

Agenda – External Affairs and Additional Legislation Committee

Meeting Venue:	For further information contact:
Committee Room 2 – Senedd	Alun Davidson
Meeting date: 29 April 2019	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddEAAL@assembly.wales

Private pre-meeting

(13:15–13:30)

1 Introductions, apologies, substitutions and declarations of interest

(13:30)

2 Scrutiny session with the First Minister of Wales

(13:30–15:00)

(Pages 1 – 42)

Mark Drakeford, First Minister of Wales

3 Paper(s) to note

(15:00–15:05)

3.1 Paper to note 1: Correspondence from the Brexit Minister to the Chair regarding UK Common Frameworks Analysis – 4 April 2019

(Page 43)

[Revised Frameworks Analysis: Breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland](#)

3.2 Paper to note 2: Correspondence from the First Minister to the Chair regarding the attendance of Ministers at Committee – 12 April 2019

(Page 44)

3.3 Paper to note 3: Correspondence from the Minister for International Relations and the Welsh Language to the Chair regarding international agreements – 18 April 2019

(Pages 45 – 46)



- 3.4 Paper to note 4: Correspondence from the Brexit Minister to the Chair regarding the Wales Audit Office report on preparations for Brexit in Wales – 23 April 2019**
(Pages 47 – 49)
- 3.5 Paper to note 5: Correspondence from the Minister for International Relations and the Welsh Language to the Chair regarding the UK Trade Bill – Supplementary Legislative Consent Memorandum EAAL Report – 25 April 2019**
(Pages 50 – 54)
- 4 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting**
(15:05)
- 5 Scrutiny session with the First Minister of Wales – consideration of evidence**
(15:05–15:20)
- 6 Consideration of response to the correspondence from the First Minister to the Chair regarding the attendance of Ministers at Committee**
(15:20–15:25)
- 7 Scrutiny of international agreements**
(15:25–15:35) (Pages 55 – 71)

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

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Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Agenda Item 3.1



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-P/CG/1216/19

David Rees AM,
Chair of the External Affairs and Additional Legislation Committee
National Assembly for Wales

4 April 2019

Dear David

Today the UK Government has published an updated Frameworks Analysis. The Analysis provides an update to the breakdown of the areas of EU law, which intersect with the devolved settlements, originally published in March 2018. It provides context in regards to the progress and ongoing work on Common Frameworks.

I welcome the analysis and the constructive inter-governmental work it reflects. While there are outstanding issues, and a great deal of work still to do, the Common Frameworks process has proved that when all governments are properly committed, mutual cooperation and shared decision-making is possible.

Due to the current situation in Westminster, it is not possible to give any certainty on the forward programme for Common Frameworks at this time. However if it would be useful I would be happy to offer for my officials to provide a technical briefing to the Committee, now or in the future.

Yours sincerely



Jeremy Miles AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

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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.



Llywodraeth Cymru
Welsh Government

David Rees AM
Chair
External Affairs & Additional Legislation Committee
National Assembly for Wales
Cardiff Bay
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12 April 2019

Dear David

I wanted to write to clarify my position regarding the attendance of Ministers at Committee on a Monday.

As you know I hold Cabinet meetings in Cathays Park every Monday afternoon starting at 3pm. I expect Ministers to prioritise attendance at Cabinet wherever possible and it is clearly set out in the Ministerial Code that Cabinet meetings take precedence over all other business, although there may occasionally be *exceptional* circumstances which mean that a Minister may have to be absent.

Requests for Ministers to attend Committee meetings on a Monday at times that mean they will miss Cabinet, or be late arriving, are becoming more frequent. We will do our best to accommodate requests from Committees, but it is not practicable for Ministers to arrange government business around Committee timetables, particularly at short notice.

You will know that I have rearranged my diary and changed the timing and venue of Cabinet meetings occasionally in order for me to attend EAAL Committee but it will not always be possible for me to do that.

I can assure you that we will continue to be as flexible as possible but when Ministers are required to attend on a Monday, it would be helpful if the Committee would consider starting at 1.30pm so Ministers can be away after an hour.

You have invited me to attend the Committee meeting on Monday 29 April. In order to attend I am arranging for the Cabinet meeting that day to be moved to the Bay but I will need to be finished in Committee by 3pm.

With give and take on both sides I am sure that we can continue to find ways to accommodate the different diary pressures we all face.

Yours sincerely

MARK DRAKEFORD

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Ein cyf/Our ref MA/P/EM/1236/19

David Rees AM
Chair, External Affairs and Additional Legislation Committee

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18 April 2019

Dear David,

Thank you for your letter of 25 March regarding the UK Government's sharing of the text of international agreements before they are signed. I can confirm that for agreements signed since 15 March, draft agreement text, once stable, has been shared with my officials for information purposes before signing.

Whereas we recognise that this first batch of international trade agreements being signed by the UK Government are not new trade agreements and are essentially technical exercises, I have been clear with UKG Ministers that the process to date has not really been satisfactory and, as I have already stressed to the Committee, we have been absolutely clear that this should not set a precedent for future negotiations. I have received a verbal commitment from the Minister of State for Trade that no new trade negotiations will begin until the administrative arrangements to enable the devolved administrations to feed into the negotiations are in place.

As your reports state, some agreements such as Switzerland, look less like a technical exercise because they omit large areas that await further clarity on the future economic partnership with the EU before they are negotiated. Excluding these areas, may well have an impact on Wales, but they do not require changes in policy within devolved competence. However, I have been absolutely clear with UK Government Ministers that were any of the Trade Agreement Continuity (TAC) negotiations to require legal changes within devolved competence, we should be consulted in advance of negotiations being concluded and not once the draft text is stable. I have also been clear that I expect the concordat to cover any re-negotiations of the current TAC agreements.

I greatly appreciate the work of the External Affairs and Additional Legislation Committee in scrutinising those international trade agreements being transitioned by the UK Government

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and I think that it would be useful to meet to talk in more detail about how we might share information with you in a timely and sensible manner.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AC/AM

Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol
Minister for International Relations and the Welsh Language

Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Agenda Item 3.4



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA/P/CG/1434/19

David Rees AM
Chair of External Affairs and Additional Legislation Committee

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23 April 2019

Dear David,

Thank you for your letter following my recent appearance before your Committee.

In your letter you highlight the potentially damaging impact that leaving the EU without a deal would have on the Welsh economy. As you know, we have always been clear that a “no deal” outcome would be catastrophic for the UK as a whole, but particularly for Wales, and have relentlessly pressed this point with UK Government. I am pleased that they seem finally to have accepted it is not a viable option, and also that the EU have agreed to a longer extension. However, a ‘no deal’ Brexit remains a real risk and as a responsible Government we will continue to plan for this outcome. This provides time for the UK Government to genuinely reach out and seek consensus, which the country so sorely needs. It is crucial that a resolution is found and we do not find ourselves approaching yet another cliff edge at the end of October.

I too welcome the Auditor General Wales’ report, which recognises the scale of the challenge the Welsh Government and its public service partners face in preparing for Brexit, against a very challenging and uncertain backdrop. The report recognises how we have responded to the challenge and references the clear lead that we have taken in planning for a no-deal Brexit. We have continued to show that leadership, and have recently arranged, through Academi Wales, a series of well-received events across Wales aimed at councillors and non-executive directors with a scrutiny role.

In your letter you asked for more information about a number of points raised in the Auditor General for Wales’ report.

Local Authorities

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In your letter you asked how the Welsh Government is addressing capacity issues in relation to Wales' Local Authorities ability to prepare for Brexit on top of the day job.

We have put in place structures to engage and communicate with local authorities. A Local Government EU Preparedness Advisory Panel meets every three weeks. Made up of Local Authority Chief Executives, the Panel is a forum for assessing preparedness progress and strengthens a coordinated and collaborative approach across Wales to provide the best solutions to Welsh citizens after Brexit. Panel members report that whilst levels of preparedness varies it has increased considerably in the last few months, particularly no-deal preparations.

In March, the Minister for Housing and Local Government announced £1.2 million to support local authorities in preparing for Brexit. £1m of that funding will go directly to each Local Authority to support an additional dedicated member of staff to work solely on Brexit issues. £200,000 will be used to support Local Authorities by extending the Welsh Local Government Association (WLGA) EU transition programme, which provides assessment, research and tools that benefits all Local Authorities.

As part of the Programme, the WLGA has commissioned Grant Thornton to carry out an analysis of local authority preparedness across Wales. The report can be accessed <https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&mid=665&fileid=2230>. However in summary the report concludes that:

- There is a good level of assurance on preparedness, certainly for the short term, and of structures and planning in place.
- Brexit preparedness has developed significantly in the short period since WAO report was published three months ago.
- The EU Transition Programme toolkit has been a valuable and well used resource giving structure, confidence and consistency.
- There is a note of caution in the report that whilst authorities have done a good level of preparation the plans are of necessity un-tested given the on-going uncertainty.

Civil contingencies

The Welsh Government has played an important leadership role in relation to civil contingencies in Wales and has worked over many months with the UK Government and the Welsh Local Resilience Fora on preventative measures for possible a no-deal Brexit.

In your letter, you requested more detail about the additional £500,000 announced to support the work of LRF. Primarily, the funding was allocated to assist LRF to monitor impacts of no a deal Brexit across agencies on a daily and 24/7 basis as required by implementing Command, Control and Coordination structures. While the funding will enable LRFs to meet specific local need, the funding can assist LRFs as appropriate with:

- Creating hubs for Brexit preparedness within the LRF area.
- Supporting LRFs to enhance existing arrangements and develop new procedures and plans to cover the response to exiting the EU, including testing arrangements.
- Providing resilient ICT to support communications between LRFs and central emergency control structures.
- Providing required training to staff and organisations working in the LRF.
- Providing the LRF with wider support on non-Brexit activities displaced by Brexit no deal planning to ensure a state of readiness for concurrent events.

Communications

In your letter you also requested more information about the 'Paratoi Cymru/Preparing Wales' Brexit Portal.

The website sets out guidance and advice for citizens, organisations and a breadth of sectors across Wales about the steps that need to be taken to prepare for a no-deal Brexit. As well as providing advice from the Welsh Government, it signposts people and organisations to relevant advice from outside bodies on how to prepare, including guidance from the UK Government where appropriate.

Preparing Wales is promoted through a range of communications channels, including stakeholder engagement, press releases, twitter feeds and Ministerial media interviews. Also, every household in Wales has received or will shortly receive a leaflet promoting Preparing Wales and where to find the latest advice. Since 'Preparing Wales' was launched on 16th January, it has received a 26,839 unique page views.

In addition to the 'Preparing Wales' website, we have also created a Business Wales Brexit which has been developed to help Welsh businesses prepare for Brexit and navigate the changes and challenges ahead. The Portal provides up-to-date information and advice on a range of crucial issues for business. It also includes a diagnostic tool that helps businesses to identify how prepared they are for Brexit, recommends actions they should take to increase their resilience and signposts them to additional sources of support.

Since its launch in September 2018 the portal has been accessed by businesses 30,662 times, with around 65% of Welsh business having used the service.

We have undertaken a range of activities to promote the Business Wales Brexit portal including using social media channels (Business Wales and Sell2Wales), mailshots to Business Wales newsletter subscribers and, promotion via the main Business Wales website. There has also been an external Brexit marketing campaign including TV adverts, radio adverts and other advertising online.

I would like to take the opportunity to acknowledge the work that the External Affairs and Additional Legislation Committee has done around preparations for what is, as you say in your letter, an unprecedented process.

Yours sincerely,



Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister



Llywodraeth Cymru
Welsh Government

Our ref EM/0263/19

David Rees AM
Chair of External Affairs and Additional Legislation Committee
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25 April 2019

Dear David,

UK Trade Bill – Supplementary Legislative Consent Memorandum EAAL Report

I would like to thank you, and all the members of the External Affairs and Additional Legislation Committee again, for taking the time to consider the Legislative Consent Memorandum for the UK Trade Bill for a second time.

I am sure you'll be aware that the Trade Bill has now undergone its final reading in the House of Lords. Several amendments have been made to the Bill, a number of which I would like to draw your particular attention to. These are the amendments I believe are within the Assembly's competence and are identified in the Annex.

Amendments 1, 4, 5 and 15 do not alter anything legally but simply make clear what was implied in the clauses as originally drafted, or move provisions from one place to another. For this reason, I believe that the Assembly's consent to the original clauses covers these changes.

Amendments 2, 3, 11 and 13 either limit or remove powers which were identified in the original Legislative Consent Memorandum and do not make relevant provision for the first time. As a result I do not consider that these amendments require a supplementary LCM.

One of the effects of amendment 14 is to widen devolved powers under the Bill and as a result I do not think this change is covered by the Assembly's original consent. Ordinarily I would lay an LCM for an amendment of this kind but realistically I do not see that there

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would be time for the LCM procedures to be complied with. For this reason I do not intend to do so.

Amendment 16 adds a new clause into the Bill so that Parts 1 to 3 can only come into force if the House of Commons approves a withdrawal agreement and framework for future relationship under s. 13 of the Withdrawal Act, or approves withdrawal without an agreement and framework. This is an opposition amendment and therefore the UK Government may seek to overturn it when the returns to the House of Commons. I will continue to keep members up to date on this amendment.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AC/AM

Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol
Minister for International Relations and the Welsh Language



Annex 1 – House of Lords amendments at Report considered to be within competence

No.	Explanation	Comments
1	Changes the clause 1 powers so that they can be used to modify retained direct principal EU legislation, rather than retained direct EU legislation.	This change does not alter anything legally, it just makes clear what was implied in the original drafting.
2	Requires clause 1 regulations to adhere to the standards requirement (see amendment 3).	See below.
3	Requires clause 1 regulations containing provision in various areas to be consistent with statutory protections in those areas, e.g. animal welfare.	Narrows the scope of the clause 1 power so that only provision that adheres to this new condition can be made.
4	Changes the clause 2 powers so that they can be used to modify retained direct principal EU legislation, rather than retained direct EU legislation.	This change does not alter anything legally, it just makes clear what was implied in the original drafting.
5	Makes express that clause 2 powers can only be used to make provision for civil penalties.	This change does not alter anything legally, it just makes clear what the position would have been under the original drafting.
11	Removes clause 6 (UK participation in the European medicines regulatory network).	Removes a power which was set out in the original memoranda. Not making relevant provision for the first time.

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	Adds a substitute clause.	
13	Removes authority for regulations under clauses 1 and 2 to be made before exit day if they modify certain kinds of retained EU law, as long as they come into force after exit day.	Removes a power which was set out in the original memoranda. Not making relevant provision for the first time.
14	This changes the definition of 'subordinate legislation' used in the Bill so that it includes subordinate legislation made under an Assembly Act or Measure.	<p>The principal effect is to dis-apply some of the restrictions on Welsh Ministers' powers if they have a power under an Assembly Act or Measure to do the same thing free from those restrictions (broadly speaking).</p> <p>On balance it seems likely that the Assembly has competence to require Welsh Ministers to consult UKG before making regulations, but not to require UKG consent as a prerequisite to making regulations or to require joint exercise of the powers with UKG. This is on the basis that consent and joint exercise are likely to involve imposing a function on UK Ministers, whereas consultation feels less likely to involve that. Given this, the amendment is arguably within competence to the extent that it dis-applies the requirement to consult UKG before making Trade Bill regulations if the same thing could be done by Welsh Ministers in regulations under an Assembly Act or Measure.</p> <p>This widens Welsh Ministers' powers under the Bill and so is not covered by the previous memoranda.</p>
15	Moves the definition of domestic law from the Schedule dealing with devolved powers to the main interpretation section of the Bill.	This change does not alter anything legally.
16	Adds a new clause so that Parts 1 to 3 can only come into force if the HoC approves a withdrawal agreement and framework for future relationship under s. 13 of the Withdrawal Act, or approves withdrawal without an agreement and framework.	Not a UK Government amendment. Monitor during ping pong.

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