

Mick Antoniw MS
Counsel General and Minister for the Constitution

24 July 2023

Dear Mick,

Legislation, Justice and Constitution Committee, 10 July 2023

Thank you again for attending our meeting on 10 July 2023. We are grateful for the time you regularly give over to the Committee.

As noted at the end of the meeting, there are a series of questions we wished to ask you but for which time did not allow. We would also like to follow-up on a number of matters which were discussed during the meeting. As such, we would welcome a response to the questions in the Annex by 1 September 2023.

You and your officials also committed to provide us with information about prisoners (RoP, paragraphs 141 and 142) and a copy of a letter about UK Bills of concern for which consent was/is being sought (RoP, paragraphs 187 and 190-191). We look forward to receiving that information in due course.

Yours sincerely,



Huw Irranca-Davies
Chair

ANNEX

Question 1: How will the Senedd be able to scrutinise the work that Dame Vera Baird is doing as an independent expert advisor on justice devolution?

Question 2: Your comments during the meeting implied that the intergovernmental disputes resolution process cannot be used in relation to individual UK Bills making provision in devolved areas because of the timescales involved in such Bills passing through the UK Parliament. Is that correct? If so, how could disputes in relation to UK Bills be resolved? If disputes are not resolved, what impact does this have on the law made for Welsh citizens in devolved areas?

Question 3: How concerned are you that the increasing use of UK Bills to make (at times significant) provision in devolved areas is marginalising the opportunities for the public and stakeholders in Wales to engage with the making of that law given the different procedures that exist between the Senedd and the UK Parliament?

Question 4: How do you monitor what legislative proposals in other parts of the UK could potentially have an impact on Welsh law as a result of the *United Kingdom Internal Market Act 2020*? Are you aware of any proposals that could impact in the near future?

Question 5: What assessment has the Welsh Government made of how recently announced plans to introduce restrictions on the sale of high fat, sugar and salt products may be impacted by the UK Internal Market Act's market access principles?

Question 6: In your statement on 1 July in relation to UK Bills being passed without Senedd consent you said, "We have never seen this level of strain in the devolution settlement during the entire 24 years of its existence". Can you set out why you believe this is the case and what action the Welsh Government is taking in response?

Question 7: In January this year you told us that you were not aware of any circumstance where the Welsh Government has requested that the UK Government legislate on its behalf. We have since learned that the Welsh Government did request to be included in the UK Government's Non-Domestic Rating Bill. Can you explain in detail:

- the process involved in using a UK Bill in circumstances where there is broad agreement to do so: when discussions start, who initiates them, what the timeframes are, the process for agreeing amendments etc.
- the sign-off processes in the Welsh Government Cabinet for using UK Bills throughout their passage through the UK Parliament.

Question 8: In our consideration of the legislative consent memoranda on the Non-Domestic Rating Bill, we noted that the Bill is being used to change a scrutiny procedure for a delegated power which the Senedd itself only approved two years ago during the passage of the Local Government and Elections (Wales) Bill (now the 2021 Act). Can you set out your views on using UK Bills to make changes to scrutiny procedures agreed in Senedd legislation, and how appropriate you think this approach is?

Question 9: The Welsh Government appears to be relying on the 'correction prior to making' procedure with increasing frequency when correcting errors in subordinate legislation. Who within the Welsh Government – officials or a Minister - decides whether an error in a draft affirmative instrument is sufficiently minor to be corrected before the instrument is signed?

Question 10: What criteria does the Welsh Government apply, beyond those set out in Statutory Instrument Practice, when considering whether an error in bilingual subordinate legislation is minor and non-substantive?

Question 11: Do the Welsh Ministers take into account matters relating to the accessibility of Welsh law before consenting to the UK Government making subordinate legislation in devolved areas? If so, what criteria is used to make an assessment?

Question 12: Can you provide an update on the Welsh Government plans for a Statute Repeals Bill?

Question 13: The First Minister noted in his legislative programme statement that the Welsh Government would be introducing a consolidation Bill on planning. Can you provide us with an update on when that Bill will be introduced to the Senedd?