

Welsh Parliament  
**Legislation, Justice and Constitution Committee**

---

# Annual Report 2023/24

November 2024



The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the Senedd website:  
**[www.senedd.wales/SeneddLJC](http://www.senedd.wales/SeneddLJC)**

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

**Legislation, Justice and Constitution Committee**  
**Welsh Parliament**  
**Cardiff Bay**  
**CF99 1SN**

Tel: **0300 200 6565**

Email: **[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)**

Twitter: **[@SeneddLJC](https://twitter.com/SeneddLJC)**

**© Senedd Commission Copyright 2024**

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the Senedd Commission and the title of the document specified.

# Annual Report 2023/24

November 2024



# About the Committee

The Committee was established on 26 May 2021. Its remit can be found at [www.senedd.wales/SeneddLJC](http://www.senedd.wales/SeneddLJC)

---

Current Committee membership:



**Committee Chair:**  
**Mike Hedges MS**  
Welsh Labour



**Natasha Asghar MS \***  
Welsh Conservatives



**Alun Davies MS**  
Welsh Labour



**Adam Price MS**  
Plaid Cymru

\* Natasha Asghar MS joined the Committee on 17 July 2024.

---

The following Members were also members of the Committee during 2023-2024:



**Former Committee Chair:**  
**Huw Irranca-Davies MS**  
Welsh Labour



**Former Committee Chair:**  
**Sarah Murphy MS**  
Welsh Labour



**James Evans MS**  
Welsh Conservatives



**Samuel Kurtz MS**  
Welsh Conservatives

# Contents

<b>1. Introduction .....</b>	<b>7</b>
<b>2. Legislative activity.....</b>	<b>9</b>
Scrutiny of subordinate legislation.....	9
Background.....	9
Scrutiny in the past year .....	9
Errors in statutory instruments .....	10
Scrutiny of Bills .....	14
Background.....	14
Scrutiny in the past year .....	14
The use of framework Bills and an increasing delegation of powers.....	15
Potential contravention of constitutional norms.....	18
UK Government Bills making provision for Wales in devolved areas (Legislative Consent Memoranda).....	18
Background.....	18
Scrutiny in the past year .....	19
The emerging democratic deficit.....	22
Standing Order 29 – Consent in relation to UK Parliament Bills .....	24
Intergovernmental agreements.....	25
Welsh Government consent for UK Government-made subordinate legislation.....	25
Background.....	25
Scrutiny in the past year .....	25
Accessibility and complexity of Welsh law.....	26
Background.....	26
Scrutiny in the past year .....	26
Case study – The Committee’s scrutiny of the draft Procurement (Wales) Regulations 2024 .....	28

---

Conclusions.....	30
Findings and concerns.....	30
Successes and positive developments.....	33
Forward look.....	34
<b>3. Constitutional issues.....</b>	<b>36</b>
Inter-Institutional Relations Agreement.....	36
Background.....	36
Notification of Welsh Government participation at ministerial-level intergovernmental meetings.....	36
Notification of Welsh Government consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales.....	36
Intergovernmental relations.....	37
Common Frameworks.....	39
Operation of the United Kingdom Internal Market Act 2020.....	39
Operation of the Retained EU Law (Revocation and Reform) Act 2023.....	41
Interparliamentary working.....	42
Interparliamentary Forum.....	42
Information sharing with, and giving evidence to, other UK parliamentary committees.....	43
Conclusions.....	43
Findings and concerns.....	43
Successes and positive developments.....	45
Forward look.....	45
<b>4. External affairs.....</b>	<b>46</b>
International obligations.....	46
UK-EU relations.....	46
Inquiry on UK-EU Governance.....	46

---

Data Protection and Digital Information (No. 2) Bill .....	48
Consideration of regulations implementing post-Brexit arrangements .....	49
UK-EU Parliamentary Partnership Assembly .....	50
International agreements.....	51
Conclusions.....	53
Findings and concerns.....	53
Successes and positive developments.....	54
Forward look.....	54
<b>5. Scrutiny of justice matters .....</b>	<b>56</b>
Leadership and accountability on justice matters.....	56
Intergovernmental relations on matters in relation to justice .....	57
Data on crime and justice .....	57
Supporting the legal sector and access to justice .....	58
The Welsh Tribunals .....	59
Criminal Justice Bill .....	59
Parc Prison.....	59
Conclusions.....	60
Findings and concerns.....	60
Successes and positive developments.....	62
Forward look.....	62
<b>Annex A: List of oral evidence sessions .....</b>	<b>63</b>
<b>Annex B: Interparliamentary working .....</b>	<b>66</b>

---





## 1. Introduction

The Legislation, Justice and Constitution Committee has a broad remit covering a wide range of areas. This annual report is intended to provide an overview of the work undertaken by the Committee from autumn 2023 up to the end of the summer recess 2024.

**1.** The Committee was established on 26 May 2021<sup>1</sup> to carry out the functions of the responsible committee set out in Standing Order 21 and Standing Order 26C, and to consider any other matter relating to: legislation within or relating to the competence of the Senedd or the Welsh Ministers, including the quality of legislation, devolution, the constitution (including Wales's constitutional future), justice, and external affairs, including (but not restricted to) changes to the devolution settlement, and intergovernmental relations.

**2.** In practice, this means that our work covers the following areas:

- the scrutiny of subordinate legislation in accordance with Standing Orders 21.2, 21.3 and 21.7(i);
- the scrutiny of Bills under Standing Order 26 within the policy remit of the Committee;
- the scrutiny of all other Bills introduced to the Senedd but focusing on specific non-policy matters;
- the scrutiny of consolidation Bills under Standing Order 26C;
- the scrutiny of legislative consent memoranda in accordance with Standing Order 29 and statutory instrument consent memoranda in accordance with Standing Order 30A;
- the scrutiny of Orders in Council under Standing Orders 25, 27.6A or 27.7B;
- considering the impact of UK Government Bills and UK Parliament Acts on devolution and Senedd law-making;

---

<sup>1</sup> Following a resolution in [Plenary on 23 June 2021](#), the Interim Subordinate Legislation Committee became the Legislation, Justice and Constitution Committee.

---

- the scrutiny of intergovernmental relationships;
- the scrutiny of international agreements;
- oversight scrutiny of common frameworks;
- scrutiny of the governance and implementation of UK-EU agreements, such as the Withdrawal Agreement and the Trade and Cooperation Agreement;
- representing the Senedd on the Interparliamentary Forum and as an observer on the Parliamentary Partnership Assembly set up under the Trade and Cooperation Agreement;
- scrutiny of justice-related matters within our remit including budget scrutiny;
- policy inquiries in accordance with the Committee remit agreed by plenary;
- interparliamentary working to share knowledge and expertise with other parliaments in the UK.

**3.** Much of this scrutiny is subject to timetables and deadlines set either by the Senedd's Standing Orders or the Business Committee. As a result, our ability to be proactive within our broad remit is limited and our flexibility to act quickly is often dependent on our legislative workload. Therefore, at the start of the Sixth Senedd we decided to consider (in private) papers which monitored developments and provided updates to ensure we could take action on key issues arising within this broad remit when needed. After each meeting these papers are published as monitoring reports and, during 2023/24, three such reports have been published.

**4.** The following chapters highlight the work we have undertaken in the third year of the Senedd, focusing on our findings and concerns, scrutiny successes and a forward look.

## 2. Legislative activity

### Scrutiny of subordinate legislation

#### Background

---

- 5.** In Wales, the Welsh Ministers make subordinate legislation using powers given to them in enabling acts such as Senedd Acts, Assembly Measures and Acts of the UK Parliament. Subordinate legislation is also often referred to as delegated legislation, because the power to make subordinate legislation is delegated by the enabling Act. Subordinate legislation is also referred to as secondary legislation.
- 6.** The majority of Welsh subordinate legislation is laid before the Senedd and takes the form of regulations or orders (types of statutory instrument).
- 7.** Our role is to consider and report to the Senedd on subordinate legislation under Standing Orders 21.2, 21.3 and 21.7(i). We consider statutory instruments against criteria set out in:
- Standing Order 21.2 – we must consider and report on these matters. Matters reported under Standing Order 21.2 are known as technical reporting points covering such issues as whether the Welsh Ministers have the power to make the subordinate legislation in question, the clarity of the drafting and whether the drafting appears to be defective.
  - Standing Order 21.3 – we may consider and report on these matters. Matters reported under Standing Order 21.3 are known as merits reporting points covering such issues as points that are of political or legal importance or give rise to issues of public policy likely to be of interest to the Senedd.

#### Scrutiny in the past year

---

- 8.** Between September 2023 and July 2024, we reported on 120 items (SL(6)367 – SL(6)504) of subordinate legislation (including 75 subject to the made negative scrutiny procedure and 38 to the draft affirmative scrutiny procedure).
- 9.** Eight of the items of subordinate legislation considered were laid before the Senedd in breach of the 21 day rule, meaning that the legislation came into effect less than 21 days after it had been laid. Such breaches are notified to the Llywydd and to the Committee in accordance with section 11A(4) of the *Statutory*

*Instruments Act 1946*. See, for example, [SL\(6\)503 – The Cockle Fishing Management and Permitting \(Specified Area\) \(Wales\) Order 2024](#).

## **Errors in statutory instruments**

---

- 10.** During this annual report period, we have reported 120 technical points under Standing Order 21.2(vi) where we considered that the drafting of the statutory instruments appears to be defective or it fails to fulfil statutory requirements, and 70 technical points under Standing Order 21.2(vii) where there appear to be inconsistencies between the meaning of the English and Welsh texts.
- 11.** In our [last Annual Report](#) we highlighted how our consideration of [SL\(6\)363 – The Packaging Waste \(Data Collection and Reporting\) \(Wales\) Regulations 2023](#) in the spring/summer of 2023 had led us to look more closely at the Welsh Government’s quality assurance processes before subordinate legislation is laid before the Senedd.
- 12.** At the start of the reporting period, we continued to [express our concerns](#) about the large number of reporting points for statutory instruments.
- 13.** Our attention in this reporting period has focused on instruments where, as a result of our scrutiny, the Welsh Government has confirmed that either correction slips would be sought from the [SI Registrar](#), corrections would be made to an instrument prior to making, and/or a correcting statutory instrument would be required.
- 14.** We [wrote](#) to the then Counsel General and Minister for the Constitution, Mick Antoniw MS, on 23 April 2024 on the subject of the Welsh Ministers making corrections to statutory instruments subject to the draft affirmative scrutiny procedure prior to their making. The then Counsel General [replied](#) on 3 May 2024, before we again [wrote](#) on 4 June 2024. In our 4 June letter, we urged the then Counsel General to provide us with greater clarity on the specific criteria the Welsh Government applies when deciding whether a particular correction is not substantive and thus appropriate to make prior to making a statutory instrument.
- 15.** In our 4 June letter, we also took the opportunity to repeat a request for clarity (originally contained in our 23 April letter) on why the Welsh Government may be of the view, as suggested by the then Minister for Climate Change, Julie James MS, during the debate on [The Packaging Waste \(Data Collection and Reporting\) \(Wales\) \(Amendment\) Regulations 2024](#), that a ‘technical’ change would automatically be minor, particularly when perceived ‘technical’ changes

(such as the addition of a comma) can change the meaning of text. We also noted our concern with the implication within the Minister's remarks that any correction will not be substantive as long as it does not alter the policy intent of the instrument. We specifically asked for the then Counsel General's views given his responsibilities in overseeing the work of the Legal Services Department; we asked whether the then Minister for Climate Change's comments reflect the Welsh Government's policy on correction prior to making and, if so, the basis on which the Welsh Government considers this to be appropriate and *intra vires*.

**16.** In his response to us on 26 June 2024, the then Counsel General stated:

- The Welsh Government's starting point is guided by "striking the right balance between two competing principles" – the first is "to avoid taking a disproportionate approach to correcting errors", which is "set against the second (fundamental and obvious) principle that making incorrect legislation should be avoided where practicable."
- He considered there is a "certain deference given to the written law in most users' minds, a natural assumption that there will not be an error in the legislation" and, as a result, "errors are not as obvious to the users of legislation as they may be to the makers of the legislation." He added that, where the Welsh Government can correct an error and do so without significant difficulty, this is always our preference, and "we only do this when the error in question is very minor and, to be clear, this [is] our 'test' rather than whether it is 'substantive'".
- Through his engagement with the Committee over the past 18 months on the matter of correcting statutory instruments, he believed a finer appreciation within Government had developed of the criteria that underpin correction slips, and how equivalent corrections can be made to those instruments to which a correction slip cannot apply as it has not yet been made.
- The test used by the Welsh Government "is essentially the same as that applied by the SI Registrar, which is to consider whether the error is very minor and whether its remedy is clear and obvious" but that "much depends on context and there is an element of subjectivity." He also stated that the Welsh Government has "the benefit, unlike the SI Registrar, of firstly being aware of the full context in which the instrument is being made and will operate, and secondly of knowing that the decision is made subject to the constraints of the checks and balances that arise from: (a) being transparent about what has been

done in advance of the Instrument being approved, and (b) the Senedd being able to refuse to approve the Instrument.” The Counsel General said this is why the Welsh Government “may, very occasionally, correct matters that the SI Registrar may not be willing to correct.”

- On the subject of the then Minister for Climate Change’s remarks on the Packaging Waste (Data Collection and Reporting) (Wales) (Amendment) Regulations 2024, the then Counsel General said “To be clear, the Government’s view is that a correction that substantively changes an instrument in any way (let alone changes the underpinning policy intention of that instrument), is not one which can be dealt with on making. We would not propose such a correction be dealt with in that way.”

**17.** In November 2023, the then Counsel General laid before the Senedd ‘The future of Welsh law: A programme for 2021 to 2026 Annual Report 2022/23’, and wrote to notify us of the Report. In the Annual Report, he stated:

*“64. The Government is putting a new process in place to ensure that Members of the Senedd are made aware of any corrections of a minor or technical nature that are made prior to the making of a draft affirmative instrument.”*

**18.** However, we have not been convinced that some corrections to errors in statutory instruments (which we identified) have been made, or clearly communicated to us by the Welsh Government.

**19.** For example, we considered The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 in December 2022 and identified several errors in the draft regulations. As late as June 2024, we were still unclear if the required corrections had been made. We wrote to the Welsh Government on 5 June 2024, and received a reply on 27 June. In his reply, the then Cabinet Secretary for Climate Change and Rural Affairs, Huw Irranca-Davies MS, confirmed that:

- In respect of reporting point 8 in our original report (which identified an error in the equivalence between the English and Welsh texts of regulation 4(2)(a)(viii) of the 2022 Regulations) this was corrected on making rather than by amending instrument. The Cabinet Secretary stated “It is unfortunate that when the (then) Minister wrote with an update to the Committee in January 2023, this was not picked up as it

should have been nor has it subsequently been drawn to the Committee's attention in the way we would have wished."

- In respect of reporting point 25 in our original report, the omission to reference article 5(5)(a) in the Schedule to the 2022 Regulations still requires correction by an amending instrument and "for reasons of other higher priority matters it has not yet been possible to deal with this". The Cabinet Secretary stated "It does remain our intention to resolve this, and when this happens I will ensure the Committee's attention is drawn to this in line with the recent commitments given by the Counsel General."
- In respect of reporting point 30 in our original report, the Cabinet Secretary stated that the Government has committed, on the assumption that a suitable power can be identified, to amend the scrutiny procedure applicable to one of the delegated powers in the Regulations from the negative to the affirmative procedure. He added "My officials have yet to establish a suitable vires to enable this change to be made but this remains under review and when I am in a position to provide further information I will of course update the Committee."

**20.** We were concerned by these responses and so we wrote again on 3 July 2024, noting:

- We were unclear why, more than 18 months later, it had not been possible to correct the omission to reference article 5(5)(a) in the Schedule to the 2022 Regulations, and asked for a definitive timeline for this error to finally be addressed.
- We were similarly unclear why it had taken so long for the Welsh Government to advise us that it had not yet been possible to identify a suitable vires to amend the scrutiny procedure applicable to one of the delegated powers in the Regulations from the negative to the affirmative procedure, and requested details of a timeline within which the Welsh Government officials were working. Furthermore, if a suitable power is not identified, given the commitment the then Minister gave the Senedd, we said we would expect the Senedd to be notified of the situation.

## Scrutiny of Bills

### Background

---

**21.** As part of our overall remit, we consider any matter relating to legislation. Our standard scrutiny of Bills, in line with our remit, focuses on a number of specific issues:

- matters relating to legislative competence, including compatibility with human rights;
- the need for the legislation;
- the balance between the provisions on the face of the Bill and what is delegated to the Welsh Ministers to be made by subordinate legislation, and the procedure attached to each subordinate legislation making power;
- the need for consolidation (if applicable) and other matters related to the accessibility of the statute book;
- the overall quality of the legislation.

### Scrutiny in the past year

---

**22.** Since September 2023, we have completed our scrutiny of five bills which have been introduced to the Senedd by the Welsh Government:

- [Infrastructure \(Wales\) Bill](#)
- [Senedd Cymru \(Members and Elections\) Bill](#)
- [Elections and Elected Bodies \(Wales\) Bill](#)
- [Local Government Finance \(Wales\) Bill](#)
- [Senedd Cymru \(Electoral Candidate Lists\) Bill](#)

**23.** In total, we made 115 recommendations in our reports on these Bills. Welsh Government responses to these recommendations can be found on the webpage for the relevant Bill. Broadly, our recommendations were similar to those contained in reports from Bills introduced previously in the Sixth Senedd and highlighted in our previous Annual Reports. As such the recommendations:



- aimed to address concerns relating to the framework nature of some Bills by requesting more detail be placed on the face of the Bill and requesting that regulation-making powers are taken for a defined purpose (the use of framework Bills is discussed in more detail in the following section);
- sought explanations from the relevant Minister about how and when the Welsh Government intended to use regulation-making powers it was seeking to be delegated from the Senedd; some of these powers we considered to be excessively broad or were being taken ‘just in case’ they would be useful in the future;
- requested changes to proposed procedures attached to the making of subordinate legislation to provide opportunities for more Senedd scrutiny.

**24.** Some recommendations we have made in the past year also sought changes and improvements to Bills stemming from our concerns that certain provisions in Bills introduced to the Senedd would potentially contravene constitutional norms. This is covered in a separate section below.

**25.** We also conducted scrutiny of a Member Bill – the Residential Outdoor Education (Wales) Bill, introduced by Sam Rowlands MS.

**26.** In March 2024, the then Minister for Finance and Local Government, Rebecca Evans MS, offered the Committee a presentation by Welsh Government officials as part of a review of section 6 of the *Welsh Tax Acts etc. (Power to Modify) Act 2022* (the 2022 Act). We replied seeking more information. Following a further letter from the Minister, we wrote a joint letter with the Finance Committee in June 2024 declining the offer. While we welcomed the work being undertaken by the Welsh Government to review the 2022 Act, we were uncertain about what was being asked of our respective Committees and suggested that a policy development role was being envisaged, which would blur the separation of functions between the legislature and the executive, and would not therefore be appropriate. In so doing, we re-iterated the view set out in our Report on the Welsh Tax Acts etc. (Power to Modify) Bill that primary legislation should be used to amend the Welsh Tax Acts.

### **The use of framework Bills and an increasing delegation of powers**

---

**27.** In our 2021/22 Annual Report, and in light of our scrutiny of the Welsh Tax Acts etc. (Power to Modify) Bill, we said that we would monitor the use of skeleton

or framework Bills which do not include enough detail on the face of the Bill and therefore delegate extensive powers to the Welsh Ministers, tilting the balance of power too much away from the Senedd as the legislature and towards the Welsh Government as the executive.

**28.** Of the six Bills we have considered in this reporting period, we described two as being framework Bills or having had framework elements to them:

- [Local Government Finance \(Wales\) Bill](#)
- [Infrastructure \(Wales\) Bill](#)

**29.** In June 2023, we agreed to commission Professor Richard Whitaker to undertake research on the Committee's behalf on the use of framework legislation in the Senedd and the other legislatures in the UK. Professor Whitaker leads the thematic research hub for Parliament, Public Administration and Constitution in the UK Parliament and conducted this research as part of that role. He was supported in this research by academics and parliamentary officials from across the UK, including Professor Diana Stirbu (London Metropolitan University) and Hedydd Mai Phylip (Cardiff University).

**30.** Professor Whitaker presented his [findings](#) to us on 13 May 2024. One of the starkest findings of his report is that there has been a significantly higher proportion of framework legislation in the Sixth Senedd (43% of all Bills) compared to the Scottish Parliament (10%) and UK Parliament (9%) during a similar period.

**31.** In line with concerns we have repeatedly raised, Professor Whitaker also highlighted that a possible effect of framework bills is that the extensive use of widely drawn delegated powers may mean they are used in ways not anticipated when the powers were originally drawn up.

**32.** In our view, the Local Government Finance (Wales) Bill is one of the clearest, and therefore unwelcome, examples of a framework Bill with an inappropriate delegation of power ever introduced into the Senedd by the Welsh Government. Conclusions 7 to 10 in our report stated:

- We do not consider that the Bill represents an appropriate way for a government to legislate. Primary legislation that creates extensive regulation-making powers should not be proposed by a government to enable future governments 'to think creatively'. This facilitates the avoidance of detailed scrutiny by Members of a democratically elected Senedd.

- Through the Bill, the Minister is asking this Senedd to grant broad delegated powers to an unelected future government for unknown reasons and to do a wide range of things that are not necessarily understood today. The excessive granting of secondary legislative powers denies the Senedd its proper constitutional role.
- We have repeatedly commented on the ‘futureproofing’ justification often put forward by the Welsh Ministers. Excessively futureproofing primary legislation takes away powers from future Seneddau and is not an acceptable practice.
- We believe that the Bill is an example of the Welsh Government making inappropriate legislative choices, and this is particularly concerning in the context of Senedd reform.

**33.** In our [evidence session](#) on the Infrastructure (Wales) Bill, we questioned the then Minister for Climate Change, Julie James MS, on her description of the Bill as a ‘headline’ Bill, as opposed to a framework Bill. She explained:

*“A framework Bill is traditionally one where there is very little policy in detail on the face of the Bill, with wide executive powers—Henry VIII powers, typically—which can be used in a wide variety of ways, typically with no further scrutiny. This is a headline Bill, because it sets out a detailed structure of the process and what will be caught by the Bill, and also contains a number of quite narrowly drawn regulation-making powers, which allow appropriate detail to be put in. But all the detail isn't on the face of the Bill. So, I was trying to distinguish between one that broadly just says, ‘The Minister can do what they like—please sign here,’ and one that sets out quite a detailed set of processes and constrains the executive power therein, but doesn't contain the whole thing on the face of the Bill...”*

**34.** We touched on the issue of the increasing use of framework Bills with the then First Minister, the Rt Hon Mark Drakeford MS in an [evidence session](#) on 18 September 2023. In the course of the discussion he [said](#):

*“... I would be advising colleagues that when those subordinate legislation procedures are used, they take some interest in them. Because, my experience of taking Bills through is that, at its worst—and I'm caricaturing here—it's a bit of a bidding war.*

*The Government says the negative procedure, so somebody says, 'Oh no, no, that must be the affirmative procedure'. The Government says the affirmative procedure, and somebody wants to bid it up to the superaffirmative procedure. But when these things return to the floor, when the affirmative procedure is used, what happens? The Minister speaks, the Llywydd says, 'I have no other speakers', and we proceed to a vote. I think that undermines the arguments against framework legislation."*

**35.** In the context of questioning about the Welsh Government's legislative capacity, the then First Minister also said:

*"We are dealing with huge amounts of subordinate legislation, some of it in order to make sure that Bills that have been passed by the Senedd can be taken forward..."*

### **Potential contravention of constitutional norms**

---

**36.** In our reports on the Senedd Cymru (Members and Elections) Bill (see our commentary on sections 7 and 19) and the Senedd Cymru (Electoral Candidate Lists) Bill (see our commentary on section 2), we raised concerns about the constitutional propriety of the Sixth Senedd passing legislation which would impose duties on the Seventh Senedd and its Presiding Officer, namely to table a motion to establish a Committee.

**37.** In particular, we drew attention to the fact that doing so would breach the principle that an Act of a Parliament should not constrain the freedom of action of a future Parliament. The Welsh Government's responses to our reports indicated that they did not agree with this view.

## **UK Government Bills making provision for Wales in devolved areas (Legislative Consent Memoranda)**

### **Background**

---

**38.** As part of our overall remit, we consider any matter relating to legislation. One aspect of this broad responsibility is to consider, in accordance with Standing Order 29, all legislative consent memoranda laid before the Senedd by the Welsh Government for UK Government Bills that make provision in relation to Wales for any purpose within the legislative competence of the Senedd (or which modify the Senedd's legislative competence).

## Scrutiny in the past year

---

**39.** Our work programme has again been heavily impacted by the requirements to scrutinise legislative consent memoranda (LCMs) and supplementary legislative consent memoranda (SLCMs).

**40.** Between September 2023 and July 2024, we have considered 18 LCMs and SLCMs relating to 12 UK Bills, and produced 16 reports.

**41.** In our consideration of LCMs, we have made 63 recommendations.

**42.** Across our reports and recommendations, various points and themes have emerged with the approach taken by the Welsh Government. Our concerns have included:

- the timing of the laying of LCMs and SLCMs (see our reports related to the [Energy Bill](#), [Criminal Justice Bill](#), the [Renters \(Reform\) Bill](#) and the SLCM on the [Victims and Prisoners Bill](#));
- the quality of LCMs and SLCMs (see our reports related to the [Energy Bill](#) and the [Data Protection and Digital Information Bill](#));
- the transparency of intergovernmental relations (see our reports on the [Energy Bill](#) and the [Renters \(Reform\) Bill](#));
- a reluctance to engage dispute resolution procedures, a point raised in our [Annual Report 2022/23](#) (see our [report](#) related to the [Data Protection and Digital Information Bill](#));
- that the Welsh Government is using a UK Bill to legislate in a devolved area, rather than through introducing its own legislation (see our report on the [Renters \(Reform\) Bill](#)).

**43.** As regards our specific concern with the Welsh Government using a UK Bill to legislate in a devolved area, in our report on the LCM on the Renters (Reform) Bill we said that the Welsh Government was:

*“... undermining the Senedd as a legislature and the principle of devolution by seeking provision for Wales in the Renters (Reform) Bill to deliver its policy objectives on renting homes, instead of using a Welsh Government proposed Bill which would be scrutinised by the Senedd.”*

**44.** We expressed concern that the Bill would have amended two Welsh Acts which were passed relatively recently – the *Renting Homes (Fees etc.) (Wales) Act 2019* and the *Renting Homes (Wales) Act 2016*.

**45.** Our report further stated that the arguments of the then Cabinet Secretary for Housing, Local Government and Planning, Julie James MS, for using a UK Bill to legislate in relation to renting homes were “not persuasive”, and that the Welsh Government should have introduced its own Bill to allow effective scrutiny by the Senedd. We recommended that the Welsh Government should explain how it will reduce its reliance on UK Bills in future and to ensure the Senedd’s integrity as a legislature is retained, and also that:

*“The Welsh Government should undertake a comprehensive review of how it uses its resources, with a view to ensuring that it has the capacity to legislate fully by introducing Bills to the Senedd and to reduce its reliance on UK Bills, such that the integrity of the devolution settlement is retained. It should report on the outcome of that review before the end of the Sixth Senedd.”*

**46.** In her response to these recommendations, the then Cabinet Secretary told us that she does not agree with the premise that the Welsh Government has a reliance on UK Bills.

**47.** In July 2024, we wrote to the new UK Government drawing attention to concerns with the approach of the former UK Government. Our letter focused on a range of issues, including the Sewel Convention, poor engagement with the Welsh Government, and the delegation of powers to UK Ministers in devolved areas. A response from the Secretary of State for Wales Jo Stevens MP was received on 31 July 2024. We also explored some of these themes in our evidence to the House of Lords Constitution Committee in its inquiry on the governance of the Union.

**48.** In this reporting period, the calling of the UK general election (held on 4 July 2024) meant that UK Bills which had engaged the Senedd’s legislative consent process were either subject to the wash-up period in the UK Parliament or fell on the dissolution and prorogation of the UK Parliament.

**49.** The UK Bills for which LCMs had been laid and which fell on the dissolution and prorogation of the UK Parliament were:

- Data Protection and Digital Information Bill – On 14 May 2024, the Senedd voted to withhold consent to the Bill.

- Renters (Reform) Bill – The Senedd had not voted on whether to grant consent to the Bill.
- Economic Activity of Public Bodies (Overseas Matters) Bill – On 27 February 2024, the Senedd voted to withhold consent to the Bill.
- Criminal Justice Bill – The Senedd had not voted on whether to grant consent to the Bill.
- Dogs (Protection of Livestock) (Amendment) Bill – The Senedd had not voted on whether to grant consent to the Bill;
- Tobacco and Vapes Bill – The Senedd had not voted on whether to grant consent to the Bill.

**50.** We reported on LCMs for the Data Protection and Digital Information Bill, the Renters (Reform) Bill, the Economic Activity of Public Bodies (Overseas Matters) Bill and the Criminal Justice Bill.

**51.** The UK Bills for which LCMs had been laid and which were passed by the UK Parliament during its wash-up period before the dissolution and prorogation of the UK Parliament were:

- Victims and Prisoners Bill – On 7 May 2024, the Senedd voted to grant consent to clauses 16 and 17, Part 3 and the associated Schedule of the Bill as amended. On the same day, the Senedd voted to withhold consent for clauses 1 to 4, 11, 15, 26 to 33 and 35 to 39 of the Bill as amended. Before the Bill was passed, clause 15 was amended to state that guidance issued about specified victim support roles must not relate to a matter within the legislative competence of the Senedd. On 25 June 2024, the then Cabinet Secretary for Culture and Social Justice, Lesley Griffiths MS, wrote to the Committee, expressing disappointment with the UK Government’s decision to progress the Act without the consent of the Senedd, although noting that it did make one amendment that respected the consent process.
- Leasehold and Freehold Reform Bill - Our report on the LCM, amongst other matters, sought an explanation as to why the Secretary of State was being provided with a regulation-making power in relation to the tribunal processes associated with the devolved Leasehold Valuation Tribunal. In response, the then Cabinet Secretary for Housing, Local Government and Planning, Julie James MS, said it had “always been the intention for the distribution of powers to be revisited”. The Senedd had

not voted on whether to grant consent for the Bill prior to it being passed. On 6 June 2024, the then Cabinet Secretary issued a written statement, stating that it was “regrettable that the expedited passage of the Bill meant that it was passed...without the amendments I was seeking to delegate further powers to the Welsh Ministers.”

## **The emerging democratic deficit**

---

**52.** In our Annual Reports for 2021/22 and 2022/23, we expressed concern that use of UK Bills to legislate in devolved areas is contributing to an emerging democratic deficit.

**53.** At the start of this reporting period, we therefore explored some of our concerns about the legislative consent process with the then First Minister, the Rt Hon Mark Drakeford MS, in an evidence session on 18 September 2023 and in subsequent correspondence. This included consideration around the process the Welsh Government goes through in relation to the publication of the UK Government’s legislative programme, capacity within the Welsh Government and the operation of intergovernmental relations.

**54.** Just prior to this session, we received a response from the then Counsel General and Minister for the Constitution, Mick Antoniw MS, to our letter of 24 July 2023, following an earlier evidence session. In his response to question 7 he provided information about the process involved in deciding to use a UK Bill to legislate in a devolved area. Subsequently in a letter of 7 November 2023, referring to matters raised in the evidence session, he told us:

*“Whilst there are situations whereby Welsh Government officials and lawyers engage with UK Government on the suitability of text within UK Bills, the Welsh Government do not offer draft amendments or provisions for inclusion in UK Bills.”*

**55.** We continued to explore our concerns about the legislative consent process with the then Counsel General in an evidence session on 26 February 2024. He told us that the Welsh Government responded to growing levels of UK Government legislation in devolved areas where they had no choice but to use the legislative consent process but that:

*“There are one or two areas that have arisen where the UK Government has said, ‘Do you want us to legislate for you in this area?’ and the choice that we actually have to make at that*



*stage is whether this is something where we want to preserve the legislation for ourselves now.”*

**56.** He added that:

*“The balance that has to be weighed up is if there are areas where there is a possibility of legislation happening that is important and would benefit the people of Wales that we're not in a position to deliver on now, whether you should actually accept that. And I think there is merit in saying that you can, provided that the power in that area isn't taken away and if, at some stage in the future, we want to actually develop our own legislation or change the legislation, we retain the power to do that.”*

**57.** The then Counsel General nevertheless conceded that, whatever the justifications, there is a growing democratic deficit, although he went on to say he thought the Welsh Government acceding to the UK Government legislating was normally for exceptional reasons.

**58.** In terms of the impact of using UK Bills to legislate in devolved areas on the accessibility of the statute book, the then Counsel General said that using consolidation Bills was the way forward.

**59.** In our evidence session with the then First Minister in September 2023, we had a wide-ranging discussion about the Sewel Convention including whether it could be codified. During the session, the then First Minister also spoke about the Convention in the context of resolving disputes about legislative consent (see also the section on intergovernmental relations in Chapter 3). He said:

*“... the Supreme Court is clear that Sewel is not justiciable; it is a political convention. The UK Government is required to satisfy itself that circumstances are not normal and therefore that it can go ahead. And if you triggered the disputes mechanism in those circumstances, all the UK Government has to do is to self-certify its own belief; there would be nothing that you could do to disprove its own conclusion. The Welsh Government has set out a series of ways in which Sewel could be codified that would make that a more realistic way of proceeding, but in the absence of a codification of Sewel, or—to my mind, much, much better—an implementation of the Gordon Brown proposals, which would put Sewel in a completely different position,*

*triggering a disputes mechanism over a failure of the Sewel convention would be doomed to fail, and I'm not keen to have our first experience of the disputes mechanism being one where the Welsh Government triggers it knowing that we could not succeed."*

**60.** In his evidence session with us in February 2024, the then Counsel General told us that the Sewel Convention is "wounded at the moment" and "needs to be put on a justiciable basis in order to make it work properly." In the context of the meaning of "not normally", he suggested that the threshold at which the UK Government would actually legislate "has been coming down and down and down".

**61.** One aspect of scrutinising the use of UK Bills to make provision in devolved areas has been to consider how the Welsh Government and the UK Government have been working together; we consider this matter in Chapter 3.

### **Standing Order 29 – Consent in relation to UK Parliament Bills**

---

**62.** In our report in March 2024 on the Leasehold and Freehold Reform Bill we noted that the test in Standing Order 29.1, in relation to whether the Senedd's consent for a UK Bill is required, is broader than the legislative competence tests under the *Government of Wales Act 2006*. As a result, the Welsh Government and the UK Government could therefore be applying two different tests when considering whether the Senedd's consent is required for provisions in that Bill.

**63.** We therefore recommended that the Business Committee considered reviewing Standing Order 29.1 as part of work it was undertaking in relation to the legislative consent process. The Business Committee subsequently accepted this recommendation.

**64.** Subsequently, following our report on the LCM on the Renters (Reform) Bill, we wrote in June 2024 recommending that the Business Committee should undertake a full procedural review of Standing Order 29 to ensure it is fit for purpose. This was because of our view that consent was being sought for provisions in devolved areas on a scale that may not have been envisaged when the Standing Order was originally drafted. In response to our request the Business Committee suggested that we undertake that review, but we declined for a number of reasons, including our legislative workload and in so doing, also advocated for the creation of a procedures committee.

## Intergovernmental agreements

---

**65.** In our 2021/22 Annual Report, we said we would monitor the use of intergovernmental agreements, given that LCMs for some UK Bills made reference to the creation of memoranda of understanding.

**66.** We are not aware of any such memoranda of understanding having been agreed in the reporting period.

**67.** In January 2024, the Counsel General provided an update about intergovernmental agreement issues that we raised in our 2022/2023 Annual Report.

## Welsh Government consent for UK Government-made subordinate legislation

### Background

---

**68.** Our remit includes the consideration of subordinate legislation made by the UK Government in devolved areas.

**69.** Invariably, given that Standing Order 30C is now redundant following the expiration of powers in the *European (Withdrawal) Act 2018* in December 2022, this means our scrutiny in accordance with Standing Orders is limited to that of Welsh Government statutory instrument consent memoranda (Standing Order 30A). Such memoranda concern subordinate legislation made by UK Ministers that amend primary legislation which makes provision within the legislative competence of the Senedd and which requires the Senedd's consent.

**70.** In addition, we consider Welsh Government notifications stating that it intends to consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales. Such notifications are given to the Committee in accordance with the commitment from the then First Minister, the Rt Hon Mark Drakeford MS, given in November 2021, which we highlighted in our report on the Inter-Institutional Relations Agreement.

### Scrutiny in the past year

---

**71.** The number of UK Government statutory instruments the Welsh Government has consented to (and notified us of) is as follows:

- SO30A statutory instrument consent memoranda: 3
  - All other consent notifications: 27
-

**72.** We consider consent notifications concerning the UK Government exercising a delegated legislative power in a devolved area in relation to Wales in Chapter 3 (paragraphs 127 to 129).

## **Accessibility and complexity of Welsh law**

### **Background**

---

**73.** In our Annual Report for 2021/22, we said we would continue to consider how our work can contribute to explaining and highlighting the increasing complexities of the law in Wales and what, if any, measures can be taken to improve its accessibility.

**74.** As we highlight above, there are many ways in which the accessibility of Welsh law may be impacted, whether that is: a lack of transparency around how corrections to subordinate legislation that are made after the Senedd has given its approval; the lack of detail on the face of primary legislation; or different parliaments of the UK making legislation for Wales in the same areas.

### **Scrutiny in the past year**

---

#### **Accessibility issues in specific Bills and subordinate legislation**

**75.** Some of our reports on Bills laid before the Senedd have included recommendations aiming to improve the accessibility of those particular Bills; see, for example, our reports on the [Infrastructure \(Wales\) Bill](#) and [Local Government Finance \(Wales\) Bill](#).

**76.** Several of our reports on subordinate legislation laid before the Senedd in this reporting period have again (as in previous years) included reporting points which have been made because we consider that something in the form or meaning of the statutory instrument needs further explanation (Standing Order 21.2(v)), because we consider that the instrument contains defective drafting (Standing Order 21.2(vi)), or because we consider that there appear to be inconsistencies between the meaning of the English and Welsh texts (Standing Order 21.2(vii)). Our reports draw these matters to the attention of the Senedd and the Welsh Government with the aim of ensuring well-drafted law is both approved by the Senedd and/or made by the Welsh Government.

**77.** In the reporting period we have encountered similar and recurring issues with definitions in subordinate legislation. For example, when scrutinising [SL\(6\)388 - The National Health Service \(Ophthalmic Services\) \(Wales\) Regulations 2023](#) we reported on a failure to accurately cross-refer to a definition found in

another piece of legislation. There have also been occasions in the past year of the Welsh Government attempting to define a profession by reference to a statutory register but the cross-reference in the statutory instrument is incorrect or unclear about which register is being referred to, for example [SL\(6\)504 – The National Health Service \(General Medical Services Contracts\) \(Prescription of Drugs Etc.\) \(Wales\) \(Amendment\) Regulations 2024](#).

### **Consideration of the Welsh Government’s ‘The future of Welsh law: A programme for 2021 to 2026 Annual Report 2022-23’**

**78.** As we highlight in paragraph 17 above, in November 2023, the then Counsel General and Minister for the Constitution, Mick Antoniw MS laid before the Senedd ‘The future of Welsh law: A programme for 2021 to 2026 Annual Report 2022-23’. We considered the Annual Report at our meeting on [11 December 2023](#).

### **The laying of composite and joint statutory instruments in the Senedd in English only**

**79.** Our consideration of subordinate legislation involves reporting to the Senedd when a statutory instrument is not laid in both Welsh and English. We found that 23 statutory instruments have been laid so far this Senedd in English only, compared to 26 such instruments in the Fourth Assembly, and 24 in the Fifth Senedd. As we recognised this to be a long-standing issue also faced by our predecessor committees, we decided to find out which barriers persist to the laying of statutory instruments in both Welsh and English in the Senedd.

**80.** We noted that the Welsh Government’s justification for laying such instruments in English only is as follows: as these instruments are made on a joint or composite basis with Ministers from other governments in the UK, they are subject to UK Parliamentary scrutiny, and therefore it is not considered reasonably practicable for them to be made or laid in both Welsh and English. We also noted the Welsh Government’s often-expressed view that as no routine parliamentary procedures exist in Westminster for the laying of bilingual statutory instruments, the relevant instruments must be laid in the Senedd in English only.

**81.** In December 2023, we wrote to committees in the UK Parliament to seek their views on the procedural barriers described by the Welsh Government. In January 2024, we [received responses](#) from those committees; in particular, the chairs of the procedures committees of both Houses of Parliament told us that no procedures prevent the laying of bilingual instruments in either House.

**82.** We brought [these responses to the attention](#) of the then Counsel General, Mick Antoniw MS, who [responded](#) to us in May 2024. He told us that he was “very

---

pleased” to note our findings, and while he stated that the Welsh Government was “committed to improving the accessibility of the law”, he said that joint and composite instruments “have their place”.

**83.** However, the then Counsel General also highlighted to us that the then UK Government’s “well-established” position was that joint instruments should be made in English only. This therefore presented the Welsh Government with a “significant barrier” to making such instruments bilingually, and there were “limited options” available to it to change this situation.

### **Case study - The Committee’s scrutiny of the draft Procurement (Wales) Regulations 2024**

---

**84.** On 24 June 2024, we considered the draft Procurement (Wales) Regulations 2024, laid before the Senedd on 11 June 2014 and subject to the draft affirmative scrutiny procedure.

**85.** Our consideration of these draft Regulations brought together several strands of our work, including: our consideration of legislative consent memoranda for UK Bills; intergovernmental relations; our responsibility for scrutinising Welsh-made statutory instruments; and our monitoring of the Welsh Government’s powers to observe and implement international obligations. Our consideration also highlighted many ongoing issues and concerns we have with the making of legislation for Wales.

**86.** Our report on the draft Regulations contained 11 technical reporting points and two merits points. Such was our concern with the Regulations and the response received to our draft report on 18 June 2024, we wrote to the then Cabinet Secretary for Finance, Constitution and Cabinet Office, Rebecca Evans MS, with some urgency in advance of the scheduled debate on the draft Regulations.

**87.** The Procurement Bill, as it was when introduced to the UK Parliament, was subject to the legislative consent process in the Senedd. One of our concerns with the draft Regulations was that it appeared that the Welsh Government had deferred to, and was acting in accordance with, advice and direction from the UK Government when exercising powers in the *Procurement Act 2023* (the 2023 Act) even though the Welsh Government was aware of issues with that advice. For example, in response to our report on the draft Regulations, the Welsh Government told us that it was aware that some of the references to organisations in the draft Regulations are not current and it was advised by the UK Government that names could not be changed. One such out-of-date reference was to the

‘National Assembly for Wales Commission’ rather than a correct reference to the ‘Senedd Commission’.

**88.** The then Cabinet Secretary responded to us on 27 June 2024. While we welcomed the timely engagement with us, we considered that a handful of matters remained unresolved and again wrote to the Cabinet Secretary on 1 July 2024.

**89.** In our 1 July letter, we noted the then Cabinet Secretary’s view that a better depiction of the relationship between the Welsh and UK governments “would be one of constructive partnership”.

**90.** On the subject of incorrect references to organisations, the then Cabinet Secretary told us in her 27 June letter that:

- it was a deliberate decision to ensure that bodies covered by existing legislation continued to be covered by the new legislation;
- historically, the Welsh Government has been unable to amend the names of central government bodies because of an absence of relevant powers in trade legislation to make these amendments;
- the Welsh Government is exploring the feasibility of utilising the powers contained within the 2023 Act to update the list set out at Schedule 2 of the Regulations, whilst simultaneously considering potential risks regarding compliance with international trade obligations.

**91.** When we wrote on 1 July 2024, we stated that:

- we remained unclear as to why, in now exercising the powers in the 2023 Act to make new regulations, an opportunity was not taken to use the correct name of the Senedd Commission;
- we were similarly unclear as to why using the current and correct name of the Senedd Commission would make it unclear that the law continues to apply to that body;
- we were also unclear as to how making new legislation that simply uses the correct and current name of the Senedd Commission could pose a potential risk to compliance with international trade obligations.

**92.** The Plenary debate on the draft Regulations took place on 2 July 2024. At our meeting on 8 July 2024, we discussed the Cabinet Secretary’s contribution during the debate and we noted that the Cabinet Secretary told the Senedd that “Whilst

the Welsh Government has the powers to pass laws relating to the observation and implementation of international obligations, it's the UK Government that is responsible for agreeing trade deals for the whole of the United Kingdom, and, historically, this has meant that we've been unable to amend names such as those listed in Schedule 2, as we've lacked the powers to do so."

**93.** Our consideration of the draft Regulations highlighted matters which were novel to us. We have concerns that the making of the Regulations has brought to light potential wider issues with the Welsh Government's powers to observe and implement international obligations. As such, we again wrote on 16 July 2024 to seek further clarity on a number of matters, in order to better understand the complexities involved.

## Conclusions

### Findings and concerns

---

**94.** While the number of reported errors in statutory instruments laid before the Senedd in this reporting period is lower than the previous period, we remain concerned that the volume continues to be high.

**95.** Errors in statutory instruments laid before the Senedd has therefore again been a recurring matter that has continued to require our attention.

**96.** We returned to instruments we reported on in December 2022 (the then draft Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022)) and discovering from the Welsh Government that errors we identified are still to be corrected is disappointing and unacceptable.

**97.** We have also found ourselves in a position where we have had to express continuing concerns with the Welsh Government's use of skeleton/framework bills. Such is our concern that we commissioned external independent research. The stark finding in Professor Whitaker's report that there has been a significantly higher proportion of framework legislation in the Sixth Senedd (43% of all Bills) compared to the Scottish Parliament (10%) and UK Parliament (9%) during a similar period is not data we welcome nor is it data that should be overlooked. As we note above in paragraph 32, the Local Government Finance (Wales) Bill - with its constitutionally inappropriate delegation of power - is, in our view, one of the most unwelcome examples of a framework Bill ever introduced into the Senedd by the Welsh Government.



**98.** We agree with the suggestion of the then Minister for Climate Change, Julie James MS, that a framework Bill is a Bill under which “The Minister can do what they like”. It is for this reason that we are so concerned by their use as they do not permit an appropriate level of oversight of the Welsh Government by the Senedd.

**99.** Framework Bills do not represent good legislative practice and their use should be avoided by the Welsh Government.

**100.** We also note the comments of the then First Minister at paragraph 34. In our view the drafting of legislation should be based on constitutional principle that respects the integrity of the Senedd. As regards the procedure attached to subordinate legislation, that again should be based on principle, not least because powers delegated to the Welsh Ministers in a Senedd can be exercised by a different set of Welsh Ministers in future Seneddau. Equally, it would not be appropriate to choose a procedure to be applied to a power to make subordinate legislation based on the level of contributions to debates on such legislation that have been held previously or by speculating about what contributions might happen in the future. It is disappointing to see such comments appear again, following on from the concern we expressed in our annual report (see paragraph 113 below) about comments made by the then Minister for Climate Change during evidence on the Environment (Air Quality and Soundscapes) (Wales) Bill about how procedure for delegated powers could be chosen.

**101.** As well as reducing the ability of the Senedd to fully scrutinise proposed laws in detail that affect Welsh citizens, framework Bills lead to an increase in the volume of subordinate legislation (a significant volume of subordinate legislation in the Sixth Senedd was acknowledged by the then First Minister in his appearance before us at the start of the reporting period). Additionally, this higher volume often includes more complex statutory instruments including significant policy detail, which would likely be better placed on the face of the Bill. This may be one of the factors contributing to an increase in the number of errors in statutory instruments, which we discuss earlier in this report, and above.

**102.** In our Annual Report for 2022/23 we said we would publish in due course our own principles (or similar), which we would use to hold the Welsh Government to account when it seeks to use a UK Government Bill to legislate in a devolved area. We have not been able to finalise that work as we have had to prioritise our direct scrutiny of Welsh Government legislative activity. However, we will continue to comment on LCMs and SLCMs on a case-by-case basis and more generally in our annual reports.

**103.** We remain concerned at the approach being adopted by the Welsh Government in its use of UK Bills to legislate in devolved areas, as we have highlighted previously in our Annual Reports for 2021/22 and 2022/23. Our position set out in those reports has not changed.

**104.** We acknowledge that there are occasions when there may be an element of pragmatism involved (for example on small, discrete legislative provision which would not of itself warrant a separate Welsh Government Bill). However, the use of UK Bills to deliver a significant volume of legislation in devolved areas is unwelcome because it sidelines the Senedd and its elected Members from scrutinising legislation and seeking changes, often based on issues raised by, and the experiences of, their constituents. The Welsh Government should not assume that only its views are relevant in determining what is in the best interests of Welsh citizens or that the Senedd should accept its opinions and solutions on trust and without challenge.

**105.** The case of the Renters (Reform) Bill LCM was in our view an inappropriate use of the legislative consent process, particularly when the Senedd legislated in this policy area in the Fifth Senedd. Our report noted and commented on the then Minister for Climate Change's comments about resources impacting on the Welsh Government's approach. We believe that the response to our recommendation to undertake a comprehensive review of how the Welsh Government uses its resources (see paragraphs 45 and 46) was not satisfactory.

**106.** The fact that this UK Bill (and others) fell at dissolution highlights another issue with the legislative consent process (albeit as a consequence of dissolution of the UK Parliament), namely that the Welsh Government (and Senedd committees) have expended time and resources on these matters, which could have been used more productively.

**107.** Moreover, in the case of the Leasehold and Freehold Reform Bill, an unintended outcome has been that the Secretary of State has been provided with a regulation-making power in relation to the tribunal processes associated with the devolved Leasehold Valuation Tribunal.

**108.** We also note the then Counsel General's view that the use of consolidation Bills would be a solution to improve the accessibility of Welsh law following the use of UK Bills to legislate in devolved areas. We are not persuaded that this would be an appropriate solution on grounds of principle and also pragmatism, given that the preparation of such Bills is resource intensive and can take considerable time.

**109.** These experiences and outcomes again highlight why we believe a review of how the Welsh Government use its resources in order to propose legislation would be of benefit.

**110.** It is also why we wrote to the Business Committee suggesting it undertakes a review of Standing Order 29.

**111.** We agree with the then First Minister and the then Counsel General that there would be merit in codifying the Sewel Convention or making it justiciable. Our submissions to UK parliamentary inquiries undertaken by the House of Commons Public Administration and Constitutional Affairs Committee and the House of Lords Constitution Committee highlighted the need for reform of the Sewel Convention.

**112.** However, in our view the Sewel Convention should not be viewed as, and was unlikely to have been intended as, a vehicle to legislate in devolved areas through a UK Bill, such that legislative provision which could amount to a separate Welsh Government Bill could be decided by the UK Parliament, which would not be in a position to take account of Welsh perspectives in a way that the Senedd and its Members could.

**113.** In our 2022/23 Annual Report we said:

*“Overall, the picture emerging is one of the balance of power being shifted from the Senedd (as the legislature) to the Welsh Government (as the executive) through the use of framework Bills, broad regulation-making powers and the continued use of UK Bills to make significant provision in devolved areas. In addition, we have also heard an argument in favour of the procedure attached to regulation-making powers being based on the perceived level of interest from Members of the Senedd. We are concerned that, considering these matters collectively, it may appear that the Welsh Government’s approach is moving against the grain of parliamentary accountability.”*

**114.** The approach of the Welsh Government in the last year has not done anything to alleviate our concerns.

### **Successes and positive developments**

---

**115.** In response to our reports and through written correspondence, we acknowledge that the Welsh Government has now confirmed the criteria it considers before making corrections to statutory instruments subject to the draft

---

affirmative scrutiny procedure prior to their making and/or seeking correction slips. While it remains our view that the Welsh Government must always aim to ensure that statutory instruments laid before the Senedd do not require amending following Senedd approval and before they are then made by the Welsh Ministers, this positive development is welcomed.

**116.** As regards our 115 recommendations made in our reports on Welsh Government Bills, 48 were accepted, six were accepted in part, one was accepted in principle and a further four accepted in principle subject to further consideration. The remainder were either rejected or noted.

**117.** Of those 115 recommendations, 57 proposed making amendments to Bills, with 18 accepted and a further six accepted in part or in principle.

**118.** In our view, the acceptance of these recommendations has led to positive changes to the relevant legislation, including for example more information being placed on the face of the Infrastructure (Wales) Bill and a strengthening of some of the procedures attached to the making of subordinate legislation.

**119.** As indicated above we have also been successful in promoting a change to Standing Order 29.1 to ensure that the test in relation to whether the Senedd's consent for a UK Bill is required, is in line with the legislative competence tests under the *Government of Wales Act 2006*.

**120.** We have also highlighted the need to review Standing Order 29 on the legislative consent process and hope this work can be completed in time for the Seventh Senedd, with a view to strengthening the ability of Senedd committees to hold the Welsh Government to account for its decisions and also influencing legislative outcomes in the UK Parliament in circumstances where UK Government Bills are used to legislate in devolved areas.

## **Forward look**

---

**121.** As we have said in previous annual reports, the scrutiny of subordinate legislation and primary legislation is the core of our work and enables us to influence and suggest improvements to the quality of the Welsh legislation being produced. We also scrutinise a significant volume of LCMs but our ability to influence the corresponding UK Bills is limited. We will continue with this work and in particular will:

- continue to monitor the Welsh Ministers making corrections to statutory instruments subject to the draft affirmative scrutiny procedure prior to their making;

- further pursue the Welsh Government's intentions regarding the necessary correction of The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022;
- further pursue the Welsh Government's rationale for the drafting of The Procurement (Wales) Regulations 2024 to inform our understanding of the Welsh Government's powers to observe and implement international obligations;
- look for any developing patterns in the government departments from which we see increasing and/or recurring errors in statutory instruments;
- write to the UK Government regarding making bilingual joint and composite statutory instruments;
- continue to promote good legislative practice in Bills, including highlighting the use of skeleton / framework bills and where the delegation of powers to the Welsh Ministers is too broad and / or excessive;
- continue to monitor the capacity of the Welsh Government to propose its own legislation;
- continue to highlight the inappropriate use of UK Bills to legislate in devolved areas and its impact on the accessibility of Welsh law and the integrity of the devolution settlement;
- to continue to monitor the accessibility and complexity of Welsh law generally, including scrutiny of the Welsh Government's annual reports arising from its publication 'The future of Welsh law: A programme for 2021 to 2026'.

## 3. Constitutional issues

### Inter-Institutional Relations Agreement

#### Background

---

**122.** Under the Inter-Institutional Relations Agreement between the Senedd and the Welsh Government, the Welsh Government has agreed to notify us of its participation in formal, ministerial-level intergovernmental meetings, agreements, concordats, and memorandums of understanding.

**123.** The Welsh Government has also agreed to notify us and other relevant committees of its intention to consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales; and, where time allows, it will provide an opportunity for the Senedd to express a view before consent is formally given.

#### Notification of Welsh Government participation at ministerial-level intergovernmental meetings

---

**124.** This year, we were informed of the Welsh Government's participation at 25 ministerial-level intergovernmental meetings. We received prior notice of 16 of these meetings being held, and of the items for discussion.

**125.** We were informed of the Welsh Government's attendance, in March 2024, at the first meeting of the Interministerial Standing Committee (IMSC) since the re-establishment of the Northern Ireland Executive. Subsequently, the then Counsel General and Minister for the Constitution, Mick Antoniw MS, stated that the next meeting of the IMSC was scheduled to be held in June; this was later superseded by the UK Government's announcement of the July General Election.

**126.** No intergovernmental meetings took place between mid-May and the end of the reporting period. As opposed to last year, therefore, there was a reduction in the total number of meetings held (30 in 2022-23). However, there has also been a reduction in percentage terms of the number of instances where we received prior notice of intergovernmental meetings (23 out of 30 in 2022-23).

#### Notification of Welsh Government consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales

---

**127.** We were informed of the Welsh Government's decisions to consent to the UK Government exercising powers in devolved areas in a total of 27 items of

delegated legislation. This represents an increase from last year, when we were informed of such powers exercised in respect of 16 items of legislation.

**128.** Of these 27 items of legislation, we received prior notice of the Welsh Government's intention to consent to 18, which is an increase from last year in percentage terms.

**129.** In September 2023, we considered in detail the Welsh Government's decisions to consent to the UK Government exercising powers in devolved areas within a suite of regulations which implemented the Windsor Framework; we provide further detail on this scrutiny at paragraph 199.

## **Intergovernmental relations**

**130.** Our monitoring reports highlight specific activity that has taken place in relation to intergovernmental relations.

**131.** The Intergovernmental Review ('the review') established a three-tier system of intergovernmental relations (IGR) in the UK. In his evidence to us in September 2023, some two years after the review was published, the then First Minister, the Rt Hon Mark Drakeford described relations as "mixed".

**132.** On 18 October 2023, he told the House of Commons Welsh Affairs Committee that the UK Government's interest in reviving IGR is at "a relatively low ebb". He noted that relations were "better than they were", but added that there is not a great deal of energetic determination to make IGR work from the UK Government. In response to these comments when giving evidence to the same Committee on 13 December 2023, the then Secretary of State for Wales, David TC Davies MP said that "it takes two to dance".

**133.** On 26 February 2024 the then Counsel General and Minister for the Constitution, Mick Antoniw MS, referred to intergovernmental relations being in a poor and difficult state and that the intergovernmental relationship has not lived up the promise it had.

**134.** The Prime Minister and Heads of Devolved Governments Council, the top tier of the system established by the review, which first met in November 2022, did not meet during the reporting period.

**135.** However, following the UK General Election in July 2024, the new Prime Minister, the Rt Hon Sir Keir Starmer MP, met the new First Minister, the Rt Hon Eluned Morgan MS, in Cardiff in August 2024. The UK Government said that

discussion points would include the importance of “continuing to reset the crucial relationship” between the governments.

**136.** As regards the dispute resolution process established after the review, it remains unclear whether it has been used and, as highlighted in Chapter 2, what would prompt the Welsh Government to use it.

**137.** In July 2023, the then Counsel General, Mick Antoniw MS, told us that the process is unlikely to be appropriate for challenging individual pieces of legislation due to the likely timescales involved. He instead suggested it could be used to raise more general issues, such as breaching of the Sewel Convention overall. In September 2023, the then Counsel General expanded on this point:

*“It is not the case that the dispute processes in the IGR Review cannot be used in relation to individual UK Bills; however, the associated timetabling would be likely be complex. It can sometimes be very late in a Bill’s passage before it becomes clear that agreement at intergovernmental level cannot be reached, and whilst the dispute processes can run quickly, they do not override Parliament’s ability to pursue and timetable legislative business.”*

**138.** In his evidence to us in September 2023, the then First Minister stated the importance of being on “the very best ground” before triggering the process, adding that he has not yet been persuaded that the best case has been identified.

**139.** In October 2023, the then First Minister noted that the Northern Ireland Finance Minister had referred an issue to the dispute resolution process (although the then Counsel General later stated that it “has not been used yet”). In January 2024, the then Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities, Baroness Penn, said the process has been engaged once between the UK Government and the Northern Ireland Executive but was “currently on pause”.

**140.** The IGR Secretariat, which will handle disputes, has full-time, dedicated staff. In September 2023, the then First Minister welcomed the appointment of the head of the Secretariat (a Welsh Government staff member), noting that further appointments were expected shortly. In January 2024, Baroness Penn outlined that, while the UK and Scottish governments had assigned members of staff to the Secretariat, the Welsh Government was yet to do so. In a letter to the Committee in March 2024, the then Counsel General, Mick Antoniw MS,



confirmed that the Welsh Government has yet to make all its appointments, but stated that it aims “to fill this post as quickly as possible”.

## Common Frameworks

**141.** We have continued to oversee other Senedd committees’ scrutiny of individual common frameworks as they have been published for scrutiny.

**142.** In June 2023, the then Counsel General told us that he was not able to respond formally to recommendations by Senedd committees in respect of common frameworks until scrutiny has been completed by all four UK legislatures.

**143.** The then Secretary of State for Levelling up, Housing and Communities, and Minister for International Relations, the Rt Hon Michael Gove MP, wrote in response to the Interparliamentary Forum in March 2024 to say that the restoration of the Northern Ireland Assembly in February 2024 will make it possible to make “substantial progress” in implementing common frameworks. Further information about the scrutiny work of the Interparliamentary Forum can be found within the relevant section of this report.

**144.** We noted in May 2024 that the latest common framework, in respect of radioactive substances and decommissioning, had been published for scrutiny.

## Operation of the United Kingdom Internal Market Act 2020

**145.** We have continued to consider the impact of the *United Kingdom Internal Market Act 2020* (the UK Internal Market Act) on the effectiveness of law made in Wales.

**146.** After the then Deputy Minister for Mental Health and Wellbeing, Lynne Neagle MS, told us in summer 2023 that the Welsh Government would bring forward secondary legislation in 2024 to support “a healthier food environment” in Wales, we sought further information on the impact of the UK Internal Market Act on the proposed legislation. The then Deputy Minister told us in September 2023 that the Welsh Government had begun to consider the impact of the Act, and committed to provide us with a full assessment once completed. Following our efforts to receive the latest information, in June 2024 the then Cabinet Secretary for Health and Social Care, Eluned Morgan MS, told us that ongoing discussions with the UK Government in respect of the proposals included “discussions around the impact” of the UK Internal Market Act.

**147.** We also gave further consideration to the United Kingdom Internal Market Act 2020 (Services Exclusions) Regulations 2023, to which the Welsh Government provided consent, unlike the Scottish Government. We asked for additional information from the then Minister for Economy, Vaughan Gething MS, in relation to the decision to provide consent, who told us that “while both administrations oppose the attack on devolution the UK Internal Market Act represents”, in respect of the regulations “there was no policy reason to withhold consent for a reserved area with no direct impact in areas of devolved competence.”

**148.** In December 2023, we responded to the Business Committee’s proposals for changes to Standing Orders to deal with the impact of the UK Internal Market Act and common frameworks. The proposals aimed, in part, to address recommendation 2 in our 2023 report, The Welsh Government’s Legislative Consent Memorandum on the Genetic Technology (Precision Breeding) Bill, as well as matters raised by other Committees. On 29 January 2024 the Business Committee provided us with the responses it had received from the Health and Social Care Committee, the Chairs’ Forum and the Welsh Government. On 13 February 2024 we provided our observations on these responses as requested by the Business Committee.

**149.** We have also noted how the Welsh Government’s position in respect of the UK Internal Market Act has appeared to evolve over the last year.

**150.** We highlighted in our Annual Report for 2022/23 the Welsh Government’s position at the time: that the Act has no effect on legislation passed by the Senedd. We also raised our concerns that the Welsh Government appeared “reluctant to address” the Act’s impact on the practical effect on such legislation.

**151.** In April 2024, we noted the view expressed by the then Cabinet Secretary for Climate Change and Rural Affairs, Huw Irranca-Davies MS – in respect of the development of a deposit return scheme (DRS) – that the UK Internal Market Act could be used by the UK Government to restrict the Welsh Government’s ability to “go further” and “to impose a watered-down DRS on Wales”. The then Cabinet Secretary also referred to the potential “misuse of the Internal Market Act as a means to restrict devolution”.

**152.** We also noted the explanation of the then Cabinet Secretary for Health and Social Care, Eluned Morgan MS, provided to us in May 2024, that the UK Internal Market Act was “one of the considerations” for adopting a “four-nations approach” to the UK Government’s Tobacco and Vapes Bill.

**153.** In July 2024, Professor Thomas Horsley from Liverpool University provided us with a briefing in private session on the impact of the UK Internal Market Act. Professor Horsley has been working closely with Senedd Research to explore the impact of the UK Internal Market Act on lawmaking in Wales (and across the UK) and to raise awareness amongst stakeholders about the effects of the Act.

**154.** Professor Horsley shared the findings of his work with the Committee and discussed the implications for the Committee's work. Professor Horsley is due to publish his findings in a research report later in 2024.

## **Operation of the Retained EU Law (Revocation and Reform) Act 2023**

**155.** We have closely followed the development of the *Retained EU Law (Revocation and Reform) Act 2023* (REUL Act) since its passage through the UK Parliament, including via the legislative consent process. The Senedd voted to withhold consent to the legislation on two occasions, in March 2023 and June 2023.

**156.** Since then, we have closely monitored the exercise of powers by UK Ministers, including in devolved areas, and the development of an informal consent process where powers are exercised in areas of devolved competence.

**157.** In February 2024, the then Counsel General, Mick Antoniw MS, told us:

*“The area that we are, obviously, keeping an eye on is the area where UK Government have concurrent powers. Now, we're opposed, as you know, to those concurrent powers, but we have now had exchanges of letters, and so on, which shore up the commitment that was given that this legislation won't be used to basically legislate in devolved areas. And, of course, amongst the areas that we are particularly concerned with are the areas of standards, and so on. So, it's one of those where we have to keep a close eye on what is happening. Up until now, I would say (...) the commitments that have been given have been respected. It's still relatively early days.”*

**158.** An official accompanying the then Counsel General added:

*“... there is non-statutory agreement that they will consent or seek agreement from Welsh Ministers before using REUL powers and, to the best of our knowledge, they are sticking with*

*that. Some departments are better than others, but we have mechanisms to engage with the UK Government.”*

**159.** The then Counsel General stated that the Welsh Government had hoped for this commitment to be on the face of the Bill, but in the absence of this, he wanted to see guidance from the UK Government on this process. Such guidance has not been published and it is unclear whether it has been produced.

**160.** In a [statement](#) on 12 February 2024, the then Counsel General said:

*“We will make use of REUL Act powers in a proportionate and judicious manner where there are benefits to Wales of doing so. We will not rush to change the law simply because we can. We will work with the UK Government when doing so is good for Wales. (...) We will continue to use the levers at our disposal to ensure that environmental, social and economic rights and standards are safeguarded. It is essential that regulations applying in Wales, which are made by the UK Government, respect the priorities of the people of Wales, and are made in devolved areas only where the consent of the Welsh Ministers has been obtained.”*

## Interparliamentary working

### Interparliamentary Forum

---

**161.** The Interparliamentary Forum met twice during the reporting period, in October 2023 and February 2024.

**162.** In October 2023, the Forum met in the Scottish Parliament and discussed matters such as the on-going challenges of intergovernmental relations including the operation of the UK Internal Market Act, the scrutiny of intergovernmental working and common frameworks. Following the meeting the Forum published a [joint statement](#) and [wrote](#) to the then Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, the Rt Hon Michael Gove MP, requesting that annual reports be provided to all legislatures on each provisional common framework in addition to those fully agreed. The Secretary of State [responded](#) on 19 December 2023.

**163.** The Forum met next in February 2024 in the House of Lords to consider intergovernmental relations under the revised structures emanating from the review in 2022 (see above), the legislative consent process, and the [UK](#)

Government's Safeguarding the Union Command Paper. A joint statement was issued after the meeting.

**164.** After the meeting, the Forum wrote again to the then Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations to stress that the establishment of the Northern Ireland Executive should make it possible for more progress to be made on common frameworks. In his reply to the Forum, the then Secretary of State said that he shared the view that “substantial progress” is now possible in terms of implementing common frameworks. He added that an evaluation of common frameworks is expected to be published before the summer.

### **Information sharing with, and giving evidence to, other UK parliamentary committees**

---

**165.** We have provided evidence to two parliamentary inquiries, as already highlighted in this report.

**166.** In September 2023, we provided a submission to the House of Commons Public Administration and Constitutional Affairs Committee inquiry on devolution capability in Whitehall. It covered intergovernmental relations, including in relation to UK Bills making provision in devolved areas and suggested ways to improve the understanding of devolution, including by the UK Parliament adopting a definitive view of the Sewel Convention and by the regular review and updating of Devolution Guidance Notices (DGNs).

**167.** We also provided a submission in April 2024 to an inquiry by the House of Lords Constitution Committee on the governance of the Union which covered similar themes around the use of UK Government Bills to legislate in devolved areas and respect for the Sewel Convention.

## **Conclusions**

### **Findings and concerns**

---

**168.** As we note above, there has been a reduction in the instances where we received prior notice of intergovernmental meetings, which is disappointing. However, there has been an increase in the percentage of advance notifications received in respect of the Welsh Government's decisions to consent to the UK Government exercising powers in devolved areas in items of delegated legislation, which is welcome.

**169.** We consider the notification process to be an important means of keeping all Senedd committees informed about policy discussions and legislative activity being undertaken by the Welsh Government, in collaboration with the UK Government and other devolved administrations. While we recognise that advance notification on these matters will not always be possible, we hope that the Welsh Government will look to improve on the amount of advance notifications it is able to provide on intergovernmental meetings taking place and its consent to UK delegated legislation in devolved areas. This is important for transparency and our continual monitoring of intergovernmental relations. In addition, as we noted in our Annual Report for 2021/22, early notification of intergovernmental meetings can provide Senedd committees with opportunities to influence discussions.

**170.** Our concerns relating to the exercise of powers under the *REUL Act* appear to have materialised, with the UK Ministers making use of powers in devolved areas with limited devolved parliamentary oversight. The absence of a formal consent mechanism has resulted in the development of an informal consent process detailed in exchanges of letters between the governments which are not available to the Senedd, nor the public.

**171.** In our 2022/23 Annual Report we commented:

*“If the use of UK Bills to legislate in devolved areas continues at the levels being seen in the Sixth Senedd, the question arises about the scope, feasibility and desirability of developing interparliamentary structures to scrutinise legislation being made on a UK basis within devolved areas.”*

**172.** This remains an important consideration given that the use of UK Bills to legislate in devolved areas has not shown any sign of reducing to the levels we would like to see. This issue is linked to our desire to see reform of the Sewel Convention as we note in Chapter 2.

**173.** In addition, there remains uncertainty about the relationship between common frameworks and the UK Internal Market Act. Our concern about the operation of the latter and its impact on the devolution settlement has been heightened following our session with Professor Horsley. Another factor to consider is the Product Regulation and Metrology Bill, which was announced in the [King's Speech](#) following the election of a new UK Government. It is not yet clear what the Bill will mean for legislating in devolved areas.

**174.** We are becoming concerned that various Acts of the UK Parliament that provide powers for the UK Government to legislate in devolved areas using delegated powers is adding significant complexity to the devolution settlement (which is set out primarily in the *Government of Wales Act 2006*). This in turn means it is not easy to understand where the powers and responsibility for making laws in Wales reside, and also has significant implications for the accessibility of the statute book.

**175.** In her statement on the King's Speech in July 2024, the Secretary of State for Wales, Jo Stevens MP, said:

*"... we will work in lockstep with the Welsh Government to secure the legislative consent of the Senedd for bills in this programme which make provision in devolved areas. The Sewel Convention will also be strengthened through a new memorandum of understanding, outlining how the UK and Devolved Governments will work together for the common good."*

**176.** The impact of a change in the UK Government on intergovernmental relations and also the extent to which UK Government Bills will legislate in devolved areas are matters we will monitor closely.

### **Successes and positive developments**

---

**177.** We have continued to be active participants in the Interparliamentary Forum and will continue to do so.

**178.** We have contributed to UK Parliamentary inquiries with a view to highlighting constitutional issues that impact on Wales and devolution, and suggesting where and how we believe positive outcomes and improvements could be achieved.

### **Forward look**

---

**179.** We will continue to scrutinise constitutional issues as they impact on the Senedd, some of which we highlight in Chapter 2. A particular focus of the coming year is likely to be on intergovernmental relations and accordingly we will monitor how they develop between the Welsh Government and new UK Government following the UK general election in 2024. As part of this aim, we will seek evidence sessions with the First Minister, the Rt Hon Eluned Morgan MS, and UK Ministers to discuss these issues and contribute to any relevant consultations that take place, including in respect of the Sewel Convention.

## 4. External affairs

### International obligations

**180.** As a Committee, we are responsible for considering the constitutional impacts of external affairs, including international obligations. Over the last year, we considered several LCMs laid by the Welsh Government in respect of UK Bills which raised matters in respect of the Welsh Ministers' obligations to comply with international law.

**181.** In November 2023, within our report on the Welsh Government's LCM on the Economic Activity of Public Bodies (Overseas Matters) Bill, we highlighted concerns raised by the Welsh Government in respect of the Bill's compatibility with the rights protected by the European Convention on Human Rights, and with international law. As well as sharing the Welsh Government's concerns, we also reiterated our position that any decision made by the Senedd to consent to a Bill which raises such concerns could result in the Senedd acting incompatibly with international obligations, which would be in contrast to the spirit of the devolution settlement.

**182.** We highlighted similar considerations in respect of the Welsh Government's LCMs on the Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)) Bill. Within our report on the LCMs, laid in February 2024, we welcomed the Welsh Government's use of section 62 of the *Government of Wales Act 2006* to make representations about any matter affecting Wales, as it relates to international obligations. We also welcomed the comprehensive level of detail provided by the Welsh Government in its report on the UK's accession to CPTPP as it relates to the implementation of international obligations in a devolved context, and called on the Welsh Government to replicate and build upon this approach in the future. In response, the Welsh Government assured us that we can expect a similar approach against future UK negotiations, when the relevant country, or countries, "are of sufficient significance."

### UK-EU relations

#### Inquiry on UK-EU Governance

---

**183.** As we noted within our Annual Report for 2022/23, we started an inquiry into UK-EU governance in spring 2023. The inquiry considered how the institutional architecture and governance of the UK-EU agreements have evolved in practice,



the role of devolved governments, legislatures and civil society within them and the transparency and accountability of them.

**184.** We published [our report on the inquiry](#) in November 2023, and subsequently held a [debate in Plenary](#) on its contents in February 2024. We made 21 recommendations within our report, including:

- calling on the Welsh Government to inform the Senedd of any decisions taken within the governance structures in areas of devolved legislative competence;
- recommending that the governments of the UK urgently undertake a review of the principles and terms upon which the devolved governments are engaged in UK-EU relations;
- calling on the Welsh Government to clearly articulate strategic priorities and a clear vision for the future relationship between Wales and the EU, either within a dedicated strategy or within a refreshed International Strategy;
- recommending that the Welsh Government should convene a new advisory group on UK-EU relations to share information, evidence and coordinate inputs into UK-EU governance groups and structures.

**185.** The then First Minister, the Rt Hon Mark Drakeford MS, [responded to our report](#) on behalf of the Welsh Government in February 2024. The Welsh Government accepted many of our recommendations, accepted some in principle, and others in part. In respect of our first recommendation, as listed first above, the then First Minister told us that the Welsh Government would provide written statements “when we can”, as the relevant decisions are not always taken quickly and clearly communicated publicly, and the timings of those decisions are generally not in its hands. The Welsh Government, however, decided that some of our recommendations required further consideration, including for the creation of a new advisory group on UK-EU relations. In respect of this recommendation, the then First Minister told us that this would be a matter for the incoming First Minister to consider, “in the context of the evolving UK-EU relationship from the latter part of 2024 onwards”.

**186.** We have also monitored the governance of UK-EU relations through our legislative scrutiny work, including as part of our scrutiny of the Welsh Government’s LCMs on the Trade (CPTPP) Bill. Within [our report on the LCMs](#), we noted the Welsh Government’s view that a requirement in the agreement for the governments of the UK to comply with the provision of National Treatment of

---

Conformity Assessment Bodies “could set an unhelpful precedent for future trade deals”; we also noted the confirmation provided by the Welsh Government that the UK was able to secure an exemption from one of the provisions of the agreement in order to ensure the UK’s compliance with the UK-EU Withdrawal Agreement.

## **Data Protection and Digital Information (No. 2) Bill**

---

**187.** LCMs laid by the Welsh Government in respect of the Data Protection and Digital Information (No. 2) Bill (the DPDI Bill) were remitted to us and the Culture, Communications, Welsh Language, Sport and International Relations Committee in June 2023.

**188.** We pursued the issue of the implications of the Bill on the UK’s EU data adequacy decision which the Welsh Government believed the Bill “could jeopardise”, resulting in disruption, additional costs, and administrative and reporting requirements for Welsh and EU businesses.

**189.** We also considered the Bill’s interaction with UK-EU obligations, specifically those provisions in the UK-EU Trade and Cooperation Agreement (TCA) on personal data protection, cross-border data transfers, and law enforcement cooperation.

**190.** We shared the Welsh Government’s concerns and supported its requests to the UK Government to share a copy of its risk assessment on the Bill and potential loss of adequacy decision as a matter of urgency. We also called on the then First Minister, the Rt Hon Mark Drakeford MS to escalate the issue at Ministerial level discussions and to provide the Welsh Government’s view on the Bill’s compliance with the TCA, which he did in his response.

**191.** In our reports on subsequent SLCMs and correspondence, the then First Minister continued to provide a satisfactory level of detail which assisted us in our deliberations, including on the Bill’s implications in relation to other international arrangements. We welcomed the level of detail provided by the Welsh Government during the course of our consideration of the legislative consent memoranda laid in respect of the Bill.

**192.** In January 2024, the then First Minister responded to the international relations annual report of the Culture, Communications, Welsh Language, Sport and International Relations Committee. Recommendation 13 of that Committee’s report called on the Welsh Government to “routinely include detailed analysis of the Trade and Cooperation Agreement where UK-EU matters are cited in their

Legislative Consent Memorandums, as provided during the course this Bill's scrutiny".

**193.** The then First Minister accepted recommendation 13, stating that:

*"The example of the potential impact of the Data Protection and Digital Information (No.2) Bill on the TCA is a very good one for cases where proposed UK legislation needs to take account of the Agreement. I am happy to agree that Welsh Government LCMs on Bills that impact on the TCA should set out our assessment of such an impact."*

**194.** We welcome this important commitment.

### **Consideration of regulations implementing post-Brexit arrangements**

---

**195.** We have also considered regulations implementing post-Brexit arrangements as they have been laid for scrutiny in both the Senedd and the UK Parliament.

**196.** The new Border Target Operating Model (BTOM), published by the UK Government in August 2023, set out the future approach to safety and security controls (applying to all imports), and sanitary and phytosanitary controls (applying to imports of live animals, germinal products, animal products, plants, and plant products) at the borders of Great Britain. During spring 2024, we monitored the implementation of the BTOM via regulations made by the UK Government, regulations to which the Welsh Government consented.

**197.** For example, after we were notified in January 2024 of the Welsh Government's decision to consent to the Official Controls (Extension of Transitional Periods) (Miscellaneous Amendments) Regulations 2024, we wrote to the then Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths MS, to seek further information on legislation anticipated to be required to reach future milestones of the BTOM's implementation. We also sought an update on concerns raised in respect of the compatibility of previous official controls regulations with international obligations. We considered the then Minister's response, which included a list of anticipated legislation, at our meeting on 26 February 2024. The Minister's letter also confirmed that the Welsh Government had not been made aware of any specific concerns around the compatibility of the 2024 regulations with international obligations.

**198.** We have also considered developments in relation to the Windsor Framework, agreed in February 2023, which made changes to the Protocol on Ireland/Northern Ireland.

**199.** In September 2023, we considered in detail the Welsh Government's decisions to consent to a suite of regulations which implemented the Windsor Framework. We wrote to the Welsh Government to seek further information about these regulations; the then Minister for Rural Affairs and North Wales, and Trefnydd responded on behalf of the Welsh Government. Within the response, the then Minister referred to a Windsor Framework Memorandum of Understanding (MoU) which set out agreed ways of working between all governments of the UK in respect of the operation of the Retail Movement Scheme and Northern Ireland Plant Health Label. The then Minister also shared the Welsh Government's aim to publish the MoU on its website once jointly agreed by all governments, and its aim to share this version with us once published. Although the MoU was agreed in October 2023, a copy is yet to appear on the Welsh Government's website, and is similarly yet to be shared with us.

**200.** In January 2024, the UK Government laid its Command Paper 'Safeguarding the Union', which addressed the Democratic Unionist Party's concerns around the Windsor Framework and led to the return of power sharing in Stormont in January 2024. The following month we asked the then Counsel General and Minister for the Constitution, Mick Antoniw MS, about the Welsh Government's engagement with the UK Government on the matter, and the implications for Wales of legislation to implement the command paper. At the time, the then Counsel General told us that engagement with the UK Government had been limited, and therefore the implications for Wales were unclear.

### **UK-EU Parliamentary Partnership Assembly**

---

**201.** The TCA provides an option to establish a Parliamentary Partnership Assembly (PPA) for parliamentary cooperation between the European Parliament and the UK Parliament.

**202.** The Committee's then Chair, Huw Irranca-Davies MS, represented the Senedd at the fourth meeting of the PPA in London in December 2023. The Chair addressed the Plenary session on the theme of UK-EU youth mobility and took part in discussions on citizens' rights. Samuel Kurtz MS represented the Senedd's Economy, Trade and Rural Affairs Committee.

**203.** The Senedd's representatives published a report summarising the outcomes of the meeting and their proposals for the further development of the assembly.

**204.** The fifth meeting of the PPA scheduled for March 2024 did not take place as members of the UK Parliament were required to be in Westminster to vote on legislation. The then Chair of the Committee wrote to the chairs of the UK delegation and European delegation expressing his disappointment at the cancellation of the meeting and setting out the Senedd's commitment to the work of the PPA in future.

## International agreements

**205.** This year, we have considered 23 non-trade international agreements; taking further action in relation to 10 of them, and noted the remaining 13 for information only. In total, we have considered 68 agreements since our establishment in June 2021.

**206.** We have sought information from the Welsh Government on issues such as:

- the extent of intergovernmental engagement during the development of an agreement, including the process of updating and consultation;
- the steps taken to ensure effective implementation of an agreement in areas within devolved competence, including information on any legislation required;
- the role and involvement in UK international agreements, including international obligations;
- an assessment of any required measures or changes to ensure compliance with any amendments made in devolved areas.

**207.** We bring our reports on international agreements to the attention of the House of Lords International Agreements Committee, and other Senedd committees, when the issues raised relate to matters within their remit.

**208.** In respect of the agreement between the UK and Switzerland on the recognition of professional qualifications, we discussed this matter with the then First Minister, the Rt Hon Mark Drakeford MS, when he appeared before us to provide evidence on 18 September 2023. This was in light of the Senedd having refused consent for the *Professional Qualifications Act 2022*, the powers of which may be used for the agreement's implementation. When asked how this matter may develop, or be resolved, in future, the then First Minister said that:

*"... I don't think there is a way of resolving them in principle, because here was a piece of legislation that the Senedd denied*

*consent on two separate occasions, where I could see no compelling case for the United Kingdom insisting on legislating on our behalf. I don't see where the Sewel convention could be overridden in it. And yet we have this impasse now where we are going to be using powers that we sought not to have in the first place."*

**209.** The then First Minister added:

*"... while I can't resolve it in principle ... in a sheer pragmatic way, we will use those powers when we think they are in the interests of Wales."*

**210.** In respect of the UK-Norway-Liechtenstein-Iceland Convention on Social Security Coordination, in September 2023 we sought the views of the Welsh Government on its engagement with the UK Government on this Convention as well as the steps that the Welsh Government will take to ensure that the agreement is implemented in areas within devolved competence. On 16 October 2023, the then Minister for Health and Social Services, Eluned Morgan MS, responded, confirming that the Welsh Government was consulted, and commented, on the content of both this agreement and the previous, similar UK-Switzerland Convention. The then Minister also stated that the UK Government has provided updates on progress on the negotiation of the Convention, including assessments of potential impacts and updates on timings.

**211.** In respect of the Protocol Amending the International Convention on the Conservation of Atlantic Tunas, we wrote to the then First Minister, the Rt Hon Mark Drakeford MS, in September 2023 requesting further information on intergovernmental engagement and internal arrangements in place to monitor, observe and implement recommendations of the Protocol's Commission in devolved areas. In his response, the then First Minister stated that the Protocol was subject to discussions at official level prior to legal advice received that concluded the amendments "to be of minimal or no concern to the UK," and confirmed that there was no immediate action for the Welsh Government to take to implement the Protocol.

**212.** We agreed to write to the Welsh Government in relation to the UK/Rwanda Agreement for the Provision of an Asylum Partnership to request further information on its position on the agreement and the Bill. We also sought its views on the Sewel Convention in relation to this agreement as well as the *Illegal Migration Act 2023*, to which the Senedd withheld consent in June 2023. The then First Minister responded on 21 February 2024 to state that he considered the

provisions of the agreement and Act to be reserved matters and not subject to the Sewel Convention. However, he stated that the Welsh Government “remain[s] concerned that the Home Secretary cannot state that the Bill is compatible with the European Convention on Human Rights and the Supreme Court’s judgement should make clear whether Rwanda is safe.”

**213.** The House of Commons Public Administration and Constitutional Affairs Committee published its report on Parliamentary Scrutiny of International Agreements in the 21st century in January 2024. The report referred to the oral evidence provided by the then Chair, Huw Irranca-Davies MS, in which he confirmed that in the absence of a formal role in the treaty scrutiny process, the Senedd has established a system to monitor and scrutinise all treaties that impact on devolved competence. The then Chair also advised that the most significant barrier to the scrutiny in areas of devolved competence is a lack of information being shared at the intergovernmental level. The then Chair also confirmed that the devolved legislatures required notice of upcoming agreements and sufficient time to carry out scrutiny and share their views, in order to contribute fully to the scrutiny process. The report highlights the importance of scrutiny of international agreements that intersect with devolved competences by the devolved legislatures, and recommends that facilitating time for scrutiny by devolved legislatures should be considered when the scrutiny period for treaties is set.

**214.** The then First Minister wrote to the Llywydd in July 2019 to raise concerns about the modification arrangements in the UK’s reciprocal voting agreements with individual EU member states in relation to the UK/Denmark Agreement on the Participation in Certain Elections of Nationals of each Country resident in the Territory of the Other. The Committee wrote to the Welsh Government to obtain an update on whether the issue had been resolved, and, if not, whether it had considered the use of legislative means to resolve the matter. The response of the then First Minister, the Rt Hon Vaughan Gething MS, on 13 June 2024 confirmed that the matter has not been resolved and that no legislative means have been sought to address the potential issues raised thus far.

## Conclusions

### Findings and concerns

---

**215.** We note that many of the Committee’s recommendations and conclusions from our UK-EU Governance inquiry have not been addressed, as the then First Minister, the Rt Hon Mark Drakeford MS, advised they would be matters for a future First Minister and/or UK Government.

**216.** UK treaty scrutiny processes remain unchanged and do not yet provide a formal role for devolved parliamentary scrutiny, as we would hope.

### **Successes and positive developments**

---

**217.** We welcome the Welsh Government's approach to the level of detail provided on UK-EU obligations during the course of scrutiny of LCMs laid in respect of the DPDI Bill.

**218.** Coordinated scrutiny with the CCWLSIR Committee on the LCM produced important results for the Senedd in securing commitments from the Welsh Government to improve our understanding and scrutiny of the implications of post-Brexit UK-EU obligations.

**219.** We will continue to closely monitor the implementation of post-Brexit arrangements, which are ongoing.

**220.** We will also continue to build on our approach to the scrutiny of non-trade international agreements, including demonstrating that devolved parliamentary scrutiny is possible and valuable, and would be even more so were sufficient time available to fully examine the implications of new international obligations on devolved competence and to fully coordinate and engage with the UK parliamentary process.

### **Forward look**

---

**221.** We will continue to monitor external affairs and UK-EU developments that fall within our remit including:

- revisiting our findings from our UK-EU Governance inquiry and if necessary, resubmitting the recommendations that the then First Minister intended to be addressed by a future First Minister;
- the re-establishment of the Parliamentary Partnership Assembly;
- contributing to a cross-committee inquiry on the implementation of the TCA by consulting with stakeholders, reviewing evidence received and considering next steps;
- overseeing the implementation of post-Brexit arrangements, international obligations compliance and international agreements scrutiny. This in turn will include the constitutional implications, intergovernmental relations and the implementation of legislation in



respect of the Windsor Framework and the Safeguarding the Union Command Paper.

## 5. Scrutiny of justice matters

### Leadership and accountability on justice matters

**222.** As part of Senedd committees' scrutiny of the Welsh Government's draft budget for 2024-25, we took evidence from the then Counsel General and Minister for the Constitution, Mick Antoniw MS, in respect of spending in relation to justice. This year, we decided to conduct our scrutiny by exchange of correspondence, and following our requests for information, we received written evidence from the then Counsel General in January 2024. We subsequently published a report on our scrutiny in February 2024, which also drew upon evidence provided to the Finance Committee by stakeholders working in the criminal justice sector.

**223.** As stated in our 2022/23 Annual Report, we had anticipated to use the Welsh Government's first annual report on its Delivering Justice for Wales programme to inform our scrutiny of the draft budget for 2024-25. However, the Welsh Government's first progress report was not published until February 2024, after we had completed our budget scrutiny. We were therefore unable to draw on any of its detail on the outcomes of past spending on justice-related matters as part of our scrutiny, which – as we stated in our report the draft budget – was unfortunate. We also expressed our view that if the anticipated progress report contained insufficient detail, we would consider conducting in-year budget scrutiny of spending on such matters.

**224.** Within our report on the draft budget, we also noted concerns raised by stakeholders, in evidence provided to the Finance Committee, in respect of the acute pressures faced by voluntary sector organisations specifically working on criminal justice in Wales. In particular, we noted evidence which identified the reliance of these organisations on Welsh Government funding and the increase in demand for complex support from service users. In light of these concerns, we stated that we did not agree with the then Counsel General's view – expressed to us at the time – that engaging with organisations through mechanisms such as the Delivering Justice for Wales work programme would be "disproportionately resource intensive".

**225.** On behalf of the Welsh Government, the then Counsel General responded to our report in March 2024. Our then Chair, Huw Irranca-Davies MS, spoke in the Plenary debate on the draft budget in February 2024.

**226.** In March 2024, the then First Minister, the Rt Hon Vaughan Gething MS, made appointments to his Cabinet, which included the appointment of three members of the Government having responsibility for justice-related matters. As this was an increase from the previous number (two), we wrote to the Finance Committee to express our initial thoughts on the impact of this new arrangement on our ability to scrutinise spending on justice-related activity. While we conceded that its impact was unclear, we said that it may hinder any efforts made by the Welsh Government to improve the level of detail it can provide on proposed spending on such activity, and subsequently hinder our ability to scrutinise this spending.

### **Intergovernmental relations on matters in relation to justice**

**227.** In February 2024, we were notified by the Welsh Government that the second meeting of the Interministerial Group on Justice had been held the previous month, which included representatives from the UK Government, the Scottish Government, and the Northern Ireland Executive. We noted that discussions at this meeting included items on the Post Office Horizon scandal, measures to improve prison capacity, court recovery, and legal aid.

**228.** In oral evidence, in February 2024 the then Counsel General told us that Lord Bellamy, then Minister of State in the Ministry of Justice, had been “very open” in terms of the breadth of matters for discussion at the group.

**229.** We were told that the next meeting of the group would be held in four months’ time from the January meeting, however it appears that this third meeting did not take place; in May 2024 the UK Government subsequently announced the July General Election.

### **Data on crime and justice**

**230.** The availability of disaggregated data on crime and justice in Wales has long been an issue of concern to the Committee. Our 2022/23 Annual Report noted the Ministry of Justice’s commitment to “fill any gaps in data collection and disaggregation that could aid the effective administration of justice in Wales”. The Welsh Government set out a number of commitments to improve the availability of data about crime and justice in Wales in Delivering Justice for Wales in May 2022.

**231.** In February 2024, we asked the then Counsel General what progress has been made on these programmes of work and when we would be likely to see any outcomes resulting from them. He told us that the newly established

Interministerial Group on Justice has agreed to have an item on the agenda at every meeting it holds to discuss the disaggregation of data. An official accompanying the then Counsel General confirmed that the Welsh Government has conducted a mapping exercise to highlight areas where “disaggregated data is important”, but that it remains for the Ministry of Justice to “turn around and tell us what they think is feasible and when by, which they’ve not yet done”.

**232.** The Welsh Government has committed to publish data dashboards on justice issues, and in August 2023 it published a dashboard on Youth Justice for the first time. The Welsh Government’s progress report on the Delivering Justice for Wales programme notes that a further suite of dashboards on topics including courts, prisons, crime occurrences, legal aid and workforce statistics are being developed with the aim of them being publicly available this year.

**233.** Our report on the draft budget expressed our concern about the data on imprisonment rates in Wales and the issue of capacity within the prison service. As a result, we stated our intention to continue to scrutinise the work being undertaken by the UK Government and the Welsh Government in this area, and to monitor the Welsh Government’s progress on this matter through our scrutiny of the Delivering Justice for Wales work programme.

## **Supporting the legal sector and access to justice**

**234.** In February 2024, we asked the then Counsel General about the Welsh Government’s assessment of the current state of the legal sector in Wales and what could be done to address any deficiencies. He told us that he believes it is time to develop a strategy for how the Welsh Government sees the role of the legal sector within the Welsh economy.

**235.** He highlighted support provided by the Welsh Government to tackle cybersecurity issues in the legal sector and training support provided at legal executive levels. An issue that the then Counsel General confirmed the Welsh Government had not yet been able to address is the provision of level 7 solicitor apprenticeships, which he noted is “mainly a funding issue”.

**236.** As we highlighted in our 2022/23 Annual Report in relation to the Cardiff Civil and Family Justice Centre, the state of court infrastructure in Wales continues to be of concern to the Committee. The then Counsel General told us that it is something he raises “at every opportunity” and that in his view the state of court infrastructure in parts of Wales is “absolutely appalling” and “effectively not fit for purpose”. This will continue to be a matter we raise with Welsh Government and UK Government Ministers.

## The Welsh Tribunals

**237.** As we stated in the 2022/23 Annual Report, in May 2023 Sir Gary Hickinbottom was appointed as the second President of the Welsh Tribunals, succeeding Sir Wyn Williams who held the role since it was established in 2017. Sir Gary Hickinbottom’s first annual report as President was laid towards the end of this reporting period – in July 2024 – and as we have undertaken in previous years, we will take evidence from him on his annual report in autumn 2024.

**238.** In June 2023, the Welsh Government issued a white paper on proposed reform to the Welsh Tribunals. The proposals would see the establishment of a First-tier Tribunal for Wales and, for the first time, an Appeal Tribunal for Wales, amongst other reforms to the operation and administration of the Welsh Tribunals.

**239.** The Committee is anticipating the possible introduction of a Bill to introduce these reforms before the end of this Senedd term. In his legislative statement, the then First Minister, the Rt Hon Vaughan Gething MS, stated that such a Bill would be one that the Welsh Government “may come to at the end of this term if we can deliver all other parts of the programme”.

## Criminal Justice Bill

**240.** As part of our scrutiny of the Welsh Government’s LCM in respect of the Criminal Justice Bill, we considered a joint letter we received from housing and homelessness charities in Wales in March 2024. They raised with us their concerns about the impact of the Bill’s proposals on nuisance begging and nuisance rough sleeping, and we subsequently passed on those concerns to the then UK Government’s Home Secretary, the Rt Hon James Cleverly MP, in March 2024.

**241.** We laid our report on the LCM in March 2024. In the following month we received a response from the then Minister of State for Crime, Policing and Fire, the Rt Hon Chris Philp MP, to our letter, who told us that the UK Government continued to “look at ways to improve the drafting of the provisions, to ensure that they are tightly and narrowly drawn”.

**242.** The Criminal Justice Bill subsequently fell due to the prorogation of the UK Parliament in May 2024.

## Parc Prison

**243.** In May 2024, we considered concerns raised by a member of our Committee, Adam Price MS, about an increase in the number of deaths at HM Prison and

---

Young Offenders' Institute Parc (Parc Prison). We agreed to closely monitor the situation at the prison, and subsequently wrote to the Chair of the House of Commons Welsh Affairs Committee, the Rt Hon Stephen Crabb MP, to express our deep concerns at the situation. We also noted the fact that prisons and offender management is a reserved matter under Schedule 7A of the *Government of Wales Act 2006*.

**244.** Since that time, we have continued to monitor the latest developments and data relating to the situation at Parc Prison on a near-weekly basis. We have continued to seek ways to consider these matters in further detail with HM Prisons and Probation Service and the prison's management, but also being mindful of the scrutiny roles and responsibilities of other Senedd committees and UK Parliamentary committees in this area.

## Conclusions

### Findings and concerns

---

**245.** One of the main barriers which we have faced while seeking to consider matters in relation to justice is the breadth of our Committee's remit and the requirements placed on us to consider other matters within our remit within set deadlines.

**246.** Notwithstanding this position, we have continued to closely scrutinise several key matters in relation to justice, as detailed above.

**247.** Undertaking scrutiny of the Welsh Government's programme in the area of justice is important to the Committee. It was therefore disappointing to have been unable to take into account the Welsh Government's first annual report on this programme during our scrutiny of the draft budget, due to the timing of the report's publication. It is also unclear to us how regularly the Welsh Government will publish such a report in the future, since this first report was described as a 'progress report', rather than the annual report that we had originally anticipated to be published.

**248.** We therefore hope to receive comprehensive information from the Welsh Government to inform our consideration of justice matters within its next draft budget, and, if we believe the level of detail provided to us to be insufficient, we will consider conducting in-year budget scrutiny of these matters during the following budget year. We will also await any impacts – positive or negative – that the new boundaries of Ministerial responsibilities will have on our ability to effectively consider the Welsh Government's draft budget for 2025-26.

**249.** While improvements to intergovernmental relations between the UK Government and the Welsh Government are reassuring, it is disappointing that the third meeting of the Interministerial Group on Justice did not take place among the cancellation of other interministerial groups as a result of the calling of the UK General Election.

**250.** It is also disappointing that it appears that the Ministry of Justice, as of February 2024, has not been able to provide the Welsh Government with details of which data in relation to justice may be suitable for disaggregation, something which is of a key concern for us as a Committee, especially as the currently available data on imprisonment rates in Wales and prison capacity is alarming.

**251.** We are similarly disappointed with the apparent slow progress in making improvements to the court infrastructure in Wales, which continues to be of a great concern to us – especially in the context of the Cardiff Civil and Family Justice Centre. We will continue to scrutinise the intergovernmental working between the UK Government and Welsh Government in this area in the next year.

**252.** While we did not take evidence from the incoming President of the Welsh Tribunals this year, we will continue to ensure that we hear from the President on the findings contained within his annual reports in the future. We believe this to be especially important as we await a Welsh Government Bill to reform the tribunals. While information received from the then First Minister, the Rt Hon Vaughan Gething MS, was inconclusive as to whether such a Bill will be introduced by the end of this Senedd, we hope to see hear more certainty on this point as part of future announcements from the Welsh Government on its Legislative Programme.

**253.** The situation at Parc Prison has been a continuing concern for us during the latter stages of this year. We therefore sincerely hope to see and hear about an improved situation as time progresses, and will take all opportunities open to us to closely monitor any developments.

**254.** Finally, as we state in paragraph 107, we noted that in the case of the Leasehold and Freehold Reform Bill, an unintended outcome has been that the Secretary of State has been provided with a regulation-making power in relation to the tribunal processes associated with the devolved Leasehold Valuation Tribunal. That is a matter of concern to the Committee and a regrettable outcome.

## **Successes and positive developments**

---

**255.** We welcome the improved level of intergovernmental relations on matters in relation to justice during this reporting period, with the holding of another meeting of the Interministerial Group on Justice, and a commitment between participants to hold further meetings.

**256.** We also welcome the increased availability of data on crime and justice in Wales and look forward to seeing additional dashboards on these matters published by the Welsh Government in due course.

**257.** The publication of the Welsh Government's proposals for reform to the Welsh Tribunals is also welcome, and we look forward to seeing these proposals forming part of a Bill.

## **Forward look**

---

**258.** During the next reporting period, we will continue to scrutinise and monitor constitutional developments and current affairs in relation to justice in Wales, including:

- the impact of new ministerial appointments in this area;
- scrutiny of the first annual report of the new President of the Welsh Tribunals;
- future proposals for reform to the Welsh Tribunals;
- the situation at Parc Prison;
- the Welsh Government's progress in respect of its Delivering Justice for Wales work programme.



## Annex A: List of oral evidence sessions

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the [Committee's website](#).

Date	Purpose	Name and Organisation
<b>18 September 2023</b>	<b>Scrutiny session with the First Minister</b>	<b>The Rt Hon Mark Drakeford MS,</b> First Minister of Wales
<b>25 September 2023</b>	<b>Infrastructure (Wales) Bill: Stage 1 scrutiny</b>	<b>Julie James MS,</b> Minister for Climate Change <b>Neil Hemington,</b> Chief Planner, Welsh Government <b>Owen Struthers,</b> Head of National Consenting, Welsh Government <b>Nicholas Webb,</b> Lawyer, Welsh Government
<b>16 October 2023</b>	<b>Senedd Cymru (Members and Elections) Bill: Stage 1 scrutiny</b>	<b>Mick Antoniw MS,</b> Counsel General and Minister for the Constitution <b>Will Whiteley,</b> Deputy Director, Senedd Reform, Welsh Government <b>Anna Hind,</b> Senior Lawyer, Welsh Government
<b>20 November 2023</b>	<b>Elections and Elected Bodies (Wales) Bill: Stage 1 scrutiny</b>	<b>Mick Antoniw MS,</b> Counsel General and Minister for the Constitution <b>Michael Kay,</b> Deputy Director, Elections Division, Welsh Government <b>Gareth McMahon,</b> Senior Lawyer, Welsh Government

Date	Purpose	Name and Organisation
<b>11 December 2023</b>	<b>Local Government Finance (Wales) Bill: Stage 1 scrutiny</b>	<p><b>Rebecca Evans MS,</b> Minister for Finance and Local Government</p> <p><b>Debra Carter,</b> Deputy Director, Local Government and Finance Reform – Bill SRO, Welsh Government</p> <p><b>Simon Tew,</b> Bill Manager, Welsh Government</p> <p><b>Ruth Cornick,</b> Lawyer, Welsh Government</p>
<b>22 January 2024</b>	<b>Residential Outdoor Education (Wales) Bill: Stage 1 scrutiny</b>	<p><b>Jeremy Miles MS,</b> Minister for Education and Welsh Language</p> <p><b>Ceri Planchant,</b> Lawyer, Welsh Government</p> <p><b>Emyr Harries,</b> Deputy Director, Education Business &amp; Governance, Welsh Government</p>
<b>5 February 2024</b>	<b>Residential Outdoor Education (Wales) Bill: Stage 1 scrutiny</b>	<p><b>Sam Rowlands MS,</b> Member in charge of the Bill</p> <p><b>Manon Huws,</b> Legal Services, Senedd Cymru</p> <p><b>Jennifer Cottle,</b> Legal Services, Senedd Cymru</p> <p><b>Gareth Rogers,</b> Bill Manager, Senedd Cymru</p> <p><b>Dr Dave Harvey,</b> Senedd Member Support Staff</p>
<b>26 February 2024</b>	<b>Scrutiny session with the Counsel General and Minister for the Constitution</b>	<p><b>Mick Antoniw MS,</b> Counsel General and Minister for the Constitution</p> <p><b>James Gerard,</b> Deputy Director, Justice Policy, Welsh Government</p> <p><b>Tom Smithson,</b> Deputy Director Economic Strategy &amp; Regulation, Welsh Government</p>

Date	Purpose	Name and Organisation
		<p><b>Dylan Hughes,</b> First Legislative Counsel, Welsh Government</p>
<p><b>11 March 2024</b></p>	<p><b>Legislative Consent Memorandum on the Renters (Reform) Bill: Evidence Session</b></p>	<p><b>Julie James MS,</b> Minister for Climate Change</p> <p><b>Helen Kellaway,</b> Lawyer, Welsh Government</p> <p><b>Gareth Baglow,</b> Senior Private Sector Housing Policy Manager, Welsh Government</p> <p><b>Caroline Matthews,</b> Senior Lawyer, Welsh Government</p>
<p><b>29 April 2024</b></p>	<p><b>Senedd Cymru (Electoral Candidate Lists) Bill: Stage 1 scrutiny</b></p>	<p><b>Jane Hutt MS,</b> Trefnydd and Chief Whip</p> <p><b>William Whiteley,</b> Deputy Director, Senedd Reform Division, Welsh Government</p> <p><b>Anna Hind,</b> Senior Lawyer, Welsh Government</p>
<p><b>17 June 2024</b></p>	<p><b>Health and Social Care (Wales) Bill: Stage 1 scrutiny</b></p>	<p><b>Dawn Bowden MS,</b> Minister for Social Care</p> <p><b>Tracy Hull,</b> Lawyer, Welsh Government</p> <p><b>Anthony Jordan,</b> Head of Programme and Legislative Implementation, Social Services and Integration Directorate, Welsh Government</p> <p><b>Mike Lubienski,</b> Senior Lawyer, Welsh Government</p>

## Annex B: Interparliamentary working

Members of the Committee have participated in meetings with the following parliamentary committees and other parliamentary bodies.

<b>Date</b>	<b>Committee / Parliamentary body</b>
<b>5 - 7 September 2023</b>	Committee Visit to Brussels to inform the Committee's short inquiry into UK-EU Governance
<b>27 October 2023</b>	Interparliamentary Forum (Edinburgh)
<b>4 - 5 December 2023</b>	PPA Meeting (London)
<b>29 February 2024</b>	Interparliamentary Forum (London)