

The Welsh Government's Legislative Consent Memorandum on the United Kingdom Internal Market Bill

November 2020



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About the Committee

The Committee was established on 22 June 2016. Its remit can be found at:
www.senedd.wales/SeneddFinance

Committee Chair:



Llyr Gruffydd MS
Plaid Cymru

Current Committee membership:



Alun Davies MS
Welsh Labour



Siân Gwenllïan MS
Plaid Cymru



Mike Hedges MS
Welsh Labour



Rhianon Passmore MS
Welsh Labour



Nick Ramsay MS
Welsh Conservatives



Mark Reckless MS*
Independent

*Mark Reckless was elected to the Finance Committee as a member of the Brexit Party until 16.10.2020. He was then elected to the Finance Committee on 4.11.2020 as an Independent Member.

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Conclusion

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1. Committee view

1. The majority of Committee Members consider that the Internal Market Bill could have a profound impact on devolution in Wales and have particular concerns regarding:

- The possibility of the UK Government spending in devolved areas, and in such a way that is not compatible with the Welsh Government's strategic intentions;
- The implications of UK Government spending on the Welsh Block Grant;
- The worrying possibility that UK Government spending in Wales could be funded via a 'top-slicing' of the Welsh Block Grant;
- The consequences of any top-slicing of the Welsh Block Grant for devolved policy making, including for those bodies who receive funding via the Welsh Government, such as the NHS in Wales;
- The reservation of State Aid/Subsidy control, without the agreement of the devolved nations;
- The lack of clarity on the impact of the Bill in terms of subsidy control on tax devolution and the possibility that certain tax policies in Wales may be limited or open to challenge; and
- This close to the end of the EU transition period there remains no clarity on the shape or form of the Shared Prosperity Fund and that this Bill provides no further detail or obvious route to remedying this.

Conclusion 1. The majority of Committee Members consider that the constitutional and financial implications of this Bill passing, in its current form, would undermine the devolution settlement and sets up the prospect that funding available through the Welsh Block Grant could be reduced.

2. Mark Reckless MS does not support this conclusion or the Committee's views expressed in the report.

2. Background

3. The UK Government laid the United Kingdom Internal Market Bill ("the Bill") and the Explanatory Notes before the House of Commons on 9 September 2020. The UK Government outlines that the Bill:

"...preserve[s] the UK internal market, providing continued certainty for people and businesses to work and trade freely across the whole of the UK."¹

4. The provisions of the Bill include powers for the UK Ministers to fund activity in devolved areas. The Bill includes seven Parts, all of which require the legislative consent of the devolved legislatures².

5. The European Union and the Welsh Government (and other devolved administrations) have raised concerns regarding certain elements of the Bill. In a letter to the Secretary of State for Business, Energy & Industrial Strategy, the Counsel General and Minister for European Transition ("the Counsel General") outlined concerns about the effect of the Bill on devolution in Wales. He stated that the Bill in its present form could "accelerate the break-up of the Union"³.

6. The Minister for Finance and Trefnydd ("Minister for Finance") issued a joint statement alongside the Finance Ministers of Scotland and Northern Ireland in which she stated that:

"The powers in the Bill completely undermine devolution and will see decisions currently taken in Wales clawed back by the UK Government."⁴

7. This is disputed by the UK Government, with the press release accompanying the Bill stating:

"The transfer of powers from the EU to the UK Government will complement and strengthen existing support given to citizens in Scotland, Wales, and Northern Ireland by the devolved administrations, without taking away their responsibilities. A strong UK Internal Market, with the ability of the UK Government to invest to support all parts of

¹ United Kingdom Internal Market Bill Explanatory Notes, page 4

² Welsh Parliament, Scottish Parliament and the Northern Ireland Assembly

³ Letter from the Counsel General and Minister for European Transition to Secretary of State for Business, Energy & Industrial Strategy, 14 August 2020

⁴ Welsh Government Press Release, 17 September 2020

our Union, will help the UK Government to deliver prosperity for businesses and communities across all parts of the UK, levelling up the country and strengthening the Union".⁵

8. On 25 September 2020, the Welsh Government laid before the Senedd a Legislative Consent Memorandum ("LCM") in respect of the Bill. The LCM states:

"The Welsh Government will not be able to recommend to the Senedd that it gives consent to the Bill as currently drafted."⁶

9. The LCM indicated that the Welsh Government was working on proposed amendments to the UK Bill.⁷ On 15 October 2020, the Welsh Government provided 'model amendments' to the Bill and a Written Statement⁸ indicating that the Counsel General had written to the Lord Speaker and political parties in the House of Lords⁹ "to urge their support for a set of amendments to the United Kingdom Internal Market Bill which, as currently drafted, represents a fundamental attack on devolution."¹⁰

10. The Business Committee referred the LCM for scrutiny to the Legislation, Justice and Constitution (LJC) Committee and the External Affairs and Additional Legislation (EAAL) Committee, with a reporting deadline of 19 November 2020.¹¹

11. Given the significance of the Bill, the Finance Committee ("the Committee") agreed to explore the financial considerations in the Bill and took evidence from the Minister on 2 November 2020.

12. Two Members of the Committee also attended a meeting of the LJC Committee on 2 November 2020 to take evidence from the Counsel General and Minister for European Transition.¹²

⁵ UK Government Press Release, 9 September 2020

⁶ LCM paragraph 73

⁷ LCM, paragraph 81

⁸ Written Statement: Welsh Government amendments to the United Kingdom Internal Market Bill, 15 October 2020

⁹ Letter from Jeremy Miles MS, Counsel General to The Rt. Hon. The Lord Fowler, Lord Speaker, House of Lords, United Kingdom Internal Market Bill, 15 October 2020

¹⁰ Amendments are set out in documents attached to the Written Statement

¹¹ Business Committee, Timetable for consideration of the Legislative Consent Memorandum on the UK Internal Market Bill, September 2020

¹² Llyr Gruffydd and Alun Davies attended LJC in accordance with Standing Order 17.49

13. The Bill received its first reading in the House of Commons on 9 September 2020. It completed its passage through the House of Commons on 29 September 2020 and is currently in the House of Lords¹³

Purpose of the Bill

14. The UK Government, in the Explanatory Notes accompanying the Bill, stated its objectives are:

- To continue to secure economic opportunities across the United Kingdom;
- To continue to increase competitiveness and enable citizens across the UK to be in an environment that is the best place in the world to do business; and
- To continue to provide for the general welfare, property, and economic security of all UK citizens¹⁴.

15. The Minister said a “well-functioning internal market is in all our interests” and that the Welsh Government was not opposed to the principle of an internal market Bill for the UK or a UK-wide subsidy regime but that the current Bill goes “far beyond that and beyond any structure that might be necessary to deliver that”.¹⁵ She continued:

“it was our view, as a Government, even before the White Paper emerged, that the common frameworks programme must be at the core of inter-governmental action to regulate the UK market. And the Bill I think undermines, really, any incentive for the UK Government to engage fully now on reaching those frameworks, because the market access principles within Parts 1 to 3 of the Bill are overarching and they include framework areas. So, it really undermines the work, I think, that has been going on between UK Government and others in the run-up to this particular period.”¹⁶

16. The Counsel General reiterated this in the LJC Committee stating:

¹³ This report does not take account of Report Stage in the House of Lords

¹⁴ Explanatory Notes, page 4

¹⁵ Finance Committee, RoP, 2 November 2020, paragraph 266

¹⁶ Finance Committee, RoP, 2 November 2020, paragraph 266

“we believe in and support the principle of a strong internal market across the UK that would safeguard the interests of the people of Wales and Welsh business, but this isn't the way to ensure we achieve that.”¹⁷

17. He went on to say that the amendments attempted to create time and space for the common frameworks programme to “bear-fruit”¹⁸. The Minister confirmed that those amendments removed both Part 6 and 7 of the Bill¹⁹.

18. The Minister confirmed that the LCM sets out the Welsh Government's concerns and reasons for not recommending that the Senedd gives consent to the Bill. However, she made clear the Welsh Government's overall strategy was to “try and amend the Bill to make it one that we could recommend consent for.”²⁰

19. The Minister confirmed the Welsh Government's “model amendments” to the Bill were published on 15 October 2020 and that the Welsh Government was currently working to seek support for those amendments in the House of Lords.²¹

20. In evidence to the Legislation, Justice and Constitution Committee (“LJC”) the Counsel General said:

“We can't, obviously, table our own amendments in the Lords, so what we've done is to publish our own model amendments and use those to seek to persuade peers to lay parallel amendments to those, effectively, and all of our model amendments, I think, apart from one, which was slightly changed, have been tabled in the form that we were hoping they would.”²²

21. On 9 November 2020, the House of Lords voted 433 to 165 in support of an amendment to remove measures that sought to disapply parts of the Northern Ireland protocol. Press reports have reported that the UK Government will seek to reinstate any sections that are removed in the House of Lords, as the Government consider the Bill to be “a vital safety net”.

¹⁷ LJC Committee, RoP, paragraph 25, 2 November 2020

¹⁸ LJC Committee, RoP, paragraph 29, 2 November 2020

¹⁹ Finance Committee, Record of Proceedings (RoP), 2 November, paragraph 259 and 261

²⁰ Finance Committee, Record of Proceedings (RoP), 2 November 2020, paragraph 259

²¹ Finance Committee, RoP, 2 November 2020, paragraph 259

²² Legislation, Justice and Constitution Committee, RoP, 2 November 2020, paragraph 6

Committee view

22. The Committee notes that the Welsh Government is not opposed to the principle of an internal market Bill for the UK or a UK-wide subsidy regime, however the Welsh Government believes the Bill, in its current form, goes far beyond any structure that might be necessary to deliver that. The Committee also notes the Counsel General's view that Common Frameworks should be given an opportunity to "bear-fruit".

23. The Committee welcomes the Welsh Government's approach seeking to amend the Bill to a version that it can recommend the Senedd consents to. The Welsh Government has submitted suggested amendments to the Bill, including amendments removing Parts 6 and 7. The Committee notes that the proposed amendments (apart from one, which was slightly changed), were submitted ahead of the House of Lords second reading. However, the Committee is concerned that changes are being pursued through the House of Lords, which could be undone once the Bill returns to the House of Commons.

3. Financial Assistance

24. The Bill provides new financial powers for UK Government Ministers at Part 6 (Financial Assistance Powers) Clauses 48 & 49 of the Bill to provide funding for economic development, infrastructure, culture, sporting activities, international educational and training activities and exchanges.²³

25. The UK Government says the Bill will allow it to meet its commitments to deliver replacements for EU programmes, such as a UK Shared Prosperity Fund, replacing the current EU structural funds regime.²⁴ The Welsh and Scottish Governments have been critical of these plans in the past, arguing that they should be fully involved in any replacement scheme.²⁵

26. The Explanatory Notes state that Part 6 of the Bill will “fall within wholly or partly devolved areas”.²⁶

27. The Minister said that Part 6 was “clearly a cause for concern” because for “the first time since devolution” it would provide UK Government Ministers with the power to directly fund any person on a wide range of matters that are currently within devolved competence. The Minister confirmed that the Welsh Government’s model amendments contained an amendment to remove this clause.²⁷

28. The Welsh Government’s LCM states:

“...this section should be deleted from the Bill. There is no mechanical link between the market access principles set out in Parts 1-4 and the new financial assistance powers to be exercised by UK Government Ministers, set out in Part 6. The powers are not necessary and will serve to undermine spending decisions made by the Senedd and the Welsh Ministers.”²⁸

29. The Minister confirmed that the financial assistance powers are “so wide-ranging” that there are “all kinds of potential ways in which they could be

²³ Explanatory Notes, page 11

²⁴ UK Government Press Release, 9 September 2020

²⁵ Welsh Government Press Release, 17 September 2020

²⁶ Explanatory Notes, page 13

²⁷ Finance Committee, RoP, 2 November 2020, paragraph 259

²⁸ Legislative Consent Memorandum United Kingdom Internal Market Bill

used". She provided the education sector as a potential example of how the powers could be used, explaining:

"we've got no grammar schools within the state sector in Wales and we've refused to follow the English model in terms of providing direct funding to academies and to free schools outside the control of local authorities. But as I understand it, should this clause be enacted, there'd be no reason why the UK Government wouldn't be able to fund the creation of such schools in Wales, and that, of course, risks undermining local schools and the comprehensive system that we have here."²⁹

30. The House of Lords Constitution Committee recommended that the UK Government should explain why the Bill includes "a broad power for the UK Government to spend money in devolved territories" (which could apply more widely than to the internal market) and "how any such spending would affect block grant funding."³⁰

31. During the House of Commons Committee Stage debate on Part 6 of the Bill, the Minister of State for Constitution and Devolution, Chloe Smith MP stated:

"Let me take this opportunity to be absolutely clear that devolved Administrations will continue to receive funding through the block grant and the Barnett formula, where appropriate. I thank my right hon. Friend the Member for Vale of Glamorgan (Alun Cairns) for making a powerful argument that the nations are home to some of the most deprived communities in the UK, and this goes to the argument that is contained in this amendment, perhaps, about where need is. The spending power in the Bill helps to answer that call."³¹

32. However, the Minister said she was unable to obtain reassurance from the Chief Secretary to the Treasury during the latest Finance Ministers' quadrilateral meeting³², she stated:

"I pressed the Chief Secretary to the Treasury quite hard on the issue of... were the UK Government to spend additional funding in Wales, what would that mean for our block grant adjustment? So, I was asking for absolute confirmation that it wouldn't mean slicing an amount out

²⁹ Finance Committee, RoP, 2 November 2020, paragraph 269

³⁰ HL Paper 151, paragraphs 39 and 43

³¹ House of Commons Hansard, 16 September 2020

³² Finance Committee, RoP, 2 November 2020, paragraph 271

of the block grant to allow the UK Government to spend in Wales, and I couldn't get that confirmation. So, that, to me, was extremely concerning and it did suggest to me that there are sinister things going on with this Bill in terms of the UK Government's plans for spend in Wales, and for supporting Welsh people through funding the Welsh Government.”³³

33. The Counsel General also outlined that the Welsh Government had not received any information on the UK Government's intent around these powers. He noted:

“We've been given no assurances on the impact of this element on the block grant. There is nothing on the face of the Bill that gives any assurances to us that there is a constructive way of using these powers. We hear about the intentions to work in partnership; well, it's a very strange approach to partnership working if you're trying to undermine the principal reason for partnership. I don't think it's an issue of working with us; I think it's an issue of working around us.”³⁴

34. The Minister highlighted concern in relation to the approach to spending public money in Wales, stating:

“... we would find ourselves in a situation—I think the grammar schools example kind of speaks to this point—where we've got two Governments with potentially different visions and different strategic approaches to infrastructure investment, for example, undertaking spend. And in Wales we are now working on our next iteration of the Wales infrastructure investment plan, and that will set out our infrastructure priorities and proposals for the period ahead. But then there would be nothing that compelled any additional funding from the UK Government to be in line with our strategic approach—it could be something completely different. So, again, that doesn't feel right in terms of having a coherent approach to spending public money.”³⁵

35. The Minister said the powers in Part 6 of the Bill are so wide ranging that there were a number of ways in which the powers could be used³⁶, and this presents problems “where we've got two Governments with potentially different

³³ Finance Committee, RoP, 2 November 2020, paragraph 263

³⁴ LJC Committee, RoP, paragraph 62, 2 November 2020

³⁵ Finance Committee, RoP, 2 November 2020, paragraph 271

³⁶ Finance Committee, RoP, 2 November 2020, paragraph 269

visions and different strategic approaches to infrastructure investment ... then there would be nothing that compelled any additional funding from the UK Government to be in line with our strategic approach".³⁷

Committee view

36. The Committee is concerned that Part 6 of the Bill provides UK Government Ministers with the power to allocate funding for a very broad set of purposes, including within devolved areas. The Committee agrees with the view that there does not appear to be a logical link between the market access principles set out in Parts 1 – 4 of the Bill and the new financial assistance powers. Therefore, the Committee cannot see why these Parts of the Bill have been included. The Committee does not believe these powers are necessary and feels this will serve to undermine spending decisions made in Wales. The Committee supports the Welsh Government's proposal to amend this power and to remove it from the Bill.

37. The Committee is concerned that the breadth of the powers are exceptionally wide-ranging and there are numerous ways that they could be used. Furthermore, it is concerned that the Welsh Block Grant could be top-sliced if the UK Government was to spend additional funding in Wales. It is disappointing that the Chief Secretary to the Treasury was unable to provide reassurance to the Minister on the status of this. The Welsh Government and the Senedd must have clarity on the UK Government's intentions for the use of this power before it considers offering its consent to the Bill.

38. The UK Government must also address the issues raised by the Welsh Government in terms of the Welsh Block Grant. The UK Government must confirm its intentions and provide assurances in this regard as a matter of urgency.

³⁷ Finance Committee, RoP, 2 November 2020, paragraph 271

4. State Aid and Subsidies

39. Clause 50 relates to regulation of distortive or harmful subsidies. The Bill's Explanatory Notes provide further context about the application of Clause 50, stating;

“This clause reserves to the UK Parliament the exclusive ability to legislate for a subsidy control regime once the UK ceases to follow EU State aid rules. This can address the effects of distortive or harmful subsidies, whether that is in relation to international trade or the UK internal market.”³⁸

40. The Welsh Government contends that state aid is a devolved matter, as it is not currently reserved under any heading of Schedule 7A of the GOWA 2006.³⁹ This is disputed by the UK Government who believes that state aid and subsidy control is the responsibility of the UK Parliament alone, with no competency for devolved administrations to legislate in this area.⁴⁰

41. Subsequently, the UK Government has announced that the UK will adopt the World Trade Organisation's rules on state aid from 2021 onwards, at the end of the transition period. It's also noted that the UK Government will hold a consultation to consider adopting subsidy rules which go further than its international commitments.⁴¹

42. The Regulatory Impact Assessment for the Bill states:

“Devolved administrations will remain responsible for their own spending decisions on subsidies (how much, to whom and for what) within the architecture of any future subsidy control mechanism; this mirrors their current position, under EU State Aid rules.”⁴²

43. The Minister explained that the Welsh Government has always “argued that state aid is not reserved” under GOWA 2006. The Minister confirmed that the Welsh Government's model amendment would remove the provisions which

³⁸ Explanatory Notes, paragraph 320

³⁹ Welsh Government, Written Statement, The State Aid (EU Exit) Regulations 2019, 25 January 2019

⁴⁰ [Department for Business, Energy & Industrial Strategy, UK Internal Market, July 2020](#)

⁴¹ UK Government Press release [Government sets out plans for new approach to subsidy control](#), 9 September 2020

⁴² Regulatory Impact Assessment, UK Internal Market Bill

would prevent devolved legislation from making provision about the regulation of State aid.⁴³

44. The Minister went on to say that as well as issues around reserving State Aid, which she referred to as a “redrawing of the devolution settlement”, that:

“...one of our main concerns rests on the fact that the UK Government has a conflict of interest there in terms of its role in matters of reserved competence and its responsibility for the UK economic development of England. So, we have clear concerns as to how that might operate in practice and what the implications might be for us.”⁴⁴

45. The Welsh Government's LCM confirmed that it favours a UK-wide subsidy scheme.⁴⁵ The Minister said the scheme should be “co-developed” and “co-designed” with all four Governments.⁴⁶ She added:

“I think that would be the most appropriate way forward. But also that it should be policed by an independent regulator who is accountable to all four legislatures. And I think that that would be a suitable and fair way forward for all nations.

We had favoured incorporating the current EU state aid regulations in retained EU law, as Theresa May's Government had proposed, pending the development of that legislative framework, and I think that that would have provided us with a reasonable way forward on this. But I think that, unfortunately, we find ourselves in a very different and difficult position. But, absolutely, the bare minimum has to be an independent regulator, because it just seems unbelievable that the UK Government could be playing both hands of cards on this particular issue.”⁴⁷

46. The Counsel General also raised these concerns to the LJC Committee on 21 September 2020, stating:

“One...very straightforward example...is the extension to the reservations in Schedule 7A by including state aid in that list of reservations. The UK Government, on behalf of England, is responsible for economic

⁴³ Finance Committee, RoP, 2 November 2020, paragraph 261

⁴⁴ Finance Committee, RoP, 2 November 2020, paragraph 261

⁴⁵ Welsh Government's LCM

⁴⁶ Finance Committee, RoP, 2 November 2020, paragraph 278

⁴⁷ Finance Committee, RoP, 2 November 2020, paragraph 278 & 279

development in England and obviously must prioritise the interests of England in relation to economic development in that sense. So, to have on top of that UK-wide powers in relation to state aid, I think, puts into very stark relief the conflict that arises because of our current arrangements.”⁴⁸

47. The Scottish Parliament's Finance and Constitution Committee's report on the Bill highlighted concerns that subsidy control could have wider implications for the devolved administrations' taxation policies.⁴⁹

48. The Minister confirmed that the Welsh Government shares this concern over the impact of devolved tax powers, suggesting that Welsh Government officials were the first to pick up on this issue.⁵⁰

49. She raised the question of whether the Welsh Government could be legally challenged by businesses on taxes that are only payable in Wales as a result of an Internal Market Bill.⁵¹ She went onto say:

“...so there are a number of issues on tax that we're currently trying to work through, but doing so alongside Scotland because they share our concerns about that as well. What impact would there be if we were to change our land transaction tax rates or thresholds, for example, meaning that one part of the UK had a more generous tax relief than others? Could that be considered to be a subsidy under this Bill? There are all kinds of things that I think are unintended consequences that we still need to be working through at the moment.”⁵²

UK Shared Prosperity Fund

50. Prior to the Bill being introduced, the UK Government had proposed that a UK 'Shared Prosperity Fund' would take the place of European Structural Funds (worth about £2.1 billion per annum).

51. In September 2018, the Committee published its report Preparations for Replacing EU Funding for Wales. At that time, the Committee raised concerns about the lack of engagement between the UK Government with the Welsh Government on replacing funding for Wales after Brexit and the lack of

⁴⁸ LJC Committee, RoP, 21 September 2020, paragraph 43

⁴⁹ Scottish Parliament's Finance and Constitution Committee report on the Bill, Paragraph 120

⁵⁰ Finance Committee, RoP, 2 November 2020, paragraph 286

⁵¹ Finance Committee, RoP, 2 November 2020, paragraph 286

⁵² Finance Committee, RoP, 2 November 2020, paragraph 286

information available on how funding would be allocated to devolved administrations.

52. The Committee wrote to the Secretary of State on 22 July 2020, seeking information on the timescale and intentions for informing the Welsh and other devolved Governments of the details of the Shared Prosperity Fund.⁵³

53. The Secretary of State responded on 5 September 2020 and stated that the Shared Prosperity Fund “remains one of the UK government’s top priorities”.⁵⁴ The letter continued:

“The current Comprehensive Spending Review is a key milestone in this work, and many of the questions that people have asked about the Shared Prosperity Fund will be answered in the light of this process.”⁵⁵

54. The House of Commons Welsh Affairs Select Committee published its report on Wales and the Shared Prosperity Fund: Priorities for the replacement of EU Structural funding, 2 October 2020. The report notes:

“Despite announcing the Shared Prosperity Fund more than three years ago, the Government appears to have made negligible progress in developing its replacement for European Structural and Investment funding.”⁵⁶

55. The Committee asked the Minister whether the Shared Prosperity Fund required a legal basis. She said:

“I know that the Counsel General has written to Robert Jenrick to seek an urgent meeting to discuss some of these issues, and I think that that was one of the particular issues that he will want to discuss at that meeting, because he specified the impact of the internal market Bill on the delivery of the shared prosperity fund. I know that there hasn't been a response to that yet. But the level of engagement that we've had has been just exceptionally poor in terms of the shared prosperity fund.”⁵⁷

⁵³ [Letter from the Finance Committee to the Secretary of State for Wales, 22 July 2020](#)

⁵⁴ [Secretary of State's response to the Finance Committee, 5 September 2020](#)

⁵⁵ [Secretary of State's response to the Finance Committee, 5 September 2020](#)

⁵⁶ House of Commons Welsh Affairs Select Committee published its report on [Wales and the Shared Prosperity Fund: Priorities for the replacement of EU Structural funding, 2 October 2020](#)

⁵⁷ Finance Committee, RoP, 2 November 2020, paragraph 282

56. The Counsel General suggested that there was not enough information to know if legislation was required to implement the Shared Prosperity Fund, noting:

“We haven't seen enough of the detail; we haven't seen any detail in terms of the shared prosperity fund. So, in a way, it's not possible to answer your question directly. But what I can say is that the plans we have in place, if the UK Government stick to their word—. The arrangements that we have in place here in Wales to implement alternative plans in future wouldn't require primary legislation.”⁵⁸

57. The Minister also outlined that the UK Government has been having conversations regarding the Shared Prosperity Fund directly with local authorities:

“I know that the UK Government now has been having some discussions outside of the Welsh Government—you know, approaching local authorities directly for discussions—and obviously that's of real concern to us. But, as I say, on that particular issue, I know it'll be something that Jeremy Miles will want to pursue in his meeting, should he have one shortly with the Secretary of State across the border, because he is, as I say, leading on these particular discussions.”⁵⁹

Committee view

58. The Committee notes the Welsh Government's position that a UK-wide subsidy scheme should be co-developed with all four Governments with an independent regulator who is accountable to all four legislatures. The Committee shares the Welsh Government's concerns about subsidy control and the potential conflict of interest this could cause if the UK Government is responsible for economic policy in England and then effectively setting the subsidy rules for the UK as a whole.

59. The Committee is concerned that the subsidy control may have wider implications for devolved taxation policies. The lack of clarity on the impact of the Bill on tax devolution should be addressed to ensure there are no unintended consequences when different approaches to tax are taken in different parts of the UK.

60. The Committee is extremely disappointed that more than three years after the UK Government announced the UK Shared Prosperity Fund there is still no clear outcome as to how the Fund will be allocated or administered. The

⁵⁸ LJC Committee, RoP, 2 November 2020, paragraph 64

⁵⁹ Finance Committee, RoP, 2 November 2020, paragraph 282

Committee's report into Preparations for replacing EU funding for Wales recommended that the Welsh Government should manage and administer Wales' share of the Fund and this remains the Committee's position.

61. It is very concerning to hear the Minister describe the level of engagement on the Fund as "exceptionally poor". The Committee considers that it sets a worrying precedent to hear suggestions that the UK Government has been approaching local authorities directly, while having seemingly limited engagement with the Welsh Government. The UK Government has an important role to ensure that the Welsh Government has sufficient resource through the Fund, the UK Government must engage with the Welsh Government and other devolved Governments on this issue as a matter of urgency. The lack of progress in this area is unacceptable.