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Ysgrifennydd y Cabinet dros Gyllid  
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Llywodraeth Cymru  
Welsh Government

David Rees AM  
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19 June 2018

Dear David,

Thank you for your letter regarding the External Affairs and Additional Legislation Committee's inquiry: **European Union law in Wales: What happens during the Brexit transition?** I am grateful for the Committee's ongoing work in making sure that the implications of the UK leaving the European Union are fully considered and appropriate preparations are made in order that devolution and Welsh interests are protected.

The UK Government is yet to set out substantively how transition will work and, despite sustained pressure from the Welsh Government for clarity, many of the issues raised in your letter are ones where we simply do not know what the UK Government intends. Once we know more, subject to handling any confidential issues, we will look to share information and engage further with the Assembly.

As you know, in our White Paper the Welsh Government argued that a transitional period was essential as it would be impossible to both negotiate a withdrawal agreement and put in place the basis of a future relationship with the EU within two years.

We therefore very much welcomed the agreement at the March European Council on the arrangements for a transition period to December 2020, subject to the satisfactory negotiation of a comprehensive Withdrawal Agreement.

During the proposed transition period, the UK would retain all the principal benefits of membership of the EU but would lose its rights to political representation in the EU's

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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.

institutions. This will enable the UK to maintain Single Market participation and membership of the Customs Union while future trading relationships are explored and negotiated. This progress is to be welcomed and will save our businesses, citizens and public services from a dangerous cliff edge when we formally leave the EU. It will provide businesses with the confidence to plan for the medium term.

However, in return the UK will be required to continue to be bound all elements of the *acquis* during the transition period and reflect any changes in EU legislation or administrative decisions which occur while we are in transition. This raises some very complex issues about how EU decisions will be transmitted to and implemented within the UK once the European Communities Act has been repealed. And, as I have said, the UK Government has, as yet, not published information on how these issues are to be addressed.

I would therefore encourage the Committee, in parallel with seeking evidence from the Welsh Government, to seek clarification from the UK Government.

With this caveat, in terms of your specific questions, I will answer these as far as I am able to provide information, given the Welsh Government's current understanding.

- **What process will be followed for the transposition, implementation and enforcement of EU law during transition? / What role should the Welsh Government have in this process?**

At the moment we simply do not know how the UK Government propose to do this.

In principle, we would expect there to be a high degree of similarity between the practice now and during transition and that this would include the role played by the Welsh Government.

However, the recent Intergovernmental Agreement on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks has set out the specific procedures to be followed in the areas where the National Assembly for Wales agrees that common frameworks are to be established.

- **What preparatory steps will the Welsh Government need to take before the transition period begins?**

We will continue to work closely with the UK Government to press them for all the information that will allow us to prepare for and deliver effectively for the transition.

As you will know, we announced our £50 million EU Transition Fund earlier this year. The Fund was established to help business, public services and other partner organisations in Wales plan for and prepare for the impacts of Brexit. This new fund is part of our Brexit plans to directly help businesses and public services prepare for the significant changes ahead both before and during the

transition period. The fund will work alongside our existing financial support and help our partner organisations reach out to the world.

- **Will there be an intra-UK intergovernmental structure established to support this process (such as the current JMC Europe)?**

Again, at the moment, we have not had any clear information from the UK Government on this issue. It is possible that, as the UK will no longer be represented in the Council of Ministers, the UK Government will prefer to work through the JMC (European Negotiations) than the current JMC (Europe). In any event, I hope that we can continue to work across the UK in a constructive way, as we have endeavoured to do to date.

We have been engaging with the UK Government to ensure greater involvement from the devolved administrations in negotiations on the UK's future relationship with the EU. A new Ministerial Forum on EU negotiations has been established to provide an opportunity for the devolved administrations to contribute to the development of a UK negotiating position and met for the first time on 24 May in Edinburgh. This is a development we welcome.

As you know, the Welsh Government believes that the entire machinery of JMC needs to be overhauled on the basis of a shared governance model and in the longer term replaced by a Council of Ministers. At the JMC (Plenary) in March, a commitment was given that officials would review the current Memorandum of Understanding (MOU) to ensure the JMC is for purpose following Brexit. Officials from the four UK administrations met in May to begin detailed work on this review, and this will continue over the coming months. An interim report is expected later in the year.

We will be pressing the UK Government to work collaboratively with us and the other Devolved Administrations to explore the best inter-governmental structures for future engagement on EU issues, which in the near term could include an ongoing role for JMC(E), and/or use of JMC(EN) or potentially the new Ministerial Forum.

- **How will the two withdrawal Bills (the European Union (Withdrawal) Bill and the Withdrawal Agreement and Implementation Bill) interact with regards to the transition period?**

The UK Government has not yet published its proposals for the Withdrawal Agreement and Implementation Bill (WAIB), but it is our understanding that this will need to put mechanisms in place to deliver the UK's commitments in terms of the transition period. We will, however, need details of the WAIB's content before making a full assessment of the impact it will have. In initial official level conversations we have asked for a substantive Ministerial discussion on the WAIB to seek to allow us to understand and influence its development. We will look to provide more information to the Committee as soon as we are in a position to.

- **How will the views of the Welsh Government on draft EU laws in devolved areas be presented to the European Union?**

We will continue to take every opportunity to ensure that the interests of Wales are respected, both informally via existing networks and also by attending groups already in existence where possible.

- **Will the Welsh Government be represented on the EU-UK Joint Committee established under the Withdrawal Agreement?**

Our starting position is that we should have the opportunity to be part of the UK representation, as the Concordat on Co-ordination of European Union Policy Issues within the Memorandum of Understanding sets out in relation to attendance at Council of Ministers meetings. We will be asking the UK Government for clarity on this issue.

I hope you will appreciate that current uncertainties mean the full picture in respect of transition is yet to emerge. I would be happy to provide more information to the Committee, should you require it, when more detail on the UK Government's position is available.

Best wishes,

Mark.

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