

Julie James MS,
Counsel General and Minister for Delivery

17 December 2024

Dear Julie,

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

Thank you again for sharing with the Committee a refreshed version of the Welsh Government's Principles on UK Legislation in devolved areas.

We discussed the refreshed Principles at our meeting on 9 December, when you and the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs attended to give evidence on aspects of your portfolios which fall within our remit.

We have some further questions relating to the refreshed Principles, which are included in the Annex.

We would also be grateful if you would provide the Committee with versions of the refreshed Principles and original Principles (2021) that display clearly the changes which have been made.

We would be grateful for your response by 15 January 2025.

Yours sincerely,



Mike Hedges
Chair

ANNEX

Question 1: In its Annual Reports for 2021/22 and 2022/23 the Committee described the Welsh Government's Principles on UK Legislation in devolved areas as "flawed" because the core principle (of using Welsh Government Bills to legislate) is subject to a catch-all exemption which renders that principle of "little value". How do the refreshed Principles address this concern?

Question 2: What factors have influenced the revision of the Principles?

Question 3: The refreshed Principles say that there may be situations where it is "in the best interests of Wales" for provisions in devolved areas to be included in UK Legislation. Can you outline the criteria that will be used to make that assessment, what role you envisage the Senedd having in informing that assessment, and who will take the final decision prior to a legislative consent memorandum being laid?

Question 4: Why did you not create a separate set of principles for the making of subordinate legislation in devolved areas, given that the Senedd's consent processes between primary and subordinate legislation vary and, in some cases, consent for making subordinate legislation is between governments?

Question 5: Given that the principles are generalised but now apply to more categories of UK legislation with differing consent processes, please can you explain how you reached the view that the refreshed Principles are more transparent?

Question 6: Please can you provide an analysis of which new elements of the refreshed Principles that have been added to cover subordinate legislation will now apply to primary legislation for the first time?

Question 7: How are the refreshed Principles consistent with the Sewel Convention?

Question 8: When did the Welsh Government Cabinet agree the refreshed Principles? And from what point did the Welsh Government begin to use them when making decisions about legislation?

Question 9: During the evidence session, you spoke about talking to the UK Government about the principles being accepted by it. (i) Why did you consider this to be necessary? (ii) What are the Welsh Government's expectations for how this might impact on the UK Government's approach to legislating in devolved areas? (iii) What are the long-term implications of seeking the UK Government's agreement, and do you envisage this taking place at the start of each new Senedd and each new UK Parliament?

Question 10: What is the rationale for the change of language in the first bullet point of paragraph 3 from "there is no time available for similar provisions to be brought forward in the Senedd" in the original Principles to "where Welsh-made provision could not otherwise be delivered within a suitable time frame" in the refreshed Principles? What constitutes a "suitable timeframe"?

Question 11: Why has the reference to “must” been removed in the fourth bullet, and what criteria will be used to decide whether using UK legislation will enable policy objectives “to be most effectively achieved”?

Question 12: Why has the example situation under paragraph 3, where powers of the Welsh Ministers would be extended in a way that could not be achieved through a Senedd Act, been removed from the refreshed Principles? Has the Welsh Government’s position on this matter changed?

Question 13: Would any of the criteria set out in paragraph 4 of the refreshed Principles be considered as a ‘red line’ by the Welsh Government such that it would not be able to recommend consent under any circumstances?

Question 14: What is the rationale for including the additional criteria set out in paragraph 4 of the refreshed Principles that if Welsh Ministers do agree to the creation of concurrent powers, these should be subject to relevant consent mechanisms and associated ‘carve outs’ from the *Government of Wales Act 2006*? Would it not be clearer to maintain the position of opposing the creation of concurrent powers?

Question 15: The refreshed Principles state that new “constraints” should not be introduced to the existing devolution settlement as well as new “reservations” as set out in the original Principles. Could you outline what is intended to be captured by new “constraints” on the existing devolution settlement?

Question 16: The refreshed Principles refer to the Welsh Government having a “meaningful role” in the governance of any new cross-border body with functions which relate to devolved matters, rather than the “equal status” to the UK Government as noted in the original Principles. Could you outline why this position has changed?