Welsh Parliament
Senedd Research

Constitutional Quick Guides

Research Briefing

November 2021



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The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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Welsh Parliament
Tŷ Hywel
Cardiff Bay
CF99 1SN

Tel: **0300 200 7270**
Email: **gruffydd.owen@senedd.wales**
Twitter: **@SeneddResearch**
Senedd Research: **research.senedd.wales**

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Author:
Gruffydd Owen

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1. Glossary of Terms

This section contains a glossary of key terms used in the Welsh Parliamentary context

Act of Parliament	A **Bill** that has been passed by the UK Parliament and received **Royal Assent**. It is also sometimes referred to as a 'statute' and is a form of **primary legislation**.
Act of the Senedd	A **Bill** that has been passed by the Senedd and received **Royal Assent**. It is also sometimes referred to as a Senedd Act and is a form of **primary legislation**.
Assembly Measure	A form of **primary legislation** made by the **Assembly** between 2007 and 2011 under the **Government of Wales Act 2006 (GoWA)**(as originally introduced).
Barnett Formula	This is used to calculate the change in the **block grant** allocated to the Welsh Government. If the UK Government makes spending changes in England to areas that are fully or partially devolved, the **block grant** for Wales will also generally change. This is often referred to as a 'consequential'
Bill	A proposed **Act of the Senedd,** UK Parliament, Scottish Parliament or Northern Ireland Assembly**.**
Block Grant	The element of each devolved Government's funding which comes from the UK Government. The monies received are placed in the **Welsh Consolidated Fund**.
Committee of the Whole Senedd	This sits when amendments to a **Bill** are considered at Stage 2 proceedings by all Senedd Members, rather than just by those elected to a specific committee.

Conferred Powers Model	Under this model of devolution, a **legislature** can only pass laws in relation to matters that have been expressly conferred on it. The **devolution settlement** in Wales used to be based on the Conferred Powers Model where the **Assembly's legislative competence** was limited to making laws in twenty one subject areas where the UK Parliament had expressly given it powers to do so. The **Wales Act 2017** changed the **devolution settlement** in Wales to a **Reserved Powers Model**.
Constitution	The body of fundamental principles, laws, rules, conventions and procedures according to which a state is governed. Unlike most countries, the UK does not have a codified constitution contained in a single document. Rather, its constitution is uncodified and has developed over centuries comprising statute law, common law, conventions and the Royal Prerogative.
Constitutional Convention	This term has two separate and distinct meanings. Depending on the context, it may mean: **1.** The customary practices and rules relating to the relationship between the Crown, Governments, Parliaments and judiciary, or the exercise of their respective powers. They are not legally binding, but breach of convention may have political consequences. (An example is the **Sewel Convention**). or; **2.** A representative body convened to draw up or propose changes to a country's constitution. The proposals may then be used to inform the future constitutional settlement, sometimes subject to a **referendum**.

Common Frameworks	Agreements between the UK and devolved governments on how to manage divergence between different parts of the UK, in certain policy areas formerly governed at EU level. They are sometimes underpinned by legislation and are subject to scrutiny in the UK's four **legislatures**.
Counsel General	The chief legal adviser to the **Welsh Government**. Although a member of the Welsh Government, they are not a **Welsh Minister**. Serving Senedd Members have generally been appointed to the role, including the current Counsel General, but they need not be an MS.
Delegated Legislation	See **Subordinate Legislation**
Devolved Areas or Devolved Matters	Matters which are within the Senedd's **legislative competence**.
Devolution Settlement	A general term used to describe the devolution arrangements in each devolved nation of the UK. The current devolution settlement for Wales is set out in **GoWA** and is based on the **Reserved Powers Model**.
Deputy Welsh Minister	A serving **Senedd Member** appointed to assist the **First Minister**, a **Welsh Minister** or the **Counsel General** in the exercise of their functions. The collective number of Deputy Welsh Ministers and **Welsh Ministers** (excluding the **First Minister**) cannot exceed twelve persons under **GoWA**.
Dunlop Review	A review conducted by Lord Dunlop in 2019 to determine whether the UK Government was working in the most effective way possible to 'realise fully all the benefits' of being a United Kingdom. It made recommendations on the machinery of government, Civil Service capability, spending, intergovernmental relations, public appointments and communications.

Executive	The branch of government under the **separation of powers** doctrine which is responsible for formulating policy and proposing legislation. Both the Welsh and UK Governments comprise the executive in Wales.
First Minister	A **Member of the Senedd** nominated by the **Senedd** and appointed by the Monarch to be First Minister. They are the leader of the **Welsh Government**.
Government of Wales Act 2006 ('GoWA')	An **Act of Parliament** which provides the legislative basis for Wales' **devolution settlement**. The Act contains provision about: ▪ Senedd general elections; ▪ The composition and functions of the Welsh Government; ▪ The Senedd's power to pass laws, including the scope of its **legislative competence**; and ▪ Financial matters, such as national borrowing and expenditure.
Intergovernmental Agreements ('IGA')	A generally non-binding agreement entered into between two or more governments. In a Welsh constitutional context, the term often relates to agreements entered into between the Welsh and UK Governments as a way of agreeing on the use of certain powers in **devolved areas**.
Intergovernmental Relations Review	An ongoing joint review into intergovernmental relations between the four UK nations. Led by the Cabinet-Office; officials and Ministers from all four administrations are in the process of developing new intergovernmental structures to replace the **JMC**.

Joint Ministerial Committee ('JMC')	A set of committees that comprise ministers from the UK and devolved governments to co-ordinate the overall relationship between them. Its terms of reference say it should consider, inter alia, non-devolved matters which affect devolved responsibility and consider disputes between the governments.
Legislative Competence	The term used to describe the scope of the **Senedd's** power to make laws. A provision must satisfy each test under Section 108A of **GoWA** to be within the Senedd's legislative competence. A Senedd Act is not law if any of its provisions fall outside the Senedd's legislative competence.
Legislative Competence Order	An **Order in Council** to amend Schedules 7A and 7B of **GoWA,** which are, respectively; the list of **Reserved Matters** and the general restrictions on the Senedd's ability to legislate.
Legislative Consent Memorandum	A memorandum laid before the Senedd in respect of any **Bill** introduced in the UK Parliament which makes provision in relation to Wales for any purpose within the **legislative competence** of the **Senedd** or which modifies its **legislative competence** (a 'Relevant Bill'). The Memorandum must, inter alia, summarise the policy objectives of the Relevant Bill and explain whether it's considered appropriate for that provision to be made. A legislative consent memorandum relating to a Relevant Bill must be laid before the Senedd by a member of the Welsh Government, and by any Senedd Member who intends to table their own **legislative consent motion**.

Legislative Consent Motion	The means by which the **Senedd** formally indicates its consent for the UK Parliament to pass laws on **devolved matters**. After a **legislative consent memorandum** has been laid, a member of the **Welsh Government** (or a **Senedd Member** which has laid their own **legislative consent memorandum**) may subsequently table a legislative consent motion seeking the Senedd's agreement to the proposed provision in a relevant **Bill**. **Senedd Members** debate and vote on the **motion** to decide whether consent should be given. Legislative Consent Motions were previously known as Sewel Motions (*see **Sewel Convention***).
Legislative Scrutiny	The detailed examination of **primary and subordinate legislation** and their related documentation by **Senedd** committees.
Legislature	A law-making body where new laws are debated and passed. A legislature also holds the **executive** to account for its decisions and policies (*see **Separation of Powers***). The **Senedd** and UK Parliament are both legislatures.
Llywydd	Also called 'Presiding Officer' in English, the Llywydd is elected by all **Members of the Senedd** and serves the Senedd impartially. Their main role is to chair **Plenary**, maintain order in the **Siambr** and ensure that **Standing Orders** are followed. The Llywydd also has a Deputy who alternates with them in chairing **Plenary** sessions and attends meetings and functions to raise the profile of the Senedd.
Member of the Senedd, Member, or MS.	A person elected to the **Senedd** in an election. 40 Members are chosen to represent individual constituencies across Wales and 20 are chosen to represent the five regions of Wales.

Motion	A proposal made for the purpose of obtaining a decision from the **Senedd**.
National Assembly for Wales, the Welsh Assembly, or Assembly.	The **Senedd's** previous name. The terminology was updated under the Senedd and Election (Wales) Act 2020 *(see **Senedd Cymru**)* The Assembly was originally established under the Government of Wales Act 1998 following the **1997 referendum.**
Order in Council	Statutory or Prerogative Orders which have been personally approved by the Monarch at a meeting of the **Privy Council.** Statutory Orders are made under powers conferred on the Monarch by **primary legislation.** Prerogative Orders are made using the inherent power of the Crown. Both types have force in law. In practice, most Statutory Orders are made by **statutory instruments**. *(See **Privy Council**)*
Parliamentary Sovereignty	The principle in UK constitutional law that the UK Parliament is the supreme legal authority in the UK. Under its orthodox understanding, the UK Parliament has unlimited power to make or unmake any laws as it sees fit. Generally, the courts cannot overrule its legislation and no Parliament can pass laws that future Parliaments cannot change. It is also sometimes known as 'parliamentary supremacy'.
Plenary	A full meeting of **Senedd Members** in the **Siambr** to conduct business. Plenary meetings currently take place on Tuesday and Wednesday afternoons when the Senedd is sitting.
Presiding Officer	See '**Llywydd.'**
Primary legislation	The general term used to describe **Acts of the Senedd, Acts of Parliament** and **Assembly Measures**.

Privy Council	A body to advise the Monarch on exercising their Royal Prerogative functions or those functions assigned to the Sovereign by **Acts of Parliament**. Decisions of the **Privy Council** are recorded in Orders which have the force of law (*see* ***Orders in Council***). Most Orders are Government decision which are subsequently approved by the Monarch as a matter of course.
Proceedings of the Senedd	Any proceedings of the **Senedd**, including **Plenary** and committee meetings.
Protected subject-matter	Section 111A of **GoWA** contains a list of matters called 'protected subject-matters'. Examples include the persons entitled to vote at Senedd elections, the electoral system and the maximum permissible number of **Welsh Ministers**. The Senedd can still pass Bills on protected subject-matters, but **GoWA** provides that at least two-thirds of the total number of Senedd seats must vote for such a **Bill** to pass. This is known as a supermajority of the Senedd. The **Llywydd** initially decides whether a **Bill** relates to a protected subject-matter, but the determination may be referred to the Supreme Court by the **Counsel General** or Attorney-General.
Referendum	The procedure by which a political question is referred to the electorate for a decision through a vote. (*See* ***1979, 1999*** *and* ***2011 Referendum****, below*).

Reserved Matters	These are matters or specific subject areas which are expressly reserved to the UK Parliament in **GoWA,** and over which the Senedd cannot legislate. The list of Reserved Matters are divided into general and specific reservations under Schedule 7A of **GoWA**. If a provision in a **Senedd Act** 'relates to' a Reserved Matter, it is outside the Senedd's **legislative competence.** Section 108A(6) of **GoWA** and case law assists with the interpretation of 'relates to' in this context.
Reserved Powers Model	Under this model of devolution, a **legislature** can pass laws on any matter unless it is expressly prevented from doing so. The **Wales Act 2017** changed the **devolution settlement** in Wales from a **Conferred Powers Model** to a Reserved Powers Model. This means the Senedd can pass laws on all matters, except **reserved matters**.
Retained EU Law	The body of EU law converted into domestic law on 31 December 2020 under the EU (Withdrawal) Act 2018. The Act essentially took a snapshot of EU laws which applied in the UK when the EU transition period ended. This included directly applicable EU regulations and laws implementing EU Directives. To ensure Retained EU laws work in a domestic context after the UK left the EU, the governments of the UK made a considerable number of amendments to them through **subordinate legislation**.

Royal Assent	The final stage of the legislative process. This is the Monarch's agreement that is required to make a **Bill** into an **Act of the Senedd** or Parliament. While the Monarch technically has the right to refuse, assent is today a **constitutional convention** and regarded as a formality.
Secondary Legislation	See **Subordinate Legislation.**
Secretary of State for Wales	A UK Government cabinet member responsible for the overall strategic direction of the UK Government in Wales. The office holder: ▪ must ensure that the interests of Wales are fully taken into account by the UK Government in making decisions that will have effect in Wales; ▪ represents the UK Government in Wales; and ▪ is responsible for ensuring the passage of Wales-only legislation through Parliament.
Senedd	This term has two distinct meanings. Depending on the context, it may refer to: 1. **The commonly used term referring to the sixty Senedd Members comprising Senedd Cymru;** or 2. **The main public building which houses Senedd Cymru in Cardiff Bay.**
Senedd Act	See **Act of the Senedd.**
Senedd Commission	The body corporate established under **GoWA** to provide the Senedd with the property, staff and services it requires to function as a **legislature**. The Commission consists of the **Llywydd,** and four other **Members** nominated by the main political parties.

Senedd Cymru	The 60 **Members of the Senedd** elected by the people of Wales in a Senedd general election to represent them and their local communities in the **Senedd**.
Senedd Member	See **Member of the Senedd.**
Separation of Powers	Under this doctrine, the governance of a state is traditionally divided into three branches: an **executive**, a **legislature** and a judiciary. This is intended to prevent any one branch or person from being supreme and to introduce 'checks and balances' through which one branch may limit another.
Sewel Convention	A **constitutional convention** contained in all the **devolution settlements** providing that the UK Parliament will not normally legislate with regards to devolved matters without the consent of the devolved legislatures. (*See also,* ***Legislative Consent Motions***).
Siambr	The main debating chamber in the **Senedd** building where **Plenary** is held.
Standing Orders	Written rules which govern **Senedd proceedings**. They prescribe the way Members should behave, how **Bills** are processed and debates organised.
Statute or Statute Book	Another term for **primary legislation**.

Statutory Instruments ('SIs')	The form by which most **Subordinate Legislation** is made. SIs have the same force of law as **primary legislation.** The power to make SIs, as well as the scope of such power, is set out in the relevant piece of **primary legislation,** known as the 'enabling' or 'parent' Act. In Wales, the power to make SIs is generally conferred on **Welsh Ministers.**
Statutory Instrument Consent Memorandum ('SICM')	If a **statutory instrument** is laid before the UK Parliament which amends **primary legislation** within the **legislative competence** of the Senedd, a member of the **Welsh Government** must lay a **SICM** before the **Senedd** under **Standing Order** 30A. The SICM must summarise the objective of the **SI** and explain whether it's considered appropriate for such provision to be made. Thereafter, the SICM is considered and reported upon by the Senedd's legislative affairs committee (currently the Legislation, Justice and Constitution committee) and any **Member** may subsequently table a **Statutory Instrument Consent Motion**.
Statutory Instrument Consent Motion	A **Motion** tabled by any **Member** (including on behalf of the **Welsh Government**) seeking the Senedd's agreement to the inclusion of the provision described in the relevant **Statutory Instrument Consent Memorandum**.
Subordinate Legislation	This is also commonly known as secondary, or delegated, legislation. It is defined in Schedule 1 to the Legislation (Wales) Act 2019 as regulations, orders, rules, Orders in Council, schemes, warrants byelaws and other instruments made under a **Senedd Act**, an **Assembly Measure**, an **Act of Parliament** or **Retained EU Law**.

Wales Act 2017	This Act changed the **devolution settlement** in Wales by amending the **Government of Wales Act 2006**. The Act enshrined the **Senedd** as a permanent part of the UK's constitutional arrangements. As a result, neither the Senedd nor the Welsh Government can be abolished without the agreement of the people of Wales. It also changed the **devolution settlement** in Wales from a **conferred powers model** to a **reserved powers model**.
Welsh Assembly	See **National Assembly for Wales.**
Welsh Assembly Government	The previous title of the present day **Welsh Government**. The terminology was updated under the Wales Act 2014.
Welsh Consolidated Fund	A fund to hold public money allocated to Wales under the Block Grant and also those monies received from other sources, such as through taxation and borrowing.

Welsh Government	The **Executive** branch of government in Wales established under section 45 of GoWA. It is responsible for making decisions on devolved matters, developing and implementing policy and proposing laws in Wales. Its membership consists of ▪ The **First Minister**; ▪ The **Welsh Ministers**; ▪ The **Counsel General**; and ▪ The **Deputy Welsh Ministers**. The Welsh Government is usually formed by the party that gains the most Senedd seats in a Senedd general election, acting alone or with the support of one or more parties.
Welsh Minister	A serving **Senedd Member** appointed by the First Minister and approved by the Monarch under Section 48 of GoWA. Commonly called 'Ministers', they are senior members of government responsible for matters within a defined subject area, such as health or education. The collective number of Welsh Ministers and Deputy Welsh Ministers (excluding the First Minister) cannot exceed twelve persons under **GoWA**.
Welsh Ministers	The collective term used in legislation to refer to the **First Minister** and the Ministers appointed under section 48 of GoWA (*see **Welsh Minister***).
Welsh Parliament	See **Senedd Cymru.**

30C Written Statement	If the **Welsh Government** has consented to the UK Government making **subordinate legislation** on a **devolved matter** under the European Union (Withdrawal) Act 2018, a member of the **Welsh Government** must lay a written statement before the **Senedd** under **Standing Order** 30C. The written statement must: ▪ summarise the purpose of the **Statutory Instrument;** ▪ specify its impact on the Senedd's **legislative competence** or the **Welsh Ministers'** executive competence; and ▪ if applicable, provide the reason Welsh Government consented to the instrument.
1979 Referendum	A **referendum** held in Wales on 1 March 1979 to decide whether there should be a Welsh Assembly. The proposal was rejected by 79.7% to 20.3%.
1997 Referendum	A **referendum** held in Wales on 18 September 1997 to decide whether there should be a Welsh Assembly. The result was 50.3 per cent in favour, and 49.7 per cent against with a majority of 6,721. Following the 1997 Referendum, the Government of Wales Act 1998 established the **National Assembly for Wales**.
2011 Referendum	A **referendum** held in Wales on 3 March 2011 to decide whether the then **Welsh Assembly** should gain greater law-making powers. 63.5% voted in favour, answering "yes" to the question *"Do you want the Assembly now to be able to make laws on all matters in the 20 subject areas it has powers for?".* At the time, this gave the **Assembly** the power to make Acts of the Assembly on all **devolved matters** under the **conferred powers model**.

2. Wales in the United Kingdom

2.1 The UK Constitution

The UK is a Parliamentary democracy which has a constitutional Sovereign as Head of State. This also makes the UK a constitutional monarchy.

The Sovereign's role in the UK's constitutional arrangements has developed over time. Today, the role is largely ceremonial with executive power being exercised by the Sovereign's Government, which has a democratic mandate to govern.

The government is led by a Prime Minister appointed by the Sovereign, who also appoints ministers on the Prime Minister's advice. The UK Government is directly accountable to the UK Parliament which consists of the Sovereign, the House of Commons and the House of Lords. The government of the day holds office by virtue of its ability to command the confidence of the House of Commons.

Power has also been devolved in the UK to legislatures in Wales, Scotland and Northern Ireland. They generally have legislative competence on all matters which are not expressly reserved (and 'excepted' in the context of Northern Ireland) to the UK Parliament.

To represent the UK Government's interests in the devolved nations, territorial offices of state in Wales, Scotland and Northern Ireland are headed by Secretaries of State which are cabinet level ministers in the UK Government.

A key tenet of the UK's constitution is that the UK Parliament is the supreme legal authority in the UK. This is known as the principle of parliamentary sovereignty. Under the **orthodox understanding of the term**, the UK Parliament has unlimited power to make or unmake any laws as it sees fit. Generally, the courts cannot overrule its legislation and no Parliament can pass laws that future Parliaments cannot change.

The principles above all form part of the UK's constitution. However, unlike most countries, these constitutional concepts are not consolidated in a single document. Because of this, the UK is often said to have an 'unwritten constitution'. However, it's **more accurate to say** that the UK doesn't have a codified constitution.

The UK's constitution has evolved over time and consists of various sources such as institutions, statutes, judicial decisions, principles and practices commonly understood as 'constitutional'.

Sources may include documents of constitutional significance, such as the Magna Carta, statutes underpinning the devolution settlements, the Royal Prerogative and the unwritten practices recognised as constitutional conventions.

2.2 Evolution of the UK: a Welsh Perspective

The UK as we know it today is one of a number of unions established in Great Britain and Ireland at different periods in history

Wales

During the middle-ages, England and Scotland were developing as single kingdoms, but Wales was a fragmented patchwork of smaller kingdoms.

Successive kings sought to unify Wales, some more successfully than others. In 942 AD, three quarters of Wales was ruled by Hywel Dda. During his reign, the native laws of Wales were codified for the first time. These were Welsh laws, administered by a Welsh legal system which was well-developed and sophisticated. The language of the law was Welsh and the system of law was significantly different from England.

The laws of Hywel Dda **provided an identity and focus of unity** for the people of Wales as they applied across Wales' kingdoms.

The whole of Wales was briefly unified under Gruffudd ap Llywelyn in 1057, however, it soon reverted to separate kingdoms before the Norman conquest of England in 1066. Piecemeal attempts were made by the Normans to conquer Wales.

In 1267, a treaty signed between Llywelyn ap Gruffydd (Llywelyn Ein Llyw Olaf) and Henry III made Llywelyn the first and only ruler ever recognised by England as the Prince of Wales. However, the period of relative peace lasted only ten years as the deal lapsed on Henry III's death. His successor, Kind Edward I wanted to re-centralise power in England. He deemed Llywelyn a rebel, redistributed his lands and confiscated the crops from Anglesey. On Llywelyn's death in 1282, the power that had been built up over decades faded away and Wales was again ruled by England.

A fight for independence ignited in the early 15th century because of perceived injustices against the Welsh under English rule. Owain Glyndwr led a rebellion attacking English settlements in Wales attempting to unite Wales against England.

Support for Glyndwr grew and he was reputedly crowned the Prince of Wales in 1404. At the height of his power, he is also said to have assembled the first Welsh Parliament in Machynlleth. However, he become a wanted man and was ultimately cornered in Harlech castle in 1409 by the forces of King Henry. In the aftermath, Wales was cut off from trade, leading to poverty and starvation.

Henry VIII inherited the crown in 1502. The anomalies of governing Wales were purportedly unacceptable to him and he sought to centralise control of his realm. Acts of Parliament were passed in 1536 and 1543 which formally unified Wales and England. These became commonly known as Acts of Union.

In effect, Wales was formally subsumed into England. The 1536 Act suggested that Wales was, and always had been, a part of England. It declared:

> "...the dominion, principality, and country of Wales justly and righteously is and ever hath been incorporated, annexed, united, and subject to and under the imperial crown of this realm as a very member and joint of the same..."

The Acts applied Royal power to Wales with the 1543 Act providing for the legal and political assimilation of Wales into England. Welsh laws and customs were abolished and a distinct Welsh system of courts, the Courts of Great Sessions, was established. When this was eventually abolished in 1830, it removed the last recognisable distinctive feature of law in Wales.

Wales became the first distinct territory to be united with England in what would eventually become, the United Kingdom.

Scotland

Scotland emerged as a kingdom during the ninth and tenth centuries. Unlike Wales and Ireland, it was never conquered by England and its independence was recognised by England in the Treaty of Northampton in 1328.

When Elizabeth I died childless, she was succeeded by her cousin, James VI of Scotland. His accession to the thrones of England and Ireland as James I meant that the separate kingdoms of England (which included Wales), Scotland and Ireland were united under a single monarch for the first time. This was known as the Union of the Crowns.

England and Scotland continued as two separate states sharing a monarch until they were formally united in 1707 under Acts of Union which created the United Kingdom of Great Britain.

Ireland

The Kingdom of Ireland formally joined with Great Britain under the 1801 Act of Union to form a single political entity called the United Kingdom of Great Britain and Ireland.

However, this was not a successful union and demand grew over the following century for Irish Home Rule and independence from the UK.

This culminated in the union with Ireland being dissolved under the terms of the Anglo-Irish Treaty. This provided for Ireland to be granted dominion status as the Irish Free State (later becoming the Republic of Ireland) with an independent Parliament. But the six counties which now comprise Northern Ireland remained a part of the United Kingdom.

Thus, the UK became the United Kingdom of Great Britain and Northern Ireland.

2.3 History of devolution in Wales

Devolution **is the term** used to describe the process of transferring power from the centre to the nations and regions of the United Kingdom.

UK devolution is asymmetric. Unlike a federal system, where states or provinces share sovereignty with the centre and have comparable powers with each other, the devolved arrangements in the UK differ between territories. This stems from historical anomalies in the evolution of UK nations, such as contrasting legal jurisdictions and institutions, and the piecemeal nature of devolution in the UK.

This section explores some of the main events along the process of devolution in Wales to date.

Administrative Devolution

The roots of political devolution in Wales can be traced to the end of the nineteenth century. In 1881, the Sunday Closing Act became the first piece of Wales-specific legislation to be passed in the UK Parliament.

The twentieth century saw the beginning of administrative devolution in Wales through the creation of the Welsh Board for Education in 1907, **described** as the 'first recognition by any government department that separate treatment was necessary for Wales'.

The trend for administrative decentralisation continued in the early twentieth century with the establishment of the Agricultural Commissioner for Wales in 1912. By the 1950's, 17 departments had established administrative units in Wales which has been **characterised** as an 'entirely pragmatic' development, rather than reflecting 'any overall plan for devolution'.

In the early 1950s, a series of developments started the process of shifting powers from Westminster to Wales. Petitions to create a Secretary of State for Wales were turned down by the Labour Government of 1945-50, which, as a substitute, created a Council for Wales and Monmouthshire in 1948. This was an unelected body that advised the government on Welsh affairs.

In 1951, the Conservative Government created a new junior Home Office Minister for Welsh Affairs. The Minister had no executive powers and was answerable to the Commons for the general effect of government policy in Wales. The post was upgraded to Minister of State in 1954.

Following the 1964 election, the office of Secretary of State for Wales was created by the new Labour Government. The following year, the Welsh Office was established to execute UK Government policy in Wales.

The Secretary of State's executive powers were initially limited to responsibility for housing, local government and roads. But the responsibilities of the office were gradually extended to include trade, the environment and agriculture. Health was added in 1968, and primary and secondary education in 1970.

Responding to the increasing interest in self-government in Wales and Scotland, the UK Government established the **Royal Commission on the Constitution** in 1969. **The Kilbrandon Commission**, as it was known, **recommended the establishment of an Assembly for Wales in its 1973 report**.

In 1974 this led to the Labour Government publishing proposals for a directly elected assembly in Wales with executive, but not legislative powers. **A referendum on the proposal was held in Wales on St David's Day in 1979. The proposal was rejected in Wales by a majority of four to one**.

In the immediate aftermath of the 1979 referendum, devolution became something of a dormant political issue in Wales. However, support for devolution grew during the 1980's and 1990's. In May 1997 the incoming Labour Government's manifesto included commitments to hold referendums on the creation of devolved administrations in Wales and Scotland.

A referendum was held on 18 September 1997 proposing the creation of a Welsh Assembly. **The result was 50.3 per cent in favour**, and 49.7 per cent against with a majority of just 6,721.

Executive Devolution

Following the 1997 referendum, the UK Parliament passed the Government of Wales Act 1998 which provided the legal basis for the National Assembly for Wales. It was created as a single body corporate, meaning there was no formal separation between the executive and the legislature.

The 1998 Act enabled executive functions (in other words, powers and duties) to be transferred from the UK Government to the National Assembly. These functions were in areas broadly equivalent to those previously held by the Secretary of State for Wales, such as agriculture, culture, economic development, education, health, housing, local government, social services and planning. Further legislation (known as **Transfer of Function Orders)** were then made under the 1998 Act to transfer a large number of executive functions in these areas to the National Assembly.

The National Assembly became responsible for carrying out all transferred function in respect of Wales.

In practice, the powers delegated to the Assembly were further delegated to the First Minister ('First Secretary' under the original 1998 Act), and then, in turn, transferred to individual ministers (known as Assembly secretaries in the 1998 Act) or civil servants.

The lack of formal separation between the executive and legislative branch of government proved confusing. People struggled to differentiate between those who exercised power (i.e. the Government) and the National Assembly as an institution, who's role was to hold the Government to account.

In an attempt to resolve the confusion, informal changes were made to the terminology associated with the first and second Assemblies. For example, around October 2000, the term 'Ministers' replaced the term 'Secretaries', 'First Minister' was used in place of 'First Secretary' and 'Cabinet' replaced the 'Executive Committee'. The term 'Welsh Assembly Government' began to be used to describe the policies and actions of the Cabinet, allowing the term 'National Assembly' to refer to the scrutiny, representative and legislative work of the legislature. Whilst the new terminology became engrained, they remained informal titles in the sense that they were not recognised in law at this time.

In 2002, the Commission on the Powers and Electoral Arrangements of the National Assembly for Wales was established. Known as **the Richard Commission**, in 2004 it **recommended the legal separation of the executive and legislature as individual legal entities, the devolution of primary law-making powers to Wales, and an increase in the number of Members**.

The majority of the Richard Commission's recommendations were accepted by the UK Government, and given effect by the Government of Wales Act 2006. This provided a new devolution settlement for Wales and signalled the next stage of devolution; legislative devolution.

Legislative Devolution

The **Government of Wales Act 2006** ('GoWA 2006') formally separated the executive and legislature in Wales by creating the Welsh Government (originally the 'Welsh Assembly Government') as the devolved executive for Wales.

Significantly, GoWA 2006 gave the National Assembly powers to pass its own primary legislation for the first time. This was initially in the form of 'Assembly Measures'. Measures could be passed on devolved matters listed in Schedule 5 to GoWA 2006.

This schedule could also be amended to add more devolved matters and further extend the Assembly's legislative competence. Such amendments were generally made using **Legislative Competence Orders.** Twenty two Assembly Measures were passed between 2007 and 2011.

GoWA 2006 also provided for the Assembly to pass Acts, but this was subject to a confirmatory referendum. **A referendum was held on 3 March 2011 in which 63.5% of voters supported further devolution by unlocking the Assembly's powers to pass Acts**.

In October 2011, the UK Government established the Commission on Devolution in Wales, (commonly known as **the Silk Commission**) to review the financial and constitutional arrangements in Wales. It was asked to consider how the scope of devolution might be changed to better serve the people of Wales.

In 2012, the Silk Commission published **Part I of its report**, making recommendations on the financial powers of the Assembly. As a result of this report, the UK Government introduced the Wales Act 2014 which bestowed a number of new financial powers on Wales, including limited taxation and

borrowing powers.

In March 2014, the Silk Commission published its **second report** entitled 'Empowerment and Responsibility: Legislative Powers to Strengthen Wales'. The report recommended, inter alia, adopting a reserved powers model of devolution and the devolution of more powers to Wales.

The UK's coalition Government set out a series of proposals in response to the Commission's second report, including publishing a command paper in 2015 entitled **Powers for a Purpose.** Known as the St David's Day Agreement, this eventually resulted in the passing of the Wales Act 2017.

The 2017 Act changed the devolution settlement in Wales from a 'conferred powers' model to a 'reserved powers' model (these terms are explained in the Glossary). It also enshrined the Assembly, the Welsh Government and the laws that they make as a permanent part of the UK's constitutional arrangements.

The 2017 Act also devolved greater responsibilities to the Assembly to run its own affairs, including deciding on its own name. The Assembly used these power to pass the Senedd and Elections (Wales) Act 2020 and subsequently resolved to change its name to Senedd Cymru or Welsh Parliament.

3. The Welsh Government

The **Government of Wales Act 2006** establishes the Welsh Government as the executive branch of the devolved political system in Wales. The Welsh Government is accountable to the Senedd.

The current **Welsh Government** comprises the First Minister, the Counsel General and a number of Welsh Ministers and Deputy Welsh Ministers.

The executive powers of the Welsh Government include:

- the development and implementation of policy;
- the exercise of a range of devolved functions;
- making subordinate legislation; and
- proposing Acts of the Senedd.

The First Minister

The First Minister is appointed by the Monarch on the recommendation of the Llywydd, following a vote in the Senedd.

Nomination of a Senedd Member for appointment as First Minister is **triggered** by one of the following events:

- the holding of a poll at a general election;
- the Senedd resolving that the Welsh Ministers no longer enjoy the confidence of the Senedd;
- the First Minister tendering their resignation to the Monarch;
- the First Minister dying or becoming permanently unable to act or to tender their resignation; and
- the First Minister ceasing to be a member of the Senedd, other than on a dissolution (e.g. by resigning from the Senedd).

If any of these events occurs, the Senedd must nominate a First Minister within 28 days. If it fails to do so, the **Llywydd must fix a day** on which an 'extraordinary' general election will be held.

If the Senedd passes a vote of no confidence in the Welsh Ministers, the 2006 Act **provides** that the First Minister remains in office until a successor is appointed, but the Welsh Ministers must resign. The situation is resolved when the Senedd nominates a new First Minister (or re-nominates the same person as First Minister).

Welsh Ministers and Deputy Welsh Ministers

Once appointed, the First Minister may appoint Senedd Members to become members of the Welsh Government with the approval of the Monarch. Such Members may be appointed as **Welsh Ministers** or **Deputy Welsh Ministers** and may be removed from office at any time by the First Minister.

The First Minister may also recommend to the Monarch the appointment of a Counsel General. The office of Counsel General is discussed further in part 4.

The Act limits the size of the Welsh Government to twelve Ministers, excluding the First Minister and Counsel General.

Accountability of the Welsh Ministers

The Welsh Government is held to account by the Senedd. Scrutiny takes many forms, including:

- Weekly oral questions to the First Minister:
  - Each week the Senedd is sitting, a maximum of **60 minutes must be made available in Plenary for the First Minister to answer oral questions**. (Standing Order 12.56(i)). A ballot conducted on behalf of the Llywydd determines which Members may table questions.
- At least four-weekly oral questions to each Welsh Minister and Counsel General:
  - When the Senedd is sitting, a maximum of **45 minutes at least once in every four weeks must be made available for each Welsh Minister and the Counsel General to answer questions** in relation to their responsibilities (Standing Order 12.56(ii)).
- Written Questions to the First Minister, Welsh Ministers or Counsel General:
  - Standing Order 14 provides a framework for Senedd Members to table written questions to members of the Welsh Government relating to their area of responsibility. Questions must be tabled at least five working days before they are to be answered and are accepted at the discretion of the Llywydd.

- Power to call witnesses:
  - The Senedd has **powers** under the 2006 Act to require witnesses to attend Senedd Proceedings (including committees) to give evidence, or to produce documents which are in that person's possession or control relating to the exercise of the Welsh Ministers' functions.
  - In practice, this power is subject to numerous exclusions, but does mean that the Senedd has a statutory power to require Welsh Ministers to appear before the Senedd and its committees.

4. The Counsel General

Section 49 of the Government of Wales Act 2006 (the '2006 Act') provides for the appointment of a Counsel General to the Welsh Government. Their role entails:

- providing legal advice to the Welsh Government;
- overseeing the work of the Legal Services Department and Office of the Legislative Counsel;
- overseeing representation of the Welsh Government in the courts;
- considering whether bills passed by the Senedd need to be referred to the Supreme Court for determination as to whether they are within the Senedd's legislative competence (exercised independently of government);
- performing other functions in the public interest including, where the Counsel General considers it appropriate, institute, defend or appear in any legal proceedings relating to functions of the Welsh Government (exercised independently of government); and
- responsibility for the accessibility of Welsh Law.

Under **section 45(1)(c)** of the 2006 Act, the Counsel General is a member of the Welsh Government.

This role is analogous with the role of the **Attorney-General** and **Solicitor General** in the UK Government.

Terms of appointment

The Counsel General is appointed by the Monarch on the recommendation of the First Minister, but the recommendation must be approved by the Senedd.

The person appointed doesn't have to be a Member of the Senedd, but former incumbents have tended to be serving Members.

The First Minister, Welsh Ministers and Deputy Welsh Ministers are all prohibited from holding the office of Counsel General under **the 2006 Act.** The Act also expressly prohibits the Counsel General from being appointed to any of those offices.

The First Minister may, with the agreement of the Senedd, recommend to the Monarch at any time the removal of the Counsel General. The Counsel General may

also tender resignation to the Monarch at any time.

Unlike Welsh Ministers and Deputy Welsh Ministers, the Counsel General does not have to resign after a vote of no confidence in the Welsh Ministers. However, the Counsel General **automatically ceases** to hold office on the nomination of a new First Minister. But they may be re-appointed by the incoming First Minister.

If the office of Counsel General is vacant, or if the Counsel General is for any reason unable to act, the functions of the office can be exercised by a person designated by the First Minister. The designation is at the discretion of the First Minister, time-limited to six months and there is no requirement for approval by the Senedd or Monarch.

Participation of the Counsel General in Senedd Proceedings

Senedd Standing Order 9 contains provision relating to the Counsel General. During Senedd proceedings, the Standing Orders set out that the Counsel General may do anything under the Standing Orders which may be done by Welsh Ministers.

If, however, the Counsel General is not a Senedd Member, Standing Order 9.4 provides that the Counsel General may participate in Senedd proceedings, but may not vote.

The Counsel General, whether an MS or not, is expected to answer oral and written questions and to make oral or written statements.

Section 34 of the 2006 Act deals with the participation of the Counsel General in Senedd proceedings. It provides a discretion for the Counsel General to refuse to provide documents or to answer questions in any Senedd proceedings about the operation of the system of criminal prosecution in any particular criminal case if they consider that doing so may:

- prejudice the proceedings in that case; or
- would otherwise be contrary to the public interest.

Legal Proceedings

The Counsel General is responsible for overseeing the representation of the Welsh Government in the courts. Provided the Counsel General considers it appropriate to do so for the promotion or protection of the public interest; they may institute, defend or appear in any legal proceedings relating to matters with respect to any

functions exercisable by the Welsh Government.

Scrutiny of Senedd Bills by Supreme Court

A Senedd Act is not law if any of its provisions fall outside the Senedd's legislative competence.

To determine whether Senedd Bills, or any provision of a Bill, are within the Senedd's competence, **Section 112** of the 2006 Act provides a mechanism for the Counsel General or UK Attorney-General to make a reference to the Supreme Court for a decision.

A reference may be made at any time within the four week period starting with the date the Bill was passed by the Senedd. This power has been used. In the Fourth Assembly, for example, two Bills were referred by the Attorney General and one by the Counsel General.

A reference may also be made to the Supreme Court by the Counsel or Attorney General to decide whether a Senedd Bill relates to a protected subject-matter. These are set out in Section **111A of the 2006 Act** and include matters such as the persons entitled to vote at Senedd elections, the electoral system and the maximum permissible number of Welsh Ministers.

5. The Presiding Officer and Deputy Presiding Officer

The offices of Presiding Officer ('Llywydd') and Deputy Presiding Officer ('Dirprwy Lywydd') were created by the Government of Wales Act 1998.

At its first meeting after a Senedd general election, the Senedd must elect a Presiding Officer and Deputy Presiding Officer.

The Presiding Officer serves the Senedd impartially and their main role is to chair Plenary, maintain order and protect the rights of Senedd Members. They are responsible for ensuring that business is handled on the basis of equality and impartiality. They are also responsible for Standing Orders and the final authority on their interpretation. The Presiding Officer also plays an active role in representing the Senedd and Wales' interests on a national and international basis.

The Deputy Presiding Officer deputises as necessary for the Presiding Officer. The Presiding Officer's functions may be exercised by the Deputy Presiding Officer if the Presiding Officer's office is vacant, or if the Presiding Officer is for any reason unable to act. The Presiding Officer may also, subject to **Standing Orders**, authorise the Deputy Presiding Officer to exercise functions of the Presiding Officer.

Office Holders

	Presiding Officer	Deputy Presiding Officer
Sixth Senedd	Elin Jones MS	David Rees MS
Fifth Senedd	Elin Jones MS	Ann Jones MS
Fourth Assembly	Dame Rosemary Butler AM	David Melding AM
Third Assembly	Rt.Hon. the Lord Elis-Thomas AM	Dame Rosemary Butler AM
Second Assembly	Rt.Hon. the Lord Elis-Thomas AM	Dr John Marek AM
First Assembly	Rt.Hon. the Lord Elis-Thomas AM	Jane Davidson AM and Dr John Marek AM

Election

The 2006 Act provides for the election of a Presiding Officer and a Deputy Presiding Officer. The Standing Orders state that the Presiding Officer and Deputy Presiding Officer must not belong to:

- the same political group;
- different political groups both of which have an executive role; or
- different political groups neither of which has an executive role.

In effect, this generally means that one will be from the governing political group (or groups) and the other from the opposition. However, if circumstances change during a Senedd term resulting in the Presiding Officer and their Deputy falling within one of these resricted categories (such as belonging to the same political group); any Member may propose a motion that they may remain in office.

This happened in the Third Assembly, when The Rt.Hon. the Lord Elis-Thomas AM and Dame Rosemary Butler AM served as Presiding Officer and Deputy despite belonging to the political groups that formed a coalition government.

Voting in proceedings

The Presiding Officer and Deputy Presiding Officer may only generally vote in Senedd Plenary proceedings to exercise a casting vote. The scope of this power is set out in Standing Order 6.20.

If further discussion of a matter before the Senedd is possible, the Presiding Officer and Deputy must vote in the affirmative (i.e. in favour of a motion). Conversely, they must vote against motions when further discussion is not possible. For example, if there is an equality of votes in the final stage of passing a Senedd Bill, there is no scope for further discussion meaning the Presiding Officer would be obliged to vote against the Bill.

Apart from casting votes, the Presiding Officer and Deputy may also vote in Plenary proceedings where legislation requires a motion to be passed on a super-majority basis (i.e. a vote in which the number of Members voting in favour of it is not less than two-thirds of the total number of Senedd seats).

Term of Office

The Presiding Officer holds office until a new Presiding Officer is elected. In practice, this means that the Presiding Officer does not automatically cease to hold office as a consequence of dissolution before a Senedd general election. Conversely, the Deputy Presiding Officer ceases to hold office on the dissolution of the Senedd.

Either office holder may resign, and each would also cease to hold office upon ceasing to be a Senedd Member otherwise than by virtue of a dissolution (e.g. by

resignation as a Senedd member) or by being removed from office by resolution of the Senedd.

Chairing the Senedd Commission

The 2006 Act created a body corporate called the Senedd Commission to provide the Senedd with the property, staff and services it needs (discussed in more detail in Part 6). The Commission's membership consists of the **Presiding Officer and four other Senedd Members.** The Presiding Officer chairs meetings of the Senedd Commission. If there's no Presiding Officer in post, or if the Presiding Officer is unable to act, then the Senedd Commission may appoint another of its members to preside over meetings.

Chairing the Business Committee

The Business Committee is responsible for the organisation of Senedd Business. Its role is to "facilitate the effective organisation of Senedd proceedings". The Presiding Officer chairs the meetings, **which are attended by** the Trefnydd and a Business Manager from each of the other political groups represented in the Senedd.

For these purposes, the Standing Orders define a political group as at least three Members belonging to the same registered political party that won at least one seat at the previous Senedd election. Three or more members not fitting this criteria may also form a political group if the Presiding Officer is satisifed that exceptional circumstances apply.

Presiding Officer functions and powers under the 2006 Act

These include:

- Power to vary the date of a Senedd general election by one month earlier or later than the statutory election date (section 4(1));
- Fixing the date of a by-election if there's a vacant constituency seat (section 10(4));
- Administering the oath or affirmation to anyone giving evidence in Senedd proceedings (section 40 (1)(b));
- Designating a person to act as First Minister on the recommendation of the Welsh Ministers if the First Minister is unable to act, has ceased to be a Senedd Member, or if the office is otherwise vacant (section 46(5));

- Recommending to the Monarch the Senedd's choice of First Minister (section 47(4));
- Deciding and stating whether the provisions of a Senedd Bill, in the Presiding Officer's view, are within the Senedd's legislative competence (section 110(3));
- Requirement to be notified in various circumstances:
  - The name of a person to fill a vacant regional seat (section 11(2));
  - A Member's resignation (section 15);
  - If the Welsh Government issues a direction that a person need not comply with a call to attend Senedd proceedings or produce documents in their possession (section 38(5)(a)).

6. The Senedd Commission

The 2006 Act created the Senedd Commission. This is a statory body created to provide the Senedd with the resources it requires to carry out its role effectively.

Section 27 of the 2006 Act provides for the establishment, membership and functions of the Commission and compels it to provide the Senedd (or to arrange for the Senedd to be provided) with the staff, property and services required for its purposes.

The **Commission's membership** consists of the Presiding Officer and four other Senedd Members. In the Sixth Senedd, the Commissioners are:

- Elin Jones MS (Chair);
- Janet Finch-Saunders MS (Welsh Conservatives);
- Ken Skates MS (Welsh Labour);
- Rhun ap Iorwerth (Plaid Cymru); and
- Joyce Watson MS (Welsh Labour).

Appointment of Commission Members

As soon as reasonably practicable after a Senedd general election, the Senedd must consider a motion tabled by the Business Committee proposing the names of the four Members to be appointed as members of the Commission under the Act.

So far as is reasonably practicable, members of the Commission (other than the Presiding Officer) must belong to different political groups.

If there are four or more political groups in the Senedd, it is for the four largest political groups to inform the Business Committee of the relevant nominee from their political group.

If there are fewer than four political groups in the Senedd, each political group must inform the Business Committee of their nominee and the Business Committee will determine the name of any additional Members to be nominated.

If there are two or more political groups with the same number of members, the Presiding Officer, having regard to the level of electoral support of each of the

political groups in question, determines which of those political groups is to be regarded as the larger.

Resignation or Removal from Office

A member of the Commission resigns from the Commission by giving notice in writing to the Clerk, but the Presiding Officer cannot resign from the Commission.

Any Member may table a motion proposing that a particular Member (other than the Presiding Officer) be removed from the Commission. If the motion is agreed to in a Plenary meeting the Member is removed from the Commission with immediate effect.

Finance and Annual Report

After each financial year, the Commission **must** publish and **lay a report before the Senedd** relating to the exercise of its functions during that financial year.

The Senedd Commission must also prepare accounts for each financial year. The accounts are submitted to the Auditor General for Wales, the statutory external auditor of **most of the Welsh public sector,** for examination and certification.

Other duties and powers

Under **Paragraph 8 of Schedule 2 to the 2006 Act,** the Senedd Commission must apply the principles of sustainable development, equality of opportunity and equal treatment of the English and Welsh languages to the exercise of its functions.

Paragraph 5 of schedule 2 also provides a power for the Senedd Commission to promote public awareness of the systems of devolved government and Senedd elections in Wales.

7. Acts of the Senedd and the Legislative Process

What are Acts of the Senedd?

Under **Part 4** of the Government of Wales Act 2006 (the '2006 Act'), the Senedd may make laws known as 'Acts of the Senedd' in all areas where it has legislative competence.

The model of devolution in Wales is based on the reserved powers model. This means that the Senedd has competence to pass laws on any matter except those matters which are expressly reserved to the UK Parliament in the 2006 Act.

The scope of the Senedd's legislative competence is set out in **Section 108A** and **Schedules 7A** and **7B** of the 2006 Act.

A Senedd Act has the same legal force and status as an Act of the UK Parliament. For example, conditional on being within the Senedd's legislative competence; a Senedd Act can modify existing UK Parliament legislation and make new provision not covered by existing statutes.

However, the UK Parliament **reserves the right** to make laws for Wales, even on devolved matters over which the Senedd has legislative competence. This is subject to a constitutional convention that the UK Parliament will not normally do so without the consent of the Senedd. (This is explored further in Part 9).

Introducing a Bill

Under section 110 of the 2006 Act, Bills may be introduced in the Senedd by the First Minister, any of the Welsh Ministers, any Deputy Welsh Minister, the Counsel General or any Senedd Member.

The statutory provisions in the 2006 Act are supplemented by Senedd Standing Orders which provide a more complete framework controlling the process of Bill introduction in the Senedd. The Standing Orders provide that Bills may be introduced by:

- A member of the Welsh Government;
- Senedd committees;
- The Senedd Commission; or

- A Senedd Member chosen in a **ballot** process.

Different types of Senedd Bills

Senedd Bills may be:

- **Public Bills** - seeking to change the law as it applies to the general population;
- **Private Bills** – where a promoter, usually an individual or organisation is seeking particular powers that are in excess of, or in conflict with, the general law. Private Bills only change the law as it applies to the specific promoter, rather than the general population; or
- **Hybrid Bills** - a Public Bill introduced by a member of the Welsh Government which affects a particular private interest of an individual or body in a manner different to the private interests of other individuals or bodies of the same category or class.

To date, all Bills considered by the Senedd have been Public Bills

Procedure for introducing Bills

Standing Order 26 sets out the detailed procedures for scrutinising Public Bills in the Senedd. This covers the procedure for initial introduction through to notification of Royal Assent.

Irrespective of who introduces a Bill to the Senedd, the person in charge of the Bill must, on or before the Bill's introduction, make a statement expressing their view that the provisions in the Bill would be within the Senedd's legislative competence. They must also make a written statement about the potential impact (if any) of the Bill's provisions on the justice system in England and Wales, known as a '**justice impact assessment**'.

The Presiding Officer must also decide whether or not, in their view, it would be within the Senedd's legislative competence on or before the introduction of a Bill and state that decision.

A Bill must be introduced in both English and Welsh except in the following cases:

- when, in respect of a Government Bill, the Member in charge states in writing that, for specified reasons, it would not be appropriate in the circumstances or reasonably practicable for the Bill to be introduced in both languages; or
- when not doing so is in accordance with determinations issued by the Presiding Officer.

At the same time as a Member introduces a Bill, they must also lay an Explanatory Memorandum containing specific information. This includes their determination about legislative competence, the policy objectives of the Bill, an objective summary of what each provision is intended to do and best estimates of the Bill's costs implications.

Section 111 of the 2006 Act contains provisions regarding the procedural aspects of Bill proceedings in the Senedd. The effect of the provision is that Senedd Bills must go through at least three scrutiny stages in the Senedd:

- a general debate and an opportunity to vote on a Bill's general principles;
- a stage involving consideration of, an opportunity for members to vote on, the details of a Bill; and
- a final stage at which a Bill can be passed or rejected.
- **In practice** however, as is discussed in more detail below, Senedd Bills generally go through a four-stage scrutiny process with the option of an additional Report Stage between stages 3 and 4.

*Note: there are separate procedures in place for the consideration of emergency Bills in the Senedd, explained **here.**

Super-majority requirement for certain legislation

The Wales Act 2017 **amended** the 2006 Act to introduce the concept of 'protected subject matters'.

If a Senedd Bill relates to a protected subject matter, the Bill cannot be passed and become law unless two-thirds of the total number of Senedd seats vote in favour of it at the final stage. This is known colloquially as a 'supermajority' vote.

In this context, a Bill 'relates to' a protected subject matter if it would modify, or confer power to modify any of the following matters:

a) the name of the Senedd;

b) the persons entitled to vote as electors at an election for membership of the Senedd;

c) the system by which members of the Senedd are returned;

d) the specification or number of constituencies, regions or any equivalent electoral area,

e) the number of members to be returned for each constituency, region or equivalent electoral area; and

f) the number of persons who may hold the office of Welsh Minister appointed under section 48 of the 2006 Act or the office of Deputy Welsh Minister.

The Presiding Officer is **responsible in the first instance** for deciding whether a Bill relates to a protected subject-matter. However, the Counsel General or UK Attorney General may **refer the question to the Supreme Court** for a decision within four weeks of rejection or acceptance of a Bill, dependent on the circumstances.

The legislative process

Before a Bill may be considered by the Senedd, it must be formally introduced into the Senedd. In practice, this means the Bill is laid with officials in the Senedd's Table Office who arrange for the Bill to be published on the Senedd's website.

Stage 1: Consideration of General Principles

This stage involves the consideration of the general principles of a Bill by one or more Senedd committee, followed by a debate and vote in the Senedd.

The committee focuses on the main purposes of the Bill. The committee may also invite representations from interested parties, and may take written and oral evidence to inform its work.

Once the committee has reported, the Senedd will be asked to debate and vote on the Bill's general principles, known as the 'Stage 1 debate'.

If the Senedd votes in favour of the Bill's general principles, the Bill progresses to Stage 2.

Stage 2: Detailed Consideration by Committee (amending stage)

This stage involves the detailed consideration of a Bill and proposed Member amendments by a committee.

Any Member of the Senedd may table amendments to a Bill and there is no limit to the number of amendments that may be tabled. However, only committee members may vote on amendments. This stage ends when all the amendments have been considered.

In some cases, proposed Bills, if passed, would lead to increased expenditure charged on the Welsh Consolidated Fund or give rise to new funding requirements from the fund. Because of this, the Presiding Officer decides in every case whether a financial resolution is required, giving the Senedd an opportunity to vote on any additional expenditure.

Stage 2 proceedings cannot take place until a financial resolution is agreed by the Senedd. If a financial resolution is not agreed within six months of the agreement by the Senedd of the general principles of a Bill at Stage 1, the Bill falls.

Stage 3: Consideration of a Bill in Plenary (amending stage)

This stage follows the completion of Stage 2 and involves the detailed consideration, by the Senedd as a whole, of the Bill and any amendments proposed by Members of the Senedd.

Any Member may table amendments to the Bill, but the Presiding Officer can decide which amendments will be considered by the Senedd.

Stage 3 is completed when the last amendment has been disposed of, or the last section or schedule has been deemed to be agreed, whichever is the later.

Other amending stages

If the Senedd wishes, it may also consider a Bill at Report Stage and Further Report Stage.

Amendments considered during Report Stage are subject to the same processes and procedures as amendments considered during Stage 3 proceedings.

Stage 4: Final stage

This is the last stage of the process and follows the completion of Stage 3 (or the final amending stage, as applicable). At this Stage, the Senedd votes on whether to pass the final text of the Bill.

Following the completion of Stage 3 (or Report Stage) proceedings, a motion may be tabled that the Bill be passed. Such motion may not be considered until at least five working days after the completion of Stage 3 (or Report Stage, as applicable). Alternatively, with the agreement of the Presiding Officer, a motion may move that the Bill be passed immediately.

If a Bill has been passed by the Senedd, there is a four week period, during which:

- the Counsel General or Attorney General can refer the question of whether the Bill, or any provision of the Bill, is within the Senedd's legislative competence to the Supreme Court for a decision; and
- the Secretary of State may **make an order** prohibiting the Bill from being sent for Royal Assent on certain grounds (such as believing that the Bill's provisions would have an adverse effect on the law as it operates in England).

If a challenge is not forthcoming, the **Presiding Officer submits** the Bill for Royal Assent by the Queen in Council. A Bill receives Royal Assent when Letters Patent (a type of legal instrument) under the Welsh Seal, signed with the Monarch's own hand are notified to the Senedd's clerk.

Member Bills

The Presiding Officer must from time to time hold a ballot to determine the name of a Member, other than a member of the Welsh Government, who wishes to introduce a Member Bill.

The Presiding Officer must include in the ballot the names of all Members who have applied to be included and who have tabled pre-ballot information, which is the proposed title of the Bill and its proposed policy objectives.

If successful in a ballot, the Member must seek leave of the Senedd to introduce the Bill. The Member may table a motion seeking such consent within 25 working days of the ballot and must be accompanied by an Explanatory Memorandum setting out:

i) the proposed title of the Bill;

ii) the proposed policy objectives of the Bill;

iii) details of any support received for the Bill, including details of any consultation carried out; and

iv) an initial assessment of any costs and/or savings arising from the Bill.

In the Fourth Assembly this process resulted in the **Nurse Staffing Levels (Wales) Act 2016**, and the **Mobile Homes (Wales) Act 2013.**

8. Subordinate Legislation

Most of the United Kingdom's general public law is made through subordinate legislation. This is legislation made by a person or body under powers conferred on them by primary legislation.

In Wales, **subordinate legislation is generally made by Welsh Ministers** under powers conferred on them by enabling acts, such as Senedd Acts, Acts of the UK Parliament or Assembly Measures.

While Senedd Acts and Acts of Parliament provide a framework for laws, much of the detail is often subsequently added through subordinate legislation. It can be used to flesh out, update and amend primary legislation without the Senedd or UK Parliament having to pass a new Act each time.

Subordinate legislation is also known as **delegated legislation** because the power to make subordinate legislation is delegated by the enabling act. It is also commonly referred to as **secondary legislation**.

Subordinate legislation is defined in **Schedule 1 to the Legislation (Wales) Act 2019** as:

> [...] regulations, orders, rules, Orders in Council, schemes, warrants byelaws and other instruments made under a Senedd Act, an Assembly Measure, an Act of Parliament or Retained EU Law.

In practice, most subordinate legislation is made using a form of legislation called a '**statutory instrument',** or 'SI' for short.

Senedd procedure on Statutory Instruments

The **Statutory Instruments Act 1946** ('SI Act') establishes a degree of uniformity in the way different types of subordinate legislation are made and scrutinised by parliaments in the UK.

Many SIs are subject to Senedd or UK Parliamentary scrutiny. When subordinate legislation is made as a statutory instrument, the rules and parliamentary procedures set out in the SI Act apply to that legislation. The enabling piece of primary legislation indicates the level of parliamentary control to be assigned to a particular SI.

SIs subject to parliamentary scrutiny may be assigned to one of the following forms of scrutiny procedure, each of which is explored in further detail below:

- Negative resolution procedure;
- Affirmative resolution procedure; and
- Strengthened procedure (enhanced or super-affirmative).

Negative procedure

Most subordinate legislation made by the Welsh Ministers is subject to the negative procedure.

Subordinate legislation subject to the negative procedure becomes law on a stated date, which is usually included in the introductory text of the SI. It remains law unless the Senedd objects by passing a motion resolving that the SI should be annulled, or it is declared unlawful by the courts.

How does the process work?

- The relevant SI is generally 'made' (formally signed off) by Welsh Ministers in the first instance;
- It is then laid before the Senedd and must be accompanied by an Explanatory Memorandum and, if relevant, any Regulatory Impact Assessment prepared in relation to that SI;
- The SI should be laid before the Senedd at least 21 days before it comes into force (discussed further below);
- Within 40 days of the relevant SI being laid, any Member may table an unamendable motion calling on the Senedd to resolve that the instrument be annulled;
- If the Senedd votes to annul the SI, it stops having legal effect.

Affirmative procedure

More substantial and important pieces of subordinate legislation made by statutory instrument are subject to greater control than negative instruments.

Statutory instruments subject to the affirmative resolution procedure require the active approval of the Senedd before they can be made or come into force as law.

Where an SI is subject to affirmative resolution:

- The SI is first laid before the Senedd, usually in draft form. It must be accompanied by an Explanatory Memorandum and, if relevant, any Regulatory Impact Assessment prepared in relation to that SI;
- Thereafter, any member of the Welsh Government may table an unamendable motion calling on the Senedd to approve the SI;
- However, such a motion cannot be considered in Plenary until the earliest of the following:
  - the responsible Senedd legislative affairs committee (currently the **Legislation, Justice and Constitution Committee**) has reported on the draft SI;

    and

  - Any other Senedd committee has reported on the SI after giving notice to the Welsh Government of its intention to do so;

    or

  - at least 20 days have elapsed since the SI was laid.
- If the Senedd votes to approve the SI, the Welsh Ministers can then make the SI, and/or it can come into force or continue in force, as applicable.

Super-affirmative procedure

The super-affirmative, or 'enhanced procedure' provides for an even higher level of parliamentary scrutiny than the affirmative procedure.

This procedure is reserved for a small proportion of subordinate legislation. It is generally required under enabling acts to approve legislation which delegates wide executive powers by regulation.

While there's no uniform enhanced procedure mandated under the SI Act or Senedd Standing Orders, measures may include:

- imposing a requirement on Welsh Minister to lay a draft before the Senedd for an extended period of time (typically for 60 days);
- taking into account representations made by the Senedd and its committees or other organisations and stakeholders during that period; and

- considering whether, in the light of such representations, to revise the final draft laid before the Senedd for approval.

The following pieces of legislation contain examples of enhanced procedural requirements before the Welsh Ministers may make certain types of subordinate legislation:

- **Public Bodies Act 2011**: Under Section 13, the Welsh Ministers have wide powers to modify the functions of various environmental and agricultural bodies by 'order' (a type of subordinate legislation).
- The power to make an order is subject to a minimum 12-week consultation and a draft order, accompanied by an explanatory document, must be laid before the Senedd for at least 40 days before an order may be made.
- **Local Government (Wales) Measure 2009**: Section 31 of the Measure empowers the Welsh Ministers to modify or exclude the application of laws which apply to authorities by way of order in certain circumstances.
- As a safeguard, Section 32 imposes consultation requirements on the Welsh Ministers, a requirement to lay a draft order before the Senedd for 60 days, consider representations received and explain changes made to the order as a result of such representations.

Other procedures

No procedure -	Some statutory instruments are not subject to any formal Senedd procedure at all. While some of these SIs must be laid before the Senedd, others need not. For example, legislation specifying when primary legislation comes into force (known as 'commencement orders') is not subject to any formal procedure and doesn't need to be laid before the Senedd.
Made-affirmative -	The made-affirmative is a variant of the 'affirmative resolution procedure'. Under this procedure, the SI is laid after being made by Ministers and is law immediately, but may not necessarily immediately come into force. However, the SI cannot remain law unless it is approved by the Senedd within a certain period of time (usually 28 or 40 days). This procedure has been used extensively by the Senedd to approve various **Health Protection (Coronavirus Restrictions) (Wales) Regulations.**

Committee scrutiny of Statutory Instruments

The way the Senedd deals with SIs is set out under **Standing Order 21.**

This sets out the key functions of a Senedd committee which must consider and report on all relevant statutory and draft statutory instruments laid in the Senedd (the 'Responsible Committee'). The Responsible Committee in the sixth Senedd is the **Legislation, Justice and Constitution Committee.**

Broadly, the Responsible Committee conducts two exercises in respect of SIs:

- **Technical scrutiny** – which is mandatory; and
- **Merits scrutiny** – which is discretionary.

Technical scrutiny

Under Standing Order 21.2, the Responsible Committee must undertake technical scrutiny of statutory instruments. This requires it to consider all relevant SIs or draft SIs laid in the Senedd and to report on whether the Senedd should pay special attention to the instrument on any of the following grounds:

- that there appears to be doubt as to whether it is intra vires (i.e. within the competence of Welsh Ministers);
- that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made;
- that the enactment which gives the power to make it contains specific provisions excluding it from challenge in the courts;
- that is appears to have retrospective effect where the authorising enactment does not give express authority for this;
- that for any particular reason its form or meaning needs further explanation;
- that its drafting appears to be defective or it fails to fulfil statutory requirements;
- that there appear to be inconsistencies between the meaning of its English and Welsh texts;
- that it uses gender specific language;
- that it is not made or to be made in both English and Welsh;
- that there appears to have been unjustifiable delay in publishing it or laying it before the Senedd; or

- that there appears to have been unjustifiable delay in sending notification under section 4(1) of the **Statutory Instruments Act 1946** (as modified).

Legal advisers to the Responsible Committee consider all relevant SIs against these grounds and prepare individual draft reports for each one identifying any technical matters arising (a 'draft report'). Members of the Responsible Committee receive draft reports in advance of Committee meetings. At their meetings, all technical reporting points are identified and the Committee may decide to note the points, seek clarifications from the Welsh Government or take other follow-up action. After approving a draft report, it becomes a committee report.

Merits scrutiny

Standing Order 21.3 gives the Responsible Committee discretion to undertake 'merits scrutiny'. This encompasses consideration of matters that are likely to be of interest to the Senedd, such as a statutory instrument that does not implement policy in the way claimed or that is considered to be politically contentious or significant. The Responsible Committee may report such 'merits points' for an SI on the following grounds:

- that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment;
- that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd;
- that it is inappropriate in view of the changed circumstances since the enactment under which it is made or is to be made was itself passed or made; or
- that it imperfectly achieves its policy objectives.

Dealing with negative procedure SIs

The Responsible Committee must make any report under Standing Orders 21.2 (mandatory technical reporting points) and 21.3 (discretionary merits reporting points) within 20 days of the instrument or draft being laid in the Senedd (excluding days when the Senedd is in recess for more than four days).

This is to enable the Committee's reports to be taken into account by the Senedd and the Welsh Government in good time before the statutory instrument is scheduled to come into force.

Negative instruments become and remain law unless an annulment motion is passed by the Senedd. Therefore, the timely laying of Responsible Committee reports makes the Senedd aware of reporting points identified by the Committee and provides an opportunity for any Senedd Member to table an annulment motion.

By convention, statutory instruments should be laid before the Senedd at least 21 days before coming into force. This is colloquially known as the 21-day rule. If this is not achieved (known as 'breaching the 21-day rule), the Welsh Ministers **must** notify the Presiding Officer of this fact when the SI is laid and explain the reasons why it happened. A record of these notifications can be found **here.**

Dealing with affirmative procedure SIs

Similarly to negative instruments, motions to approve affirmative procedure statutory instruments cannot be considered in Plenary until the Responsible Committee or any other committee has reported on the draft instrument, or at least 20 days have elapsed since the instrument was laid - whichever is earlier.

If a committee other than the Responsible Committee intends to report on an instrument, it must notify the Welsh Government of its intention to do so within seven days of the SI being laid.

Given that the Welsh Government may table a motion to approve an affirmative resolution SI or draft SI after 20 days, the Responsible Committee must report within this period to ensure that its reporting points and views can be taken into account when the SI is debated in Plenary before a vote.

Further subordinate legislation resources

Further information about SIs may be found on the following websites:

- Welsh SIs are published on the **subordinate legislation pages** on the Senedd's website as soon as they are laid.
- The **Legislation, Justice and Constitution Committee's website** includes sections explaining its scrutiny functions in relation to SIs.

- Other subordinate legislation (such as road closure orders) which have no formal procedure are included on the **Welsh Government's web pages**.
- All UK statutory instruments published since 1987 are available on **legislation.gov.uk.**

9. Legislative Consent Motions

When the UK Parliament wishes to legislate on a subject matter which has already been devolved to the Senedd, Scottish Parliament or Northern Ireland Assembly; convention requires it to receive consent in advance by the relevant devolved legislature. Such consent is given through Legislative Consent Motions.

Background: The 'Sewel Convention'

The legislative consent convention providing that the UK Parliament will not normally legislate in devolved policy areas without devolved consent, is colloquially known as the 'Sewel Convention'.

It was so-called after Lord Sewel, who was Minister of State in the Scottish Office during the passage of what became the **Scotland Act 1998**. During the Bill's Committee stage, **Lord Sewel said** that the Government expected a:

> [...] convention to be established that Westminster would not normally legislate with regard to matters within the competence of the Scottish parliament without the consent of that parliament.

Originally embodying this convention in practice, a **Memorandum of Understanding** agreed between the UK Government and devolved legislatures in 2001, and subsequently updated in 2012, states:

> The United Kingdom Parliament retains authority to legislate on any issue, whether devolved or not. It is ultimately for Parliament to decide what use to make of that power. However, the UK Government will proceed in accordance with the convention that the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature. The devolved administrations will be responsible for seeking such agreement as may be required for this purpose on an approach from the UK Government.

When the UK Government subsequently planned to pass a bill within Scottish devolved competence, it sought the consent of the Scottish Parliament for the inclusion of such provisions.

Thereafter, the Scottish Government prepared Sewel Memorandums setting out the Bill's objectives and usually indicating whether the Parliament should consent to the proposed provisions. The Bill was then debated and the Scottish Parliament voted on a 'Sewel Motion' to either grant or refuse consent.

Since 30 November 2005, a change of terminology saw Sewel motions became known as 'Legislative Consent Motions', and 'Sewel Memorandums' replaced with 'Legislative Consent Memorandums'.

Legislative Consent Motions and the Senedd

Since the then Assembly first acquired primary legislative powers under the 2006 Act, the principles of legislative consent have been extended to Wales.

The Wales Act 2017 amended the Government of Wales Act 2006 to place the Sewel convention on a statutory footing. **Section 107(5)** of the 2006 Act recognises that the power of the Senedd to make Acts of the Senedd does not affect the power of the UK Parliament to make laws for Wales, but states that:

> [...] it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Senedd.

The UK Government's Devolution Guidance Note on **post-devolution primary legislation affecting Wales** emphasises the importance of dialogue between Whitehall Departments and the Welsh Government when formulating legislative proposals. It states:

> As early as possible in policy development, UK government departmental Bill teams should contact the Wales Office to seek initial advice before engaging with the Welsh Government on any Welsh devolution issues relating to a Bill. Departmental Bill teams should develop close working relationships with the Welsh Government on any specific areas of devolved policy relating to those Bills, and ensure timely sharing of information from an early stage in the legislative process. The Wales Office advises and supports departments in doing this.

When is a legislative consent memorandum required?

Standing Order 29 details how the Senedd deals with consent in relation to UK Parliamentary Bills.

The procedures under Standing Order 29 relate to any '**Relevant Bill'**. This is defined as a Bill under consideration in the UK Parliament which makes provision ('**relevant provision'**) in relation to Wales:

i) **for any purpose within the legislative competence of the Senedd**, generally excluding incidental and consequential matters; or

ii) which **modifies the legislative competence of the Senedd**.

The Standing Orders provide that a member of **the Welsh Government must lay a legislative consent memorandum before the Senedd in relation to**:

i) **any UK Government Bill that is a relevant Bill** on its introduction to the first House, normally no later than two weeks after introduction;

ii) **any UK Private Member's Bill that was a relevant Bill on introduction** and remains a relevant Bill after the first amending stage in the House in which it was introduced, normally no later than two weeks after it completes that stage;

iii) **any Bill introduced into the UK Parliament that**, by virtue of amendments:

a) agreed to; or

b) tabled by a Minister of the Crown or published with the name of a Minister of the Crown in support,

in either House, **makes (or would make) relevant provision** for the first time or beyond the limits of any consent previously given by the Senedd, normally no later than two weeks after the amendments are tabled or agreed to.

Under Standing Order 29.2A, a legislative consent memorandum must also be laid by any Senedd member, other than a member of the Welsh Government, who intends to table a legislative consent motion in respect of a relevant Bill. However, they must not normally do so until after a memorandum has been laid by a member of the Welsh Government.

What information must a legislative consent memorandum contain?

Under Standing Order 29.3, a legislative consent memorandum must, amongst other things:

- summarise the policy objectives of the Bill;
- specify the extent to which the Bill makes (or would make) relevant provision (defined above); and
- explain whether it is considered appropriate or that provision to be made and for it to be made by means of the Bill.

What happens after a legislative consent memorandum has been laid?

The Senedd's Business Committee must normally refer any legislative consent memorandum to one or more Senedd committees for consideration. It must also establish and publish a timetable for those committees to consider and report on it.

- During the Fifth Senedd, the Legislation, Justice and Constitution Committee **considered** 48 Legislative Consent Memorandums and Supplementary Memorandums relating to 32 UK Bills, and produced 33 reports.
- Once a legislative consent memorandum has been laid, a member of the Welsh Government, or any Senedd Member which has laid their own legislative consent memorandum, may table a **legislative consent motion** seeking the Senedd's agreement to the inclusion of a relevant provision in a relevant Bill. Whilst the Standing Orders do not require a consent motion to be tabled, the Llywydd has **determined** that the Senedd cannot be said to have consented to the relevant provision unless it has had an opportunity to vote on a motion.
- If a consent motion is tabled, the Senedd must consider it. However, if a consent memorandum has been referred to a committee for consideration, a consent motion can't be debated until the applicable committee has reported, or the deadline for reporting has been reached.
- Legislative consent motions are considered in Plenary by way of a debate, culminating in a vote on whether to approve or reject the motion.

The legal nature of the Sewel convention

The Sewel Convention is a non-binding, non-justiciable, political convention which does not give rise to legally enforceable obligations.

As discussed above, before being placed on a statutory footing in the devolution settlements, the convention was embodied in the Memorandum of Understanding between the UK and devolved governments. Whilst the Memorandum set out the UK Government's commitment to the legislative consent convention, it also stated:

> This Memorandum is a statement of political intent, and should not be interpreted as a binding agreement. It does not create legal obligations between the parties. It is intended to be binding in honour only.

Following legal codification of the Sewel Convention, its legal nature was considered by the Supreme Court in the 2017 **Miller case.**

Despite statutory codification, the court was not persuaded that this had converted it into a rule which could be interpreted and enforced by the courts. It considered that the purpose of placing the convention on a statutory footing was to entrench it as a convention.

The court applied the 'well-established principled' - **courts of law cannot enforce political conventions.**

The Supreme Court recognised that the convention had an important role in facilitating harmonious relationships between the UK Parliament and the devolved legislatures. It also said that the Sewel Convention operated as a political constraint on the activity of the UK Parliament. However, ultimately, it did not consider that the manner of its operation lay within the constitutional remit of the judiciary.

It follows that any sanction for failing to observe the Sewel Convention is political, rather than legal, in nature.

10. The Secretary of State for Wales

The Secretary of State for Wales ('Secretary of State') is a UK Government cabinet member responsible for the overall strategic direction of the UK Government in Wales. **The Secretary of State is not a member of the Senedd or the Welsh Government.**

The post was originally created in 1964 by the Labour Government under the Rt.Hon. Harold Wilson MP.

The incumbent Secretary of State is the **Rt.Hon. Simon Hart MP,** appointed on 16 December 2019.

The Secretary of state is supported by Parliamentary Under Secretary of State, **David TC Davies MP.** Both are supported by the Office of the Secretary of State for Wales, commonly known as the 'Wales Office'.

Its website states:

> The Office of the Secretary of State for Wales supports the Welsh Secretary and the Parliamentary Under Secretary of State in promoting the best interests of Wales within a stronger United Kingdom. It ensures Welsh interests are represented at the heart of the UK government and the UK government's responsibilities are represented in Wales.

The Secretary of State's **stated objectives** are to:

- Promote the Welsh economy and the economic interests of Wales;
- Ensure the devolution settlement continues to deliver a clear, fair and strong settlement for Wales; and
- Represent Wales' interests within the UK government, and to promote a wider understanding of UK government policies in Wales.

Functions of the Secretary of State for Wales

Under the Government of Wales Act 1998, most of the Secretary of State's functions transferred to the then National Assembly for Wales.

The UK Government's 2011 **Cabinet Manual states** that the Secretary of State for Wales represents the interests of Wales in the UK Government and promotes the UK Government's objectives in Wales.

The Secretary of State's current functions and role are set out in more detail in the UK Government's 2005 **Devolution Guidance Note 4.** The document has not been updated since the Assembly gained full law-making powers in 2011, or since the Assembly was renamed Senedd Cymru. It states that the Secretary for State shall:

- act as guardian of the devolution settlement in Wales;
- ensure that the interest of Wales are fully taken into account by the UK Government in making decisions which will have effect in Wales;
- represent the UK Government in Wales; and
- oversee the progress through [the UK] Parliament of primary legislation making separate provision for Wales.

The Secretary of State for Wales and Elections

The 2006 Act gave the Secretary of State certain powers in relations to then Assembly elections. Under the original 2006 Act, the Secretary of State could vary the date of general and extraordinary Assembly elections and make provisions as to the conduct of such elections.

These powers were devolved under the Wales Act 2017. The power to vary election dates now resides with the Presiding Officer, and the Welsh Ministers have powers to make provisions about elections by order.

Under Section 13A of the 2006 Act (inserted under the Wales Act 2017), the Secretary of State may make provision to combine the polls at general and extraordinary Senedd elections with the polls at certain UK Parliamentary elections. But the Secretary of State must obtain the agreement of the Welsh Ministers before making any such regulations.

Previous office holders

Name	Party	Term
Rt. Hon Alun Cairns MP	Conservative	March 2016 – November 2019
Rt. Hon. Stephen Crabb MP	Conservative	July 2014 – March 2016
Rt. Hon. David Jones MP	Conservative	September 2012 – July 2014
Rt. Hon. Cheryl Gillan MP	Conservative	May 2010 – September 2012
Rt. Hon Peter Hain MP	Labour	June 2009 – May 2010
Rt. Hon Paul Murphy MP	Labour	January 2008 – June 2009
Rt. Hon Peter Hain MP	Labour	October 2002 – January 2008

Rt. Hon Paul Murphy MP	Labour	July 1999 – October 2002
Rt. Hon Alun Michael MP	Labour	October 1998 – July 1999
Rt. Hon Ron Davies MP	Labour	May 1997 – October 1998
Rt. Hon William Hague MP	Conservative	July 1995 – May 1997
Rt. Hon John Redwood MP	Conservative	May 1993 – June 1995
Rt. Hon David Hunt MP	Conservative	May 1990 – May 1993
Rt. Hon Peter Walker MP	Conservative	June 1987 – May 1990
Rt. Hon Nicholas Edwards MP	Conservative	May 1979 – June 1987
Rt. Hon John Morris MP	Labour	March 1974 – May 1979
Rt. Hon Peter Thomas MP	Conservative	June 1970 – March 1974
Rt. Hon George Thomas MP	Labour	April 1968 – June 1970
Rt. Hon Cledwyn Hughes MP	Labour	April 1966 – April 1968
Rt. Hon. James Griffiths MP	Labour	October 1964-April 1966