Neutral Citation Number: [2026] EWHC 670 (Admin)

Case No: AC-2025-CDF-000071

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT IN WALES

Cardiff Civil and Family Justice Centre
2 Park Street, Cardiff CF10 1ET

Date: 20/03/2026

Before :

LORD JUSTICE LEWIS
and
MR JUSTICE CHAMBERLAIN

- -

Between :

THE KING

on the application of

THE GREYHOUND BOARD OF GREAT BRITAIN LIMITED	**Claimant**
- and -	
THE WELSH MINISTERS	**Defendant**
- and -	
(1) THE SENEDD COMMISSION	**Interested Parties**
(2) LLYWYDD	

- -

Christian Howells (instructed by **Bird & Bird**) for the **Claimant**

Ian Rogers KC (instructed by the **Welsh Government Legal Services Department**) for the **Defendant**

Joanne Clement KC (instructed by the **Welsh Parliament Legal Service**) for the **First Interested Party**

Hearing dates: 10-11 March 2026

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Approved Judgment

Judgment approved subject to editorial corrections.
This judgment was handed down remotely at 2pm on 20 March 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

Lord Justice Lewis and Mr Justice Chamberlain:

Introduction

1. On 18 February 2025, the Deputy First Minister of Wales ("DFM") made a statement in the Senedd Cymru. In it, he expressed his belief that "now is the right time to move to ban greyhound racing in Wales". He went on to explain that the Welsh Ministers would be establishing an implementation group to engage with stakeholders, learn from other countries' approaches and advise the Government on "how a ban will come into force, the legislative approach and when it will be delivered".

2. On 29 April 2025, the Counsel General confirmed to the Senedd that the legislative programme would include primary legislation to ban greyhound racing. On 29 September 2025, the DFM introduced the Prohibition of Greyhound Racing (Wales) Bill ("the Bill") into the Senedd. The Bill passed stages 1 and 2 of the legislative procedure in December 2025, stage 3 on 10 March 2026 and stage 4 on 17 March 2026. The Bill has not yet been presented for Royal Assent.

3. The claimant is a limited company which represents the interests of those involved in the greyhound racing industry. On 19 May 2025, after the Welsh Ministers had announced their intention to seek primary legislation but before the Bill had been introduced into the Senedd, the claimant filed the present judicial review claim challenging the DFM's statement of 18 February 2025 on the ground that there had been an unlawful failure to consult before making it. The relief sought was a declaration to that effect and a quashing order to quash what the claimant described as "the decision to introduce a ban on greyhound racing in Wales".

4. Permission to apply for judicial review was granted by Eyre J on the papers on 24 November 2025. On 19 December 2025, Chamberlain J directed that the claim be heard by a Divisional Court in Cardiff on 10 and 11 March 2026. On 24 December 2025, after a representative of the claimant had given evidence at the committee stage, the claimant applied to amend the claim to challenge the decision of the Welsh Ministers to introduce the Bill. Recognising that this relief may affect the Senedd itself, the claimant sought to add the Senedd Commission as an interested party. On 6 February 2026, Chamberlain J adjourned the application for permission to amend, together with a later application for permission to adduce additional evidence, to be decided at the hearing, but joined the Senedd Commission and the Llywydd (or Presiding Officer) as interested parties.

5. At the hearing on 10 March 2026, Mr Christian Howells for the claimant made applications to amend the Claim Form and Statement of Facts and Grounds and to adduce the second witness statement of Mark Bird. Mr Ian Rogers KC for the Welsh Ministers opposed the former but not the latter. We granted the application to rely on the second witness statement of Mr Bird and indicated that we would deal with the application to amend the claim in our judgment. Ms

Joanne Clement KC made submissions for the Senedd Commission and the Llywydd on the substance of the amended claim.

6. As a result, there is before this Court: (i) a claim for judicial review of the DFM's statement of 18 February 2025; and (ii) an application to amend the claim to challenge the decision to introduce the Bill into the Senedd. The sole ground of challenge is that each of these was unlawful because the Welsh Ministers failed to carry out a public consultation before deciding to ban greyhound racing in Wales. This, it is said, was in breach of the claimant's legitimate expectation arising from statements made by the Welsh Ministers that they would consult before making any changes to policy in relation to greyhound racing.

7. Mr Howells for the claimant made clear that the relief sought is now limited to declaratory relief in the following terms:

> "a. There was an unlawful failure by the Defendants to consult on the proposal to ban greyhound racing in Wales;
>
> b. The Defendants' decision to ban greyhound racing in Wales was unlawful;
>
> c. The exercise of the statutory function by the DFM in his capacity as a Welsh Minister pursuant to section 110(1)(a) of GoWA [the Government of Wales Act 2006] was based on that unlawful decision and is consequently unlawful;
>
> d. The Defendants are expected to seek the permission of the Senedd to withdraw the Bill pursuant to Senedd Standing Order 26.79; and
>
> e. The Senedd is expected to permit withdrawal of the Bill."

8. Although Mr Howells does not seek any coercive relief against the Welsh Ministers, the Senedd or its Presiding Officer, he recognises that the consequence of declaration (c) would be that a Bill which has now passed its legislative stages in the Senedd would not be law, even if, contrary to the expectations referred to in declarations (d) and (e), it were submitted for and received Royal Assent.

9. Whether the Court has power to grant relief with that consequence on the grounds advanced here is a novel and important constitutional question. If not, that may be relevant to the question whether we should entertain a challenge to the prior decision announced on 18 February 2025. We accordingly begin with the question of principle whether decisions to introduce legislation in the Senedd are challengeable on the ground of breach of a failure to consult.

The law

The Government of Wales Act 2006

10. GoWA is the constitutional statute making provision for the government of Wales. It establishes both a legislature with powers to make primary legislation and an executive government and confers functions on that government. The structure of GoWA is as follows.

11. Part 1 is entitled "Senedd Cymru". Section 1 provides that there is to be a parliament for Wales to be known as Senedd Cymru or the Welsh Parliament and referred to as the Senedd. The remainder of Part 1 deals with matters to do with the Senedd: constituencies, the election of members, voting, candidates, allocation of seats, entitlement to vote, election arrangements, terms of office, resignation, disqualification, remuneration, the Presiding Officer (or Llywydd), the Clerk, the Senedd Commission, committees, standing orders and other matters. Sections 41-44 are headed "Legal issues". Section 41(3) provides:

> "In any proceedings against the Senedd the court must not grant a mandatory, prohibiting or quashing order or an injunction, make an order for specific performance or stay the proceedings but may instead make a declaration."

12. Part 2 is entitled "Welsh Government". Section 45 provides that there is to be a Welsh Government comprised of the First Minister, the Welsh Ministers, the Counsel General and the Deputy Welsh Ministers. The remainder of Part 2 deals with the appointment and remuneration of these, their functions and other ancillary matters. Section 57 provides that functions may be conferred or imposed on the Welsh Ministers and that these functions are exercisable on behalf of the King.

13. In Part A1, s. A1 provides that the Senedd established by Part 1 and the Welsh Government established by Part 2 are "a permanent part of the United Kingdom's constitutional arrangements".

14. Part 4 is entitled "Acts of the Senedd". Under the heading "Power", ss. 107 - 109 confer power on the Senedd's power to enact primary legislation for Wales. Section 107 provides materially as follows:

> "(1) The Senedd may make laws, to be known as Acts of Senedd Cymru or Deddfau Senedd Cymru (referred to in this Act as 'Acts of the Senedd').
>
> (2) Proposed Acts of the Senedd are to be known as Bills; and a Bill becomes an Act of the Senedd when it has been passed by the Senedd and has received Royal Assent.
>
> (3) The validity of an Act of the Senedd is not affected by any invalidity in the Senedd proceedings leading to its enactment…"

15. Section 108A provides that an Act of the Senedd "is not law so far as any provision of the Act is outside the Senedd's legislative competence". Section 108A(2) provides that a provision is outside the legislative competence of the Senedd so far as:

> "(a) it extends otherwise than only to England and Wales;
>
> (b) it applies otherwise than in relation to Wales or confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales;
>
> (c) it relates to reserved matters (see Schedule 7A);
>
> (d) it breaches any of the restrictions in Part 1 of Schedule 7B, having regard to any exception in Part 2 of that Schedule from those restrictions;
>
> (e) it is incompatible with the Convention rights".

The remaining provisions of s. 108A provide exceptions and further definitions.

16. Sections 110-116 appear under the heading "Procedure". Section 110 is headed "Introduction of Bills" and provides so far as material as follows:

> "(1) A Bill may, subject to the standing orders, be introduced in the Senedd—
>
> (a) by the First Minister, any Welsh Minister appointed under section 48 any Deputy Welsh Minister or the Counsel General, or
>
> (b) by any other Member of the Senedd."

17. Section 111 of GoWA is headed "Proceedings on Bills" and provides that standing orders must include provision for a general debate on a Bill with an opportunity to vote on its general principles, consideration of and a vote on the details and a final stage at which the Bill can be passed or rejected. Section 111A provides that a Bill dealing with certain matters (referred to as "protected subject-matter") may not be passed unless at least two thirds of the members of the Senedd vote in favour of it at the final stage.

18. Section 112 confers on the Counsel General or the Attorney General the power to refer to the Supreme Court the question whether any Bill, or any provision of a Bill, is within the Senedd's legislative competence. Section 111B confers on the same law officers an equivalent power to refer to the Supreme Court the question whether any Bill, or any provision in a Bill, relates to a protected subject matter. References under these powers must be made in the four-week period beginning with the passing or the Bill (or, in the case of a reference under s. 111B, the rejection of a Bill following a decision by the Presiding Officer that the Bill relates to a protected subject-matter).

19. Section 114 empowers the Secretary of State to make an order prohibiting the Presiding Officer from submitting the Bill for Royal Assent if it contains provisions which he or she has reasonable grounds to believe would have an adverse effect on a reserved matter or on the operation of the law as it applies in England, or would be incompatible with any international obligation or the interests of defence or national security. Such an order must be made in the four-week period beginning with the passage of the Bill or the day when a reference under s. 111B or 112 is decided or disposed of.

20. Section 115 deals with Royal Assent. Section 115(1) provides that it is for the Presiding Officer to submit Bills for Royal Assent. Section 115(2) provides that the Presiding Officer may not submit a Bill for Royal Assent at any time when the Attorney General or Counsel General are entitled to make a reference to the Supreme Court under ss. 111B or 112, such a reference has been made but not decided or otherwise disposed of, or an order may be made under s. 114.

The Supreme Court's decision in *Axa General Insurance Ltd v HM Advocate*

21. The powers of the Senedd are not identical to those of the Scottish Parliament, but the structure of GoWA is similar to that of the Scotland Act 1998. The Senedd enjoys the same power, within its area of legislative competence, to make laws—that is primary legislation—for Wales as the UK Parliament. All parties agree that it follows from this that the Supreme Court's analysis of the effect of the Scotland Act 1998 in *Axa General Insurance Ltd v HM Advocate* [2011] UKSC 46, [2012] 1 AC 868 applies to GoWA.

22. *Axa* involved a challenge to an Act of the Scottish Parliament relating to liability for injuries caused by asbestos. One key question was whether Acts of the Scottish Parliament could be challenged on the ground of irrationality. Lord Hope's analysis of that question began at [46]:

> "…The Scottish Parliament takes its place under our constitutional arrangements as a self-standing democratically elected legislature. Its democratic mandate to make laws for the people of Scotland is beyond question. Acts that the Scottish Parliament enacts which are within its legislative competence enjoy, in that respect, the highest legal authority. The United Kingdom Parliament has vested in the Scottish Parliament the authority to make laws that are within its devolved competence. It is nevertheless a body to which decision making powers have been delegated. And it does not enjoy the sovereignty of the Crown in Parliament that, as Lord Bingham of Cornhill said in *Jackson*, para 9, is the bedrock of the British constitution. Sovereignty remains with the United Kingdom Parliament. The Scottish Parliament's power to legislate is not unconstrained. It cannot make or unmake any law it wishes. Section 29(1) [of the Scotland Act 1998] declares that an Act of the Scottish Parliament is not law so far as any provision of the Act is outside the legislative competence of the Parliament."

23. It followed from this, and from the fact that there was no provision excluding this possibility, that Acts of the Scottish Parliament were not immune from the supervisory jurisdiction of the Court of Session at common law: [48]. But it was a separate question on what grounds the courts could review such Acts. As to that, Lord Hope said this at [49]:

> "The dominant characteristic of the Scottish Parliament is its firm rooting in the traditions of a universal democracy. It draws its strength from the electorate. While the judges, who are not elected, are best placed to protect the rights of the individual, including those who are ignored or despised by the majority, the elected members of a legislature of this kind are best placed to judge what is in the country's best interests as a whole. A sovereign Parliament is, according to the traditional view, immune from judicial scrutiny because it is protected by the principle of sovereignty. But it shares with the devolved legislatures, which are not sovereign, the advantages that flow from the depth and width of the experience of its elected members and the mandate that has been given to them by the electorate. This suggests that the judges should intervene, if at all, only in the most exceptional circumstances. As Lord Bingham of Cornhill said in *R (Countryside Alliance) v Attorney General* [2008] AC 719, para 45, the democratic process is liable to be subverted if, on a question of political or moral judgment, opponents of an Act achieve through the courts what they could not achieve through Parliament."

24. Lord Hope held that it was "not entirely unthinkable" that a government with a large majority may seek to use it to abolish judicial review or diminish the role of the courts. It followed that "[t]he rule of law requires that the judges must retain the power to insist that legislation of that extreme kind is not law which the courts will recognise": [51]. However, at [52], he made clear that:

> "Acts of the Scottish Parliament are not subject to judicial review at common law on the grounds of irrationality, unreasonableness or arbitrariness. This is not needed, as there is already a statutory limit on the Parliament's legislative competence if a provision is incompatible with any of the Convention rights: section 29(2)(d) of the Scotland Act 1998. But it would also be quite wrong for the judges to substitute their views on these issues for the considered judgment of a democratically elected legislature unless authorised to do so, as in the case of the Convention rights, by the constitutional framework laid down by the United Kingdom Parliament."

25. Lord Reed said this at [147]:

> "…it must have been Parliament's intention, when it established the Scottish Parliament, that that institution should have plenary powers within the limits upon its legislative competence which were created by section 29(2). Since its powers are plenary, they do not require to be exercised for any specific purpose or with regard to any specific

> considerations. It follows that grounds of review developed in relation to administrative bodies which have been given limited powers for identifiable purposes, and which are designed to prevent such bodies from exceeding their powers or using them for an improper purpose or being influenced by irrelevant considerations, generally have no purchase in such circumstances, and cannot be applied. As a general rule, and subject to the qualification which I shall mention shortly, its decisions as to how to exercise its law-making powers require no justification in law other than the will of the Parliament. It is in principle accountable for the exercise of its powers, within the limits set by section 29(2), to the electorate rather than the courts."

26. At [148], he continued:

> "Law-making by a democratically elected legislature is the paradigm of a political activity, and the reasonableness of the resultant decisions is inevitably a matter of political judgment. In my opinion it would not be constitutionally appropriate for the courts to review such decisions on the ground of irrationality. Such review would fail to recognise that courts and legislatures each have their own particular role to play in our constitution, and that each must be careful to respect the sphere of action of the other."

27. This was subject only to the question "whether the court possesses the power to intervene, in exceptional circumstances, on grounds other than those specified in section 29(2): as, for example, if it were shown that legislation offended against fundamental rights or the rule of law": [149]. The answer flowed from the principle of legality. At [153], Lord Reed explained:

> "Parliament did not legislate in a vacuum: it legislated for a liberal democracy founded on particular constitutional principles and traditions. That being so, Parliament cannot be taken to have intended to establish a body which was free to abrogate fundamental rights or to violate the rule of law."

28. The other members of the Court agreed in these respects with Lord Hope and Lord Reed.

Submissions

Submissions for the claimant

29. Mr Christian Howells for the claimant submitted that GoWA made clear that legislation could be introduced either by the Welsh Ministers or the Counsel General under s. 110(1)(a) or by any other Member of the Senedd under s. 110(1)(b). In this case, the Bill was introduced by the Welsh Ministers acting as such under s. 110(1)(a). The legality of the decision to introduce it is justiciable in the same way as any other decision of the Welsh Ministers. And if the issue

is justiciable, deciding it will not offend against the separation of powers: *R (Miller) v Prime Minister* [2019] UKSC 41, [2020] AC 373, [34] and [62]-[69].

30. Section 41(3) and (4) prevent the court from granting coercive relief against the Senedd or any Member of the Senedd, but do not prevent it from granting such relief against the Welsh Ministers acting as such. In any event, there is no prohibition on the grant of declaratory relief. The decision of the Inner House of the Court of Session in *Whaley v Lord Watson* 2000 SC 340 shows that the Scottish courts may in principle grant interim interdict to enforce a statutory provision governing the introduction of legislation, even though that relief would have "consequential effects on the workings of the Parliament". That decision is referred to in the Explanatory Notes to s. 41 of GoWA, so it was plainly intended that the same principles would apply to the Senedd.

31. Case law suggesting that consultation challenges do not lie in respect of decisions to introduce legislation at Westminster can be explained by the fact that, unlike the Senedd, the UK Parliament is a sovereign legislature whose proceedings are protected by Article IX of the Bill of Rights 1689 and the wider principle of Parliamentary privilege.

Submissions for the Welsh Ministers

32. Mr Ian Rogers KC for the Welsh Ministers submitted that, now that the Bill has been introduced into the Senedd, the claim as originally brought (challenging the ministerial statement of 18 February 2025) is academic. Permission to amend to challenge the introduction of the Bill into the Senedd should be refused because the application was not made until nearly three months after the introduction of the Bill and only after the first and second legislative stages were complete.

33. The statement of 18 February 2025 is not a justiciable decision, but a political expression of intent. It has no legal effect and does not affect legal rights. The claimant's formulation of relief has shifted repeatedly, but its objective is constant: to secure orders or declarations whose effect would be to prevent or reverse the introduction and progress of a Bill in the Senedd. Such relief is constitutionally impermissible, barred by section 41(3)-(4) of GoWA, and would amount to an unlawful interference with legislative proceedings under the principle of separation of powers. Declaratory relief cannot be used as an indirect means of compelling legislative action.

34. In any event, there was no breach of any legitimate expectation to consult before making the statement on 18 February 2025 or before introducing the Bill into the Senedd. At most, the claimant could have had only an expectation that the Welsh Ministers would consult on any extant proposals to license greyhound racing, and the Welsh Ministers did exactly that. At the time of the relevant consultation exercise, there was no extant proposal to ban greyhound racing, and therefore the Welsh Ministers cannot be criticised for not undertaking a consultation on such a proposal. In any event, any procedural error is not material, or should lead the Court to refuse a remedy in the exercise of its discretion.

Submissions for the Senedd Commission and Llywydd

35. Ms Joanne Clement KC for the Senedd Commission and Llywydd submitted that if the Court were to hold that an elected representative acted unlawfully in introducing a Bill into the Senedd, this would trespass on the constitutional principle of the separation of powers and would be contrary to the protections conferred upon Senedd proceedings by GoWA.

Discussion: the challenge to the decision to introduce the Bill in the Senedd

The application to amend the claim

36. Although there is some force in Mr Rogers' submission that the application to amend the Claim Form and Statement of Facts and Grounds should have been made promptly and could have been made earlier, the amended claim raises an important constitutional issue concerning the extent of the procedural obligations which apply to those introducing legislation in the Senedd and the extent of the court's supervisory functions in relation to Senedd proceedings. Having heard full argument on these points, we consider it appropriate to grant the claimant permission to amend to permit an authoritative determination of them.

The Senedd as a legislature with plenary powers

37. GoWA establishes the Senedd as the legislature in which laws are made for the people of Wales by their democratically elected representatives. These laws have the status of primary legislation. The Senedd owes its legitimacy to the historical and contemporary political fact that Wales is a distinct polity within the United Kingdom and, as Lord Hope said of the Scottish Parliament, to the depth and width of the experience of its elected members and the mandate given to them by the electorate.

38. The analysis in *Axa*, which applies to the Senedd, establishes that, in areas falling within its legislative competence, the Senedd has plenary legislative powers. One consequence of this is substantive: within those areas, it determines for itself whether a legislative proposal is in the interests of the people of Wales. It follows that the courts cannot review Acts of the Senedd on the ground of rationality, unreasonableness or arbitrariness. Another consequence is procedural: an Act of the Senedd remains valid despite any invalidity in the Senedd proceedings leading to its enactment. First, this is made plain by s. 107 of GoWA. Secondly, that consequence reflects a more general feature of legislatures with plenary powers. Just as such a legislature is in general the sole arbiter of the substantive reasonableness of legislation within its legislative competence, so it is also in general the sole arbiter of the procedure to be adopted in enacting that legislation.

39. It is true, of course, that the Senedd is subject to certain statutory limits as to the content of its standing orders and as to other aspects of its procedure. It may have to be considered in another case whether s. 107 would immunise from

procedural challenge an Act alleged to have been passed in breach of these limits. But this issue does not arise in the present case, where there is no such allegation.

40. Leaving aside the case where it is said that a statutory procedural rule has been breached, it would not be appropriate for the courts to consider a complaint that (for example) a committee acted unfairly in taking or failing to take evidence from persons who might be affected by a Bill, that too little time had been given for opponents of the Bill to make their points or that some procedural requirement of the standing orders had been wrongly waived. This is not only because a court would be ill-equipped to adjudicate complaints of this kind (which are likely to have a political dimension), but also because doing so would trespass on to the territory of a legislature with plenary powers, contrary to the constitutional separation of powers.

41. In our judgment, what Lord Morris of Borth-y-Gest said of the UK Parliament in *Pickin v British Railways Board* [1974] AC 765, at 790, applies with equal force to the Senedd, at least in a case such as the present:

> "It must surely be for Parliament to lay down the procedures which are to be followed before a Bill can become an Act. It must be for Parliament to decide, whether its decreed procedures have in fact been followed. It must be for Parliament to lay down and to construe its Standing Orders and further to decide whether they have been obeyed: it must be for Parliament to decide whether in any particular case to dispense with compliance with such orders. It must be for Parliament to decide whether it is satisfied that an Act should be passed in the form and with the wording set out in the Act. It must be for Parliament to decide what documentary material or testimony it requires and the extent to which Parliamentary privilege should attach. It would be impracticable and undesirable for the High Court of Justice to embark upon an inquiry concerning the effect or the effectiveness of the internal procedures in the High Court of Parliament or an inquiry whether in any procedure case those procedures have been followed."

Is there a duty to consult before introducing legislation in the Senedd?

42. In this case, the claimant's challenge is directed not to the validity of an Act, but rather to a prior decision of the DFM to introduce a Bill into the Senedd. For our part, we consider that Mr Howells was correct to submit that s. 110(1) makes clear that that decision was taken by the DFM in his capacity as a Welsh Minister, rather than as a Member of the Senedd. That does not, however, determine whether there is or can be a common law duty to consult before introducing a Bill. Answering that question requires a careful analysis of the statutory scheme.

43. In our judgment, what matters is not whether a Bill is introduced by a Welsh Minister in that capacity or in their capacity as a Member of the Senedd, but whether the act of introducing legislation forms part of the proceedings of the

Senedd. As we have already noted, s. 110 appears in Part 4 of GoWA, which is entitled "Acts of the Senedd", and is one of a number of provisions under the heading "Procedure". The introduction of a Bill under s. 110(1), whether by a Welsh Minister under paragraph (a) or by any other Member of the Senedd under paragraph (b), is expressly subject to the standing orders of the Senedd. We consider it clear from the structure of GoWA that it is to be regarded as the initiating step in, and therefore as forming part of, proceedings in the Senedd. More fundamentally, it is part of the legislative process by which primary legislation is made for Wales as contemplated by Part 4 of GoWA. That process begins with the introduction of the Bill and concludes when the Bill is given Royal Assent and becomes law.

44. This is consistent with the Divisional Court's decision in *R (Wheeler) v Office of the Prime Minister* [2008] EWHC 1409 (Admin), at [49], that the introduction of a Bill into the UK Parliament is part of "proceedings within Parliament". Although the court there was interpreting Article IX of the Bill of Rights 1689, the analysis (supported by the Privy Council's decision in *Prebble v Television New Zealand* [1995] 1 AC 321) applies equally here.

45. Mr Howells' analogy with *Miller* is inapt. In *Miller*, at [68], the Supreme Court decided that the act of prorogation was not part of "proceedings in Parliament" for the purposes of Article IX of the Bill of Rights 1689 because it was "imposed on [Parliament] from outside", and because it "brings that core or essential business of Parliament to an end": see at [68]. Here, by contrast, the act of introducing a Bill, whether by a Welsh Minister or any other Member of the Senedd, initiates and enables the Senedd's legislative proceedings (rather than shutting them down) and is therefore an integral and necessary part of those proceedings.

46. This has two mutually reinforcing consequences in the present case. The first is that the introduction of a Bill into the Senedd sets in train a procedure which shares the aim, though not the methods, of a consultation process governing administrative decision-making: i.e. to allow for consideration to be given to the competing views and interests of those affected by the proposal. The Senedd is in charge of the process. It is for the Senedd to decide, in accordance with its standing orders, what evidence will be sought and from whom and for how long and in what form the proposed legislation will be debated. It would be inconsistent with this procedural aspect of the Senedd's plenary powers, and contrary to the principle of the separation of powers, if the courts could review the initiating act of Senedd proceedings on the ground that some prior process of consultation should have been completed before the legislation was introduced.

47. The second consequence is that, once the Bill becomes an Act, any invalidity in the introduction of the Bill will be an "invalidity in the Senedd proceedings leading to its enactment" within s. 107 of GoWA and, therefore, incapable of affecting the validity of the Act. Against that background, it would be anomalous if the court could, on the basis of the same invalidity, grant relief affecting the validity of the Bill before its enactment.

48. More generally, ss. 111B and 112 of GoWA create a procedure by which a challenge to a Bill can be brought on particular grounds (all concerned with their subject matter) by particular individuals (the Welsh and UK law officers) before a particular court (the Supreme Court) at a particular time (the four weeks starting with the completion of the Bill's last legislative stage). If such a challenge succeeds, the Bill may not be presented for Royal Assent. It would be inconsistent with the scheme of the Act if, notwithstanding the carefully drafted parameters of this procedure, it were possible for a wider range of individuals to bring challenges affecting the validity of a Bill on a wider range of grounds (including procedural ones) before a first instance court, before or after the time period set out in GoWA.

49. The decision in *Whaley* does not suggest any different result. In that case, the petitioners sought an interdict to restrain the respondent from introducing a Bill in the Scottish Parliament in circumstances where, according to the petitioner, a prohibition on paid advocacy—which was contained in subordinate legislation made under the Scotland Act 1998—would be breached. The Inner House of the Court of Session refused relief because, properly construed, the relevant legislation conferred no private right of action on the petitioner to enforce the prohibition. The judgment decides, at most, that, had it done so, the Scottish equivalent of s. 41 of GoWA would not have precluded the grant of coercive relief against a Member of Parliament to restrain a threatened breach of the prohibition, even if that relief may have implications for the legislative process.

50. It may have to be considered in another case whether the reasoning in *Whaley*—which, in any event does not bind the courts of England and Wales on the meaning of GoWA—remains good law in the light of *Axa*. However, it is not necessary for us to reach a view about that here, because it was in any event central to the reasoning in that case that the prohibition was imposed by subordinate legislation, so it was common ground that, if the member breached it "he contravene[d] the law of the land": see at p. 349H. The present case is quite different. In this case, it is not said that the Welsh Ministers contravened any express statutory prohibition. The key question here is whether, on a proper construction of GoWA, there is any duty to consult before introducing legislation. We conclude that there is not. There is no basis for implying any such duty into s. 110 of GOWA nor for concluding that there is any common law obligation superimposed on the power conferred by s. 110.

51. We have reached this conclusion from an examination of the structure and purpose of GoWA, informed by the analysis of the Supreme Court in *Axa*. We note, however, that it is consistent with conclusions drawn by other courts when rejecting consultation challenges to decisions to introduce primary legislation in the UK Parliament. Although the reasoning in these cases was based in part on principles of Parliamentary privilege which do not apply to the Senedd, it was also based in part on the constitutional separation of powers, which, as we have said, is applicable to relations between the courts of Wales and the Senedd as much as between the courts of England and Wales (and Scotland) and the Westminster Parliament.

52. In *R (Unison) v Secretary of State for Health* [2010] EWHC 2655 (Admin), Mitting J observed at [13] that one of the difficulties with a consultation challenge in a legislative context was that "there is an established means of giving consideration to different views about the merits of the proposals – the passage of the Bill through Parliament". At [17], he continued:

> "No statute provides for any method of scrutinising or consulting on primary legislation. This is unsurprising. It is the standing orders of Parliament which provide the means of doing so. It is just as illegitimate to attempt to superimpose on Parliamentary standing orders judge-made requirements for external or prior consultation, as it is to impose such requirements when Immigration Rules or secondary legislation are to be considered by Parliament."

53. In *R (Adiatu) v HM Treasury* [2020] EWHC 1554 (Admin), [2020] PTSR 2198, at [30], the Divisional Court (Bean LJ and Cavanagh J) held that "it would be a breach of the parliamentary privilege and the constitutional separation of powers for a court to hold that the procedure that led to legislation being enacted was unlawful". In *R (A) v Secretary of State for the Home Department* [2022] EWHC 360 (Admin), [2022] PTSR 1535, Fordham J emphasised at [19] that Parliamentary privilege was only one of the two doctrinal underpinnings for this conclusion. The other was "the constitutional separation of powers". As he made clear at [20]-[21], the latter principle would be breached if the court were to entertain a procedural challenge to a ministerial decision which led to the introduction of legislation; and that would be so even if the relief sought in the challenge were limited to declaratory relief.

54. For these reasons, we consider that the recognition of a common law duty on the Welsh Ministers to consult before introducing legislation in the Senedd would infringe the constitutional separation of powers reflected in GoWA. Furthermore, if we were to entertain a challenge to a decision of the Welsh Ministers to introduce a Bill into the Senedd based on an alleged failure to consult beforehand, that might well be seen as inconsistent with, and as circumventing, the protection from procedural challenges accorded to Acts of the Senedd by s. 107(3).

55. In our judgment, the Welsh Ministers therefore had no legal obligation to consult the public, or any section of the public, before the Bill was introduced into in the Senedd on 29 September 2025. Insofar as it seeks to challenge that decision, the claim therefore fails.

Discussion: the challenge to the DFM's statement on 18 February 2025

56. Having explained why, in our judgment, the challenge to the decision to introduce the Bill must fail, we can deal relatively briefly with the claim as originally drafted, challenging the DFM's statement on 18 February 2025.

57. There are two reasons why it would, in our judgment, be inappropriate for us to determine that challenge. The first is that, in light of our rejection of the challenge to the decision to introduce the Bill, the challenge to the earlier

statement is academic. Even if, as the claimant submits, the Welsh Ministers breached the claimant's legitimate expectation at the pre-legislative stage, that is now water under the bridge if, as we have concluded, the Bill was lawfully introduced. The reality is that the Bill has now completed its legislative stages (including a committee stage in which evidence was taken from a representative of the claimant) and the Welsh Ministers have no power to withdraw it. In those circumstances, a decision that there was a procedural flaw at an earlier stage could not affect the validity of the Bill, or (once Royal Assent is given) the Act, and could not affect the rights of the claimant or anyone else in any way.

58. Secondly, given that the Bill is now validly before the Senedd—and especially in circumstances where it has completed its legislative stages—the determination of a claim alleging a procedural flaw at the pre-legislative stage would, in our judgment, be an impermissible interference with the proceedings of the Senedd and contrary to the constitutional separation of powers. The adequacy or otherwise of the process by which the Welsh Ministers consulted on, or otherwise gathered evidence relevant to, the Bill was itself a matter on which views in the Senedd will have differed. As we have indicated, the Senedd has its own processes for resolving differences on questions such as these. Those processes are now complete. It would be wrong for the court to insert itself into that debate at this stage.

Ancillary matters

59. Ms Clement, for the Senedd Commission and the Llywydd, raised the question of the appropriate person to represent the interests of the Senedd having regard to the provisions of s. 41 of GoWA, which deals with legal proceedings by or against the Senedd. This provides that proceedings by or against the Senedd are to be instituted against the Senedd Commission on behalf of the Senedd. The Senedd Commission is a corporate body comprised of the Presiding Officer (or Llywydd) and four others: see s. 27 of GoWA.

60. The claim as originally brought was a challenge to decisions of the Welsh Ministers, not the Senedd. Nevertheless, it was apparent that the claim may well be a matter on which the Senedd or the Llywydd might wish to make submissions. Chamberlain J therefore ordered that the Senedd and the Llywydd be made interested parties. Ms Clement indicated that it would not normally be necessary to make both the Senedd Commission and the Llywydd parties. It would be sufficient to make the Senedd Commission an interested party as the Llywydd was a member of, and chaired, the Senedd Commission. The claim as amended seeks to quash the decision to introduce the Bill into the Senedd. It was clearly appropriate, therefore, that the Senedd Commission remain an interested party so that it could make submissions, as it did, on the amended claim.

61. We would, however, grant the application made by Ms Clement that the Llywydd be discharged as a party. That approach is consistent with the decision of the Supreme Court in *Attorney General v National Assembly for Wales Commission and others* [2012] UKSC 52, [2013] 1 AC 792, at [96] (though that case was a reference to the Supreme Court under s. 112 of GoWA, where the

Counsel General, rather than the Senedd Commission, is the appropriate person to represent the public interest).

Conclusion

62. For these reasons, we grant the claimant permission to amend the Claim Form and Statement of Facts and Grounds to challenge the Welsh Ministers' decision on 29 September 2025 to introduce the Bill into the Senedd, but dismiss the claim.