

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue:

Hybrid – Committee room 4 Tŷ Hywel
and video conference via Zoom

Meeting date: 4 July 2022

Meeting time: 13.30

For further information contact:

P Gareth Williams

Committee Clerk

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Hybrid – Supplementary pack

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

3.4 SL(6)220 – The Education in Multiple Settings (Wales) Regulations 2022

(Page 1)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–20–22 – Paper 6a – Welsh Government response

4.2 SL(6)207 – The Novel Foods (Authorisations) and Smoke Flavourings (Modification of Authorisations) (Wales) Regulations 2022

(Pages 2 – 8)

Attached Documents:

LJC(6)–20–22 – Paper 24 – Report

LJC(6)–20–22 – Paper 25 – Welsh Government response

4.3 SL(6)212 – The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2022

(Pages 9 – 11)

Attached Documents:

LJC(6)–20–22 – Paper 26 – Report

LJC(6)–20–22 – Paper 27 – Welsh Government response



Senedd Cymru
Welsh Parliament

**5.4 Correspondence from the Minister for Finance and Local Government:
Finance: Interministerial Standing Committee – 15 June 2022**

(Pages 12 – 13)

Attached Documents:

LJC(6)–20–22 – Paper 28 – Letter from the Minister for Finance and Local Government, 1 July 2022

**6.5 Correspondence from the Minister for Climate Change to the Llywydd:
Genetic Technologies (Precision Breeding) Bill**

(Pages 14 – 16)

Attached Documents:

LJC(6)–20–22 – Paper 29 – Letter from the Minister for Climate Change to the Llywydd, 27 June 2022

**6.6 Correspondence from the Climate Change, Environment, and Infrastructure
Committee to the First Minister: First Minister’s legislative statement:
environmental governance Bill**

(Pages 17 – 18)

Attached Documents:

LJC(6)–20–22 – Paper 30 – Letter from the Climate Change, Environment, and Infrastructure Committee to the First Minister, 1 July 2022

**6.7 Correspondence from the Counsel General and Minister for the Constitution
and the Minister for Social Justice: UK Government Bill of Rights**

(Pages 19 – 20)

Attached Documents:

LJC(6)–20–22 – Paper 34 – Letter from the Counsel General and Minister for the Constitution and Minister for Social Justice, 1 July 2022

9 Legislative Consent Memorandum: UK Infrastructure Bank Bill

14.00–14.15

(Pages 21 – 23)

Attached Documents:

LJC(6)–20–22 – Paper 31 – Letter from the Climate Change, Environment, and

Infrastructure Committee to the Minister for Finance and Local Government,
30 June 2022

11 Trade Union (Wales) Act 2017

14.30 – 14.45

(Pages 24 – 32)

Attached Documents:

LJC(6)–20–22 – Paper 32 – Research brief

12 Historic Environment (Wales) Bill: Approach to scrutiny (subject to the Bill's introduction)

14.45 – 15.05

(Pages 33 – 41)

Attached Documents:

LJC(6)–20–22 – Paper 33 – Scope and approach paper

Agenda Item 3.4

Government Response: The Education in Multiple Settings (Wales) Regulations 2022

Merit Scrutiny point 1:

The Welsh Government notes the Committee Report and agrees with its conclusion. There is a partial definition of the term “head teacher” in section 579(1) of the Education Act 1996 to the effect that head teacher includes acting head teacher. The term acting head teacher is not itself defined in the 1996 Act. The Welsh Government agrees that it would have been helpful to the reader to have referred the reader to the partial definition in section 579(1) of the 1996 Act. We will amend the 2022 Regulations to address this point at the next available opportunity.

Agenda Item 4.2

SL(6)207 – The Novel Foods (Authorisations) and Smoke Flavourings (Modification of Authorisations) (Wales) Regulations 2022

Background and Purpose

These Regulations amend retained EU legislation to make provision on regulated food product authorisations in relation to Wales.

Part 2 and the Schedules to the Regulations update the list of authorised novel foods in the Annex to Commission Implementing Regulation (EU) 2017/2470 establishing the Union list of novel foods (the “**2017 EU Regulation**”). The provisions authorise a series of novel foods for use in milk-based drinks and similar products intended for young children, food supplements, infant formula and follow-on formula and other specified food categories.

Part 3 of the Regulations contains modifications to existing authorisations for five smoke flavouring primary products in the Annex to Commission Implementing Regulation (EU) 1321/2013 establishing the Union list of authorised smoke flavouring primary products for use as such in or on foods (the “**2013 EU Regulation**”). The amendments change the names and addresses of the authorisation holders of the respective product authorisations.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following 5 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Schedules 2 and 3 to these Regulations insert new entries in the Annex to the 2017 EU Regulation, which have the effect of (amongst other things) authorising the placing on the market of “*Schizochytrium sp. (FCC-3204) oil*” and “*Schizochytrium sp. (WZU477) oil*” as novel foods for use in the specified food category of infant formula and follow-on formula.



For both of those novel foods, the Annex to the 2017 EU Regulation (as amended by these Regulations) specifies "Maximum levels of DHA" in accordance with "Regulation (EU) No 609/2013", the effect of which is not immediately clear.

We ask the Welsh Government to clarify how maximum levels of DHA are to be identified by reference to Regulation (EU) No 600/2013 for the specified food category of infant formula and follow-on formula for these novel foods.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Paragraph 1 of Schedule 2 to these Regulations authorises "*Food Supplements as defined in the Food Supplements (Wales) Regulations 2003, excluding food supplements for infants and children under 3 years of age*" [emphasis added] as a specified food category for the novel food "*Schizochytrium sp. (FCC-3204) oil*".

Similarly, paragraph 1 of Schedule 4 and paragraph 1 of Schedule 5 to these Regulations authorise (amongst other things) "*Food supplements as defined in the Food Supplements (Wales) Regulations 2003, excluding food supplements for infants and young children*" [emphasis added] as a specified food category for the novel foods "*3'-Sialyllactose (3'-SL) sodium salt (microbial source)*" and "*6'-Sialyllactose (6'-SL) sodium salt (microbial source)*" respectively.

We ask the Welsh Government to clarify the distinction (if any) between "*children under 3 years of age*" and "*young children*" in these authorisations.

3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

The headings in Schedules 2 and 3 to these Regulations each refer to the "*Authorisation of...*" specific foods as novel foods. However, the headings in Schedules 4 and 5 to these Regulations each refer to the "*Authorisation for the placing on the market of...*" specific foods as novel foods.

We ask the Welsh Government to clarify the distinction (if any) between "Authorisation of" and "Authorisation for the placing on the market of" in the context of the Schedules to these Regulations.

4. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Paragraph 2 of Schedule 5 to these Regulations inserts a specification for the novel food "*6'-Sialyllactose (6'-SL) sodium salt (microbial source)*" in the 2017 EU Regulation.

In the specification, under the heading "Description", there is a reference to that novel food containing "*6'-sialyl-lactulose*". However, also in that specification, under the heading "Characteristics/Composition", the same term is referred to as "*6'-Sialyl-lactulose*".



This error appears in the corresponding English version of these Regulations (the Novel Foods (Authorisations) and Smoke Flavourings (Modification of Authorisations) (England) Regulations 2022 (S.I. 2022/560)) and was subsequently corrected by the UK Government pursuant to the Novel Foods (Authorisations) and Smoke Flavourings (Modification of Authorisations) (Amendment) (England) Regulations 2022 (2022/619), which replaced the term “6'-sialyl-lactulose” with “6'-sialyl-lactulose”.

5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulations 6 and 7 of these Regulations seek to amend the 2013 EU Regulation in relation to smoke flavouring primary products “SmokEz C-10” and “SmokEz Enviro-23” respectively.

However:

- regulation 6 and the associated heading refers to product “SmokEz C-10” as “SmokeEz C-10”; and
- regulation 7 and the associated heading refers to product “SmokEz Enviro-23” as “SmokeEz Enviro-23” **[emphasis added]**,

which do not reflect those terms as listed in the Annex to the 2013 EU Regulation.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Paragraphs 11 and 12 of the Explanatory Memorandum accompanying these Regulations refers to the determination of “six novel food applications in favour of authorisation” by the Welsh Ministers – three “human-identical milk oligosaccharides (HiMOs)” and three “Docosahexaenoic acid (DHA) rich oils”.

However, Part 2 and the Schedules to these Regulation appear to authorise (or amend an existing authorisation) of 5 novel foods only. We ask the Welsh Government to clarify whether all of the applications referred to in the Explanatory Memorandum are authorised by these Regulations.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 20 June 2022 and reports to the Senedd in line with the reporting points above.



Government Response: *The Novel Foods (Authorisations) and Smoke Flavourings (Modification of Authorisations) (Wales) Regulations 2022*

Five Technical Scrutiny points have been raised, three pursuant to Standing Order 21.2(v), and two pursuant to 21.2(vi). A single Merit Scrutiny point has been raised pursuant to Standing Order 21.3(ii).

Technical Scrutiny point 1:

Maximum levels of Docosahexaenoic acid (DHA) in these products for the specified food category of infant formula (“IF”) and follow-on formula (“FoF”) are to be identified by reference to EUR 2013/609. EUR 2013/609 provides for compositional and information requirements for IF and FoF. Article 4 provides that IF and FoF can only be marketed if it complies with the Regulation. Articles 6, 9 and 10 contain general requirements. Article 15(6) requires substances belonging to categories not listed in Article 15(1) added to food within scope of Article 1(1) (including IF and FoF) to satisfy the general requirements set out in Articles 6 and 9 and, where applicable, the specific requirements established in accordance with Article 11. EUR 2016/127 contains the relevant specific compositional and information requirements for IF and FoF. Minimum and maximum levels for DHA can be found in Annex 2, paragraph 4.6. The maximum levels set out in EUR 2016/127 must, however, be applied within the context of the wider general requirements in EUR 2013/609.

This approach has been taken in order to ensure consistency with corresponding provision within existing entries for authorised novel foods listed in EUR 2017/2470. It is also consistent with the authorisation of these products as applicable within Northern Ireland (and the EU) as set out in the corresponding entries in the list within Regulation (EU) 2017/2470 as that Regulation continues to apply in the EU and Northern Ireland.

Technical Scrutiny point 2:

For these purposes, the Welsh Government does not consider that there is a distinction between “infants and children under 3 years of age” and “infants and young children”.

The intention here is to ensure that the labelling requirements for products under the authorisations across GB are the same as the labelling requirements that apply to the same products in Northern Ireland (and the EU) under the corresponding entries within Regulation (EU) 2017/2470 as that Regulation continues to apply within the EU and Northern Ireland.

Technical Scrutiny point 3:

The headings to the Schedules reflect the different nature of the provisions being made within each Schedule.

Schedules 2 and 3 concern two specific strains of “*Schizochytrium sp. oil*”. Those strains are already authorised to be placed on the market under the general entry for “*Schizochytrium sp. oil*” (which apply to all strains). The new entries inserted by Schedules 2 and 3 create separate entries for the two strains, for the listed specific food uses, which are already partly authorised under the existing general entry.

Schedules 4 and 5 insert new entries authorising the placing on the market of new novel foods for the first time.

Technical Scrutiny point 4:

The Government agrees that the reference in Schedule 5 to “6’-sialy-lactulose” is a typographical error. It should read “6’-sialyl-lactulose”.

The error appears only in the narrative text of the section headed ‘Description’, the substantive reference in the section headed ‘Characteristics/Composition’ is correct.

The Government will seek to correct this typographical error by correction slip.

Technical Scrutiny point 5:

The Government accepts the point.

The typographical errors appear in the headings to regulations 6 and 7, and in the opening text identifying the location of the proposed amendments to EUR 2013/1321. The Government does not consider there is a risk of confusion as to which entries within EUR 2013/1321 are being amended – it is not possible to confuse the entries with any of the other entries in the list. Further the ‘unique codes’ of the products are correctly cited.

However, as the errors relate to the name of the products, the Government does consider correction to be appropriate – and will seek for this to be done by correction slip.

Merit Scrutiny point:

Part 2 of this instrument inserts new entries into the list of authorised novel foods within EUR 2017/2470. Those amendments are being made pursuant to the determinations of six separate applications made under EUR 2015/2283. As noted in paragraph 12 of the Explanatory Memorandum – two of those applications concerned separate requests for authorisation of the same product (“*Schizochytrium sp.* (FCC-3204) oil”) for two distinct food uses. The authorisation pursuant to the determination of those two applications is included within the entry inserted by Schedule 2 to this instrument.

SL(6)212 – The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2022

Background and Purpose

Under powers derived from section 537A of the Education Act 1996, Welsh Ministers may make regulations specifying persons ("Prescribed Persons") with whom they may share data about school pupils.

The Prescribed Persons are listed in regulation 5(2) of the *Education (Information About Individual Pupils) (Wales) Regulations 2007* (the "2007 Regulations"). The list includes, amongst others: local authorities, Qualifications Wales and the Education and Skills Funding Agency.

These [Regulations](#) amend the 2007 Regulations to add the Universities and Colleges Admissions Service ("UCAS") to the list of Prescribed Persons.

The Explanatory Memorandum provides that the purpose of the amendment is to allow Welsh Ministers to share the FSM (free school meals) data of school leavers with UCAS to "aid university admissions in ensuring [that] offers are made to disadvantaged learners, and [that] participation to higher education is widened". It further provides that the amendment is necessary to establish a legal basis under data protection legislation for such data sharing.

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.



1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

This amendment has been deemed urgent in order to have data in place for universities to use in the clearing and confirmation process in August. Therefore any consultation would not take place at a formative stage in the policy development [...] and therefore was not viewed as appropriate in this case.

Whilst the Explanatory Memorandum explains the relative urgency for the Regulations, it does not explain why they have become urgent. It is not clear from the Explanatory Memorandum why the Regulations were not made sooner, in anticipation of the university clearing process in August.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 27 June 2022 and reports to the Senedd in line with the reporting point above.



Government Response: *The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2022*

Merit Scrutiny point 1:

There is no express power to consult in relation to such regulations. The regulations were not made sooner as a result of implementing the move from exams to centre determined grades for both 2020 and 2021 due to Covid.

Agenda Item 5.4

Rebecca Evans MS
Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
CF99 1NA

1 July 2022

Dear Huw,

Further to my recent letter advising you of the Finance: Interministerial Standing Committee (F:ISC) Meeting, which I chaired on 15 June in Cardiff, I would like to briefly report on the discussions. A communique was also published following the meeting: [Finance: Interministerial Standing Committee – 15 June 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/finance-interministerial-standing-committee-15-june-2022).

In attendance were Simon Clarke MP, Chief Secretary to the Treasury, Conor Murphy MLA, Minister of Finance (Northern Ireland), Kate Forbes MSP, Cabinet Secretary for Finance and the Economy (Scotland), and myself.

The meeting focused on the Cost-of-Living Crisis where I emphasised to the Chief Secretary to the Treasury (CST) the impact of inflation on core budgets, highlighting that the Welsh Government budget is now worth over £600m less than when it was announced last autumn. The CST agreed that officials should work together to discuss how the UK Government can best provide support to businesses through the current crisis. I also raised the issue of public sector pay linked to the inflationary pressures and the resulting need for additional funding from the UK Government. Ministers agreed to keep each other informed of developments on public sector pay deals.

As part of a discussion on budgeting and communications, an agreement between Ministers was secured for UK and Devolved Government officials to work up a joint proposal on improvements to year-end finance processes. This is expected to be shared with Ministers over the summer for agreement at the next F:ISC meeting.

Under the Devolved Governments Update, I provided an overview on the work of the Independent Commission on the Constitutional Future of Wales. The CST agreed to provide any data and information that the Commission needed.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Under Any Other Business, Ministers agreed to include a substantive item on the next F:ISC agenda on EU Replacement Funding. I also took the opportunity to raise concerns on COVID recovery, specifically in relation to NHS pressures, with additional funding needed from the UK Government. The CST was clear that there would be no additional funding for the Devolved Governments and that these pressures, along with those arising from the lower value of our budget as a result of inflation, would need to be absorbed within existing budgets and managed by re-prioritisation and de-scoping.

The Scottish Government will host and Chair the next meeting in September.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Rebecca Evans AS/MS

Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government

Agenda Item 6.5

Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Elin Jones MS
Llywydd
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27 June 2022

Dear Elin

The UK Government introduced the Genetic Technologies (Precision Breeding) Bill to the House of Commons on 25 May. The Bill is 30 pages long, consists of 48 parts and is complex in nature. The Bill gives effect to a new, divergent policy, which although nominally restricted to England, will have important effects across the whole of the UK. It cuts across devolved areas including plant varieties and seeds, genetic modification and animal health and welfare. It also impacts more widely on the Welsh economy, trade, food and feed safety and public health. It is a framework Bill which provides the Secretary of State with considerable subordinate legislative powers.

There has been no meaningful engagement by UK Ministers at a Ministerial level, and approaches to my officials were only made shortly before the Bill was published. Officials have been presented with limited detail of the UK Government's policy intentions or the likely impacts the Bill will have in Wales.

I am extremely concerned that the UK Government has chosen not to work within the Common Frameworks that are in place in several of these policy areas. These Frameworks have been jointly agreed by the four Governments of the UK and are currently being scrutinised by legislatures across the UK. This departure from the spirit of the Common Frameworks means the consequences for areas which are devolved in Wales have not been properly considered. There will also be wider consequences for the UK internal market, for international trade and for our international obligations.

Due to very limited prior consultation by the UK Government and the complexity of the Bill, it has not yet been possible to fully consider the consequences for Wales. However, once this has been done and we have a clear picture of the devolution consequences for Wales, it may be necessary to lay a Legislative Consent Memorandum (LCM).

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

We are already outside the normal two-week Standing Order 29 deadline for the laying of an LCM, in part due to the late engagement by UK Government. A draft version of the Bill was only shared with us on the day before its introduction. The Bill is expected to move through the UK Parliament at pace with House of Commons Second reading having taken place on 15 June, Commons Committee stage scheduled to commence on 28 June, and, if passed, the Bill is expected to receive Royal Assent by December 2022.

I am copying this letter to the Counsel General and Minister for the Constitution, Mick Antoniw MS, the Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths MS and the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change

The Rt Hon Mark Drakeford MS,
First Minister of Wales

1 July 2022

Dear Mark,

First Minister's legislative statement: environmental governance Bill

At its meeting yesterday, the Climate Change, Environment and Infrastructure Committee ('the Committee') took evidence from the Interim Environmental Protection Assessor for Wales ('the Interim Assessor') and stakeholders on the on-going operation of Wales' interim environmental governance measures ('interim measures').

It has been almost four years since the Welsh Government committed to legislate to address any post-Brexit environmental governance gaps in Wales. In March 2021, interim measures were put in place with the appointment of the Interim Assessor. While we recognise the valuable work being undertaken by the Interim Assessor, the interim measures are far from satisfactory. There are significant and unacceptable gaps in Wales' environmental governance arrangements that must be addressed as a matter of priority.

The interim measures were supposed to provide time for the Welsh Government to develop and establish new, permanent governance arrangements, specifically an Environment Commission to oversee the implementation of environmental law. We recognise the challenge of developing robust, effective and enduring governance arrangements that meet Wales' needs. But, 15 months in to the interim measures, we have seen no evidence that any progress has been made. Yesterday's meeting serves only to reinforce this. The Interim Assessor told us she has only had informal discussions with the Welsh Government on the development of proposals for the new governance arrangements that will supersede her role. In addition, stakeholders told us they were not aware of any recent work by the Welsh Government on the matter. In their words, "it feels like work [on permanent arrangements] has been parked".

We are growing increasingly concerned that, with the passing of time and with interim measures in place, any sense of urgency the Welsh Government may have had to legislate to address the post-Brexit governance gaps has been lost.

While we wait for legislation to be brought forward in Wales, all other UK nations now have permanent environmental governance arrangements in place, with dedicated governance bodies up and running. It cannot be right that Welsh citizens have less access to environmental justice than citizens of other parts of the UK. We must not see Wales' reputation downgraded from a nation that puts the environment and sustainable development at its heart to one with the weakest environmental governance structures in Western Europe.

Since the start of the Sixth Senedd, we have been calling for the Welsh Government to bring forward an environmental governance Bill. In giving evidence to this Committee on 15 June 2022, the Minister for Climate Change made clear that the timing of the Bill would be for you, as First Minister, to determine. We are therefore writing, ahead of your planned legislative statement on 5 July 2022, to repeat our calls for the Bill to be brought forward as a matter of priority.

I am copying this letter to Julie James MS, Minister for Climate Change, and Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee.

We trust you will reflect on the above before making your statement, and we would welcome a response to this letter in due course.

Yours sincerely,



Llyr Gruffydd MS,

Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English.

Agenda Item 6.7

Jane Hutt AS/MS
Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
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1 July 2021

Dear Elin

The Deputy Prime Minister, the Rt Hon. Dominic Raab MP, introduced the [Bill of Rights Bill](#) (the Bill) in the House of Commons on 22 June.

From our initial analysis, the Bill touches upon areas of devolved competence. In a letter to the First Minister on 22 June, the Deputy Prime Minister asks the Welsh Government to begin the legislative consent process in the Senedd. However, given the almost complete absence of meaningful engagement by the UK Government ahead of introduction and the complexity of the issues raised in the Bill, it has not yet been possible to consider properly the devolution consequences of what is being proposed.

We will need to carry out a detailed analysis of the Bill. However, only 5 of the 41 clauses of the Bill were shared with us prior to introduction, which were largely meaningless without sight of the other clauses to which they relate. None of the five schedules were shared in advance. This is a Bill with great constitutional significance, which is very complex and amends the Government of Wales Act 2006, therefore a very close examination of each and every provision will be required.

The UK Government launched a consultation on the proposal to replace the Human Rights Act 1998 on 21 December 2021. We submitted a response to this consultation, which closed on 8 March, and we issued a [Written Statement](#) on the same day.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

On 3 May [a Welsh Government debate on Human Rights was held in Plenary](#). We also issued a further [Written Statement](#) on the introduction of the Bill.

We expect to lay a Legislative Consent Memorandum before the Senedd as soon as we have a clear picture of the devolution consequences of the proposed legislation. Whilst this will be outside the normal two-week Standing Order 29 deadline, we hope to lay early in the Senedd's summer recess.

We are copying this letter to the First Minister, the Minister for Rural Affairs and North Wales, and Trefnydd, the Chair of the Equality and Social Justice Committee, the Chair of the Legislation, Justice and Constitution Committee and the Chair of the Cross-Party Group on Human Rights.

Yours sincerely



Jane Hutt AS/MS

Y Gweinidog Cyfiawnder
Cymdeithasol
Minister for Social Justice



Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y
Cyfansoddiad
Counsel General and Minister for the
Constitution

Rebecca Evans MS
Minister for Finance and Local Government

30 June 2022

Dear Rebecca,

Legislative Consent Memorandum for the UK Infrastructure Bank Bill

As you are aware, the Business Committee has referred the Legislative Consent Memorandum for the UK Infrastructure Bank Bill ('the LCM') to several committees for consideration, including the Climate Change, Environment and Infrastructure Committee ('the Committee').

At its meeting on 30 June, the Committee agreed I should write to you seeking further information and/or clarification on a number of matters, which are of specific interest to us, given our remit. Without prejudice to the Welsh Government's current policy position on the Bill, we would welcome a response from you on the following questions.

1. To what extent does the Bill, as drafted, reflect the Welsh Government's policy priorities in relation to infrastructure investment?
2. To what extent are you satisfied with the Bank's 'objectives' set out in section 2(3)? Are there any other objectives that you believe should be included, for example, tackling the decline in biodiversity?
3. How will the Bank take into account Welsh legislation, for example, the Well-being of Future Generations Act, when making its investment decisions?
4. Much of the detail relating to the Bank's core principles and parameters within which it will operate are set out in the UK Infrastructure Bank Framework Document ('the Framework Document'). To what extent are you satisfied that an appropriate balance has been struck between the detail contained in

the Bill and that left to the non-legally binding Framework Document, which has been agreed by the UK Government?

5. As noted in the LCM, the Framework Document states “where an investment is primarily to support economic growth, the Bank will ensure that it does not do significant harm against its climate objective”. Please set out your understanding of:

- the meaning of ‘significant harm’ in this context, and
- how the Bank will determine whether an investment will do ‘significant harm’.

6. Even though a specific investment decision may not meet the threshold of ‘significant harm’, it is possible that a series of decisions could be considered cumulatively to cause significant harm. Please set out your understanding of whether and how the Bank will consider the cumulative effect of its investment decisions.

7. To what extent are you satisfied with the meaning of ‘infrastructure’ set out in section 2(5)? Are there any other aspects/measures that you believe should be included within the meaning?

8. As drafted, the Bill would permit the Bank to provide financial assistance to infrastructure projects relating to roads. To what extent does this align with the Welsh Government’s current transport priorities and its sustainable transport hierarchy?

9. The UK Government has made clear its intention that the Bank should be permitted to provide financial assistance/loans for projects aimed at improving the energy efficiency within homes. Can you explain whether and how this will help support the Welsh Government to deliver its ambitions to decarbonise Wales’ housing stock?

10. The Framework Document sets out types of projects that should not be supported by the bank, including projects involving extraction, production, transportation and refining of crude oil, natural gas or thermal coal with very limited exemptions. Please set out your understanding of the ‘very limited exemptions’.

11. Are there any other types of projects that you believe the Bank should not be permitted to support?

12. In reference to the policy mentioned in question 8, the Explanatory Notes states that “This policy will be updated over time to reflect changes in government policy and regulatory standards”. How will the Welsh Government ensure these changes reflect policies or regulatory standards that fall within devolved competence?

13. The Bill creates delegated powers to enable the Treasury to change the Bank’s activities or the definition of infrastructure using secondary legislation under the affirmative procedure in the UK

Parliament. What arrangements are in place to ensure the Welsh Government (and other devolved governments) are consulted in advance of any such changes?

14. What role will the Senedd have in considering subordinate legislation to change the Bank's activities or the definition of infrastructure?

I am copying this letter to Huw Irranca-Davies MS, Chair, Legislation, Justice and Constitutional Affairs Committee; Paul Davies MS, Chair, Economy, Trade and Rural Affairs Committee; Peredur Owen Griffiths MS, Chair, Finance Committee; and Julie James MS, Minister for Climate Change.

I should be grateful if you could respond no later than 28 July 2022.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 11

By virtue of paragraph(s) vi of Standing Order 17.42

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