

## Procedure Committee

### Oral evidence: The procedure of the House of Commons and the territorial constitution, HC 213

Monday 5 July 2021

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Members present: Karen Bradley (Chair); Jack Brereton; Sir Christopher Chope; Chris Elmore; James Gray; Nigel Mills; Gary Sambrook; Suzanne Webb.

Questions 74 - 92

#### Witnesses

I: Elin Jones MS, Presiding Officer (Llywydd), Welsh Parliament (Senedd Cymru); and Anna Daniel, Head of Strategic Transformation, Welsh Parliament.

Written evidence from witnesses:

- [Presiding Officer \(Llywydd\), Welsh Parliament \(Senedd Cymru\)](#)



## Examination of witnesses

Witnesses: Elin Jones MS and Anna Daniel.

Q74 **Chair:** We are here today to take some further oral evidence for our territorial inquiry. This is a piece of work that the Committee agreed to do when we were first constituted in March 2020, to look at the way that the four Parliaments around the United Kingdom work with each other; the way that relations work between parliamentarians of each of the four Parliaments; and to make sure that there is an understanding across our Parliaments of how each of the others works and what the competing priorities and other issues might be.

We are very grateful today to have Elin Jones with us from the Welsh Parliament. It is a real honour for us for you to be here. I think you also have an official with you, Anna Daniel; is that right?

**Elin Jones:** Yes, I do.

**Chair:** Marvellous. Hello, Anna. Thank you so much. We have a number of questions and a number of areas that we would like to talk to you about. The context is that we are really keen to look at practical ways and practical suggestions that we can make to improve the way that the four Parliaments work with each other, and learning from you about how the Senedd works is an incredibly important part of that work.

I start by handing over to Chris Elmore.

Q75 **Chris Elmore:** Llywydd, prynhawn da—that is as far as my Welsh will go for the sake of this session. Welsh needs translation in this House and is not used very often. Good afternoon.

Last week, the Leader of the House of Commons, Jacob Rees-Mogg, spoke to us about the way the Sewel convention would or would not apply in exceptional circumstances for legislation. I am curious to get your thoughts on some of his comments, one of them being in our most recent evidence session that overriding the wishes of devolved legislatures when passing Brexit legislation, for example, was “clearly exceptional”.

First of all, I would like to know whether you agree that that was an exceptional time that did not need the Senedd’s consent, given the impact that has on devolved competencies. What procedural mechanisms would you like to see introduced that would strengthen the understanding of the Commons of what requires devolved consent when considering legislation?

**Elin Jones:** Prynawn da. Thank you for the question and for the invitation to attend this session.

In response to that question and those comments, I would say that the most important thing to achieve in all of this is clarity of what is meant by exceptional circumstances, or legislating at a time when it is normally or not normally deemed appropriate to do so, and perhaps not to think too



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much about this in the context of a case-by-case basis, which seems to have become the way of applying the Sewel convention.

What I would want to see is that we learn from the experience of both Brexit legislation and other pieces of legislation that have led to consent not being given by the Welsh Parliament—to learn from those different experiences and think about how we could get to a position where there is better understanding or a clear articulation of where the Sewel convention should apply and that there is an agreed understanding of what that could mean.

Clearly, the withdrawal Act was a significant piece of legislation that is unlikely to be repeated in the foreseeable future. I am aware that some have claimed that it should be seen as a piece of legislation that is exceptional. Whether that is the case for the internal market Act is open to a different interpretation by some, I am sure.

I think that in all of this the importance is to have clarity of understanding of what legislating in not normal circumstances would mean. That is where I hope that we can seek to see whether there is an aspiration now, by the Welsh Parliament, the Welsh Government and the UK Parliament, and of course other devolved countries as well, for that understanding to be articulated and agreed so that we avoid situations of this nature in the future.

**Q76** **Chris Elmore:** How do you think the UK Government could better involve the Senedd in pre-legislative consent? Last week, the Leader told the Committee that overriding devolved legislatures is sometimes necessary to “unlock what needs unlocking”. I do not feel that is particularly justified, but do you feel that it is a justifiable statement?

**Elin Jones:** All of this is best avoided in making sure that both the UK and Welsh Governments have clarity on the Sewel convention and what the exceptional circumstances should be, pre-legislatively. Anything that can aid the Welsh Parliament in seeing that at an early stage is also important.

What is important, of course, is to ensure that, where legislative consent is not agreed by the Welsh Parliament, the procedures of the House of Commons and House of Lords allow for that to be clearly understood by the Members in consideration of whatever Bill. The UK Government and Ministers then need to respond to the fact that legislative consent has not been given by the Welsh Parliament or other Parliaments, and for them to be able to say clearly to Members of the House of Commons or House of Lords why they continue to believe that they want to progress with the Bill.

**Q77** **Chair:** Various academics have suggested different ways that the Sewel convention could be codified, from amending Standing Orders to having explanatory notes to the legislation setting out what Ministers consider is the impact on devolved legislatures. Do you have a view as to whether



there would be a way to get clarity that would help in the Senedd?

**Elin Jones:** I think that the issue of the Standing Orders of the UK Parliament is for you to reflect on. There seems to be a gap at this point. Issues of legislative consent are addressed in the Standing Orders of all the devolved Parliaments. Governments also have devolution guidance that they refer to. The Standing Orders of the UK Parliament are currently silent on the legislative consent processes. Any clarity that can be brought to bear in the House of Commons on how to address issues where legislative consent has not been given by a devolved Parliament would aid the Sewel convention in being seen as something that can work in practice as well as in principle.

Q78 **Chair:** We will move on to questions about interparliamentary relations. I will bring in Suzanne Webb.

Suzanne's link does not seem to be working, so I will ask the question at this stage and we will try to get Suzanne back later.

This is an open question. How do you feel interparliamentary relations are currently between the Senedd and the House of Commons, and the Senedd and other Parliaments around the United Kingdom?

**Elin Jones:** The experience of our Senedd is that during the period of Brexit in particular there were some advances made on interparliamentary co-operation. Obviously, we have the other forms of interparliamentary co-operation that existed prior to that. I meet in quadrilateral meetings with the Speakers of the four Parliaments and in the British-Irish Parliamentary Assembly, and so on.

During the period of Brexit there was an Interparliamentary Forum on Brexit which met a few times. Certainly my understanding from Members was that that was seen to be a particularly good way of learning from each other, airing issues that needed to be aired across Parliaments and aiding the scrutiny of Governments in the home Parliaments of all Members. I think Brexit has opened a door for us to progress on interparliamentary working. Of course, the Welsh Affairs Committee has worked jointly with Committees of the Senedd. I understand that your Standing Orders allow for that to happen.

One area that may become of interest to Committees both in the Senedd and in the House of Commons is where there may be opportunities for other non-territorial Committees of the House of Commons to meet in any joint form with Committees of the Welsh Parliament or the Scottish Parliament. My understanding is that that is not currently specified or allowed in your Standing Orders. I would be interested in making sure that there are no obstacles to those kinds of meetings happening in the future, if they need to do so. I do not think any of us particularly wants our Committees to be meeting each other for the sake of it, but if there are clear purposes or clear areas of interest, for example on the environment, in the post-Brexit context between an Environment Committee of the Senedd and the equivalent Committee of the House of



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Commons—the EFRA Committee—that could have positives for working across Parliaments and for holding respective Governments to account.

**Chair:** Thank you. I think Suzanne is back now. Do you want to come back on this area?

Q79 **Suzanne Webb:** Many apologies. My mouse froze.

How can interparliamentary relations be improved in a way that is more co-operative, rather than unilateral?

**Elin Jones:** It is very important that co-operation is equal and works positively from both sides. It is important, therefore, that Committees and interparliamentary groups can work informally. There is already considerable discussion and co-operation informally by staff, and possibly by Members, but the more formal aspect of Committees—for example, working jointly—is an area of work that we may find beneficial in future scrutiny of various policy areas, post Brexit in particular.

Currently, I understand that it is not possible for a Committee of the House of Commons to meet formally in joint session with a Committee of the Welsh Parliament due to the Standing Orders not being clear on that. Therefore, I think it would be useful to allow your Standing Orders to be permissive on that, should those Committees themselves decide, of course, that it would be fruitful to do so.

**Suzanne Webb:** Thank you.

**Chair:** Nigel Mills has some questions on procedures around interparliamentary relations.

Q80 **Nigel Mills:** I would like to follow up the question just asked. Do you think what we want is the potential for Committees occasionally to do joint sessions, or do you think we want to go further and allow joint reports to be signed off by both Committees in that situation, so that they have real joint working and not just occasional meetings?

**Elin Jones:** What I think could be beneficial would be that both our Parliaments and our Committees were allowed to explore ways where they think co-operation would be beneficial. That could be through joint sessions of Committees. It could be through reporting on those joint sessions and a pretty convincing report on any aspect of the work they had done. That would obviously take us into more complex issues, which would take longer than the next 10 minutes to resolve, on where Chairs are agreed, who the Chair is and how the votes are cast.

Meeting as we are today virtually, with me sitting in Cardiff, you sitting in London and some of you in other places, means that the distance issue that we once had as a reason to make it practically difficult for Committees and parliamentarians from two different Parliaments to meet, or four different Parliaments to meet, is a divide that is breaking down now. We should make sure that, if there is a reason for joint working in any way, our procedures or our Standing Orders do not prohibit that.



**Q81 Nigel Mills:** If there was a need for all four Parliaments and Assemblies to adopt something jointly—whether common Standing Orders or a joint working agreement—do you think the other three devolved Parliaments have got it right and it is just the House of Commons that needs to get up to speed, and that actually, you do not need to make any changes; you can make it work and it is just us that has the block?

**Elin Jones:** I would like parliamentarians from all Parliaments to seek to think about how they can work co-operatively and creatively, especially possibly on areas that were the responsibility of the European Union and now are cross-cutting issues across the devolved competencies of the four Parliaments. It is about how the four Parliaments and their respective Committees could do this work.

On the whole, I think that our Standing Orders in the Welsh Parliament allow that to happen already. Therefore, any obstacles that may be in the way for joint co-operation between Committees and co-working seem to be in the House of Commons Standing Orders. Maybe they could be articulated more permissively to enable joint co-operation and co-working to happen. My view is that it should be allowed to happen. Whether it happens is a matter of competing priorities, and its being necessary to happen and be of mutual benefit to both Parliaments or both sets of Committees.

**Q82 Nigel Mills:** Do you see any merit in a more permanent scrutiny mechanism being in place, be it a Standing Committee or a separate body, so that we could, in real time, scrutinise how the relationship between the Parliaments is working and anything that is jointly agreed between the various Governments, rather than relying on its being an ad hoc Committee formed occasionally that may or may not ever exist?

**Elin Jones:** I know that you have had evidence from Paul Silk on the need for such an interparliamentary body to scrutinise joint ministerial work, common frameworks or aspects of that. I think that there is certainly some merit in further consideration of that.

In the interim, because it would be a major piece of work to develop that formal structure, I would certainly like to see the benefits from the interparliamentary forum and its work on Brexit allowed to continue in some way, by any aspiration that your Committees or our Committees might have to work together on any joint piece of work.

**Nigel Mills:** Thank you for those answers.

**Q83 Sir Christopher Chope:** I want to ask about the joint review of intergovernmental relations. Where have we got to on that? It was announced in July 2019. The principles were agreed. What has happened in the last couple of years?

**Elin Jones:** I am not here representing the Government, so I am not sure what the most recent, up-to-date news is on that. I am not sure whether Anna Daniel can help me out.



**Anna Daniel:** My understanding is that there has been an interim report published recently on intergovernmental relations. As the Llywydd said, it is a matter for the UK Government and the Welsh Government to comment on in the first instance. No doubt our Committees, when they are up and running, will wish to look at this again and see how scrutiny processes within the Senedd itself can facilitate scrutiny of what is happening at intergovernmental level and those relations.

Q84 **Sir Christopher Chope:** Have you given evidence to that joint review? If so, could you share that evidence with us, please?

**Elin Jones:** No, we have not given evidence and we were not asked to do so. It was an intergovernmental piece of work.

Q85 **Sir Christopher Chope:** You say it is a piece of work, but it has not achieved anything yet, which rather suggests that this is all very much on a slow burn.

You referred earlier to Brexit. There is an Interparliamentary Forum on Brexit. Despite us having left the European Union, there are still a lot of issues arising as a result. That forum has not met since September 2019. Why is that?

**Elin Jones:** You are perfectly right to say that there are a lot of issues that both Parliaments could work together on to ensure that Brexit matters can be properly scrutinised by Parliaments.

My understanding is that the interparliamentary forum was meant to meet in spring last year, but obviously Covid put a stop to that. We have recently had elections in Wales, of course, and that has put a stop to our spring working on any interparliamentary work. Our Committees and our Members are now formed as a result of the election.

As I said in my previous answers on the interparliamentary forum, certainly in its time, in discussing Brexit issues and the withdrawal Act, it proved useful to the majority of Members who were involved in it. It has provided a template for how we can pursue some issues in the future as a forum, which is a more informal means of co-operation or, as I suggested earlier, for allowing our Committees of the two Parliaments and other Parliaments to meet jointly in more formal discussion or scrutiny around any aspects of work, whether that is post-Brexit work or any other aspect of work.

Q86 **Sir Christopher Chope:** The interparliamentary forum has already been set up. What are you doing to force the pace on having another meeting? It seems extraordinary that it has not met since September 2019. Would you like, for example, for it to meet before September 2021? If so, what are you doing about it?

**Elin Jones:** It is for the interparliamentary forum itself, not me as the Speaker of the Welsh Parliament, to insist on a timetable. I would be very keen for it to meet. I would have liked it to meet virtually. We certainly





could have facilitated that as a Parliament. The answer is that I do not know, any more than you do, obviously, why it has not met, other than the Covid issue; there is also the election issue that I referred to.

**Q87 Sir Christopher Chope:** I am sorry. I am slightly perplexed. This is an interparliamentary forum. As the Presiding Officer in the Welsh Parliament, surely it is within your bailiwick rather than within the bailiwick of the Government.

**Elin Jones:** Yes, and I do not think that in any of my answers I made reference to the Government on the interparliamentary forum. It is obviously an interparliamentary forum. It is for the forum and its Chairs, of course, to decide on the frequency of its meetings. It is not for the Speaker of the Welsh Parliament to insist on that. I think that it will be useful for the forum to think about how it meets, now that we have a newly elected Senedd. There will probably be new Members who sit on the Committees that were represented on the forum who will want to engage with that piece of work now quickly, and very possibly before September 2021.

**Q88 Sir Christopher Chope:** Thank you. I have one final specific question. You have said that you support extending the provisions of Standing Order No. 137A so that all Commons Committees can meet jointly with Committees of the three devolved legislatures. What would be the benefit of that when we have already established that the informal arrangements do not seem to have been used to very great effect?

**Elin Jones:** The benefit of it would be to allow it to happen, should it be seen to need to happen. Currently, it cannot happen because the Standing Orders of the House of Commons prohibit it from happening. I think our Committees—yours and ours—should have the freedom to develop their own thinking on their own work, and whether they want to do joint working or not. If that is the case, and if there is a purpose for both Committees to do that, I think it would be useful for that to happen, and that it is not prohibited by Standing Orders.

Our Standing Orders allow for our Committees to do that if needs be. It is a matter for you of course, and the work you are doing in this Committee, as to whether you think that is something the House of Commons should allow. I think Stephen Crabb, in his evidence to you, suggested that it would always be a matter of political will and priority whether the ability to do that would be taken up by Committees.

As I said earlier, we now see that the geographic divides that may well have prohibited the practicality of our Committees working together are being swept aside by virtual Committees and the ability to meet virtually. That, therefore, opens new doors for Committees across territories to generate areas of work, should they feel the priority to do so.

**Q89 Sir Christopher Chope:** That is a very long answer to the question. Do you think this is something that should be considered urgently by the





joint review of intergovernmental relations?

**Elin Jones:** I think the change in Standing Orders for the House of Commons to allow Committees to work jointly across Parliaments is probably not an issue for the intergovernmental review, but an issue for us. As the intergovernmental review comes to any kind of conclusions as to how Governments will be seeking to work together jointly post Brexit, the question of how those Governments are scrutinised and whether they are solely scrutinised by the home Parliament, or whether they are in some circumstances jointly scrutinised in some form, will become an issue that we, as parliamentarians, will want to interest ourselves in, I am sure.

**Sir Christopher Chope:** Thank you.

**Chair:** Jack Brereton is going to build on the theme of Senedd Committees being able to meet Committees in other legislatures.

Q90 **Jack Brereton:** Clearly there is only benefit in doing so if it has a positive impact on the work of those Committees. Could you describe where the Senedd Committees meeting jointly with Committees of the House has had a beneficial impact on the work that they have been doing?

**Elin Jones:** To date, of course, it has not been allowed to happen other than with the territorial Committee, the Welsh Affairs Committee, in our context. That was in scrutiny of the Wales Act 2016-17. There was Joint Committee scrutiny and work on that Bill and policy. I think that was beneficial at the time. There will be areas that may not be legislatively related, to do with policy development or even scrutiny of common frameworks post Brexit, where there are devolved powers of common interest across the UK—for example, the environment, as I mentioned earlier.

My view is that this should not be forced on our Committees or on our Parliaments. Equally, it should not be prohibited for our Committees to do any joint piece of work. Your Members and our Members are pushed for time, and have competing priorities at all times. I suspect that the Committees would only agree to joint working on a piece of work where they obviously saw some clear benefit for both Committees and Parliaments from doing so.

Q91 **Jack Brereton:** How much more frequently would you envisage joint working and Joint Committees using that ability to work together on specific issues?

**Elin Jones:** I don't know is the answer to that. I am not shy of saying that as an answer because it is for the Committees to be creative on this, if they choose to do so. They will identify issues and want to have an exchange with sister Committees in other Parliaments, and see if their work on an area of common interest would be better done together than apart. "I don't know" is not avoiding answering the question, but it is the



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honest answer to the question. It would be for our Committees to work through what that means for all of them.

Q92 **Suzanne Webb:** How often do the Senedd Committees exercise their right to meet with Committees from other legislatures in the UK? Do you feel that the Senedd Committees have stronger interparliamentary relations with other legislatures because of that?

**Elin Jones:** I will ask Anna to provide exact references. Obviously, our Committees have worked informally with other legislatures, even though our Standing Orders have allowed formal co-operation with other Committees.

I do not think that that has been taken up. I believe, though—I will get Anna to confirm it—that the post-Brexit issues of common frameworks and how new areas that were previously part of the common agricultural policy or common fisheries policy, for example, will now be looked at on both Welsh and UK level. Those areas will now probably generate more opportunity or interest in Joint Committee working. Do you have any examples, Anna?

**Anna Daniel:** The Llywydd is right in saying that the examples of Joint Committee meetings to date have been with the Welsh Affairs Committee in Parliament. I will double-check whether there are any instances of Committees meeting formally with Committees of the Scottish Parliament. I believe it has always been on an informal basis, but we will check that and get back to you.

The use has mainly been with the Welsh Affairs Committee having concurrent meetings with other legislatures. I think that is because they were considering common issues such as transport and rail, on which they took evidence from Ministers, and, as the Llywydd mentioned earlier, on the Wales Bill that was going through Parliament at the time.

**Chair:** Thank you. That has been really helpful. Thank you so much for your time today. I think we are really keen to come and see you when we are physically allowed to come and see you. I think it is important that we, as a Committee, come and understand the way that the Senedd works and the issues you are dealing with. We can explore in more detail at that point ways in which we might foster better relations for the future, either formally or informally.

Thank you and Anna once again for your time. You have both been incredibly helpful. This is a very important part of our inquiry. Thank you again. That concludes the meeting.