

Mick Antoniw MS
Counsel General and Minister for the Constitution

25 March 2022

Dear Mick

The outcome of the Intergovernmental Relations Review, the Welsh Government's response to the UK Government's legislative programme, and the Welsh Government's capacity to legislate: request for further information following the evidence session on 14 March 2022

We would like to thank you and your officials for giving evidence to us on 14 March 2022.

I mentioned at the close of the session that there were a number of questions that it was not possible to cover during the time we had with you. Furthermore, there are some matters which we did discuss during the session and which we would like to pursue further with you.

Please see the Annex for a full list of questions. We would be grateful to receive a response by 19 April.

In addition, thank you for the update you provided on the Welsh Government's response to date to the Court of Appeal's judgment on the legal challenge to the *United Kingdom Internal Market Act 2020*. We would be grateful if you would continue to keep us informed on any developments.

More broadly, we look forward to being kept updated about the implementation of the Intergovernmental Relations Review as per our Inter-Institutional Relations Agreement.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair



Intergovernmental relations

1. You indicated that you hoped to discuss the implementation of the Intergovernmental Relations Review and the “situation in respect of UK legislation” at the first meeting of the Interministerial Standing Committee (IMSC) this month. You will have seen our letter to the First Minister (dated 22 March) and our request to be kept updated on progress following the first meeting. What are your priorities and expectations for the work of the IMSC?
2. How do you think the IMSC should approach oversight of the UK internal market and common frameworks? In particular:
 - What consideration should the IMSC give to the reporting of the Office for the Internal Market?
 - How will the IMSC ensure that discussions on balancing the opportunities and risks of regulatory divergence are open to parliaments and stakeholders?
 - What is your response to the recent recommendation of the Scottish Parliament’s Constitution, Europe, External Affairs and Culture Committee that there should be agreement between the Scottish Government and Scottish Parliament that, as a minimum, there should be to no dilution of public consultation or of parliamentary scrutiny as a result of common frameworks and intergovernmental working?
3. We discussed the establishment of the Intergovernmental Relations Secretariat. Could you set out your expectations for what the size and grade composition of the secretariat should be? Given the key role of the secretariat to the functioning of the new tiers of intergovernmental working and, not least, the dispute resolution processes, we would be grateful too if you could keep us updated on the establishment of the secretariat.
4. As discussed during the session, we were concerned to note the statement made by the Minister for Economy on 10 March that the first meeting of the UK-EU Relations Interministerial Group (IMG) was called with only two hours’ notice. You expressed a hope that these were “early teething troubles”. How will the Welsh Government seek to ensure future meetings of IMGs are called with reasonable notice?
5. Can you set out how the Interministerial Group for the TCA will interact and communicate with forums established by the TCA? For example, will it coordinate its meeting schedule to align with TCA meetings?
6. We discussed whether the new intergovernmental structures provide for sufficient Welsh Government involvement in international policy. Can you set out your understanding of

how the IMSC and the various interministerial groups will work together to provide four-government oversight of international policy?

7. We discussed the new intergovernmental dispute resolution process. Could you confirm whether the Welsh Government has, or will have, internal criteria for deciding how and when to seek escalation of matters through the new intergovernmental dispute resolution process? If such criteria exist, please can you provide us with the details?
8. We briefly discussed the UK Government's intention to proceed with the Professional Qualifications Bill despite legislative consent not being given by the Senedd and the Scottish Parliament. As noted by the Minister for Education and Welsh Language in his letter to us on 8 March, and as you acknowledged during the meeting, this is a breach of the legislative consent convention. It was not clear from the session whether you consider this matter, or any similar matter in the future, would be taken through the new dispute resolution processes by the Welsh Government. We would welcome clarity on this point.
9. You described the revised dispute resolution process as a "massive improvement" and "groundbreaking". How will you monitor how well new intergovernmental processes are working, and what action will you take if you feel they are not being followed?

Making laws for Wales

10. In a letter to us on 17 January 2022, you set out that there is a need to balance "defend[ing] the current devolution settlement so far as possible and the principle that we should legislate ourselves here in Wales, with opportunities that may arise to improve the law for citizens of Wales." How does the Welsh Government weigh up the conflicts between these factors?
11. How is the Welsh Government's decision to seek consent for UK bills in devolved areas such as leasehold reform and building safety compatible with the Welsh Government's principle that primary legislation in devolved areas should be enacted by the Senedd?
12. Can you clarify the statement you made in Plenary on 15 February 2022 that the number of legislative consent memoranda is not "within the choice of the Welsh Government"?
13. The Minister for Education and Welsh Language sought an amendment to the Professional Qualifications Bill to the effect that the powers in that Bill cannot be used by UK Ministers to make regulations that amend the *Government of Wales Act 2006*. In contrast, the Minister for Health and Social Services has not pursued a similar amendment to an equivalent enabling power in the Health and Care Bill. What are your views on the two opposing approaches, and which of these approaches is compatible with the Welsh Government's principles for UK bills?

14. What steps is the Welsh Government taking to move forward with reform of the legislative consent process as set out in Proposition 5 of [Reforming our Union: Shared governance in the UK?](#)