
Legislation, Justice and Constitution Committee: Submission to the European Affairs Committee - Written Evidence (UKE0033)

The Senedd's Legislation, Justice and Constitution Committee considers matters in relation to Wales's external affairs, including the governance and implementation of UK-EU agreements.

This submission to the House of Lords European Affairs Committee outlines the key issues we as a Committee have identified during our scrutiny of the UK-EU relationship to date.

We were established as a committee in June 2021. Our scrutiny of UK-EU relations has allowed us to reach some early conclusions, set out in this response. The basis of our conclusions are necessarily limited to the information obtained by the Committee throughout its first year of operation.

Alongside other Senedd committees, we have experienced the challenge of navigating the post-Brexit UK-EU relationship. We also acknowledge that, while some aspects of the Welsh Government's relationship with Europe, the EU and the UK Government on these matters has undoubtedly evolved over the last 15 months, the role of the devolved nations in UK-EU structures is not yet clear and the transparency of these structures and intergovernmental work related to the UK-EU relationships needs urgent improvement.

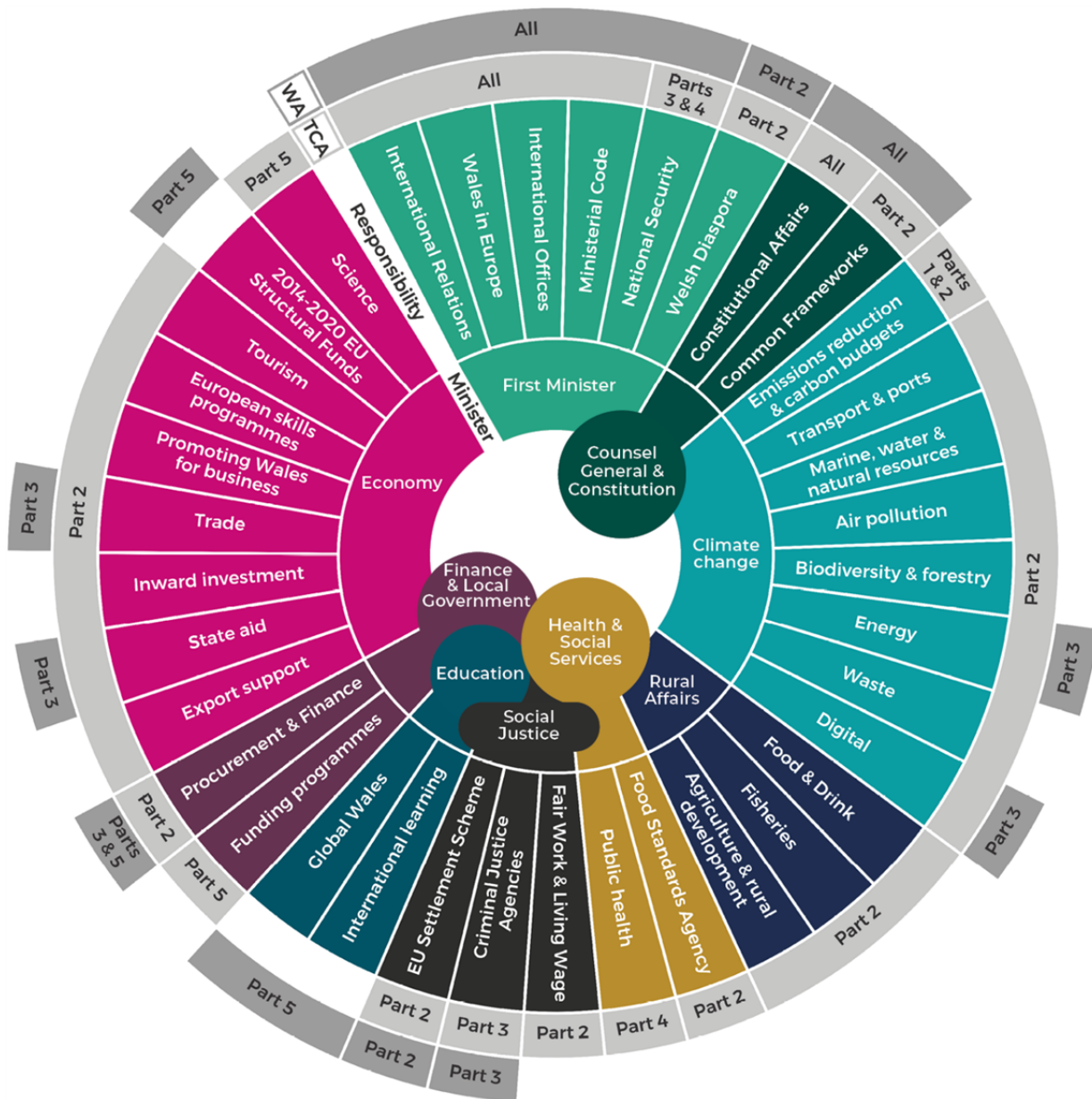
1. Representation

In May 2021, the then UK Government's **Lord David Frost wrote** to the devolved governments to set out how he intended to involve them in UK-EU forums established by both agreements.

The letter confirmed that most forums would be co-chaired by officials from the corresponding lead Whitehall Department, supported by Lord Frost's Cabinet Office team, but that devolved governments could attend where items of devolved competence are on the agenda. However, this is subject to the final discretion of the UK co-chair. Preparation for such meetings should also involve representatives from the devolved governments "as a matter of normal practice."

The Welsh Government does not attend all Withdrawal Agreement and Trade and Cooperation Agreement (TCA) meetings. Where it does attend, Ministers and Welsh Government officials attend as observers.

We believe that observer status does not reflect the range and importance of duties placed upon the Welsh Government by both agreements. The **infographic below** shows each Welsh Government Minister and where their responsibilities intersect with the main parts of the Trade and Cooperation Agreement (TCA) and/or Withdrawal Agreement (WA).



Both treaties are highly complex and contain cross-cutting elements. This infographic has been created by **Senedd Research for the purpose of illustrating the Welsh Government Minister with lead responsibility for each main area.*

Withdrawal Agreement

The Welsh Government does not attend the Withdrawal Agreement’s Joint Committee nor its Specialised Committee meetings. The First Minister and Minister for Economy have requested to attend when matters relating to Northern Ireland are discussed, given their implications for Welsh ports. In November 2021, the First Minister confirmed this **request had been denied**.

The Minister for Social Justice **has also advised** that she meets fortnightly with the UK Government to discuss citizens’ rights and the EU Settlement Scheme.

Conclusion 1: We share the Welsh Government’s concerns that its request to attend meetings where matters which could directly impact Wales are discussed has been denied.

Trade and Cooperation Agreement

Partnership Council

The Welsh Government has expressed discontent with its observer status at the Partnership Council, the TCA’s oversight body. Following its first meeting in June 2021, the **Welsh Government’s** Minister for Economy, Vaughan Gething, **wrote to Lord Frost** describing this as a “deeply unsatisfactory” position which the “Welsh Government cannot credibly support”. Both the **Minister for the Economy and the First Minister** have requested they attend future meetings as full participants.

We have **previously expressed** our disappointment that Welsh Ministers are not able to contribute on issues of importance to Wales at meetings, including those which fall within devolved competence. We agree with the Welsh Government that this position is deeply unsatisfactory and warrants urgent attention.

Conclusion 2: We share the Welsh Government’s concerns relating to its observer status at the Partnership Council, and call on the UK Government to urgently reconsider supporting its request to attend future meetings as full participants.

TCA Committees

The Welsh Government has attended **most TCA Committee meetings**. The Welsh Ministers or their officials have attended most meetings, regardless of whether the subject is in a devolved or reserved area. The Welsh Government has explained to us that it does have **“a more active”** role at the TCA’s committee on regulatory cooperation because it falls within devolved competence. This includes preparing materials and agendas, minutes and associated materials.

Parliamentary Partnership Assembly (PPA)

As you will be aware, the first meeting of the Parliamentary Partnership Assembly (PPA) took place in May 2022. The Senedd was represented by one of our members, Alun Davies MS, and a member of the Economy, Trade and Rural Affairs Committee, Sam Kurtz MS. They attended as observers.

In a **letter** to the Chair of the UK Delegation to the PPA following that meeting, our Chair expressed a hope that Members of the Senedd will be able to make a positive contribution when devolved matters are discussed at future meetings. We believe that the full involvement of the devolved legislatures and our colleagues in the PPA will enrich and enhance the important discussions taking place.

Outside of the role of the devolved legislatures in the formal meetings we look forward to building the relationship between the UK delegation to the PPA and the Senedd.

Conclusion 2: We believe that observer status for the devolved legislature representatives is unsatisfactory and that the further active participation of devolved legislature representatives in these meetings will enrich the discussions taking place. We also believe that the potential for interparliamentary cooperation between officials as it relates to PPA meetings should be explored.

Domestic Advisory Groups and civil society

As you will be aware, the TCA establishes mechanisms for the EU and UK to engage civil society jointly and in their own capacity, including establishing Domestic Advisory Groups. The UK has announced **membership of its Domestic Advisory Group**, with some Welsh representation. The **First Minister told us** the Welsh Government does not know how many Welsh bodies submitted expressions of interest for membership. This is because a number of submissions did not give permission for their information to be shared outside the UK Government.

The **First Minister recently provided** his view on the operation of Domestic Advisory Groups, including that the Welsh Government is able to suggest agenda items and will stay in “active contact” with stakeholders representing Welsh interests.

Conclusion 3: Based on the limited information available to us, we are concerned as to the extent to which Wales is represented in the UK’s Domestic Advisory Group.

Conclusion 4: We note that the new joint UK-EU Civil Society Forum met on 4 October 2022, but that this was almost two years since the TCA came into force. We will continue to closely monitor the frequency of meetings in future.

Intergovernmental meetings

Inter-Ministerial Group (IMG) on UK-EU relations

The Minister for Economy, Vaughan Gething **missed the first meeting** of the IMG on UK-EU relations because it was called with two hours’ notice, which he described as “unacceptable”. A senior Welsh Government official attended as an observer alongside Ministers from Scotland and Northern Ireland.

In March, the First Minister **told the Committee** that the Welsh Government would use the IMG to “press further” for full status at the Partnership Council. On 20 April, the Counsel General **suggested** that it should aim to meet regularly, including before meetings of the Partnership Council and the Withdrawal Agreement’s Joint Committee.

Discussions on UK-EU relations may take place in other intergovernmental structures, including those relevant to the common frameworks programme, which **this Committee oversees in the Senedd**. There are 26 planned common frameworks in areas devolved to Wales. Initial analysis by Senedd Committees has shown that the provisional common frameworks published take an inconsistent approach to how the structures and processes established within them will engage with other governance structures on UK-EU relations such as the IMG and UK-EU governance structures.

Conclusion 5: We are concerned by Welsh Government reports that it has received late notice of meetings of the new Inter-Ministerial Group on UK-EU relations which has resulted in Ministers being unable to attend in some instances. We recommend that representatives from the four governments are given sufficient opportunity to attend to maximise four nations input.

Conclusion 6: We call on the four governments to ensure that UK-EU issues are taken into account and fully incorporated into other significant domestic governance structures, such as common frameworks, and that a consistent approach to engagement of the devolved governments is taken across all of these.

2. Information

Information regarding meetings

We have found there is limited information available regarding TCA meetings.

We note the **European Commission website** holds the most detail on UK-EU meetings in one place. Some documents list attendee information but not all. The Welsh Government does not publish information relating to its attendance and the Senedd relies primarily on written ministerial statements, exchanges with individual ministers and the European Commission's website for information.

In February 2022, **we asked the First Minister to reconsider** proposals for how **the Welsh Government** provides information to the Senedd. We requested he:

consider a proportionate but more transparent mechanism for informing the Senedd of Welsh Government attendance at these meetings, the issues discussed and the points made by the Welsh Government in representing Welsh interests.

We also recommended that all four governments collectively consider concerns regarding a lack of transparency in TCA structures. The **First Minister responded** in March, and recently provided **further information**.

We continue to seek further information from the Welsh Government relating to its attendance at UK-EU meetings, and will share any information we receive which may be relevant to your inquiry.

Conclusion 7: The Senedd relies primarily on written ministerial statements, exchanges with individual ministers and the European Commission's website for information on UK-EU meetings. We reiterate our request that all four government collectively consider and address concerns regarding a lack of transparency in Withdrawal Agreement and TCA structures.

Conclusion 8: We call on all four governments to establish more transparent mechanisms for informing the devolved legislatures, stakeholders and the public of meetings relating to UK-EU relations.

Between meetings

As you will be aware, the Partnership Council is required to meet at least annually, or sooner on request from the UK or EU. The Council can take **decisions in writing** between meetings but it is not clear what role, if any, the devolved governments have in this. The Welsh Government **recently suggested** to us that, as it has no formal role at the Partnership Council, it also has no formal role in decision-taking between meetings, which would include decisions taken in devolved areas.

Conclusion 9: Information on developments and decisions taken between meetings is not readily available. We would like to see more information about the role of devolved governments in decision-taking between meetings, including in relation to devolved areas.

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