

**Julie James AS/MS**  
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery



Llywodraeth Cymru  
Welsh Government

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Dear Chair,

Thank you for your letter of 17 December regarding the Welsh Government's Principles on UK Legislation in devolved areas. Please find the answers to your questions in the Annex below.

In your letter you requested further information on the specific changes which have been made to the principles. In my letter of 4 December, I described the main changes which have been made to the principles; I have asked my officials to liaise with your officials regarding any further clarity which is useful in this regard.

Yours sincerely,

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

**Julie James AS/MS**  
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery

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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.

## Annex A

**Question 1: In its Annual Reports for 2021/22 and 2022/23 the Committee described the Welsh Government's Principles on UK Legislation in devolved areas as "flawed" because the core principle (of using Welsh Government Bills to legislate) is subject to a catch-all exemption which renders that principle of "little value". How do the refreshed Principles address this concern?**

I do not agree with the view that the principles are flawed. The principles demonstrate the considerations which we take into account when reaching positions on UK legislation.

For the purposes of the legislative consent process, it is entirely appropriate for Welsh Government to make a recommendation to the Senedd on consent, including on what we view to be in Wales' best interests. Indeed, Standing Order 29 requires legislative consent memoranda to explain whether the relevant provision is considered appropriate. It is for Members to decide whether or not to accept the reasoning put forward by the Government as they consider legislative consent motions.

**Question 2: What factors have influenced the revision of the Principles?**

As previously set out, the revised principles support consistency and transparency. We have taken the opportunity to amend specific elements, as highlighted in my letter of 4 December, to ensure that our positions are clear.

**Question 3: The refreshed Principles say that there may be situations where it is "in the best interests of Wales" for provisions in devolved areas to be included in UK Legislation. Can you outline the criteria that will be used to make that assessment, what role you envisage the Senedd having in informing that assessment, and who will take the final decision prior to a legislative consent memorandum being laid?**

The Welsh Ministers will consider a variety of relevant issues, including a wide range of constitutional, policy, delivery and other factors.

As noted above, it is then for Members to decide whether or not to accept the reasoning put forward by the Government as they consider legislative consent motions.

At a general level, decisions on whether to recommend consent are made by the lead portfolio Minister(s), taking into account the Welsh Government's principles. The Counsel General and Minister for Delivery, and ultimately the First Minister have oversight and are involved as appropriate.

**Question 4: Why did you not create a separate set of principles for the making of subordinate legislation in devolved areas, given that the Senedd's consent processes between primary and subordinate legislation vary and, in some cases, consent for making subordinate legislation is between governments?**

As previously set out, I believe that articulating a single, streamlined approach to all UK legislation will support consistency and transparency. The principles support not just the Senedd's scrutiny of Welsh Ministers' approaches, but also provide a clear articulation of Welsh Ministers' position to the public more widely.

The principles clearly can be applied distinctly to primary and secondary legislation as required.

**Question 5: Given that the principles are generalised but now apply to more categories of UK legislation with differing consent processes, please can you explain how you reached the view that the refreshed Principles are more transparent?**

This is the first time that we have published our position on both primary and secondary legislation. In doing so, and in seeking to engage both the Senedd and UK Government on this work, I believe we have presented a set of principles that is both transparent and clear.

**Question 6: Please can you provide an analysis of which new elements of the refreshed Principles that have been added to cover subordinate legislation will now apply to primary legislation for the first time?**

There are no substantive new elements beyond those set out in my letter of 4 December.

**Question 7: How are the refreshed Principles consistent with the Sewel Convention?**

The Sewel Convention provides that Parliament will not normally legislate with regard to devolved matters without the consent of the Senedd. Our principles guide our recommendations to the Senedd on whether to give legislative consent, and our position is that the view of the Senedd must be respected.

**Question 8: When did the Welsh Government Cabinet agree the refreshed Principles? And from what point did the Welsh Government begin to use them when making decisions about legislation?**

The refreshed Principles were finalised and agreed during November 2024. Our approach to UK legislation has taken into account the refreshed principles following their publication.

**Question 9: During the evidence session, you spoke about talking to the UK Government about the principles being accepted by it. (i) Why did you consider this to be necessary? (ii) What are the Welsh Government's expectations for how this might impact on the UK Government's approach to legislating in devolved areas? (iii) What are the long-term implications of seeking the UK Government's agreement, and do you envisage this taking place at the start of each new Senedd and each new UK Parliament?**

As discussed in Committee, there is a clear benefit to ensuring UK Government are aware of our principles on UK legislation. I believe this will benefit further the improvements we have been seeing in engagement with UK Government on their legislative programme – by highlighting our principles, they can be taken into account from the earliest stages of legislation development within the UK Government, and engagement can therefore be more focussed and informed.

**Question 10: What is the rationale for the change of language in the first bullet point of paragraph 3 from “there is no time available for similar provisions to be brought forward in the Senedd” in the original Principles to “where Welsh-made provision**

**could not otherwise be delivered within a suitable time frame” in the refreshed Principles? What constitutes a “suitable timeframe”?**

This is an example of us seeking to improve clarity. There will be instances when - whilst Welsh made-provision might be possible - the comparable timeframe to UK legislation would not be suitable to the situation. The assessment of timeframes will take into account the nature of the specific legislative proposals, and policy and delivery imperatives.

**Question 11: Why has the reference to “must” been removed in the fourth bullet, and what criteria will be used to decide whether using UK legislation will enable policy objectives “to be most effectively achieved”?**

This was a drafting clarification, recognising that “must” in this context did not clearly represent the situation described in the principle.

As noted above, the Welsh Ministers will consider a variety of relevant issues, including a wide range of constitutional, policy, delivery and other factors.

**Question 12: Why has the example situation under paragraph 3, where powers of the Welsh Ministers would be extended in a way that could not be achieved through a Senedd Act, been removed from the refreshed Principles? Has the Welsh Government’s position on this matter changed?**

The Welsh Government’s underlying position has not changed but it was not felt necessary to include this as an example.

**Question 13: Would any of the criteria set out in paragraph 4 of the refreshed Principles be considered as a ‘red line’ by the Welsh Government such that it would not be able to recommend consent under any circumstances?**

We have taken a strong approach to the application of the original principles, and we intend to continue to do so with these refreshed principles to seek the best possible outcomes for Wales.

**Question 14: What is the rationale for including the additional criteria set out in paragraph 4 of the refreshed Principles that if Welsh Ministers do agree to the creation of concurrent powers, these should be subject to relevant consent mechanisms and associated ‘carve outs’ from the Government of Wales Act 2006? Would it not be clearer to maintain the position of opposing the creation of concurrent powers?**

The wording of this section reflects a principled and pragmatic approach to concurrent powers drawing on previous experiences on UK legislation. It is articulated in this way here for transparency and coherence.

**Question 15: The refreshed Principles state that new “constraints” should not be introduced to the existing devolution settlement as well as new “reservations” as set out in the original Principles. Could you outline what is intended to be captured by new “constraints” on the existing devolution settlement?**

This is intended to cover potential constraints beyond just 'reservations', given the specific meaning of that term in the Government of Wales Act 2006. Its inclusion is an example of one of the ways in which we have sought to bolster the constitutional strength of the principles.

**Question 16: The refreshed Principles refer to the Welsh Government having a “meaningful role” in the governance of any new cross-border body with functions which relate to devolved matters, rather than the “equal status” to the UK Government as noted in the original Principles. Could you outline why this position has changed?**

This reflects the reality that there are various types of bodies which could fit the description of a cross-border body, and in relation to some a pure form of “equal status” for the Welsh Government in governance terms would not be appropriate. The refreshed principle recognises that whilst each case needs to be considered on its own circumstances, devolution safeguards are essential.