

Committee Chairs

15 March 2019

Dear Chairs

Inter-Institutional relations agreement between the National Assembly for Wales and the Welsh Government

In February 2018 we issued our report *UK governance post-Brexit*. Its purpose was to examine existing inter-governmental relationships to determine whether they are fit for purpose and to assess whether they need to change.

The final recommendation of our report was that the Welsh Government enters into an agreement with the Constitutional and Legislative Affairs Committee to support its scrutiny of Welsh Government activity in this area.

The Committee reached an agreement with the Welsh Government and in January this year, laid a **report** before the Assembly, which incorporated the agreement.

Following the debate held on the report and agreement last week, I thought it would be appropriate to write to all Chairs, drawing attention to the agreement, so that committees can assess how they may wish to use it in scrutinising the Welsh Government.

The agreement is available on our website and I will ensure it is made available to committee clerks.

Yours sincerely



Mick Antoniw

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Chair

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



Inter-Institutional relations agreement between the National Assembly for Wales and the Welsh Government

Background to this Agreement

1. In February 2018 the Constitutional and Legislative Affairs (CLA) Committee published its report *UK governance post-Brexit*. Recommendation 9 of that report stated:

“We recommend that the Welsh Government enters into an inter-governmental relations agreement with this Committee to support the scrutiny of Welsh Government activity in this area.”

2. During the Plenary debate on the report on 28 February 2018, the Counsel General said the Welsh Government is happy to discuss with the CLA Committee the content of an agreement on inter-governmental relations. He added that, in doing so, the Welsh Government would want to consider the agreement between the Scottish Parliament and Scottish Government.

3. The Welsh Government’s Cabinet Secretary for Finance attended meetings of the CLA Committee on 23 and 30 April 2018, at which future inter-governmental relations and the Committee’s report on UK governance post-Brexit were discussed.

4. On 30 April 2018, the Cabinet Secretary for Finance reiterated the Welsh Government's willingness to work with the CLA Committee in developing the arrangements that will be needed on the part of the legislature to oversee the actions that will flow from the Intergovernmental Agreement on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks.

5. Following an exchange of correspondence between the Chair of the CLA Committee (25 May 2018) and the Cabinet Secretary for Finance (4 June 2018), it was agreed that this work should be taken forward formally.



Purpose of the Agreement

6. This Written Agreement represents the agreed position of the National Assembly for Wales and the Welsh Government on the information that the Welsh Government will, where appropriate (see paragraph 7 below), provide to the National Assembly with regard to its own participation in formal, ministerial level inter-governmental meetings, concordats, agreements and memorandums of understanding.

7. In reaching this Agreement, the Welsh Government recognises the National Assembly's primary purpose of scrutinising the activity of the Welsh Government within formal inter-governmental structures. The National Assembly also recognises and respects the need for confidential inter-governmental discussion between the administrations within the United Kingdom, for example, in situations where negotiations on particular issues are taking place.

8. This Agreement recognises the increased complexity of the devolution settlement and the implications this has for appropriate discussions between the Welsh and UK Governments. As a consequence, it further recognises that the interdependence between devolved and reserved competences will be managed mainly in inter-governmental relations. This Agreement seeks to ensure that the principles of the Welsh Government's accountability to the National Assembly for Wales and transparency with regard to these relationships are built into the revised inter-governmental mechanisms.

9. This Agreement establishes three principles which will govern the relationship between the National Assembly for Wales and the Welsh Government with regard to inter-governmental relations. These are:

- Transparency;
- Accountability;
- Respect for, and recognition of, the part confidential discussions play between governments, particularly when developing policy.

Scope of this Agreement

10. This Agreement applies to the participation of Welsh Ministers in formal, inter-governmental structures. This means, in practice, discussions and agreements of, or linked to, the Joint Ministerial Committee (in all its functioning formats); the Ministerial Forum on the future relationship between the UK and the

EU; the British Irish Council and other standing or ad hoc multilateral and bilateral inter-ministerial forums of similar standing that exist or as may be established. This Agreement does not cover other engagement between the governments, although the Annual Report (referred to in paragraph 18) will comment upon the range and scale of such activity.

11. This Agreement is intended to support the National Assembly's capacity to scrutinise Welsh Government activity and to hold Welsh Ministers to account in the intergovernmental arena only. The Agreement in no way places obligations on other administrations and legislatures involved with inter-governmental relations and the groups and agreements described here. In line with the principle of respect for the confidentiality of discussions between administrations, the Agreement recognises that the release of details of discussions directly involving intergovernmental partners is subject to their consent.

12. Subject to the above, the Welsh Government agrees to provide, to the National Assembly's CLA Committee and any other relevant committee of the National Assembly, as far as practicable, advance written notice at least one month prior to scheduled relevant meetings, or in the case of meetings with less than one month's notice, as soon as possible after meetings are scheduled. This will enable the Committee(s) to express a view on the topic and, if appropriate, to invite the Minister responsible to attend a committee meeting in advance of the intergovernmental meeting. Advance written notice will include agenda items and a broad outline of key issues to be discussed, with recognition that agenda items, from time to time, may be marked as "private" in recognition of the need for confidentiality.

13. Paragraph 12 of this Agreement does not apply in cases where the Welsh Government's attendance at relevant meetings is at short notice. In such circumstances, written notice including agenda items and outline key issues to be discussed must be provided as soon as possible and in advance of the meeting.

14. After each inter-governmental ministerial meeting within the scope of this Agreement, the Welsh Government will provide the CLA Committee and any other relevant committee of the National Assembly with a written summary of the issues discussed at the meeting as soon as practicable and, if possible, within two weeks. Such a summary will include any joint statement released after the meeting, information pertaining to who attended the meeting, when the meeting took place, and where appropriate, subject to the need to respect confidentiality, an indication of key issues and of the content of discussions and an outline of the positions advanced by the Welsh Government.

15. The Welsh Government also agrees to provide to the CLA Committee and any other relevant committee of the National Assembly the text of any multilateral or bilateral intergovernmental agreements, memorandums of understanding or other resolutions within the scope of this Agreement.

16. In line with the provisions of paragraph 11 above, in circumstances where the Welsh Government intends to establish new arrangements with the aim of reaching an intergovernmental agreement the Welsh Government will provide advance notice to the National Assembly for Wales of its intention to do so.

17. The Welsh Government also agrees to maintain a record of all relevant formal intergovernmental agreements, concordats, resolutions and memorandums that the Welsh Government has entered into and to make these accessible on the Welsh Government's website.

Annual Report

18. The Welsh Government will prepare an Annual Report on intergovernmental relations. This will be laid before the National Assembly and submitted to the CLA Committee. This report will summarise the key outputs from activity that is subject to the provisions of this agreement, including any reports issued by relevant inter-governmental forums. It will also comment upon the range of broader inter-governmental relations work undertaken during the year, including dispute resolution. That report will also, provide as much information as is practicable and appropriate of issues expected to emerge in the year that follows.

Appearances before committees

19. Welsh Ministers will attend, as appropriate, meetings of the relevant committee of the National Assembly when invited.

Monitoring

20. The lead committee for monitoring the implementation of this agreement is the CLA Committee.