

Inter-Institutional Relations Agreement between Senedd Cymru and the Welsh Government

November 2021



1. Background

In February 2018 the Constitutional and Legislative Affairs (CLA) Committee of the Fifth Senedd published its report *UK governance post-Brexit*¹, which recommended² that the Welsh Government enter into an agreement with the Committee to support the scrutiny of intergovernmental activity.

- 1.** In April 2018, the then Cabinet Secretary for Finance confirmed the Welsh Government's willingness to work with the CLA Committee in developing arrangements enabling the legislature to oversee the actions that will flow from the [Intergovernmental Agreement on the European Union \(Withdrawal\) Bill and the Establishment of Common Frameworks](#).
- 2.** Following an exchange of correspondence³ between the CLA Committee and the then Cabinet Secretary for Finance, a formal version of the first Inter-Institutional Relations Agreement (the Agreement) was agreed by the CLA Committee in January 2019.
- 3.** The CLA Committee laid a report⁴ before the Senedd on 31 January which contained the Agreement, and the Senedd formally noted the report and the Agreement on 6 March 2019.⁵
- 4.** As per the Agreement, on 27 October 2020, the Welsh Government laid its first Annual Report for the period 2019-2020.⁶
- 5.** All relevant documentation related to the Agreement was collated by the CLA Committee and made available on a dedicated webpage - [Inter-Institutional Relations Agreement](#).

¹ Fifth Senedd Constitutional and Legislative Affairs (CLA) Committee, [UK governance post-Brexit](#), February 2018

² CLA Committee, [UK governance post-Brexit](#), recommendation 9

³ See [Letter to the Cabinet Secretary for Finance](#), 25 May 2018; [Letter from the Cabinet Secretary for Finance](#), 4 June 2018; [Letter from the Cabinet Secretary for Finance](#), 10 December 2018

⁴ Constitutional and Legislative Affairs Committee: [Inter-Institutional relations agreement between the National Assembly for Wales and the Welsh Government](#), January 2019

⁵ Plenary, [Debate on the Constitutional and Legislative Affairs Committee report: Inter-Institutional relations agreement between the National Assembly for Wales and the Welsh Government](#), 6 March 2019

⁶ Welsh Government, [Inter-Institutional Relations Agreement between the Senedd and the Welsh Government Annual Report 2019-2020](#), October 2020

2. Development of the Agreement for the Sixth Senedd

Following the Senedd general election in May 2021 and the establishment of a new Legislation, Justice and Constitution Committee (the Committee), the Committee agreed to seek to establish a new Agreement with the Welsh Government that was fit for purpose in the Sixth Senedd.⁷

6. Following an exchange of correspondence between the Committee and the First Minister in July 2021⁸, a draft agreement was shared with the Welsh Government in August 2021.

7. On 1 November⁹, the Committee approved the text of the new Agreement, which was subsequently shared with the First Minister.¹⁰ The First Minister formally agreed the text of the new Agreement on 8 November 2021.¹¹

8. The First Minister also agreed the following as regards how the Welsh Ministers will notify the Senedd of when they intend to, or have given, consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales:

"I can confirm that the Welsh Government will write to your committee and other relevant committees to inform them of an intention to consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales, explaining the rationale for the intention to consent. Where time allows we will provide an opportunity for the Senedd to express a view before consent is formally given. Further, the Welsh Government will lay a

⁷ While discussions on a new agreement took place, the Welsh Government nevertheless met the requirement of the first Agreement to lay an annual report. [The Inter-institutional relations agreement between the National Assembly for Wales and the Welsh Government: annual report 2020 to 2021](#), was laid on 28 September 2021. See also [Letter from the First Minister](#), 4 October 2021

⁸ See [Letter to the First Minister](#), 16 July 2021; [Letter from the First Minister](#), 27 July 2021

⁹ [Legislation, Justice and Constitution Committee - 1 November 2021](#)

¹⁰ [Letter to the First Minister, 2 November 2021](#)

¹¹ [Letter from the First Minister, 8 November 2021](#)

*Written Statement in relation to every exercise of a delegated legislative power by a UK Minister in a devolved area to which the Welsh Ministers have given consent, explaining the rationale for that consent, normally within three working days of the laying before or notification to the UK Parliament."*¹²

- 9.** The new Agreement is now laid before the Senedd (see the Annex).

¹² Letter from the First Minister, 8 November 2021

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Purpose of the Agreement

1. This Agreement represents the agreed position of Senedd Cymru (the “Senedd”) and the Welsh Government on the information that the Welsh Government will provide to the Senedd with regard to its participation in formal, ministerial-level inter-governmental meetings, agreements, concordats, and memorandums of understanding.
2. In reaching this Agreement, the Welsh Government recognises the Senedd’s primary purpose of scrutinising the activity of the Welsh Government within formal Intergovernmental Structures. The Senedd also recognises and respects the need for confidential intergovernmental discussion between the administrations within the United Kingdom, for example, in situations where negotiations on particular issues are taking place.
3. This Agreement recognises the increased complexity of the devolution settlement and the implications this has for appropriate discussions between the Welsh and UK Governments. As a consequence, it further recognises that the interdependence between devolved and reserved competences will be managed mainly in inter-governmental relations. This Agreement seeks to ensure that the principles of the Welsh Government’s accountability to the Senedd and transparency with regard to these relationships are built into the revised intergovernmental mechanisms.
4. This Agreement establishes three principles which will govern the relationship between the Senedd and the Welsh Government with regard to inter-governmental relations. These are:
 - Transparency
 - Accountability

- Respect for, and recognition of, the part confidential discussions play between governments, particularly when developing policy.

Scope of this Agreement

5. This Agreement applies to the participation of the Welsh Ministers in formal, Intergovernmental Structures.
6. For the purposes of paragraph 5:
 - a. 'Intergovernmental Structures' include, but are not limited to:
 - the Joint Ministerial Committee (in all its current functional formats and as reformed or superseded in future);
 - the British Irish Council; and
 - other relevant standing or ad-hoc multilateral and bilateral inter-ministerial forums of similar standing that exist or as may be established.
 - b. 'Participation' includes, but is not limited to, discussions, meetings, correspondence and agreements in connection with an Intergovernmental Structure.
7. This Agreement does not cover other engagement between the governments, although the Annual Report (referred to in paragraph 18) will comment upon the range and scale of such activity.
8. This Agreement is intended to support the Senedd's capacity to scrutinise Welsh Government activity and to hold the Welsh Ministers to account in the intergovernmental arena only. The Agreement in no way places obligations on other governments and legislatures involved with inter-governmental relations and the groups and agreements described here. In line with the principle of respect for the confidentiality of discussions between administrations, the Agreement recognises that the release of details of discussions directly involving intergovernmental partners is subject to their consent.

Welsh Government attendance at meetings

9. The Welsh Government agrees to provide to the Legislation, Justice and Constitution ("LJC") Committee and any other relevant Senedd committee, as far as practicable, advance written notice at least one month prior to a relevant Intergovernmental Structure meeting (a "Relevant Meeting").

- 10.** If a Relevant Meeting is arranged on less than one month's notice, the Welsh Government shall use reasonable endeavours to provide written notice as soon as practicable and, in any event, in advance of such Relevant Meeting.
- 11.** Advance written notice given by the Welsh Government under paragraphs 9 and 10 will contain the Relevant Meeting's proposed agenda and a broad outline of key issues to be discussed, with recognition that agenda items may, from time to time, be marked as "private" in recognition of the need for confidentiality.
- 12.** Advanced notice of Relevant Meetings will enable the Committee(s) to express a view on the topic and, if appropriate, to invite the Minister responsible to attend a committee meeting in advance of the Relevant Meeting.
- 13.** After each Relevant Meeting within the scope of this Agreement, the Welsh Government will provide the LJC Committee and any other relevant committee of the Senedd with a written summary of the issues discussed at the meeting as soon as practicable and, as far as possible, within two weeks.
- 14.** Subject to confidentiality considerations, a written summary under paragraph 13 will include:

 - information confirming when the meeting took place,
 - a list of meeting attendees,
 - an indication of the key issues and of the content of discussions,
 - an outline of the positions advanced by the Welsh Government, and
 - any joint statement released after the meeting.
- 15.** The Welsh Government also agrees to provide to the LJC Committee and any other relevant committee of the Senedd the text of any multilateral or bilateral intergovernmental agreements, common frameworks, concordats, and memorandums of understanding or other resolutions within the scope of this Agreement.
- 16.** Where the Welsh Government intends to establish new arrangements with the aim of reaching an intergovernmental agreement the Welsh Government will provide advance notice to the LJC committee of its intention to do so.

Maintenance of records

- 17.** The Welsh Government will maintain a dedicated page of its website providing all relevant formal intergovernmental agreements, common frameworks, concordats, memorandums or other resolutions that the Welsh Government has in place with the UK Government. The text of any such documents should also be included, with information about the date of agreement, any updates made and whether the documents remain in force.

Annual Report

- 18.** The Welsh Government will prepare an Annual Report on intergovernmental relations (“IGR Report”).
- 19.** The IGR Report will be laid before the Senedd and submitted to the LJC Committee. The IGR Report will summarise the key outputs from activity that is subject to the provisions of this Agreement, including any reports issued by a relevant Intergovernmental Structure. It will also comment upon the range of broader intergovernmental relations work undertaken during the year, including dispute resolution. That report will also provide as much information as is practicable and appropriate of issues expected to emerge in the year that follows.

Appearances before committees

- 20.** The Welsh Ministers will attend, as appropriate, meetings of the relevant committee of the Senedd when invited.

Monitoring

- 21.** The lead committee for monitoring the implementation of this Agreement is the LJC Committee.

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