

Agenda – Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad: I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – Y Senedd Sarah Sargent
Dyddiad: Dydd Llun, 14 Mai 2018 Clerc y Pwyllgor
Amser: 11.45 0300 200 6362
SeneddMCD@cynulliad.cymru

- 1 **Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau**
11.45
- 2 **Offerynnau nad ydynt yn cynnwys materion i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 na 21.3**
11.45 (Tudalennau 1 – 4)
CLA(5)–14–18 – Papur 1 – Offerynnau statudol sydd ag adroddiadau clir
Offerynnau'r Weithdrefn Penderfyniad Negyddol
 - 2.1 SL(5)210 – Rheoliadau Adeiladu (Diwygio) (Cymru) 2018
 - 2.2 SL(5)211 – Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) (Diwygio) (Cymru) 2018
 - 2.3 SL(5)212 – Rheoliadau Rheoliadau Adeiladu etc. (Diwygio) (Adeiladau Ynni a Eithrir) (Cymru) 2018
- 3 **Papurau i'w nodi**
11.50
 - 3.1 SL(5)208 – Gorchymyn Cyflogau Amaethyddol (Cymru) 2018
(Tudalennau 5 – 6)
CLA(5)–14–18 – Papur 2 – Llythyr oddi wrth y Cadeirydd y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig at Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig



3.2 Craffu ar reoliadau a wnaed o dan Fil yr UE (Ymadael)

(Tudalennau 7 – 8)

CLA(5)–14–18 – Papur 3 – Llythyr oddi wrth y Llywydd at y Prif Weinidog

4 Gohebiaeth â Llywodraeth y DU – y Gwasanaeth Sifil

(Tudalennau 9 – 15)

CLA(5)–14–18 – Papur 4 – Llythyr gan Chloe Smith AS, Gweinidog y
Cyfansoddiad

CLA(5)–14–18 – Papur 5 – Llythyr i Chloe Smith AS, Gweinidog y
Cyfansoddiad

5 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y busnes canlynol:

11.55

6 Memorandwm Cydsyniad Deddfwriaethol Atodol: Bil yr Undeb Ewropeaidd (Ymadael): Adroddiad drafft

(Tudalennau 16 – 28)

CLA(5)–14–18 – Papur 6 – Adroddiad Drafft

Egwyl tan 1.30pm

Sesiwn gyhoeddus

7 Bil Deddfwriaeth (Cymru) Drafft: Sesiwn dystiolaeth gyda'r Cwnsler Cyffredinol

13.30

(Tudalennau 29 – 38)

Jeremy Miles AC, Cwnsler Cyffredinol;

Dylan Hughes, Prif Gwnsler Deddfwriaethol, Llywodraeth Cymru

Neil Martin, Swyddfa'r Cwnsler Deddfwriaethol, Llywodraeth Cymru.

CLA(5)–14–18 – Papur briffio

[Ymgynghoriad Llywodraeth Cymru: Bil Deddfwriaeth \(Cymru\) Drafft](#) (752KB)

[Bil Deddfwriaeth \(Cymru\) Drafft](#) (155KB)

8 Bil Cyllido Gofal Plant (Cymru): Sesiwn dystiolaeth gyda'r Aelod â Gofal

14.30

(Tudalennau 39 – 50)

Huw Irranca-Davies AC, y Gweinidog Gofal Cymdeithasol a Phlant;

Owain Lloyd, Llywodraeth Cymru;

Tracey Hull, Llywodraeth Cymru

CLA(5)–14–18 – Papur briffio

[Bil Cyllido Gofal Plant \(Cymru\), fel y'i cyflwynwyd](#) (PDF 79KB)

[Memorandwm Esboniadol](#) (PDF 1MB)

[Datganiad ar Fwriad Polisi'r Bil](#) (PDF 229KB)

9 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y busnes canlynol:

15.30

10 Bil Deddfwriaeth (Cymru) Drafft: trafod y dystiolaeth

11 Bil Cyllido Gofal Plant (Cymru): trafod y dystiolaeth

12 Blaenraglen waith

(Tudalennau 51 – 53)

CLA(5)–14–18 – Papur 7 – Blaenraglen waith

13 Gohebiaeth gan y Pwyllgor Busnes

(Tudalennau 54 – 58)

CLA(5)–14–18 – Papur 8 – Llythyr gan y Pwyllgor Busnes

CLA(5)–14–18 – Papur 9 – Papur cefndir

Dyddiad y cyfarfod nesaf

21 Mai 2018

Offerynnau Statudol sydd ag Adroddiadau Clir 14 Mai 2018

SL(5)210 – Rheoliadau Adeiladu (Diwygio) (Cymru) 2018

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Adeiladu 2010 ("Rheoliadau 2010").

Mae rheoliad 3(1) yn diwygio rheoliad 36 (effeithlonrwydd dŵr anheddau newydd) er mwyn cyflwyno gofyniad newydd sef pan fo annedd yn cael ei chodi, ni chaniateir i'r defnydd posibl o ddŵr dihalog gan bersonau sy'n meddiannu'r annedd fod yn fwy na 110 o litrau y person y dydd. Mae'r gofyniad presennol o 125 o litrau yn parhau pan fo newid defnydd sylweddol megis adeilad yn cael ei ddefnyddio fel annedd neu'n cynnwys fflat, pan nad oedd o'r blaen yn y naill achos neu'r llall.

Mae rheoliad 3(3) yn ychwanegu paragraff G2A (effeithlonrwydd dŵr adeiladau newydd ac eithrio anheddau ac adeiladau gofal iechyd) i Ran G (glanweithdra, diogelwch dŵr poeth ac effeithlonrwydd dŵr) o Atodlen 1 (gofynion mewn perthynas â gwaith adeiladu). Nid yw'r gofyniad newydd yn gymwys i anheddau nac adeiladau gofal iechyd.

Effaith rheoliad 4 yw dynodi rheoliadau 23 (gofynion ar gyfer adnewyddu neu ailosod elfennau thermol), 25B (gofynion bron di-ynni ar gyfer adeiladau newydd) a 26 (cyfraddau allyriadau CO2 ar gyfer adeiladau newydd) at ddibenion adran 35 o Ddeddf Adeiladu 1984 (cosb am dorri rheoliadau adeiladu) i'r graddau y mae'r rheoliadau hynny yn gymwys i adeiladau'r Goron neu i waith adeiladu a wnaed gan awdurdodau'r Goron neu y bwriedir ei wneud ganddynt.

Mae rheoliad 5 yn ychwanegu Rhan Q (diogelwch) at Atodlen 1. Mae'r gofyniad newydd hwn yn gymwys i godi anheddau yn unig.

Mae rheoliad 6 yn cynnwys darpariaeth drosiannol.



Gwneir rhai mân ddiwygiadau drafftio a chanlyniadol yn ogystal.

Rhiant–Ddeddf: Deddf Adeiladu 1984

Fe’u gwnaed ar: 30 Ebrill 2018

Fe’u gosodwyd ar: 04 Mai 2018

Yn dod i rym ar: 01 Tachwedd 2018

SL(5)211 – Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) (Diwygio) (Cymru) 2018

Gweithdrefn: Negyddol

Mae’r Gorchymyn hwn yn diwygio Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995 (“y Gorchymyn Datblygu Cyffredinol a Ganiateir”) o ran Cymru.

Mae erthygl 3 o’r Gorchymyn Datblygu Cyffredinol a Ganiateir ac Atodlen 2 iddo yn rhoi hawliau datblygu a ganiateir mewn cysylltiad â datblygu penodol. Pan fo hawliau o’r fath wedi eu rhoi, nid yw cais am ganiatâd cynllunio yn ofynnol.

Mae Dosbarth A o Ran 24 o Atodlen 2 i’r Gorchymyn Datblygu Cyffredinol a Ganiateir yn caniatáu datblygu penodol gan weithredwyr cod cyfathrebiadau electronig ar yr amod nad yw’n dod o fewn A.1 (datblygu nas caniateir) ac yn ddarostyngedig i unrhyw amodau a chyfyngiadau perthnasol yn A.2 ac A.3.

Mae paragraff A.2(4A) yn nodi amodau mewn perthynas ag adeiladu, gosod neu amnewid polion, cabinetau neu linellau telegraff ar gyfer gwasanaethau band eang llinell sefydlog mewn perthynas â chategorïau o dir a nodir yn erthygl 1(5) o’r Gorchymyn Datblygu Cyffredinol a Ganiateir a Rhan 2 o Atodlen 1 iddo. Os bodlonir yr holl amodau perthnasol, nid yw’n ofynnol cael cymeradwyaeth ymlaen llaw ar gyfer datblygiad o’r fath o dan baragraff A.3. Un o’r amodau hynny yw bod rhaid cwblhau’r datblygiad ar 30 Mai 2018 neu cyn hynny.

Mae erthygl 2 o’r Gorchymyn hwn yn estyn y dyddiad hwnnw i 30 Mai 2019.



Rhiant–Ddeddf: Deddf Cynllunio Gwlad a Thref 1990

Fe’u gwnaed ar: 02 Mai 2018

Fe’u gosodwyd ar: 04 Mai 2018

Yn dod i rym ar: 30 Mai 2018

SL(5)212 – Rheoliadau Rheoliadau Adeiladu etc. (Diwygio) (Adeiladau Ynni a Eithrir) (Cymru) 2018

Gweithdrefn: Negyddol

Mae’r Rheoliadau hyn yn diwygio Rheoliadau Adeiladu 2010 (“y Rheoliadau Adeiladu”) a Rheoliadau Adeiladu (Arolygwyr Cymeradwy etc.) 2010 (“y Rheoliadau Arolygwyr Cymeradwy”) mewn perthynas ag adeiladau ynni a eithrir yng Nghymru..

Trosglwyddwyd swyddogaethau o dan Ddeddf Adeiladu 1984 (“Deddf 1984”) i wneud rheoliadau adeiladu a materion cysylltiedig i Weinidogion Cymru gan Orchymyn Gweinidogion Cymru (Trosglwyddo Swyddogaethau) (Rhif. 2) 2009 a ddaeth i rym ar 31 Rhagfyr 2011. Gwnaed eithriad o’r trosglwyddo mewn perthynas ag “adeiladau ynni a eithrir” (fel y diffinnir “excepted energy buildings” yn y Gorchymyn hwnnw).

Roedd diwygiadau i’r Rheoliadau Adeiladu a’r Rheoliadau Arolygwyr Cymeradwy a wnaed gan yr Ysgrifennydd Gwladol o 31 Rhagfyr 2011 yn gymwys o ran Lloegr ac i adeiladau ynni a eithrir yng Nghymru. Roedd diwygiadau i’r Rheoliadau hynny a wnaed gan Weinidogion Cymru o 31 Rhagfyr 2011 yn gymwys o ran Cymru ac eithrio i adeiladau ynni a eithrir.

Mae adran 54 o Ddeddf Cymru 2017 yn dileu’r eithriad mewn perthynas ag adeiladau ynni a eithrir drwy wneud y ddarpariaeth angenrheidiol ar gyfer trosglwyddo swyddogaethau o dan Ddeddf 1984 ar gyfer y categori hwnnw o adeiladau o 1 Ebrill 2018.

Effaith y diwygiadau a wneir gan y Rheoliadau hyn yw cysoni’r darpariaethau yn y Rheoliadau Adeiladu a’r Rheoliadau Arolygwyr Cymeradwy mewn perthynas ag adeiladau ynni a eithrir yng Nghymru â’r Certified copy from



legislation.gov.uk Publishing 2 darpariaethau sy'n gymwys i adeiladau eraill yng Nghymru.

Rhiant–Ddeddf: Deddf y Cymunedau Ewropeaidd 1972; Deddf Adeiladu 1984

Fe'u gwnaed ar: 30 Ebrill 2018

Fe'u gosodwyd ar: 04 Mai 2018

Yn dod i rym ar: 08 Mehefin 2018



Lesley Griffiths AM
Cabinet Secretary for Energy, Planning and Rural Affairs
Welsh Government

30 April 2018

Dear Lesley,

Agricultural Wages (Wales) Order 2018

The Committee discussed this Order at its meeting on 26 April 2018. Members of the Committee suggested I should write to you to seek further information about two matters.

Firstly, there appears to be a lack of clarity in relation to the exact amount which employers are entitled to deduct from an agricultural worker's minimum wage for accommodation. Could you provide further information on this matter and explain how you plan to address any potential lack of clarity with employers and employees who are affected by the Order?

Secondly, could you explain to the Committee the reasons why this Order was laid so close to the coming into force date?

I understand the Constitutional and Legislative Affairs Committee has also considered this Order and has raised similar issues.



The Committee has agreed to undertake a short review of this subject next year and I will write to you in due course to seek further information to inform that review.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is positioned on a light grey rectangular background.

Mike Hedges AM

Chair of Climate Change, Rural Affairs and Environment Committee





Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Eitem 3.2

Y Gwir Anrh Carwyn Jones AC
Prif Weinidog Cymru
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

01 Mai 2018

Annwyl Carwyn,

Ar 7 Mawrth, cytunodd y Cynulliad yn unfrydol i gymeradwyo argymhellion y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol parthed diwygio Bil yr Undeb Ewropeaidd (Ymadael), sef Bil Llywodraeth y DU, er mwyn cynnwys trefniadau craffu penodol ar gyfer y Cynulliad mewn perthynas ag is-ddeddfwriaeth, a hynny'n unol â'r hyn a bennwyd gan y Pwyllgor. Ar 22 Mawrth, ysgrifennais at Ysgrifennydd Gwladol Cymru, gan dynnu ei sylw at benderfyniad y Cynulliad, sy'n nodi safbwynt y Cynulliad ar y newidiadau y mae angen eu gwneud i'r Bil yn y maes hwn.

Fel y gwyddoch, roedd y rhain yn cynnwys argymhelliad i'r perwyl y dylai'r argymhellion a wneir gan y pwyllgor sifftio fod yn rhwymol, ac eithrio achosion lle mae'r Cynulliad yn penderfynu fel arall. Felly, rwyf yn pryderu eich bod, yn ddiweddarach, wedi dewis mynegi'n uniongyrchol i Lywodraeth y DU safbwynt ar ran Llywodraeth Cymru a oedd yn wahanol i'r hyn y cytunwyd arno drwy benderfyniad y Cynulliad.

Mae hyn yn arbennig o siomedig o gofio bod Llywodraeth Cymru wedi cydnabod mai materion i'r Cynulliad benderfynu arnynt yw y rhain, a'ch bod wedi penderfynu peidio a diwygio'r cynnig a arweiniodd at y penderfyniad hwnnw na phleidleisio yn ei erbyn.

Rwy'n cefnogi'n llawn y safbwyntiau a fynegwyd ynghylch y mater hwn gan y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol mewn gohebiaeth i'r ddau ohonom, ac rwy'n nodi cryfder y teimladau a fynegwyd gan Aelodau'r Pwyllgor yn y Siambr yn ystod Datganiad y Cadeirydd ar y mater hwn ar 25 Ebrill. Fodd bynnag, rwy'n cydnabod ac yn croesawu eich ymddiheuriad i'r Pwyllgor yn y llythyr a anfonwyd gennych ar yr un dyddiad.

Cynulliad Cenedlaethol Cymru

Bae Caerdydd, Caerdydd, CF99 1NA

Llywydd@cynulliad.cymru

www.cynulliad.cymru

0300 200 7403

National Assembly for Wales

Cardiff Bay, Cardiff, CF99 1NA

Llywydd@assembly.wales

www.assembly.wales

0300 200 7403

Tudalen y pecyn 7



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Pe bai lefel cefnogaeth neu wrthwynebiad Llywodraeth Cymru i benderfyniadau arfaethedig y Cynulliad yn cael ei hadlewyrchu yn y modd y mae'n pleidleisio ar y materion hyn, byddai hynny'n rhoi mwy o eglurder yn y dyfodol i Aelodau, rhanddeiliaid a'r cyhoedd.

O ran safbwynt y Cynulliad ar weithdrefnau'r pwyllgor sifftio, byddwn yn disgwyl i'r Llywodraeth gefnogi, yn amodol ar destun terfynol y Bil Ymadael a'r gwaith manwl pellach y mae'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol yn ei wneud ar hyn o bryd, newidiadau i'r Rheolau Sefydlog a fydd yn golygu y bydd y gwaith ymarferol o gymhwyso unrhyw weithdrefn newydd yn adlewyrchu'r argymhellion a gymeradwywyd gan y Cynulliad.

Anfonaf gopi o'r llythyr hwn at Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol.

Yn gywir,

Elin Jones AC
Llywydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

Cynulliad Cenedlaethol Cymru

Bae Caerdydd, Caerdydd, CF99 1NA

Llywydd@cynulliad.cymru

www.cynulliad.cymru

0300 200 7403

National Assembly for Wales

Cardiff Bay, Cardiff, CF99 1NA

Llywydd@assembly.wales

www.assembly.wales

0300 200 7403

Tudalen y pecyn 8



CHLOE SMITH MP

Minister for the Constitution

70 Whitehall
London
SW1A 2AS

Telephone +44 (0)20 7276 0527

Web www.cabinetoffice.gov.uk

Email psc Correspondence@cabinetoffice.gov.uk

RT HON ALUN CAIRNS MP

Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

T: 020 7270 0575

E: Correspondence@walesoffice.gov.uk

Gwydyr House | Tŷ Gwydyr
London | Llundain SW1A 2NP

1 Caspian Point | 1 Pwynt Caspian
Cardiff | Caerdydd CF10 4DQ
www.gov.uk/wales | www.gov.uk/cymru

Our Ref: MFC/1274

Mick Antoniw AM

Chair, Constitutional and Legislative Affairs Committee

National Assembly for Wales

Cardiff Bay

CF99 1NA

10 May 2018

Dear Chair,

Thank you for your letter of 26 April 2018 to the Minister for the Constitution regarding the UK Government's understanding of devolution. We are writing with a joint response to your request.

We agree that it is critical that UK civil servants understand the unique nature of the devolution settlements. The *Devolution and You* programme addresses this need through a cross-administration campaign led by the UK Government in partnership with the Welsh and Scottish Governments. Close collaboration with Welsh and Scottish Government colleagues has led to the development of quality assured training materials which are utilised across Whitehall. Devolution learning is promoted across the UK Government, through online learning, departmental workshops and induction programmes. Over 2000 civil servants have taken part in the *Devolution and You* programme in 2017, in addition to the many training programs operated by UK Government departments. *Devolution and You* also provides civil service interchange opportunities through the One Civil Service Interchange programme, which is now in its third year. Interchange provides a unique opportunity for civil servants of all administrations to immerse themselves in the structures and cultures of another administration, building their network across the Civil Service and improving their confidence in engaging across different administrations. We are confident that departments and the UK Government as a whole understand the new Welsh devolution settlement. The Wales Office worked intensively with all UK Government departments to develop the Wales Bill, including working through particular reservations with individual departments following publication of the draft Bill. We have been raising awareness of the new devolution settlement through the *Devolution and You* programme since the Wales Act was passed in January 2017. The Wales Office is also rolling out a programme of bespoke training sessions across Whitehall in the coming weeks, specifically covering the new devolution settlement

in Wales so that as many officials as possible across departments are aware of the key changes that took place on 1 April. There will be teams and individuals within departments who would benefit from further training sessions about the new settlement and our departments are targeting our engagement to particular teams, such as those working on policy areas with regular engagement with the Welsh Government or Bill teams who's Bills are likely to involve a Legislative Consent Motion.

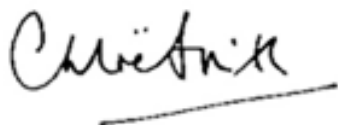
In recent months we have also worked extensively with officials across UK Government departments, and consulted officials in the Welsh Government and Assembly Commission, to develop specific guidance for UK Government departments regarding working with the new reserved powers model, Devolution Guidance Note 18. This guidance has been published on GOV.UK. We will continue to prioritise this work through the *Devolution and You* programme and targeted interventions on the Wales Act 2017 in particular.

In relation to representation of the Wales Office in the UK Government, the Wales Office is a Department of State in its own right and the Director is the Accounting Officer for the Department. The Secretary of State for Wales remains accountable to the Prime Minister alone and through attendance at Cabinet and EU Exit Committee meetings can feed the views of stakeholders in Wales directly into the heart of Government.

As a part of UK Governance Group, the Wales Office is represented at Permanent Secretary meetings by Philip Rycroft, Permanent Secretary at the Department for Exiting the European Union. This role acts as an important link, ensuring coordination of constitutional matters across the UK and especially the UK's exit from the European Union. The need to coordinate our policy and approach makes it only sensible that there is a UK Governance Group, comprising parts of the Cabinet Office, the Wales Office, Scotland Office and Office of the Advocate General for Scotland. This enables the departments to work together on challenging cross-cutting issues and allows for greater coordination and cohesion of policy. This arrangement in no way dilutes or deflects the purpose and priorities of the Wales Office: it remains Wales's voice within the UK Government and the UK Government's voice in Wales.

Finally, we believe the rationale for One Civil Service supporting the UK Government, the Welsh Government and the Scottish Government remains strong. Civil servants working for all of our administrations carry out their roles to the highest standard and in accordance with the Civil Service Code's core values: integrity, honesty, objectivity and impartiality. By supporting the UK Government in matters which affect all of the UK as well as in relation to one or more of its constituent parts, civil servants working for UK Government departments can ensure that it works to benefit people in every part of our country.

Yours sincerely,



CHLOE SMITH MP
Minister for the Constitution



RT HON ALUN CAIRNS MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

Chloe Smith MP
Parliamentary Secretary (Minister for the Constitution)
Cabinet Office

26 April 2018

Dear Minister

Understanding of devolution

On 2 February 2018 we published our report **UK governance post-Brexit**. A summary report of the evidence will be published shortly.

Our report made nine recommendations; the first four recommendations concern strengthening the existing Joint Ministerial Committee (JMC) followed by a more fundamental reform to create a decision-making UK Council with an independent dispute resolution, arbitration and adjudication mechanism.

Our report also considered the understanding of devolution by civil servants in Whitehall and indicated that we would write to the UK Government to seek clarification on how devolution is supported across Whitehall.

Many witnesses to our inquiry highlighted the poor knowledge and understanding of devolution that exists in parts of Whitehall, despite some laudable efforts to remedy the situation by successive administrations.

One of the drivers for our inquiry was our experience of, and a desire to learn lessons from, the UK Government's handling of the Wales Bill (our summary report will identify some of the evidence we heard on this issue). We had become concerned that Whitehall departments were able to exert too much influence over the architecture of devolution, despite partial and inconsistent understanding and knowledge. In our view this was the root cause of the problems that surrounded the draft Wales Bill and the Bill itself, which



meant that our extensive work on this legislation was largely focused on highlighting problems and identifying potential solutions, rather than contributing positively as part of a constructive constitutional dialogue.

We recognise that training is made available to civil servants on devolution. However it was surprising to hear in our evidence sessions that there is some way to go before there is a clear understanding within the civil service of the way in which powers are now held in the different nations of the UK. As if to emphasise this point, we were told that training on the new reserved powers model under the *Wales Act 2017* would be rolled out across the Civil Service prior to the Act's introduction. Given the central role of Whitehall departments in shaping the Act, these comments added to our sense that many Whitehall departments may have been making decisions on reserving powers without a clear understanding and knowledge of devolution, or the implications of the decisions that they were making.

Regrettably, the legislative outcome is that in our view the *Wales Act 2017* is an unnecessarily complex and restrictive settlement.

The lack of understanding about devolution was highlighted to us as recently as this week with the publication of a supplementary memorandum concerning the delegated powers in the European Union (Withdrawal) Bill relating to amendments tabled by the UK Government on 23 April. Paragraph 28 of the memorandum concerning the sifting of statutory instruments made under the Schedule 2 powers by the Welsh Ministers appears to confuse the roles of the National Assembly and Welsh Government as legislature and executive, stating:

“The UK Government has consulted the devolved administrations on where additional scrutiny requirements applied to UK ministers in the Bill should be extended to the corresponding powers for devolved authorities. The Welsh Government, having sought the views of the National Assembly for Wales, has requested the sifting committee procedure should apply where the Welsh Ministers lay negative instruments under their Schedule 2 powers.”

This text appeared despite the UK Government receiving notification of the National Assembly's formal position on these issues in a letter from the Llywydd on 22 March.



In light of our concerns, I would welcome clarification on the following points:

- The new devolution settlement came into force on 1 April. Are you satisfied that all civil service departments are fully conversant with the new reserved powers model in the *Wales Act 2017*?
- Recommendation 4 of our report included a call for Devolution Guidance Notes to be subject to a thorough overhaul and public consultation. In the meantime, it would be helpful to know the status of any revised Devolution Guidance Note that accompanies the new reserved powers model. The existing Devolution Guidance Note 9 was intended to help Whitehall departments have an understanding of the conferred powers model so that UK Government Bills were developed with devolution in mind. What guidance has been available to Whitehall departments over the last few months in respect of developing Bills on the basis that devolution in Wales would be moving to a reserved powers model?

Our observations not only influenced our recommendations advocating reform of the JMC, but also suggest that the civil service machinery that supports UK governance needs to adapt and change to the new UK constitutional position that will emerge as we leave the European Union.

In our report we said that the internal Civil Service apparatus supporting devolution as described to us appears complex and muddled. In order to help improve our understanding of how the civil service machinery works, it would be helpful to have your observations on the following:

- The staffing structure does not appear to mirror the political structure, with both Wales and Scotland having Secretaries of State but not Permanent Secretaries, while Northern Ireland has both. Why is this the case?
- What are your observations on our view that it is problematic for the most senior official in the Wales Office with the most direct contact with the Secretary of State for Wales and potentially knowledge and understanding of devolution, not to be involved in important discussions at Permanent Secretary level that may impact on Wales?
- Whether it is appropriate for the Head of UK Governance Group (with responsibilities for Wales and Scotland) and Permanent Secretary at the Department for Exiting the EU to be the person to whom the Head of the Wales Office is ultimately accountable? Is there a danger of blurring the lines of accountability and how are conflicts of interest resolved?



Another theme that emerged in our work and which is relevant to understanding of governance in the UK is that the Civil Service supports the UK Government in its role as the executive for the UK and, in devolved areas, England. We would welcome your observations on this anomaly and what plans the UK Government has to address it post-Brexit.

I am copying this letter to Rt Hon Alun Cairns MP, the Secretary of State for Wales and Philip Rycroft CB, Head of UK Governance Group and Permanent Secretary at the Department for Exiting the European Union.

I look forward to receiving your response.

Yours sincerely

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Eitem 6

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon