

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros New
Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change
and Rural Affairs



Llywodraeth Cymru
Welsh Government

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

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Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

12 May 2025

Dear Mike,

Thank you for your letter of 21 March which contains follow up questions in relation to our evidence session in December. Please find attached a response to the questions in the Annex to your letter.

Yours sincerely,

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y
Cabinet dros Newid Hinsawdd
a Materion Gwledig
Deputy First Minister and Cabinet Secretary
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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.

Question 1: During the evidence session you made the following comment: “we're thinking of doing an statutory instrument correction omnibus Bill and a standing repeals series of Bills” [RoP 22]. We would be grateful to receive more information about these Bills and their timings.

A future Repeals Bill will be a matter for the next Government to consider as part of their programme to improve the accessibility of Welsh law.

The Counsel General has written separately to the Committee to confirm the Government's intention to bring forward omnibus correcting instruments, rather than a Bill. In this correspondence the Counsel General has set out the timings, form and expected content of those instruments. There is no current intention to bring forward a Bill to correct statutory instruments.

Question 2: In our follow-up letter of 17 December, question 10 asked for information about an internal review of processes about developing legislation. As your response noted, during the evidence session you referred to the review when responding to a question about why the Welsh Government had only introduced 12 Bills to the Sixth Senedd [RoP 26-27]. We acknowledge your comment that you would not be prepared to share it with the Committee. However, we would welcome any further information you can share about the review in terms of:

- i. outcomes (for example in relation to having a “more streamlined legislative programme” [RoP 27] and allocation of capacity [RoP 54]);**
- ii. specifically, what is the “different approach to the legislative programme” you refer to and how do you believe it “will bear fruit” [RoP 87];**
- iii. when / how the review is being implemented and over what timeframe;**
- iv. its impact on the volume of UK Government Bills for which the Senedd's consent will likely be sought.**

We refer you to comments made at the evidence session on 9 December 2024 (paragraph 27 - <https://record.senedd.wales/Committee/14204#C637351>).

Question 3: Please can you expand on what you mean by “we could do a Welshified Bill” [RoP 33] and, in particular, what would it involve and why the base law in Wales may be an issue?

Taking the Government's wider legislative programme into account, it may on occasions be desirable to replicate provision made in a UK Bill in a Senedd Bill. This would mean legislating in a Senedd Bill to achieve the same or similar policy effect, whilst taking into account the legislative landscape in Wales. In such cases, it would also be necessary to consider the Senedd's legislative competence to ensure the requirements of section 108A of the Government of Wales Act were met.

Question 4: You said that the consultation undertaken by Senedd Committees on legislation “is quite frequently just a reiteration of the same consultation that's already been done by the Government” [RoP 40]. We are unclear why you have reached this view. However, would you recognise that it is the parliament's responsibility to scrutinise and seek stakeholder views on Government proposed

legislation, and acknowledge that a government consulting on policy and/or draft legislative proposals is different to the Senedd's responsibility in assessing whether a government has listened to stakeholder's concerns before introducing a Bill to the Senedd?

The Government's position is that it is imperative that we move away from the expectation that there is a rigid standard timescale and approach to Stage 1 scrutiny of any Bill, irrespective of size, scope or complexity. The Stage 1 process as it stands arguably risks duplicating the Government's consultation process – involving the same stakeholders – on the general principles of the reforms. While the Government acknowledges the differences between a government consultation and the role of scrutiny in the Senedd, adopting a more tailored approach to Stage 1 scrutiny could enable more time for other matters including the scrutiny of subordinate legislation and Act implementation.

Question 5: You state that “we don't do the detailed legislative scrutiny that you see in other parliaments” [RoP 40]. Please could you provide the evidence which led you to make these comments?

While there is no doubt that the Senedd undertakes detailed scrutiny of legislative text, there is a lack of focus on the policy. This is explored in paragraph 34 of the Legislation, Justice and Constitution Committee's Annual Report 2023/24 which refers to evidence provided by the then First Minister, the Rt Hon Mark Drakeford MS on 18 September 2023.

Question 6: You made reference to the Welsh Government having a “tendency to bring big omnibus Bills forward” [RoP 58] and cited the Local Government and Elections (Wales) Bill. What other Bills introduced to the Sixth Senedd would you classify as “omnibus” Bills?

Since having full primary legislation making powers, the Welsh Government has introduced widespread reforms of social care, the curriculum, additional learning needs, tertiary education and research, agriculture and housing to name but a few.

Question 7: What impact do you consider “smaller Bills” [RoP 58] will have on the volume of legislation brought forward in a ‘typical’ legislative statement for each Senedd Year?

It will be for the next Government to determine the Bills that will be included in the next legislative statement. The Counsel General considers that an expanded Senedd will have more capacity to consider legislation and therefore advocates for a more tailored approach to agreeing bill timetables, so that the Senedd can effectively scrutinise both small and larger Bills without there being a detrimental impact on other business.

Question 8: In the context of using UK Government Bills introduced to the UK Parliament to legislate in areas devolved to the Senedd, you said “there's no shame in identifying the appropriate opportunities where, when you have a good and productive piece of legislation coming forward at a UK level that has cross-border issues” [RoP 69]. It would be helpful if you could explain what you mean by “cross-border issues” – is it a reference to complexities around the boundaries of legislative competence?

In some circumstances the complex boundaries of legislative competence will be relevant, but this might also relate to practical, operational or regulatory matters. This could include situations in which proposed legislation interacts with, develops, or depends upon, systems or services that appropriately operate on a UK-wide or England-and-Wales basis.

Question 9: Please can you provide more information about the development of “joint legislation” [RoP 106-108] and how you envisage this approach would operate at an intergovernmental level?

“Joint legislation” would require a highly coordinated approach whereby governments develop and introduce complementary legislation in their own legislatures, to be considered separately by legislatures but forming a coherent policy scheme once passed.

This would of course be complex. It would require early and detailed intergovernmental engagement and clear processes to manage the potential for different scrutiny outcomes; governments and legislatures alike would want to consider carefully whether the procedural rules currently in place now could support such a process.

Question 10: You told us that:

“One of the things we've been doing in publishing our principles on UK legislation in devolved areas is talking to the UK Government about having an acceptance by them—and, indeed, I've got this via the Secretary of State for Wales—an acceptance by them that these are the principles they should broadly adhere to. I mean, they're not going to make it a constitutional principle, but they are broadly agreeing to adhere to these principles in bringing forward their legislative programme”.([RoP [119]. Emphasis ours)

Please can you explain:

- i. What is the status of the agreement and using what agreed intergovernmental structures was it agreed?**
- ii. What does the agreement mean in practice, and what implications does it have for the Welsh Government seeking legislative provision in UK Government Bills before the end of the Sixth Senedd?**
- iii. What is the specific role of the Secretary of State for Wales in the process?**
- iv. How you will inform the Senedd in a timely manner about decisions made / agreed between the Welsh Government and UK Government that relate to the use of UK Government Bills to legislate in devolved areas?**

The Counsel General spoke with the Secretary of State for Wales as we finalised our Principles as part of routine and ongoing interministerial engagement. There is no formal intergovernmental agreement in place. However, the Counsel General was clear about the importance of adhering to them, and the Wales Office have confirmed that they will ensure that UK Government Bill teams are made aware of them when developing their legislation. The Secretary of State for Wales also sits on the Parliamentary Business and Legislation Committee, which scrutinises all proposed UK Legislation before its introduction.

We will continue to inform the Senedd in a timely manner about the Welsh Government's approach to the contents of the UK Legislation Programme in the usual way - through statements, engagement with Members and of course through the legislative consent process.

Question 11: In your response to question 9 of our letter of 17 December 2024, you stated:

*“Consistent with our principles on UK legislation, the requirements of delivering our own legislative programme are **relevant factors** in relation to our positions on some UK Bills, in the context of considering the potential timeframe in which equivalent legislation could be developed.” (Emphasis ours)*

Please could you clarify and explain what you mean by “relevant factors”?

As has been previously explored, our decisions on UK Bills typically involve consideration of a range of constitutional, policy, political and other factors. This would include the practical implications of the pressures on our own legislative programme, the urgency of the policy need, potential legislative timings, and whether the required outcomes can be achieved effectively through inclusion in a UK Bill while still respecting devolved competence.

Question 12: Please can you provide an update on the progress made on agreeing a new memorandum of understanding with the UK Government on the Sewel Convention. [RoP 164 to 171].

The Welsh Government continues to engage with the UK Government on matters relating to reform of the Sewel Convention. This issue was discussed in February during a meeting between the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs and the Chancellor of the Duchy of Lancaster. It was also raised at the most recent meeting of the Interministerial Standing Committee (IMSC), which the Deputy First Minister attended, as set out in the [written statement issued on 22 April](#).

We will continue to press for meaningful and timely engagement in this process and remain committed to working collaboratively with the UK Government and the other devolved governments to ensure the final MoU reflects the interests of all parties.

We are looking forward to discussions on the proposed MoU with UK Government and other devolved governments in the months ahead.

Question 13: During the evidence session you said:

*“... one of my responsibilities is **overall oversight of the legislative programme**, and so what we have to do is keep a weather eye on things like that, to know whether to feed in any specific part of it to our legislative programme or not. **We take a very broad view of what we mean by the legislative programme**, and it includes the UK programme and, indeed, actually, the Scots programme as well—very latterly the Northern Irish ones—**because we want to take a view as to whether they're doing something that we could, frankly, copy**, if it's possible to do, and then you have to do a rapid piece of work to see whether it can be lifted, if you like, and put in to our particular set of processes, or whether, actually, it sounds easy to do but actually turns out to be more difficult because the scenario here is very different.” ([RoP 129]. Emphasis ours)*

Please can you clarify these comments, particularly in the context of the Welsh Government introducing Bills for scrutiny by the Senedd and using UK Government Bills to legislate in devolved areas?

We are always open to learning from legislative developments outside of Wales in support of our own policy and legislation work. Whilst not determinative, a wide understanding of

developments elsewhere is relevant as we shape our own legislative programme. As discussed in Committee, there may also be opportunities for legislative change to be delivered for Wales through UK Parliamentary legislation, in a manner which is in the best interests of Wales. In such situations, our decisions are guided by our published principles.

Question 14: At various points in the evidence session you provided details of the process followed in liaising with the UK Government on using Bills introduced to the UK Parliament to legislate in devolved areas (for example [RoP 99; 101, 105; 129, 140-142]). In order to obtain clarity on this matter, we would be grateful if you could provide a step-by-step guide of the process followed by the Welsh Government in the lead-up to and after the King's Speech has been made.

As has been explored on numerous occasions, there often is no one-size fits all approach to how we respond to proposed UK Legislation and to Bills upon introduction. For example: some Bills will move more quickly through development, and then through Parliament, than others; some will have early and detailed engagement before introduction, whilst others may be introduced in response to unforeseen circumstances and rightly move at pace; some Bills may be outside the competence of the Senedd but nevertheless have significant implications for Wales and devolved interests. All need a different, tailored response.

As a general guide, however, engagement in confidence takes place in the weeks before the King's Speech; this may give us an early – although not final – indication of likely areas of activity. Following the King's Speech, Welsh Government officials review the announced Bills to form an early view on likely interactions with devolved matters (albeit this analysis can only be high level – the detail of the text of the Bills is not available at the moment of the Speech). Engagement from UK Government then tends to grow as individual Bills are developed within departments and policy leads join up across governments; it is through that phase that advice is provided to Ministers on impacts and potential options, where relevant. Portfolio Ministers will formally make decisions on approaches to relevant Bills, with the involvement of the Counsel General, Deputy First Minister, and First Minister as appropriate. Officials and Ministers consistently emphasise to the relevant UK Government departments the importance of our principles and the need for early and detailed engagement.

We aim to notify the Senedd of decisions at the earliest appropriate point, via written statement or through the legislative consent process, depending on the circumstances.

Question 15: You explained that “secondary legislation is drafted in legal services, and, quite frequently, drafted by external lawyers who've been retained by the Welsh Government, because it's a specialist area.” [RoP 151]. Please can you clarify the extent to which the drafting of subordinate legislation is outsourced and what quality control processes exist for such subordinate legislation drafted externally?

Most of the secondary legislation made by the Welsh Ministers is drafted by Welsh Government Legal Services. When it is drafted externally, we expect external firms to provide the same level of assurance and quality control as is provided internally.

Question 16: Please can you explain how the Welsh Government intends to track commitments it makes to the Senedd to amend statutory instruments? [RoP 149-154].

We are grateful to the Committee for providing, on 16 January, a record of the commitments it is monitoring. The Counsel General has recently provided an update on the Government's intentions to bring forward omnibus amending instruments that will address some of those commitments; others have already been met. The Government holds records of commitments made to correct instruments and these are used to make corrections when a suitable legislative vehicle is available.