

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
Y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol | External Affairs and
Additional Legislation Committee
Y goblygiadau i Gymru wrth i Brydain adael yr Undeb Ewropeaidd | Implications for
Wales of Britain exiting the European Union
IOB 35
Ymateb gan Cymdeithas Ddysgedig Cymru
Evidence from Learned Society of Wales

1. Defence and Foreign Affairs are areas of competence reserved for Westminster and the British Government under the various devolution arrangements. It will be the British Government which will invoke Article 50 of the Treaty of European Union. Whether it can do so without the approval of Parliament is now a matter before the Supreme Court. But it is HMG which will be responsible for the negotiation of the terms of departure, the new relationship with the EU, and the other international agreements which will be necessary. However that distinction between areas reserved for Westminster and those exercised by devolved legislatures is no longer clear, as EU competence is often matched by devolution of powers within the UK, particularly to Scotland. Of course devolution stems from Acts of the Westminster Parliament and Parliament is considered sovereign. However practicalities and the fact that devolution to Scotland and Wales has been endorsed in referenda which some argue has brought its own form of sovereignty certainly complicates the consideration as of course does the politics. The very existence of a United Kingdom is at stake.
2. Thousands of EU directives are now enshrined in the laws applied in the United Kingdom but the implementation of these directives has fallen to Westminster, the legislatures of Scotland, Northern Ireland and Wales, or combinations of the four. Their collective fate has to be an interest for all four legislatures. Similarly EU Regulations and instruments having direct effect in the United Kingdom will no longer be applicable post Brexit, unless there is domestic legislation to replace them. How that is done will depend on the division of competences within the UK. Many, at least in the devolved nations, consider that there is a strong argument that all parts of the UK must be involved in consideration of how these complicated issues are to be treated. They are no longer the exclusive responsibility of Westminster. A process of consideration and debate involving Westminster and the three nations may therefore be needed before decisions are taken. The Prime Minister has promised full consultation with the three governments but how they can achieve a real involvement in the Whitehall process is not clear.
3. Before invoking Article 50, it's desirable that the different interests within the UK are identified and negotiating strategies agreed, with a process for conducting those negotiations which involves interested governments. It is already clear that there are widely different views and reconciling them will be a herculean task. Action by HMG to invoke Article 50 will impact on the exercise of powers in the devolved legislatures. Successive British Governments have volunteered (the so called Sewell

Convention) that they would only propose legislation having an effect in the devolved nations (which is often accepted as desirable by all) if their legislatures have given their prior agreement through Legislative Competence Motions. There is already talk of withholding consent. So it would be wise to reach an understanding on process which would allow consideration of the different opinions.

4. Some areas of policy making, notably agriculture, remain dominated by EU policies. In Wales 70 - 80% of farming income is linked to the Common Agricultural Policy (CAP). Exiting the CAP will require its replacement by national support systems. Agricultural and rural policy will involve a multitude of complex policies in areas fully devolved. It should make sense to have common standards for e.g. animal health. The demands on policy making capacities will be huge and constructive answers required before Brexit. Yet resources are scarce, even in Whitehall. It would therefore seem prudent for the four administrations to work more closely together to help identify and develop coherent policy options where all respective governments can decide which elements or variants of each should then be implemented in their countries. This will obviously have to take account of emerging international trade obligations where again consultation will be required.
5. Much was made in the referendum debate of the UK's gross contribution to the EU budget and the use which could be made of these sums domestically. This is of key interest to the Celtic nations. As recipients of Structural Fund support they are keen to see expenditure at least sustained at current levels. Some limited assurance has been given by the Chancellor. But the key point is that EU expenditure was largely needs based, whereas the domestic allocation of funding according to the Barnett formula is based on population shares, and less advantageous. There are also likely to be devolution specific issues arising from current EU expenditure on policies such as agriculture and higher education, both in cash and policy terms.

6. Conclusion

The issues are constitutionally challenging and require the active positive involvement of four governments, coordination of approach, and a measure of political will to find solutions.

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THE LEARNED SOCIETY OF WALES CYMDEITHAS DDYSGEDIG CYMRU

THE NATIONAL ACADEMY — CELEBRATING SCHOLARSHIP AND SERVING THE NATION
YR ACADEMI GENEOLAETHOL — YN DATHLU YSGOLHEICTOD A GWASANAETHU'R GENEOL

Welsh Affairs Committee:

Implications for Wales of the EU referendum result inquiry

September 2016

Learned Society of Wales Response

The [Learned Society of Wales](#) (LSW) is an independent, all-Wales, self-governing, pan-discipline educational charity that was established back in 2010. As Wales's first National Academy of science and letters, the Learned Society of Wales, like similar societies in Ireland and Scotland, brings together the most successful and talented Fellows connected with Wales, for the shared purpose and common good of advancing and promoting excellence in all scholarly discipline across Wales.

The Society welcomes the opportunity to contribute to this inquiry.

1. The academic community in the UK has a long and distinguished history of international research and as a result has cultivated long established cooperation with external institutions and colleagues. Membership of the EU has greatly facilitated and enhanced this collaboration between Britain and Europe, benefitting British Universities in many ways. Significant numbers of staff from other member states work in our universities, and the bi-directional exchange of students has advantaged individual British students as well as fostering a more diverse and stimulating academic community in UK universities. The referendum result has profound implications for Wales but looking forward, **The Learned Society of Wales (LSW)** considers it important that Wales vis a vis the UK negotiations has the opportunity to retain and build upon these international links.
2. We all share a common interest in a successful economic model, which harnesses and encourages research and the benefits of continued collaboration in Europe with the best possible access to markets, research programmes and unhindered cooperation. These three features are most likely to benefit the United Kingdom. Universities contribute to their communities in many ways. Research and scholarship are directly beneficial to the economy. A successful economy in turn permits investment in research, providing for a mutually reinforcing cycle. For Wales, this means inter alia the continued right for EU academics to work in the UK and continued future arrangements for the free movement of academics between the UK and the EU 27; similarly for movement of students.
3. Some 18% of existing EU expenditure in the UK is currently spent on research. Welsh universities benefit from that investment which can represent up to 5% of the income of each Welsh university. In addition to receipts from competitive EU Research Programmes, Structural Fund support has been a key contribution to the capital and revenue of each institution, and those receipts have for the most part not been accompanied by grants from the Welsh Government.

4. If as seems likely, the benefits set out above are diminished by leaving the EU and if Higher Education in Wales loses access to EU funding, then this will be a severe blow for a sector which already receives less funding than other parts of the UK. Continued participation in EU programmes is essential for Welsh Universities. As well, as a minimum, existing EU support for the Welsh HE sector needs to be replaced post Brexit from within the gross UK contribution to the EU budget which will no longer be paid.
5. There is a more general point. EU expenditure in Wales meets the criteria set out in EU regulations. Crucially much of this is “needs based” and consequently Wales benefits because of the merit of its proposals and /or because of the relative poverty of qualifying regions. Post Brexit there will need to be a disbursement of the contributions no longer made from the EU budget. The Learned Society believes that this will require an allocation arrangements which is both fair to the different parts of the United Kingdom but importantly directly relates to their needs. The Barnett formula, based on a simplistic population share will not deliver such an outcome.
6. Defence and Foreign Affairs are areas of competence reserved for Westminster and the British Government under the various devolution arrangements. It will be the British Government which will invoke Article 50 of the Treaty of European Union and which will be responsible for the negotiation of the terms of departure and the new relationship with the EU. But the distinction between areas reserved for Westminster and those exercised by devolved legislatures is no longer clear
7. Thousands of EU directives are now enshrined in the laws applied in the United Kingdom but the implementation of these directives has fallen to Westminster, the legislatures of Scotland, Northern Ireland and Wales, or combinations of the four. Their collective fate has to be an interest for all four legislatures. Similarly EU Regulations and instruments having direct effect in the United Kingdom will no longer be applicable post Brexit, unless there is domestic legislation to replace them. How that is done will depend on the division of competences within the UK. The LSW consider that there is an unassailable argument that all parts of the UK must be involved in consideration of how these complicated issues are to be treated. They are not the exclusive responsibility of Westminster. This will require a process of consideration and debate involving Westminster and the three nations before decisions are taken. That should involve a real involvement in the Whitehall process and not some notional information sharing after decisions have already been taken on the advice of the Department for Brexit.
8. The European Charter of Regional or Minority Languages, a Council of Europe convention, has long supported these languages across Europe. It has subsequently been taken up by the European Union, both politically and financially. The Welsh language has benefitted significantly. After Brexit, the European Charter will still be binding on Council of Europe member states, including the United Kingdom. But historically UK Government support has been supplemented to a substantial degree by EU funds which are now likely to be lost, with adverse effect on the status and condition of the Welsh language and culture. This is particularly true in fields such as media, software localization, literary translation, cultural exchange and networking, and research of all kinds on smaller and minority languages. This loss is not simply a loss of resources which needs to be made good but in some sectors the loss of a leadership role for Wales and therefore for the UK.
9. As a bilingual jurisdiction, where a majority and minority language have equal legal status, Wales benefits from and contributes to Europe in ways that might not seem significant through a Westminster window. From within a Europe of regions, Wales has been able to forge strong links with other nations that have similar linguistic characteristics. It will be vital for the social cohesion of Wales, both culturally and

economically, that any post-Brexit arrangements take note of these links and develop them, thus supporting and fostering the growth of Wales as a bilingual nation.

10. Some areas of policy making, notably agriculture, remain dominated by EU policies. In Wales 70 - 80% of farming income is linked to the Common Agricultural Policy (CAP). Exiting the CAP will require its replacement by national support systems. Agricultural and rural policy will involve a multitude of complex policies in areas fully devolved. The demands on policy making capacities will be huge and constructive answers required before Brexit. Yet resources are scarce, even in Whitehall.
11. The real impact of Brexit, will depend entirely on what replaces it, and that remains currently unknown and to be negotiated. The Learned Society of Wales recommends that the four administrations need to work more closely together to help identify and develop coherent policy options where all respective governments can decide which elements or variants of each should then be implemented in their countries. This will obviously have to take account of emerging international trade obligations where again consultation will be required.

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