

Y Gwir Anrh/Rt Hon Mark Drakeford AS/MS
Prif Weinidog Cymru/First Minister of Wales



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
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SeneddLJC@senedd.wales

29 December 2021

Dear Huw,

I am writing with reference to the protocol on scrutiny of regulations arising from the UK's exit from the European Union. The protocol played a vital role in ensuring that the Welsh Government and the Senedd worked effectively together in the extraordinary circumstances of Brexit and the significant legislative workload created, to ensure the continued operability of the law and respect for the devolution settlement.

I understand that our officials have been jointly considering the future of the protocol. The primary purposes of the protocol were to ensure, as far as practicably possible, early warning and a smooth flow of regulations for scrutiny; and to commit the Welsh Government to following the principles of Standing Order 30C in relation to a broader set of EU Exit related regulations. The first of these is no longer necessary as the volume of EU Exit regulations is likely to be very small indeed. And the second has been superseded, in my view, by the much wider commitment I have given in the context of our joint work to update the inter-institutional relations agreement:

"I can confirm that the Welsh Government will write to your committee and other relevant committees to inform them of an intention to consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales, explaining the rationale for the intention to consent. Where time allows we will provide an opportunity for the Senedd to express a view before consent is formally given. Further, the Welsh Government will lay a Written Statement in relation to every exercise of a delegated legislative power by a UK Minister in a devolved area to which the Welsh Ministers have given consent, explaining the rationale for that consent, normally within three working days of the laying before or notification to the UK Parliament."

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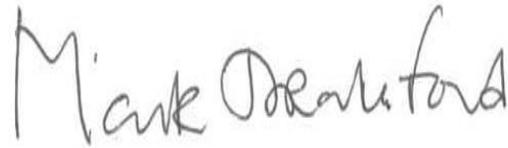
Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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.

As this relates to all UK Government legislative functions exercised in relation to Wales in devolved areas to which the Welsh Ministers consent, including those relating to EU Exit to which Standing Order 30C applies and to which the protocol would have applied, and commits the Welsh Government to pre-notification, which is a requirement of neither Standing Order 30C nor the protocol, I consider that retaining the protocol would have no practical value and would risk confusion about the processes which are agreed.

If you agree, I suggest that we allow the protocol to lapse and focus instead on the new arrangements set out above. I am aware that we are not yet managing to pre-notify in all cases as the arrangements become established throughout the Welsh Government. I have impressed upon my officials the importance of ensuring that we move to full compliance as soon as possible.

Yours sincerely,

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

MARK DRAKEFORD