

The Rt Hon Simon Hart MP  
Secretary of State for Wales

21 January 2021

Dear Simon

### **The Sewel Convention**

As you will be aware, we are undertaking an inquiry on Wales' Changing Constitution. As we conclude our inquiry, we would like to consider the application of the Sewel Convention to the United Kingdom Internal Market Bill ("the Bill").

We wrote to you on **18 September 2020** asking whether the UK Government would seek to pass the Bill without the consent of the Senedd. You will be aware that this question was asked within the context of the evidence you provided to the Committee on **9 March 2020** in relation to the European Union (Withdrawal Agreement) Bill, during which you said "in this particular instance, 'not normal' emerged as the theme as it became more obvious that the LCM wouldn't get through this place [the Senedd]".

You responded on **3 October 2020** and stated that the UK Government remains "fully committed to the convention on legislative consent". You also said that "...the Bill's explanatory notes state clearly that we are seeking consent in relation to all parts of the Bill [and] the UK government ministers responsible for the Bill wrote... ahead of the Bill's introduction to set this position out in detail".

Prior to the Bill becoming an Act, the Minister for London and Parliamentary Under Secretary of State, Paul Scully MP made a **statement** on 17 December 2020. He stated that:

---

The Sewel Convention envisages situations where the UK Parliament may need to legislate for the whole country [...] The exceptional circumstances of our departure from the EU, and the need to provide a UK-wide legal underpinning for the internal market, is clearly one such situation.

---

We share the view of the Senedd's External Affairs and Additional Legislation Committee, expressed in its report **UK Internal Market Bill Legislative Consent**, that the circumstances relating to the UK internal market are fundamentally different from the circumstances of our departure from the European Union.



**Senedd Cymru**  
Bae Caerdydd, Caerdydd, CF99 1SN

✉ [SeneddDCC@senedd.cymru](mailto:SeneddDCC@senedd.cymru)

☎ 0300 200 6565

**Welsh Parliament**  
Cardiff Bay, Cardiff, CF99 1SN

✉ [SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

☎ 0300 200 6565

The Bill should not, in our view, have been captured by the “not normal” aspect of the Sewel Convention and the Senedd’s refusal of consent should have been respected by the UK Government. Our position that the UK-wide Bill as drafted was a preferred course of action by the UK Government, not a required one, is supported by the UK Government’s own acknowledgement in the [JMC communique of October 2017](#) that a UK internal market could be delivered through legislative and non-legislative common frameworks. This is something that we highlighted in our report on [The Welsh Government’s Legislative Consent Memorandum on the United Kingdom Internal Market Bill](#).

Our report also highlighted that, at the same time as all four governments of the UK were collaborating on common frameworks, the Welsh Government (along with other devolved governments) was being excluded from involvement in the Bill’s development prior to its introduction to the UK Parliament. We were therefore surprised to see the UK Government say in the statement, “At every stage, we have followed the spirit and letter of the devolution settlement and worked hard to secure legislative consent.” We consider that collaboration and engagement with the Welsh Government prior to the introduction of a constitutional Bill that impacts on the Senedd’s legislative competence is an essential part of the legislative consent process. Such an approach would be in line with the UK Government’s own guidance contained in [Devolution Guidance Note: Parliamentary and Assembly Primary Legislation Affecting Wales](#).

In light of our observations, we would be grateful for your responses to the following questions:

1. Why did the UK Government not involve the Welsh Government in the preparation of the Bill prior to its introduction?
2. Your response of 3 October 2020 references the Explanatory Notes to the Bill (as introduced to the House of Commons), which state:

*87 There is a convention that the UK Government will not normally legislate with regard to matters that affect or are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned.*

*88 The Government has therefore sought legislative consent for the clauses contained in this Bill.*

If the circumstances of the Bill were “not normal”, meaning the Sewel Convention did not apply, why did the UK Government seek consent in the first instance?

3. When did the UK Government decide that the circumstances of the Bill were “not normal” for the purposes of the Sewel Convention?
4. Did the UK Government make its final decision after consent was refused by the Senedd?
5. What, if anything, did you do differently when seeking consent for the Bill when compared to the process you followed for the EU (Withdrawal Agreement) Bill, consent for which was also refused by the Senedd?
6. What role does the UK Government consider the UK Parliament should play in the Sewel Convention in respect of each UK Bill for which consent is sought from the Senedd?



7. How could the processes surrounding the Sewel Convention be improved so that it operates clearly and more effectively?

I look forward to hearing from you by 17 February 2021.

Yours sincerely,



**Mick Antoniw MS**

Chair of the Legislation, Justice and Constitution Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.  
We welcome correspondence in Welsh or English.

cc.

The Rt Hon Kwasi Kwarteng MP, Secretary of State for Business, Energy and Industrial Strategy

Paul Scully MP, Minister for London and Parliamentary Under Secretary of State (Minister for Small Business, Consumers and Labour Markets)

David Rees MS, External Affairs and Additional Legislation Committee, Senedd Cymru

Bruce Crawford MSP, Finance and Constitution Committee, Scottish Parliament

Colin McGrath MLA, Committee for the Executive Office, Northern Ireland Assembly

Rt Hon Stephen Crabb MP, Welsh Affairs Committee, House of Commons

William Wragg MP, Public Administration and Constitutional Affairs Committee, House of Commons

Rt Hon the Baroness Taylor of Bolton, Constitution Committee, House of Lords

