

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	P Gareth Williams
Meeting date: 24 January 2022	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies and substitutions

13.30

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

13.30 – 13.35

(Pages 1 – 3)

Attached Documents:

LJC(6)–03–22 – Paper 1 – Statutory instruments with clear reports
Made Negative Resolution Instruments

2.1 SL(6)127 – The Education (Arrangements for Assessing in the Curriculum for Wales) Regulations 2022

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

13.35 – 13.40

Made Negative Resolution Instruments

3.1 SL(6)135 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) Regulations 2022

(Pages 4 – 7)



[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-03-22 – Paper 2 – Draft report

LJC(6)-03-22 – Paper 3 – Letter from the First Minister to the Llywydd, 14 January 2022

4 Common frameworks

13.45 – 13.50

4.1 Provisional Public Health Protection and Health Security common framework

(Pages 8 – 16)

Attached Documents:

LJC(6)-03-22 – Paper 4 – Letter from the Minister for Health and Social Services to the Health and Social Care Committee, 17 January 2022

LJC(6)-03-22 – Paper 5 – Letter from the Health and Social Care Committee to the Minister for Health and Social Services, 26 November 2021

4.2 Provisional blood safety and quality common framework and the provisional organs, tissues and cells (apart from embryos and gametes) common framework

(Pages 17 – 24)

Attached Documents:

LJC(6)-03-22 – Paper 6 – Letter from the Minister for Health and Social Services to the Health and Social Care Committee, 17 January 2022

LJC(6)-03-22 – Paper 7 – Letter from the Health and Social Care Committee to the Minister for Health and Social Services, 17 December 2021

5 Inter-Institutional Relations Agreement

13.50 – 13.55

**5.1 Written Statement by the Counsel General and Minister for the Constitution:
The Social Security (Scotland) Act 2018 (Disability Assistance and Information
Sharing) (Consequential Provision and Modifications) Order 2022**

(Pages 25 – 26)

Attached Documents:

LJC(6)-03-22 – Paper 22 – Written Statement by the Counsel General and
Minister for the Constitution, 20 January 2022

6 Papers to note

13.55 – 14.00

**6.1 Correspondence from the Counsel General and Minister for the Constitution:
Accessibility of Welsh law**

(Pages 27 – 30)

Attached Documents:

LJC(6)-03-22 – Paper 8 – Letter from the Counsel General and Minister for
the Constitution, 17 January 2022

LJC(6)-02-22 – Paper 9 – Letter to the Counsel General and Minister for the
Constitution, 3 December 2021

**6.2 Correspondence from the Minister for Education and Welsh Language:
Legislative Consent Memoranda on the Skills and Post-16 Education Bill**

(Pages 31 – 33)

Attached Documents:

LJC(6)-03-22 – Paper 10 – Correspondence from the Minister for Education
and Welsh Language, 18 January 2022

**6.3 Correspondence from the Minister for Social Justice: Supplementary
Legislative Consent Memoranda (Memorandum No. 3 and Memorandum No.
4) on the Police, Crime, Sentencing and Courts Bill**

(Pages 34 – 35)

Attached Documents:

LJC(6)-03-22 – Paper 11 – Letter from the Minister for Social Justice, 18 January 2022

6.4 Correspondence from the First Minister: Trade and Cooperation Agreement

(Pages 36 – 39)

Attached Documents:

LJC(6)-03-22 – Paper 12 – Letter from the First Minister, 18 January 2022

LJC(6)-03-22 – Paper 13 – Letter to the First Minister, 5 November 2021

7 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

14.00

8 Welsh Government Draft Budget 2022–23

14.00 – 14.10

(Pages 40 – 45)

Attached Documents:

LJC(6)-03-22 – Paper 14 – Draft letter

LJC(6)-03-22 – Paper 15 – Letter from the First Minister, 10 January 2022

LJC(6)-03-22 – Paper 16 – Letter to the First Minister, 10 December 2021

9 Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Professional Qualifications Bill

14.10 – 14.20

(Pages 46 – 49)

[Supplementary Legislative Consent Memorandum \(Memorandum No. 2\) – Professional Qualifications Bill](#)

Attached Documents:

LJC(6)-03-22 – Paper 17 – Draft report

LJC(6)-03-22 – Paper 18 – Letter from the Minister for Education and Welsh Language, 22 November 2021

LJC(6)-03-22 – Paper 19 – Letter to the Minister for Education and Welsh Language, 15 October 2021

10 Legislative Consent Memorandum: The Nationality and Borders Bill

14.20 – 14.30

(Pages 50 – 56)

[Legislative Consent Memorandum: The Nationality and Borders Bill](#)

Attached Documents:

LJC(6)-03-22 – Paper 20 – Legal advice note

11 Review of the committee timetable and committee remits

14.30 – 14.40

(Pages 57 – 65)

Attached Documents:

LJC(6)-03-22 – Paper 21 – Letter from the Llywydd, 7 January 2022

12 Forward Work Programme

14.40 – 14.50

Statutory Instruments with Clear Reports 24 January 2022

SL(6)127 – The Education (Arrangements for Assessing in the Curriculum for Wales) Regulations 2022

Procedure: Made Negative

The Curriculum and Assessment (Wales) Act 2021 (“the Act”) establishes a new framework for a curriculum and makes provision about assessment for pupils and children in Wales. Section 56 of the Act requires the Welsh Ministers to make regulations about assessment arrangements.

These [Regulations](#) will apply to—

- (a) maintained schools,
- (b) maintained nursery schools,
- (c) funded non-maintained nursery education providers,
- (d) pupil referral units, and
- (e) a person who arranges or provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit (by virtue of arrangements made under section 19A of the Education Act 1996).

Regulation 1 provides for the commencement of these Regulations by year groups. This will mirror the planned roll-out of the Curriculum for Wales (“CfW”) which will be also be phased in over a period of time by year groups.

The CfW and these Regulations will become mandatory for the year groups in schools and other settings as follows—

- (a) on 1 September 2022 for—
 - (i) children receiving nursery education,
 - (ii) pupils in their reception year,
 - (iii) pupils in years 1 to 6,
- (b) on 1 September 2022 for pupils in year 7 in schools and other settings where there is a curriculum adopted or otherwise provided in accordance with the Act,
- (c) on 1 September 2023 for pupils in year 7 who are not within paragraph (b),



- (d) on 1 September 2023 for pupils in year 8,
- (e) on 1 September 2024 for pupils in year 9,
- (f) on 1 September 2025 for pupils in year 10,
- (g) on 1 September 2026 for pupils in year 11.

On-going assessments

Regulation 3 requires specified persons (for example, head teachers) to make arrangements for the ongoing assessment of every pupil throughout the school year by a practitioner (i.e. by a person who provides teaching and learning in respect of the relevant curriculum). The purpose of the assessment arrangements is to assess, in relation to the relevant curriculum—

- (a) the progress made by pupils and children,
- (b) the next steps in their progression, and
- (c) the teaching and learning needed to make that progress.

The assessment arrangements must be suitable for pupils and children of differing ages, abilities and aptitudes.

Regulation 5 requires the assessment arrangements to be reviewed, and revised in specified circumstances.

On-entry assessments

Regulation 6 requires specified persons (for example, head teachers) to make arrangements for the assessment of pupils and children. The purpose of the assessment arrangements is to assess, in relation to the relevant curriculum the abilities and aptitudes of pupils and children in order to determine—

- (a) the next steps in their progression, and
- (b) the teaching and learning needed to make that progress.

The assessment arrangements must—

- (a) be suitable for pupils and children of differing ages, abilities and aptitudes, and
- (b) include arrangements for assessing—
 - (i) the numeracy and literacy skills of pupils and children, and
 - (ii) the physical, social and emotional development of pupils and children.

Further, the assessment arrangements must take place within a specified time. For example, with regard to nursery education, they must take place within 6 weeks or the child or pupil



first being provided with nursery education. And for pupils in year 1 in a maintained school, they must take place within 6 weeks of the pupil beginning year 1.

Regulation 8 requires the assessment arrangements to be reviewed, and revised in specified circumstances.

Duty of the Welsh Ministers to publish assessment arrangements

Regulation 9 requires the Welsh Ministers to publish assessment arrangements which may be adopted by a provider of funded non-maintained nursery education. And Regulation 10 provides for the review and revision of the published assessment arrangements.

Parent Act: Curriculum and Assessment (Wales) Act 2021

Date Made: 07 January 2022

Date Laid: 11 January 2022

Coming into force: in accordance with regulation 1(2) to (6)



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee

Agenda Item 3.1

SL(6)135 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) Regulations 2022

Background and Purpose

Part 2A of the Public Health (Control of Disease) Act 1984 ("the 1984 Act") enables the Welsh Ministers, by regulations, to make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Wales.

[The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) \(Amendment\) Regulations 2022](#) ("the Regulations") are made in exercise of the powers conferred by sections 45C(1) and (3)(c) and 45P(2) of the 1984 Act in response to the threat to public health which is posed by the incidence and spread of COVID-19.

The Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (the "principal Regulations"), with effect from 15 January 2022, to:

- provide that, under the Alert Level 2 restrictions in Schedule 2 to the principal Regulations, up to 500 people may be present at an outdoor event (raising the limit from 50). This figure does not include persons working or providing voluntary services at the event. In addition where the event is a team sports event, the principal Regulations treat members of the teams and those providing coaching or otherwise assisting the teams as working at the event; and
- make a minor amendment to regulation 16 of the principal Regulations, adding a reference to "Step 4", which is consequential on the changes made to the principal Regulations by the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 25) Regulations 2021.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.



Merits Scrutiny

The following four points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Mark Drakeford MS, First Minister, in a letter to the Llywydd dated 14 January 2022.

The letter to the Llywydd states:

“In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force at the beginning of the day on 15 January 2022, less than 21 days after it has been laid. This is necessary in order to respond to the changing evidence on coronavirus, particularly the Omicron variant.”

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following in the Explanatory Memorandum:

“Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spread of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.

Each of these is a qualified right, which permits the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health, and are proportionate. Any interference with these rights also needs to be balanced with the state’s positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by



these Regulations is a proportionate response to the spread of coronavirus. It balances the need to maintain an appropriate response to the threat posed by coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to reduce the rate of transmission of the coronavirus, taking into account the scientific evidence."

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note that there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

"Given the ongoing threat arising from coronavirus and the need for a prompt public health response, there has been no public consultation in relation to these Regulations. However, engagement has taken place with various stakeholders including the Equalities Division of the Welsh Government."

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note there is no equality impact assessment for the Regulations and ask the Welsh Government to explain what arrangements it has made, in respect of the Regulations, to publish reports of equality impact assessments in accordance with regulation 8(1)(d) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

Welsh Government response

A Welsh Government response is required in relation to Merits point 4 only.

Legal Advisers
Legislation, Justice and Constitution Committee
18 January 2022





Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
CARDIFF
CF99 1SN

14 January 2022

Dear Elin,

The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) Regulations 2022

I have today made these Regulations under sections 45C(1) and (3)(c) and 45P(2) of the Public Health (Control of Disease) Act 1984, which come into force on 15 January 2022. I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum once the statutory instrument has been registered.

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force at the beginning of the day on 15 January 2022, less than 21 days after it has been laid. This is necessary in order to respond to the changing evidence on coronavirus, particularly the Omicron variant.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

MARK DRAKEFORD

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Mark.Drakeford@llyw.cymru
Correspondence.Mark.Drakeford@gov.wales

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.



Llywodraeth Cymru
Welsh Government

Russell George MS
Chair
Health and Social Care Committee
SeneddHealth@senedd.wales

cc Huw Irranca-Davies, Chair, Legislation,
Justice and Constitution Committee

17 January 2022

Dear Russell,

Thank you for your letter of 26 November regarding the provisional Common Framework for Public Health Protection and Health Security. I shall answer your questions in the order in which they were asked.

General

1. Why is a common framework needed for this policy area?

During a UK Government common frameworks exercise held in 2017, public health protection was identified as an area where there was considerable existing coordination between England, Scotland, Wales and Northern Ireland that was, in part, underpinned by the UK's relationship with the EU and its agencies, including the European Centre for Disease Prevention and Control (ECDC).

While the UK was an EU Member State, the four UK nations coordinated and shared information on public health protection with Public Health England, the UK's then national competent authority and focal point for communications with the European Union. This included sharing information on serious cross-border health threats, new and emerging threats, and surveillance, and response coordination. The EU's system also supported the UK's compliance with the International Health Regulations (2005) (IHR)¹.

The UK Government, the Devolved Governments and the UK's public health agencies all agree that a framework is necessary to ensure the continuation of cooperation on serious cross-border health threats, acknowledging the importance of such cooperation in providing a high level of UK-wide human health protection. It was also assessed as necessary to ensure that the UK can best meet its international obligations under the IHR.

¹ The International Health Regulations (2005) (IHR) provide an overarching legal framework that defines countries' rights and obligations in handling public health events and emergencies that have the potential to cross borders. The IHR are an instrument of international law that is legally-binding on 196 countries, including the 194 WHO Member States.

2. How will this common framework link up with frameworks in related policy areas, such as food and feed safety and hygiene and animal health and welfare?

The Public Health Protection and Health Security Framework will link to other related policy areas through an underpinning work programme developed by the Four Nations Health Protection Oversight Group and agreed by the UK Health Protection Committee (both of which have representation from Welsh Government and Public Health Wales).

3. The provisional framework sets out that the parties will develop a shared work programme. Will this shared work programme be published?

The shared work programme is being developed collaboratively by the Four Nations Health Protection Oversight Group and an initial draft work programme was received by the UK Health Protection Committee at its inaugural meeting in October 2021. The work programme is currently being finalised following comments from the Committee and collaborative discussions in relation to general issues of communication and publication are ongoing.

4. The framework sets out that part of its purpose is to manage potential divergence between different parts of the UK. Parties will seek to agree common approaches 'where agreeable'. How will the parties decide when divergence would be acceptable?

The framework requires each Government to consider how any changes in their part might impact on the other three parts of the UK, and where possible agree common approaches. The framework accepts a common approach may not always be suitable and therefore does not change the ability for a Government to consider and respond to individual factors and priorities. This is a welcome and necessary step to ensure open dialogue between the four nations.

5. How would this framework affect the handling of any future pandemic?

The Framework establishes common expectations around key areas of cooperation and defines ways of working to ensure that they are orientated towards strengthening our collective resilience to serious cross-border threats to health.

Specifically, the Framework seeks to:

- a) improve the effectiveness of UK arrangements for, and co-ordination of, public health protection and health security policies, including emergency preparedness and response planning;
- b) reduce the incidence and impact of serious cross-border health threats within the UK; and
- c) as far as possible to anticipate, identify, prepare for and respond to serious cross-border threats to public health within the UK.

UK and EU

6. Public Health Wales has previously raised concerns about the risks of leaving EU institutions for public health protection and health security. How are the Welsh Government and Public Health Wales mitigating these risks?

The Framework is intended to align with, and complement the Health Security (EU Exit) Regulations 2021, which in turn are intended to support the implementation of the UK's arrangements with the EU for cooperation on health security under the TCA. Title 1 of Part 4 (Thematic Co-operation) of the TCA supports effective arrangements and information sharing between the UK and the EU in the event of a serious cross-border threat to health which spreads or entails a risk of spreading across the borders of at least one EU Member State and the UK.

In summary, the TCA provides for the UK, the EU institutions and EU Member States to:

- exchange information;
- assess public health risks; and
- co-ordinate measures that may be required to protect public health.

While the UKSHA is the designated UK Focal Point under the terms of the TCA, both Welsh Government and Public Health Wales are represented on the Four Nations Health Protection Oversight Group and the UK Health Protection Committee. The chair of the UK Health Protection Committee in the first year is with UK Government's Department of Health and Social Care. The chair of both the Committee and 4 Nations Health Protection Oversight Group will rotate on an annual basis ensuring all four governments are fully sighted and involved in the work.

7. Under the Health Security (EU Exit) Regulations 2021, Public Health Wales and the Welsh Government have taken on some responsibilities formerly exercised at EU level, such as representing Wales at the new UK Health Protection Committee. Could you confirm what new responsibilities Public Health Wales and the Welsh Government will be undertaking and what resources have been allocated for this? How do the new arrangements differ from your previous arrangements when the UK was an EU Member State?

Both Welsh Government and Public Health Wales are represented on the Four Nations Health Protection Oversight Group and the UK Health Protection Committee. Support to these functions has been identified from within existing budgets. Previously Public Health Wales provided the chair/lead for the Four Nations Health Protection EU Transition Working Group (which focussed on the EU transition process) and has maintained the chair role for the first year of the Four Nations Health Protection Oversight Group. The chair of the UK Health Protection Committee in the first year is with UK Government's Department of Health and Social Care. The chair of both the Committee and 4 Nations Health Protection Oversight Group will rotate on an annual basis.

The underpinning UK work programme will require resources to ensure that Wales can make a full and ongoing contribution and an assessment of the resources required is currently underway.

8. The UK Health Security Agency (UKHSA) will carry out some coordinating functions previously exercised at EU level. Is the Welsh Government content that the UKHSA has sufficient resources to carry out these functions?

The UKHSA has inherited responsibilities and resources previously designated to Public Health England, the previous national focal point for the UK. These responsibilities and resources covered ongoing responsibilities under International Health Regulations. We have no reason to believe the UKHSA does not have sufficient resources to carry out the necessary functions on behalf of the UK.

International

9. Is the Welsh Government content that the framework takes into account its existing international commitments?

The Framework factors in the obligations under IHR and the TCA and does not impact on the Welsh Government's other existing international commitments.

10. Please provide the Welsh Government's assessment of how the framework accommodates divergence and alignment between the four nations' international health commitments and activity, for example the Welsh Government's MOU with the WHO on health equity or its public health protection support to African nations during the pandemic.

The framework provides a mechanism for the UK nations to cooperate on issues on health protection and health security, and to formulate common stances and approaches where collectively that is deemed appropriate. The work programme will be informed by an ongoing collective consideration of risks.

Parties to the framework can also strengthen coordination in other areas, including:

- a) Developing UK-wide approaches to public health protection issues and that require engagement with international partners, including World Health Organisation (WHO) Euro, European Centre for Disease Prevention and Control (ECDC) and EU Member States.
- b) The identification of further opportunities for engagement with international partners, acknowledging and where appropriate, building upon any existing commitments that the Parties may have.

However, this co-ordinating activity does not preclude the existence of bilateral international health commitments and collaborations.

11. Please confirm how existing international obligations were considered and incorporated into the framework and explain how future obligations will be incorporated.

The Framework factors in the obligations under IHR and the TCA. The Framework does not impact on the Welsh Government's other existing international commitments.

12. Please provide more information on the role of the Welsh Government or Welsh bodies in delivering the framework's international aspects. For example, whether the framework provides opportunities for a devolved role in the development of UK foreign policy, as provided in other frameworks.

The UK is the signatory to the IHR and to the TCA. As international relations in this regard are reserved to UK Government, the Department of Health and Social Care retains overall policy responsibility for the formulation of UK policy. However, as health protection is a devolved responsibility, implementation of international obligations in this area on a UK wide basis require a coordinated approach by the four nations and this is reflected in the Health Security (EU Exit) Regulations 2021, the Memorandum of Understanding and the development of any relevant areas of the work programme.

13. Please confirm whether the framework provides opportunities for Welsh representation at international forums, either by the Welsh Government or Welsh bodies.

The UK Government's Secretary of State for Health has the responsibility for engaging internationally regarding international co-operation for serious public health incidents (meeting the TCA and IHR requirements). Devolved Government Health Ministers and their respective public health agencies will have responsibility to co-ordinate and share information with each other for the purposes of this function.

Disputes

14. Is the Welsh Government content that the dispute resolution mechanism for the framework is fit for purpose?

Yes, I believe the mechanisms are robust and proportionate. These have been jointly developed and agreed by the four UK nations.

15. Who will be the final arbiter in the event of a dispute, and will there be a right of appeal in the event that one of the parties is dissatisfied with the resolution of a dispute?

These matters are designed to be agreed through discussion and appropriate levels of escalation, as set out in the framework documents. Our experience of dealing with other governments in the UK in relation to legislative matters in these policy areas is that there is generally a high level of willingness to look for mutually acceptable solutions. It should also be noted that the Interministerial Standing Committee, established under the Intergovernmental Relations Review, will monitor the frameworks programme including any obstacles to progress.

16. Will the Welsh Government notify the Senedd of disputes raised through the framework?

Yes, I am content to commit to writing to the appropriate committee(s) in the event that there are any disputes raised.

Transparency and accountability

17. Did the Welsh Government and Public Health Wales engage with any stakeholders in Wales in developing the provisional framework? How does the provisional framework reflect the response of stakeholders?

Extensive consultation of, and engagement with, the Devolved Governments and the UK public health agencies has taken place in the development the Framework (and the Health Security (EU Exit) Regulations 2021). The Four Nations Health Protection EU Transition Group, which consisted of representatives from UK Government, Devolved Governments and the UK public health agencies, was used as the main forum to discuss policy development. This included through three one-day workshops held in London, Cardiff and Belfast, as well as fortnightly meetings to progress work on both the Framework throughout 2020 and 2021.

The development of the Framework was discussed at the Chief Medical Officer's Health Protection Advisory Group. This multi-agency group includes representatives from key public sector stakeholders such as Health Boards and Local Government.

The comments submitted from both Welsh Government and Public Health Wales were largely supportive of the content of the draft Framework and our suggested changes and additions were either accepted or the decision to decline was fully explained.

18. How will the Senedd and stakeholders be updated on the continuing operation of the framework?

Officials will monitor the operation of the specific frameworks relevant to their policy areas and seek input from stakeholders as appropriate. In a more general sense, the Interministerial Standing Committee will monitor the progress of the frameworks programme in order to fulfil the role given to it by the Intergovernmental Relations Review, as outlined in the UK Government's progress update of March 2021, to '*Provide oversight of the common frameworks programme and its governance arrangements*'. The expectation is that reports on frameworks will be public documents once they are signed off by portfolio Ministers and will be made available to the relevant committees in the four nations as well as relevant stakeholders.

19. How will the Senedd and stakeholders be able to contribute to the review and amendment process for the framework?

The operation of the Framework will be reviewed at six months, one year, and three years from the date it comes into operation. Thereafter, a periodic review will take place every three years. Third parties can be used by any Party to the Framework to provide advice at any stage in the process and so we will seek views from relevant stakeholders during the review or amendment process as appropriate.

If changes are made to the Framework then these will be notified to Senedd committees in order for them to carry out the level of scrutiny they deem appropriate and necessary.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Eluned Morgan MS
Minister for Health and Social Services
Welsh Government

Dr Tracey Cooper
Chief Executive, Public Health Wales

26 November 2021

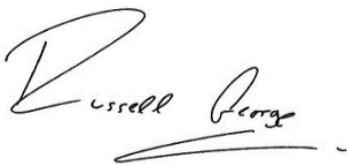
Dear Eluned and Tracey

Provisional common framework: Public Health Protection and Health Security

At our meeting on 18 November 2021 we considered our approach to scrutinising the provisional Public Health Protection and Health Security Common Framework.

To inform our consideration of the Framework, we would welcome the views of the Welsh Government and Public Health Wales on the matters set out in the annex to this letter **by Thursday 13 January 2022**.

Yours sincerely



Russell George MS
Chair, Health and Social Care Committee

cc Huw Irranca-Davies, Chair, Legislation, Justice and Constitution Committee

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

Annex: Provisional common framework: Public Health Protection and Health Security

To assist our deliberations on the provisional common framework, we would welcome further information on the matters listed below. We would be grateful to receive your response **by Thursday 13 January**.

General

1. Why is a common framework needed for this policy area?
2. How will this common framework link up with frameworks in related policy areas, such as food and feed safety and hygiene and animal health and welfare?
3. The provisional framework sets out that the parties will develop a shared work programme. Will this shared work programme be published?
4. The framework sets out that part of its purpose is to manage potential divergence between different parts of the UK. Parties will seek to agree common approaches 'where agreeable'. How will the parties decide when divergence would be acceptable?
5. How would this framework affect the handling of any future pandemic?

UK and EU

6. Public Health Wales has previously raised concerns about the risks of leaving EU institutions for public health protection and health security. How are the Welsh Government and Public Health Wales mitigating these risks?
7. Under the Health Security (EU Exit) Regulations 2021, Public Health Wales and the Welsh Government have taken on some responsibilities formerly exercised at EU level, such as representing Wales at the new UK Health Protection Committee. Could you confirm what new responsibilities Public Health Wales and the Welsh Government will be undertaking and what resources have been allocated for this? How do the new arrangements differ from your previous arrangements when the UK was an EU Member State?
8. The UK Health Security Agency (UKHSA) will carry out some coordinating functions previously exercised at EU level. Is the Welsh Government content that the UKHSA has sufficient resources to carry out these functions?

International

9. Is the Welsh Government content that the framework takes into account its existing international commitments?

10. Please provide the Welsh Government's assessment of how the framework accommodates divergence and alignment between the four nations' international health commitments and activity, for example the Welsh Government's MOU with the WHO on health equity or its public health protection support to African nations during the pandemic.
11. Please confirm how existing international obligations were considered and incorporated into the framework and explain how future obligations will be incorporated.
12. Please provide more information on the role of the Welsh Government or Welsh bodies in delivering the framework's international aspects. For example, whether the framework provides opportunities for a devolved role in the development of UK foreign policy, as provided in other frameworks.
13. Please confirm whether the framework provides opportunities for Welsh representation at international forums, either by the Welsh Government or Welsh bodies.

Disputes

14. Is the Welsh Government content that the dispute resolution mechanism for the framework is fit for purpose?
15. Who will be the final arbiter in the event of a dispute, and will there be a right of appeal in the event that one of the parties is dissatisfied with the resolution of a dispute?
16. Will the Welsh Government notify the Senedd of disputes raised through the framework?

Transparency and accountability

17. Did the Welsh Government and Public Health Wales engage with any stakeholders in Wales in developing the provisional framework? How does the provisional framework reflect the response of stakeholders?
18. How will the Senedd and stakeholders be updated on the continuing operation of the framework?
19. How will the Senedd and stakeholders be able to contribute to the review and amendment process for the framework?

Eich cyf/Your ref
Ein cyf/Our ref: MA/EM/3486/21

Llywodraeth Cymru
Welsh Government

Russell George MS
Chair
Health and Social Care Committee

cc Huw Irranca-Davies, Chair, Legislation,
Justice and Constitution Committee

17 January 2022

Dear Russell,

Thank you for your letter of 17 December regarding the provisional Common Frameworks for Blood Safety and Quality, and Organs, Tissues and Cells (apart from embryos and gametes). I shall answer your questions in the order in which they were asked.

General

Question 1: Why are common frameworks needed for these policy areas?

These frameworks are necessary to ensure alignment on any future legislative changes in order to preserve a robust UK-wide regime on safety standards. Ministers in each part of the UK have powers to legislate in relation to quality and standards of blood, organs, tissue and cells. However all four UK nations agree the need to maintain the UK-wide offering and allocation schemes for organs and the mutual aid arrangements which are in place across the blood services. These arrangements allow for blood, organs and tissues donated in one part of the UK to be utilised in other parts of the UK and, in the case of blood, for the different blood services to support one another in times of shortage.

Question 2: The Welsh Government has taken on new functions in these policy areas following the UK's exit from the EU. How has the Welsh Government ensured that it has the resources and expertise to exercise these functions effectively?

Blood, organ, tissue and cell safety and quality areas fall within the devolved competence of the Senedd. The UK Government has already made, with the Welsh Ministers' consent (in 2019 and amended in 2020), the following three Statutory Instruments which maintain the current quality and safety standards for blood, blood components, organs, tissues and cells, and make necessary amendments to legislation to reflect the EU becoming a 'third country':

- The Blood Safety and Quality (Amendment) (EU Exit) Regulations 2019;
- The Quality and Safety of Organs Intended for Transplantation (Amendment) (EU Exit) Regulations 2019; and
- The Human Tissue (Quality and Safety for Human Application) (Amendment) (EU Exit) Regulations 2019.

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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.

Responsibility for these areas falls across two policy teams in the Welsh Government's Health and Social Services Group. Both teams have expertise in the areas concerned and these officials would respond to any proposals to exercise these functions both from within Wales or elsewhere in the UK.

Question 3: What role does the Welsh Government have in oversight of the work of the Independent Advisory Committee on the Safety of Blood, Tissues and Organs and the Joint UK Blood Transfusion and Tissue Transplantation Services Professional Advisory Committee?

The UK Government's Department of Health and Social Care's leads an Advisory Committee on the Safety of Blood Tissues and Organs (SaBTO), which provides policy advice to Ministers in all four countries of the UK on the most appropriate ways to ensure the safety of blood, cells, tissues and organs for transfusion and transplantation. The Joint UK Blood Transfusion and Tissue Transplantation Services Professional Advisory Committee (JPAC) provides detailed services guidelines for the UK's blood transfusion services. Officials from the Devolved Governments and/or blood services can attend these meetings as observers and will take account of any recommendations the committees make in the context of services in Wales.

Managing divergence

Question 4: The frameworks state that they will allow for 'necessary divergence' within the UK. Could you set out what 'necessary' means in this context?

'Necessary divergence' in this context could be a change which is needed in order to address any specific operational requirements in a particular country; for example, there may be a need to provide additional information or testing for donors beyond that which is set out in the current regulations or schedules in order to respond to a local matter. At this stage there are no specific areas of divergence in contemplation, however it is important to retain the ability to diverge from other parts of the UK if deemed appropriate in the future, even if the circumstances of that divergence are as yet unforeseen.

Question 5: Do you consider that the frameworks give the Welsh Government and the Senedd appropriate scope to make law and policy for Wales?

Yes. I am content that for the two frameworks in question, the powers of Welsh Ministers and the Senedd are not impacted by these frameworks.

Question 6: Will the frameworks have any impact on any existing or planned Welsh legislation or policy?

Not as currently envisaged for these specific policy areas. There are no current plans to make any changes to Welsh legislation or policy in relation to the areas covered by the frameworks.

Question 7: How would the frameworks affect the Welsh Government's ability to respond to urgent situations, such as emerging new diseases?

As set out above for Question 4, these specific frameworks allow for necessary divergence to take place to enable each UK country to respond to individual factors. Therefore the frameworks in themselves do not affect this ability. However, they do require all UK countries to consider how any changes might impact on other parts of the UK, which is a welcome and necessary step.

Question 8: The European Commission intends to adopt changes to legislation on blood, tissues and cells in early 2022. Does the framework allow sufficient scope for the Welsh Government to make equivalent changes for Wales, and do you plan to do this?

We are aware of the plans to revise the EU Directives on the safety of blood, tissues and cells and we will consider, with the other governments in the UK, the implications of any changes. We would not propose to make any unilateral changes in Wales, preferring to take a joint approach with the rest of the UK in response to any changes in the EU, providing that the detail of any such joint approach is appropriate for Wales.

Question 9: As part of its review of retained EU law, the UK Government is asking UK Government departments to consider whether such law should be amended or repealed by ‘an accelerated process’. Would such changes be considered through the framework processes, and (if so) how?

The frameworks exist in relation to the application of retained EU law. I would envisage a separate process to be undertaken in the event that these laws should be proposed for amendment or repeal. We will work with UK Government as its review of retained EU law is taken forward, as well as the other Devolved Governments, to understand any potential implications for Wales.

Question 10: Can the Welsh Government confirm that neither framework will interact with the UK Internal Market Act?

It has been recognised during the development of these frameworks that there is an intersect between these frameworks and the UK Internal Market Act (UKIMA). In the event that there is policy divergence and a proposal by one government to regulate in this policy area in a way in which could engage the application of the UKIMA market access principles, the “[Process for considering UK Internal Market Act exclusions in Common Framework areas](#)” will apply¹.

International obligations

Question 11: What international obligations are there in these policy areas?

In relation to these specific policy areas, NHS organisations and the regulatory authority must follow the existing quality and safety standards as set out in the Blood Safety and Quality Regulations 2005, the Quality and Safety of Organs Intended for Transplantation Regulations 2012 and the Human Tissue (Quality and Safety for Human Application) Regulations 2007 which set out various requirements, for example for the traceability, import and export of these materials internationally.

Question 12: How does the framework take international obligations into account?

These frameworks do not specifically cover international obligations – and so do not alter current obligations with which organisations are already familiar.

Question 13: How will the framework be amended in future to reflect a new international obligations?

As for Question 12.

Governance and dispute resolution

Question 14: Do you consider the dispute resolution mechanisms for the frameworks to be robust enough for their intended purpose?

Yes, I believe the mechanisms are robust and proportionate. These have been jointly developed and agreed by the four UK nations.

¹ [Process for considering UK Internal Market Act exclusions in Common Framework areas](#)

Question 15: Who will be the final arbiter in the event of a dispute, and will there be a right of appeal in the event that one of the parties is dissatisfied with the resolution of a dispute?

These matters are designed to be agreed through discussion and appropriate levels of escalation, as set out in the framework documents. Our experience of dealing with other governments in the UK in relation to legislative matters in these policy areas is that there is generally a high level of willingness to look for mutually acceptable solutions. It should also be noted that the Interministerial Standing Committee, established under the Intergovernmental Relations Review, will monitor the frameworks programme including any obstacles to progress.

Question 16: Will the Welsh Government notify the Senedd of disputes raised through the framework?

Yes, I am content to commit to writing to the appropriate committee(s) in the event that there are any disputes raised.

The development of the frameworks

Question 17: How did the Welsh Government engage with stakeholders on the development of the frameworks? How does each framework reflect the responses of stakeholders in Wales?

The UK Government's Department of Health and Social Care led a stakeholder engagement exercise for the frameworks, and we ensured that this included appropriate stakeholders in Wales, including the Welsh Blood Service (WBS), the Welsh Transplantation Advisory Group (WTAG) and transplant teams. The comments received from Welsh stakeholders were largely supportive of the content of the draft frameworks. The WBS provided more substantive comments on the text of the document and changes were made to reflect those comments, for example around interdependencies with medical devices legislation.

Review and revision

Question 18: How will the Senedd and stakeholders be updated on the continuing operation of the frameworks?

Officials will monitor the operation of the specific frameworks relevant to their policy areas and seek input from stakeholders as appropriate, for example with WBS and WTAG. In a more general sense, the Interministerial Standing Committee will monitor the progress of the frameworks programme in order to fulfil the role given to it by the Intergovernmental Relations Review, as outlined in the UK Government's progress update of March 2021, to 'Provide oversight of the common frameworks programme and its governance arrangements'. The expectation is that reports on frameworks will be public documents once they are signed off by portfolio Ministers and will be made available to the relevant committees in the four nations as well as relevant stakeholders.

Question 19: How will the Senedd and stakeholders be able to contribute to the review and amendment process for the frameworks?

The framework documents set out that a review will take place after one year. Third parties can be used by any Party to the Framework to provide advice at any stage in the process and so we will seek views from relevant stakeholders during the review process as appropriate.

Question 20: If changes are made in future, how will the Senedd be notified? What scrutiny procedure will apply to the changes?

If changes are made to the frameworks then these will be notified to Senedd committees in order for them to carry out the level of scrutiny they deem appropriate and necessary.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Eluned Morgan MS
Minister for Health and Social Services
Welsh Government

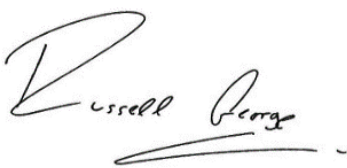
17 December 2021

Dear Eluned

Provisional common frameworks: Blood Safety and Quality, and Organs Tissues and Cells (apart from embryos and gametes)

To inform our consideration of the Blood Safety and Quality, and Organs Tissues and Cells (apart from embryos and gametes) common frameworks, we would welcome the views of the Welsh Government on the matters set out in the annex to this letter **by Thursday 13 January 2022**.

Yours sincerely



Russell George MS
Chair, Health and Social Care Committee

cc Huw Irranca-Davies, Chair, Legislation, Justice and Constitution Committee

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

Annex: Common frameworks: request for further information

To assist our deliberations on the Blood Safety and Quality, and Organs Tissues and Cells (apart from embryos and gametes) common frameworks, we would welcome further information on the matters listed below. We would be grateful to receive your response **by Thursday 13 January**.

General

1. Why are common frameworks needed for these policy areas?
2. The Welsh Government has taken on new functions in these policy areas following the UK's exit from the EU. How has the Welsh Government ensured that it has the resources and expertise to exercise these functions effectively?
3. What role does the Welsh Government have in oversight of the work of the Independent Advisory Committee on the Safety of Blood, Tissues and Organs and the Joint UK Blood Transfusion and Tissue Transplantation Services Professional Advisory Committee?

Managing divergence

4. The frameworks state that they will allow for 'necessary divergence' within the UK. Could you set out what 'necessary' means in this context?
5. Do you consider that the frameworks give the Welsh Government and the Senedd appropriate scope to make law and policy for Wales?
6. Will the frameworks have any impact on any existing or planned Welsh legislation or policy?
7. How would the frameworks affect the Welsh Government's ability to respond to urgent situations, such as emerging new diseases?
8. The European Commission intends to adopt changes to legislation on blood, tissues and cells in early 2022. Does the framework allow sufficient scope for the Welsh Government to make equivalent changes for Wales, and do you plan to do this?
9. As part of its review of retained EU law, the UK Government is asking UK Government departments to consider whether such law should be amended or repealed by 'an accelerated process'. Would such changes be considered through the framework processes, and (if so) how?
10. Can the Welsh Government confirm that neither framework will interact with the UK Internal Market Act?

International obligations

11. What international obligations are there in these policy areas?
12. How does the framework take international obligations into account?
13. How will the framework be amended in future to reflect a new international obligations?

Governance and dispute resolution

14. Do you consider the dispute resolution mechanisms for the frameworks to be robust enough for their intended purpose?
15. Who will be the final arbiter in the event of a dispute, and will there be a right of appeal in the event that one of the parties is dissatisfied with the resolution of a dispute?
16. Will the Welsh Government notify the Senedd of disputes raised through the framework?

The development of the frameworks

17. How did the Welsh Government engage with stakeholders on the development of the frameworks? How does each framework reflect the responses of stakeholders in Wales?

Review and revision

18. How will the Senedd and stakeholders be updated on the continuing operation of the frameworks?
19. How will the Senedd and stakeholders be able to contribute to the review and amendment process for the frameworks?
20. If changes are made in future, how will the Senedd be notified? What scrutiny procedure will apply to the changes?

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **Consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales**

DATE **20 January 2022**

BY **Mick Antoniw, Counsel General and Minister for the Constitution**

I am writing to inform the Senedd of a recent consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales. Agreement was sought to the making of The Social Security (Scotland) Act 2018 (Disability Assistance and Information Sharing) (Consequential Provision and Modifications) Order 2022. This is the second Order to be made under section 104 of the Scotland Act 1998 in consequence of section 31 of the Social Security (Scotland) Act 2018.

Section 104 of the Scotland Act 1998 enables the Secretary of State to make provision which is considered necessary or expedient in consequence of any provision made by or under an Act of the Scottish Parliament.

Article 11 of the proposed Order amends regulation 53 of the Representation of the People (England and Wales) Regulations 2001 to enable individuals to apply to vote by proxy in UK Parliamentary elections and local government elections in England and Wales without the need for proof (attestation) of their application if they are in receipt of the enhanced rate of the mobility component of a new disability benefit in Scotland called the Adult Disability Payment (ADP). The amendments to Regulation 53, insofar as they relate to proxy vote applications for local government elections in Wales are making provision in an area which is within the Senedd's legislative competence.

The effect of the Order is that an individual who has recently moved to Wales and is temporarily still in receipt of the enhanced rate of the mobility component of ADP payable in Scotland will still be entitled to apply to vote by proxy without proof (attestation) of their application in a Welsh local government election, subject to satisfying all relevant registration conditions.

The proposed amendment is consistent with the approach that The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 previously took towards individuals who are in receipt of the mobility component of disability assistance for children and young people at the higher rate in Scotland.

The amendment will provide continuity for individuals and allow them to participate in the democratic process on the same basis that they would have been entitled to, had their new claim for social security benefit payable in Wales been processed at the relevant time. As this would be for a narrow time period and would be likely to have a limited impact I therefore agreed to the Order being taken forward by the UK Government on the same basis as the 2021 Order.

The Order will be laid before the UK Parliament on 27 January 2022.



Huw Irranca-Davies
Chair, Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
Cardiff
CF99 1SN

17 January 2022

Dear Huw,

Thank you for your letter of 3 December 2021 and for the ongoing interest of the Committee in our work to improve the accessibility of Welsh law.

Demands on the Legislative Programme

When I attended the Committee meeting I agreed to write to the Committee to help Members understand the scale of legislative demands on the Government, and to explain the impact of these demands on the Government's legislative capacity.

Taken together, EU exit and the pandemic have placed unprecedented demands on the Government and has affected nearly all parts of the organisation. Our legislative programme is no exception to that. Many of those who would ordinarily have been working on developing Bills for inclusion on the legislative programme have been needed to work on high volume of legislation made to respond to those circumstances.

The pandemic continues to place great pressure on our legislative capacity. Since early February 2020 over 280 items of subordinate legislation have been made by the Welsh Ministers in response to the spread of coronavirus, with over 60 of these having been made since the Senedd elections on 5 May 2021. The Welsh Ministers have used powers available to them not just in the Coronavirus Act 2020 and the Public Health (Control of Disease) Act 1984 but also other Acts across a range of areas. Legislation has been made directly in respect of health and social care as you would expect, but also in respect of a range of other matters – for example relating to the economy, transport, housing, education and local government. This legislation has to be kept under review to ensure it is still proportionate and has had to be changed regularly depending on the level of risk posed to the health service and to the wider public. The speed with which the Regulations have had to be made is unprecedented, which in itself is resource intensive.

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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.

Our legislative resources had already faced considerable pressure as a result of EU exit and this continued during the pandemic. As I outlined in the statement on the legislative programme in July, this had involved the Welsh Ministers making over 70 Statutory Instruments and consent for over 200 UK Government Statutory Instruments in devolved areas, up to that point. Although we are not now dealing with the same volumes of subordinate legislation to respond to EU exit, some further instruments have been made since July, such as The Trade in Animals and Related Products (Wales) (Amendment) (EU Exit) (No. 3) Regulations 2021, The Food and Drink (Transitional Provisions) (Wales) (EU Exit) Regulations 2021, and The Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) (No. 2) Regulations 2021.

During 2021 the Welsh Ministers made 384 Welsh Statutory Instruments and there were a further 5 Welsh Orders in Council. In addition there were approximately 100 items of subordinate legislation made other than by Statutory Instrument. Of these nearly 500 instruments, 125 items related to coronavirus and (as I have mentioned above) were in addition to the 155 coronavirus related instruments made in 2020.

384 is the highest number of Welsh Statutory Instruments ever made in a year (and by way of comparison the average number per year for the preceding 10 years is 310).

The development of significant and substantive legislation usually takes many months or years of work by technically-skilled members of staff before legislation can be brought before the Senedd. The demands of EU exit and the pandemic required many of these officials to be redeployed away from some of the development work that would otherwise have taken place for primary and subordinate legislation. Unfortunately, the ongoing public health crisis and the amount of time ordinarily needed to go through the policy development process and consultation for primary legislation proposals (in particular), means these impacts will continue to be felt for some time.

This is compounded by the need to respond to the UK Government's legislative programme. As I explained in Committee, there is a need for the Welsh Government to consider each UK Government Bill carefully, and to balance the need to defend the current devolution settlement so far as possible and the principle that we should legislate ourselves here in Wales, with opportunities that may arise to improve the law for citizens of Wales. The demands of this process have also been significant, with the need to consider 14 new Bills so far since May 2021, in comparison with 9 in 2016/17, 6 in 2017/18, 7 in 2018/19, 4 in 2019/20 and 19 in 2020/21. This work has often been unpredictable and we have regularly had to respond to UK Bills or amendments with little advance notice. It is worth noting, however, the impact is considerably less than would be the case if we had made corresponding provision in our own legislation.

These are the circumstances which have constrained our capacity to take forward the legislative programme. As a result, to progress the programme we have had to do more to identify our priorities. Our approach to prioritisation has been to focus our resources on those matters where legislation is essential and is the most effective lever to tackle problematic issues. We have also looked to adopt alternatives to primary legislation where this may be a more efficient or appropriate way of delivering our intended outcomes. It was noted that only one Government Bill was before the Senedd at the time of the Committee hearing (a second has been introduced since on 13 December), but a number of other major Bills are planned for introduction in the spring and summer term. I set these out in my statement in July, and our Programme for Government outlines our legislative intentions for the Sixth Senedd as a whole.

Furthermore, as I explained in my July statement, the Government's programme of legislation also includes important items of subordinate legislation, much of which

contributes to the practical implementation of Acts of Senedd Cymru. As mentioned in Committee, ensuring the implementation of Renting Homes legislation is currently a particular focus for the Government, as are implementation programmes for Acts dealing with curriculum and assessment reform, additional learning needs reform and local government and elections. In total, since the election over 75 items of subordinate legislation have been made, excluding those made in response to the coronavirus and EU exit.

Classifying Welsh law

During the Committee session we also discussed the project to classify Welsh law. This work will serve two purposes. Over the longer term it will provide an indicative structure for the Codes of Welsh law, particularly at the highest level. We expect to see Codes in areas such as housing, education and taxation. Much more immediately though it will be the main mechanism for how we, in conjunction with the team at The National Archives, organise Welsh law on legislation.gov.uk.

We are currently refining the taxonomy that we consulted upon in 2019 (which was developed with future Codes of Welsh law in mind), so that it provides a suitable structure for organising existing Welsh law. In that work we are considering how many levels of sub-topics the classification model should be made up of – in other words, to what level of detail should we break down the subject of education for example? We will also be looking at the terminology used to understand what are the most useful and natural terms for users. We need to engage with people who we would expect to use the new service, as well as existing providers of information (such as those providing subscription services for legislation) to understand how they have developed their classification models. We have already begun this but wish to develop those discussions further. We have also begun initial discussions with The National Archives, who will need to develop the technical infrastructure that sits behind legislation.gov.uk to support this new functionality, as well as ensuring the developments for Wales do not affect the wider operability of their system for other Governments and users.

As I explained to the Committee we expect this work to take place over the next three to six months. This does however depend on our ability to undertake user testing in a safe way in light of the ongoing risks posed by the pandemic, and the availability of others who also need to ensure safe working practices. I will keep the Committee informed of progress.

I will also write to the Committee shortly with more details of our engagement with practitioners on the proposals to modernise the form and structure of Welsh legislation.

Yours sincerely,



Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Mick Antoniw MS
Counsel General and Minister for the Constitution

3 December 2021

Dear Mick

Follow-up to the evidence session on 29 November 2021

Thank you for joining us on 29 November to give evidence on the Codes of Welsh law programme and your proposals for the accessibility of Welsh law.

We were grateful for your time and in particular, for your offer to provide additional information in relation to the Welsh Government's resources and capacity to manage its legislative programme.

In addition, you told us that work on the classification of Welsh law may likely advance within the next three to six months. We would welcome any further detail and clarity you can provide with regard to the timescales for this work.

I look forward to hearing from you at the earliest opportunity.

Yours sincerely



Huw Irranca-Davies
Chair

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





Ein cyf/Our ref JMEWL/4183/21

Huw Irranca Davies MS
Chair
Legislation, Justice and Constitution Committee
SeneddLJC@senedd.wales

18 January 2022

Dear Huw,

I am writing following the Legislative Consent Motion debate on the Skills and Post-16 Education Bill ("the Bill") held on 11 January.

I am grateful for the Legislation, Justice and Constitution Committee's scrutiny of the three Legislative Consent Memoranda I have laid on the Bill. I thank the Committee for their detailed observations and conclusions. I apologise for not providing a formal response to the Committee's first report published on 24 November on the initial Legislative Consent Memorandum and the supplementary Legislative Consent Memorandum (LCM) (Memorandum No.2) in advance of the debate on the Motion.

I should like to take this opportunity to respond to recommendations of both the November report and those of the Committee's subsequent report published on 10 January concerning the supplementary LCM (Memorandum No.3).

Clauses 1 and 4 (Local Skills Improvement Plans and Interpretation)

Recommendation 1 (24 November report): *The Minister should, in advance of the Senedd's debate on the relevant consent motion, confirm what amendments the Welsh Government would need to see made to clauses 1 and 4 of the Bill in order for it to recommend that the Senedd provides its consent to the Bill.*

The Welsh Government considered clauses 1 and 4 of the Bill as introduced to Parliament did not respect the devolution settlement as they sought to impose duties on Welsh further and higher education institutions. I wrote to the Secretary of State for Education on 9 July 2021 setting out my concerns. I also stated that I was not content to recommend that the consent of the Senedd be given for these clauses.

The UK Government tabled amendments to these clauses which were accepted at House of Lords Report stage on 12 October 2021. Unfortunately those amendments did not adequately address the issue of concern, namely the imposition of statutory duties on

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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.

Welsh institutions which I did not consider to be either necessary or proportionate. I wrote again to the Secretary of State for Education on 29 October 2021 requesting further amendments be brought forward to remove Welsh institutions from the local skills improvement plans duties.

Discussions continued at official level and the UK Government brought forward amendments for House of Commons Committee stage which were accepted and had the effect of removing Welsh institutions from clause 1 of the Bill. The supplementary LCM (Memorandum No. 3) I laid on 10 December 2021 updated the Senedd on the effect of these amendments and stated the consent of the Senedd was no longer required in respect of clauses 1 and 4.

Clause 25 (Provision of opportunities for education and skills development)

***Recommendation 2** (24 November report): The Minister should, in advance of the Senedd's debate on the relevant consent motion, confirm why the Senedd's consent should not be sought for new clause 25 in the Bill as submitted to the House Commons.*

Clause 25 of the Bill as submitted to the House of Commons was included in the Bill following the acceptance of a non-government amendment at House of Lords Report stage. This clause provided that any person of any age has the right to free education on an approved course up to Level 3 supplied by an approved provider of further or technical education, if they have not already studied at that level; and that funding must be provided to the approved provider for that purpose. It also imposed requirements on employers in relation to spending funds for people on apprenticeships who are under the age of 25.

I agree with the Committee's assessment that clause 25 of the Bill as submitted to the House of Commons extended to the England and Wales jurisdiction and nothing in its content restricted its application to England. Had this clause remained in the Bill the consent of the Senedd would have been required.

The UK Government brought forward amendments which were accepted at House of Commons Committee stage which removed this clause from the Bill. The supplementary LCM (Memorandum No.3) updated the Senedd about the inclusion of this clause in the Bill in the Lords, its effect and its subsequent removal.

Clause 31 (Institutions within the further education sector: designation)

***Recommendation 1.** (10 January report): The Minister should, in advance of the debate on the relevant consent motion, confirm why the Senedd's consent should not be sought for clause 31 of the Bill as amended in the House Commons.*

I note both the Legislation, Justice and Constitution Committee and the Children, Young People and Education Committee consider that the consent of the Senedd should be sought for this clause. I have reached a different view. I also believe that the clause in question is currently clause 32.

Clause 32 of the Bill as amended at House of Commons Committee stage (clause 25 at introduction) makes provision about the designation of institutions in the further education sector. It amends sections 28 and 89 of the Further and Higher Education Act 1992 to change the mechanism by which the Secretary of State can designate educational institutions in England as falling within the statutory further education sector. The substantive amendments to the 1992 Act concern procedural changes to the designation of institutions in England only. Subsection (2) of the clause applies in relation to Wales.

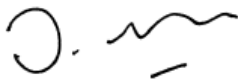
However this clause makes no changes to the law - it is simply clarifying and restating the law in respect of Wales.

In my view the restatement of the law as it applies to Wales is merely in consequence of the substantive provision which is made in respect of England. Although restating the law for Wales in respect of this matter would be for a purpose within the legislative competence of the Senedd, this restatement is consequential on changes to the law in section 28 of the Further and Higher Education Act 1992 for England. This situation is excepted in SO 29.1(i) which defines a relevant Bill as a Bill under consideration in the UK Parliament which makes provision in relation to Wales "for any purpose within the legislative competence of the Senedd (apart from incidental, consequential, transitional, transitory, supplementary or savings provisions relating to matters that are not within the legislative competence of the Senedd)". Consequently, as I set out in the Legislative Consent debate held on 11 January it is my belief the consent of the Senedd is not required in respect of clause 32.

I trust the responses I have provided above will prove useful and I thank you once again for your work.

I am copying this letter to Jayne Bryant MS, Chair of the Children, Young People and Education Committee.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a wavy line and a short horizontal stroke.

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh

Agenda Item 6.3

Huw Hutt MS
Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee

SeneddLJC@senedd.wales

18 January 2022

Dear Huw,

I write in relation to the report published by the Legislation, Justice and Constitution Committee on 17 January regarding the Supplementary Legislative Consent Memoranda on the Police, Crime, Sentencing and Courts Bill laid on 20 December 2021 and 7 January 2022.

I note your two recommendations and my response is set out below.

Recommendation 1. The Minister should, in advance of the debate on the relevant consent motion, explain the difference between the figure stated in paragraph 3 of Memorandum No. 3 and the number of clauses subsequently listed in paragraphs 9 to 13.

Response:

An error occurred when drafting the Supplementary Legislative Consent Memorandum (Memorandum No.3) (SLCM No.3). Paragraph 3 of SLCM (No.3) should have referenced 18 clauses requiring the consent of the Senedd rather than the stated 15.

The 18 clauses referred to in paragraphs 9 to 13 of SLCM (No.3) are those that were amended by amendments laid on 1 December 2021 and should be subject to a LCM.

Recommendation 2. The Minister should, in advance of the debate on the relevant consent motion, explain why the position regarding financial implications has changed.

Response:

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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.

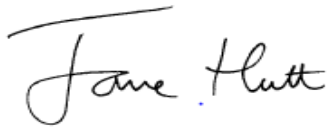
We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The information regarding financial implication should have been included in all of the Memoranda laid in relation to the Bill. The omission of this information was a drafting error which was only identified prior the publication of SLCM (No.3).

I would like to apologise for the error and can confirm, as stated in both SLCM (No.3) and SLCM (No.4) there may be financial implications related to the Bill but this will not be clear until the measures in the Bill are implemented.

This letter is being copied to the Chair of the Equality and Social Justice Committee, Jenny Rathbone MS, and all Members of the Senedd.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a horizontal line above the first few letters.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
SeneddLJC@senedd.wales

18 January 2022

Dear Chair,

I am writing in response to your letter of 5 November, in relation to the Trade and Cooperation Agreement. I have set out responses to each of your questions below.

Has the Welsh Government had any response to its request to be provided with a more enhanced role than that of observer status in the Partnership Council established under the TCA?

The Committee will be aware of the Minister for Economy's letter to Lord Frost in June 2021, which was clear that Welsh Ministers should be able to contribute on issues that fall within devolved competence as active participants at meetings of the Partnership Council, and this remains our position. There has been no response at this point from UKG but we intend to raise this with the Foreign Secretary given her new responsibilities for the UK-EU relationship.

What is the role of Welsh Government officials in the Working Groups and Committees established under the TCA and, in particular:

- *could you confirm if Welsh Government officials are being routinely invited to participate in all Working Group and Committee meetings or only specific meetings?*
- *could you set out how the Welsh Government intends to keep the Senedd informed of its involvement in these meetings, the issues discussed within them and any agreements reached?*

We are not routinely invited to participate in all Committees, but in respect of those Committees and Working Groups in which we have a devolved interest, engagement at official level between Welsh Government officials and UK Government has been generally good. Officials have been engaged in the preparations for a number of the Specialised Committees and Trade Specialised Committees, and have then attended these Committees as observers. This includes the Specialised Committees on Energy; on Fisheries; on Sanitary and Phytosanitary (SPS) Measures; on Law Enforcement and Judicial Cooperation; and on Union Programmes; and the Trade Specialised Committees on Goods;

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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.

on Trade in Services, Investment and Digital; on Level Playing Field for Open and Fair Competition and Sustainable Development; and on Technical Barriers to Trade.

Due to Devolved Governments being in scope of the Good Regulatory Practice Chapter of the TCA, Welsh Government officials have a more active role as part of the UK delegation for the Specialised Committee on Regulatory Cooperation. This includes involvement in the preparation of materials for the Committee and agreeing sign off of agendas, minutes and associated materials.

Official, working level pre-meetings have been established for the discussion of potential agenda items, and UK positions on matters which will be discussed between the UK and the EU at the Committees themselves. These pre-meetings are internal to government. The UK Government has committed to consult the Devolved Governments on UK positions, but if the UK position cannot be agreed, UK Government reserves the right to decide what approach UK will take. Minutes of the Committee meetings are published on the European Commission's website, at [Meetings of the EU-UK Partnership Council and Specialised Committees under the Trade and Cooperation Agreement | European Commission \(europa.eu\)](#) (they are also published on gov.uk, but not in one place). We will continue to publish Written Ministerial Statements following meetings of the Partnership Council, and in line with the inter-institutional relations agreement we will also update the Senedd on meetings of the new Inter-Ministerial Group on the UK / EU relationship, which we expect to be established following the recent announcement on the outcome of the Intergovernmental Relations Review.

Has the Welsh Government made any representations to the UK Government on the role of Welsh representatives in the Civil Society Forum and Domestic Advisory Group established under the TCA?

Officials from the UK Government and the Devolved Governments have regular meetings at which matters relating to the governance of the TCA are discussed. UK Government officials have engaged positively, and devolved officials have on a number of occasions stressed the importance of ensuring that the membership of these groups is representative of all parts of the UK as well as of business and civil society.

Has the Welsh Government taken any actions to draw the attention of Welsh organisations, businesses and representatives to the Expression of Interest in membership of the Civil Society Forum and the Domestic Advisory Group?

When the Expression of Interest was issued, Welsh Government groups whose responsibilities relate to implementation of the TCA were asked to disseminate the Expression of Interest to their stakeholders.

I hope the Committee finds this information useful.

Yours sincerely,



MARK DRAKEFORD

Rt Hon Mark Drakeford MS

First Minister of Wales

5 November 2021

Dear Mark

UK-EU Agreements: The Trade and Cooperation Agreement

At our meeting on Monday of this week, we considered the latest developments in relation to UK-EU Agreements. There were a number of matters on which we agreed to seek further information as a result of our discussions, in particular in relation to the Trade and Cooperation Agreement (TCA). We would therefore be grateful if you could provide further detail with regard to the following points:

1. Has the Welsh Government had any response to its request to be provided with a more enhanced role than that of observer status in the Partnership Council established under the TCA?
2. What is the role of Welsh Government officials in the Working Groups and Committees established under the TCA and, in particular:
 - could you confirm if Welsh Government officials are being routinely invited to participate in all Working Group and Committee meetings or only specific meetings?
 - could you set out how the Welsh Government intends to keep the Senedd informed of its involvement in these meetings, the issues discussed within them and any agreements reached?
3. Has the Welsh Government made any representations to the UK Government on the role of Welsh representatives in the Civil Society Forum and Domestic Advisory Group established under the TCA?

4. Has the Welsh Government taken any actions to draw the attention of Welsh organisations, businesses and representatives to the Expression of Interest in membership of the Civil Society Forum and the Domestic Advisory Group ?

I would be grateful to receive a response from you at the earliest opportunity.

Yours sincerely

Huw Irranca-Davies

Huw Irranca-Davies
Chair



Huw Irranca-Davies MS,
Chair,
Legislation, Justice and Constitution Committee.

seneddLJC@senedd.wales

10 January 2022

Dear Chair,

I am writing in response to your letter of 10 December requesting information on the Welsh Government's draft budget proposals for 2022-23 and the allocation of resources to justice related activity.

The Annex to this letter indicates resources in the draft budget from which justice work will be delivered. The Counsel General and Minister for the Constitution is writing to you separately on matters that include legislative capacity and the accessibility of Welsh law.

To reiterate my comments to your predecessor Committee as set out in my letter of 26 November 2020, spending on justice related activity is not separately disaggregated in either our budget or annual accounts. This reflects the reality that the devolution settlement now in place does not fund the Welsh Government to have a justice function. It also reflects the cross-cutting nature of current justice related activity across Ministerial portfolios.

You have highlighted that the Counsel General and Minister for the Constitution does not hold the budget for a justice portfolio. However, as Chair of the Cabinet Sub-Committee on Justice the Counsel General plays a pivotal role in leading the Sub-Committee to deliver on its remit. Not only does the Sub-Committee provide strategic direction to, and accountability for, the alignment across Government of justice functions currently devolved to Wales, it also leads on our engagements with the UK Government to take forward discussions on the devolution of justice.

It was, of course, a recommendation of the Commission on Justice in Wales for the Welsh Government to strengthen leadership and accountability on justice matters. We established the Cabinet Sub-Committee on Justice to pick up that mantle. The Commission also concluded that justice should be determined and delivered in Wales. This Government has made clear its position to take forward the Commission's vision through our Programme for Government commitment to pursue the case for the devolution of policing and justice.

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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.

I hope that this response is of assistance to the Committee and to its scrutiny of the Government's draft budget proposals for 2022-23. Again, to reiterate comments I have made previously, as part of the on-going justice transformation programme we will explore if there are any ways in which we can improve the level of information we provide about justice expenditure.

Yours sincerely,

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

MARK DRAKEFORD

Welsh Government's draft budget proposals for 2022-23 – allocation of resources to justice related activity

MEG¹	SPA	BEL	Allocation £000s	Justice related activity resourced by BEL
Central Services & Administration	External Bodies & Services	Justice Commission in Wales	490	Co-ordinating the Justice Transformation programme across Government and the response to the recommendations of the Commission on Justice in Wales, supporting engagement with the UK Government on the devolution of justice, developing the legal sector including the establishment of the Law Council of Wales, taking forward work relating to the Welsh Tribunals including reform pursuant to the Law Commission review of devolved tribunals in Wales.
Central Services & Administration	External Bodies & Services	Tribunals	4,148	Administration and support of the Welsh Tribunals through the Welsh Tribunals Unit.
Economy	Business Wales / Entrepreneurship and Regional Economy	Business Wales	17,116	Bespoke business support to the legal sector in Wales during 2022/23 through the Business Wales service with interventions focusing on their challenges with recruitment, retention and resilience. ²
Economy	Employability Including Young Persons Guarantee	Employability Including Young Persons Guarantee	90,936	Delivery of recommendations from David Hanson's review of offender learning. ³
Health & Social Services	Supporting Children	Supporting Children	3,865	Funding for family justice policy and activity that enables reductions in the number of children coming into care, improved outcomes and experiences of children. ⁴ Recurrent funding of £850K is provided to local authorities to support Reflect Services through the Revenue Support Grant.
Health & Social Services	CAFCASS Cymru	CAFCASS Cymru	14,725	Funding for CAFCASS Cymru.

¹ "MEG": Main Expenditure Group, "SPA": Spending Programme Area, "BEL": Budget Expenditure Line.

² Justice related activity has been allocated funding within the draft budget for that BEL.

³ See footnote 2.

⁴ See footnote 2.

MEG	SPA	BEL	Allocation £000s	Justice related activity resourced by BEL
Health & Social Services	Support for Families and Children	Supporting Children	7,975	Framework to support positive change for those at risk of offending in Wales, 2018-2023 and removal of the defence of "reasonable chastisement". ⁵
Health & Social Services	Sustainable Social Services	Sustainable Social Services	99,715	Analysis and evaluation of the implementation of the Social Services and Wellbeing (Wales) Act 2015. ⁶
Social Justice	Advocacy Services	Advice Services	10,175	Under the Information and Advice Action Plan for Wales ensuring: strategically planned and integrated grant funding for social welfare advice services, through the Single Advice Fund; implementation of the Advice Quality Framework; and promotion of networking as a means of helping people attain a better understanding of accessing their individual rights.
Social Justice	Violence against Women, Domestic Abuse and Sexual Violence	Violence against Women, Domestic Abuse and Sexual Violence	7,875	Leading the strategic direction and implementation of the Violence Against Women, Domestic Abuse & Sexual Violence (Wales) Act 2015, which includes an objective to "hold perpetrators to account and provide them with opportunities to change their behaviour based around victim safety".
Social Justice	Female Offending and Youth Justice Blueprints	Female Offending and Youth Justice Blueprints	1,075	Pursuing the Blueprints on: Female Offending, including a residential centre and Approved Premises provision; and Youth Justice.
Social Justice	Community Support and Safety	Community Support and Safety	22,625	Funding for Police Community Support Officers. ⁷

⁵ See footnote 2.

⁶ See footnote 2.

⁷ See footnote 2.

Rt Hon Mark Drakeford MS

First Minister of Wales

10 December 2021

Dear Mark

Welsh Government's draft budget proposals for 2022-23

As part of our work to scrutinise the Welsh Government's justice policy and legislative activities, we would be grateful if you could provide us with the following information, to aid our scrutiny of the Welsh Government's draft budget proposals for 2022-23.

Justice

We note that the Welsh Government has re-established the Cabinet Sub-committee on Justice and is pursuing a programme of work on the recommendations of the Commission on Justice in Wales which are within our devolved competence. The Counsel General has indicated to us that a justice work programme will be published in the near future. You also shared a work programme with our predecessor Committee last year, setting out priorities across five workstreams.

Whilst the Counsel General chairs the Cabinet Sub-committee, we are aware that he is not a budget holder and that funding for the delivery of the Welsh Government's justice programme appears to be divided across several government departments. We are therefore seeking information on funding from you.

Could you please provide us with information on:

Any resources within the draft budget proposals for delivery of the planned justice work programme, in which departmental Main Expenditure Groups (MEG) they reside and the related Spending Programme Area (SPA) and Budget Expenditure Line (BEL) figures.

Any other resources within the draft budget proposals associated with the Welsh Government's justice priorities, including on access to justice; civil and administrative justice; criminal justice (including policing); family justice; and the legal sector. In relation to this information, please could you provide information on within which departmental MEG they reside and the related SPA and BEL figures.

Legislative capacity

In evidence to us, the Counsel General has drawn to our attention the current 'scale of the legislative demands' on the Welsh Government in relation to: its own-legislative work programme, including its programme for improving the accessibility of Welsh law; legislating for Brexit; legislating for Covid; and responding to the UK Government's legislative programme. The Counsel General also drew our attention to the high skilled nature of expertise needed to deliver on these demands. We would therefore welcome information on:

Any resources within the draft budget to increase capacity within the Welsh Government to meet these legislative demands, including recruiting new staff, increasing expertise and retaining existing staff, and potentially buying-in, seconding or otherwise acquiring additional expertise.

Any resources within the draft budget for delivery of the Welsh Government's programme for improving the accessibility of Welsh law.

We would welcome a response from you by 10 January 2022 to ensure we have time to consider the information, and raise any relevant issues, ahead of the planned Plenary debate on the draft budget.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a thick black stroke.

Huw Irranca-Davies

Chair

Agenda Item 8

Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

22 November 2021

Dear Huw

Thank you for your letter of 15 October regarding further matters the Committee would like to raise on the Legislative Consent Memorandum on the Professional Qualifications Bill.

I would also take this opportunity to thank you and the Committee for your consideration of these important matters. I have brought the Committee's report to the attention of Lord Grimstone as it is vital that the UK Government fully understands the concerns we have with the Bill.

In response to your specific questions:-

Recommendation 4 in our report asked you to explain why concurrent regulation-making powers are appropriate for this Bill given that the exercise of such powers may not give the Senedd the opportunity to scrutinise such regulations. While we acknowledge your statement that "Our starting point is that concurrent functions are not appropriate for this Bill", we would welcome your clarification as to why it is appropriate that the Senedd is bypassed when secondary legislation may be made in relation to the regulation of professional qualifications which are devolved.

It is not my intention to deny the Senedd the opportunity to scrutinise secondary legislation made in relation to devolved areas, and I acknowledge conclusion 1 in the Committee's report which sets out your concerns on the role of the Senedd in this matter. I would again reiterate my position that there should be no concurrent powers in this Bill. However, if the UK Government persist in including these powers, then I shall continue to seek an amendment that requires the Secretary of State or Lord Chancellor to obtain consent from Welsh Ministers before making regulations in devolved areas. If this is successful, then as per the Welsh Government's concurrent powers guidance, which has been shared with the Committee, I will write to the relevant Senedd committees to inform them of any intention to consent to the UK Government exercising the concurrent plus power in relation to Wales, and where time allows I will provide an opportunity for the Senedd to express a view before I give consent.

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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.

Recommendation 7 in our report asked that you seek an amendment to the effect that clause 14(5) is removed from the Bill. Again, while we accept that the Counsel General and Minister for the Constitution has exchanged correspondence with the UK Government Minister on this issue, we would welcome your clarification as to whether you will formally Jeremy Miles MS Minister for Education and Welsh Language seek the amendment to the Bill as set out in the recommendation. In requesting this clarification, we are mindful of your definitive response to recommendation 6 in which you have clearly stated that an amendment will be sought to the effect that the powers in the Bill cannot be used by UK Ministers to make regulations that amend the Government of Wales Act 2006

The UK Government has made it clear that it will extend the Welsh Ministers' executive competence in clause 14 as far as the Senedd's legislative competence, including the ability to make regulations which modify the functions of reserved authorities with UK Government consent, but no further. We accept this position, and also accept that clause 14(2) and clause 14(5) together have the effect of aligning legislative and executive competence in this way. Therefore I will not be seeking an amendment to remove clause 14(5).

However, I still have significant concerns with the Bill as currently drafted, and on 28 October I wrote to Lord Grimstone to ask that the UK Government table an amendment to ensure that the powers in the Bill cannot be used by UK Ministers to make regulations that amend the Government of Wales Act 2006. I also asked for an amendment which would provide for a specific carve out from the Minister of the Crown consent requirements in paragraph 11 of Schedule 7B to the Government of Wales Act.

Yours sincerely,



Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

Jeremy Miles MS

Minister for Education and Welsh Language

15 October 2021

Dear Jeremy

Committee report on the Welsh Government's Legislative Consent Memorandum on the Professional Qualifications Bill

Thank you for your letter dated 6 October 2021 in which you have responded to the recommendations in our report on the Welsh Government's Legislative Consent Memorandum on the Professional Qualifications Bill. I would also like to thank you for your constructive engagement during last week's Plenary debate on the Legislative Consent Motion for the Bill.

We considered your letter at our meeting on Monday of this week and while we very much welcome the positive developments, particularly as regards recommendations 6 and 9 in our report, there are two matters which we would like to pursue with you further.

1. Recommendation 4 in our report asked you to explain why concurrent regulation-making powers are appropriate for this Bill given that the exercise of such powers may not give the Senedd the opportunity to scrutinise such regulations. While we acknowledge your statement that "Our starting point is that concurrent functions are not appropriate for this Bill", we would welcome your clarification as to why it is appropriate that the Senedd is bypassed when secondary legislation may be made in relation to the regulation of professional qualifications which are devolved.
2. Recommendation 7 in our report asked that you seek an amendment to the effect that clause 14(5) is removed from the Bill. Again, while we accept that the Counsel General and Minister for the Constitution has exchanged correspondence with the UK Government Minister on this issue, we would welcome your clarification as to whether you will formally

seek the amendment to the Bill as set out in the recommendation. In requesting this clarification, we are mindful of your definitive response to recommendation 6 in which you have clearly stated that an amendment will be sought to the effect that the powers in the Bill cannot be used by UK Ministers to make regulations that amend the *Government of Wales Act 2006*.

Finally, we acknowledge that the timescales involved in the scrutiny of this Memorandum were far from ideal and that such time pressures meant challenges for all sides. However, I would like to respectfully stress the importance of full Ministerial responses to our reports, and indeed all Senedd Committee reports, being made available to Members ahead of relevant debates on consent motions in the future.

I look forward to receiving your response at your earliest convenience.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair

Agenda Item 10

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

7 January 2022

—
Welsh Parliament

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To: Chairs of Senedd committees, via email

Review of the committee timetable and committee remits

You will recall that, on 16 December 2021, the Chairs' Forum considered, and endorsed, the Business Committee's suggested approach to conducting a review of the committee timetable and committee remits.

Chairs expressed a range of different views at the 21 December meeting, with some Chairs finding the current timetable challenging, whilst others expressed concerns about changing the current approach. There were no concerns raised about committee remits, although it is proposed that remits will continue to fall within the scope of this review.

To build on this, I invite you to discuss the review with your committees and to provide a written response to the review. The focus of this aspect of the review is to gather the agreed view of each committee.

In doing so, I would be grateful if you would consider the terms of reference for the review, and a number of specific questions. Whilst addressing the questions will be helpful, they are not intended to be prescriptive.

The terms of reference, and questions, are enclosed with this letter.

I also enclose a copy of the paper considered by the Business Committee and the Chairs' Forum.

Whilst you might wish to refer to feedback you have received from external stakeholders in your response, the Business Committee does not expect committees to consult with stakeholders in the time available for this review.

The timescale for this review is tight, as the Business Committee is aiming to implement any changes arising from the review at the start of the summer term 2022.

Consequently, as agreed at the Chairs' Forum meeting on 16 December 2021, the review will need to be completed in early March in order to provide committees with sufficient time to plan for any changes made.

To enable this, please submit your written response by 12pm on Friday 4 February 2022. This is a week later than the original deadline proposed in the suggested approach.

Alongside this consultation with committees, Business Managers will be discussing the review with their Groups, and individual committee members will be surveyed too.

Draft proposals, based on the evidence gathered, will be discussed at the Chairs' Forum meeting on 17 February 2022. The Business Committee will then make decisions about the future timetable and committee remits in the light of that discussion.

If you require any further information, please contact the Clerk to the Chairs' Forum, Alun Davidson, who is supporting the Business Committee with this review.

Yours sincerely,

A handwritten signature in blue ink that reads "Elin Jones". The signature is written in a cursive style.

Elin Jones MS

Llywydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Business Committee: Review of the committee timetable and committee remits

Terms of reference and consultation questions

Terms of reference

To review the current approach to the committee timetable, and committee remits, with a view to identifying any changes to the approach that could improve committee effectiveness, whilst maintaining an appropriate balance between the time committee members spend on committee work (in and outside committee meetings) and their wider responsibilities.

Consultation questions

Timetable – status quo

To what extent does the current approach to the committee timetable provide:

sufficient time for committees to undertake their work effectively?

sufficient flexibility to meet peaks in committee workloads and/or future business requirements for additional committee capacity?

an appropriate balance between the time Members spend on committee work (in and outside committee meetings) and their wider responsibilities?

Timetable – alternatives to the status quo

What changes could be made to the committee timetable to improve committee effectiveness, whilst maintaining flexibility to accommodate additional committee business, and an appropriate balance between the time Members spend on committee work (in and outside committee meetings) and their wider responsibilities?

If changes are to be made to the timetable, when should these changes be implemented?

Remits

Do you believe there is a need to adjust the remit of your committee? For example, to balance work across committees, and/or to improve lines of accountability.

Measuring the effectiveness of your committee

Has your committee established a means of assessing the effectiveness of its work?

This question is posed in order to determine whether any changes made as a consequence of this review can be monitored in this context.



[Enclosure 2 – Business Committee paper]

Review of the committee timetable, and committee remits: Draft approach

Purpose

1. To provide a draft approach to the review of the committee timetable, and committee remits, for consideration by the Business Committee.

Background

2. The Business Committee agreed a fortnightly committee timetable at the start of the Sixth Senedd, on the basis that it would provide:
 - sufficient meeting time for committees to perform their roles;
 - a fair balance between the time members are expected to spend on committee work and their wider responsibilities;
 - flexibility for committees to hold additional meetings when there is a need to complete time-limited work, and/or address peaks in workload; and
 - sufficient flexibility to accommodate an additional committee in the system, if needed (currently the Special Purpose Committee).
3. In addition to a fortnightly timetable, the Business Committee increased the amount of time available during the week within which committees could meet – this includes Monday mornings and the occasional use of Fridays for Stage 2 consideration of Bills.
4. Protected weeks were retained, to provide dedicated time for the Chairs’ Forum, Scrutiny of the First Minister Committee, and further additional meeting time for committees to request if needed.
5. A secondary objective, expressed at the time the timetable was agreed, was to encourage committees to make efficient use of their meeting time. For example, to hold one-off stakeholder roundtables to gather a range of evidence at once, rather than deploying the more traditional “panel after panel” approach to evidence gathering over a number of weeks.
6. The Business Committee previously agreed to review the committee timetable, and the remits of committees, at Easter 2022 i.e. after two terms of operation.

7. However, the volume of requests from committees for additional meetings, and the concerns expressed by some committees with the current timetable, have led to this review being brought forward.
8. The Llywydd has also indicated that the Chairs' Forum would be consulted on the review at its 17 February meeting.
9. Most concerns raised to date have been in relation to timetabling, rather than remits, though concerns have been raised about the breadth of the remit set for the Legislation, Justice, and Constitution Committee.
10. The proposals in this paper suggest reviewing both timetabling and remits at the same time, due to the possible interdependency between the two i.e. if a review of remits resulted in the creation of a new committee, the timetable would need to take account of this.
11. It would be possible to separate these reviews, should that be the Business Committee's preference, though a review of remits that took place at a later date might necessitate further changes to the timetable.

Draft terms of reference

12. Draft terms of reference are suggested in the box below:

Draft terms of reference

To review the current approach to the committee timetable, and committee remits, with a view to identifying any changes to the approach that could improve committee effectiveness, whilst maintaining an appropriate balance between the time committee members spend on committee work (in and outside committee meetings) and their wider responsibilities.

13. The review will consider the status quo and options for the future operation of the timetable.
14. Under the headings below are questions that expand on the terms of reference, and could be addressed during the course of the review:

Timetable – status quo

Does the current approach to the committee timetable provide:

- sufficient time for committees to undertake their work effectively?
- sufficient flexibility to meet peaks in committee workloads and/or future business requirements for additional committee capacity?

- an appropriate balance between the time Members spend on committee work (in and outside committee meetings) and their wider responsibilities?

Timetable – alternatives to the status quo

- What changes could be made to the committee timetable to improve committee effectiveness, whilst maintaining flexibility to accommodate additional committee business, and an appropriate balance between the time Members spend on committee work (in and outside committee meetings) and their wider responsibilities?
- If changes are to be made to the timetable, when should these changes be implemented?

Remits

- To consider whether committee remits should be adjusted. For example, to balance work across committees, and/or to improve lines of accountability.

Interdependencies

15. The review will need to consider:

- the resourcing and/or technological constraints on timetabling, and how this should be managed in the future e.g. the number (and type) of committee meetings that can be held concurrently; and
- the impact on Senedd Commission resources, including staffing, of any changes proposed as a consequence of this review (or maintaining the status quo, should that be the preferred option).

Committee effectiveness

16. The review could consider the extent to which Committees have established means of assessing the effectiveness of their work, so that any changes made as a consequence of this review can be monitored in this context.

17. This could be extended to capture any committee innovation that has arisen in response to a fortnightly (and more flexible) timetable e.g. alternative approaches to evidence gathering, work conducted outside meetings etc.

Evidence gathering

18. The following approach to evidence gathering is proposed:

- **Committees** – the Business Committee invites each committee to provide a written response to the questions posed by the review.
- **Committee members** – committee members will be invited to complete a survey to obtain their views on the time currently allocated for committee work, their view on what the correct balance should be between time spent on committee work and

their wider responsibilities, and the level of priority they are able to dedicate to committee work.

- **Chairs** – the Chairs’ Forum is consulted on any proposals for change that arise from the review, prior to proposals being finalised.
- **Party Groups** – Business Managers invite a view from their party groups.
- **Data** – data on the usage of allocated time, additional meeting time, and types of committee activity, can be provided.

Timescales

December 2021

- Consult the Chairs’ Forum on the terms of reference and approach to the review (16 December).

January 2022

- Three-week period of evidence gathering (10 – 28 January).

February 2022

- The Business Committee considers draft proposals, based on the evidence received (8 February)
- The Chairs’ Forum considers the draft proposals and the timing of the introduction of any changes to the timetable (17 February)).

March 2022

- The Business Committee confirms proposals (1 March).
The Business Committee publishes a report and tables any motions needed to give effect to remit changes (should there be a need for any) (to be made in Plenary on 9 March).

April 2022

- Timetable changes to be implemented at the start of the summer term.

Consulting the Chairs’ Forum

19. Whilst there is an appetite to resolve perceived issues with the timetable quickly, there is a tension between this and the lead-in time needed for committees to plan their work.

20. The Business Committee might wish to consult the Chairs’ Forum, at its meeting on 16 December, on the scope and timescale for the review before taking a final decision.