

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video conference via Zoom	P Gareth Williams
Meeting date: 19 May 2025	Committee Clerk
Meeting time: 13.00	0300 200 6565
	SeneddLJC@senedd.wales

Remote

Public meeting

(13.30 – 13.50)

1 Introduction, 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)-16-25 – Paper 1 – Draft report

Affirmative Resolution Instruments

2.1 SL(6)614 – The Environmental Protection (Single-use Plastic Products) (Wet Wipes) (Wales) Regulations 2025

(Pages 2 – 3)

Attached Documents:

LJC(6)-16-25 – Paper 2 – Written Statement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 7 May 2025

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

(13.35 – 13.40)



4 Inter–Institutional Relations Agreement

(13.40 – 13.45)

4.1 Correspondence from the Welsh Government: Meetings of inter–ministerial groups

(Page 4)

Attached Documents:

LJC(6)–16–25 – Paper 3 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Inter–Ministerial Group for Environment, Food and Rural Affairs, 9 May 2025

4.2 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Phytosanitary Conditions (Amendment) Regulations 2025

(Pages 5 – 6)

Attached Documents:

LJC(6)–16–25 – Paper 4 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 12 May 2025

4.3 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Waste Electrical and Electronic Equipment (Amendment etc.) Regulations 2025

(Pages 7 – 8)

Attached Documents:

LJC(6)–16–25 – Paper 5 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 13 May 2025

4.4 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: Persistent Organic Pollutants (Amendment) (No. 3) Regulations 2025

(Pages 9 – 11)

Attached Documents:

LJC(6)-16-25 – Paper 6 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 14 May 2025

5 Papers to note

(13.45 – 13.50)

5.1 Committee submission to the UK Government's consultation on the statutory review of the United Kingdom Internal Market Act 2020

(Pages 12 – 23)

Attached Documents:

LJC(6)-16-25 – Paper 7 – Committee submission, 2 April 2025

5.2 Correspondence with the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, and Counsel General and Minister for Delivery: General scrutiny session

(Pages 24 – 35)

Attached Documents:

LJC(6)-16-25 – Paper 8 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, and Counsel General and Minister for Delivery, 12 May 2025

LJC(6)-16-25 – Paper 9 – Letter to the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, and Counsel General and Minister for Delivery, 21 March 2025

5.3 Correspondence from the Equality and Social Justice Committee to the Cabinet Secretary, Trefnydd and Chief Whip: Scrutiny sessions on prisons and criminal justice

(Pages 36 – 37)

Attached Documents:

LJC(6)-16-25 – Paper 10 – Letter from the Equality and Social Justice Committee to the Cabinet Secretary, Trefnydd and Chief Whip, 13 May 2025

5.4 Research report by PolicyWISE and the Bennett Institute for Public Policy: A More Collaborative Way of Governing? Why the UK's Council of the Nations and Regions Matters

(Pages 38 – 48)

[A More Collaborative Way of Governing? Why the UK's Council of the Nations and Regions Matters – Full report](#)

Attached Documents:

LJC(6)-16-25 – Paper 11 – Executive Summary Report

5.5 Correspondence with the First Minister of Wales: Invitation to give evidence

(Pages 49 – 51)

Attached Documents:

LJC(6)-16-25 – Paper 12 – Letter from the First Minister of Wales, 15 May 2025

LJC(6)-16-25 – Paper 13 – Letter to the First Minister of Wales, 4 March 2025

6 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

(13.50)

Private meeting

(13.50 – 15.10)

7 Consideration of public correspondence

(13.50 – 14.00)

8 Legislative Consent Memorandum on the Planning and Infrastructure Bill: Draft report

(14.00 – 14.15)

(Pages 52 – 65)

Attached Documents:

LJC(6)-16-25 – Paper 14 – Draft report

9 Supplementary Legislative Consent Memoranda (Memoranda No. 2 and No. 3) on the Product Regulation and Metrology Bill

(14.15 – 14.25)

(Pages 66 – 82)

Attached Documents:

LJC(6)-16-25 – Paper 15 – Legal Advice Note

LJC(6)-16-25 – Paper 16 – Draft report

10 Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Tobacco and Vapes Bill: Draft report

(14.25 – 14.35)

(Pages 83 – 93)

Attached Documents:

LJC(6)-16-25 – Paper 17 – Draft report

11 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Mental Health Bill

(14.35 – 14.45)

(Pages 94 – 97)

Attached Documents:

LJC(6)-16-25 – Paper 18 – Legal Advice Note

12 International agreements

(14.45 – 15.00)

(Pages 98 – 109)

Attached Documents:

LJC(6)-16-25 – Paper 19 – Briefing

LJC(6)-16-25 – Paper 20 – Draft submission to the House of Lords

International Agreements Committee inquiry into treaty scrutiny

13 Update on Common Frameworks

(15.00 – 15.10)

(Pages 110 – 115)

Attached Documents:

LJC(6)-16-25 – Paper 21 – Briefing

Statutory Instruments with Clear Reports 19 May 2025

SL(6)614 – The Environmental Protection (Single-use Plastic Products) (Wet Wipes) (Wales) Regulations 2025

Procedure: Affirmative

The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 (“the 2023 Act”) allows the Welsh Ministers to make regulations which prohibit the supply and offer of supply of certain single-use plastic products in Wales.

These Regulations make single-use wet wipes containing plastic a “prohibited single-use plastic product” for the purpose of the 2023 Act, thereby prohibiting the supply and offer of supply of single-use wet wipes containing plastic in Wales.

Parent Act: Environmental Protection (Single-use Plastic Products) (Wales) Act 2023

Date Made:

Date Laid:

Coming into force date: 18 December 2026





WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	Update on the timetable and proposals to introduce legislation to ban the supply of wet wipes containing plastic
DATE	7 May 2025
BY	Huw Irranca-Davies, MS, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

I am pleased to confirm the [Environmental Protection \(Single-use Plastic Products\) \(Wet Wipes\) \(Wales\) Regulations 2025](#) to prohibit the supply (including for free) and offer to supply, of single-use wet wipes containing plastic in Wales were laid on 6 May 2025.

These Regulations will be another crucial step in reducing pollution from plastic and microplastics which plague our environment. This is a positive step in protecting our communities, wildlife and ecosystems for future generations to enjoy.

Since my last Written Statement on 22 April 2024, we have continued working closely with all UK Governments in developing the wet wipes policy on a four-nation basis and in the context of our groundbreaking Welsh legislation - the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023. For these reasons, these Regulations contain some minor changes to the position set out in my previous statement:

- A specific **exemption for industrial use** is not required in Wales, as the offences of 'supply' or 'offer to supply' only apply to 'consumers', who are defined as '*individual(s) acting for purposes that are wholly or mainly outside that individual's trade, business or profession*'
- The anticipated **exemption to allow pharmacies** to continue supplying wet wipes with plastic content has been simplified to allow the continued supply of plastic containing wet wipes in any setting if they are '*designed or manufactured for use in connection with medical care or treatment*'
- The **definition of wet wipe** has also been simplified, and our intention is to define this as '*a non-woven piece of fabric which has been pre-wetted*'

These changes have not impacted our intended outcome of restricting the availability of wet wipes with plastic content nor have they restricted availability where alternatives are

either unsuitable or unavailable. The policy continues to align with those agreed by all UK nations.

To accommodate these changes and ensure compliance with obligations under the World Trade Organisation, we anticipate, subject to the will of the Senedd, a coming into force date in Wales in December 2026.

We expect this timetable to be broadly in line with the other UK nations and believe any small difference in timing arising throughout the UK is manageable for manufacturers and retailers.

Agenda Item 4.1

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: PO/HIDCC/0222/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

9 May 2025

Dear Mike,

I am writing in accordance with the Inter-Institutional Relations Agreement to let you know that the Inter-Ministerial Group for Environment, Food and Rural Affairs meeting scheduled for 12 May has been cancelled. Officials are working to identify a new date. I will update the Committee when a new date is identified.

I have also copied this letter to the Climate Change, Environment and Infrastructure Committee and the Economy, Trade and Rural Affairs committee.

Yours sincerely,

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Correspondence.Huw.Irranca-Davies@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.

Ein cyf/Our ref: MA/HIDCC/0455/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

12 May 2025

Dear Mike,

I refer to my letter to you of 6 May 2025. I wish to inform the Committee I have given my consent to the Secretary of State to make the Phytosanitary Conditions (Amendment) Regulations 2025 ('the Regulations'). I have laid a Written Statement which can be found [here](#).

The Regulations apply to Wales, England and Scotland. The Regulations are subject to the negative procedure and were laid before Parliament on 8 May 2025 with a commencement date of 30 May 2025.

Although the Welsh Government's general principle is the law relating to devolved matters should be made by the Welsh Ministers, on this occasion it was considered appropriate for the Regulations to be made by the Secretary of State. The Regulations relate to a devolved area, however, they impact on the biosecurity of Great Britain which has traditionally been approached as a joint concern. Great Britain is an island and plant pests and diseases have no respect for the borders between countries. Much of the Regulations relate to the importation of plants and plant products. Most of these goods which enter Wales come through English ports. Introducing separate regulations in Wales, England and Scotland would risk divergence on matters of biosecurity on which policy is aligned, may hamper enforcement by cross border bodies and place an additional burden on the Animal and Plant Health Agency (which enforces plant health across Wales and England) and businesses. Where policy is aligned, legislating on a Great Britain basis assists those stakeholders who must comply with the requirements within the legislation to maintain our biosecurity.

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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.

There is no policy divergence between the Welsh and UK Government in this matter and the Regulations amend legislation that was not made bilingually.

I have written similarly to the Chair of the Climate Change, Environment, and Infrastructure Committee.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name 'Huw Irranca Davies'.

Huw Irranca Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs

Ein cyf/Our ref: MA/HIDCC/0166/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

13 May 2025

Dear Mike,

I am writing to inform the Committee of my intention to consent to the UK Government making and laying the Waste Electrical and Electronic Equipment (Amendment etc.) Regulations 2025 (“the 2025 Regulations”).

The 2025 Regulations intersect with devolved policy and will apply to Wales. They will be made by the Secretary of State for Environment, Food and Rural Affairs in exercise of powers conferred by section 50(1)(a) of, and Schedules 4 and 5 to the Environment Act 2021.

The 2025 Regulations will apply in relation to England, Scotland, Northern Ireland and Wales and are subject to the affirmative procedure. They are due to be laid before Parliament on 2 June 2025.

The 2025 Regulations

In 2024, Ministers across the UK collectively agreed to work on proposals to amend the current Waste Electrical and Electronic Equipment Regulations 2013 (S.I. 2013/3113) (“the 2013 Regulations”), which apply to the UK, Wales, Scotland and Northern Ireland. The 2013 Regulations require the producers of electrical and electronic equipment who place electronic equipment on the market to meet recovery and recycling targets. Producers of electronic equipment must help finance the collection, treatment, recovery, reuse, recycling, and environmentally sound disposal of waste electronic equipment. The 2025 Regulations are designed to fix two widely recognised deficiencies of the current regime by:

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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.

- Placing new obligations on online marketplaces so that they contribute to the cost of collection, treatment, re-use, and recycling of waste electronic equipment in line with those obligations that currently apply to companies defined as producers within the existing regulations. The new requirements will apply to online marketplaces only in respect of equipment placed on the UK market by their overseas based sellers.
- Creating a new category of equipment for vapes to ensure that the costs of collecting and treating these items are borne solely on those who place them on the market.

The Welsh Government's Position

The Welsh Government's general principle is that law relating to devolved matters should be made in Wales. The 2025 Regulations will be made by the UK Government on behalf of Welsh Government, Scottish Government and the Northern Ireland Executive. Continuing with a unified UK-wide regime is advantageous for enforcement, compliance and will reduce the risk of potential confusion in the sector.

I consider legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes, nor a prudent use of Welsh Government resources given other important priorities.

It is anticipated that the 2025 Regulations will be laid before the UK Parliament pursuant to the affirmative procedure on 2 June 2025. It is expected that the 2025 Regulations will come into force on 11 August.

Yours sincerely,



Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs

Ein cyf/Our ref: MA/HIDCC/1083/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

14 May 2025

Dear Mike,

I wish to inform the Legislation, Justice and Constitution Committee of my intention to consent to the UK Government making and laying the Persistent Organic Pollutants (Amendment) (No. 3) Regulations 2025 ("the No. 3 Regulations").

The No. 3 Regulations intersect with devolved policy and will apply in relation to Wales. They will be made by the Secretary of State for Environment, Food and Rural Affairs as an appropriate authority under Articles 15(1) of the Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on Persistent Organic Pollutants (recast) ("the POPs Regulations").

The No. 3 Regulations apply in relation to England, Scotland and Wales and pursuant to Article 18(5) are subject to the negative procedure. They are to be laid before Parliament on 20 May 2025 and will come into force on 21 May 2025.

Article 15(1) provides that an appropriate authority may make regulations and Article 2A(c) of the POPs Regulations provides that the appropriate authority in relation to Wales is either the Welsh Ministers or where the Welsh Ministers consent is given, the Secretary of State. As such, regulations made in reliance of Article 15(1) that apply in relation to Wales may only be made by the Welsh Ministers or by the Secretary of State with the consent of the Welsh Ministers.

As highlighted within my letter to the committee of 30 April, the Baroness Hayman of Ullock wrote to me on the 8 April 2025, requesting consent to the Persistent Organic Pollutants (Amendment) (No. 3) Regulations 2025. A similar request for consent has been sent to Scottish Ministers. I plan to provide my formal consent to Baroness Hayman of Ullock on 16 May 2025, unless the committee raises any concerns before that date. I apologise for the short notice period provided and hope you understand the urgency required of this legislative action, as outlined in the paragraphs below.

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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.

The Persistent Organic Pollutants (Amendment) Regulations 2024 / 2025

In 2024 the Welsh Ministers consented to the Persistent Organic Pollutants (Amendment) Regulations 2024 (“the Amending Regulations”). These Regulations amended Annex 1 (Substances listed in the Convention and in the Protocol as well as substances listed only in the Convention) (“Annex 1”) of the POPs Regulations. They provide for, amongst other things, the prohibition of the use of Dechlorane Plus and the manufacture, placing on the market and use of UV-328 with only very limited exemptions.

Dechlorane Plus, an additive flame retardant, is exempted for use in aerospace, space, defence, medical imaging, and radiotherapy devices until 26 February 2030. It can also be used in replacement parts and repairs for these applications until 2044 if originally manufactured with Dechlorane Plus. Additionally, its use in replacement parts and repairs of medical devices and in-vitro diagnostic devices is allowed until the end of their service life.

UV-328, a UV-inhibitor in plastics, is exempted for manufacture, market placement, and use in various applications, including aerospace, defence, motor vehicles, industrial coatings, and medical devices, until 26 February 2030. Exemptions for replacement parts and repairs of articles originally manufactured with UV-328 extend until 2041 for medical and analytical instruments, and until 2044 for aerospace and defence applications.

You will be aware that the Secretary of State did not make the Amending Regulations until 2025 (and the title was amended to reflect this). I have written to you separately on this matter.

Persistent Organic Pollutants (Amendment) (No.2) Regulations 2025 (“the 2 Regulations”)

In 2025 the Welsh Ministers consented to the Persistent Organic Pollutants (Amendment) (No. 2) Regulations 2025 (“the No. 2 Regulations”). These Regulations further amend Annex I to the POPs Regulations to provide additional limited exemptions for Dechlorane Plus and UV-328.

Persistent Organic Pollutants (Amendment) (No. 3) Regulations 2025

The Persistent Organic Pollutants (Amendment) (No. 3) Regulations 2025 (“the No. 3 Regulations”) seek to again amend the table Annex I to the POPs Regulations by way of removing entries for Dechlorane Plus and UV-328. The effect of the No. 3 Regulations is to remove any prohibitions in relation to Dechlorane Plus and UV-328.

This expedited legislative action is necessary in response to new and urgent information from the medical technology sector on unforeseen impacts arising from these prohibitions. This information has shown that there are a range of medical products at risk. These include joint replacements (e.g. hips, knees etc.), infusion pumps, electrocardiogram machines and diagnostic machines, including those used in cancer diagnosis for both children and adults.

The picture is still unfolding, and further medical products, applications, procedures and other sectors may be affected. Welsh Government officials are working with counterparts in the UK Government and Department for Health and Social Care (DHSC) to determine the extent of the current uses of UV-328 and Dechlorane Plus in medical applications and other sectors. The DHSC are liaising with the MedTech sector and trade bodies to capture as much information and evidence as possible.

Given this is an emerging picture and we need to ensure that vital healthcare and medical applications are protected I propose to consent to No. 3 Regulations which provides for the removal of all prohibitions for Dechlorane Plus and UV-328. The UK-Government have advised that they intend to reintroduce the prohibitions in the short to medium term and that they remain committed to the Stockholm Convention on Persistent Organic Pollutants.

Prohibiting the use of these chemical substances is good for both public health and safeguarding the environment. Our future approach to these substances will also be informed by the outcome of the Conference of Parties (COP) in April/May 2025.

This is not a decision I take lightly however my primary concern is to ensure that the people of Wales do not experience disruption to vital medical provision in Wales.

The Welsh Government's Position

The Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales. In certain circumstances, where there is a clear rationale for doing so, there are benefits working collaboratively with the UK Government.

On this occasion, I consider it appropriate for the substance of the UK Government amendments to apply to Wales, as timely implementation will prevent production and supply disruptions to the medical sector, including NHS Wales. I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources.

It is anticipated that the No. 3 Regulations will be laid before the UK Parliament on 20 May 2025 and they will come into force on 21 May 2025 (the day after they are made).

Yours sincerely,



Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

UK Internal Market Act 2020: review and consultation Committee submission

2 April 2025

The Legislation, Justice and Constitution Committee is the responsible committee, as set out in the Senedd's Standing Orders for constitutional and legislative affairs. The Committee may also consider any matter relating to legislation, devolution, the constitution, justice, and external affairs.

The Committee reports on all primary and secondary legislation introduced to the Senedd, as well as considering Legislative Consent Memorandums for UK Bills legislating in devolved areas.

In its scrutiny of Bills introduced into the Senedd, the Committee's approach is to consider:

- matters relating to the competence of the Senedd, including compatibility with the European Convention on Human Rights (ECHR);
- the balance between the information that is included on the face of the Bill and that which is left to secondary legislation;
- whether an appropriate legislative procedure has been chosen, in relation to the granting of powers to the Welsh Ministers, to make secondary legislation; and
- any other matter it considers relevant to the quality of legislation.



1. Introduction

- 1.** We welcome the opportunity to respond to this consultation on the statutory review of the United Kingdom Internal Market Act 2020 (“the 2020 Act”).
- 2.** As a Committee, we have taken particular interest in the operation of the UK internal market.
- 3.** We welcome the decision taken to expand the scope of the review from the narrow parameters provided for in the 2020 Act. However, we regret that the review will not be considering whether to repeal the 2020 Act (or any part of it) and the UK Government’s view that protections for the free movement of goods, provision of services and recognition of professional qualifications that flow from the market access principles should not be weakened.
- 4.** In our view, this review should act as an opportunity to fully assess whether the regime put in place by the previous UK Government adequately manages the operation of the UK’s internal market, whilst recognising the democratic legitimacy of the devolved legislatures and governments. This should include consideration of whether the 2020 Act, or parts of it, should be repealed and replaced with new legislation or by strengthening the Common Frameworks programme.
- 5.** To that end, we welcome the recognition in the consultation document that Common Frameworks are the most important tool to find shared approaches or agree on how to manage divergence, with the 2020 Act sitting “in the background”. The commitments made by the UK Government to finalise the Common Frameworks programme by Easter 2025 are also important steps towards improving the management of policy divergence between the four nations of the UK.
- 6.** As well as respecting the democratic legitimacy of each devolved legislature to make (and effectively implement) laws within its competence, policy divergence can also lead to shared benefits through policy innovation and shared learning, which the consultation rightly acknowledges.
- 7.** Beyond the operation of the UK internal market, we are very disappointed that the review will not be considering Part 6 of the 2020 Act, which provides a Minister of the Crown with the power to provide financial assistance. This power can be used to fund activities in policy areas that are devolved in Wales, without

a role for the Welsh Ministers or the Senedd to ensure this financial assistance is aligned with Wales' devolved priorities. We agree with our predecessor Committee in the Fifth Senedd, which stated that these powers represent an unnecessary and confusing intrusion on the ability of the Senedd and the Welsh Government to act on behalf of Wales' citizens. It is disappointing that the UK Government has not recognised this review as an opportunity to address this issue and ensure a proper and appropriate role for the Senedd and the Welsh Government in determining how this funding is allocated.

8. We would encourage the UK Government to engage extensively with the Welsh Government (as well as the other devolved governments) and Welsh stakeholders as part of the review. It is critical that these views and experiences are understood and able to contribute towards the review's considerations.

9. We note the comments made by the First Minister, Eluned Morgan MS, during a recent appearance at the Welsh Affairs Select Committee that she thinks the UK internal market was "imposed" upon the Welsh Government and that there are "a few things to iron out" in relation to that.

10. The Committee wrote to stakeholders with whom it has engaged as part of its work on the 2020 Act to draw their attention to the review and encourage them to respond to the consultation. The RSPCA wrote to the Committee, confirming that it would be submitting a response to the consultation through its membership of the Trade and Animal Welfare Council, while also setting out its views on the operation of the 2020 Act and its impact on law and policy in Wales.

11. Our response will set out our experiences and views on the operation of the 2020 Act. If it would be of benefit, we would welcome the opportunity to meet with the Minister for Trade Policy and Economic Security, Douglas Alexander MP, to discuss our views on the 2020 Act further.

2. Overview of Committee's previous work on the UK Internal Market Act 2020

12. The development and operation of the UK internal market has been of particular interest to our committee, and to its predecessor in the Fifth Senedd (2016-21), due to its implications for devolution.

13. Our predecessor committee conducted scrutiny of the legislative consent memorandum (LCM) laid by the Welsh Government in respect of the UK Internal Market Bill. The Committee published its report on the LCM on 26 November 2020.

14. In its report, our predecessor committee was clear that it would have been more appropriate to have, at least initially, followed the Common Frameworks process, rather than seeking to legislate through the UK Internal Market Bill.

15. Our predecessor committee noted that the Bill's effects on the exercise of devolved legislative and executive competence would be "profound" and that the Bill would "frustrate the Welsh Government's ability to determine easily whether it is practical to legislate and greatly impact the Senedd's capability to make coherent and accessible laws that meet the needs and aspirations of Welsh citizens".

16. In its report, our predecessor Committee concluded that the Bill presented "a risk to devolution" and took the exceptional step of breaking its usual practice not to comment on whether the Senedd should give its consent to provisions in UK Bills, stating:

"...we consider that the Bill would have a profound effect on the devolution settlement and therefore, in our view, the Senedd should not give its consent to the Bill in its current form".

17. In light of our experience of the operation of the 2020 Act, we must conclude that the concerns outlined by our predecessor committee have indeed been realised.

18. Our Committee has considered specific pieces of Welsh and UK legislation that interact with the 2020 Act, as well as looking at broader constitutional level effects of the Act. The Committee has considered the effects of the 2020 Act in its reports on:

- The Environmental Protection (Single-use Plastic Products) (Wales) Bill
- The Agriculture (Wales) Bill
- The Welsh Government's Legislative Consent Memorandum on the Genetic Technology (Precision Breeding) Bill
- The Health Service Procurement (Wales) Bill

- [The Welsh Government's Legislative Consent Memorandum on the Product Regulation and Metrology Bill](#)
- [The Welsh Government's Legislative Consent Memorandum on the Tobacco and Vapes Bill](#)
- [The Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill](#)

19. The Committee's work has generally focused on the potential impact that the 2020 Act's market access principles for goods have on the effectiveness of Senedd legislation. For example, in relation to the Environmental Protection (Single-use Plastic Products) (Wales) Bill, the Committee [raised significant concerns](#) about the enforcement of the Bill's proposed bans on some single-use plastic products not covered by the narrow exclusion on plastics included in the 2020 Act. The Committee was concerned that the 2020 Act's provisions would mean that these plastic products could continue to be sold in Wales even if a ban was introduced. Unfortunately, the prohibition on the supply of some of those products has [yet to be commenced](#) by the Welsh Ministers, so the Committee's concerns cannot yet be put to the test. Whilst the Welsh Government has [not acknowledged](#) that the 2020 Act influenced this decision, we believe that it demonstrates that the 2020 Act is having an effect on the implementation of a Senedd Act. We return to this matter later in our response.

20. More recently, the Committee has been looking at the impact that the 2020 Act is having on the Welsh Government's approach to legislating, including its willingness to seek intergovernmental agreements for policy alignment to avoid any potential impacts from the market access principles. The Welsh Government has [confirmed to the Committee](#) that the 2020 Act was a contributing factor to its decision to agree to legislation in the UK Parliament about the supply of tobacco and vapes products being taken forward on a UK basis.

21. Whilst we would welcome positive and constructive relationships between governments, this should not be at the expense of the Senedd's ability to legislate or act as a means of by-passing the barriers to legislating created by the 2020 Act.

22. A significant challenge that the Committee has faced in bringing attention to these matters is the unwillingness of the Welsh Government to engage on the practical implications that result from the 2020 Act. Our Committee's attempts to ask Welsh Ministers for assessments of the impact of the 2020 Act on Welsh

legislation have been frustrated by a lack of engagement and transparency on the matter. We will return to this matter later in the response.

23. The Welsh Government has maintained its position, as set out in [its legal challenge to the Act](#), that it does not recognise the impact of the 2020 Act on the practical effect of Senedd legislation. As a Committee, we have consistently accepted that the 2020 Act cannot limit the Senedd's competence to legislate on matters that are devolved but are concerned that once law is made by the Senedd, the 2020 Act impacts on how effective that law is as it can no longer be enforced on products and services made, imported into and regulated elsewhere in the UK. There are examples of legislation that pre-date the 2020 Act that could, if they were made today, not be enforced in the same way and to the same extent.

24. In order to support the Committee's understanding of the impact of the 2020 Act on the effectiveness of Welsh law, we have been working with Professor Thomas Horsley of the University of Liverpool. Professor Horsley undertook research work with Senedd officials to generate new knowledge and understanding regarding the 2020 Act and to explore the impact of the Act on intra- and inter- parliamentary procedures.

25. The research contributed towards a publication of a [report on the UK Internal Market Act and Devolution](#), and Professor Horsley held a private briefing session with the Committee in July 2024.

3. The UK Internal Market and Common Frameworks

26. Whilst we acknowledge that this review is not about how the Common Frameworks programme has operated, we welcome the commitments made by the UK Government when announcing the review in relation to the programme. The commitment to finalising the programme by Easter 2025 is a welcome one, particularly after little progress has been made over the last few years. Commitments to develop closer working relationships and to increase transparency between the UK and devolved governments are also welcome and will be crucial if the Common Frameworks programme is to operate most effectively.

27. As we have noted in the introduction to this response, we welcome the acknowledgement in the consultation that Common Frameworks are “the most

important tool” for the UK and devolved governments to find shared approaches or agree how to manage divergence. This approach can help to rebalance the management of the UK’s internal market, away from a system which overly favours central control, towards one that values co-operation and recognises the benefits of policy divergence.

28. In June 2023, we published a report on the provisional Common Frameworks, bringing together the views and recommendations of four Senedd committees that had been scrutinising the provisional frameworks. One of the key matters considered in this report was the importance of improved transparency for the Senedd and stakeholders when policy is being developed through a Common Framework and when disputes are escalated to ministerial level.

29. We recommended in our report that the Welsh Government should seek intergovernmental agreement to ensure the regular reporting to legislatures on the operation of each Common Framework. We continue to believe that this would be beneficial for scrutiny and transparency.

30. In its first periodic report, the Office for the Internal Market (OIM) noted that most business and trade bodies that they engaged with were not aware of Common Frameworks. Amongst those who were aware of them, many did not understand what issues are discussed through particular Common Frameworks, nor whether there were any opportunities for them to input into discussions. The OIM reported that businesses had raised concerns about the lack of role for non-governmental stakeholders in Common Frameworks.

31. Whilst the use of Common Frameworks could lead to better decision-making and recognition of devolved autonomy, Senedd committees have raised concerns about the impact that Frameworks can have on the legislative competence of the Senedd and executive competence of Welsh Ministers. Policymaking through Common Frameworks and other intergovernmental decision-making processes has the potential to limit the role of the Senedd (and other devolved legislatures) in the policy-making process. This can be true of both decisions made through Common Frameworks, but also those made through other intergovernmental forums. This is why a focus on improving the transparency of decisions taken through this process is key.

32. We have seen a recent example of this with the previous UK Government’s Tobacco and Vapes Bill (2023-24 session). The Bill took a ‘four nations’ approach to legislating for the whole of the UK, with delegated powers to the relevant

government. We asked the then Cabinet Secretary for Health and Social Care, Eluned Morgan MS, whether the 2020 Act had influenced the Welsh Government's decision to take this intergovernmental approach. She told the Committee that it was:

"... one of the considerations why it would be appropriate to adopt a four-nations approach to the UK Tobacco and Vapes Bill, however the overriding consideration was public health benefit. Our decision to engage in this Bill is because, if passed, it represents one of the most significant public health interventions in a generation."

33. A similar Bill was subsequently introduced by the current UK Government in the 2024-25 session. In our report on the Welsh Government's legislative consent memorandum on the re-introduced Bill, we noted that health is an area of devolution that has resulted in intra-UK divergence, including on restrictions on smoking, and that should there be evidence and support for public health legislation to differ in Wales to that of the rest of the UK, then divergence may be desirable.

34. We would not wish the Welsh Government to be reluctant to legislate on an important devolved matter, such as public health, for fear of the potential consequences of the 2020 Act.

35. In order to improve transparency when policy is being developed through a Common Framework, we recommended in our report that the Welsh Government should make it clear to the Senedd and stakeholders when this approach is being taken.

4. The operation of the market access principles

36. As we stated in the introduction to this response, we are disappointed that the Review will not be considering whether the 2020 Act (or any part of it) should be repealed. However, we do welcome the recognition in the consultation document that the market access principles should sit "in the background" rather than being used to manage the UK internal market.

37. In our view, the market access principles (as they are set out in the 2020 Act) pose a threat to the ability of the devolved governments and legislatures to

effectively implement laws in the policy areas that they are responsible for. We would therefore support a more holistic review of whether any reforms could be made to the principles in order to enable greater flexibility for the devolved governments. This could be achieved, for example, by widening the scope of the definition of the legitimate aims outlined in the 2020 Act¹ to justify indirect discrimination, or by considering the principles of 'subsidiarity' and 'proportionality' enshrined in the EU's single market.

38. However, even without these wholesale reforms, there are improvements that could be made to the current operation of the market access principles that would provide greater oversight and transparency of the regime and protect the autonomy of devolved governments and legislatures to make effective policy in areas they are responsible for.

39. As we noted in the previous section, we support a move towards a system that gives preference to managing policy divergence through Common Frameworks and negotiation, rather than one which relies on the market access principles.

40. To support this, there should be a more routine use of the exclusions process, both to consider whether much broader areas of devolved policy could be excluded and to normalise the process for agreeing ad hoc exclusions from the market access principles.

41. Broadening the areas of devolved policy that are excluded from the 2020 Act would provide greater certainty to legislators, businesses and other interested stakeholders who could be affected by a regulatory requirement. We experienced this kind of uncertainty when considering the Welsh Government's proposals to prohibit the sale of certain single-use plastic products in the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023.

42. Due to the specific nature of the products that had been excluded from the market access principles, there was a narrow path in which the legislation could operate effectively without interacting with the market access principles. This was perhaps clearer cut for two of the products that formed part of the Welsh Government's proposals (carrier bags and oxo-degradable plastics). However, polystyrene lids for cups and takeaway food containers were likely to be captured by the market access principles as the exclusion only referred to containers or cups made from polystyrene, and not their lids.

¹ Sections 8(6) and 21(7)

43. An exclusion with a broader scope that covered all single-use plastic products (as had been originally requested by the Scottish Government) would have removed this confusion. The Welsh Government has subsequently implemented the bans in two stages, with the second phase (covering the three items likely to be impacted by the market access principles) not scheduled to be introduced until Spring 2026.

44. In our report on the commencement Order for the bans on the products already covered by the exclusion, we asked the Welsh Government to explain why the prohibitions relating to the other three products were not being commenced at the same time and highlighted the symmetry between the items being prohibited in the second phase and the products excluded from the 2020 Act.

45. It is positive that the review will be considering the process for agreeing these exclusions. Improvements are needed to the process to ensure that there is greater certainty around the length of time that a request should be completed within, the format and form of a request and an agreed process for approval and appeal of decision-making. The Common Frameworks and existing intergovernmental structures should provide an appropriate arena for this process to operate within, including making use of the independent secretariat and dispute-resolution process that already exist.

46. However, reforms to the process for agreeing exclusions would still not address the fundamental issue that the UK Government remains the gatekeeper of exclusions being agreed due to its role in making subordinate legislation to add exclusions to the 2020 Act. In this process, the UK Government acts as both a policymaker for England (and in some cases the whole of the UK) as well as government for the UK, with responsibility for overseeing the exclusions process. Without reforms to this element of the process, it is unlikely that it will be rebalanced towards a more equitable partnership between all four governments.

47. One of the challenges we, and other Senedd Committees, have faced is the lack of available information about the potential effects of the market access principles. This has likely been impacted in Wales by the position that the Welsh Government has adopted in relation to the Act. Indeed, in our report on the Health Service Procurement (Wales) Bill, we highlighted that in our view the evidence we received from the then Minister for Health and Social Services in respect of the practical effect of the 2002 Act on the Bill was unsatisfactory.

48. We believe that there should be more routine information provided, for example, in explanatory memoranda or other notes that accompany legislation, about whether any assessment has been undertaken about the interaction between the regulatory proposals and the market access principles. This would provide legislatures and other interested stakeholders with critical information to understand whether the proposal would be effective.

49. We did see this level of openness from the Welsh Government when a legislative consent memorandum was laid in the Senedd in relation to the Genetic Technology (Precision Breeding) Bill [now Act] in 2023. We agreed with the Welsh Government's analysis that the Bill's provisions would have an effect on Welsh law as a result of the market access principles. However, we did not believe that the legislative consent process was the appropriate place to bring this matter to the attention of the Senedd, as the Bill's provisions applied only to England and as a result did not come within the legislative competence of the Senedd.

50. In our report on the memorandum, we recommended that the Senedd's Business Committee should review the Senedd's Standing Orders so that they make appropriate provision to ensure the practical effect of the 2020 Act is taken into account when Senedd legislation is introduced and when legislation passing through other UK legislatures may have an effect on Welsh law that is already on the statute book.

5. Office for the Internal Market

51. The Committee has enjoyed a positive working relationship with the Office for the Internal Market (OIM) and recognises the important role that the OIM has to play in building understanding about the operation of the UK internal market.

52. The OIM's annual and periodic reports make a unique contribution towards this goal, and we have been fortunate to welcome representatives from the OIM to give evidence to the Committee on its annual and periodic reports in 2023 and on its annual report in 2024.

53. The provisions in sections 34-36 of the 2020 Act that enable the UK and devolved governments to request advice from the OIM can also provide critical information in the policy development process. However, we believe that this resource has so far been underutilised by the Welsh Government and other

governments, and that improvements are needed to the process to improve transparency when requests for advice are made.

54. We would support changes that would ensure that legislatures are notified when requests for advice are made and that any subsequent reports are then laid before each of the four legislatures in the UK.

55. Under the provisions in the 2020 Act, this advice can only be requested by a “relevant national authority”, which for Wales is the Welsh Ministers. However, we have welcomed the willingness of the OIM to offer its support to our Committee, and others in the Senedd, if we are considering a matter which may affect the operation of the UK internal market.

56. For example, we were grateful to receive the views of the OIM in relation to the interaction between the 2020 Act and the Product Regulation and Metrology Bill when we were [considering the Welsh Government’s legislative consent memorandum on the Bill](#).

57. Expanding opportunities for the OIM to support the scrutiny role of legislatures would be a welcome step forward.

58. We are also supportive of [calls made by the House of Lords Common Frameworks Scrutiny Committee](#) for the OIM to make clear in its reports how it takes into account devolved policy autonomy when advising on, and assessing, the impact of policy divergence agreed through Common Frameworks on the UK internal market. It is crucial that the democratic legitimacy of the Senedd to make laws for Wales in devolved areas is recognised when these assessments are being made.

59. This should also include an understanding of the wider policy benefits that may occur as a result of policy divergence. Currently, the OIM only assesses the economic impact that could occur as a result of a proposed regulatory provision, aligning with the requirements in the 2020 Act. However, a fuller cost benefit assessment that recognised, for example, the positive environmental or health impact that could result from a policy proposal, would provide a more comprehensive picture of the proposal. This would then enable the UK and devolved governments to make more informed decisions through Common Frameworks and to agree an exclusion from the 2020 Act if necessary.

60. Whilst [section 34\(4\)](#) of the 2020 Act does allow for advice to be given to consider “among other things” the potential economic effects of a proposed regulatory provision, we believe that this should be amended to give greater

flexibility for the OIM to consider wider policy benefits that could arise from a proposed provision.

Agenda Item 5.2

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros New
Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change
and Rural Affairs



Llywodraeth Cymru
Welsh Government

Julie James AS/MS

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery

Ein cyf/Our ref: PO/HIDCC/0004/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

12 May 2025

Dear Mike,

Thank you for your letter of 21 March which contains follow up questions in relation to our evidence session in December. Please find attached a response to the questions in the Annex to your letter.

Yours sincerely,

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y
Cabinet dros Newid Hinsawdd
a Materion Gwledig
Deputy First Minister and Cabinet Secretary
for Climate Change and Rural Affairs

Julie James AS/MS

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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.

Question 1: During the evidence session you made the following comment: “we're thinking of doing an statutory instrument correction omnibus Bill and a standing repeals series of Bills” [RoP 22]. We would be grateful to receive more information about these Bills and their timings.

A future Repeals Bill will be a matter for the next Government to consider as part of their programme to improve the accessibility of Welsh law.

The Counsel General has written separately to the Committee to confirm the Government's intention to bring forward omnibus correcting instruments, rather than a Bill. In this correspondence the Counsel General has set out the timings, form and expected content of those instruments. There is no current intention to bring forward a Bill to correct statutory instruments.

Question 2: In our follow-up letter of 17 December, question 10 asked for information about an internal review of processes about developing legislation. As your response noted, during the evidence session you referred to the review when responding to a question about why the Welsh Government had only introduced 12 Bills to the Sixth Senedd [RoP 26-27]. We acknowledge your comment that you would not be prepared to share it with the Committee. However, we would welcome any further information you can share about the review in terms of:

- i. outcomes (for example in relation to having a “more streamlined legislative programme” [RoP 27] and allocation of capacity [RoP 54]);**
- ii. specifically, what is the “different approach to the legislative programme” you refer to and how do you believe it “will bear fruit” [RoP 87];**
- iii. when / how the review is being implemented and over what timeframe;**
- iv. its impact on the volume of UK Government Bills for which the Senedd's consent will likely be sought.**

We refer you to comments made at the evidence session on 9 December 2024 (paragraph 27 - <https://record.senedd.wales/Committee/14204#C637351>).

Question 3: Please can you expand on what you mean by “we could do a Welshified Bill” [RoP 33] and, in particular, what would it involve and why the base law in Wales may be an issue?

Taking the Government's wider legislative programme into account, it may on occasions be desirable to replicate provision made in a UK Bill in a Senedd Bill. This would mean legislating in a Senedd Bill to achieve the same or similar policy effect, whilst taking into account the legislative landscape in Wales. In such cases, it would also be necessary to consider the Senedd's legislative competence to ensure the requirements of section 108A of the Government of Wales Act were met.

Question 4: You said that the consultation undertaken by Senedd Committees on legislation “is quite frequently just a reiteration of the same consultation that's already been done by the Government” [RoP 40]. We are unclear why you have reached this view. However, would you recognise that it is the parliament's responsibility to scrutinise and seek stakeholder views on Government proposed

legislation, and acknowledge that a government consulting on policy and/or draft legislative proposals is different to the Senedd's responsibility in assessing whether a government has listened to stakeholder's concerns before introducing a Bill to the Senedd?

The Government's position is that it is imperative that we move away from the expectation that there is a rigid standard timescale and approach to Stage 1 scrutiny of any Bill, irrespective of size, scope or complexity. The Stage 1 process as it stands arguably risks duplicating the Government's consultation process – involving the same stakeholders – on the general principles of the reforms. While the Government acknowledges the differences between a government consultation and the role of scrutiny in the Senedd, adopting a more tailored approach to Stage 1 scrutiny could enable more time for other matters including the scrutiny of subordinate legislation and Act implementation.

Question 5: You state that “we don't do the detailed legislative scrutiny that you see in other parliaments” [RoP 40]. Please could you provide the evidence which led you to make these comments?

While there is no doubt that the Senedd undertakes detailed scrutiny of legislative text, there is a lack of focus on the policy. This is explored in paragraph 34 of the Legislation, Justice and Constitution Committee's Annual Report 2023/24 which refers to evidence provided by the then First Minister, the Rt Hon Mark Drakeford MS on 18 September 2023.

Question 6: You made reference to the Welsh Government having a “tendency to bring big omnibus Bills forward” [RoP 58] and cited the Local Government and Elections (Wales) Bill. What other Bills introduced to the Sixth Senedd would you classify as “omnibus” Bills?

Since having full primary legislation making powers, the Welsh Government has introduced widespread reforms of social care, the curriculum, additional learning needs, tertiary education and research, agriculture and housing to name but a few.

Question 7: What impact do you consider “smaller Bills” [RoP 58] will have on the volume of legislation brought forward in a ‘typical’ legislative statement for each Senedd Year?

It will be for the next Government to determine the Bills that will be included in the next legislative statement. The Counsel General considers that an expanded Senedd will have more capacity to consider legislation and therefore advocates for a more tailored approach to agreeing bill timetables, so that the Senedd can effectively scrutinise both small and larger Bills without there being a detrimental impact on other business.

Question 8: In the context of using UK Government Bills introduced to the UK Parliament to legislate in areas devolved to the Senedd, you said “there's no shame in identifying the appropriate opportunities where, when you have a good and productive piece of legislation coming forward at a UK level that has cross-border issues” [RoP 69]. It would be helpful if you could explain what you mean by “cross-border issues” – is it a reference to complexities around the boundaries of legislative competence?

In some circumstances the complex boundaries of legislative competence will be relevant, but this might also relate to practical, operational or regulatory matters. This could include situations in which proposed legislation interacts with, develops, or depends upon, systems or services that appropriately operate on a UK-wide or England-and-Wales basis.

Question 9: Please can you provide more information about the development of “joint legislation” [RoP 106-108] and how you envisage this approach would operate at an intergovernmental level?

“Joint legislation” would require a highly coordinated approach whereby governments develop and introduce complementary legislation in their own legislatures, to be considered separately by legislatures but forming a coherent policy scheme once passed.

This would of course be complex. It would require early and detailed intergovernmental engagement and clear processes to manage the potential for different scrutiny outcomes; governments and legislatures alike would want to consider carefully whether the procedural rules currently in place now could support such a process.

Question 10: You told us that:

“One of the things we've been doing in publishing our principles on UK legislation in devolved areas is talking to the UK Government about having an acceptance by them—and, indeed, I've got this via the Secretary of State for Wales—an acceptance by them that these are the principles they should broadly adhere to. I mean, they're not going to make it a constitutional principle, but they are broadly agreeing to adhere to these principles in bringing forward their legislative programme”.([RoP [119]. Emphasis ours)

Please can you explain:

- i. What is the status of the agreement and using what agreed intergovernmental structures was it agreed?**
- ii. What does the agreement mean in practice, and what implications does it have for the Welsh Government seeking legislative provision in UK Government Bills before the end of the Sixth Senedd?**
- iii. What is the specific role of the Secretary of State for Wales in the process?**
- iv. How you will inform the Senedd in a timely manner about decisions made / agreed between the Welsh Government and UK Government that relate to the use of UK Government Bills to legislate in devolved areas?**

The Counsel General spoke with the Secretary of State for Wales as we finalised our Principles as part of routine and ongoing interministerial engagement. There is no formal intergovernmental agreement in place. However, the Counsel General was clear about the importance of adhering to them, and the Wales Office have confirmed that they will ensure that UK Government Bill teams are made aware of them when developing their legislation. The Secretary of State for Wales also sits on the Parliamentary Business and Legislation Committee, which scrutinises all proposed UK Legislation before its introduction.

We will continue to inform the Senedd in a timely manner about the Welsh Government's approach to the contents of the UK Legislation Programme in the usual way - through statements, engagement with Members and of course through the legislative consent process.

Question 11: In your response to question 9 of our letter of 17 December 2024, you stated:

*“Consistent with our principles on UK legislation, the requirements of delivering our own legislative programme are **relevant factors** in relation to our positions on some UK Bills, in the context of considering the potential timeframe in which equivalent legislation could be developed.”* (Emphasis ours)

Please could you clarify and explain what you mean by “relevant factors”?

As has been previously explored, our decisions on UK Bills typically involve consideration of a range of constitutional, policy, political and other factors. This would include the practical implications of the pressures on our own legislative programme, the urgency of the policy need, potential legislative timings, and whether the required outcomes can be achieved effectively through inclusion in a UK Bill while still respecting devolved competence.

Question 12: Please can you provide an update on the progress made on agreeing a new memorandum of understanding with the UK Government on the Sewel Convention. [RoP 164 to 171].

The Welsh Government continues to engage with the UK Government on matters relating to reform of the Sewel Convention. This issue was discussed in February during a meeting between the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs and the Chancellor of the Duchy of Lancaster. It was also raised at the most recent meeting of the Interministerial Standing Committee (IMSC), which the Deputy First Minister attended, as set out in the [written statement issued on 22 April](#).

We will continue to press for meaningful and timely engagement in this process and remain committed to working collaboratively with the UK Government and the other devolved governments to ensure the final MoU reflects the interests of all parties.

We are looking forward to discussions on the proposed MoU with UK Government and other devolved governments in the months ahead.

Question 13: During the evidence session you said:

*“... one of my responsibilities is **overall oversight of the legislative programme**, and so what we have to do is keep a weather eye on things like that, to know whether to feed in any specific part of it to our legislative programme or not. **We take a very broad view of what we mean by the legislative programme**, and it includes the UK programme and, indeed, actually, the Scots programme as well—very latterly the Northern Irish ones—**because we want to take a view as to whether they're doing something that we could, frankly, copy**, if it's possible to do, and then you have to do a rapid piece of work to see whether it can be lifted, if you like, and put in to our particular set of processes, or whether, actually, it sounds easy to do but actually turns out to be more difficult because the scenario here is very different.”* ([RoP 129]. Emphasis ours)

Please can you clarify these comments, particularly in the context of the Welsh Government introducing Bills for scrutiny by the Senedd and using UK Government Bills to legislate in devolved areas?

We are always open to learning from legislative developments outside of Wales in support of our own policy and legislation work. Whilst not determinative, a wide understanding of

developments elsewhere is relevant as we shape our own legislative programme. As discussed in Committee, there may also be opportunities for legislative change to be delivered for Wales through UK Parliamentary legislation, in a manner which is in the best interests of Wales. In such situations, our decisions are guided by our published principles.

Question 14: At various points in the evidence session you provided details of the process followed in liaising with the UK Government on using Bills introduced to the UK Parliament to legislate in devolved areas (for example [RoP 99; 101, 105; 129, 140-142]). In order to obtain clarity on this matter, we would be grateful if you could provide a step-by-step guide of the process followed by the Welsh Government in the lead-up to and after the King's Speech has been made.

As has been explored on numerous occasions, there often is no one-size fits all approach to how we respond to proposed UK Legislation and to Bills upon introduction. For example: some Bills will move more quickly through development, and then through Parliament, than others; some will have early and detailed engagement before introduction, whilst others may be introduced in response to unforeseen circumstances and rightly move at pace; some Bills may be outside the competence of the Senedd but nevertheless have significant implications for Wales and devolved interests. All need a different, tailored response.

As a general guide, however, engagement in confidence takes place in the weeks before the King's Speech; this may give us an early – although not final – indication of likely areas of activity. Following the King's Speech, Welsh Government officials review the announced Bills to form an early view on likely interactions with devolved matters (albeit this analysis can only be high level – the detail of the text of the Bills is not available at the moment of the Speech). Engagement from UK Government then tends to grow as individual Bills are developed within departments and policy leads join up across governments; it is through that phase that advice is provided to Ministers on impacts and potential options, where relevant. Portfolio Ministers will formally make decisions on approaches to relevant Bills, with the involvement of the Counsel General, Deputy First Minister, and First Minister as appropriate. Officials and Ministers consistently emphasise to the relevant UK Government departments the importance of our principles and the need for early and detailed engagement.

We aim to notify the Senedd of decisions at the earliest appropriate point, via written statement or through the legislative consent process, depending on the circumstances.

Question 15: You explained that “secondary legislation is drafted in legal services, and, quite frequently, drafted by external lawyers who've been retained by the Welsh Government, because it's a specialist area.” [RoP 151]. Please can you clarify the extent to which the drafting of subordinate legislation is outsourced and what quality control processes exist for such subordinate legislation drafted externally?

Most of the secondary legislation made by the Welsh Ministers is drafted by Welsh Government Legal Services. When it is drafted externally, we expect external firms to provide the same level of assurance and quality control as is provided internally.

Question 16: Please can you explain how the Welsh Government intends to track commitments it makes to the Senedd to amend statutory instruments? [RoP 149-154].

We are grateful to the Committee for providing, on 16 January, a record of the commitments it is monitoring. The Counsel General has recently provided an update on the Government's intentions to bring forward omnibus amending instruments that will address some of those commitments; others have already been met. The Government holds records of commitments made to correct instruments and these are used to make corrections when a suitable legislative vehicle is available.

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and
Rural Affairs

Julie James MS

Counsel General and Minister for Delivery

21 March 2025

Dear both,

General scrutiny session, 9 December 2024

I refer to your appearance before the Committee to give evidence on matters within our remit, and your subsequent letter in response to our follow-up letter of 17 December 2024.

We have considered the evidence received and wish to make some observations, as well as seek clarification and further information to aid our understanding of the Welsh Government's position on some matters.

Overall, we are concerned by the evidence we received. Our concern in particular is centred on some of the inaccuracies and inconsistencies we believe the evidence contained, as well as the Welsh Government's general approach to legislating in the context of the devolution settlement.

In a discussion on the approach to legislating, we made reference to the legislative consent memoranda (LCMs) laid before the Senedd [RoP 28], and the Counsel General was of the view that not each of the 55 LCMs referred to represented an individual Bill [RoP 29]. For the record, at the time of the session the Welsh Government had laid 55 LCMs corresponding to 55 Bills introduced to the UK Parliament since the start of the Sixth Senedd. The total number of LCMs plus supplementary LCMs laid by the Welsh Government in respect of those 55 Bills at the time of the session was 126.

We are also concerned about the comments made during the session about the Welsh Government's approach to legislating and the use of the legislative consent process (see in particular RoP [33; 69; 92

to 93 and 99 to 101]). We are likely to explore these comments further in our next general scrutiny session with you.

The specific questions we have following the evidence session are set out in Annex A to this letter.

We would be grateful for a response by 8 May 2025.

Given the relevance of some of the matters covered by this letter to any review of Standing Order 29 undertaken by the Business Committee, I am copying this letter to the Llywydd.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges

Chair

References to “you” are references to the Counsel General or Deputy First Minister as appropriate.

Question 1: During the evidence session you made the following comment: “we're thinking of doing an statutory instrument correction omnibus Bill and a standing repeals series of Bills” [RoP 22]. We would be grateful to receive more information about these Bills and their timings.

Question 2: In our follow-up letter of 17 December, question 10 asked for information about an internal review of processes about developing legislation. As your response noted, during the evidence session you referred to the review when responding to a question about why the Welsh Government had only introduced 12 Bills to the Sixth Senedd [RoP 26-27]. We acknowledge your comment that you would not be prepared to share it with the Committee. However, we would welcome any further information you can share about the review in terms of:

- i. outcomes (for example in relation to having a “more streamlined legislative programme” [RoP 27] and allocation of capacity [RoP 54]);
- ii. specifically, what is the “different approach to the legislative programme” you refer to and how do you believe it “will bear fruit” [RoP 87];
- iii. when / how the review is being implemented and over what timeframe;
- iv. its impact on the volume of UK Government Bills for which the Senedd’s consent will likely be sought.

Question 3: Please can you expand on what you mean by “we could do a Welshified Bill” [RoP 33] and, in particular, what would it involve and why the base law in Wales may be an issue?

Question 4: You said that the consultation undertaken by Senedd Committees on legislation “is quite frequently just a reiteration of the same consultation that’s already been done by the Government” [RoP 40]. We are unclear why you have reached this view. However, would you recognise that it is the parliament’s responsibility to scrutinise and seek stakeholder views on Government proposed legislation, and acknowledge that a government consulting on policy and/or draft legislative proposals is different to the Senedd’s responsibility in assessing whether a government has listened to stakeholder’s concerns before introducing a Bill to the Senedd?

Question 5: You state that “we don't do the detailed legislative scrutiny that you see in other parliaments” [RoP 40]. Please could you provide the evidence which led you to make these comments?

Question 6: You made reference to the Welsh Government having a “tendency to bring big omnibus Bills forward” [RoP 58] and cited the Local Government and Elections (Wales) Bill. What other Bills introduced to the Sixth Senedd would you classify as “omnibus” Bills?

Question 7: What impact do you consider “smaller Bills” [RoP 58] will have on the volume of legislation brought forward in a ‘typical’ legislative statement for each Senedd Year?

Question 8: In the context of using UK Government Bills introduced to the UK Parliament to legislate in areas devolved to the Senedd, you said “there’s no shame in identifying the appropriate

opportunities where, when you have a good and productive piece of legislation coming forward at a UK level that has cross-border issues" [RoP 69]. It would be helpful if you could explain what you mean by "cross-border issues" – is it a reference to complexities around the boundaries of legislative competence?

Question 9: Please can you provide more information about the development of "joint legislation" [RoP 106-108] and how you envisage this approach would operate at an intergovernmental level?

Question 10: You told us that:

"One of the things we've been doing in publishing our principles on UK legislation in devolved areas is talking to the UK Government about having an acceptance by them—and, indeed, I've got this via the Secretary of State for Wales—an acceptance by them that these are the principles they should broadly adhere to. I mean, they're not going to make it a constitutional principle, but they are broadly agreeing to adhere to these principles in bringing forward their legislative programme". ([RoP [119]. Emphasis ours)

Please can you explain:

- i. What is the status of the agreement and using what agreed intergovernmental structures was it agreed?
- ii. What does the agreement mean in practice, and what implications does it have for the Welsh Government seeking legislative provision in UK Government Bills before the end of the Sixth Senedd?
- iii. What is the specific role of the Secretary of State for Wales in the process?
- iv. How you will inform the Senedd in a timely manner about decisions made / agreed between the Welsh Government and UK Government that relate to the use of UK Government Bills to legislate in devolved areas?

Question 11: In your response to question 9 of our letter of 17 December 2024, you stated:

*"Consistent with our principles on UK legislation, the requirements of delivering our own legislative programme are **relevant factors** in relation to our positions on some UK Bills, in the context of considering the potential timeframe in which equivalent legislation could be developed."* (Emphasis ours)

Please could you clarify and explain what you mean by "relevant factors"?

Question 12: Please can you provide an update on the progress made on agreeing a new memorandum of understanding with the UK Government on the Sewel Convention. [RoP 164 to 171].

Question 13: During the evidence session you said:

*"... one of my responsibilities is **overall oversight of the legislative programme**, and so what we have to do is keep a weather eye on things like that, to know whether to feed in any specific part of it to our legislative programme or not. **We take a very***

broad view of what we mean by the legislative programme, and it includes the UK programme and, indeed, actually, the Scots programme as well—very latterly the Northern Irish ones—because we want to take a view as to whether they're doing something that we could, frankly, copy, if it's possible to do, and then you have to do a rapid piece of work to see whether it can be lifted, if you like, and put in to our particular set of processes, or whether, actually, it sounds easy to do but actually turns out to be more difficult because the scenario here is very different.” ([RoP 129]. Emphasis ours)

Please can you clarify these comments, particularly in the context of the Welsh Government introducing Bills for scrutiny by the Senedd and using UK Government Bills to legislate in devolved areas?

Question 14: At various points in the evidence session you provided details of the process followed in liaising with the UK Government on using Bills introduced to the UK Parliament to legislate in devolved areas (for example [RoP 99; 101, 105; 129, 140-142]). In order to obtain clarity on this matter, we would be grateful if you could provide a step-by-step guide of the process followed by the Welsh Government in the lead-up to and after the King’s Speech has been made.

Question 15: You explained that “secondary legislation is drafted in legal services, and, quite frequently, drafted by external lawyers who've been retained by the Welsh Government, because it's a specialist area.” [RoP 151]. Please can you clarify the extent to which the drafting of subordinate legislation is outsourced and what quality control processes exist for such subordinate legislation drafted externally?

Question 16: Please can you explain how the Welsh Government intends to track commitments it makes to the Senedd to amend statutory instruments? [RoP 149-154].

**Equality and Social Justice
Committee**

Jane Hutt MS
Cabinet Secretary, Trefnydd and Chief Whip

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0300 200 6565

Dear Jane,

13 May 2025

Scrutiny sessions on prisons and criminal justice

On behalf of the Committee I would like to thank you for your willingness to participate in one of two back-to-back scrutiny sessions involving both Welsh and UK governments on criminal justice which we scheduled for 19 May. Unfortunately, we learned yesterday afternoon that the Prisons Minister, Lord Timpson can no longer make the session due to parliamentary commitments relating to the Sentencing Guidelines Bill. In light of the Minister's withdrawal from the session we have reflected carefully on the changed context. After some reflection, we believe it would be better to postpone both sessions at this stage until a new date can be found.

We recognise you may have had to make time in your schedule to attend next week. Please know that we appreciate this and regret any inconvenience caused. However, we simply want to ensure that our work on this topic reflects the shared and interdependent nature of this policy area and believe that seeing both governments on the same day will ensure that everyone's time is spent more effectively.

Thank you again for your understanding. We hope to rearrange the sessions for a future date, hopefully under more coordinated circumstances.

Yours sincerely,



Jenny Rathbone MS

Chair of the Equality and Social Justice Committee

CC: Lord Timpson, Minister of State for Prisons; Ruth Jones MP, Chair of the Welsh Affairs Select Committee; Mike Hedges MS, Chair of the Legislation, Justice and Constitution Committee, Peter Fox MS, Chair of the Health and Social Care Committee

Agenda Item 5.4



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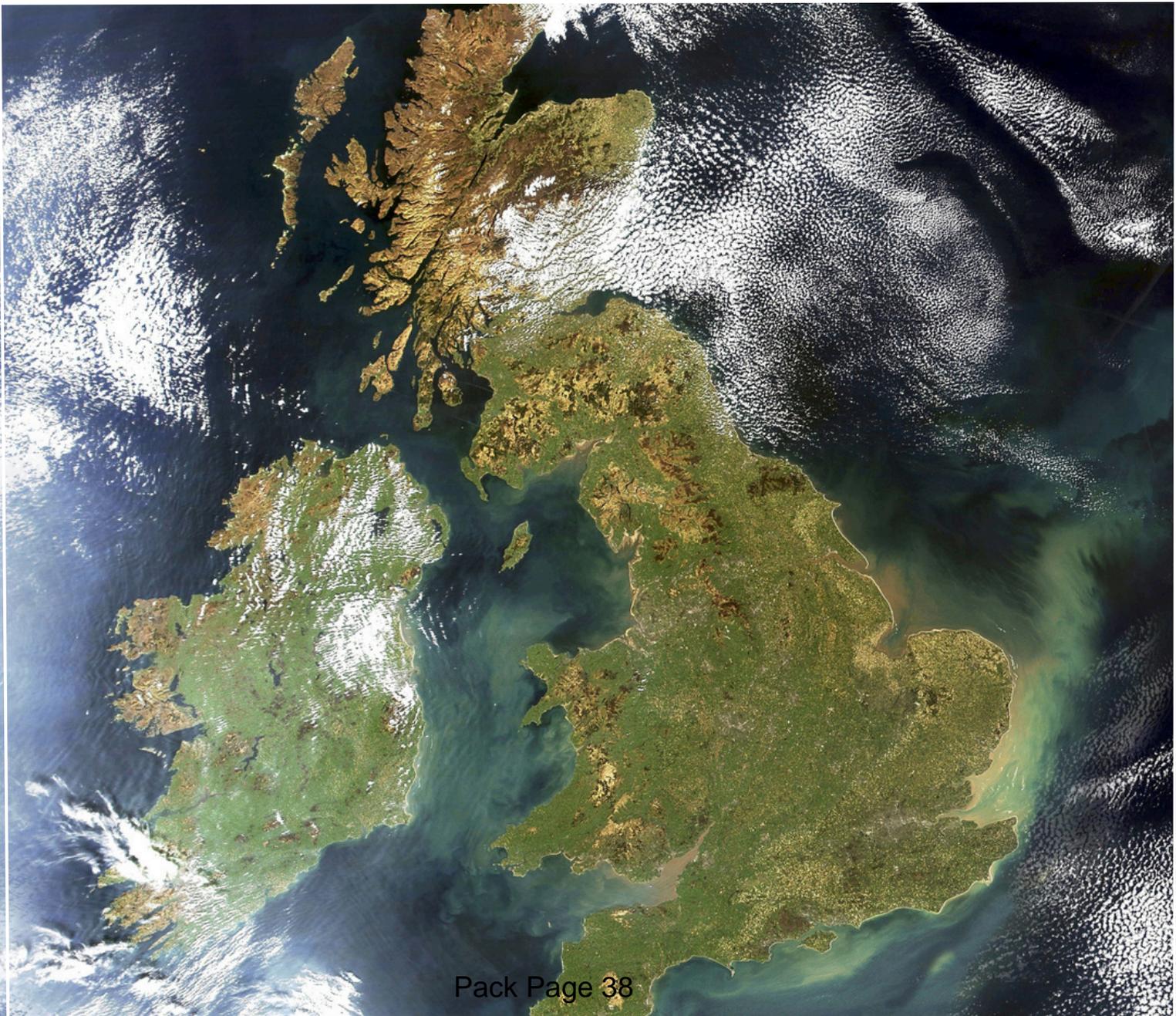
PolicyWISE

A More Collaborative Way of Governing?

Why the UK's Council of the Nations and Regions Matters

Executive Summary Report

Alex Walker, Michael Kenny and Dewi Knight



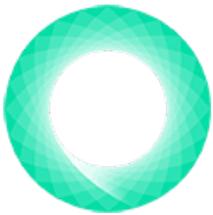


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PolicyWISE

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Our funder

The Open University has been awarded £1m in funding from Dangoor Education to establish and run PolicyWISE. The funding has supported the launch of PolicyWISE in 2023 and our development over the following four years.

Authors

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Professor Michael Kenny, Inaugural Director of the Bennett Institute for Public Policy, University of Cambridge.

Dewi Knight, Director of PolicyWISE, The Open University.



Acknowledgements

We would like to thank Professor Simon Usherwood, Professor Nicola McEwen, Philip Rycroft and Mark Sandford, who took the time to look at the report and provide expert advice and comments. We are also grateful for the insights of everyone who spoke with us for the project.

Thanks also to Catherine May and the wider PolicyWISE team for organising and facilitating a valuable series of cross-nation policy learning roundtables, and to all those who attended and generously shared their insights. Their contributions have helped shape this report and inform the ongoing work of PolicyWISE.

Methodology

The report draws extensively on the academic literature on intergovernmental relations as well as analysis of policy and practice in the UK and internationally. We also conducted a series of interviews with key stakeholders from the UK government, devolved governments and mayoralities. The conclusions we draw and recommendations we provide reflect our own independent judgements.

Overview

One of the first acts of the Starmer government, after its election in July 2024, was to establish a potentially landmark innovation in the UK's model of territorial government: the Council of the Nations and Regions.

This brand-new body held its inaugural meeting on 11 October 2024, and was the first ever occasion on which the full cohort of regional mayors from different parts of England were brought into concert with the leaders of Northern Ireland, Scotland and Wales, at the behest of the UK's Prime Minister. The new Council is intended to be a 'central driving forum' that 'facilitates partnership working' on 'some of the biggest and most cross-cutting challenges the country faces, on a structured and sustained basis.'^[1]

This report provides the first substantial examination of this flagship intergovernmental initiative. It highlights a number of dilemmas which its establishment has raised, and argues that there is real potential for the new Council to contribute to improved relationships between, and across, the UK government and the devolved governments and English mayors, even if these are led by leaders from different political parties. Moreover, this innovation could fill a gaping hole in the model of territorial government within the UK, which has lacked mechanisms for genuine collaboration between its various governing authorities. This matters in a context where, because of the nature of the devolution settlements which have developed in the last 25 years,

none of these governments – including the UK's – can achieve its key priorities without collaboration with other government bodies.

▶ **The Council of the Nations and Regions reflects the new UK government's desire to signal a departure from the more combative approach taken, at points, by its Conservative predecessors to relationships with the other heads of government, and the English regional mayors.** The Council's origins lie in the proposals put forward by the Commission on the UK's Future led by former Prime Minister, Gordon Brown, in 2022. It is a key manifestation of Keir Starmer's wish to 'reset' relations with the devolved governments, to take forward the English devolution agenda, and to introduce a new ethos of 'working in partnership' at the intergovernmental level.

▶ **The system of incremental and asymmetrical devolution which has developed in the UK in the last twenty-five years has been weakened by the lack of institutionalised cooperation between the Westminster government and the devolved governments.** The Joint Ministerial Committee system that was in operation between 1999 and 2022 became an ad hoc and irregular form of engagement, which was widely viewed as a talking-shop for the airing of grievances, rather than an effective vehicle for top-level collaboration. Subsequently, Brexit damaged trust

[1] UK government, 'Council of the Nations and Regions: Terms of Reference', 2024.

<https://www.gov.uk/government/publications/council-of-the-nations-and-regions-terms-of-reference/council-of-the-nations-and-regions-terms-of-reference/>.

between the UK and the devolved governments of Northern Ireland, Scotland and Wales, and the Covid-19 pandemic highlighted the inadequacy of established structures for intergovernmental coordination in times of crisis. A new, more expansive system was agreed between the Johnson government and the devolved governments in 2022, but its impact has been variable. And there was no role for England's mayors within this system, meaning they continued to lack a voice at the heart of British government. There are, therefore, important gaps that need to be addressed, and the new Council – depending on how it functions – could become an important part of the response to them.

▶ **There is a very clear administrative need for the leaders of these governments and authorities to come together more often to work through areas where their policy responsibilities overlap, and to develop a better understanding of the thinking behind, and implementation of, each other's priorities.** A number of key policy challenges cut across the boundary line between powers that are devolved and those that are 'reserved' to the UK centre.^[2] There is a growing need – increasingly recognised by the UK and devolved governments – to work together to address these issues. It makes good sense as well for the Scottish and Welsh First Ministers to be in dialogue with the English mayors who manage jurisdictions which share a border with them – for instance in the North East of England – as there are important, cross-border issues which need to be managed jointly. And the new Council can help on both of these scores.

▶ **The Council of the Nations and Regions needs a more clearly defined purpose, which is apparent to, and broadly shared by, its participants.** There are a range of different specific functions that high-level intergovernmental forums can perform, and there are a variety of views about what ultimate purpose the Council should serve. Greater clarification is needed about the kinds of policy questions it will focus on, and what the consequences of its discussions will be.

▶ **There are different perspectives about the appropriate remit and role of the Council, and these reflect divergent constitutional understandings of devolution itself.** The UK's political culture – centred as it is on the ethos of parliamentary sovereignty – undoubtedly limits the extent to which the Council can be developed as a formal decision-making body. And there are also significant differences between the constitutional standing and capacities of the Northern Irish, Scottish and Welsh governments compared to the English mayors, which need to be recognised and reflected in the way the Council operates.

▶ **The UK remains an international outlier where the 'central' government acts both as the overarching 'national' convener and the government of the largest constituent unit within its jurisdiction – England.** This dual role creates some anomalies and tensions in terms of the conduct of intergovernmental relations. In practice, the UK government is much more inclined to

[2] Legislative or executive powers that are held exclusively by the UK Parliament or government.

present itself as the governing authority for the whole of the UK and much less comfortable in acknowledging its role as the de facto government for England.

▶ **There is currently a lack of clarity around where the new Council fits into the existing architecture of UK intergovernmental relations, and this uncertainty needs to be addressed.** A new system for structuring the relationships between the devolved and UK governments was agreed in 2022, after a lengthy joint review process. This model, which was in essence co-designed by Westminster and devolved governments, moved the UK's model onto a more independent and systematic footing, and was broadly welcomed by each of them, including the Johnson government at UK-level. It has not yet been made clear, however, what the relationship of the Council of the Nations and Regions is to these existing forums and where it fits within this newly created machinery.

▶ **The UK government's current approach to running the Council may not be adequate in the more volatile and turbulent political context that is now unfolding, both within the UK and the wider world.** The positive atmosphere surrounding the first meeting of this body in October 2024 may not be replicated in future, given the greater political diversity of the group following recent mayoral elections – including, for the first time, the election of two mayors from Reform UK – and devolved elections approaching next year.

Greater political diversity and more differences of opinion may well place a strain on the informal and collegial approach which characterised the first meeting of this new body. At present, the forum is being run by a small Secretariat based in the Cabinet Office, in contrast to the more independent, standing secretariat which administers the inter-governmental relations (IGR) system created by the previous government. Past experience suggests that a model of administration that feels like it is accountable to all the members of the forum may help ensure the Council endures future changes in government and the pressures and tensions created by political disagreement among participants.

▶ **The question of who should be invited to participate in the Council is another area which has proved contentious.** There is an important trade-off between being inclusive and ensuring that the Council is of a size that permits effective and candid discussions of sensitive issues.

Recommendations

It has been widely observed that the UK's system of territorial government has lacked structures that support collaboration and partnership, especially at leadership level.^[3] And there are strong administrative and political reasons for addressing this gap. The Council of the Nations and Regions represents an opportunity to foster better relations between the key players in the territorial government of the UK – the UK's central government, its devolved governments and the English regional mayors. And, if well-designed, it could also have a positive impact on the development of effective policy and the quality of governance across the UK.

Given the extent of devolution to Northern Ireland, Scotland and Wales, in particular, it is increasingly difficult for the UK's governing authorities to achieve their priorities alone – a reality which makes the achievement of more collaborative relationships imperative. Although there are significant disparities between the constitutional standing of the devolved governments and England's regional mayors, there is a strong case for including the mayors in this top-level forum (while acknowledging that some areas of England will not have their own direct representative around the table until they have a mayor).

To make this initiative work, however, will require flexibility from all its participants. For the UK government, this may involve ceding some ownership of the Council, and viewing it more as a co-production.

None of these governments – including the UK's – can achieve its key priorities without collaboration with other government bodies. This message may not be an easy one for Whitehall to hear. But it is an implication of moving towards a more collaborative and productive mode of engagement. There are real benefits to be achieved from developing the Council in this way for those interested in stabilising the UK's Union and finding more effective ways to incorporate these other governments within it.

A similar ethos needs to inform the approach of the devolved governments and English mayoral leaders. Making the Council work is a two-way street. There is a longstanding temptation in these kinds of meetings to use them to air perceived grievances or present a set of zero-sum demands to representatives of the British state.

Engaging in constructive dialogue, which aims at better mutual understanding, is incumbent on all participants if these are to be useful conversations – rather than occasions where leaders make a series of pre-rehearsed, set-piece speeches. All sides in them need to display a degree of flexibility and a willingness to engage constructively and be open to collaboration with others (including those from different parties) for the Council to sustain itself as a productive venue.

[3] See, for example: M. Keating, *State and nation in the United Kingdom: The Fractured Union* (Oxford, 2021); N. McEwen & B. Petersohn, 'Between Autonomy and Interdependence: The Challenges of Shared Rule after the Scottish Referendum', *The Political Quarterly* 86.2 (2015).

Recommendations

Purpose and role

- The core purpose of the Council should be the practice of a more collaborative form of territorial governance, meaning the establishment of **new ways of working in partnership** across territorial boundaries to achieve **shared policy goals**.
- The Council should focus on enabling participants to exchange information and best practice, **better understand each other's policy thinking**, and agree to work jointly and **coordinate action** in areas of common interest.
- All of the Council's participants should bear in mind the commitment they have made in its terms of reference to **partnership, improved collaboration and policy learning**.

Remit

- The Council should focus on **collectively identifying issues of shared concern and importance** regardless of where they may fall within the 'geometry' of reserved and devolved powers.
- The Council should focus upon **major strategic issues** – especially when there is an emerging, common challenge for the whole of the UK.
- We suggest that the next meeting of the Council should discuss the **fast-changing geopolitical situation** and the UK's international strategic response to it.

Recommendations

Structure

- The UK government should confirm that the **UK Prime Minister will continue to meet regularly with the heads of the devolved governments** outside the full Council of the Nations and Regions format.
- The UK Prime Minister should always meet with the heads of devolved government ahead of the full Council of the Nations and Regions later in the day, and this meeting should be formally presented as the ‘top tier’ of the previously agreed intergovernmental machinery.
- A fixed spot in the autumn and spring should be agreed for the Council’s meetings to ensure a more predictable schedule, and so that it can feed into the regular cycle of policymaking for all of its participants.
- Time should be built into the schedule for informal discussions at the margins of the main event, as evidence suggests that these kinds of opportunities help build trust and mutual understanding between participants.

Administration and delivery

- The Council should draw upon the **practices and processes associated with international summits**, with lead senior officials acting as ‘sherpas’ tasked with preparing submissions and working with each other on options for leaders to discuss, and potentially agree, when they meet.
- The standing IGR Secretariat set up under the 2022 IGR review should be responsible for the administration of the Council of the Nations and Regions.
- The choice of main agenda item should be the product of prior discussion and subject to **input from all the Council’s members**.

Recommendations

Composition

- The current membership principle, including the full participation of all the English regional mayors, should be maintained for the time being.
- But ahead of the potential election of a further cohort of mayors in 2026, consideration should be given to exploring different ways of managing the size of the Council as its membership continues to grow, including different meeting formats, such as breakout sessions alongside a plenary, and agreeing with the mayors some kind of system of representation which does not involve all of them attending each Council meeting.
- It is a mistake to view the Council as an answer to the deeper tensions and anomalies caused by the conflation of UK and English governance within the UK system, and we suggest that other avenues be explored in relation to this longstanding conundrum.
- The UK government should be **clearer about when it is representing the UK as a whole, or just England**, particularly when it enters into agreements with other governments.

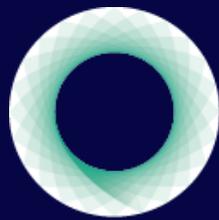
Transparency, scrutiny and accountability

- Responsibility for transparency should lie with the IGR Secretariat which should be responsible for publishing in one place a range of information related to the Council and its ongoing activities.
- We encourage the relevant parliamentary committees to monitor and examine the Council as it develops and continue to **enhance their inter-parliamentary capacity and working** in doing so.



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Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee

15 May 2025

Annwyl Mike

Thank you for your letter inviting me to attend a meeting of the Legislation, Justice and Constitution Committee to consider the legislative programme, Wales and Europe and intergovernmental relations.

As you mention in your letter, I attended the Committee for the Scrutiny of the First Minister on the 28th of March, where I responded to a number of questions on intergovernmental relations.

Given the Deputy First Minister's role in deputising for me and his responsibilities for Constitutional Affairs (which correlate closely with intergovernmental relations) and the Counsel General and Minister for Delivery's responsibilities for the delivery of the Legislative Programme, I am confident that they would be well placed to answer your Committee's questions on intergovernmental relations and the legislative programme.

The Cabinet Secretary for Economy, Energy and Planning attended the Culture, Communications, Welsh Language, Sport, and International Relations Committee on the 2nd of April to discuss the UK-EU implementation review of the Trade and Cooperation Agreement. I would be happy to answer any questions on wider Wales and Europe matters in writing.

Yours sincerely



Eluned Morgan

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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.

Rt Hon Eluned Morgan MS

First Minister of Wales

04 March 2025

Dear Eluned,

We wrote to you on 13 November 2024 about attending one of our meetings to discuss matters within our remit for which you hold ministerial responsibility. This followed our exchange of correspondence in October (namely, your letter of 28 October in response to our letter of 3 October).

Matters relating to the legislative programme, Wales and Europe and intergovernmental relations remain prominent as we approach the final year of the Sixth Senedd. As you will be aware, these are matters which are within your ministerial responsibility, and are not matters which are the responsibility of any other government minister or the Counsel General. We therefore think it would be appropriate for you to appear before the Committee to discuss these matters as soon as is practicably possible.

We acknowledge that matters relating to intergovernmental relations may be discussed at the next meeting of the Committee for the Scrutiny of the First Minister. However, we would like to explore this important issue in detail and collectively as a Committee, alongside the other matters referred to above.

In making this further request we note that you gave evidence on 12 February 2025 to the Welsh Affairs Committee in the House of Commons on the work of the Welsh Government, including matters relating to intergovernmental relations.

I look forward to receiving a response from you by 20 March, so that arrangements may be made to accommodate this session on a date suitable for you and for the Committee.

Yours sincerely,



Mike Hedges

Chair

Agenda Item 8

By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 9

By virtue of paragraph(s) vii of Standing Order 17.42

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Agenda Item 11

By virtue of paragraph(s) vii of Standing Order 17.42

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Agenda Item 12

By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 13

By virtue of paragraph(s) ix of Standing Order 17.42

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