

Mark Drakeford AM
First Minister
Welsh Government

25 March 2019

Dear Mark

Scrutiny of Brexit-related legislation

Thank you for your letter of 11 March 2019.

I do not wish to prolong this correspondence unnecessarily but there are a number of important points of principle that we would like to highlight and we believe you may have misunderstood some of the comments in our report.

It is a matter for the Committee to decide how it holds the Welsh Government to account.

The Committee's functions are set out in Standing Order 21 and include considering and reporting on any legislative matter of any general nature within or relating to the competence of the Assembly or Welsh Ministers.

UK Ministers are not accountable to the National Assembly or its committees; consequently, once the Welsh Ministers have consented to the UK Ministers making regulations in devolved areas, the Committee has no formal role or direct influence in scrutinising those regulations, as it would if they were laid before the National Assembly. Furthermore, there is limited opportunity to seek to influence indirectly, given issues of timing between legislatures and the numerous committees responsible for scrutinising regulations in the House of Commons and House of Lords.



We therefore consider it a legitimate function of the Committee to scrutinise the basis on which the Welsh Government gives its consent for the UK Government to make regulations in devolved areas. In order to undertake that task, we consider it appropriate to do so by reference to the agreement that covers the consent process and that was agreed between the Welsh and UK Governments.

In Scotland, where the Scottish Ministers also consent to the UK Government acting in devolved areas, the process is different and, in certain circumstances, includes a role for the Scottish Parliament as part of the consent process.

As regards your comments on the SICM process, our concerns, as explained in our report, concern matters of constitutional principle. We will be writing to the Llywydd separately on this matter.

Finally, we note your comment that our report suggests we do not share the Welsh Government's concern as to whether or not we have a functioning statute book on 30 March 2019 if No Deal happens. This is an unfortunate comment and given our scrutiny function, clearly not the case. I re-iterate the point made in my letter to you of 21 February 2019: our responsibility to the National Assembly of Wales is to carry out our functions diligently, to scrutinise legislation and accordingly, to hold the Welsh Government properly to account for its actions.

Yours sincerely



Mick Antoniw

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.

