We note that the new joint UK-EU Civil Society Forum met on 4 October 2022, but that this was almost two years since the TCA came into force. We will continue to closely monitor the frequency of meetings in future.

Intergovernmental meetings

Inter-Ministerial Group (IMG) on UK-EU relations

The Minister for Economy, Vaughan Gething missed the first meeting of the IMG on UK-EU relations because it was called with two hours' notice, which he described as "unacceptable". A senior Welsh Government official attended as an observer alongside Ministers from Scotland and Northern Ireland.

In March, the First Minister told the Committee that the Welsh Government would use the IMG to "press further" for full status at the Partnership Council. On 20 April, the Counsel General suggested that it should aim to meet regularly, including before meetings of the Partnership Council and the Withdrawal Agreement's Joint Committee.

Discussions on UK-EU relations may take place in other intergovernmental structures, including those relevant to the common frameworks programme, which this Committee oversees in the Senedd. There are 26 planned common frameworks in areas devolved to Wales. Initial analysis by Senedd Committees has shown that the provisional common frameworks published take an inconsistent approach to how the structures and processes established within them will engage with other governance structures on UK-EU relations such as the IMG and UK-EU governance structures.

Conclusion 5: We are concerned by Welsh Government reports that it has received late notice of meetings of the new Inter-Ministerial Group on UK-EU relations which has resulted in Ministers being unable to attend in some instances. We recommend that representatives from the four governments are given sufficient opportunity to attend to maximise four nations input.

Conclusion 6: We call on the four governments to ensure that UK-EU issues are taken into account and fully incorporated into other significant domestic governance structures, such as common frameworks, and that a consistent approach to engagement of the devolved governments is taken across all of these.

2. Information

Information regarding meetings

We have found there is limited information available regarding TCA meetings.

We note the [European Commission website](#) holds the most detail on UK-EU meetings in one place. Some documents list attendee information but not all. The Welsh Government does not publish information relating to its attendance and the Senedd relies primarily on written ministerial statements, exchanges with individual ministers and the European Commission's website for information.

In February 2022, [we asked the First Minister to reconsider](#) proposals for how [the Welsh Government](#) provides information to the Senedd. We requested he:

consider a proportionate but more transparent mechanism for informing the Senedd of Welsh Government attendance at these meetings, the issues discussed and the points made by the Welsh Government in representing Welsh interests.

We also recommended that all four governments collectively consider concerns regarding a lack of transparency in TCA structures. The [First Minister responded](#) in March, and recently provided [further information](#).

We continue to seek further information from the Welsh Government relating to its attendance at UK-EU meetings, and will share any information we receive which may be relevant to your inquiry.

Conclusion 7: The Senedd relies primarily on written ministerial statements, exchanges with individual ministers and the European Commission's website for information on UK-EU meetings. We reiterate our request that all four government collectively consider and address concerns regarding a lack of transparency in Withdrawal Agreement and TCA structures.

Conclusion 8: We call on all four governments to establish more transparent mechanisms for informing the devolved legislatures, stakeholders and the public of meetings relating to UK-EU relations.

Between meetings

As you will be aware, the Partnership Council is required to meet at least annually, or sooner on request from the UK or EU. The Council can take decisions in writing between meetings but it is not clear what role, if any, the devolved governments have in this. The Welsh Government recently suggested to us that, as it has no formal role at the Partnership Council, it also has no formal role in decision-taking between meetings, which would include decisions taken in devolved areas.

Conclusion 9: Information on developments and decisions taken between meetings is not readily available. We would like to see more information about the role of devolved governments in decision-taking between meetings, including in relation to devolved areas.