

Annual Report 2022/23

November 2023



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.

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Annual Report 2022/23

November 2023



About the Committee

The Committee was established on 26 May 2021. Its remit can be found at www.senedd.wales/SeneddLJC

Current Committee membership:



Committee Chair:
Huw Irranca-Davies MS
Welsh Labour



Alun Davies MS
Welsh Labour



James Evans MS
Welsh Conservatives



Adam Price MS
Plaid Cymru

The following Members were also members of the Committee during 2022/23:



Rhys ab Owen MS
Independent
Plaid Cymru



Peredur Owen Griffiths MS
Plaid Cymru

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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 2022 up to the end of the summer recess 2023.

1. The Committee was established on 26 May 2021¹ 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 UK Government subordinate legislation making provision in devolved areas and written statements laid in accordance with Standing Order 30C;

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

- 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;
- the scrutiny of intergovernmental relationships;
- the scrutiny of non-trade 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 and;
- 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 by 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. Six such reports have been published during the reporting period.

4. The following chapters highlight the work we have done in the second year of the Senedd, focusing on our findings and concerns, scrutiny successes and positive developments 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 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; and
- 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 2022 and July 2023 we reported on 134 (SIs 233-366) items of subordinate legislation (including 80 subject to the made negative procedure, three to the made affirmative, and 30 to the draft affirmative).

9. Six 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\(6\)305 - The](#)

Official Controls (Extension of Transitional Periods) (Amendment) (Wales) Regulations 2022 relating to controls on imports into Wales for sanitary and phyto-sanitary goods.

10. In our annual report for 2021/22 we said that, in the coming year, we would monitor the Welsh Government's reasoning for breaching the 21 day rule. Six breach notifications have been received in this reporting period in contrast to 49 breaches highlighted in our previous report. The decline can be explained by the fact that, as noted in our previous report, almost all instruments which breached the 21-day rule in that reporting period were related to the Covid-19 pandemic.

Errors in regulations

11. During this annual report period, we have reported 164 technical points under Standing Order 21.2(vi) where we considered that the drafting of the subordinate legislation appears to be defective or it fails to fulfil statutory requirements. We also considered, but did not report on, two draft affirmative procedure instruments – SL(6)315 - The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 and SL(6)325 - The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 – which, between them, would have had 31 technical reporting points. However, the Welsh Government withdrew the draft instruments before we formally reported.

12. In December 2022, we considered and reported on two pieces of subordinate legislation, both subject to the draft affirmative procedure, which we considered contained defecting drafting: SL(6)291 - The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the Food and Feed Regulations) and SL(6)292 - The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the TARP Regulations).

13. Our report on the Food and Feed Regulations included five technical reporting points, two of which highlighted defective drafting and three of which noted inconsistencies between the English and Welsh texts. Our report and the related correspondence with the Deputy Minister for Mental Health and Wellbeing can be found on our webpages (link above in preceding paragraph).

14. Our report on the TARP Regulations included 27 technical reporting points, five of which highlighted defective drafting and 10 noted inconsistencies between the English and Welsh texts. Again, our report and the related correspondence with the Minister for Rural Affairs and North Wales, and Trefnydd can be found on our webpages (link above in paragraph 12).

- 15.** Our concerns as regards both sets of Regulations focused on the fact that the Welsh Government was asking the Senedd to approve knowingly defective subordinate legislation. Plenary debates on both sets of Regulations were held on 13 December 2022.
- 16.** Our consideration of these Regulations led us to look more closely at how corrections may be and are made to pieces of subordinate legislation after they have been considered and approved by the Senedd. The transparency of these processes affects the accessibility of the law as it applies in Wales, which we comment on later in the Chapter.
- 17.** We wrote to the Counsel General and Minister for the Constitution (the Counsel General), Mick Antoniw MS, on 21 December 2022 and received a response on 18 January 2023. The Counsel General outlined the Welsh Government's general approach to correcting errors, and included the criteria used for the different options for correction. The Counsel General accepted that 'correction on making' and 'correction on publication' were terms of convenience used by the Welsh Government but are not entirely accurate descriptions of the point at which corrections are made. We wrote again to the Counsel General on 6 February 2023 seeking further clarification on some issues and he responded on 15 February 2023. We also wrote to the SI Registrar at The National Archives on 21 December 2022 seeking information but have yet to receive a response.
- 18.** Our consideration of SL(6)363 - The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 in the spring/summer of 2023 also led us to look more closely at the Welsh Government's quality assurance processes before subordinate legislation is laid before the Senedd. We wrote to the Minister for Climate Change, Julie James MS (the Climate Change Minister), on 14 March 2023, and received a response on 23 March 2023. These matters were also raised with the Counsel General when he appeared before our Committee on 10 July 2023 for a general scrutiny session.

Scrutiny of Bills

Background

- 19.** 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; and
- the overall quality of the legislation.

Scrutiny in the past year

20. Since September 2022, we have completed our scrutiny of six bills which have been introduced to the Senedd by the Welsh Government:

- the Environmental Protection (Single-use Plastic Products) (Wales) Bill;
- the Social Partnership and Public Procurement (Wales) Bill;
- the Historic Environment (Wales) Bill;
- the Agriculture (Wales) Bill;
- the Health Service Procurement (Wales) Bill; and
- the Environment (Air Quality and Soundscapes) (Wales) Bill.

21. In total, we made 121 recommendations in respect of these Bills. Welsh Government responses to these recommendations can be found on the webpage for the relevant Bill. Our recommendations for example:

- 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 that powers being taken are for a defined purpose;
- sought explanations from the relevant Minister about how and when the Welsh Government intended to use powers it was seeking to be delegated from the Senedd, some of which 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; and

- sought to improve the accessibility of legislation including by means of suggesting the use of overview sections to help explain how the legislation is intended to work, particularly in relation to other Acts being amended.

22. We also conducted scrutiny of a Member Bill – the Food (Wales) Bill, introduced by Peter Fox MS.

23. The Infrastructure (Wales) Bill was also introduced in June 2023 and our reporting deadline is 24 November 2023.

24. 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 towards the executive.

25. Of the six Bills we have considered, we described 3 as being framework Bills or having had framework elements to them:

- the Agriculture (Wales) Bill;
- the Health Service Procurement (Wales) Bill; and
- the Environment (Air Quality and Soundscapes) (Wales) Bill.

26. As we have noted already, we have made recommendations to strengthen the procedure attached to delegated powers as a means of providing more robust and more opportunities for scrutiny. In an evidence session on the Environment (Air Quality and Soundscapes) (Wales) Bill, the Climate Change Minister appeared to suggest that the choice of procedure for delegated powers should be based on the level of interest likely to be shown by Members of the Senedd in a subsequent debate. In response, our report highlighted the importance of Members having the opportunity to comment on significant policy contained in regulations, particularly in circumstances where such matters may have been more appropriately included on the face of the Bill.

27. In July 2022, the First Minister said that The Environmental Protection (Single-use Plastic Products) (Wales) Bill would be subject to expedited scrutiny. The Bill was introduced in September 2022 with all of its stages completed in less than three months from its introduction. Our report in October 2022 for the Stage 1 debate raised a number of important issues. These included questioning the Welsh Government's justification for seeking the use of the expedited process and also attempting to seek answers about the impact of the *United Kingdom Internal*

Market Act 2020 (the UK Internal Market Act) on the effectiveness of the law *after* it is made by the Senedd (we consider this issue specifically in Chapter 3 of the report).

28. Our report noted our serious reservations that omitting a Stage 1 process would have a negative effect on the legislative scrutiny of this Bill. In response to the Committee's report on the Bill, the Minister outlined two "good reasons" for the Bill to be expedited:

"Firstly, there was the environmental protection imperative, and secondly, the Court of Appeal's request for a legislative context in which to consider the arguments being advanced by the Counsel General in the (then ongoing) application for judicial review of UKIMA."

29. In November 2021, we followed up our concerns in correspondence with the Climate Change Minister (response from the Minister). We also wrote to the Business Committee to outline our concerns, and, following a meeting with the Chair, the Llywydd asked officials to draft a report for the Business Committee detailing the lessons learnt from the scrutiny process on the Bill, for use in the event of future requests for expedited scrutiny of a Bill.

30. In our previous annual report we also said that we would monitor the implementation of the Welsh Tax Acts etc. (Power to Modify) Act 2022. To date, no regulations have been made under that Act.

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

Background

31. As part of our overall remit, we consider any matter relating to legislation. One aspect of this broad responsibility is to consider 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

32. Our work programme has again been dominated by the scrutiny of legislative consent memoranda and supplementary legislative consent memoranda. Since September 2022 we have considered 36 legislative consent memoranda and supplementary legislative consent memoranda relating to 17 UK Bills, and produced 28 reports. These have included Bills making

significant provision in devolved areas such as animal welfare (28 clauses), procurement (over 100 clauses) and social housing (over 30 clauses).

33. In our first annual report, for the period May 2021 to the end of the summer recess in 2022, we noted that we had considered 44 legislative consent memoranda and supplementary legislative consent memoranda relating to 21 UK Bills, and produced 30 reports.

34. In our consideration of legislative consent memoranda, we have made 80 recommendations. The issues covered are very similar to those outlined in paragraph 31 of our 2021/2022 annual report. In particular we have also had concerns with the quality of some memoranda (for example in relation to the Levelling-up and Regeneration Bill), which can in some circumstances hamper the ability of a committee to hold the Welsh Government fully to account in the available time. On 29 June 2023, a legislative consent memorandum was laid in respect of the Energy Bill, some 49 weeks later than would be expected from the requirements of Standing Order 29.1. We wrote to the Climate Change Minister on 3 July 2023 and accordingly took evidence on 10 July 2023 about the reasons for the delay.

35. In our 2021/22 annual report we also said that we would continue to monitor the Welsh Government's approach to using UK Government Bills to legislate in a devolved area, including further scrutiny of the matters raised in the Counsel General's letter of 4 August 2022.

36. When the Welsh Government prepares a Bill to be introduced to the Senedd, there are a number of duties and responsibilities placed on them to assess the impact that the legislation will have on wider policy objectives, which may be included in an Explanatory Memorandum. These include:

- duties under the Equality Act 2010, including the socio-economic duty;
- having regard to children's rights under the Rights of Children and Young Persons (Wales) Measure 2011;
- meeting the well-being objectives set out in the Well-being of Future Generations (Wales) Act 2015;
- a health impact assessment under the Public Health (Wales) Act 2017;
- Welsh language duties; and
- a biodiversity impact assessment.

37. We questioned the Counsel General on these issues during the evidence session on 10 July 2023 and an official accompanying him confirmed that advice put to Ministers on UK Bills incorporated advice on cross-cutting policy framework matters as a matter of routine, with the Counsel General adding that relevant matters could be raised with the UK Government.

38. The Senedd did not agree a legislative consent motion tabled by the Welsh Government on the Genetic Technology (Precision Breeding) Bill following a debate on 17 January 2023. However, our report on the Legislative Consent Memorandum concluded that the Senedd's consent was not required for the Bill as it does not make relevant provision in relation to Wales. While the Committee agreed with the Welsh Government's analysis about the effect of the UK Internal Market Act on existing Welsh law following the changes proposed for England in this Bill (see Chapter 3), we indicated that the matter was outside the scope of Standing Order 29 and suggested that other Standing Orders could have been used to debate the subject matter of the Memorandum.

39. 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.

40. However, and while we have concerns about the process generally, there have been some positive developments.

41. In November 2022 the then Leader of the House of Commons, Penny Mordaunt MP, gave evidence to the House of Commons Procedure Committee. Ms Mordaunt was asked about the consent process, and whether she would support making it clearer in explanatory notes whether a legislative consent memorandum is required (from the UK Government's perspective). Ms Mordaunt said she would support this, and also that she had seen the process and understood the frustrations and "where we can make improvements, we obviously want to".

42. In March 2023, Baroness Drake, Chair of the House of Lords Constitution Committee notified us that the House of Lords Business document now gives fuller and more prominent information about when legislative consent is pending or contested and when it has been granted or withheld. This change was very welcome and we hope that other positive changes can also be put in place.

43. In our 2021/22 annual report, we also committed to consider the outcome of the Business Committee's review into the legislative consent process. To date, this review has not been completed.

Welsh Government Bill or UK Bill: the Welsh Government's capacity to legislate

44. In our 2021/22 annual report, we committed to holding an evidence session with the Welsh Government on its capacity to legislate as a result of our observations in the first year of the Sixth Senedd.

45. As a result we held a joint session with the Counsel General and the Permanent Secretary, Dr Andrew Goodall, on 10 October 2022, focusing on whether capacity concerns have influenced the Welsh Government in deciding whether to use a Welsh or UK Bill to legislate. We followed the evidence session with an exchange of correspondence on 20 October 2022 and 9 November 2022.

46. During the session, the Counsel General and the Permanent Secretary emphasised the issue of the capacity and the resources needed in the context of the programme for government and legislative programme, which they highlighted as being the priorities. The Permanent Secretary told us that it is his responsibility to line up the resources within the context of the programme for government and also that, before he took up post, it may have felt on occasion that the legislative programme was competing with other priorities. He also told us that "recent reflections probably are a bit more focused on ensuring that there is a core of specialist individuals that we do have available, and that is a higher number than the individuals that you have."

47. We also questioned the Counsel General about the meaning of his comments in his letter of 4 August 2022, when he said the Welsh Government would consider using a UK Bill to legislate if "there is no time to bring forward similar in the Senedd". He told us:

"What I mean is there may be an issue that emerges in a Bill that is being decided by the UK Government, so it's not something that we have proactively sought, but it may be that there's an element in it that relates to or that is beneficial to Wales. Now, the question is there of priorities. If it's something that was a very, very high priority, then we might consider whether to legislate. Otherwise, if it doesn't fall above the priorities you already have within the legislative programme and it's something that you would like to do, you might include it in a future legislative programme. And the choice you have to make is: well, we could legislate in this area, we may not be able to legislate in this area for a period of time; would the people of Wales be advantaged or disadvantaged by allowing or consenting to a legislative measure within a UK Government Bill? So, it's not something that

we're asking them to legislate on on our behalf, but just that we would be almost cutting our nose off to spite our face by not taking that opportunity."

48. We explored the extent to which the Welsh Government had considered the use of an expedited legislative process instead. In response he said:

"The consequence of what you're suggesting is that, effectively, we divert an enormous part of our capacity to legislate to what is determined by the UK Government in terms of what their priorities are and what their legislative programme is. So, if our role is solely to listen to what the UK Government decides is important in legislation, and then everything that they raise that might impact within Wales we then say, 'Oh well, in that case what are we going to do on this, because we think this is actually something that might be beneficial? We're going to legislate and therefore we divert our resources to that,' now that's an issue. That might raise an issue as to whether you have 100 per cent capacity to do anything and everything you want at any stage in response to that, but I don't think that's the position we're in."

49. He also told us:

"...we determine our priorities by virtue of the manifesto we have and our own legislative programme. That is what our priority is. The things that emerge out of the UK Government's legislative programme are the things that we have to make judgments on in terms of either the legislative consent process or in terms of the refusal of legislative consent and a decision as to whether or not we might, at some stage, either on an emergency basis or some stage in the future, legislate ourselves."

50. We have also explored the issues in the context of individual Bills subject to legislative consent memoranda.

51. In the Welsh Government's Legislative Consent Memorandum on the Non-Domestic Rating Bill, the Minister for Finance and Local Government, Rebecca Evans MS, stated that the Welsh Government had sought provisions in the Bill for Wales "where policy aims are aligned and there is benefit to securing levers to support ratepayers as soon as possible". The Minister confirmed to the Committee that provisions in the Bill for Wales were sought on 20 June 2022. This is despite the Counsel General telling us in January 2023 that he was not aware of any circumstance where the Welsh Government had requested the UK Government to legislate on its behalf.

52. In addition to this, we raised concerns that a clause in the Non-Domestic Rating Bill altered the procedure for a regulation-making power from made affirmative to draft affirmative, despite the power only recently being conferred on the Welsh Ministers by the Senedd in the Local Government and Elections (Wales) Act 2021. The Minister outlined the Welsh Government's justification for making the change in a letter to us on 1 June 2023. Our subsequent report later in the month concluded that this additional detail that had been provided by the Minister was welcome, but noted also that it was "regrettable" that the Minister was seeking to use a UK Bill to change the scrutiny procedure for a regulation-making power which the Senedd only agreed to delegate to Welsh Ministers just over two years ago. In response to a recommendation asking whether options to use legislation introduced to the Senedd to make the change were considered, the Minister replied:

"I can confirm that, in determining the optimal approach, the Welsh Government identified that there was not a suitable Senedd legislative vehicle to address this matter within the same timescale, nor could one be created without disproportionately detrimental impacts on our wider legislative programme."

53. A similar justification was used in response to our first report on legislative consent memoranda on the Levelling-up and Regeneration Bill, with the Climate Change Minister acknowledging that, while the Welsh Government would be able to bring forward its own primary legislation covering planning data provisions and environmental outcomes reports, "The legislative programme is set by the First Minister's statement announcement."

54. In our April 2023 report on the Legislative Consent Memorandum on the Protection from Sex-based Harassment in Public Bill, we noted the view of the Minister for Social Justice and Chief Whip, Jane Hutt MS, that there was no obvious legislative vehicle in the Welsh Government's legislative programme to bring forward an appropriate Bill. In response to our request for clarification on why the Welsh Government had not brought forward its own Bill on this issue, given the commitments contained in its Programme for Government, the Minister told us:

"My officials explored the option of the Welsh Government bringing forward its own Bill very seriously, but it became clear that this would not have been a timely option in this case. I was also informed that bringing forward our own legislation through the Senedd, with an aim of a similar commencement date to the UK Bill, would have had detrimental impacts on the delivery of other Bills, which I considered unacceptable. (...)"

I do not have concerns regarding the Senedd's legislative competence to pass its own legislation on this matter. As stated, it has simply been a case of timing and resources available to match the fast progress of the UK Private Members Bill in this case."

55. During the evidence session with the Counsel General on 10 July 2023, we pursued the issue of the use of UK Bills to legislate in devolved areas, the processes followed by the Welsh Government in their engagement with the UK Government, and how scrutiny could be improved including through the possible use of a parallel legislative process.

Retained EU Law (Revocation and Reform) Bill

56. During the past year we have spent a significant amount of time scrutinising the implications of the Retained EU Law (Revocation and Reform) Bill (the REUL Bill) – now the Retained EU Law (Revocation and Reform) Act 2023 (the REUL Act) – for Wales.

57. This involved scrutinising the Welsh Government's legislative consent memoranda for the REUL Bill (laid between November 2022 and May 2023).

58. We arrived at a number of stark conclusions in our February 2023 report on the Welsh Government's Legislative Consent Memoranda on the Retained EU Law (Revocation and Reform) Bill, including:

- that we could not overestimate our concerns as to the effect the Bill (as it was) could have on the certainty and quality of law as it applies in Wales (conclusion 1);
- that we were very concerned that the Bill's provisions did not sufficiently engage or acknowledge the role of a legislature in a parliamentary democracy (conclusion 2); and
- the Welsh Government needed to engage urgently with the Senedd and closely coordinate with it on the implications of the Bill on the Welsh Government's programme for government and the impact on Senedd business (conclusion 6).

59. Following the UK Parliament's decision to pass the Bill and the legislation subsequently being enacted, we have regularly and routinely sought further information from the Welsh Government about its intentions for the powers given to the Welsh Ministers through the REUL Act, and sought information on how the UK Government is sharing with the Welsh Government its plans and proposals for exercising powers in the Act.

60. We have exchanged several items of correspondence with the Counsel General, and we discussed the REUL Act during our session with the Counsel General on 10 July 2023.

Intergovernmental agreements

61. In our 2021/22 annual report we said we would, in the following year, monitor the use of intergovernmental agreements.

62. In his letter of 5 September 2022, the Counsel General made a series of commitments in relation to the publication of intergovernmental agreements.

63. We have noted that legislative consent memoranda for some UK Bills have made reference to the creation of memoranda of understanding. For example:

- the Protection from Sex-based Harassment in Public Bill;
- the Shark Fins Bill; and
- the Social Housing (Regulation) Bill.

64. It does not appear that the relevant Welsh Government webpage is being kept full up-to-date.

Welsh Government consent for UK Government made subordinate legislation

Background

65. Our remit includes the consideration of subordinate legislation made by the UK Government in devolved areas. This includes:

- the scrutiny of Welsh Government statutory instrument consent memoranda; 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 (Standing Order 30A); and
- the consideration of Welsh Government written statements notifying the Senedd that it has consented to the making of statutory instruments by UK Ministers in devolved areas under the *European Union (Withdrawal) Act 2018* (Standing Order 30C). The relevant power in the 2018 Act expired on 31 December 2022.

66. In addition to the work we undertake in accordance with Standing Orders, we also 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 First Minister, given in November 2021, which we highlighted in our report on the [Inter-Institutional Relations Agreement](#) (see 113 and 114 in Chapter 3 of this report).

Scrutiny in the past year

67. 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: 2
- SO30C notifications: 11
- All other consent notifications: 17

68. We consider consent notifications concerning the UK Government exercising a delegated legislative power in a devolved area in relation to Wales in Chapter 3.

Accessibility and complexity of Welsh law

Background

69. In our annual report for 2021/22 we said we would, in the coming year, 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.

70. We also said that we would use our experiences from our first year of operation, and the key issues raised by experts at our event on 13 June 2022, to help inform our scrutiny of the complex way in which law is being made in Wales.

71. 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 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 subject areas.

Scrutiny in the past year

72. Several of our reports on regulations laid before the Senedd have 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.

73. As an example, in our consideration of [SL\(6\)272 - The Child Minding and Day Care \(Disqualification\) \(Wales\) Regulations 2022](#), we reported to the Senedd three matters under Standing Order 21.2(v), five matters under Standing Order 21.2(vi), and three matters under Standing Order 21.2(vii). One issue we drew to the Welsh Government's attention was a potential issue with how references to "private fostering" had been used in the Regulations and whether there was a likelihood of confusion being caused. While the Welsh Government was [satisfied](#) that the drafting would "assist a reader familiar with the terminology used in England and Wales law", it was important that the issue was raised and further clarity from the Welsh Government was provided.

74. As we highlighted above, in paragraphs 16 to 18, we have also attempted to look more closely at how corrections are being made to pieces of subordinate legislation after they have been considered and approved by the Senedd. We have been concerned that the transparency of these processes affects the accessibility of the law as it applies in Wales.

75. We have also highlighted concerns with the accessibility of Bills brought forward by the Welsh Government and suggested the use of overview sections to improve the ability of the reader of the legislation to navigate it more easily, particularly in circumstances where Bills seek to amend existing primary legislation (see for example our [report on the Agriculture \(Wales\) Bill](#)). The Welsh Government has not supported the use of overview sections for that purpose.

Consideration of the first Welsh Consolidation Bill

76. During the past year we completed our consideration of the Historic Environment (Wales) Bill, which was the first consolidation Bill considered by the Senedd under Standing Order 26C.

77. As we said in our [report](#) in December 2022, we recognised the importance of the Bill as the first of its kind for the Senedd and for Welsh law. We also noted in our report that the

consolidation of Welsh law has the potential to significantly improve accessibility to the law which applies in Wales. Our role in the Senedd's consideration of the first Consolidation Bill took account of these potential benefits and we hoped that our approach demonstrated the importance we attach to the responsibility we have been given for Consolidation Bills introduced to the Senedd.

78. As the responsible committee for all Consolidation Bills, we undertook initial consideration of the Historic Environment (Wales) Bill and consequently made a recommendation to the Senedd that the Bill should proceed as a Consolidation Bill. Subsequently, we were responsible for undertaking line-by-line scrutiny of the Bill during Detailed Committee Consideration which involved the tabling of and voting on amendments to the Bill.

79. There are a number of differences between the procedures involved in the scrutiny of Consolidation Bills and public Bills introduced to the Senedd under Standing Order 26. One such difference is that a second amending stage is not mandatory in the case of Consolidation Bills, and it is the role of the responsible committee to make a recommendation to the Senedd on whether that second stage is required. In the case of the Historic Environment (Wales) Bill, we recommended that the Bill should be allowed to proceed directly to the Final Stage.

Consideration of reform to procurement law applicable in Wales

80. Our consideration of three particular items of primary legislation has raised issues around the complexity of Welsh law. We considered:

- legislative consent memoranda laid in respect of the UK Government's Procurement Bill, which will reform the processes underpinning procurement in Wales;
- the Welsh Government's Social Partnership and Public Procurement (Wales) Bill, which included provisions on socially responsible public procurement; and
- the Welsh Government's Health Service Procurement (Wales) Bill, which would enable the Welsh Ministers to disapply particular provisions of the UK Government's Procurement Bill, and to implement their own procurement regime for health services in Wales.

81. We concluded that the Welsh Government should have introduced primary legislation of its own to reform the processes underpinning procurement in Wales, in the interests of fully accessible legislation, and to avoid the need for a separate discrete item of legislation on the statute book in the form of the Health Service Procurement (Wales) Bill.

Conclusions

Findings and concerns

82. We are concerned that there continues to be a high volume of errors occurring in Welsh Government subordinate legislation, despite being told that quality assurance processes are in place. It is also noteworthy that there appears to be an increasing reliance on the Welsh Government seeking the correction of errors ‘prior to making’, including on errors that could be considered more than minor in nature. We have raised concerns with the Counsel General regarding the number of Welsh Government responses to our reports on subordinate legislation stating that errors will be corrected by correction slips or before the instrument is published on legislation.gov.uk.

83. We note that the Counsel General has said that it will always be the case that the Welsh Government’s preferred approach is to correct errors in draft statutory instruments and re-lay them before the Senedd. We also acknowledge the Counsel General’s remarks that the Welsh Government is grateful to us for those occasions when we have agreed to expedite our consideration of the revised statutory instrument.

84. We have become particularly concerned at the use of framework Bills by the Welsh Government. By their nature they take power away from the Senedd and give it to the government: policy detail that should be on the face of the Bill is being left for inclusion in regulations made or to be made by the Welsh Ministers, which are not subject to the level of scrutiny and engagement that would happen under the Senedd’s legislative process for a Bill, not least because regulations are not amendable. It can also mean that such regulations are more detailed and complex.

85. Our reports on the Agriculture (Wales) Bill and the Environment (Air Quality and Soundscapes) (Wales) Bill resulted in 76 recommendations to the Welsh Government reflecting our concerns with the quality of the legislation and the approach being adopted.

86. In our reports we have highlighted in detail why the use of framework Bills does not constitute good legislative practice and in doing so, have drawn on reports prepared by our equivalent committees in the House of Lords, namely the Secondary Legislation Scrutiny Committee, the Delegated Powers and Regulatory Reform Committee and the Constitution Committee.

87. Paragraphs 48 to 59 of our annual report for 2021/22 expressed our concern with the extent to which UK Bills are being used to legislate in devolved areas, particularly where it is with the support of the Welsh Government and where we believe the Senedd should be legislating.

88. We expressed concern at the emergence of a democratic deficit and that the approach being adopted could undermine both the Senedd as a legislature and the underlying principles of devolution. Our experience of the last year has not changed that position.

89. We also highlighted an issue with the legislative consent process, noting that there is no role for the Senedd to influence the Welsh Government's decision on whether it should pursue provisions for Wales in a UK Bill in the first place. This is an issue that has come to the fore in the second year of the Sixth Senedd.

90. As our commentary highlights, Ministers have often spoken about the use of UK Bills being in the best interests of Wales. However, we are concerned that the detail of what is to be included in law, and what is considered to be best for Wales, are decisions that the Welsh Government consider are its alone to make and that the Senedd must take this matter on trust, save for a "take it or leave it" decision at the end of the legislative consent process. We do not believe that the nature of the approach being adopted is consistent with the fundamental principle that it is the Senedd that is elected, rather than the Welsh Government, and accordingly that the executive is accountable to the legislature. The discussions that are taking place between the Welsh Government and the UK Government are excluding an appropriate level of parliamentary scrutiny and that is a cause for considerable concern given that it removes elements of democratic accountability.

91. There are also pitfalls with using UK Bills. The Welsh Government was recommending that the Senedd grant its consent to the Animal Welfare (Kept Animals) Bill, which would have introduced various animal protection measures, including the banning of keeping primates as pets. The Welsh Government supported the Bill on grounds of "timing and coherence", noting also that animal welfare is a priority for the Welsh Government. We reported on legislative consent memoranda in October 2021 and April 2022 expressing concern at the use of a UK Bill. The Bill was subsequently withdrawn by the UK Government on 8 June 2023, exactly two years after the Bill was introduced into the House of Commons, and a period of time in which the Welsh Government could have legislated in the Senedd given that animal welfare is a priority policy area.

92. Another pitfall, as we highlight with our example on the reform to procurement law applicable in Wales, is that the Welsh Government's approach can be detrimental to improving the accessibility of Welsh law, making it much more complex to navigate.

93. In our view, a decision to consent to a UK Bill making provision in a devolved area does not necessarily equate to an endorsement of the consent process. Rather, it can also be a recognition that it may be the only option to legislate available at that time, however limited and inadequate that option may be, while at the same time believing that capacity should have been found to bring forward an appropriate Welsh Bill.

94. During the evidence session on 10 October 2022, the Counsel General did not disagree with our view that “there is no better way to develop legislation in Wales for areas particularly that are within devolved competences than to run them through the Senedd”. However, he added:

“... but that is not the nature of the legislative constitutional arrangement we have, because we don't have a proper federalised structure, which is something I would advocate that we ought to have.”

95. He also went on to acknowledge that the legislative consent process “is a lesser form of scrutiny, but it is part of the constitutional structure we have at the moment.”

96. We have also noted the Counsel General’s comments about diverting “an enormous part of our capacity to legislate to what is determined by the UK Government in terms of what their priorities are and what their legislative programme is”. Nevertheless, it remains the case that the use of UK Bills means that the UK Government is determining what law is made for Wales in some devolved areas according to some of its priorities but without any meaningful scrutiny by the Senedd.

97. As we have indicated on many occasions, a binary decision – yes or no – to the inclusion of devolved provisions in a UK Bill is not a substitute for line-by-line scrutiny, the ability to table amendments, hear evidence and to seek improvements to Bills introduced to the Senedd.

98. In our 2021/22 annual report, we said we were not persuaded by the Welsh Government’s principles for using UK Bills and considered them to be flawed. In light of our experience in 2022/23 that we highlight above, our view has not changed.

99. It is clear to us that the Sewel Convention needs reform, as our predecessor Committee in the Fifth Senedd advocated. We share the view of the Counsel General, when, following a meeting of the Interministerial Standing Committee, in June 2023, he said:

“Where the Senedd does not consent to a UK Government Bill, the UK Government needs to rediscover its respect for devolution and reverse the

position whereby breaches of the Sewel Convention have become the default."

100. However, we do not believe that the lack of a federalised structure is adequate justification for bypassing Senedd scrutiny. Nor do we believe that the legislative consent process should be accepted as a means of making significant devolved provision in a UK Bill, particularly where this is with the co-operation of the Welsh Government.

101. For that reason, we believe reform of the Sewel Convention must include a greater say for the Senedd throughout the consent process. It cannot be right that negotiations between governments form the key components of a process of making law for Wales in a devolved area, while at the same time limiting the Senedd's ability to influence a legislative process that it would expect to be at the heart of.

102. We are grateful to the Counsel General and the Permanent Secretary for giving evidence in relation to capacity issues as they apply to legislating.

103. We have heard the pressures the Welsh Government is under and can sympathise with the position it is in, although we are not persuaded that this fully justifies the approach it is adopting towards legislating.

104. 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.

105. These matters therefore continue to cause us concern and we will continue to monitor them through the third year of the Sixth Senedd.

Successes and positive developments

106. In response to our reports, we note that the Welsh Government has now started to write to us to confirm what changes have been made to regulations in circumstances where it has been necessary to make changes after the Senedd has approved them but prior to making (for example correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd relating to The Animal By-Products, Pet Passport and Animal Health (Fees) (Wales)

(Amendment) Regulations 2023). We welcome this approach. While we believe it should continue in such circumstances to ensure transparency, it should not be regarded as good practice. The Welsh Government must always aim to ensure that subordinate legislation laid before the Senedd does not require amending following Senedd approval and before it is then made by the Welsh Ministers.

107. In December 2022, we wrote to the Permanent Secretary about the lack of Welsh language explanatory memoranda to accompany Welsh subordinate legislation in some circumstances. In January 2023, the Permanent Secretary wrote stating “that the Welsh Government will produce explanatory memoranda to Welsh subordinate legislation bilingually going forward.” We welcome the positive response to our letter.

108. We have not had much success regarding our recommendations to improve framework legislation. While most of our recommendations to amend the Agriculture Bill were not accepted, we did suggest that a super-affirmative procedure be applied to regulations that would permit the definition of agriculture and ancillary activities to be amended (if the Minister decided to retain the relevant provision). We welcome the amendment and believe it improves what is now the *Agriculture Act 2023*.

109. In light of our concerns with the Welsh Government’s ongoing practice of introducing framework Bills, we have commissioned research to explore the use of this type of legislation in the different parliaments of the UK and further afield. This research project will look at how widely framework Bills are used in the Senedd and in other parliaments, the impact they have on parliamentary scrutiny, and identify good practice that can be used in our future work.

Forward look

110. The scrutiny of subordinate legislation and aspects of 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 legislative consent memoranda but our ability to influence the corresponding UK Bills is limited. We will continue with this work and in particular will:

- monitor the number of errors in subordinate legislation laid before the Senedd to see if any patterns can be identified, and will continue to raise significant issues with the relevant Minister and the Counsel General;
- continue our monitoring of the use of framework bills and, subject to timings, publish the outcome of the academic research we refer to above;

- monitor the extent to which power is being transferred from the democratically elected legislature to the executive as a consequence of the Welsh Government 's approach to legislating;
- continue to monitor the capacity of the Welsh Government to legislate, a matter that will assume greater importance given comments about the aspiration to devolve justice and the proposals for a Senedd of 96 Members from 2026;
- monitor the implications for Wales and the Senedd of the *Retained EU Law (Revocation and Reform) Act 2023*;
- monitor the use of intergovernmental agreements and ensuring that information about them is publicly available;
- undertake scrutiny of further Consolidation Bills, including a planning Consolidation Bill; and
- continue to monitor the accessibility and complexity of Welsh law.

111. In our previous annual report, we said that we would develop our own principles (or similar) which we will use to hold the Welsh Government to account when it seeks to use a UK Government Bill to legislate in a devolved area. We intend to publish these separately in due course.

3. Constitutional issues and external affairs

Inter-Institutional Relations Agreement

Notification of Welsh Government participation at ministerial-level intergovernmental meetings

112. This year, we have been informed of the Welsh Government's participation at 30 ministerial-level intergovernmental meetings. We received prior notice of 23 of these meetings being held, and of the items for discussion.

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

113. The Welsh Government has also informed us of its decisions to consent to the UK Government's making of 16 items of delegated legislation in devolved areas.

114. Of these 16 items of legislation, we received prior notice of the Welsh Government's intention to consent to 9. In respect of 2 items, we only received a day's notice of their laying in the UK Parliament.

Intergovernmental relations

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

116. The Intergovernmental Relations (IGR) Review (the IGR Review) has now been in place for over 18 months. It established a three-tier system of IGR in the UK, with policy focused Interministerial Groups (IMGs) at the bottom, an Interministerial Standing Committee (IMSC) to provide oversight of the IMGs and discuss cross-cutting issues at senior ministerial level in the middle, and the Prime Minister and Heads of Devolved Governments Council at the top.

117. In October 2022, the First Minister spoke of a collapse in intergovernmental relations with the then UK Government. While subsequently welcoming the first meeting of the Prime Minister and Heads of Devolved Governments Council in November 2022, the First Minister said on 9 January 2023 that he wanted regular, predictable engagement from the UK Government, and that the new intergovernmental agreement needed to be properly implemented.

118. Meetings are continuing at all tiers of the IGR Review, although there has not been a second meeting of the Prime Minister and Heads of Devolved Governments Council since the inaugural meeting in November 2022.

119. We have also heard frustrations about the lack of attendance by the relevant Secretary of State at IMG meetings.

120. In relation to using UK Bills to legislate in devolved areas, there have also been several examples where the Welsh Government has said that they received late sight of a UK Bill (making provision in devolved areas) before its publication, for example in relation to the Northern Ireland Protocol Bill, the Levelling-up and Regeneration Bill, the Retained EU Law (Revocation and Reform) Bill and the Energy Bill. In the case of the latter Bill, during the evidence session and in subsequent correspondence there was a clear difference of view between the Welsh Government and the UK Government on matters of engagement.

121. The IGR Review contains a dispute resolution process, which the Counsel General has described as a “very significant step forward”. Under the mechanism, disputes can be escalated upwards through the tiers with the involvement and guidance of the IGR Secretariat. However, the intergovernmental relations Secretariat was not established by the time of the 2023 summer recess, as suggested by the UK Minister for Intergovernmental Relations, the Rt Hon Michael Gove MP.

122. There is still no record of the dispute resolution process being used. In his evidence to us on 5 December 2023, the Counsel General gave the example of a competence dispute over a UK Bill as something that potentially could go through the new disputes process, but he confirmed that it has not yet been used.

123. The Counsel General told us in March 2022 that it was “only in the most exceptional circumstances that you would expect there to be disputes ... much of the framework is about the avoidance of disputes and coming to actual agreements”.

124. When reporting subsequently on legislative consent memoranda, we have recommended on occasion that the Welsh Government clarify the steps it has taken to resolve differences of opinion where they exist with the UK Government using the new intergovernmental dispute resolution processes. However, according to its responses (for example on the UK Infrastructure Bank Bill and the Strikes (Minimum Service Levels) Bill), the Welsh Government has appeared reluctant to engage with or use the process.

125. On 10 July 2023, we questioned the Counsel General on whether the Welsh Government would consider using the IGR dispute resolution process for disputes around UK Government Bills and Senedd consent. The Counsel General told us:

"I don't think it is appropriate for every single dispute that happens on a piece of legislation, individually, to go through [the dispute resolution procedure], because the likelihood is that the fast momentum of legislation, the continual changing nature of that, is something that makes it very, very difficult to happen."

126. The Counsel General said that it was "more likely" that the scope for a dispute to be taken through the IGR procedures would be "in respect of Sewel overall", rather than on individual Bills. We sought further clarification on this point and in response he told us:

"The focus of the IGR Review is initially on dispute avoidance. We act in that spirit. Where we have concerns about a particular piece of UK legislation, we seek to work with UK Government in the first instance to ensure our positions are understood, with a view to them taking appropriate action to remedy the issue."

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."

127. We have also raised our own concerns directly with UK Government Ministers about poor intergovernmental relations, and have sought their perspective on what we regard as an excessive use of UK Bills to make provision in devolved areas. As we highlighted in our last annual report for 2021/22, we exchanged correspondence with the then Secretary of State for Levelling Up, Housing and Communities, the Rt Hon Greg Clark MP.

128. Following our correspondence with the Rt Hon Greg Clark MP, we wrote to his successor the Rt Hon Michael Gove MP in November 2022 asking whether guidance provided on engagement on UK Bills was formal in nature (comparable to devolution guidance notes for example). In his response, he told us that "Guidance and support is then adapted to the specific circumstances of each bill...", which suggests that no formal process is in place across Whitehall.

129. Our correspondence with the Rt Hon Michael Gove MP resulted in an invitation being sent to him to give evidence to us on the subject of intergovernmental relations. However, a formal response has not been provided to date.

130. The UK Government published its IGR Review Annual Report for 2022 in March 2023.

131. In July 2023, the Welsh Government published its report, Providing inter-governmental information to the Senedd: report 2021 to 2023. The report, which the Welsh Government has committed to produce in accordance with the Inter-Institutional Relations Agreement, aims to provide a balanced assessment of the nature of inter-governmental work across the Welsh Government. It summarises the engagement between the Welsh Government and the UK Government, and supplements Welsh Government updates provided to the Senedd through plenary and committee business.

Common Frameworks

132. We have continued to oversee other Senedd committees' scrutiny of individual common frameworks as they have been published for scrutiny. In March 2023, we considered the cross-cutting issues which have arisen from this scrutiny to date, and agreed to publish a report on those issues.

133. In May 2023 we laid our report on common frameworks, and made 21 recommendations to the Welsh Government on matters such as:

- their implications for devolved policymaking;
- stakeholder engagement in respect of the frameworks;
- their quality; and
- the dispute resolution mechanisms they contain.

134. The Counsel General responded to our report in June 2023. Within the response, he told us that he was not able to respond formally to committee recommendations until scrutiny has been completed by all four UK legislatures.

135. A debate was held in Plenary on our report on 12 July 2023.

Operation of the United Kingdom Internal Market Act 2020

136. The United Kingdom Internal Market Act 2020 (the UK Internal Market Act) was introduced to regulate the UK's internal market following withdrawal from the European Union.

137. In August 2022, the Supreme Court refused the Welsh Government's application for permission to appeal the Order of the Court of Appeal that their claim for Judicial Review of the UK Internal Market Act was premature and did not raise an arguable point of law. The case was relevant to the Welsh Government's argument, noted in July 2022 by the First Minister, for expediting scrutiny of the Environmental Protection (Single-use Plastic Products) (Wales) Bill (see commentary in Chapter 2 of this report and below).

138. The Welsh Government laid the Bill on 20 September 2022. It included proposals to ban a number of single-use plastic items. Most of these items are included in the United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022, which the Welsh Government consented to in August 2022. As such they would therefore be excluded from the Market Access Principles in the UK Internal Market Act. However, single-use carrier bags, lids for cups and takeaway containers and all single-use oxodegradable plastic products are not included in the existing exclusions and so would be caught by the UK Internal Market Act. The Bill's Explanatory Memorandum made no mention of the UK Internal Market Act or its relationship to the Bill's proposals.

139. We laid our report on the Bill on 11 October 2022. It stated:

"We accept that UKIMA cannot limit the Senedd's competence to legislate on matters that are devolved and within its legislative competence. However, our concern is that once law is made by the Senedd, UKIMA can impact on how effective that law is because of the market access principles it introduces across the UK."

140. In its response the Welsh Government said:

"Our position is the Bill is within the Senedd's competence, that it is fully enforceable, and it is not affected by UKIMA. We take that view because this Bill makes provision in relation to devolved matters. UKIMA cannot and does not, in our view, cut across the Senedd's competence to legislate about those matters. It cannot impliedly repeal the Government of Wales Act 2006 (GoWA), which is a constitutional statute. It cannot reserve matters by the back door."

141. An exchange of correspondence followed between [us](#) and the [Climate Change Minister](#).

142. The [Agriculture \(Wales\) Bill](#) was introduced to the Senedd on 26 September 2022. Section 32 (Marketing standards) and 33 (Carcass classification etc.) would allow the Welsh Ministers to make regulations that change the standards required for goods, such as packaging and labelling. Different standards for goods between different parts of the UK may engage the market access principles in the UK Internal Market Act. We raised these potential issues in the [evidence session](#) with the Minister for Rural Affairs and North Wales, and Trefnydd, and in follow-up [correspondence](#). In her [response](#), the Minister stated:

“As is the case in respect of the Environmental Protection (Single-Use Plastics Products) (Wales) Bill, we are clear that the Senedd can legislate free from the requirements of UKIMA.”

143. The [Genetic Technology \(Precision Breeding\) Bill](#) was introduced into the House of Commons on 25 May 2022 and received Royal Assent to become the Genetic Technology (Precision Breeding) Act 2023 (the 2023 Act) on 23 March 2023. The 2023 Act excludes some organisms developed using what the Bill describes as precision breeding techniques from the existing regulatory regime for genetically modified organisms (GMOs) in England, and creates a new regime for their management.

144. Whilst the law in Wales on GMOs is not amended by the 2023 Act, the market access principles enshrined in the UK Internal Market Act mean that plants, animals, food or feed produced in England under the new regime will be able to be sold in Wales without having to meet the GMO requirements still in force in Wales. The Bill’s [Explanatory Notes](#) and [Impact Assessment](#) acknowledged this effect of the UK Internal Market Act.

145. On 8 December 2022, the Welsh Government tabled a [Legislative Consent Memorandum](#) (but see above) noting:

“The effect of the requirements in UKIMA mean that the provisions in this Bill will in essence allow the sale and marketing of Precision Bred organisms (PBOs) in Wales, which currently Welsh legislation does not allow.”

146. The Memorandum also stated that “Welsh law will be irrelevant” to plants, animals, food or feed authorised under a new scheme in England due to the effect of the UK Internal Market Act.

147. The Deputy Minister for Mental Health and Wellbeing [announced](#) plans in June 2023 to “restrict the placement and price promotion of products high in fat, sugar and salt”. As the

proposals relate to the regulation of the sale of goods, there is potential for the effectiveness of the Welsh Government's plans to be limited by the UK Internal Market Act.

148. On 12 June 2023, we took evidence from the Office of the Internal Market (OIM). There was a discussion at the session about the OIM's engagement with the Welsh Government, including in the process for appointing members of the OIM's Panel, which assists the OIM in carrying out its functions set out in the UK Internal Market Act.

149. We were told that the OIM "has regular meetings with officials" in the Welsh Government and that twice-yearly meetings take place involving all four governments of the UK.

150. Under section 34 of the UK Internal Market Act the OIM can advise on the potential economic effects that a proposal may have on the UK's internal market. Whilst this power is open to all four governments in the UK, it has so far only been used once by the UK Government regarding proposals to ban the sale of peat in England.

151. During the evidence session, the OIM said that it would also be "ready to consider advice on the economic effects of potential exclusions" to the market access principles.

UK-EU relations

UK-EU governance

152. Building on our work last year, and our submission to the House of Lords European Affairs Committee, we launched an inquiry into UK-EU governance in May 2023. The inquiry is considering 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.

153. We heard evidence from academics, experts and civil society in June 2023 and gathered written evidence and input from stakeholders from the UK and from the EU. We also visited Brussels from 5 to 7 September 2023 and held discussions with various UK and EU representatives.

154. The Committee will publish its report in November 2023.

155. Before the inquiry, the Committee submitted written evidence on how Wales is represented in the governance of UK-EU relations to the House of Commons European Scrutiny Committee inquiry on The UK's EU representation: what has changed and how is it working? and the House of Lords European Affairs Committee inquiry on The future UK-EU relationship,

which we consider below. The former [reported](#) in October 2023 and the Committee's views were reflected in the latter's April 2023 [report](#).

Parliamentary Partnership Assembly

156. The UK-EU Trade and Co-operation Agreement (TCA) provides an option to establish a Parliamentary Partnership Assembly (PPA) for parliamentary cooperation between the European Parliament and the UK Parliament.

157. During 2022/23 the PPA met a further two times, in November 2022 and July 2023. The Senedd was represented by our Chair, and by Luke Fletcher MS on behalf of the Economy, Trade and Rural Affairs Committee.

158. The Senedd representatives published [reports](#) on the discussions held at both meetings that also make recommendations for the further development of the PPA itself and for Senedd engagement in its work. These reports were shared with the First Minister, relevant Senedd Committees and the PPA delegations themselves.

Monitoring work

159. As indicated earlier, we publish regular [monitoring reports](#) to inform stakeholders of some of the issues we consider. Monitoring issues related to UK-EU relations is a key feature of these reports. Through our monitoring work in 2022/23, we considered issues related to the Northern Ireland Protocol and the Windsor Framework, Horizon Europe, retained EU Law and alignment and divergence between the UK and the EU more broadly, the UK-EU memorandum of understanding on Financial Services, Welsh Government attendance at TCA meetings and the High Court ruling on EU citizens' rights under the EU Settlement Scheme.

160. We have also continued to monitor the work of the Interministerial Group on UK-EU relations and, more broadly, intergovernmental engagement on UK-EU issues.

Legislation

161. We have considered our role in monitoring the governance of UK-EU relations through our legislative scrutiny work. We have considered UK compliance with international law, including UK-EU agreements through our scrutiny of multiple legislative consent memoranda relating to UK Bills. In particular we considered:

- the [Legislative Consent Memorandum on the Northern Ireland Protocol Bill](#) and the Bills's impact on the UK's compliance with international law and on UK-EU relations.

In our [report](#) laid in November 2022, a majority of the Committee took the rare step of recommending the Senedd withhold consent on the basis that a consent decision could contribute to a breach of international law and would mean the Senedd acting incompatibly with international obligations, which would be in contrast to the spirit of the devolution settlement. This was the first time that a potential breach of international law was given as a basis for recommending consent be withheld;

- [Legislative Consent Memoranda on the Illegal Migration Bill](#) on the UK's compliance with the European Convention on Human Rights and the human rights provisions of the TCA. Our June 2023 [report](#) repeated our view, developed during scrutiny of the Northern Ireland Protocol Bill Legislative Consent Memorandum, that a decision by the Senedd to consent to the Bill could contribute to a breach of international law and would mean the Senedd acting incompatibly with international obligations, which would be in contrast to the spirit of the devolution settlement;
- [Legislative Consent Memoranda on the Data Protection and Digital Information \(No. 2\) Bill](#), and reported in [July 2023](#).

International agreements

Background

162. We are responsible for the scrutiny of non-trade international agreements in the Sixth Senedd and report regularly to the Senedd on such matters.

163. Our consideration of international agreements takes into account:

- whether an agreement engages the Senedd's competence; and/or
- whether there were potential policy implications for Wales.

Summary of Committee activity

164. This year, we have considered 13 non-trade international agreements, taking further action in relation to six, and noting the remaining seven for information only.

165. We agree with the First Minister, who [told us](#) that:

"... the Welsh Government and the Senedd both have legitimate and crucial interests in the negotiation and terms of any international agreements that require implementation in devolved areas."

166. Our consideration of matters raised in the course of international agreements scrutiny continues to evolve. We have sought information from the Welsh Government on a range of matters. We have identified issues such as:

- how the implementation of international obligations interacts with the Sewel Convention;
- the role and effectiveness of intergovernmental relations in the implementation of international obligations;
- to what extent the Welsh Government is involved in the development of international treaties;
- the UK and Welsh governments' views on whether and how individual treaties fall across devolved competencies;
- the use of new or existing legislation to deliver the requirements of agreements, and to remain compliant with international obligations; and
- the roles and responsibilities of those involved in implementation, such as the Welsh Government, public bodies and agencies.

167. 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 remits.

The Scrutiny of International Treaties and other international agreements in the 21st century

168. In November 2022, we submitted [written evidence](#) to the House of Commons Public Administration and Constitutional Affairs Committee's inquiry on [The Scrutiny of International Treaties and other international agreements in the 21st century](#). We made a number of conclusions, including that:

- we regret that the UK's treaty scrutiny process does not provide a formal role for the devolved legislatures, including where international agreements modify or fall within devolved competence, or have important policy implications;
- UK parliamentary scrutiny could only benefit from the devolved legislatures having a formal role, with our view being recognised and accommodated;

- it is not always possible for the Senedd to undertake scrutiny of international agreements within the initial 21-day scrutiny period. However, our process demonstrates that input from devolved legislatures is possible and can yield important results;
- the Senedd has made a valuable contribution to UK international agreements scrutiny since January 2019; and
- we noted and welcomed the support of Members and committees of the UK Parliament, and external experts, for devolved involvement in international agreements scrutiny.

169. Our Chair also gave oral evidence to the inquiry on 22 November 2022.

170. We have drawn agreements to the attention of relevant Senedd committees should they wish to undertake further scrutiny and have sought information from the Welsh Government on its implementation of agreements.

171. In respect of the agreement between the UK and Switzerland on the recognition of professional qualifications, we sought the First Minister's view in July 2023 on the relationship, if any, between implementing international obligations and the Sewel Convention. 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. The First Minister responded in August 2023.

Interparliamentary working

172. The Interparliamentary Forum met for a second time at the Senedd in October 2022. Representatives from committees from the House of Commons, House of Lords, Scottish Parliament and the Senedd discussed the Northern Ireland Protocol, retained EU law and the IGR Review. A joint statement was issued in which attendees raised concerns about the scope of delegated powers in UK legislation related to the UK's exit from the EU.

173. A further meeting was held in March 2023 in the House of Commons and the joint statement highlighted discussions about the Retained EU Law (Revocation and Reform) Bill (including the Sewel Convention and legislative consent), the UK-EU Parliamentary Partnership Assembly and intergovernmental relations.

174. We have sought to engage with other parliamentary committees by contributing to their inquiry work. In addition to the instances indicated above, our Chair gave evidence in March 2023 to an inquiry by the Constitution, Europe, External Affairs and Culture Committee of the Scottish Parliament on How Devolution is Changing Post-EU, which reported in October 2023.

Conclusions

Findings and concerns

175. While we, and other relevant Senedd committees, in the main are provided with timely notice from the Welsh Government of forthcoming interministerial meetings, we have seen an increase in the number of instances where the Welsh Government has provided us with little or no notice of its decisions to consent to delegated legislation being made in devolved areas.

176. We continue to take a strong interest in intergovernmental relations. As the volume of correspondence we receive as a consequence of the Inter-Institutional Relations Agreement shows, meetings between Ministers of different governments are frequent and cover a range of policy areas. We welcome this correspondence, although the quality of the information provided can vary.

177. Intergovernmental activity has also assumed even greater importance as the number of UK Bills (and clauses within them) making provision in devolved areas increases. It would appear that this is unlikely to diminish in the foreseeable future. Given that discussions and negotiations between the Welsh Government and the UK Government are impacting on an increasing volume of law that is made in devolved areas by the UK Parliament, our scrutiny of these relationships is becoming more vital than ever, not least because of the concerns we have articulated in our reports on legislative consent memoranda (see for example our report on [The Welsh Government's Legislative Consent Memoranda on the Levelling-up and Regeneration Bill](#)).

178. We have sought to find information about the use of the dispute resolution process available under the IGR Review and will continue to do so. It would appear, based on the evidence we highlight above, that there is currently some uncertainty about the extent to which this dispute resolution process can be used to resolve disagreements on individual UK Bills.

179. 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.

180. The past 12 months has seen significant developments in the UK-EU relationship, from fundamental disagreement over the Northern Ireland Protocol in the autumn of 2022 to the agreement of the Windsor Framework in 2023. Agreement on Horizon, the memorandum of understanding on Financial Standards and the evidence we have gathered as part of our inquiry

into UK-EU governance inquiry point towards a 'normalisation' in relations between the UK and the EU.

181. This normalisation provides an opportune moment to review how governance of UK-EU agreements has worked in practice, Wales's role within them and areas for future cooperation.

182. The PPA has already undergone considerable evolution since its first meeting in 2022. Senedd work to engage with its bodies and members also continues to evolve. The invitation of members of the devolved legislatures to participate in break-out groups during the PPA meetings is an extremely welcome development. It enables the devolved legislatures to make positive and meaningful contributions to the Assembly's work. We continue to call for further consideration of the engagement of the devolved legislatures in the plenary sessions of the PPA and will consider the issue of the engagement of devolved nations, local and regional authorities more broadly in our inquiry on UK-EU governance.

183. We believe that more must be done to engage Welsh civil society in the Senedd's work on the PPA and other post-Brexit bodies. These are themes we are likely to explore in the report on our EU-UK governance to be laid before the Senedd in November 2023.

184. The Welsh Government's position on the impact of the UK Internal Market Act on Welsh legislation continues to be unclear. The Welsh Government has said that the market access principles in the Act do not affect its proposed Welsh legislation on single-use plastics and agriculture. However, in the legislative consent memorandum for the Genetic Technology (Precision Breeding) Bill, the Welsh Government's position is that this England-only Bill will have an impact on the effect and effectiveness of Welsh law.

185. We have been unable to establish why the Welsh Government believes the UK Internal Market Act has an effect on existing Welsh legislation on genetic modification but not on new Welsh laws covering agriculture and single-use plastics.

186. What has been particularly disappointing is the Welsh Government's apparent refusal to address our concern that once law is made by the Senedd, the UK Internal Market Act can impact on how effective that law is because of the market access principles it introduces across the UK. Whenever we ask this question, we are provided with a response focusing on the issue of legislative competence to make legislation. This is not in dispute; as we have stated, we accept that UK Internal Market Act cannot limit the Senedd's competence to legislate on matters that are devolved and within its legislative competence. However, it can make that law less effective and that is the issue the Welsh Government, for whatever reason, appears reluctant to

address. In our view this has implications for openness and transparency, and ultimately could mean that businesses and citizens are unclear about the law that applies to them in Wales.

Successes and positive developments

187. We have succeeded in monitoring, responding to, and mainstreaming considerations of UK-EU governance across our work. We have maintained our focus on raising awareness of why scrutiny of the UK-EU relationship remains key to Wales and the Senedd.

188. We believe our engagement with parliamentary committees has continued to prove beneficial, particularly in terms of highlighting the work of the Senedd but also collaborating to help identify solutions to shared problems.

189. We were the first legislature to take evidence from the OIM and hope it will be the start of a positive relationship that can help us and other committees gain a better understanding of the UK's internal market and how it will shape legislative approaches.

Forward look

190. We will continue to scrutinise the broader constitutional and external affair matters, including by:

- continuing to monitor the impact of the IGR Review and the use of the dispute resolution process between governments;
- when appropriate opportunities arise, exploring, with other parliamentary committees, issues surrounding the use of UK Bills to legislate in devolved areas including the merits or otherwise of appropriate structures for scrutiny;
- publishing our report on UK-EU governance in November 2023. We hope to carry out a programme of work to engage with other parliaments and institutions in the UK, EU institutions, Welsh civil society, PPA members and others on the basis of our findings and recommendations;
- continuing to monitor and mainstream UK-EU governance issues across our work. In particular we will continue to scrutinise legislation related to implementation of the Windsor Framework and Border Target Operating Model, legislation made under the REUL Act and legislation related to alignment and divergence between Wales, the UK and the EU;

- continuing to monitor the relationship between Wales's devolution settlement and international obligations, including non-trade international agreements; and
- in relation to the UK Internal Market Act, monitoring the Welsh Government's approach to the impact of that Act and drawing attention to the outcome of a research project on '*Enhancing Stakeholder Understanding of the United Kingdom Internal Market Act 2020 and its Impact on Welsh Law*', in which Senedd Research is taking a lead role.

4. Scrutiny of justice matters

Summary

191. Over the last year, we have taken oral evidence in respect of justice matters from [Lord Bellamy, Parliamentary Under-Secretary of State for Justice](#), from [Sir Wyn Williams, the outgoing President of the Welsh Tribunals](#), and from the Counsel General. Below we outline the key themes we have identified over the course of our scrutiny.

Leadership and accountability on justice matters

192. As part of Senedd committees' scrutiny of the Welsh Government's draft budget for 2023-24, [we took evidence](#) from the Counsel General in respect of spending in relation to justice. We issued a [report](#) on our scrutiny, in which we welcomed the Counsel General's assurances to us that small decreases in planned spending on justice transformation did not signal any decrease in priority for that area. Our report also noted the opportunity the Welsh Government's forthcoming annual report on its [Delivering Justice in Wales programme](#) will provide in evaluating the outcomes of its spending on justice matters. Our Chair [spoke in the Plenary debate](#) on the draft budget in February 2023.

193. Lord Bellamy announced in his evidence to us in December 2022 that the "long-heralded" Interministerial Group on Justice was being established. He expressed his hope that the group's first meeting would be held before Easter 2023 (it subsequently took place in September 2023).

194. He also told us that the Ministry of Justice had, jointly with the Welsh Government, decided to prioritise work to respond to 14 of the recommendations of the [Commission on Justice in Wales](#). He also told us that they were considering the detail of nine of these recommendations, and were progressing work on the remaining five. In later correspondence with us, Lord Bellamy [provided further information](#) on this work: on accessible digital services; the powers of the Administrative Court in respect of investigations by the Public Services Ombudsman for Wales; Coroner services through the medium of Welsh; and the disaggregation of data on justice.

195. Lord Bellamy also [said to us](#) that he was not "sure" that he would accept the notion of the 'jagged edge' which is often described as existing between devolved and non-devolved organisations and services in the criminal justice system in Wales, as there is an "intrinsic interface issue with justice", with the Ministry of Justice being required to regularly work closely with other UK Government departments.

196. We sought the views of our stakeholders on these comments. Professor Emyr Lewis of Aberystwyth University told us that Lord Bellamy's response to the problem of the 'jagged edge' was "not convincing":

"One cannot make a comparison between the difficulties of working across (1) on the one hand, the boundary between the operational departments of a central Government and those of a devolved Government, and (2) on the other, the boundary between the various operational departments of a central Government alone. ... the departments of the central Government are all accountable to and under the ultimate executive control of the same authority ... devolved departments are accountable to and under the executive control of the First Minister of Wales and the Cabinet in Wales ... This lack of symmetry in terms of power is one of the main sources of practical difficulties created by the jagged edge."

197. Citing Professor Emyr Lewis's comments, we expressed our view to Lord Bellamy that much more needs to be done to overcome the practical difficulties created by the jagged edge which exists within the justice system in Wales. In response, he told us that while he recognised the distinction being made by Professor Emyr Lewis, the UK Government "did not believe there are significant practical difficulties and, in fact, reserved authorities and devolved authorities work extremely effectively together to deliver the services for which they are responsible."

Data on crime and justice

198. While Lord Bellamy told us that a "significant volume of Wales-specific justice data is already collected and disaggregated", the Counsel General said to us that a lack of disaggregated data is "one of the most important things that has to be addressed" to enable evaluation of outcomes, and, in its absence, "it's very difficult to actually develop justice policy."

199. We therefore asked Lord Bellamy to share with us a list of areas in which Wales-specific data is not published, as highlighted by the Welsh Government, and to explain to us which barriers prevent the Ministry of Justice from publishing such data routinely. In response, Lord Bellamy told us that he hoped to be able to discuss this issue with the Counsel General "in due course", and that the Ministry of Justice seeks to "fill any gaps in data collection and disaggregation that could aid the effective administration of justice in Wales."

200. In July 2023, the Counsel General and his officials told us that the Welsh Government had shared a set of data with Ministry of Justice officials, including gaps to be filled, and that they would notify us when published version of dashboards of data were completed.

Supporting the legal sector and access to justice

201. Our stakeholders have shared with us their concerns around support for the legal sector and access to justice, in response to Lord Bellamy's oral evidence. Race Council Cymru told us:

- the roll-out of online advice services has the potential to disadvantage groups that are digitally excluded;
- there is evidence of barriers facing disabled people's access to justice;
- the rapid roll-out of remote hearings may negatively affect participation for certain groups;
- barriers remain to the recruitment, retention and the career development of individuals from Black, Asian and Minority Ethnic groups within the legal profession; and
- there is mistrust among Black, Asian and Minority Ethnic groups within the criminal justice system.

202. We brought these concerns to Lord Bellamy's attention in correspondence. In his response, he told us:

- His Majesty's Courts and Tribunals Service is "committed" to designing and delivering inclusive services, to improving paper forms, and to providing a Digital Support Service;
- while the Ministry of Justice is "committed" to making remote hearings as accessible as possible, a decision as to whether a hearing is appropriate to be heard remotely rests with a judge. In addition, recent research suggests that outcomes remain the same when remote hearings are used;
- while the legal profession is independent of Government, the profession's regulators have a "broad programme of work aimed at encouraging a diverse workforce", and the Ministry of Justice is "exploring what can be done to make duty solicitor work easier for those with caring responsibilities"; and
- the Ministry of Justice recognises that "there is more we can do to collect better data on minority ethnic communities", and the Criminal Justice Board for Wales is developing a "race disparity dashboard" to improve transparency.

The Cardiff Civil and Family Justice Centre

203. As we noted in our 2021/22 annual report, many of our stakeholders have raised with us their concerns around the infrastructure of the Cardiff Civil and Family Justice Centre. After visiting the centre in December 2022, Lord Bellamy told us that he had asked his officials to “investigate a number of funding options” for improvement work, and that he and the Counsel General had agreed to “investigate the possibility of utilising publicly owned estate, such as Welsh Government offices, or other UK Government premises”.

204. In July 2023, we asked the Counsel General to outline the latest developments of his discussions with Lord Bellamy in respect of the centre. He told us that there were financial constraints, and there was no indication “at the moment” of significant investment. However, he said that, “in this post-COVID environment”, “in terms of capacity within [Government] estates, there are some grounds for exploring opportunities.”

The Welsh Tribunals

205. In his evidence to us in March 2023 on his final annual report, Sir Wyn Williams explained why some of the tribunals had received a substantial increase in applications, while some had seen a significant decrease. He also shared with us his hope that these decreases did not suggest that people may not be able to access justice.

206. With respect to the Welsh Government’s proposed reforms to the Welsh Tribunals, Sir Wyn told us of:

- the advantages of a non-ministerial department to administer the tribunals;
- the importance of a Welsh Tribunals Unit being independent from the Welsh Government; and
- the benefits of the creation of an Appeal Tribunal for Wales to those people seeking access to justice.

207. The Welsh Government shared for consultation its proposals to reform the Welsh Tribunals in June 2023. The First Minister stated that legislation relating to the Welsh tribunal system will be brought forward in the remaining years of the Senedd term, following 2023/24.

Conclusions

Findings and concerns

208. While we have seen elements of effective intergovernmental working between the Welsh Government and the Ministry of Justice this year, in particular with regard to efforts to disaggregate data on justice in Wales, it is nevertheless concerning to hear that partnership working is progressing in earnest on only a limited number of the recommendations of the Commission on Justice in Wales. In our view, this level of progress does not reflect the fact that four years has now elapsed since the Commission published its report.

209. It was also concerning to hear Lord Bellamy's initial dismissal of the notion of a 'jagged edge' between devolved and non-devolved organisations and services in the criminal justice system in Wales; a concern evidently shared by our stakeholders. We will continue to explore with our stakeholders the practical difficulties caused by the 'jagged edge', and to impress on the Ministry of Justice the importance of continuing to engage with the Welsh Government, and to proactively work with the Treasury, to find ways in which resources can be more effectively shared to ensure a constructive joint approach to overcome barriers which exists in the justice system in Wales.

210. The apparent decreases in applications to some the Welsh Tribunals has also been a cause of concern to us. While we are hopeful that these decreases do not mean that people are finding it difficult to gain access to justice, it is an issue which we believe should be monitored closely as time progresses.

Successes and positive developments

211. Notwithstanding our concerns above in respect of the issues under consideration, Lord Bellamy's engagement with us is to be welcomed: from his attendance in person at our evidence session, his willingness to hear the views of our stakeholders on his evidence, and his subsequent exchange of correspondence. We hope to see this level of engagement with us and the Welsh Government continue.

Forward look

212. As part of our scrutiny of justice matters over the next year, we will:

- consider the Welsh Government's first annual report on its Delivering in Justice in Wales programme, in particular any detail contained within on expenditure on justice

matters against what was forecast in the Welsh Government's draft budget for 2023-24, and evaluations of the outcomes of that expenditure;

- monitor, and seek to input as necessary, discussions of the Interministerial Group on Justice, and evaluate the outcomes of those discussions;
- continue to monitor the Welsh Government and the Ministry of Justice's work in response to recommendations of the Commission on Justice in Wales, in particular on the disaggregation of data on justice;
- monitor work being undertaken to improve the infrastructure of the Cardiff Civil and Family Justice Centre; and
- engage with the newly appointed President of the Welsh Tribunals, Sir Gary Hickinbottom, on matters including developing or emerging trends in applications to the Welsh Tribunals, and the impact of those trends.

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
26 September 2022	Historic Environment (Wales) Bill: Initial Consideration	The Rt Hon. Lord Justice Green, Chair of the Law Commission Nicholas Paines KC, Law Commissioner for the Law in Wales Charles Mynors, Lawyer responsible for the Planning Law in Wales project
3 October 2022	The Environmental Protection (Single-use Plastic Products) (Wales) Bill: Stage 1 scrutiny	Julie James MS, Minister for Climate Change Nick Howard, Senior Government Lawyer, Welsh Government Richard Clark, Head of Local Environment Quality, Welsh Government Hefin Gill, Government Lawyer, Welsh Government
10 October 2022	Welsh Government's approach to legislating	Mick Antoniw MS Counsel General and Minister for the Constitution Dr. Andrew Goodall CBE, Permanent Secretary to the Welsh Government
14 November 2022	Historic Environment (Wales) Bill: Initial Consideration	Mick Antoniw MS, Counsel General and Minister for the Constitution Dylan Hughes, First Legislative Counsel and Director of the Office of the Legislative Counsel, Welsh Government James George, Senior Legislative Counsel, Welsh Government

<p>21 November 2022</p>	<p>Agriculture (Wales) Bill: Stage 1 scrutiny</p>	<p>Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd</p> <p>James Owen, Deputy Director, Land Management Reform Division, Welsh Government</p> <p>Dorian Brunt, Senior Lawyer, Legal Services Department – Rural Affairs, Welsh Government</p> <p>William Cordingley, Government Lawyer, Legal Services Department – Wildlife, Welsh Government</p>
<p>5 December 2022</p>	<p>Justice in Wales</p>	<p>Lord Bellamy KC, Parliamentary Under-Secretary of State for Justice, Ministry of Justice</p> <p>Chris Jennings, Executive Director, HM Prison and Probation Service Wales</p> <p>Andrew Waldren, Deputy Director, Rights Policy, Ministry of Justice</p>
<p>5 December 2022</p>	<p>Legislative Consent Memorandum on the Retained EU Law (Revocation and Reform) Bill</p>	<p>Mick Antoniw MS, Counsel General and Minister for the Constitution</p> <p>Lisa Marie Knight, Government Lawyer, Legal Services Department, Welsh Government</p> <p>Dr. Robert Parry, Deputy Director, European Transition Legislation, Welsh Government</p>
<p>16 January 2023</p>	<p>Welsh Government's Draft Budget for 2023-24</p>	<p>Mick Antoniw MS, Counsel General and Minister for the Constitution</p> <p>James Gerard, Deputy Director, Justice Policy, Welsh Government</p> <p>Sophie Brighouse, Deputy Director, Constitution and Welsh Tribunals, Welsh Government</p> <p>Dr. Robert Parry, Deputy Director, European Transition, Welsh Government</p>

<p>23 January 2023</p>	<p>Food (Wales) Bill: Stage 1 scrutiny</p>	<p>Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd</p> <p>David Lloyd-Thomas, Head of Food Policy & Strategy Unit, Welsh Government</p> <p>Claire Butterworth, Lawyer, Welsh Government</p>
<p>30 January 2023</p>	<p>Food (Wales) Bill: Stage 1 scrutiny</p>	<p>Peter Fox MS, Member in charge of the Bill</p> <p>Tyler Walsh, Member Support Staff</p> <p>Samiwel Davies, Senedd Commission Legal Adviser</p> <p>Aled Evans, Senedd Commission Legal Adviser</p>
<p>13 February 2023</p>	<p>Historic Environment (Wales) Bill: Detailed Committee Consideration</p>	<p>Mick Antoniw MS, Counsel General and Minister for the Constitution</p>
<p>6 March 2023</p>	<p>Health Service Procurement (Wales) Bill: Stage 1 scrutiny</p>	<p>Eluned Morgan MS, Minister for Health and Social Services</p> <p>Dafydd Evans, Deputy Director, Life Sciences and Innovation, Welsh Government</p> <p>Lowri Lewis, Lawyer, Welsh Government</p> <p>Jolanta Griffiths, Lawyer, Welsh Government</p>
<p>13 March 2023</p>	<p>Justice in Wales / President of the Welsh Tribunals: Annual Report 2021-22</p>	<p>Sir Wyn Williams, President of the Welsh Tribunals</p> <p>Rhian Davies Rees, Head of the Welsh Tribunals Unit, Welsh Government</p>
<p>15 May 2023</p>	<p>Environment (Air Quality and</p>	<p>Julie James MS, Minister for Climate Change</p>

	Soundscapes) (Wales) Bill: Stage 1 scrutiny	Helen Rowley, Lawyer, Welsh Government Rhian Williams, Bill Manager, Welsh Government Olwen Spiller, Deputy Head of Environmental Protection, Welsh Government
12 June 2023	Office for the Internal Market	Murdoch MacLennan, Chair of the Office for the Internal Market Panel James Waugh, Director, Office for the Internal Market
19 June 2023	UK – EU governance inquiry	Panel 1
26 June 2023	UK – EU governance inquiry	Panels 2 and 3
10 July 2023	Legislative Consent Memorandum on the Energy Bill	Julie James MS, Minister for Climate Change Ed Sherriff, Deputy Director, Energy, Welsh Government
10 July 2023	General scrutiny	Mick Antoniw MS, Counsel General and Minister for the Constitution Sophie Brighouse, Deputy Director, Constitution and Welsh Tribunals, Welsh Government James Gerard, Deputy Director, Justice Policy, Welsh Government Dr Robert Parry, Deputy Director, European Transition, Welsh Government

Annex B: Interparliamentary working

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

Date	Committee / Parliamentary body
28 October 2022	Interparliamentary Forum (Cardiff)
7-8 November 2022	PPA Meeting (London)
22 November 2022	House of Commons' PACAC inquiry on treaty scrutiny
1 December 2022	Welsh Affairs Committee visit to the Senedd
7 December 2022	House of Lords Common Frameworks Scrutiny Committee (hybrid)
25 January 2023	European Affairs Committee public evidence session/working lunch (in Cardiff)
2 March 2023	Europe, External Affairs and Culture Committee: How is Devolution Changing Post-EU? Inquiry (virtual)
24 March 2023	Interparliamentary Forum (London)
3-4 July 2023	PPA Meeting (Brussels)