

Legislation, Justice and Constitution Committee

Monitoring Report: January 2024



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1. Introduction

The Legislation, Justice and Constitution Committee has a broad remit covering a wide range of areas. This monitoring report is intended to provide Members of the Committee with an update on key policy developments related to the Committee's remit. The report covers the period to September- December 2023.

The Committee will consider these issues and any actions that it wishes to take in response. This report is being published to inform stakeholders of some of the issues currently under consideration by the Committee.

A glossary of key terms is included as an Annex.

2. UK-EU relations

The UK Foreign Secretary David Cameron met European Commission Vice-President Maroš Šefčovič in Brussels on 29 November. Lord Cameron wrote on X that he looks forward to “working together on the issues that matter to us both, including support for Ukraine, the Withdrawal Agreement and maximising the opportunities of the TCA”.

A meeting of the Inter-Ministerial Group on UK-EU Relations was held on 11 September. Leo Docherty, UK Government Minister for Europe chaired the meeting. A Welsh Government written statement said it had been held in preparation for a number of meetings under the TCA.

On 1 October, the EU’s carbon border adjustment mechanism (CBAM) entered its transitional phase, with the first reporting period for importers ending in January 2024. The UK Government also announced it would implement a CBAM by 2027, following a consultation on addressing carbon leakage risk to support decarbonisation.

In September, it was reported that the UK is close to securing a deal on cooperation with EU’s border protection agency, Frontex. In a letter to the Home Affairs Committee dated 26 October, Minister of State for Immigration, Robert Jenrick MP, confirmed talks were still ongoing.

In November, The Independent Commission on EU-UK relations published a report on the future for health and social care after Brexit. Its recommendations focused on mutual recognition of both batch testing and professional qualifications.

Trade and Cooperation Agreement

A number of bodies that sit under the TCA met over this period, including Specialised Committees on Energy (9 November), fisheries (22 September), intellectual property (23 October) and regulatory cooperation (6 November). A full list of meetings held and agendas can be found here.

The TCA’s annual negotiation of fisheries quotas concluded in December 2023, reaching agreement on more than 85 total allowable catches for 2024. Oceana raised concerns over the risk of overfishing to a number of fish populations.

The European Commission agreed a one-off extension of the current rules of origin for electric vehicles and batteries until December 2026 under the TCA. Speaking at the Economy, Trade and Rural Affairs Committee, Vaughan Gething said “the fact that they’ve proposed an extension is good news for us, because at the moment, I don’t think every sector is ready to deal with the rules of origin[...]Otherwise, we could potentially have a real challenge in either not being able to export or potentially some areas of export not being financially viable”.

The European Parliament Committee on Foreign Affairs and Committee on International Trade published a report on TCA implementation, which was adopted by the European Parliament by 521 votes to 9, with 42 abstentions. The debate welcomed the Windsor Framework and the full operationalisation of the TCA’s institutional framework. However, MEPs regretted the loss of UK access to EU research programmes and the lack of provisions on cooperation in foreign policy and defence.

UK in a Changing Europe published a report on the Review of the EU-UK TCA, which is scheduled to take place in 2025-26. The report outlines three proposals for the review: a technical check, acting on unfulfilled commitments, and widening the scope of the TCA.

TCA meetings

A meeting of the UK and EU Domestic Advisory Group (DAG) took place in London on 6 November. They issued a joint statement following the meeting.

The UK-EU Parliamentary Partnership Assembly (PPA) met on 4-5 December in London. The PPA adopted a recommendation on mobility. On youth mobility, the UK Government announced it is “making changes to allow children aged 18 and under, studying at a school in France, to visit the UK on an organised educational trip without the usual passport or visit visa requirements.”

Withdrawal Agreement

The Lord Chancellor reappointed Ronnie Alexander, Joyce Cullen, Marcus Killick and Leo O'Reilly as non-executive members of the Independent Monitoring Authority for post-Brexit Citizens' Rights Agreements. Ronnie Alexander is a board representative for Wales, and will serve from 17 March 2024 until 16 December 2027. The **Equality and Social Justice Committee** monitors citizens' rights.

Alignment and divergence

UK in a Changing Europe published its latest divergence tracker, which found six cases of active divergence and nine passive divergence between the UK and EU. There were also upcoming divergence cases which have been delayed by the UK Government, such as delays to the introduction of the Border Target Operating Model which will be phased in throughout 2024, beginning in January. More information can be found in Senedd Research's **Wales and the UK's new trade border model**. The report highlighted five cases on notable alignment. This includes the recent announcement that agreement had been found on the terms of the **UK's accession to the EU's Horizon and Copernicus programmes**.

In September, the Scottish Parliament's Constitution, Europe, External Affairs and Culture Committee published its first EU Law Tracker Report. This will form part of a series of reports to support “scrutiny of parliamentary committees into the commitment on the part of the Scottish Government (or SG) to continue to align with European Union (EU) law”. The report concluded there had not been significant divergence between Scot and EU law, within the scope of the Scottish Government's alignment commitment.

Retained EU Law

The House of Commons European Scrutiny committee launched an inquiry on processes for reforming retained EU law. Evidence can be submitted via the **Committee's website** until 5 February 2024.

Senedd Research published resources on the Retained EU Law (Revocation and Reform) Act 2023, covering some examples of its use in practice, key dates, and implications for devolved governments.

Northern Ireland

The UK Government offered a financial support package worth £3.3bn to support the restoration of the Northern Ireland Assembly. In its response to the [Lord's Sub-Committee on the Northern Ireland Protocol report](#), the UK Government commented on the absence of a power-sharing arrangement and the Windsor Framework. It said "while the agreement provides a new basis for future stability and prosperity in Northern Ireland, the full benefits of the Framework - including the new Stormont Brake - require the power sharing institutions to be restored so that they can play their part".

Other updates

The British-Irish Intergovernmental Conference (BIIGC) met on 28 November in Dublin, where it discussed citizens' rights and British-Irish cooperation. The next meeting will take place in spring 2024.

A meeting of the Ireland-Wales Ministerial Forum was held on 20 October, and is a key commitment of the Ireland-Wales Shared Statement 2021-25. The Forum was hosted by the First Minister and the Minister for Rural Affairs and North Wales, with key areas of discussion including shared opportunities around renewable energy, skills development and language. The Culture, Communications, Welsh Language, Sport and International Relations Committee completed its [inquiry on Wales-Ireland relations](#) in October 2023. The Committee welcomed the conclusion of the Windsor Framework and called on the Welsh Government to resume regular reporting on the achievements of Horizon participation in Wales. The Committee also published its [international relations annual report](#), which called on the Welsh Government to produce a dedicated EU strategy.

On 11 October, the Senedd Economy, Trade and Rural Affairs Committee heard evidence from academics and the Minister for Economy on trade with the island of Ireland, the Windsor Framework and the Border Target Operating Model.

On 12 September, the Senedd Economy, Trade and Rural Affairs Committee published a report on [Post-EU regional development funding](#).

3. Intergovernmental and interparliamentary relations

The UK Government released the intergovernmental relations Interactive Transparency Report Dashboard data for Quarters 2 and 3 of 2023.

The reports show that there were 42 meetings between the UK and devolved governments in Quarter 3, a fall from 59 in Quarter 2.

Meetings during this period include:

- **Interministerial Standing Committee:** A communiqué was released following the meeting of the Inter-Ministerial Standing Committee on the 19 October 2023. The Welsh Government also released a statement on the meeting. Items discussed included:
 - cost-of-living workstreams across governments.
 - the proposal to set up a bilateral interministerial group between the Department for Work and Pensions and the Welsh Government.
 - how best to ensure international matters are appropriately considered in the IGR system.
 - the legislative process and IMSC principles on engagement, as well as the application of the Sewel Convention.
 - upcoming proposals for a smokefree generation. Ministers jointly agreed to continue to work together on this on a UK-wide basis. See also the Welsh Government's statement on the four-nation consultation on the matter.
- **Interministerial Group UK-EU relations:** Meetings took place on 26 June 2023 and on 11 September 2023.
- **Inter-Ministerial Group for Environment, Food and Rural Affairs:** The Group most recently met on 13 September 2023. The Group discussed matters including preparations for the implementation of the Windsor Framework, and the sale and possession of glue traps and its interaction with the UK Internal Market Act. See also the Welsh Government's statement on the meeting.
- **Net Zero, Energy and Climate Change Inter-Ministerial Group:** The Group met on 14th September 2023. The central communiqué and Welsh Government's statement include brief discussion points. The Group also met on 15 November 2023. The Welsh Government issued a short update, however, no central communiqué is yet available.
- **Finance Inter-Ministerial Standing Committee:** The Terms of Reference for the Finance Inter-Ministerial Standing Committee were updated at a meeting on 20 September 2023.

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- **Inter-Ministerial Group on Work and Pensions:** The inaugural meeting was held on 6 November 2023. The Welsh Government released a detailed written statement, and a central communiqué was published.

A meeting of the Inter-Parliamentary Forum took place on 27 October in the Scottish Parliament. Committee chairs Huw Irranca-Davies MS and Llyr Gruffydd MS represented the Senedd at the meeting.

The Forum discussed matters such as the on-going challenges of intergovernmental relations, the operation of the UK Internal Market Act, and scrutiny of intergovernmental working.

Appearing in front of the Welsh Affairs Committee on 18 October 2023, First Minister, Mark Drakeford MS, said that the UK Government's interest in reviving IGR is at "a relatively low ebb".

The First Minister stated that relations were "better than they were", but added that there is not evidence that the new IGR machinery has put right issues that existed under the previous system.

On 23-24 November 2023, the First Minister attended the 40th meeting of the British-Irish Council Summit. The theme of the summit was Transforming Children's Lives: Tackling Child Poverty and Improving Wellbeing.

Other items discussed include the conflict in Israel and Gaza, the Russian invasion of Ukraine, shared climate objectives, the EU-UK relationship and the cost of living.

The Secretary of State for Wales, David TC Davies MP, said that the Wales Office has a "perfectly good professional working relationship" with the Welsh Government in matters of mutual interest.

Giving evidence to the Welsh Affairs Committee on 13 December 2023, the Secretary of State said that he has a "professional and positive" relationship with Welsh Government Ministers, including the Minister for Economy, Vaughan Gething MS. Responding to the First Minister's comments that there is not a great deal of energetic determination to make IGR work from the UK Government, Mr Davies said that "it takes two to dance".

The Senedd's Finance Committee has launched an inquiry into Fiscal Intergovernmental Relations, to consider how current arrangements impact on collaborative working relating to fiscal matters.

The Committee has published a terms of reference, and will be receiving written evidence until 1 March 2024.

4. UK Internal Market Act

The Department for Business and Trade announced on 30 November 2023 that seven new members were appointed to the Office for the Internal Market panel.

The panel includes members who have experience of working with the Welsh Government and other devolved administrations. Biographies of the new Members of the panel can be found [here](#).

5. Legislation

5.1 Senedd legislation

There are six Bills being considered by the Senedd, with four at stage one, one at stage two and two which have passed stage four proceedings.

- [The Infrastructure \(Wales\) Bill](#) was introduced on 12 June and is currently at stage two.
- [The Environment \(Air Quality and Soundscapes\) \(Wales\) Bill](#) was introduced on 20 March and is at post-stage four.
- The [Residential Outdoor Education \(Wales\) Bill](#) was introduced on 20 November and is currently at stage one.
- The [Local Government Finance \(Wales\) Bill](#) was introduced on 20 November and is currently at stage one.
- The [Health Service Procurement \(Wales\) Bill](#) was introduced on 13 February and is at post-stage four.
- The [Elections and Elected Bodies \(Wales\) Bill](#) was introduced on 2 October and is at stage one.
- The [Senedd Cymru \(Members and Elections\) Bill](#) was introduced on 18 September and is at stage one.

The 2022-23 annual report on [the future of Welsh law](#) was published on 1 November 2023. The report is the second to be prepared under the Legislation (Wales) Act 2019, and sets out progress made to improve the accessibility of Welsh law under the Welsh Government's programme [The Future of Welsh Law: a programme for 2021 to 2026](#). The report concludes that the programme "remains on track" and that there has been "good progress made".

5.2 UK legislation

On 7 November, the King's Speech set out [the UK Government's legislative programme](#) for the next parliamentary session, with 21 Bills announced during the speech. The Secretary of State for Wales listed 15 out of the 21 Bills which [extend and apply to Wales](#). Senedd Research published [an article which outlined the legislative programme](#).

6. Legislative consent

On 10 November, the Counsel General responded to the King's Speech and highlighted "varying forms of engagement" with the UK Government on the programme, and drew attention to Acts passed without consent in the last parliamentary session.

He also said six Bills were carried over from the last parliamentary session, with legislative consent memoranda laid in the Senedd on the:

- Data Protection and Digital Information (No.2) Bill;
- Economic Activity of Public Bodies (Overseas Matters) Bill
- Victims and Prisoners Bill.

Since the King's speech, legislative consent memoranda have also been laid on:

- Leasehold and Freehold Reform Bill
- Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Bill
- Automated Vehicles Bill

The Welsh Government laid a Supplementary Legislative Consent Memorandum on the Energy Bill on 11 September.

The Counsel General wrote to the UK Department for Business and Trade on the Strikes (Minimum Service Levels) Act. The letter outlines a series of points in response to the consultation on the Code of Practice on Reasonable Steps, saying "trade Unions and workers face prescriptive statutory guidance in the draft Code and the prospect of significant financial penalties and dismissal for non-compliance. Employers face no such sanctions, and instead have considerable power to requisition workers through a work notice".

7. Constitution

On 12 September 2023, former head of the UK Governance Group in the Cabinet Office, Philip Rycroft, gave evidence to the Public Administration and Constitutional Affairs Committee's (PACAC) inquiry on Devolution Capability in Whitehall.

Mr Rycroft said that, in his experience, in many cases Whitehall “did not really know what was going on in the devolved parts of the UK and, to a large extent, was indifferent to it”.

He went on to state that the “territorial management of the United Kingdom has never been a priority” for the centre, and that Brexit and Covid have revealed inadequacies in the “understanding and capabilities around devolution in Whitehall”.

The Senedd's [Legislation, Justice and Constitution Committee](#) and [Finance Committee](#) have responded to PAPAC's inquiry.

During an evidence session with the Welsh Affairs Committee on 18 October 2023, First Minister, Mark Drakeford MS, advocated a United Kingdom based on a “solidarity union” – a union to which people want, rather than feel obliged, to belong.

The First Minister also said that the Sewel Convention has become a “broken piece of the machinery” and that radical solutions are needed.

The Scottish Parliament's Constitution, Europe, External Affairs and Culture Committee published a report on How Devolution is Changing in a Post-EU UK.

Published in October 2023, the report concludes that there is a lack of “consensus, clarity and consistency” in the post-EU regulatory environment, and that this has consequences for how Scottish Ministers can be held to account.

The Report further states that, where there is consensus between UK governments, the increased significance of intergovernmental agreements and use of UK bills in devolved areas lessen the accountability of the Scottish Government. Similar themes were discussed in the Senedd's Legislation, Justice and Constitution Committee's [Annual Report](#).

The Secretary of State for Wales, David TC Davies MP, said that it is not the time to “reopen the constitutional question”, and that there is a “democratic duty” to accept the existence of the Senedd.

Mr Davies was responding to questions about Rob Roberts MP's [private members bill](#), which seeks to introduce legislation to hold a referendum on ending devolution in Wales, during an evidence session with the Welsh Affairs Committee on 13 December 2023.

The Independent Commission on the Constitutional Future of Wales confirmed in its [October 2023 progress report](#) that the Commission's final report will be launched in the Senedd on 18 January 2024.

Since its last progress report, the Commission has received oral evidence from Mark Drakeford MS, First Minister, and Michael Gove MP, Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations.

8. Senedd reform and elections

The *Senedd Cymru (Members and Elections) Bill* was laid before the Senedd on 18 September 2023. The Reform Bill Committee must report to the Senedd on the general principles of the Bill by 19 January 2024.

A consultation on the Bill ran from 21 September to 3 November 2023, and responses have been [published online](#).

The Reform Bill Committee has held several evidence sessions on the Bill, including with [electoral systems academics](#), [electoral reform organisations](#), two with the Counsel General (5 October 2023 and 13 December 2023), and members of the [Expert Panel on Assembly Electoral Reform](#).

The Welsh Government has postponed the introduction of the *Senedd Cymru (Electoral Candidate Lists) Bill*. The Bill relates to plans to introduce gender quotas for future Senedd elections.

Responding to questions in Plenary on 13 December 2023, the Counsel General [stated](#) that “further work is being undertaken on the Bill and a further update will be provided in due course”.

The *Elections and Elected Bodies (Wales) Bill* was laid before the Senedd on 2 October 2023. The Local Government and Housing Committee must report to the Senedd on the general principles of the Bill by 26 January 2024.

A consultation on the Bill ran from 5 October to 10 November 2023, and responses have been [published online](#).

The Local Government and Housing Committee has held several evidence sessions on the Bill, including two with the Counsel General (26 October and 7 December), with [academics](#), the [Equality and Human Rights Commission](#) and the [Welsh Local Government Association](#).

Following an inquiry into the introduction of voter ID, Baroness Drake, Chair of the House of Lords Constitution Committee, [wrote](#) to Simon Hoare MP, Parliamentary Under Secretary of State (Local Government), Department for Levelling Up, Housing and Communities.

The Chair noted the Committee’s findings, including that voter ID has negatively affected some demographic groups’ propensity or opportunity to vote.

9. Justice

9.1 Wales

The Welsh Government published the minutes of the Cabinet Sub-Committee on Justice meetings on 29 June 2023 and 25 October 2023.

Dame Vera Baird KC, Independent Expert Adviser on Justice Devolution, attended both meetings.

Discussion points at the meeting in June included support for the legal sector and preparations for the devolution of justice. At the meeting in October, prisoner education, the disaggregation of data, and the Small Homes programme were discussed.

On 24 October 2023, the Minister for Social Justice, Jane Hutt MS, delivered an oral statement on criminal justice blueprints.

The Minister said that there is “clear evidence” that the women’s justice blueprint is making a difference, noting that there were 208 immediate custodial sentences of Welsh women in 2022, compared with 507 in 2019. The Minister said that the youth justice blueprint will focus on three priority areas moving forward: prevention, pre-court diversion and custody. Updated implementation plans are expected shortly.

The Welsh Government announced a research programme to prepare for the devolution of policing. Carl Foulkes, previously the Chief Constable of North Wales, will lead the programme. He will liaise with Dame Vera Baird in her capacity as Independent Expert Adviser to the Welsh Government on Justice Devolution.

The Welsh Government added that the programme will engage with groups and communities with personal experience of dealing with the police, such as victims of crime, or “ethnic minority communities with historically low levels of trust in policing”.

The Minister for Finance and Local Government, Rebecca Evans MS, published a written statement on the provisional police settlement for 2024-25.

The statement, published on 14 December 2023, marked the start of a consultation period which will end on 10 January 2024. The Welsh Government is proposing to set its contribution to police funding for 2024-25 at £113.47 million.

9.2 UK

The Interministerial Group for Justice met for the first time on 12 September 2023.

Substantive discussion points included:

- prison capacity and steps being taken both to improve capacity and reduce demand
- court recovery following Covid
- the Ministry of Justice’s review of civil legal aid
- the Victims and Prisoners Bill. It was noted that the Legislative Consent Motion process was being triggered for parts of the Bill

Professor Alison Young has been appointed as the Law Commissioner for Public Law and the Law in Wales. She will take up the post from 18 March 2024 for five years.

Professor Young is the Sir David Williams Professor of Public Law at the University of Cambridge, and a Fellow of Robinson College. She is also an academic associate at 39 Essex Chambers and an Emeritus Fellow of Hertford College, Oxford.

The Welsh Affairs Committee held an evidence session with Wales's four Police and Crime Commissioners on 8 November 2023. The Deputy Commissioner for Gwent stood in for the Commissioner, who was unwell.

The panellists discussed their engagement with the Welsh and UK governments, as well as the devolution of policing, funding, and the future of the role of Police and Crime Commissioner.

The amount of time people with criminal convictions are legally required to declare convictions to most potential employers after serving their sentence has been reduced.

This change also applies to people applying for courses, insurance and housing. Custodial sentences of four years or more for less serious crimes become 'spent' after a seven-year period of rehabilitation, as long as no further offence is committed. The change does not apply to offenders who have committed serious sexual, violent, or terrorist offences.

The Lord Chancellor reappointed Charlie Taylor as HM Chief Inspector of Prisons, and appointed Sue McAllister as Interim HM Chief Inspector of Probation.

Charlie Taylor was initially appointed as HM Chief Inspector of Prisons in 2020 and was re-appointed in 2023. From 2017-2020 Mr Taylor was Chair of the Youth Justice Board for England and Wales.

From 2018 to 2022, Sue McAllister was Prisons and Probation Ombudsman. Prior to becoming PPO, Mrs McAllister was the Director of Reducing Offending and Prison Service Director General, Department of Justice, Northern Ireland.

9.3 Scotland







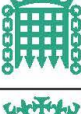

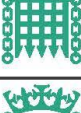
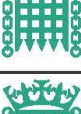
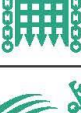


The Scottish Government announced a programme of reforms to the justice system.

Reforms planned up to March 2026 include:

- the introduction of a Misogyny Bill to create new offences related to misogynistic conduct;
- modernisation of the prison estate, including opening HMP Highland and starting building work on HMP Glasgow to replace Barlinnie;
- the national roll-out of a system to digitally transform how evidence is managed across the justice sector; and
- expanding the availability of mediation services in civil disputes.

10. Annex: Glossary

Post-Brexit framework: key terms

International obligations		International duties and commitments of the UK
Trade agreements		Establish new trading arrangements between the UK and other countries
International agreements		Agreements between the UK and other countries or organisations
UK-EU Trade & Cooperation Agreement		Establishes the new UK-EU relationship
UK-EU Withdrawal Agreement		Sets the terms of the UK's exit from the EU
Protocol on Ireland-Northern Ireland		Part of the Withdrawal Agreement to avoid a hard border on the island of Ireland
EU (Withdrawal) Act 2018		Converted EU law to domestic law, stops new EU laws having automatic effect in the UK and gives Ministers powers to correct the statute book after leaving the EU
EU (Withdrawal Agreement) Act 2020		Implements the Withdrawal Agreement
EU (Future Relationship) Act 2020		Implements the Trade & Cooperation Agreement
Internal Market Act 2020		Establishes rules for the regulation of goods, services and qualifications across the UK
Common Frameworks		Set up UK-wide frameworks for some areas previously governed by the EU
Implementing regulations		Regulations passed in the Senedd or UK Parliament to implement the new arrangements
Correcting regulations		Regulations passed in the Senedd or UK Parliament to make EU laws retained after leaving the EU workable in a domestic context

