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Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of the Legislation, Justice and Constitution Committee
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4th December 2024

Dear Mike,

The Welsh Government's Principles on UK Legislation in devolved areas

I am writing to provide you with a refreshed version of the Welsh Government's Principles on UK Legislation in devolved areas, the previous version of which was published in 2021.

Our starting principle remains that primary legislation in devolved areas should be enacted by the Senedd. This refreshed version of the principles goes further, however, and expressly reflects the same position for UK secondary legislation for the first time: legislation in devolved areas should be enacted by the Welsh Ministers where there is executive competence.

I believe that articulating a single, streamlined approach to all UK legislation – primary and secondary – will support consistency and transparency.

The principles continue to recognise that there are circumstances where UK legislation might appropriately include provision for Wales in devolved areas with the consent of the Senedd, or with the consent of the Welsh Ministers in the case of subordinate legislation. This principle has been amended to add clarity to when the Welsh Government would potentially support UK legislation in devolved areas, with other amendments including:

- Clarifying our position on the time frame considerations which may be relevant;
- Strengthening our position that UK legislation should not introduce new reservations or *constraints* on the devolution settlement;
- Reflecting that the governance of cross-border bodies should provide a meaningful role for the Welsh Government which safeguards devolution and democratic accountability.

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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.

We intend to publish these refreshed principles under a Written Statement, but I wanted to take the opportunity to share these with you directly given your Committee's specific interest in this area, and in advance of our rescheduled general scrutiny session on 9 December.

I am copying this letter to the Llywydd and the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip.

Yours sincerely,



Julie James AS/MS

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery

The Welsh Government's Principles on UK Legislation in devolved areas

1. We follow the principle that **primary legislation** in devolved areas should be enacted by the Senedd; and that **subordinate legislation** in devolved areas should be enacted by the Welsh Ministers where there is executive competence.
2. However, there may be situations in which it is in the best interests of Wales for provisions which would be within the Senedd's legislative competence to be included in UK Parliament Bills, with the consent of the Senedd. There may also be situations in which it is in the best interests of Wales for UK Government Ministers to make secondary legislative provision which would be within Welsh Ministers' executive competence, with the consent of the Welsh Ministers.
3. Examples of relevant situations might include:
 - when the UK Government's legislative proposal would also be appropriate for Welsh circumstances but where Welsh-made provision could not otherwise be delivered within a suitable time frame;
 - 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;
 - where the devolved provisions in question are minor or technical and non-contentious;
 - where the UK legislation covers both devolved and reserved matters and UK legislation enables policy objectives to be most effectively achieved.
4. The following will form part of the Welsh Government's consideration on whether to recommend consent to UK Bills:
 - Delegated powers, including Henry VIII powers, in UK Bills in devolved areas should be conferred on the Welsh Ministers alone.
 - UK Bills should not create concurrent powers.
 - If, in exceptional cases, Welsh Ministers agree to the creation of concurrent powers, such powers should be subject to relevant consent mechanisms and associated 'carve outs' from the Government of Wales Act 2006, such that no consent is required for the Senedd to remove the powers in future.
 - UK Parliament Bills should either protect or enhance the existing devolution settlement, rather than introducing new constraints or reservations.
 - UK Government Ministers must confirm in writing how they will meet new costs falling to the Welsh Government or devolved Welsh authorities.
 - Any new cross-border body with functions which relate to devolved matters should have governance arrangements (underpinned appropriately in legislation) that provide the Welsh Government with a meaningful role and safeguards which reflect the devolved policy context and democratic accountability.
 - Non-legislative intergovernmental agreements, such as Memorandums of Understanding and despatch box commitments, accompanying Bills should be

avoided as they only bind the current UK Government to an extent, and they do not bind future UK Governments.