

**Mick Antoniw AS/MS**

**Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution**



**Llywodraeth Cymru  
Welsh Government**

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru

17 June 2022

Dear Huw,

Thank you for your letter of 20 May in which you sought information on which UK Bills the Welsh Government is seeking, or may seek, provision for Wales in devolved areas. As set out in my Written Statement of 13 May, our fundamental position is that primary legislation in devolved areas should normally be enacted by the Senedd. However, there can be some circumstances when it is sensible for provision, which is in the Senedd's legislative competence, to be included in UK Parliamentary Bills, with the explicit consent of the Senedd. I have previously shared with you our principles for considering consent for devolved provisions in UK Bills, and we continue to follow these principles in relation to these issues.

It is important to note that the reality of circumstances surrounding UK Bills which, at the point of introduction, contain devolved provision can vary significantly. Regrettably, in some instances, the current UK Government does not share any information on the Bill prior to its introduction – as was the case very recently with both the Northern Ireland Protocol Bill and the Genetic Technology (Precision Breeding) Bill. This is wholly unacceptable and is something which we are pursuing with UK Government.

At times, there can be some sharing of information in advance of introduction, but not necessarily with sufficient opportunity to reach agreement at governmental level as to whether the provision is necessary or desirable, or whether it is drafted in a way that is acceptable. This was the case with the Levelling up and Regeneration Bill. As you will be aware following the letter from the Minister for Climate Change to the Llywydd to which you were copied, this has resulted in us being unable to lay a legislative consent memorandum within the normal two week period whilst we continue to explore these issues.

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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.

How it should work, of course, is that there is substantial engagement in advance of introduction which enables the Bill as introduced to reflect provision which has been agreed between the governments.

I would also note that it is not the case that the Welsh Government commonly approaches the UK Government to actively seek devolved provisions to be contained in UK Bills. Often, where devolved provision is made in a UK Bill, this reflects either UK Government offering an opportunity to the Welsh Government to include such provision (as was the case on the Procurement Bill), or where UK Government in its own view believes it is necessary to do so (for example, the Subsidy Control Bill, to which the Senedd refused consent). In relation to the latter category, this can create particular challenges in seeking to identify whether there is an acceptable approach which reflects our principles for UK Bills.

In relation to the new UK legislative programme, to date we have laid three legislative consent memoranda. We have recommended consent be withheld in relation to the Trade (Australia and New Zealand) Bill as currently drafted. In relation to the UK Infrastructure Bank Bill, our final position on consent is subject to the outcome of ongoing discussions with UK Government.

These Bills can be distinguished from the position on the Procurement Bill, where the Welsh Government has been able to have a greater role in the development of provisions following the offer of inclusion from UK Government. This was outlined in the Minister for Finance and Local Government's [Written Statement](#) on 18 August 2021, and was similarly reflected in our legislative consent memorandum for the Procurement Bill, which noted the close working between Welsh Government and Cabinet Office officials. However, notwithstanding this active engagement, whilst outstanding matters remain in relation to that Bill, we are not currently in a position to recommend the Senedd give consent to the Bill.

In my Written Statement, I outlined 12 Bills that UK Government had indicated were of particular relevance and may require an LCM. In addition to the above three Bills that have now had LCMs, you are aware that the Animal Welfare (Kept Animals) Bill and Online Safety Bill have been subject to legislative consent memoranda in the last session. We are continuing to explore the remaining Bills referred to in my statement with the UK Government; however, it is too early to confirm if devolved provisions will be included, and whether and to what extent we would recommend the Senedd give consent to such provisions.

The Northern Ireland Protocol Bill and the Genetic Technology (Precision Breeding) Bill were not specifically noted in my Written Statement, again reflecting the lack of information from UK Government in relation to those Bills. Welsh Government officials are urgently considering the impacts of those Bills, and we will update the Senedd as soon as possible, but I have deep concerns about these Bills and the lack of prior engagement from UK Government on these.

I remain concerned that a similar approach will be adopted in relation to the Bill of Rights, again despite the constitutional importance of such legislation. I am continuing to call on UK Government to ensure early engagement with that Bill, and we will again ensure updates are shared with the Senedd as soon as possible.

In relation to the Brexit Freedoms Bill, which is of significant potential relevance to us, I met with the UK Government Minister for Brexit Opportunities and Government efficiency on 23

May. Officials are continuing discussions in relation to this Bill, and it will be important for us to consider the detailed drafting of this Bill carefully.

I would again reiterate my commitment to working collaboratively with the Senedd on legislative consent matters. I hope that this update is useful in this spirit and I look forward to discussing these issues with you throughout the current UK legislative programme.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style. Below the signature, there is a short horizontal blue line.

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