

# Negotiations on the UK's withdrawal from the EU

## Brexit Monitoring Report

29 January 2020



The Assembly and

**BREXIT**

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

National Assembly for Wales  
**Senedd Research**

---

# Negotiations on the UK's withdrawal from the EU

## Brexit Monitoring Report

29 January 2020

---

**Authors:**

Sara Moran and Lucy Valsamidis

An electronic copy of this document can be found on the National Assembly website: [www.assembly.wales](http://www.assembly.wales)

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

**National Assembly for Wales**  
**Cardiff Bay**  
**CF99 1NA**

Tel: **0300 200 6472**

Email: [Sara.Moran@Assembly.Wales](mailto:Sara.Moran@Assembly.Wales)

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

Blog: [SeneddResearch.blog](http://SeneddResearch.blog)

LinkedIn: [Senedd Research, National Assembly for Wales](https://www.linkedin.com/company/Senedd-Research-National-Assembly-for-Wales)

---

© National Assembly for Wales Commission Copyright 2020

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



The Assembly and

**BREXIT**

## Contents

<b>1. Introduction .....</b>	<b>1</b>
Summary of developments .....	1
<b>2. Developments at UK level .....</b>	<b>3</b>
The EU (Withdrawal Agreement) Bill.....	3
UK Government negotiating position .....	3
House of Commons committees.....	3
Northern Ireland: Restoration of devolved government .....	4
Intergovernmental relations.....	4
<b>3. Developments at the EU .....</b>	<b>6</b>
Ratifying the Withdrawal Agreement.....	6
EU negotiations preparations .....	6
Future composition of the European Parliament .....	8
EU Settlement Scheme concerns .....	8

<b>4. Developments in Wales .....</b>	<b>9</b>
Legislative consent.....	9
UK-EU future relationship negotiations .....	11
Preparedness .....	12
Regional investment and the Shared Prosperity Fund.....	13
Welsh Government International Strategy.....	13
<b>5. Areas of interest to the External Affairs and Additional Legislation Committee .....</b>	<b>14</b>
Unaccompanied children seeking sanctuary in Wales.....	14

# 1. Introduction

This report provides an update on developments relating to the Article 50 negotiations on the UK's withdrawal from the EU. This edition covers the period since 7 January 2020.

This paper provides:

- A headline summary of the latest developments;
- A more detailed analysis of the key developments at the EU and Westminster; and
- Analysis of the Welsh Government and National Assembly for Wales' responses to the latest developments.

## Summary of developments

**At the UK level**, the UK Parliament passed the EU (Withdrawal Agreement) Bill on 22 January. The UK Government indicated it would not seek alignment with the EU at the end of the implementation period, but promised the new Northern Ireland Executive that it would legislate to guarantee 'unfettered access' between Northern Ireland and Great Britain. UK Ministers told the Joint Ministerial Committee they were in the process of finalising negotiating structures for the future relationship negotiations and that this would make the role of the devolved governments clear.

**In the EU**, ratification of the Withdrawal Agreement is also required. This is expected to take place in a European Parliament vote scheduled for 29 January. Following this, the EU Council will take a formal vote to finalise the process ahead of the UK's exit on 31 January. EU Commission President, Ursula Von Der Leyen, has set out the EU's expectations for the future relationship negotiations in a number of speeches throughout January. The EU has established a task force for the UK-EU negotiations, with Michel Barnier at its head. The task force has published a number of sectoral preparation documents for the negotiations, including on fishing, energy and governance. Following the UK's exit, the European Parliament's composition will change, with some seats being reallocated to other Member States and some being held back for future EU enlargement.



- **In Wales**, the Assembly joined the Scottish Parliament and the Northern Ireland Assembly in refusing consent to the EU (Withdrawal Agreement) Bill. The Welsh Government set out its negotiating priorities for the future relationship, highlighting differences from the UK Government position and calling for a role for the devolved governments in developing and agreeing negotiating mandates. The Welsh Government also published its new international strategy.

## 2. Developments at UK level

### The EU (Withdrawal Agreement) Bill

The EU (Withdrawal Agreement) Bill was passed by both Houses of Parliament on 22 January. The House of Lords voted against the Government to make five **amendments to the Bill**. Among these was an **amendment from Labour peer Baroness Hayter** to add to the statement in Clause 38 that 'it is recognised that the Parliament of the United Kingdom is sovereign' recognition of the legislative consent convention. All Lords amendments were rejected by the House of Commons.

### Devolved legislatures

All three devolved legislatures voted to withhold consent from the Bill. The Assembly voted by 35 to 15 to **withhold consent from the Bill** on 21 January, following the Welsh Government's **Legislative Consent Memorandum** recommending against consent. The Northern Ireland Assembly voted to withhold consent without a division on 20 January. The **Scottish Parliament voted to refuse consent** by 92 to 29 on 8 January, following the Scottish Government recommendation in its **Legislative Consent Memorandum**.

### UK Government negotiating position

The UK Government has not yet published information on its negotiating position for the future relationship. On 18 January, the Chancellor of the Exchequer told the **Financial Times** that '**there will not be alignment**' with EU regulations after the end of the implementation period.

### House of Commons committees

The leaders of the larger parties tabled a motion in the House of Commons on 13 January setting out what the **select committees in this Parliament** will be and which party will hold the chair of each. This confirmed that the Exiting the European Union Committee (Labour chair) and the International Trade Committee (SNP chair) would both be re-established. The House of Commons will elect committee chairs on 29 January.

## Northern Ireland: Restoration of devolved government

On 10 January, the **Northern Ireland parties agreed** to re-enter the Northern Ireland Executive and enable the Assembly to sit again. Northern Ireland had been without Ministers since January 2017.

As part of the **agreement on the restoration of the devolved institutions**, the UK Government made commitments on Northern Ireland's position after Brexit, including:

- to invite Northern Ireland Executive representatives to be part of the UK delegation for the UK-EU Specialised or Joint Committees for the future relationship negotiations, when those committees are discussing Northern Ireland and when the Irish Government is part of the EU delegation; and
- to legislate by the beginning of 2021 to 'guarantee unfettered access for Northern Ireland's businesses to the whole of the UK internal market'. Head of the EU Task Force for Relations with the UK Michel Barnier **told the European Parliament** that '[t]he implementation of this [the Protocol] foresees checks and controls entering the island of Ireland.' The Secretary of State for the Department for Exiting the European Union, Stephen Barclay, **has also previously said** that under the Ireland and Northern Ireland Protocol 'some information will be needed on goods moving from Great Britain to Northern Ireland'.

## Intergovernmental relations

### Joint Ministerial Committee

The **Joint Ministerial Committee (EU Negotiations)** met on 9 January, the first time since before the General Election. **The Counsel General and Brexit Minister**, Jeremy Miles, represented the Welsh Government. In a statement, he said that UK Government Ministers had noted that they were 'in the process of finalising their proposals for negotiating structures and expected this would provide clarity on the role of the Devolved Governments.' He also said he had told the Committee that it would be a 'very significant constitutional moment' if the Assembly were to withhold consent to the EU (Withdrawal Agreement) Bill.

The next meeting would be in Cardiff later in January and he expected it would focus on topics including '...reaching a firm conclusion on the role of the Devolved Governments in negotiations, and a discussion of negotiation objectives.'

## Intergovernmental relations review

The **Counsel General and Brexit Minister**, Jeremy Miles, said that at the 9 January Joint Ministerial Committee (EU Negotiations), he had:

[E]mphasised the importance of concluding the Inter-Governmental Relations Review (IGRR) urgently, as well as the need to establish regular Ministerial quadrilaterals covering all relevant policy departments.

The Counsel General added that the next JMC(EN) would take place in Cardiff and that he expected there to be discussion of finalising dispute resolution proposals.

### 3. Developments at the EU

#### Ratifying the Withdrawal Agreement

On 29 January, the **European Parliament will vote** on the Withdrawal Agreement, which needs a simple majority to pass. Following this, it will be put to the EU Council for a final vote by a qualified majority (72% of the 27 Member States representing 65% of their total population), as required by **Article 238 Treaty on the Functioning of the European Union (TFEU)**.

#### EU negotiations preparations

##### EU Commission President

In a speech in London on the 8 January, **Commission President, Ursula Von Der Leyen**, set out the next steps in the Brexit process:

[[In just over three weeks, on 31 January, the UK will spend its last day as a Member State. This will be a tough and emotional day. But when the sun rises again on 1 February, the EU and the UK will still be the best of friends and partners. The bonds between us will still be unbreakable.

On the readiness of the EU, the Commission President explained that:

The European Union is ready to negotiate a truly ambitious and comprehensive new partnership with the United Kingdom. We will make as much of this as we can. We will go as far as we can. But the truth is that our partnership cannot and will not be the same as before. And it cannot and will not be as close as before – because with every choice comes a consequence. With every decision comes a trade-off. Without the free movement of people, you cannot have the free movement of capital, goods and services. Without a level playing field on environment, labour, taxation and state aid, you cannot have the highest quality access to the world's largest single market.

The more divergence there is, the more distant the partnership has to be. And without an extension of the transition period beyond 2020, you cannot expect to agree on every single aspect of our new partnership. We will have to prioritise.

The Commission President outlined that 'there can be no compromise' in upholding the integrity of the EU, its Single Market and its Customs Union.

**Speaking in Dublin** on 15 January, the European Commission President also stated:

Our goal is zero tariffs and zero quotas on our mutual trade. But the precondition for this is fair competition. We are open to keeping the United Kingdom as close as possible to us. But we also know that even with the best possible future agreement, this is not going to be business as usual.

There is a difference between being a Member State and not being a Member State. The United Kingdom decided to take a different path and to go further away from us. It is their choice. And we respect it.

##### New EU Task Force established

The EU's negotiations team information was published on 14 January 2020. The **Task Force for Relations with the United Kingdom** will be led by Michel Barnier as Head of Taskforce. An **organisational chart** is available. On 9 January, **Michel Barnier delivered a speech** in Stockholm in which he described the timeframe for negotiations as 'hugely challenging.' He explained that, as a result, the EU will need to prioritise three areas for negotiation:

1. To build new capacity that enables joint working.
2. To build a very close security relationship.
3. To agree an economic partnership based on a level playing field.

The EU, he said, will 'insist on a trade partnership with zero tariffs, zero quotas, but also zero dumping.'

##### Negotiation documents published

Since 10 January, the EU has **published twelve documents** detailing the EU's sectoral preparations for the UK-EU negotiations on:

1. Personal data protection (adequacy decisions); cooperation and equivalence in financial services
2. Free trade agreement
3. Level playing field and sustainability
4. Fisheries
5. Transport
6. Energy
7. Law enforcement and judicial cooperation in criminal matters
8. Foreign policy, security and defence
9. UK participation in Union programmes

10. Mobility of persons

11. Governance

12. Architecture and legal nature of partnership

### Future composition of the European Parliament

Following the UK's exit, 27 of the 73 **UK seats in the European Parliament** will be redistributed to France (+5), Spain (+5), Italy (+3), Netherlands (+3), Ireland (+2), Sweden (+1), Austria (+1), Denmark (+1), Finland (+1), Slovakia (+1), Croatia (+1), Estonia (+1), Poland (+1) and Romania (+1). The redistribution of seats impacts the composition of the Parliament's committees and sub-committees. For more information, the **European Parliament Research Service** has produced an article with infographics on the Parliament after Brexit.

### EU Settlement Scheme concerns

On 9 January, a **European Parliament Resolution** on the implementation and monitoring of the provisions on citizens' rights in the Withdrawal Agreement passed by 610 to 29. The Resolution raises a number of concerns regarding the UK's EU Settlement Scheme and calls on the UK to review its approach. It further states the European Parliament:

Believes that joint European Parliament-UK Parliament scrutiny of the implementation and application of the Withdrawal Agreement would be beneficial, and would welcome it if joint structures to this end could be established.

For more information and an update on the EU Settlement Scheme, see the **latest blog by Senedd Research**.

## 4. Developments in Wales

### Legislative consent

#### EU (Withdrawal Agreement) Bill

The Assembly voted by 35 to 15 to **withhold consent from the EU (Withdrawal Agreement) Bill** on 21 January, following the Welsh Government's **Legislative Consent Memorandum** recommending against consent. Introducing the debate, the First Minister said that the Welsh Government objected to the Bill because:

- the UK-EU Withdrawal Agreement and Political Declaration do not provide assurance that there will be frictionless trade with the EU in future;
- the Bill does not include procedural protections for workers' rights, as set out in the previous version introduced in October 2019;
- the Bill does not establish for a role for the devolved institutions in the future relationship negotiations;
- Clause 21 of the Bill provides powers to Ministers to amend or repeal any primary legislation, including the Government of Wales Act 2006; and
- the statement in Clause 38 that it is recognised that the UK Parliament is sovereign is not qualified by any reference to the legislative consent convention.

The **Secretary of State for the Department for Exiting the European Union**, Stephen Barclay, had written to the Counsel General and Brexit Minister, Jeremy Miles, to ask that the Welsh Government recommend consent to the Bill, saying that:

The Sewel Convention holds that the UK Government should not normally press ahead with legislation without legislative consent motions from devolved administrations but the circumstances of our departure from the European Union are specific, singular and exceptional.

The Welsh Government had previously **written to the Committee** to confirm over which clauses of the Bill the UK and Welsh Governments disagreed over whether consent was required. The Welsh Government also published a list of **proposed amendments** for Members of the House of Lords to table.

The **External Affairs and Additional Legislation Committee** and the **Constitutional and Legislative Affairs Committee** both reported on the Bill before the debate on whether to grant consent. The **Chair of the External Affairs and Additional Legislation Committee, David Rees**, wrote to the Secretary of



State for the Department for Exiting the European Union, Stephen Barclay, to ask for the Bill to recognise a discretionary role for committees of the devolved legislatures in reviewing EU legislation during transition. In a letter on 21 January, the Chair of the European Union Committee Lord Kinnoull advised that:

I raised this matter in a meeting last week with the DExEU Minister in the House of Lords, Lord Callanan. He has confirmed that, in the UK Government's view, there is nothing in the Clause that stops Parliament's scrutiny committees from consulting with committees of the devolved legislatures in preparation of their reports, and indeed would expect the committees to want to do so in relevant areas.

I also wanted to assure you of my Committee's commitment to engagement with the devolved legislatures on the scrutiny of EU legislation during the transition period, scrutiny of the UK-EU future relationship negotiations, and other related issues.

### Agriculture Bill

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, laid a **written statement** on the new **UK Agriculture Bill**. This stated that:

The Bill introduced on 16 January, provides powers for the Welsh Ministers to continue paying Direct Payments to farmers beyond 2020 and gives our farmers much needed stability during this period of uncertainty.

[...]

Given the passage of time since the original Bill was first introduced in September 2018, I have reflected on the scope of the Welsh schedule, taking into account the helpful reports provided by the Senedd during scrutiny. I have concluded it is no longer appropriate to take powers to allow the Welsh Ministers to operate or transition to new schemes. My intention now is these will be provided for instead by the Agriculture (Wales) Bill. I intend to publish a White Paper towards the end of 2020 which will set out the context for the future of Welsh farming and pave the way for an Agriculture (Wales) Bill.

### Direct Payments Bill

The Welsh Government laid a **Legislative Consent Memorandum** on the Direct Payments Bill. This is a Bill to provide powers to Ministers to allow farm support direct payments to continue in 2020. You can **find out more** from Senedd Research's blog.

The Welsh Government **tabled a motion** to recommend that provisions in the Bill be considered by the UK Parliament. The **motion was agreed** by the Assembly on 22 January.

### UK-EU future relationship negotiations

During an evidence session with the External Affairs and Additional Legislation **Committee on 6 January**, the First Minister stated that 'Brexit is over. The form of Brexit is not over.' Whilst the role of the Welsh Government in the negotiations has not yet been clarified, the First Minister advised that the Welsh Government would continue to advocate for 'as full and unfettered access to the Single Market' as possible and for 'no diminution' of citizens' employment, environmental, consumer or human rights.' Furthermore, the First Minister encouraged continued participation in a number of EU programmes, such as Horizon, Erasmus+, Creative Europe and 'other interterritorial co-operation programmes.'

On 20 January, the Welsh Government published **The Future UK/EU Relationship: Negotiating Priorities for Wales**. The document provides a commentary of the Welsh Government's view against the areas of cooperation identified in **the Political Declaration**. It highlights areas of divergence between the Welsh and UK governments, for example, the Welsh Government disagrees with the UK Government's approach in ruling out an extension of the transition period. The document encourages the UK Government to prioritise its relationship with the EU over its trading relationships with other countries.

### Welsh Government Trade Policy

During **Plenary on 7 January**, the Minister for International Relations and the Welsh Language, Eluned Morgan, provided an update on the Welsh Government's trade policy. In a statement, the Minister outlined priorities and objectives for the Welsh Government in the following weeks.

Firstly, the Minister called for the UK to build a shared vision for the whole of the UK, to include developing and agreeing shared negotiating mandates. She explained that the UK would be in a stronger position if it were to balance the priorities of the four nations of the UK. The Welsh Government, said the Minister, 'stand ready to work constructively with the UK Government to help build this consensus.'

Secondly, the Minister described the need to be open and transparent about trade-offs associated with each trade deal. She explained that 'choices will have to be made, and there will be winners and losers.'

In the coming weeks, the Minister described as 'an absolute priority' the need for the Welsh Government to secure a 'meaningful' and 'clear role' for the Welsh Government in the upcoming UK-EU negotiations, as well as in 'all aspects of future

trade negotiations' and to establish formal intergovernmental machinery to do so.

The UK Trade Policy Observatory published an analysis commissioned by the Welsh Government on the **implications of the Ireland and Northern Ireland Protocol for Wales' external trade**. The analysis concludes that the main implications for Wales will be:

- Producers in Great Britain (GB) (including Welsh producers) are likely to lose market share in Northern Ireland (NI) as goods sent from GB to NI will face new customs checks, possibly customs duties, and other regulatory/administrative checks, while NI trade with the EU (notably with the Republic of Ireland – RoI) will remain frictionless.
- If Great Britain relaxes its regulations relative to EU regulations, NI producers might operate under higher costs than GB firms, as NI producers would still need to produce to EU standards. NI firms may therefore struggle to compete in the GB market.
- The more extensive are the trade barriers between the UK and the EU (notably RoI), and the less extensive are the border checks between GB and NI, the more incentive there will be to divert trade from RoI-GB to NI-GB routes. This will likely impact on the level of freight going through Wales to Ireland. The impact might be felt particularly for consignments which are destined for NI but which are currently sent from Wales via RoI.
- Handling whichever new checks are required on trade with the EU will undoubtedly require increased border infrastructure in Welsh ports such as Holyhead, Pembroke Dock and Fishguard. Delays due to border checks will be particularly problematic for perishable food products, which make up a relatively large share of goods shipped between Holyhead and Dublin.

### Preparedness

The **Counsel General and Brexit Minister**, Jeremy Miles, responded to the Committee's work on preparedness for Brexit in a letter on 7 January, saying that:

it seems clear that there will not be a no deal exit at the end of this month. [I]t seems clear that there will not be a no deal exit at the end of this month. However, the issues you raise still remain very pertinent, not least in the context of the possibility of exiting the Transition period without a trade deal concluded.

The Minister went on to update the Committee on the Welsh Government's work on the preparedness of ports and of the food and farming sector.

### Regional investment and the Shared Prosperity Fund

In a statement on 14 January, the **Counsel General and Brexit Minister, Jeremy Miles**, said:

After setting out repeatedly our principles of 'not a penny less, not a power lost', the new UK Government has indicated that its proposed shared prosperity fund will, at a minimum, match the size of the funds received by each nation within the UK at present. Crucially, however, we still await details on how this funding will come to Wales and confirmation of whether devolution, voted for twice by the people of Wales, will be respected.

The **Secretary of State for Wales, Simon Hart**, told the House of Commons on 15 January:

For the first time in 45 years, a substantial sum of money is going to be distributed in Wales by Welsh politicians, directly accountable to Welsh voters.

During **questions to the Counsel General and Brexit Minister** in Plenary on 22 January, it was confirmed that no new information had been made available regarding the Fund.

### Welsh Government International Strategy

On 14 January, the **Minister for International Relations and the Welsh Language, Eluned Morgan**, launched the Welsh Government's **International Strategy**. The strategy sets out three 'core ambitions' for the next five years:

1. To raise Wales' international profile.
2. To grow Wales' economy by increasing exports and attracting inward investment.
3. To establish Wales as a globally responsible nation.

The strategy is based on three pillars of creativity, sustainability and technology.

## 5. Areas of interest to the External Affairs and Additional Legislation Committee

### Unaccompanied children seeking sanctuary in Wales

The EU (Withdrawal) Act places a duty on the UK Government to negotiate an agreement on refugee family reunion rights with the EU. Clause 37 of the EU (Withdrawal Agreement) Bill removes that duty.

On 16 January, the Welsh Government **issued a statement** regarding unaccompanied children seeking sanctuary in Wales in which it outlined its support for the campaign to retain the duty in the EU (Withdrawal) Act. The statement provides an overview of the Welsh Government's support to date to welcome unaccompanied asylum seeking children to Wales, of whom there are around 100 in Wales. The statement ends by stating that it would be:

A betrayal of Britain's humanitarian position if the UK government didn't do all it could to support some of the most vulnerable people in the world, who through no fault of their own have fled war, poverty, persecution, climate change and terrorism.

On 21 January, **the House of Lords voted** by 300 votes to 220 for Lord Dubs' amendment to retain the duty to negotiate an agreement. The House of Commons voted to strike down the amendment by 342 to 252 the following day.



