

Mark Drakeford MS
First Minister

17 March 2021

Dear Mark,

External affairs and intergovernmental relations

The External Affairs and Additional Legislation Committee was established with a remit to consider both the implications arising for Wales from the UK's decision to leave the EU and to consider what this meant for intra-UK arrangements after leaving.

You will be aware that we have been interested in the state of intergovernmental relations within the areas our remit covers. We have scrutinised the Welsh Government's role in representing the interests of Wales in the Brexit process and we have considered the Welsh Government's proposals for improving intra-UK intergovernmental relations.

We consistently called for the Welsh Government to have a meaningful and structured role in both the withdrawal phase of EU exit and in the development of the UK's future relationship agreement with the EU.

In our first report, published in January 2017, we made the following recommendation:

We recommend that the Welsh Government presses the UK Government for full involvement in shaping its negotiating position and direct participation in those negotiations which involve devolved areas of responsibility, or matters that affect devolved areas of responsibility, using the model of the devolved administrations' participation in the Council of Ministers.

Whilst we are satisfied that Welsh Government fulfilled this recommendation, in its repeated efforts to persuade the UK Government to develop its approach to intergovernmental relations, it is clear that the role afforded to the Welsh Government by the UK Government fell a long way short of our expectations.



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In terms of structure, whilst there have been some minor structural developments (for example, the creation of JMC EN and a new Ministerial Forum on Trade) the overall impression that we have is that the state of intergovernmental relations has worsened over the course of the five-years of this Senedd.

The UK Government's policy decisions in relation to the UK Internal Market demonstrate this. This showed a move away from the consensus-centred approach to developing common frameworks as a means of managing the UK's internal market. Through the UK Internal Market Act 2020, the UK Government decided to place new top down restrictions on both the legislative competence of the Senedd and limit the practical effect of future laws that the Senedd might choose to pass in a range of devolved areas.

As with many other aspects of the process of legislating for Brexit, this legislation places the interests of England first by providing UK Ministers, who act for England only in devolved areas of policy, with significantly greater powers than the Ministers of the UK's other nations.

Our early work on scrutiny of Frameworks has started to open a window on retained EU law and how this affects devolution compared to the situation when EU law applied. It will be important to ensure that the Frameworks do not compound any imbalance in power between the respective governments of the UK's four nations.

We have raised concerns about the way in which the Welsh Government relied on the UK Government to lead on many aspects of the process of legislating for Brexit. This includes much of the secondary legislation required to prepare the statute book, but also significant devolved policy areas such as agriculture and the environment. We remain of the view that this approach disadvantaged the Senedd and that it reduced the Welsh Government's control over the process.

A further area of concern to us is the replacement for EU funding. We are concerned about the powers the UK Government has taken, against the wishes of the devolved administrations, to invest directly in areas of devolved policy. We are further concerned that the long-established role for the Welsh Government in distributing regional funding is to be performed by the UK Government in future. This represents a significant shift in terms of removing a crucial policy tool from the Welsh Government and placing it instead in the hands of the UK Government. It is another action that diminishes devolution and further frustrates efforts to develop good intergovernmental relations.



Concerns about the state of intergovernmental relations are shared across the legislatures of the UK. The Interparliamentary Forum on Brexit raised these concerns on several occasions.

The asymmetry of devolution across the UK further complicates intergovernmental relations, something that we have observed through our scrutiny of UK international agreements. In a separate letter we are preparing to send to the Counsel General, we intend to raise a question about UK Government engagement with the Welsh Government when a matter is reserved from a Welsh perspective, but not from the perspectives of Northern Ireland and/or Scotland.

We end the Fifth Senedd with UK intergovernmental relations at a low ebb, perhaps in their worst state since the advent of devolution. In the absence of any visible progress on reforming intergovernmental relations, and in light of the evidence of the UK Government's recent actions to act against the will of the Welsh Government, it appears as though relations are, if anything, worsening.

In our legacy report, we will be recommending that the scrutiny of intergovernmental relations continues to be priority for committees in the Sixth Senedd.

Significant reform of intergovernmental relations is needed and Senedd scrutiny of the next Welsh Government's actions to progress this agenda, in so far as it can, will be essential.

Throughout the twists and turns of the Brexit process, you, your Ministers, and officials have been willing to respond quickly to the Committee's requests – at times at short notice due to unforeseen events. As this is likely to be the final letter that I send to you as Chair of the External Affairs and Additional Legislation Committee, I would like to thank you and your officials for your engagement with the Committee throughout the past five years.

Yours sincerely,



David Rees MS
Chair of the External Affairs and Additional Legislation Committee

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

