

**Mick Antoniw AS/MS**  
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

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

4 August 2022

Dear Huw,

Thank you for your letter of 30 June in relation to my appearance at the Legislation, Justice and Constitution Committee on 20 June. I welcomed the opportunity to speak to the Committee regarding the extensive range of issues we covered. I have provided a detailed response to your further questions in an Annex to this letter.

Yours sincerely

A handwritten signature in blue ink that reads "Mick Antoniw". The signature is written in a cursive style and is positioned above a short horizontal line.

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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.

## Annex

### Legislative consent process

1. *The Welsh Government revised its five-year Programme for Government when it entered into a cooperation agreement with Plaid Cymru. Given there is precedent to publishing revisions to the Programme, can you see any reason why the Welsh Government should not publish regular updates which would provide clarification as regards which Government and which Parliament will legislate to achieve a particular commitment?*

We are committed to providing regular updates on our intent to utilise UK Bills and have done this through, for example, written statements in relation to our work with UK Government on the Procurement Bill. I do not, however, think it is suitable for revisions to the Programme for Government to be made whenever UK Parliament is to make legislation in relation to Wales.

As I set out in my letter of 17 June, 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. As I noted, often, where devolved provision is made in a UK Bill, this reflects the UK Government offering an opportunity to the Welsh Government to include such provision. This is often an iterative process, in which we discuss in confidence provisions with UK Government with a view to securing a way forward which would enable Welsh Ministers to recommend to the Senedd that it votes to give legislative consent where possible. As demonstrated by the previous Parliamentary session, it is not uncommon for that final position on recommending consent to be reached late in the passage of a Bill. I do not therefore believe that a process of updating the Programme for Government to share this sort of information, would be practical, noting also the timely updates that we seek to give to the Senedd and its relevant Committees.

2. *The Welsh Government announces a legislative programme for each year within a five-year Senedd term. You told us the next announcement would be on 5 July. Acknowledging the potential for different timings of Welsh and UK Government legislative announcements, it should be feasible to give an indication, in the annual announcement, of the current inter-governmental working on UK Bills where the Welsh Government is seeking provisions for Wales in devolved areas. Can you see any reason why the Welsh Government should not include this information in its annual legislative statements and, further, to provide termly updates as and when needed?*

As outlined above, it is not often the case that we would proactively seek provision for Wales; it is frequently a more reactive process. In those instances where we have sought provision, or where we are minded to agree to provision in UK Bills, I am committed to ensuring the Senedd remains informed at the earliest meaningful opportunity, rather than include information in the annual legislative statement.

3. *In terms of the Welsh Government legislating itself for Wales you said that the issue of capacity in the Welsh Government is not a problem “in terms of the things that we want to do” (RoP 44 and 46). Does this mean that the Welsh Government will, in effect, allocate resources to a set number of Bills and then take opportunities presented to it to*

*use UK Bills to deliver other, previously unidentified (or not prioritised) legislative objectives?*

Yes, insofar as our legislative programme is designed to deliver the ambitions of the Programme for Government, so we inevitably seek to ensure capacity is in place to support that work. Our principles set out that where UK legislation would be appropriate for Wales but there is no time to bring forward similar in the Senedd we would consider utilising a UK Bill. This is a practical position, ensuring that we deliver for the people of Wales and make best use of the resource and opportunities available. As noted above, however, 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.

4. *In your letter of 20 April you said: “So we decide how best to do that via both Senedd and UK Parliament legislation, taking account of the priorities and capacity of our own legislative programme and also the potential opportunities – and risks – arising from the UK Government’s legislative programme. If we only delivered our priorities through Senedd legislation, rather than pursuing a wider set of priorities through both legislative programmes, then we would end up delivering less for the people of Wales.”*
- i. Would you agree that this letter paints a different picture to your view in evidence that capacity and resources (RoP 42-46) are not a barrier to bringing forward Welsh Bills?*
  - ii. Given the remarks in your letter, and if the Welsh Government has the resources ‘to do what it wants to do’, are we correct to surmise that the Welsh Government needs the support of a different government and different parliament to help make and pass laws in devolved areas for Wales?*

I do not believe that my comments paint a different picture to the position set out in the letter. In my comment to the Committee I said (RoP 44), “So, the resources are there and the skills are there in terms of the Government's own legislative programme, in terms of the things that we want to do”. This is a reflection that when we set out our Legislative Programme this is underpinned by prioritisation and planning on the resource capacity and expertise needed to deliver the Bills as well as the time available in the Senedd. My letter refers to the decisions we take in relation to UK Parliament legislation taking account of the priorities and capacity of our own legislative programme.

Furthermore, it would not be correct to surmise as you do in the second part of the question. Our principles for UK legislation provide the basis for when we might consider using UK Bills. There can be circumstances where that is appropriate – for example, as outlined in our principles, in addition to the point on timing, where the interconnected nature of the relevant Welsh and English administrative systems mean that it is most effective and appropriate for provision for both to be taken forward at the same time in the same legislative instrument. This is not the same as saying the Welsh Government needs the support of a different government and different parliament. As consistently noted, and in line with our principles, it would be self-denying to not take a pragmatic approach to the opportunities that can be presented through UK Bills, and potentially disadvantageous to Wales.

5. *How do you respond to the view that the UK Government is setting, in effect, a large part of the legislative agenda for Wales because of the Welsh Government’s approach?*

The UK Government's recent legislative programmes have significantly intruded on the devolution settlement in ways which we have consistently made clear are completely unacceptable. It would be wholly misleading to suggest that this is because of the Welsh Government's approach.

Even in those circumstances where we have recommended to the Senedd that provisions in devolved areas are included UK Bills, that is not commonly because we have approached the UK Government to ask for this, but because an opportunity has arisen to do so, which we feel is sufficiently consistent with our principles for UK legislation. Our final recommendation to the Senedd on consent is ultimately dependent on the outcomes of our work to seek to ensure that any such provision is satisfactory from our perspective.

6. *As regards the current political landscape you spoke of a situation "where you have a UK Government legislating and seeking to legislate in Welsh areas" (RoP 57). While that may be the case, it is also true to say that on occasion the UK Government includes provisions in UK Bills at the Welsh Government's request, as your comments at paragraph 12 of the RoP would appear to suggest. How could the Welsh Government be more transparent in this regard?*

As noted in my 17 June letter, I would again reiterate my commitment to working collaboratively with the Senedd on legislative consent matters. In that spirit, I can confirm that, wherever possible, we will lay a written statement before the Senedd and notify relevant Committees where we have sought provision on in a UK Bill, before the commencement of the legislative consent process. The extent to which this is possible will be affected by the nature of the engagement from the UK Government on any such Bill, and any temporary confidentiality requirements related to inter-governmental discussions on it.

7. *You state that "quite often, UK Government Bills will relate to things that aren't part of our programme for government, and then the issue arises whether there's something in that that we might want to seize the opportunity to do, that it might be advantageous to the people of Wales" (RoP 12).*

- i. On what basis does the Welsh Government decide that these opportunities are "advantageous" if they aren't in the programme for government and no consultation or evidence-gathering with Welsh stakeholders has taken place?*
- ii. How long does this decision process generally take? If, as you suggest (RoP 75), it can be only a matter of weeks, please can you explain how this is in the interests of good law-making?*

The situation on each Bill naturally varies on a case-by-case basis. Overall, our decisions are based on our assessment of the merits of including provision in a UK Bill, drawing on any information, consultation or evidence gathering which is already available, or which can be gained in a relevant time period. Clearly, the earlier that UK Government engages with us on a Bill, and the more open the UK Government is around its legislative proposals, the greater the opportunity there is for us to engage with stakeholders and partners in Wales, and to draw the Bill to the attention of the Senedd and its relevant Committees.

For example, you will be aware of our extensive involvement with the Procurement Bill. In December 2020, the UK Government published a Green Paper entitled Transforming Public Procurement, which saw an escalation of engagement between Welsh Government and UK Government on the issues. In 2021, we held a series of stakeholder events on reforms to

procurement legislation, including considering the suitability of proposals in the UK Government Green Paper. These stakeholder events were followed up with a survey which resulted in the majority of stakeholders in Wales saying they were content with the direction of the proposals in the Green Paper. Following the stakeholder engagement in Wales and the improved sharing of information as well as written assurances being received from UK Government, the Minister for Finance and Local Government issued a Written Statement on 18 August 2021 outlining that provision for Welsh Contracting Authorities was to be made within the UK Government's Bill. We have continued engaging with UK Government on the development of this Bill, and you will be aware of our legislative consent memoranda to date.

You will also be aware of the forthcoming Mental Health Reform Bill, which the Deputy Minister for Mental Health and Wellbeing has previously discussed within the Senedd, and to which we are supportive of in principle. Proposals in that Bill stem from a 2018 independent review, and a 2021 UK Government White Paper. The Welsh Government's response was informed through the establishment of a reference group, consisting of representatives from Royal College of Psychiatrists, NHS Wales, Healthcare Inspectorate Wales and Social Care Wales. We also held focused sessions to test our proposed positions with key groups including the Wales Alliance for Mental Health, the National Mental Health Partnership Board and the President of the Mental Health Review Tribunal for Wales. This extensive engagement fed into our current position. Work continues on the development of that Bill with introduction expected towards the end of the year.

*8. What steps will the Welsh Government be taking to reduce the democratic deficit caused by the Welsh Government's using the UK Government and UK Parliament to legislate in devolved areas, and to improve the current constitutional structure to which you refer (RoP 57-58)?*

Ineffective engagement by UK Government with Welsh Government is one of the biggest obstacles to the smooth operation of the current legislative consent process. It is one of many reasons for us regularly impressing upon UK Government the importance of information and engagement, to enable us to appropriately engage with the Senedd in turn and in good time.

We want to maximise the Senedd's ability and flexibility to scrutinise the use of UK Parliamentary Bills within the constraints imposed by the process and the UK Government's approach.

Inevitably, the scrutiny for such legislation by the Senedd will not be as detailed as that for legislation made in the Senedd. For this reason we are committed to ensuring as much scrutiny as possible through the LCM process, and also to limiting our involvement with UK Bills in such a manner as is consistent with our principles.

We continue to seek to work with the UK Government and the other devolved governments to strengthen ways of working and improve UK Government engagement on its legislative programme, including respect for the Sewel convention. I will update on this work further when it is possible to do so.

## **Retained EU Law Bill**

9. Please can you clarify whether:

- i. you are working with the UK Government on the Retained EU Law (or “Brexit Freedoms”) Bill, and whether it is your intention that the Bill’s provisions will apply to Wales?
- ii. the Welsh Government is in agreement with the UK Government’s statements / proposals for reform of the status of retained EU law? If not, what is the Welsh Government’s position on reforming the status of retained EU law?

I met with the Rt Hon. Jacob Rees-Mogg MP, Minister for Brexit Opportunities and Government Efficiency, in May to discuss the Retained EU Law Bill. My officials have had regular meetings with the Bill team where indicative and provisional information of the thinking underpinning the Bill have been shared, including its application to Wales.

The Welsh Government is not necessarily opposed to the concept of revisiting the body of EU law we inherited when we left the EU or to pragmatic and proportionate approaches to enable it to be updated over time which respect the devolution settlement. But we would be opposed to any moves which may see the UK Government seeking to reduce valuable standards and protections through ideological deregulation, or to any moves that do not respect or, worse, undermine devolution.

10. The UK Government has said the Bill will include a “targeted power” to accelerate the repeal or amendment of retained EU law. What is your response to this?

It is of vital importance for the people and businesses of Wales that any proposals to change retained EU law (REUL) are fully assessed and considered in the constitutional context of the devolved settlements before any decisions are made, including respecting the provisions and ways of working reflected in agreed Common Frameworks.

11. You spoke of the possibility of the use of sunset clauses in the Bill and the resultant need to check “potentially several thousands of pieces of legislation” (RoP 83). What preparation has been made internally within the Welsh Government in anticipation of having to do this?

My officials, along with officials from the Scottish Government and Northern Ireland Executive, have made strong representations requesting UK Government departments share an understanding of the split of devolved and reserved REUL, recognising that UK Government departments will need to identify this in any case as part of their work. To date this has not been forthcoming.

We do not consider that the Devolved Governments should have to undertake entire separate analytical exercises on this, not least given the scale of the task and that this is a UK Government initiative driven to an arbitrary UK Government timetable, and bearing in mind that we have requested this be worked on collaboratively.

12. You also spoke of discussions with the Minister for Brexit Opportunities and Government Efficiency, the Rt Hon Jacob Rees-Mogg MP, and that you were “given the assurances I hoped for at that time, that there may be areas there where we do not agree and that we want these matters to be retained.” (RoP 83). Can you confirm which specific matters or areas of retained EU law the Welsh Government has identified at this stage and whether these were raised with Mr Rees-Mogg?

With over 2,400 pieces of REUL identified by the UK Government and published in its REUL catalogue, the Welsh Government has not undertaken our own separate analysis as this is a major undertaking. We have, though, in conjunction with the Scottish Government and Northern Ireland Executive made a request for the UK Government to share with us, from its own analysis, what REUL is within devolved competence.

*13. Can you confirm what guarantees you have received that the Bill will not change the status of retained EU law in devolved areas, if the Welsh Government does not want it changed?*

There have been no guarantees made that the Bill will not change the status of REUL in devolved areas. We will continue to press UK Government to ensure that the Bill respects the devolution settlement for Wales.

*14. The UK Government has suggested the Bill will change the status of retained EU law for interpretation by the courts. What is your response to this?*

In addition to proposing a revision of the status of certain types of REUL, the UK Government's 'Benefits of Brexit' publication also outlines its plans to consider removing the continued effect of the supremacy of EU law over domestic law that was made before the end of the transition period; a review of the extent to which domestic courts should follow historic decisions of the EU courts; and a review of the role of the general principles of EU law in relation to REUL (among a number of other proposals). If all or any of these proposals were to be reflected in draft legislation, this could impact on the how courts are currently required to interpret retained EU law.

As above, it is important that any proposals to change REUL are fully assessed and considered in the constitutional context of the devolved settlements before any decisions are made, including respecting the provisions and ways of working reflected in agreed Common Frameworks.

## **Northern Ireland Protocol Bill**

*15. Can you explain whether, in the Welsh Government's opinion, the Bill constitutes a breach of international law?*

By its own admission, the UK Government has chosen to introduce a Bill which, if enacted and implemented, would breach the international obligations it freely entered into when it agreed the NI Protocol, as part of the Withdrawal Agreement with the EU. In its own words, the UK Government has; "decided to introduce legislative measures which, on entry into force, envisage the non-performance of certain obligations". The UK Government seeks to justify this on the basis of the international law doctrine of "necessity", though a number of independent expert legal commentators have already challenged the credibility of this position.

The Welsh Government takes compliance with international law very seriously. We would question whether the UK Government will be able to demonstrate that the requirements for the defence of necessity are satisfied (and note that numerous respected lawyers and commentators have raised similar concerns), so as to make the non-performance of international obligations, as is envisaged by the Bill, justifiable under international law. However, ultimately it is the European Court of Justice that will rule on this point.

*16. Has the Welsh Government had an indication from the UK Government of any potential powers that could be granted to the Welsh Ministers under the Bill, and for what purpose?*

The Foreign Secretary wrote to the Minister for Economy, stating that elements of the Bill are within the Senedd's legislative competence and seeking confirmation that the Welsh Government is willing to provide agreement in principle to support a legislative consent motion in the Senedd.

While a full analysis of the Bill (which we did not see until the day on which it was introduced) continues, it is clear that it confers a number of extremely broad regulation making powers to Ministers of the Crown and that clause 22(6) of the Bill provides a power for Ministers of the Crown to sub-delegate the exercise of all or any of the powers that are provided to them in the Bill to the Welsh Ministers or Ministers of another devolved government. We have not had any further indication from UK Government as to what powers it envisages could be granted under this clause, to whom, or for what purpose.

We are currently giving the provisions in the Bill close consideration to establish the implications for our devolved interests, powers and responsibilities, as well as considering the broader constitutional implications of the Bill.

*17. You made reference to your concerns about whether the Senedd can consent to a Bill "that effectively legitimises unlawfulness" (RoP 145). Please can you explain what your specific concerns are?*

While the UK Government accepts that the Bill involves the 'non-performance of the UK's international obligations', it seeks to justify this on the basis of the international law doctrine of "necessity". A number of independent expert legal commentators have already challenged the credibility of this position. The Welsh Government takes compliance with international law very seriously. This is a complex issue, which will form a fundamental part of our ongoing consideration of the Bill.

We have consistently made clear that issues related to the Northern Ireland Protocol should be resolved through negotiation between the UK and EU.

*18. What are the implications of the Bill for Wales, including your assessment on other areas of work within your portfolio, including common frameworks and intergovernmental relations?*

Changes to the Northern Ireland Protocol might require revisions to Common Framework agreements. The frameworks are drafted and agreed on a four-nation basis and any changes would be assessed on a case-by-case basis.

There are provisions in the Bill which intersect with devolved matters, to which we are giving due consideration, together with the wider impacts of the Bill.

However, the lack of any prior meaningful engagement by the UK Government plainly breaches the mutually agreed principles and working arrangements, set out in the Intergovernmental Relations Review, that exist between the UK and devolved governments. The importance of UK Government living up to the commitments it has signed up to in the Common Frameworks is something that we are raising with the UK Government.

## **Divergence and alignment**



*19. Given that the Welsh Government is not in a position to continuously monitor the alignment or divergence of EU law from existing Welsh law (RoP 91), how does it know if standards in Wales are keeping pace with developments in the EU?*

In areas covered by Common Frameworks and through involvement in negotiations with the EU under the Trade and Cooperation Agreement, Welsh Government officials work closely with their counterparts in the other Governments of the UK and share information, including on relevant developments in EU law and the implications of the Northern Ireland Protocol. Officials in our Brussels office also provide information on significant policy developments in the EU.

Within the Trade and Cooperation Agreement there is also a chapter on Good Regulatory Practice and Regulatory Cooperation which requires the publication of relevant changes to regulations in the EU and the UK and encourages good regulatory practice.

*20. What impact is the lack of monitoring having on Welsh Government policy-making and its approach to bringing forward new legislative proposals?*

Ways of understanding the relevance of key developments at an EU level as outlined in the answer to the previous question are part of approaches to good policy development.

*21. What impact is existing UK-EU divergence since the end of the transition period having on Welsh Government policy-making and its approach to bringing forward new legislative proposals?*

As outlined above, ways of understanding the relevance of key developments at an EU level as outlined in the answer to the earlier question are part of approaches to good policy development. In the time since the end of the transition period there has been limited scope for large-scale UK-EU divergence. The impact on policy making and the approach to be taken in Wales would be considered on a case-by-case basis.

## **Intergovernmental relations**

*22. Why was the planned meeting of the Inter-Ministerial Standing Committee postponed twice in June?*

The Inter-Ministerial Standing Committee was postponed to ensure that all relevant Ministers from all Governments were able to attend.

All Governments endeavour to stick to agreed meeting dates, however, on this occasion postponement was the best option, ensuring that all agenda items could be progressed via meaningful discussion and engagement.

*23. How is the Inter-Ministerial Standing Committee approaching its responsibilities for oversight of intergovernmental relations in relation to:*

- i. improving joint working on the UK Government's legislative programme;*
- ii. oversight of the UK internal market and common frameworks;*
- iii. the oversight of international relations and*

As previously mentioned, the Intergovernmental Review mechanisms aim to improve joint working including on UK Government's legislative programme across all four governments.

Whilst UK Government has made positive indications around improving its approach to engagement in this session, I have deep concerns at the approach shown in relation to a number of Bills, including the Northern Ireland Protocol Bill, the Genetic Technology (Precision Breeding) Bill and the Bill of Rights. These are issues of the utmost importance, and the approach by UK Government has been unacceptable.

I raised these issues at the last IMSC meeting held on 29 June, along with the utterly unacceptable text from the UK Government suggesting it would seek to repeal the Trade Union (Wales) Act.

We anticipate that future IMSC meetings will include agenda items on Common Frameworks, the internal market and international relations, however, the forward work programme continues to be developed between the governments.

*24. In light of your comments on the dispute resolution process (RoP 112-118), do you intend to raise any intergovernmental disagreements as disputes through this process, not least in terms of the lack of engagement on some key UK Bills?*

The formal dispute resolution process remains an option available to us and we will carefully consider utilising the process, as a last resort, if all other avenues have been exhausted.

*25. We have been copied into correspondence from the House of Lords Constitution Committee regarding the UK Government's review of the Cabinet Manual. Can you confirm what discussions you have had with the UK Government on this review?*

We do not believe that the UK Government has contacted Welsh Government in relation to this review.

*26. We would welcome your observations on the role, if any, the Manual plays in intergovernmental relations, and in what ways (if any) you think it should be updated?*

We would expect Chapter 8 in particular to be updated to fully reflect the Review of Intergovernmental Relations, including the principles of joint working.

## **UK Internal Market Act 2020**

*27. If the Welsh Government's litigation in relation to the UK Internal Market Act 2020 is not successful, will it be seeking further exclusions under the terms of the Act?*

It is too early to speculate on the consequences of a future judgment, but we will keep the Senedd informed as this matter progresses.

*28. If exclusions cannot be secured, what impact will this have on the Welsh Government's legislative programme?*

The Welsh Government's position remains that UKIMA has not had the impact on the Senedd's competence that it purports to have had. In this context, the securing of exclusions (or otherwise) will not impact directly on the Welsh Government's legislative programme.

*29. Can you confirm that the Welsh Government will notify the Senedd of any disputes with the UK Government over exclusions? At what point in the process would you intend to provide such notifications?*

I remain committed to keeping the Senedd updated on the progress and activities of the Common Frameworks programme. Work continues between officials on the development of a meaningful and informative future reporting and monitoring mechanism for Common Frameworks. I look forward to sharing this with the Committee when it has been agreed at a Ministerial level.

*30. We acknowledge your comments about the situation surrounding the Genetic Technology (Precision Breeding) Bill (RoP 128-136), but could you clarify whether, in the Welsh Government's view, the proposals to alter the existing GMO authorisations processes fall within exclusions related to the protection of health of humans, animals or plants?*

The Welsh Government has stated to the UK Government, in a number of official meetings, that the effects of the Genetic Technology (Precision Breeding) Bill, which spans a number of Common Framework areas, should have been shared at an earlier stage with the devolved governments under the recognised Common Framework process. This matter is still under consideration.

*31. Could you set out the Welsh Government's assessment of the potential impact of the Northern Ireland Protocol Bill on the UK Internal Market Act 2020, including on the powers provided to the Welsh Ministers in relation to the Protocol?*

While full analysis of the Bill is continuing, as introduced it will amend the operation of the Protocol by disapplying elements of the Protocol in domestic law. As already mentioned, the Bill confers a number of extremely broad regulation making powers on Ministers of the Crown, and includes a power at clause 22(6) for Ministers of the Crown to sub-delegate the exercise of all or any of the powers that are provided to them in the Bill to the Welsh Ministers or Ministers from another devolved government. We have not had any further indication from UK Government as to what powers it envisages could be granted under this clause, to whom, or for what purpose.

## **Common frameworks**

*32. We note your comments on the impact of common frameworks in making laws for Wales. Can you provide an update on whether there have been any instances of the Welsh Government changing or not proceeding with a change to law or policy because of intergovernmental discussion through a common framework?*

I am not aware of any area where we have been unable to proceed with legislative or policy plans. As a general principle, intergovernmental discussion through Common Frameworks is mutually beneficial to policy development in all four nations.

*33. In your letter to us of 2 March 2022, you said that you would be surprised if there had been any delays to Welsh Government policies or initiatives in common framework areas, because the "processes of the Common Frameworks are now an intrinsic part of how policy is developed in the areas where they apply". Can you explain how you are ensuring that*

*intergovernmental decision making through common frameworks leads to no dilution in the role of the Senedd and Welsh stakeholders in making law and policy for Wales?*

The Common Frameworks will not change the way that we engage with the Senedd and consult with stakeholders. Common Frameworks allow scope for divergence which may require legislation through the Senedd. Such legislation would be subject to the scrutiny of the Senedd in the usual way. Common Frameworks do not in themselves limit the role of the Senedd.

*34. In that letter, you agreed that the Welsh Government should notify us when a common framework dispute is escalated to Ministers. Why did the Welsh Government not notify the Senedd that a dispute had been raised through the common framework for resources and waste over the request for an exclusion for single use plastics from the UK Internal Market Act?*

With regards to the dispute surrounding the single-use plastics exclusion, it was the Scottish Government that sought an exclusion and initiated early discussions under the Resources and Waste Framework. A solution was proposed by officials and agreed by Ministers before a formal process was triggered. This is why Committees were not informed.

I remain committed to the transparency of the Common Frameworks Programme and to informing the Senedd where a dispute is raised, by the Welsh Government or involving the Welsh Government, to the Ministerial level.

*35. In the same letter, you also agreed that the Welsh Government would notify the Senedd where legislation relates to a common framework. The Welsh Government has not always notified the Senedd of the relationship between secondary legislation in a common framework policy area and the common framework. Will you commit to do this?*

We are only now beginning to see legislation being introduced which relates to Common Frameworks, therefore this has not been a routine matter. However, yes, we do see this as part of good practice.

As I have outlined above, I remain committed to keeping the Senedd updated on the progress and activities of the Common Frameworks programme. Work continues between officials on the development of a meaningful and informative future reporting and monitoring mechanism for Common Frameworks. I look forward to sharing this with the Committee when it has been agreed at a Ministerial level.