

Sir William Cash MP
Chair of the European Scrutiny Committee
House of Commons
London
SW1A 0AA

20 July 2018

Dear Sir William,

EU law in Wales: What happens during the Brexit transition?

Since the start of June, the External Affairs and Additional Legislation Committee has been considering the arrangements that need to be made in Wales, and the Assembly in particular, to prepare for the Brexit transition period.

This has been, in the large part, as exercise in determining what we can reasonably anticipate in terms of how EU law will operate during the transition period, as we await further details of the UK Government's proposals.

The evidence we received has been published and is available from our website.

At this point in time, we are marshalling our consideration of the transition period into three areas:

1. The legal mechanism for maintaining EU law during the transition period;
2. The Assembly's role in scrutinising draft EU law during the transition period; and
3. The inter-governmental routes available to the Welsh Government to make representations in relation to EU law during transition.

We have written to the Welsh and UK Governments in relation to these areas, with a particular focus on the first and third areas.



I have enclosed a copy of our correspondence with the UK Government.

Assembly scrutiny

In terms of the second area, it is clear that the Assembly's arrangements for the scrutiny of EU law will need to change in time for the transition period.

According to the text of the draft Withdrawal Agreement, subsidiarity monitoring arrangements, the most formal aspect of the Assembly's scrutiny of draft EU laws, will cease in March 2018. As you are aware, these arrangements currently rely on interaction with the European scrutiny arrangements in the UK Parliament and are ultimately based on Article 5 of the Treaty on European Union.

We regret the loss of the subsidiarity principle and the formal role it gave to the devolved legislatures through the UK Parliament.

Consequently, the scrutiny arrangements that are agreed in Parliament may affect how we construct our scrutiny arrangements in the Assembly.

To that end, I would be grateful for your view on how arrangements for EU scrutiny in Parliament during transition are developing.

EU documents

Of crucial importance to us is the provision of EU documents and UK Government Explanatory Memoranda (or similar) during the transition period. We note that, under the draft Withdrawal Agreement, the UK Parliament will continue to receive documents directly from the EU's institutions during the transition period.

I would welcome your view on whether you would be willing to consider facilitating the onward passage of this documentation to the Assembly.

Discussion with the UK Government

I would be most grateful if you could keep us informed of discussions between the UK Parliament and the UK Government on future EU scrutiny arrangements.



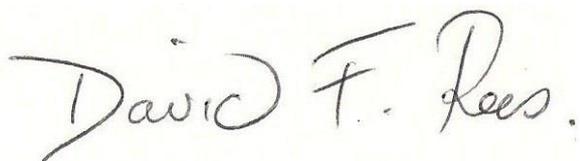
Additionally, I would appreciate your consideration of whether the European committees of the devolved legislatures (or their officials as appropriate) could be invited to participate in discussions with the UK Government, if issues that might affect the devolved legislatures are being considered.

In making these requests, I want to recognise the positive relationship that has been fostered between the European Committees of the UK and I hope that this can continue through transition.

I will keep you informed of our work in this area. I look forward to your response and look forward to meeting you again in Cardiff for the next Inter-parliamentary Forum on Brexit where I hope we can consider some of these issues.

I have written in similar terms to Lord Boswell, Chair of the EU Select Committee. I have also copied this correspondence to the Cabinet Secretary for Finance, Mark Drakeford AM; the Parliamentary Under Secretary of State for Exiting the European Union, Robin Walker MP; and Joan McAlpine MSP, Chair of the Culture, Tourism, European and External Relations Committee.

Yours sincerely,



David Rees AM, Chair of the External Affairs and Additional Legislation Committee
Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Enc.: Letter to Robin Walker MP, Parliamentary Under Secretary of State for Exiting the European Union.

CC: Mark Drakeford AM, Cabinet Secretary for Finance; Robin Walker MP, Parliamentary Under Secretary of State for Exiting the European Union; Joan



McAlpine MSP, Chair of the Culture, Tourism, European and External Relations Committee.

