

Agenda – Equality and Social Justice Committee

Meeting Venue:

For further information contact:

Video Conference via Zoom

Rhys Morgan

Meeting date: 7 March 2022

Committee Clerk

Meeting time: 13.30

0300 200 6565

SeneddEquality@senedd.wales

Private pre-meeting and registration (13.00 – 13.30)

1 Introductions, apologies, substitutions and declarations of interest

(13:30)

2 Fuel poverty and the Warm Homes Programme: Evidence session 3

(13:30–14:30)

(Pages 1 – 40)

Sophie Howe, Future Generations Commissioner

Dr Donal Brown, New Economics Foundation

Attached Documents:

Research paper

Executive summary: Financing the decarbonisation of housing in Wales

Break (14:30–14:45)

3 Fuel poverty and the Warm Homes Programme: Evidence session 4

(14:45 –16:00)

(Pages 41 – 57)

Ben Saltmarsh, National Energy Action

Jack Wilkinson–Dicks, Energy Saving Trust



Attached Documents:

Consultation response from National Energy Action

Consultation response from Energy Saving Trust

4 Papers to note

(16:00)

4.1 Correspondence from Sparkle: Response to Committee report on childcare and parental employment

(Pages 58 – 59)

Attached Documents:

Correspondence from Sparkle: Response to Committee report on childcare and parental employment

4.2 Correspondence with the Minister for Social Justice: The Children's Commissioner for Wales' 2022–23 Budget Estimate

(Pages 60 – 64)

Attached Documents:

Correspondence with the MSJ regarding the Children's Commissioner for Wales' 2022–23 Budget Estimate

4.3 Correspondence from the Minister for Social Justice and the Deputy Minister for Social Partnership: Draft Budget 2022–23

(Pages 65 – 68)

Attached Documents:

Correspondence from the Minister for Social Justice and the Deputy Minister for Social Partnership: Draft Budget 2022–23

4.4 Correspondence from Jane Dodds: Equality and Social Justice Committee workplan – Community rights

(Page 69)

Attached Documents:

Correspondence from Jane Dodds: Equality and Social Justice Committee workplan – Community rights

**4.5 Correspondence from the Chair of the Health and Social Care Committee:
Role of health boards in safeguarding women and children who may be
experiencing domestic abuse**

(Page 70)

Attached Documents:

Correspondence from the Chair of the Health and Social Care Committee:
Role of health boards in safeguarding women and children who may be
experiencing domestic abuse

4.6 Correspondence from the Minister for Social Justice: EU Settlement Scheme

(Pages 71 – 79)

Attached Documents:

Correspondence from the Minister for Social Justice: EU Settlement Scheme

**4.7 Correspondence from Welsh Government: Police, Crime, Sentencing and
Courts Bill**

(Pages 80 – 83)

Attached Documents:

Correspondence from Welsh Government: Police, Crime, Sentencing and
Courts Bill

**4.8 Correspondence from the Counsel General to the Legislation, Justice and
Constitution Committee: Draft budget 2022–23**

(Pages 84 – 89)

Attached Documents:

Correspondence from the Counsel General to the Legislation, Justice and
Constitution Committee: Draft budget 2022–23

**4.9 Correspondence from the Economy, Trade and Rural Affairs Committee:
Recruitment of HGV drivers**

(Pages 90 – 91)

Attached Documents:

Correspondence from the Economy, Trade and Rural Affairs Committee:
Recruitment of HGV drivers

4.10 Correspondence from Welsh Government: Response to the Committee's recommendations regarding the 2022–2023 Draft Budget

(Pages 92 – 98)

Attached Documents:

Correspondence from Welsh Government: Response to the Committee's recommendations regarding the 2022–2023 Draft Budget

5 Motion under SO17.42 (iv) and (ix) to exclude the public from the remainder of today's meeting

(16:00)

Break (16:00–16:10)

6 Fuel poverty and the Warm Homes Programme: consideration of evidence

(16:10–16:25)

7 Forward work programme: consideration of scoping papers

(16:25–16:45)

(Pages 99 – 109)

Attached Documents:

Cover Paper for forward work programme

Scoping paper: criminal justice

8 UK Government consultation on reform of the Human Rights Act 1998: oral update

(16:45–17:00)

(Pages 110 – 127)

Attached Documents:

Race Council Cymru's response to the UK Governments Consultation on proposals to reform the Human Rights Act 1998

Evidence from the Equality and Human Rights Commission

Joint letter from Scottish and Welsh Government to the Lord Chancellor

Document is Restricted

HOMES FIT FOR THE FUTURE: THE RETROFIT CHALLENGE

How will we finance the decarbonisation of homes in Wales to support our net zero ambitions?

Executive Summary



Overview

Climate change is one of the biggest challenges facing current and future generations. Wales has made world-leading pledges to significantly decarbonise housing stock by 2030 to support our goal to be net zero by 2050.

In 2020 I highlighted that developing an economic stimulus package which leads to job creation and supports the decarbonisation of homes, should be a priority for Welsh Government as part of a Green Recovery to the pandemic.¹ The hosting of a global climate change conference (COP 26) by the UK later this year is an opportunity for both the UK and Welsh Governments to commit to making this a reality.

Overcoming levels of fuel poverty that remain stubbornly high (12%) sits at the heart of Wales' decarbonisation and social justice objectives, and the decarbonisation of homes must be seen as a fundamental part of a green and just recovery from the pandemic in Wales.

Housing is an area within Welsh Government control and therefore must be prioritised if the Government is serious about meeting their legally binding climate change targets.

Wales has some of the oldest and least efficient housing in Western Europe and so action to improve the quality of this stock will be essential. Decarbonisation is a challenge, and an opportunity, for organisations and communities across Wales, which can no longer wait.

At the moment:

10% of Wales' greenhouse gas emissions come from the residential sector



155,000 homes are in fuel poverty



poor housing contributes to ill health



Managed well, a retrofit programme could be a gamechanger for the Welsh economy helping to:

meet decarbonisation and fuel poverty objectives



eradicate fuel poverty and reduce needless energy costs, saving a total of £8.3 bn in fuel costs by 2040



generate cost saving to the NHS - £4.4 bn by 2040



create new industries, skills and up to 26,500 new jobs, based on local supply chains



support the foundational economy with potentially millions of local spend.



Decarbonising our housing stock at the scale needed will require significant investment along with increased coordination of all actors in the system.

Welsh Government needs to lead the way but will be unable to 100% grant fund the programme. The challenge of funding this shift must be balanced across the UK Government, Welsh Government, housing associations, local authorities, landlords and homeowners, with many other organisations playing their part.

The focus of our work has been to estimate the total funding needed for the decarbonisation of homes in Wales, identify funding gaps and suggest approaches to addressing these gaps.

We have worked closely with a number of organisations and stakeholders, building on previous work including 'Better Homes, Better Wales, Better World'² report, the work of the Welsh School of Architecture (WSA)³, the Altair report commissioned by Community Housing Cymru (CHC) and Welsh Government's Optimised Retrofit Programme (ORP) which is testing approaches to decarbonising homes in Wales.

Key findings

Investment in optimised retrofit across Wales' housing must be seen against the backdrop of significant benefits to well-being, cost savings in services and local economic growth.

Investment in millions of homes has the potential to generate large economic returns as well as reducing our emissions and levels of fuel poverty.

- A Welsh housing decarbonisation programme would create £19.32bn in additional GDP⁴, £3.54bn of net tax benefit and 26,500 new jobs in Wales by 2030, helping to offset the economic impact and job losses of the recent pandemic.
- The programme would also save £8.3bn in energy bills and create £4.4bn in health and environmental benefits⁵ by 2040 helping to put more money back into local economies across Wales and reducing the strain on health and social care services, particularly during the winter.

We estimate a national programme will require £14.75bn of investment over the next decade⁶ (to 2030):

- **£5.5bn for social housing,**
- **£4.8bn for homes in fuel poverty, and**
- **£4.4bn for homes in the owner occupied and private rented ('able to pay') sectors respectively.**

Tenure/ status	Number of units	Average investment required per home*	Total investment (bn)
Social Housing	230,000 (~21,000 are in fuel poverty)	£24,000	£5.52
Fuel poor housing	155,000 (~21,000 are socially rented)	£35,984	£4.82
Private rented sector	180,000 (~36,000 are in fuel poverty)	£4,700	£0.67
Owner Occupier	924,000 (~99,000 are in fuel poverty)	£4,525	£3.73
Total	-	-	£14.75

*Sectors are aiming for different EPC targets therefore the investment required for social housing & fuel poor housing is higher than for the private rented and owner occupied sectors.

The total government investment required is around £5.3bn over ten years.

Of the £14.75bn of investment needed to decarbonise and improve the quality of Welsh homes, £3.6bn should come from UK and £1.7bn from Welsh Government, with 64% of total investment coming from private finance, energy companies or self-funding by property owners.

In 2019 households in Wales spent £1.02bn on general renovation maintenance and improvement (RMI) works, an average of about £723 per home⁷.

Based on existing investment plans and policy proposals there are currently large funding gaps for social housing (£2.7bn) and homes in fuel poverty (£3.9bn) which are privately rented and owner occupied to meet the level of EPC “A” by 2030.

Finance is key but only one part of the puzzle

Alone it will not deliver change at the pace and scale needed. In order to deliver a large-scale retrofit programme and achieve wider economic, environmental and social benefits it is critical that planned long-term investment is joined up with policy on skills and training as well as regulation, standards and supply chain.



Sophie Howe

Future Generations Commissioner for Wales

We will need to move beyond silo-based working and secure a cross Government approach to collaboration and delivery with housing associations, local authorities, skills providers and suppliers ensuring coordinated delivery is central to the approach. Strategy, engagement, regulation, skills, integrated business models and fiscal incentives are all crucial to success.

Creating skills and jobs for the future through investing in a national retrofit programme

There are significant opportunities for job creation through a national retrofit programme but investment must be planned for the long-term in order to take advantage of this.

Evidence suggests unemployment in Wales could double in 2021, peaking at around 114,000 people in 2021, and there is an urgent need to invest in job creation and develop skills pipelines in key areas that can support our decarbonisation targets.



A Welsh Housing Decarbonisation Programme could create 26,500 new jobs in Wales by 2030 but securing these jobs for Welsh people can only be achieved by guaranteeing long-term investment linked to prioritisation of apprenticeships and reskilling the existing, as well as a future, workforce in necessary trades to address the skills gap.

Investment in key infrastructure projects in green industries and nature restoration could create in the next two years:

45,000 direct jobs



60,000 indirect jobs



Of these:

4,260 jobs
retrofit insulation
of housing



2,810 jobs
social housing
construction



2,730 jobs
in retrofit energy
assessors.



However, there are significant skills shortfalls in insulation, heating and retrofit. With sufficient demand and coordination created through investment, movement into the retrofit sector could be facilitated relatively quickly through on-the-job training, as qualifications are not necessarily prerequisite. A long-term pipeline of projects must be guaranteed.

Strengthening the connections between fuel poverty and decarbonisation

While there are some tensions, it is important that the twin challenges of decarbonising homes and fuel poverty are addressed through an integrated, holistic approach.

155,000 homes in Wales are in fuel poverty⁸ however the impact of the recent pandemic on unemployment and changing working practices could mean that this figure is now higher.

The long-term solution to fuel poverty, and one that also supports the decarbonisation of homes, is to dramatically improve the energy efficiency of fuel-poor households' homes.

It is fundamentally important that the transition to a low carbon economy does not increase levels of fuel poverty, through increasing costs of energy. The approach must address two of the key drivers of fuel poverty: low incomes and the energy inefficiency of homes.

There are a range of economic, social, environmental and health benefits to be achieved through addressing these agendas together.

A retrofit program across Wales housing stock, could lead to energy bill savings of around £613 for each home retrofitted to EPC "A"⁹ especially benefiting homes in low EPC bands and in fuel poverty. These savings would virtually eliminate fuel poverty in Wales and make a significant contribution to reducing economic inequalities.



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Key priorities for the next Welsh Government:

1. The decarbonisation of homes has to be a shared endeavour, with Welsh Government playing a leadership and coordination role, bringing all sectors together in a shared mission.

The challenge of financing decarbonisation is not for Welsh Government to undertake entirely. If both the Welsh and UK Governments are serious about a green recovery, and meeting their respective climate change commitments, they must work together to use all the financial levers available to them to fund the retrofit challenge. They should view this investment as support for essential infrastructure, similar to investment in other infrastructure such as road, rail and power.

Likewise housing associations, local authorities, and over time private households, will also need to play their part in this shared endeavour. All of these organisations should be focused on shared innovation and risk, collaborating and learning at every stage.

Welsh Government should play a key leadership and co-ordination role with support and collaboration required from UK Government, local authorities, housing associations as well as education, training and private sectors to ensure concerted action across social housing, homes in fuel poverty and those in the private rented and owner-occupied sectors.

Welsh Government should:

- Lead the way by setting clear long-term commitments and targets for Wales' housing stock in the second Low Carbon Plan.
- Fully recognise the interconnected challenges of the decarbonisation of homes and tackling fuel poverty and reflect these across the new programme for Government including linking policy action on skills, finance, foundational economy and health.
- Prioritise investment in this area and emphasise the importance of this agenda for the people of Wales, when negotiating with the UK Government about post EU funding such as the Shared Prosperity Fund.

Housing associations and local authorities should:

- Consider how they can access private finance to supplement Government grant funding for the decarbonisation of their housing stock.
- View Renovation Maintenance Improvement (RMI) spend and investment in decarbonisation measures as interconnected with opportunities for further integration over time.
- Building on the successful ways of working under the Optimised Retrofit Programme, prioritise collaboration and continuous learning in the approaches taken to decarbonisation of their housing stock.

UK Government will have a critical role in supporting investment and regulation whilst local authorities should play a more proactive role in driving the decarbonisation of homes and the reduction of fuel poverty, particularly in relation to the Private Rented Sector.

11 of the 22 local authorities in Wales have retained their own housing stock, and 16 of the 22 have declared a climate emergency so must now demonstrate how they are prioritising decarbonisation of homes through an area-based approach using all the levers available to them. To support this their role should be strengthened and properly resourced.

2. There needs to be a longer-term plan for funding.

There is a clear need for a longer-term pathway to the decarbonisation of homes, if we are to meet decarbonisation targets, at the very least until 2030. This needs to illustrate the shared commitment between Governments, housing associations, local authorities and other players to develop a long-term pathway to the decarbonisation of homes, providing certainty and clarity about funding arrangements, anticipated job creation, procurement routes and skills pipelines.

But this long-term investment plan cannot be achieved alone or within current mechanisms. It will require new and innovative ways of leveraging other sources of funding and investment and potentially utilising the capacity of the Development Bank of Wales to develop a new Wales Energy Service Company to coordinate and support funding decarbonisation in the social housing sector (as outlined in section 4).



Welsh and UK Governments should:

- UK Government should commit to allocating an additional £2.6bn of infrastructure investment funding and £1bn allocation of the Shared Prosperity Fund which is needed by 2030 to tackle decarbonisation of low-income homes and address fuel poverty in Wales. These sources would be equivalent to other infrastructure programmes (e.g. road, rail, power) recognising the significant fiscal benefits of a retrofit programme to the UK Exchequer.
- Increase its use of Financial Transaction Capital for retrofit and UK Government should facilitate access to the new Green Sovereign Bond market, to enable around £6.3bn of private investment in the Welsh housing stock by 2030.
- Work with the UK Government Financial Conduct Authority (FCA) to stimulate £100m/year Green Mortgage market by requiring disclosure of how energy efficient a house is at “decision in principle” stage.

For social housing sector & homes in fuel poverty, Welsh Government should:

- Double fuel poverty funding to £732m by 2030 and supplement with grants for people on low-incomes which would be available from UK Government’s national infrastructure funding, with the aim of eradicating fuel poverty by 2030.
- Commit to a new £108m/year Social Housing Decarbonisation Grant, conditional on measured performance & cost reductions.
- Work with UK Government to offer £158m/year low interest loans to housing providers through the ‘Welsh Energy Service Company’ (WESCO) via Energy Saving Performance contracts.

For the private rented / owner occupied (able to pay) sector, Welsh Government should:

- Work with Local Authorities to trial the Property Assessed Clean Energy (PACE) mechanism, through a levy on council tax. PACE is a means of financing retrofit measures which attaches the debt to the property rather than the individual, secured by a property tax bill.
- Work with the Development Bank of Wales to trial equity release models and low interest loans to landlords for retrofit finance.

Property Assessed Clean Energy (PACE) finance:

Developed in the USA, PACE allows municipalities to fund retrofit through attaching the debt to the property rather than the individual. PACE financing covers the full cost of the retrofit and repayments are linked to the property itself. It is secured by a lien (a form of security) on the property tax bill (i.e. council tax). This can remove the split incentive between landlords and tenants or those looking to sell their home.

Our Roadmap outlines which are immediate funding decisions and policy actions and those which should happen over the next ten years.

Our modelling assumes a staggered S-curve deployment of investment over the 2020s peaking in 2028,¹⁰ leading to a total capital investment of £14.75bn by 2030.

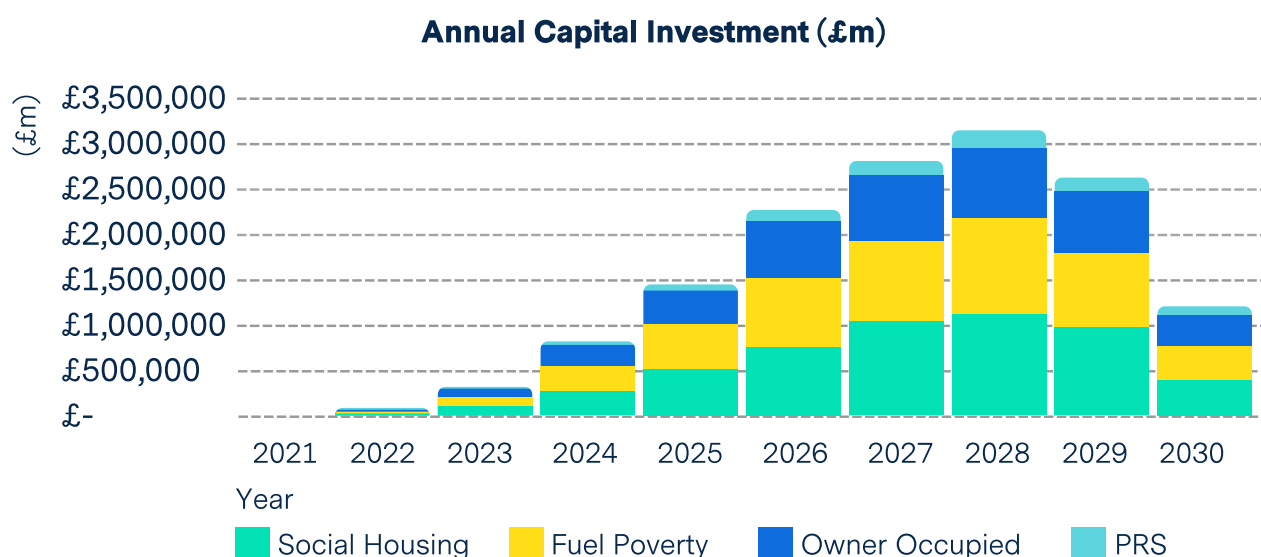
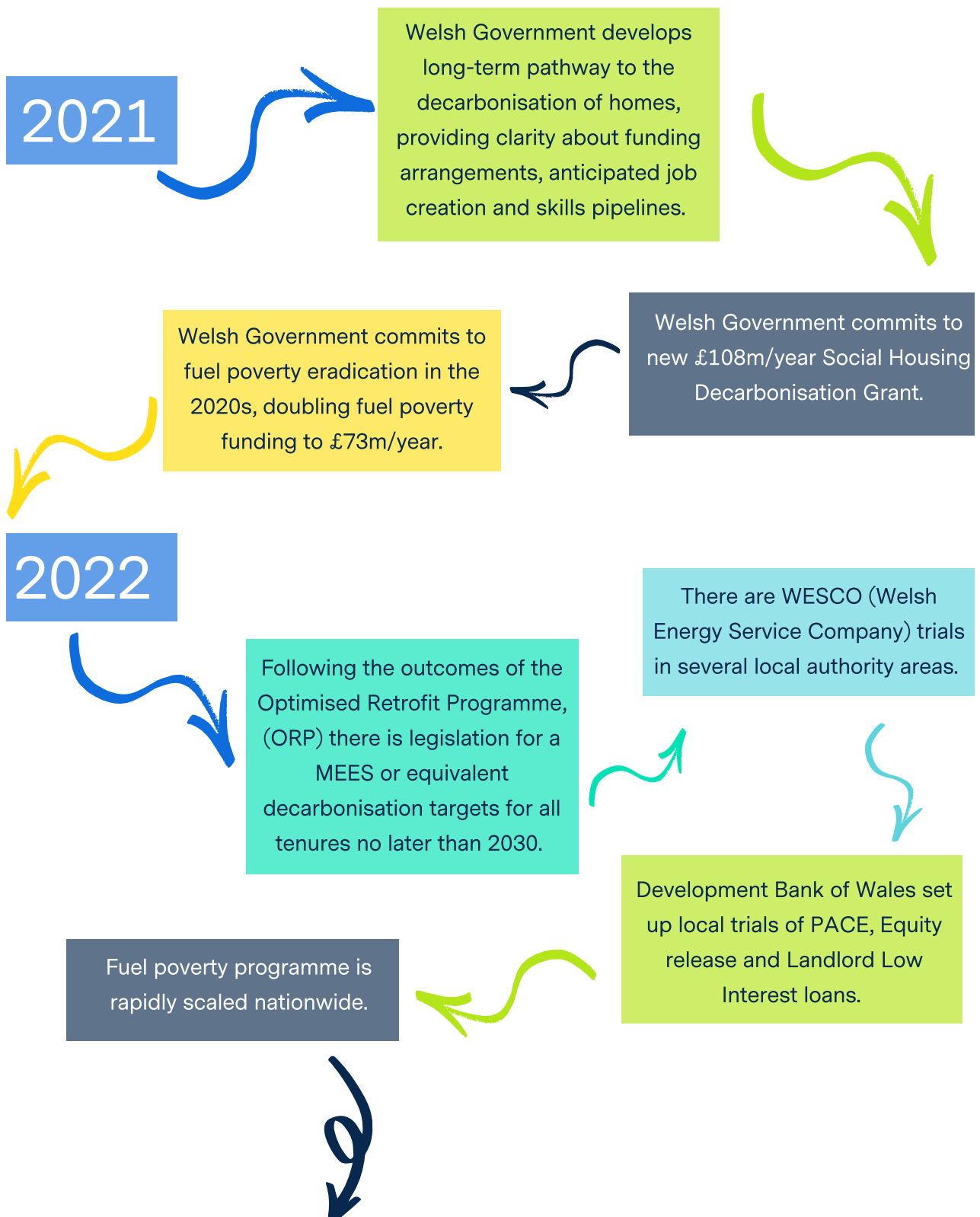
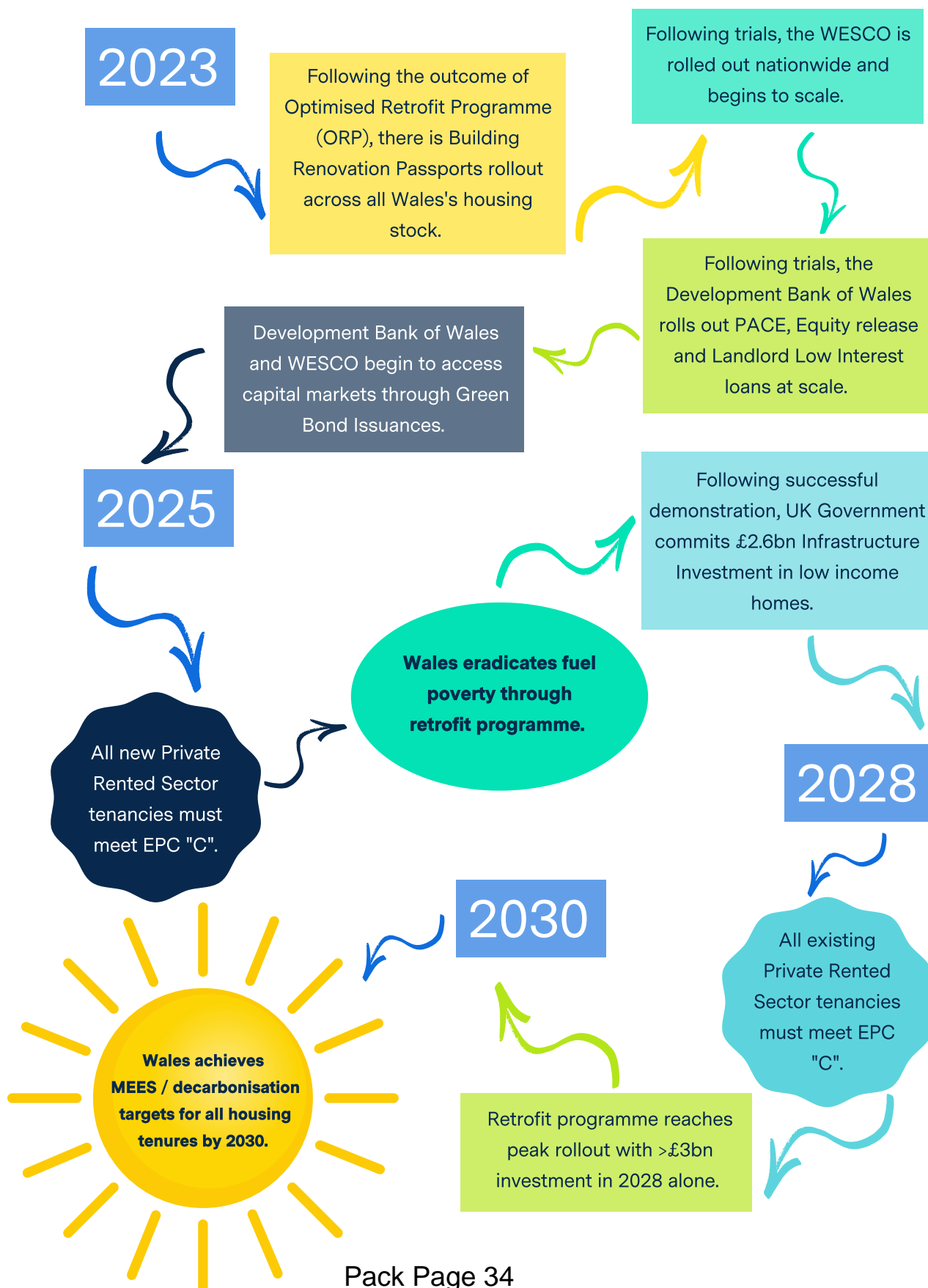


Fig 1: Total Welsh Government funding of £1.7bn required to 2030 - £1,080m through the new Social Housing Decarbonisation Grant and £732m through the Warm Homes programme - peaking between 2026-2029.

Roadmap to 2030





3. Our ambition to decarbonise must be strengthened

Currently Welsh Government is encouraging the social housing sector to work towards the decarbonisation targets set out in the 'Better Homes, Better Wales, Better World' report. However 1.1 million (or 70%) of Wales' housing stock falls under the owner occupied or private rented sectors which currently lack (or have very weak) targets along with appropriate levels of investment or financial incentives.

Given the huge challenge of decarbonising homes, and the potential benefits of a Wales wide long-term programme, we need to ensure delivery at pace and scale.

If cross-sector concerted action is going to achieve these targets they need to be statutory and enforced through minimum energy efficiency standards (MEES) across all stock.

Our work follows recommendations in the 'Better Homes, Better Wales, Better World' report which recommends that:

- All homes in Wales should be brought to EPC "A" by 2050. This target should be brought forward for all social housing and homes in fuel poverty by 2030.

- We are also proposing an interim EPC "C" (or equivalent) target for all homes in Wales by 2030. As a minimum, all fuel poor households regardless of tenure should meet EPC "C" by 2030 in order for the Welsh Government to at least match equivalent ambitions by the UK Government for fuel poor homes in England.
- In addition, we propose a ban on the installation of new fossil fuel heating for all homes no later than 2030.

Welsh Government should:

- Determine an ambitious Minimum Energy Efficiency Standard (MEES) or decarbonisation target for the social housing sector, based on learning from the Optimised Retrofit Programme, then prepare a timetable to legislate for this target if needed.
- Work with the UK Government to legislate for a Minimum Energy Efficiency Standard (MEES) of EPC "C" or equivalent decarbonisation target for all homes in the private rented sector and ban the installation of new fossil fuel heating for all homes, no later than 2030. This will require local authority enforcement of proposed and existing MEES which should be strengthened and properly resourced.

Welsh Government should:

- Build on the work of the Optimised Retrofit Programme to develop a cost model and 'building renovation passports' for the entire Welsh housing stock. Properties will need to be improved, as far as possible, considering current solutions available and the likely costs of the work. Building renovation passports will provide a more detailed understanding of relative costs and the scale of work needed for different types of homes.

To support this UK Government should:

- Ensure the full devolution of Building Regulations powers to Wales;
- Cut VAT on all retrofit related measures to 5%.



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4. The scale of the challenge means new institutions are needed and there will be new roles for existing organisations.

As the scale of the challenges and opportunities of the decarbonisation of homes are realised, there will be a need for new roles and approaches.

For example, we suggest a key role for the Development Bank of Wales (DBW) in the coordination of funding for the private rented and owner-occupied sectors, and the development of a Wales Energy Service Company (WESCO) to manage energy performance contract financing for the social housing sector.

Welsh Government should:

- Establish a central role for the Development Bank of Wales (DBW) or a similar coordinating actor to facilitate lending of around £1bn/year. This would need to be paired with an appropriate, area-based advice and retrofit procurement service to offer a 'one-stop-shop' to households.
- Explore the establishment of a new Wales Energy Service Company (WESCO) to coordinate and support decarbonisation in the social housing sector. A WESCO would combine loans and grants into a single performance contract. It would fund improvements to homes with guaranteed savings repaid on the energy bill, securing debt-finance on its balance sheet on behalf of housing associations.

What is an Energy Service Company (ESCO)?

They develop, design, build, and arrange financing for projects that save energy, reduce energy costs, and decrease operations and maintenance costs. They act as project developers for a range of energy saving measures and assume the technical and performance risks associated with a project. They differ from other organisations that offer energy-efficiency improvements in that they use a performance-based contracting methodology. This means the finance generated is directly linked to the actual energy cost savings.

Welsh Government will also need to address the skills gaps, both in numbers and in diversity, which exist for retrofit jobs.

Currently there is a risk that Wales will lose the benefits of job creation because there are not enough people who are qualified to undertake retrofit work. This needs to be addressed urgently if we are to maximise the multiple benefits of investment in housing decarbonisation.



Welsh Government should:

- **Urgently develop a skills pipeline for a Welsh Retrofit workforce.**

Investing in, and developing a long-term pathway, to decarbonise all homes in Wales will provide long-term commitment and security to enable development of skills pathways and employability programmes which will support new jobs that could be created in our foundational economy.

Building on the momentum and investment in the Optimised Retrofit Programme, proposals such as the Retrofit Academy for Wales should be supported and scaled up across Wales.

- **Adopt a Retrofit Plus approach - broadening the Retrofit programme to support community involvement and neighbourhood regeneration.**

Investment at scale in Welsh homes should look beyond new boilers and towards innovative solutions to improve communities within the broader ambitions of the Well-being of Future Generations Act. Opportunities should be sought to expand the decarbonisation programmes by greening communities, creating spaces for nature, local food growing and culture.

5. Wales should target the worst homes first in order to maximise the benefits of reducing fuel poverty and addressing decarbonisation.

Many Welsh homes remain in a dire state and thousands of households live in 'severe fuel poverty' requiring over 20% of their income to maintain a satisfactory heating regime.

While the Welsh Housing Quality Standard, Arbed and Nest programs have made significant inroads in reducing it, 155,000 (12%) of Welsh homes remain in fuel poverty: 20% of the Private Rented Sector, 11% of owner occupiers and 9% of social housing tenants live in fuel poverty. Any decarbonisation programme must target these worst performing homes first as a matter of urgency.

Welsh Government should:

- Ensure that their long-term pathway reflects the phasing needed to prioritise funding and support for decarbonising social housing and homes in fuel poverty first, considering what further regulation may be needed for homes in the private rented and owner-occupied sectors.

Conclusion

This work has demonstrated the level of infrastructure investment needed to improve and decarbonise (retrofit) homes in Wales – this will not only address our climate crisis but will also reduce fuel poverty, improve health outcomes, create thousands of new jobs and support the development of local supply chains to support the foundational economy. A national programme should be an urgent priority for the new Government to support a green, equal and just recovery.

Our in depth research and modelling has shown how much funding is needed up to 2030, the potential sources of funding for different sectors as well as models for delivery. Recommendations for UK and Welsh Government as well as other key players show that this can be achieved with long-term commitment supported by a long-term programme which should be put in place urgently.

Wales has the ambition, and the vision, our focus now has to be action.

Acknowledgements



This work has been developed by the Office of the Future Generations Commissioner for Wales in partnership with New Economics Foundation.

The full report and the technical summary have been drafted by Dr Donal Brown from the Sustainable Design Collective, with support from:

- Christian Jaccarini and Chaitanya Kumar (New Economics Foundation)
- Cathy Madge and Eurgain Powell (Office of the Future Generations Commissioner for Wales)

Thank you to all of the stakeholders who have attended workshops and commented on drafts of this work.



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References and footnotes

- [1] https://www.futuregenerations.wales/resources_posts/welsh-government-budget-must-signal-a-change-in-direction-to-reset-our-economy/
- [2] <https://gov.wales/sites/default/files/publications/2019-07/independent-review-on-decarbonising-welsh-homes-report.pdf>
- [3] <https://gov.wales/sites/default/files/publications/2019-07/decarbonising-welsh-homes-stage-2-report.pdf>
- [4] Based on a review of GDP multipliers for retrofit developed by Cambridge Econometrics and the University of Leeds.
- [5] Delivering these benefits will require minimum energy efficiency standards (MEES) / Energy Performance Certificate (EPC) regulations across all tenure types and income levels.
- [6] Building on data from the Welsh School of Architecture, to achieve EPC A for social housing and fuel poor homes, and EPC C for all other homes.
- [7] <https://www.ons.gov.uk/businessindustryandtrade/constructionindustry/datasets/outputintheconstructionindustrysubnationalandsubsector>
- [8] <https://gov.wales/fuel-poverty-estimates-wales-headline-results-2018>
- [9] D. Brown, H. Wheatley, C. Kumar, J. Marshall, A Green Stimulus For Housing: The Macroeconomic Impacts of a UK Whole House Retrofit Programme, 2020.
www.neweconomics.org
- [10] Assuming future programmes for the decarbonisation of the wider stock we might expect deployment and jobs to continue through the 2030s.

Equality and Social Justice Committee

Consultation: Fuel poverty and the Warm Homes Programme

From: National Energy Action (NEA) Cymru

1. Introduction

- 1.1 National Energy Action (NEA) is a national fuel poverty charity that wishes to see that everyone in Wales can afford to keep their homes warm and safe.¹ We welcome this opportunity to help inform the Committee's inquiry into fuel poverty and the Warm Homes Programme.
- 1.2 This is a critical time. It is estimated that there were 155,000 households living in fuel poverty in Wales in 2018, with a further 145,000 households being at risk of fuel poverty.² Since then, we have suffered a COVID-19 pandemic that has exacerbated existing inequalities and now face an 'energy price crisis' which has and will continue to see unprecedented rises in household energy bills.
- 1.3 In April 2022, NEA estimate that the cost of heating the average home is likely to have doubled in the last 18 months.³ If the price cap goes up in April by a further £400–£600 to take account of surging wholesale gas prices, we estimate that the overall number of households in fuel poverty in Wales could increase by 50% or more, compared to 2018 estimates. This will see unacceptable numbers of people face desperate, humiliating choices between heating, eating, or meeting other essential expenditure.
- 1.4 The next decade needs to be a decade of delivery. As well as needing to respond in the short-term to the scale of this crisis⁴, it will see a necessary focus on decarbonising heat in homes and delivering a fair, affordable, and just transition for current and future generations.
- 1.5 Whilst welcome, current schemes are insufficient to address the scale of fuel poverty in Wales, let alone decarbonise homes. With the Welsh Government currently consulting on the next iteration of its Warm Homes Programme, now is a vital moment to consider how far the current Programme has taken us, and going forward take the opportunity to provide guaranteed support for the 'worst first' – i.e. those on the lowest incomes in the least efficient homes – improving the lives of fuel poor households as we decarbonise and upgrade the energy efficiency of their homes.

2. Why is domestic energy efficiency important?

- 2.1 Our homes play a vital role in our everyday lives. Wales has the oldest and least thermally efficient building stock compared to other UK nations and northerly European countries. As expected, older dwellings in Wales have poor energy performance and lower indoor temperatures compared to those more recently built.⁵ This disproportionately affects poorer households in Wales; many of whom find themselves trapped in the most inefficient homes, to the detriment of their health and wellbeing.
- 2.2 Poor energy efficiency is a key driver of fuel poverty and more than 80% of fuel poor households in Wales live in inefficient homes⁶; higher than in any other UK nation. This overlap has left many of the poorest Welsh households more exposed to soaring energy prices. Without addressing

needless energy waste in our homes, we will continue to waste millions of pounds each year as heat escapes through leaky walls, roofs, floors, and ceilings.

2.3 The resulting impact of poor-quality housing on health services is acute, costing the NHS in Wales approximately £95m every year. Conversely, Public Health Wales estimate that for every £1 spent on improving warmth in vulnerable households, this results in £4 of health benefits, and there could be close to 40% fewer hospital admissions for some cold-related illnesses in those with upgraded homes.⁷ The average annual saving for bringing a home up to a reasonable level of energy efficiency is potentially life-changing, cutting bills by over £300 every year and over £1,000 for the poorest households in the least efficient homes. By focusing early efforts on the 'worst first', these significant savings (which are increasing as energy prices rise) accrue over a longer period, at the same time as taking early action to significantly reduce carbon emissions, generate jobs, and economic growth.

2.4 To this end, we welcome the current opportunities for social housing tenants under the Optimised Retrofit Programme (ORP) and next version of the Welsh Housing Quality Standard (WHQS). However, private renters and owner occupiers make up the overwhelming majority (87%) of the fuel poor population in Wales.⁸ The real litmus test for them in respect to progressing towards our fuel poverty and climate change targets will be the Welsh Government's future iteration of its Warm Homes Programme, and we believe there are several lessons that can be learnt from the current schemes.

3. What are the main lessons learned from the Welsh Government's current Warm Homes Programme and how can these lessons help shape the next iteration to ensure it better supports those living in, or at risk of, fuel poverty?

3.1 NEA has consistently championed and supported the Warm Homes Programme (the Programme). To date, Nest and Arbed have made some very welcome improvements to the lives of fuel poor households in Wales. However, based on evidence from various stakeholders – including that provided via the Fifth Senedd's Climate Change, Environment and Rural Affairs (CCERA) Committee's inquiry into fuel poverty in 2019, recent evidence from Audit Wales, and anecdotal feedback from our partners – there are several lessons that ought to be addressed in the next iteration of the Programme. We group these under six key themes: namely, Scale, Targeting and Eligibility, Measures, Accessibility, Delivery Mechanisms, and Monitoring and Reporting.

Scale

3.2 Since the Programme's launch in 2009, more than £394m has been invested, improving the energy efficiency of more than 67,100 owner occupier and private rented sector households.⁹ In 2018, when the Welsh Government published its latest fuel poverty estimates, improvements in energy efficiency were credited with having reduced estimated levels of fuel poverty in Wales, helping outweigh higher fuel prices alongside increased incomes.¹⁰

3.3 However, it has since been widely acknowledged – including by Welsh Government – that the investment and scale of the Programme has not been sufficient to meet need or targets.

- 3.4 In 2019, the Bevan Foundation stated “to eradicate fuel poverty in a decade, the Welsh Government needed to assist approximately 33,000 households a year out of fuel poverty. Between 2010 and 2019 a total of 55,056 households – i.e. equivalent to 6,000 households a year – received home energy efficiency improvements through Nest and Arbed...This was just 20 per cent of the number needed.”¹¹
- 3.5 Sadly, the level of need is much greater now; not least as the twin challenges of soaring energy prices and falling incomes have become especially acute. If the Welsh Government is to meet its 2035 targets, dramatically reducing fuel poverty and eradicating severe fuel poverty as far as reasonably practicable¹², it must be prepared to scale up its future Warm Homes Programme and increase investment.
- 3.6 The likely scale of fuel poverty in 2022 will require a much larger number of households per year be lifted out of fuel poverty in comparison to what the current Programme has achieved. Even by 2018 estimates, the former Minister stated the number of homes benefiting from investment will need to be more than doubled.¹³
- 3.7 In view of this, NEA supports the Future Generations Commissioner for Wales recent calls on the Welsh Government to double fuel poverty funding to £732m by 2030 and supplement with grants for people on low incomes which would be available from UK Government’s national infrastructure funding.¹⁴
- 3.8 NEA and other key stakeholders, including the Fuel Poverty Coalition Cymru, also called on the Welsh Government to introduce interim fuel poverty targets based on the energy efficiency of fuel poor homes. Regrettably, neither these nor any other interim targets were adopted when the Welsh Government set out its recent *Tackling Fuel Poverty Plan*. This is despite a legal duty on the Welsh Government to put in place these key milestones towards the 2035 objectives (as per paragraph 3.5 above).

Targeting and Eligibility

- 3.9 NEA supports the Warm Homes Programme’s intentions to help the ‘worst first’ – i.e. those on the lowest incomes, living in the least efficient homes. We were pleased to see this principle made explicit in the Welsh Government’s latest Fuel Poverty Plan and reiterated within the Net Zero Wales Plan.
- 3.10 To this end, we welcome the expansion of Nest eligibility criteria beyond exclusively those in receipt of means-tested benefits, to also target support at those on a relative low-income suffering with health conditions exacerbated by the cold under the Nest Scheme Health Conditions pilot. As per the most recent estimates, the majority (69%) of those in fuel poverty in Wales in 2018 were not in receipt of means-tested benefits.¹⁵
- 3.11 However, there are mixed views about Nest and Arbed’s impact on reducing fuel poverty and serious questions have been raised as to how effective the schemes have been in targeting those living in fuel poverty and in greatest need of support.
- 3.12 As noted in CCERA Committee inquiry¹⁶, the schemes have undoubtedly led to improvements in home energy efficiency, and this should make households less likely to be in fuel poverty. However, it is hard to be certain about the precise impact of the schemes. In the past, it appears

neither scheme routinely checked whether households were in fuel poverty before or after the intervention.¹⁷

3.13 While Nest now does so, the way it has evolved in recent years suggests funds are being prioritised to people who may not be fuel poor.¹⁸ Audit Wales' recent findings also arguably cast doubt on the reliability of some of Nest's reported outcomes, including figures counting those taken out of fuel poverty, previous 'before and after' energy efficiency gains, and targeting.

3.14 In recent years, most households that received an energy efficiency package through Nest were not living in fuel poverty: 57% in 2018-19, 63.7% in 2019-20, and 49.6% in 2020-21.¹⁹ Further, Audit Wales has found the scheme has arguably shifted from its original purpose of tackling fuel poverty in the round, increasingly becoming a boiler-replacement scheme. The way the Welsh Government decided the Scheme Manager should assess and interpret the energy efficiency of a home has artificially downgraded EPCs and allowed more people to qualify for support, potentially including many who were not living in fuel poverty. This has also meant reported 'before and after' energy efficiency gains and carbon reduction from the intervention were "significantly overstated".²⁰

3.15 In respect to Arbed, it is unclear what impact the scheme has had in lifting households out of fuel poverty, based on publicly available information and analysis. Arbed's latest annual report does not appear to state how many supported households were fuel poor before or after the intervention.²¹

3.16 In the next iteration of the Programme, NEA believes it is imperative the Welsh Government focuses the schemes on lifting households out of fuel poverty, supporting the 'worst first' – i.e. those on the lowest incomes, in the least efficient homes. The Programme should be designed to include low-income households living in, or at risk of, fuel poverty even if they do not receive means-tested benefits.

3.17 Further, it will be important for the next iteration of the Programme to align with the next phase of the Energy Company Obligation (ECO), which is due to run from April 2022 until March 2026. This too is intended to have a focus on improving the least efficient homes occupied by low income and vulnerable households (making larger and more complete improvements to them) and NEA welcomes this.

Measures

3.18 Unfortunately, the evolution of the Warm Homes Programme has also meant that it has increasingly fallen short of its original intended 'whole-house' approach. The vast majority of energy efficiency measures installed under Nest have been replacement boilers. In 2019-20, 93.8% of installed measures were boiler replacements and central heating installations; with just 6.2% for standard insulation. In 2020-21, this figure rose to 94.4% for boiler replacements and central heating installations; with just 5.6% for standard insulation, comprising of 5.5% loft insulation and 0.1% draughtproofing.²²

3.19 Clearly, this is to the detriment of other meaningful, fabric upgrades, including for example cavity or solid wall insulation, which would provide long-term benefits and provide a permanent solution to lower bills by reducing demand through energy efficiency measures. We are concerned by this and the Scheme Manager's response to the CCERA Committee's inquiry

suggests insulation measures were seen as “additional” and “secondary” measures, limited by the cap thresholds set by the Welsh Government.²³

- 3.20 While a wider set of measures have been installed under Arbed compared to Nest, insulation appears still to have made up the minority. Between October 2018 and March 2021, Arbed installed measures in 3,108 homes, of which 2,095 (67%) received a new heating system, with 1,777 (57%) homes receiving solar panels and 415 (13%) receiving loft insulation.²⁴
- 3.21 Concerningly, the lack of fabric measures has also meant that while the Programme covers all geographic areas in Wales, the schemes have reportedly failed to address the specific challenges associated with tackling rural fuel poverty. Wales has a high proportion of rural households and a large proportion of inefficient, solid-wall homes, with higher numbers in rural areas.
- 3.22 Nest and Arbed have spending caps in place for the amount spent on individual properties. Although these caps are set higher for off-gas properties, more common in rural areas, anecdotal evidence from partners, including Citizens Advice, indicates households in need in off-gas homes with solid walls have often been unable to get the insulation required for their property because of the costs involved.
- 3.23 In 2019-20, only 0.5% of off-gas measures installed through Nest were for insulation, suggesting that fewer than 10 off-gas households may have received solid wall insulation, despite 65,000 households with solid uninsulated walls being in fuel poverty in 2018 (i.e. 21%, the highest rate of fuel poverty among all types of wall and insulation).²⁵ One way to ensure that rural, solid wall properties receive the attention they need through the Programme is to have a solid wall minimum, akin to that found in the GB-wide ECO scheme. More generous cost caps for grants may also be needed. The English Home Upgrade Grant (HUG) scheme allows grants of up to £25,000 to upgrade the least efficient rural properties, for example.
- 3.24 In our view, it is imperative that the next iteration of the Programme takes a multi-measure, ‘fabric first’ approach, in line with the overarching policy goals of the Fuel Poverty Plan and Net Zero Wales Plan. This will invariably mean a need to increase the financial cap thresholds to allow for measures not previously included or often installed.
- 3.25 As recommended by the former CCERA Committee, the next iteration should also include a bespoke programme of support aimed at addressing the distinct challenges faced in rural areas, with appropriate levels of funding that take account of the more complex and costly measures required to address rural fuel poverty.²⁶

Accessibility

- 3.26 It is also imperative that the future Programme is accessible to all those in need of its support.
- 3.27 This will mean ensuring that measures are fully funded and require no financial contributions from fuel poor households. As recommended, the Programme should also routinely meet the cost of ancillary and enabling works that have otherwise hitherto often prevented households from receiving energy efficiency improvements²⁷. These should include:

- Rewiring – To make changes to a home, it must sometimes be rewired for safety reasons. This can cost thousands of pounds.
- Servicing and maintenance – Grant funding provided through many available schemes do not cover the costs of annual servicing and maintenance. If these costs cannot be met by the household, there is an increased risk of the heating system developing a problem.
- Upgrading the electricity network – In some cases, when a householder decides to install a heat pump as their main heating source, their connection to the electricity grid may not be sufficient to support such equipment. NEA is aware of some occasions where the network has demanded that the household provides a financial contribution towards the cost of the upgrade before it takes place, which can be prohibitive.
- Redecorating and paintwork. Some installations will result in a home needing redecoration to restore it to its previous state.

3.28 Further, the delivery of measures should be promoted and delivered alongside independent, holistic advice and support, providing direct advice and assistance to vulnerable households in, or at risk of, fuel poverty on improving home energy efficiency, maximising incomes, and managing/reducing energy costs, and accessing the broader support available in the energy market, such as the Warm Home Discount.

Delivery Mechanisms

3.29 NEA has previously championed the merits of an area-based scheme targeting clusters of inefficient homes in deprived areas, running alongside a demand-led based scheme. We are aware that Arbed has now closed and prior to this, experienced significant delays and under-delivery issues, meaning considerably fewer households received support than intended.²⁸

3.30 However, a continuing area-based approach for part of the Programme should have considerable merits, including:

- Economies of scale – As targeting is on an area basis, local installers can do work street by street, rather than pepper-potting across areas. This reduces costs and ensures money can go further.
- Neighbourhood impact – Area-based targeting can increase the number of households that are interested in making improvements. Households are more likely to take up the offer of energy efficiency improvements if their neighbours are also visibly taking up the offer themselves.
- Economic benefits – Concentrating the energy savings in a discrete area could lead to more significant localised economic benefits. As energy costs reduce, spending power increases, meaning potential boosts for local economies that cannot be achieved if only a small number of homes are improved in a local area.

3.31 NEA understands that Welsh Government has commissioned an overall evaluation of Arbed, due in early 2022. It is important that lessons are learnt, and such evidence is brought to bear by the Welsh Government as part of its consultation for the next iteration of the Programme.

Monitoring and Reporting

3.32 Finally, more broadly, the CCERA Committee's inquiry highlighted serious concerns over the lack of a robust monitoring and evaluation framework.²⁹ Without this, it is impossible to evaluate

whether the schemes are effectively reducing fuel poverty, which is fundamental given the Programme is the Welsh Government's key delivery mechanism to tackling fuel poverty in Wales.

3.33 Since then, we note Audit Wales has reported significant concerns with Welsh Government's monitoring and contracting arrangements, concluding that contracts will need to be tightened and oversight strengthened in the next iteration.³⁰ NEA, too, would expect these issues to be addressed in any future iteration of the Programme and recommends that strong, formal arrangements are also put in place for the management of any redress issues when they arise and how they will be remedied for householders.

4. How can private sector landlords be encouraged to tackle fuel poverty amongst tenants?

4.1 The minimum standard for the energy efficiency of a privately rented property in England and Wales is currently set at EPC E. The UK Government has consulted on raising this minimum standard to EPC C by 2028, with landlords having to spend a minimum of an as yet undetermined amount to reach the standard. Such a change in standards would be a positive step in ensuring that the private rented sector is adequately tackling fuel poverty.

4.2 However, regulations are only part of the picture. Regulations must be enforced and the duty under MEES is placed on local authorities to do so. Local authorities should have plans in place, as part of their own fuel poverty and net zero strategies, for how they will adequately police these important regulations.

4.3 Additionally, it is proportionate to allow private landlords to access some of the available funding, alongside meeting their regulatory obligations, in order to ensure that they upgrade their properties as far as is possible. In England, for example, the HUG scheme allows a £5,000 subsidy to private landlords on the condition that they also contribute a further 50% of the subsidy. Such funding allowances in the next iteration of the Warm Homes Programme would result in a suitable level of encouragement, provided new stretching regulations are in place for privately rented properties to reach EPC C by 2028 by the UK Government. This was a commitment first made within the 2017 Clean Growth Strategy but is still to be implemented by the UK Government.

5. How can the Welsh Government ensure that the next iteration of the Warm Homes Programme better aligns with its efforts to decarbonise Welsh housing?

5.1 It is recognised that warm and safe homes can and need to be at the heart of a fair and affordable transition to net zero. Without programmes to transform the homes of those on the lowest incomes living in the least efficient properties, and to provide clean heating technologies, we will fail at both. As stated earlier in this response, the next Programme should take a '**worst first**' approach. In doing so, fuel poor households will see reduced bills and carbon emissions, making a significant contribution to efforts to decarbonise Welsh housing.

5.2 NEA and Energy Action Scotland's Fuel Poverty Monitor 2021/22³¹ investigated these issues extensively and found that in order to decarbonise heat for fuel poor households effectively, a number of things must be achieved.

- 5.3 There must be **adequate funding** to meet the problem. In line with the recent calls of the Future Generations Commissioner for Wales, NEA recommends that £325m is committed to 2025 to upgrade the energy efficiency of fuel poor homes.
- 5.4 In line with Welsh Government's Fuel Poverty Plan and Net Zero Wales Plan, NEA recommends that this funding should be spent on a '**fabric first**' basis, working on the energy efficiency of the built environment to get homes 'Net Zero ready' before, or at the same time as, making changes to the heating in a home. This will ensure that whatever the heating type, savings can be made for the householder. In order to do this effectively, cost caps must be sufficient to make material upgrades, including allowing for solid wall insulation to be installed where appropriate. Additional support should be provided for rural households, commensurate with the additional barriers they face to decarbonise.
- 5.5 The Programme must be delivered with **adequate advice and awareness-raising**. Advice should be available for those who cannot access the internet (via a telephone or face-to-face service) and tailored advice on decarbonising homes will likely need to be improved significantly. We recommend the Welsh Government investigate ways in which advice specifically for decarbonising homes can be improved and included in national skills initiatives.
- 5.6 There must also be trust from households that the changes that are made to their homes will be of **good quality, underpinned by access to sufficient redress**. This can be achieved using the PAS 2035 Standard within the next iteration of the Programme and come with a requirement to provide redress to households if and when installations do not meet the required standards.
- 5.7 Lastly, to ensure confidence, there must be **transparency** in government plans. We recommend that there must be regular reporting of how policies impact on consumer bills and a commitment from the Welsh Government that there are impact assessments undertaken for all policy decisions at a more granular level, to better understand the distributional impacts of policy change.

END

¹ National Energy Action (NEA) Cymru advocates to make warm homes a national priority, provides platforms for community-facing organisations to come together to share views and best practice, and works with partners to provide training and national qualifications to community-facing staff covering key issues associated with fuel poverty, fuel debt, affordable warmth and practical energy efficiency advice, and to directly support low-income and vulnerable households in need. See www.nea.org.uk.

² See *Fuel poverty estimates for Wales, 2018: revised*, The Welsh Government at <https://gov.wales/sites/default/files/statistics-and-research/2019-12/fuel-poverty-estimates-wales-2018.pdf> Note: The Welsh Government is expected to publish updated 'fuel poverty projections' in spring 2022.

³ See <https://www.nea.org.uk/energy-crisis>

⁴ See https://www.nea.org.uk/wp-content/uploads/2022/01/NEA-policy-briefing-supporting-vulnerable-energy-customers-this-winter-updated-110122_final_MC.pdf

⁵ See the Welsh Housing Conditions Survey, 2018: <https://gov.wales/sites/default/files/statistics-and-research/2019-10/welsh-housing-conditions-survey-energy-efficiency-dwellings-april-2017-march-2018-795.pdf>.

⁶ See <https://gov.wales/sites/default/files/statistics-and-research/2019-09/fuel-poverty-estimates-wales-2018-020.pdf>.

⁷ See *Making a Difference Housing and Health: A Case for Investment*, Public Health Wales at <https://phw.nhs.wales/files/housing-and-health-reports/a-case-for-investment-report> Note: Public Health Wales' report also highlights that every £1 spent on housing adaptations prior to hospital discharge results in £7.50 of cost savings for health and social care services.

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- ⁸ See *Fuel poverty estimates for Wales, 2018: revised*, The Welsh Government at <https://gov.wales/sites/default/files/statistics-and-research/2019-12/fuel-poverty-estimates-wales-2018.pdf>
- ⁹ See *Proposals for the next iteration of the Warm Homes Programme* at <https://gov.wales/proposals-next-iteration-warm-homes-programme>
- ¹⁰ See <https://gov.wales/fuel-poverty-estimates-wales-headline-results-2018>
- ¹¹ See *Fuel Poverty in Wales*, Climate Change, Environment and Rural Affairs Committee (2020) at <https://senedd.wales/laid%20documents/cr-ld13147/cr-ld13147-e.pdf>
- ¹² Under its *Tackling Fuel Poverty Plan 2021–2035*, the Welsh Government has set three targets, namely that by 2035: No households are estimated to be living in severe or persistent fuel poverty as far as reasonably practicable; Not more than 5% of households are estimated to be living in fuel poverty at any one time as far as reasonably practicable; and The number of all households ‘at risk’ of falling into fuel poverty will be more than halved based on the 2018 estimate. See <https://gov.wales/tackling-fuel-poverty-2021-2035-html#section-64048>
- ¹³ See *Fuel Poverty in Wales*, Climate Change, Environment and Rural Affairs Committee (2020) at <https://senedd.wales/laid%20documents/cr-ld13147/cr-ld13147-e.pdf>
- ¹⁴ See *Homes Fit for the Future: The Retrofit Challenge*, Future Generations Commissioner for Wales in partnership with New Economics Foundation. The report highlights that retrofit measures would eradicate fuel poverty and reduce needless energy costs, saving Welsh residents an average of £418 per year on their energy bills (a total of £8.3bn by 2040); not to mention significant environmental and health benefits, including generating a cost saving to the NHS of £4.4bn by 2040. The Commissioner calls on the Welsh Government and the UK Government to work together, funding the retrofit challenge using all financial levers available to them. Proposals include the Welsh Government doubling fuel poverty funding to £732m by 2030 and supplementing with grants for people on low incomes which would be available from UK Government’s national infrastructure funding (£2.6bn, plus £1bn allocation of the Shared Prosperity Fund). The report’s findings are summarised within an Executive Summary (<https://www.futuregenerations.wales/wp-content/uploads/2021/07/ENG-Exec-Summary-Financing-the-decarbonisation-of-housing-in-Wales.pdf>), supported by a Technical Summary (<https://www.futuregenerations.wales/wp-content/uploads/2021/07/ENG-Tech-Summary-Financing-the-decarbonisation-of-housing-in-Wales.pdf>) and a detailed report (<https://neweconomics.org/uploads/files/Financing-Wales-Housing-Decarbonisation.pdf>)
- ¹⁵ See *Fuel poverty estimates for Wales, 2018: revised*, The Welsh Government at <https://gov.wales/sites/default/files/statistics-and-research/2019-12/fuel-poverty-estimates-wales-2018.pdf>
- ¹⁶ See *Fuel Poverty in Wales*, Climate Change, Environment and Rural Affairs Committee (2020) at <https://senedd.wales/laid%20documents/cr-ld13147/cr-ld13147-e.pdf>
- ¹⁷ See *Fuel Poverty*, Wales Audit Office (2019) at <https://audit.wales/publication/fuel-poverty>
- ¹⁸ See *The Welsh Government’s Warm Homes Programme*, Audit Wales (2021) at <https://audit.wales/publication/welsh-governments-warm-homes-programme>
- ¹⁹ See Nest scheme annual reports available at <https://nest.gov.wales/en/about-nest>
- ²⁰ See *The Welsh Government’s Warm Homes Programme*, Audit Wales (2021) at <https://audit.wales/publication/welsh-governments-warm-homes-programme>
- ²¹ See *Arbed annual report 2019-20* at <https://www.arbedambyth.wales/eng/annual-report-2019-20.pdf>
- ²² See Nest scheme annual reports available at <https://nest.gov.wales/en/about-nest>
- ²³ Ibid
- ²⁴ See *The Welsh Government’s Warm Homes Programme*, Audit Wales (2021) at <https://audit.wales/publication/welsh-governments-warm-homes-programme>
- ²⁵ See Table 4.4.1 in *Fuel poverty estimates for Wales, 2018: revised*, The Welsh Government at <https://gov.wales/sites/default/files/statistics-and-research/2019-12/fuel-poverty-estimates-wales-2018.pdf>
- ²⁶ See Recommendation 18 in *Fuel Poverty in Wales*, Climate Change, Environment and Rural Affairs Committee (2020) at <https://senedd.wales/laid%20documents/cr-ld13147/cr-ld13147-e.pdf>
- ²⁷ See *Fuel Poverty in Wales*, Climate Change, Environment and Rural Affairs Committee (2020) at <https://senedd.wales/laid%20documents/cr-ld13147/cr-ld13147-e.pdf>
- ²⁸ These issues are documented in some detail in Audit Wales’ *The Welsh Government’s Warm Homes Programme* (2021) at <https://audit.wales/publication/welsh-governments-warm-homes-programme>. The report highlights that Arbed 3 continued to encounter significant problems beyond its first year of delivery in 2018-19 (where it had a significant underspend) and that Welsh Government made significant changes to the contract to try accelerate delivery, reprofiling and reducing targets both in terms of the number of homes to be supported as well as diluting the level of ambition regarding EPC ratings improvements.
- ²⁹ See *Fuel Poverty in Wales*, Climate Change, Environment and Rural Affairs Committee (2020) at <https://senedd.wales/laid%20documents/cr-ld13147/cr-ld13147-e.pdf>
- ³⁰ See *The Welsh Government’s Warm Homes Programme*, Audit Wales (2021) at <https://audit.wales/publication/welsh-governments-warm-homes-programme>. Issues appear to include steep differences in what the Welsh Government pays the two Scheme Managers to supply and fit the same energy efficiency measures in predefined property types,

contractual issues that have enabled Scheme Managers to claim full payment for lighting and water measures where sub-contractors install only one or two lightbulbs or aerators, and a lack of what should be readily available management information.

³¹ See *Fuel Poverty Monitor 2020/21*, NEA (2021) at https://www.nea.org.uk/wp-content/uploads/2021/11/0000_NEA_Fuel-Poverty-Report-and-Exec-Summary_v2.pdf

Energy Saving Trust response to the Senedd Equality and Social Justice Committee consultation 'Fuel poverty and the Warm Homes Programme

Energy Saving Trust is an independent organisation dedicated to promoting energy efficiency, low carbon transport and sustainable energy use. We aim to address the climate emergency and deliver the wider benefits of clean energy as the UK transitions to net zero. We empower householders to make better choices, deliver transformative programmes for governments and support businesses with strategy, research and assurance – enabling everyone to play their part in building a sustainable future.

We have provided the central coordination point for the Welsh Government's Nest Scheme element of the Warm Homes Programme since 2011, providing energy efficiency and affordable warmth advice and support to households, building referral pathways with partners across Wales to reach the most vulnerable households and promoting the scheme.

We were also half owners of the 50:50 joint venture, Arbed am Byth which delivered the Arbed scheme until November 2021.

What are the main lessons learned from the Welsh Government's current Warm Homes Programme?

Both the Nest and Arbed elements of the Warm Homes Programme have been effective in terms of supporting some of the most vulnerable households in Wales to reduce their energy bills, improve the comfort and quality of their homes and reduce carbon emissions. One of the most significant lessons from our perspective delivering the Nest phone service has been the value of this advice line. While not everyone who contacts the Nest advice line will be eligible for free energy efficiency measures all callers were supported with energy saving advice and could benefit from referrals into partners for benefit entitlement checks and debt advice. Future iterations of the Warm Homes Programme should continue to offer free and impartial advice.

In terms of delivery, a great strength of the Warm Homes Programme has been the focus on local skills and supply chains and the training of apprentices. Ensuring that tradespeople in Wales have the skills required to deliver high quality retrofit will be essential for meeting both fuel poverty and decarbonisation targets. This approach should be carried forward into the next iteration of the Warm Homes Programme.

There have been challenges involved in delivering aspects of the Warm Homes Programme, especially as priorities have rightly expanded to include decarbonisation alongside fuel poverty alleviation, a dual focus that we strongly support. The need for flexibility in the design and focus of the Warm Homes Programme to allow for new technologies, approaches and priorities is recognised as a key lesson moving forward.

How can these lessons help shape the next iteration of the Warm Homes Programme to ensure that it better supports those living in, or at risk of, fuel poverty?

As discussed above we should retain and strengthen the elements of the existing programme which work well.

The importance of impartial and expert advice cannot be overstated, especially as we look to decarbonise our housing stock alongside alleviating fuel poverty. Nest advisors are already being contacted by customers who are asking about low carbon heating options and saying that they don't want replacement gas boilers. Advisors should be able to support consumers on these topics so that as well as advising on energy efficiency measures advice can be given on low carbon heating, maximising benefits, accessing Warm Homes Discount, switching supplier, and potentially on smart technologies, low carbon transport or renewable energy. Advice should continue to be available to anyone who feels they are struggling to heat their home affordably so that anyone who gets in touch is offered some form of support – even if they don't qualify for a package of funded improvements. Future iterations of the Warm Homes Programme should look to offer more in-depth tailored and personalised advice using smart meter data and in-home advice for some households. Throughout, the customer journey must be made as smooth as possible with the process made clear and excellent customer service offered.

The use of partner referral pathways with local and national organisations has allowed some of the most vulnerable and disengaged households to access support. This work has been aided by the promotion of schemes through a number of channels. We know that promotions that are supported by local authorities that target benefit recipients using local authority data work well to reach eligible households. This should be a central feature of future schemes.

The use of companies based in Wales to deliver the Warm Homes Programme has been a welcome success, as have the apprenticeships that have been offered through the programme. Moving forward an even greater focus on increasing skills across the country and strengthening local supply chains would be welcome. We know from our experiences helping to deliver similar programmes in Scotland that SMEs and trainees can benefit greatly from these government programmes (see 'Our Sub-Contractors' in the latest WarmWorks annual report¹).

In particular:

what should the eligibility criteria for home energy efficiency measures be,

While the eligibility criteria will ultimately be under the Welsh Government's discretion and at least partly dictated by the scope of the future Warm Homes Programme we have some general views on eligibility criteria.

We agree that a primary focus of the Warm Homes Programme should be supporting vulnerable households to move out of fuel poverty and be left with more comfortable homes and more manageable bills. This is particularly important in the context of the current high energy prices and expected rises to come later in 2022. To help achieve these aims eligibility should be based on a combination of income and energy efficiency with consideration given to those more likely to be in or at risk of fuel poverty.

Any eligibility criteria should be easy to assess and as closely aligned with fuel poverty as possible. In practice this means assessing eligibility using workable proxies, as a full assessment of household income

¹ <https://www.warmworks.co.uk/download/4870/>

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and outgoings and the energy efficiency of a property is both financially and administratively costly. For income and energy efficiency proxies to be effective they must align relatively well with the reality of those who are in fuel poverty, this means having good data on the characteristics of fuel poor households.

Being in receipt of means-tested benefits is no longer a useful proxy for being in fuel poverty. In 2018 around 70% of people in fuel poverty were not in receipt of any means-tested benefits. These figures are from 2018 and so do not take account of the impacts of either Covid-19 or the current energy crisis. In practical terms this means that eligibility based solely on receipt of means-tested benefits is unlikely to be suitable, receipt of other benefits (e.g. disability living allowance, personal independence payments etc.) should feature, as well as a robust, clear and evidenced income assessment. The future scheme should consider discounting benefit payments from income assessments to allow more vulnerable households to be supported. Welsh Government should also consider raising the income threshold to support more people impacted by the energy price increases. Self-reporting of typical costs and comfort in the home, while lacking the statistical rigour favoured for reporting purposes, can be an effective means of triaging households that engage with the service in the first instance. Assessing whether a household is spending 8%, 10% or 20% of their income on energy bills is a relatively easy way of determining what support might be available to a household.

In terms of the energy efficiency of the home as an eligibility criteria, many people don't know what their EPC rating is (or may not have one for their home), or if they do this may be out of date. The future Warm Homes Programme could meet the cost of undertaking an EPC assessment on a property to overcome this initial barrier. There are many valid criticisms of EPCs but our view is that they remain a useful tool. Our view is that the current EPC criteria for Nest (EPC E to EPC G with some EPC D households also able to be supported with free energy efficiency measures if they meet other criteria) is worthwhile retaining but with the understanding that some households living in homes with higher EPC ratings can still experience fuel poverty if their incomes are especially low or their energy needs higher than average. To help address these households the future iteration of the Warm Homes Programme could build on the success of the Health Conditions Pilot to take account of additional medical conditions such as cancer and arthritis which form part of the eligibility for ECO, as well as other factors that can place households at greater risk of fuel poverty including property type, single parent households, number of dependents etc. (see [recent research into fuel poverty risk factors](#)). Taking this more nuanced approach has proven successful in terms of supporting those with underlying health issues through the Health Conditions Pilot. The pilot was introduced in September 2017 and updated in July 2019 to reach households living with a health condition made worse by cold or damp housing and living in fuel poverty or at risk of fuel poverty. The current criteria include those with a chronic respiratory, circulatory or mental health condition. From July 2019 to June 2021 6,000 of those referred met the health criteria and were referred for an income assessment. A total of 3,486 households passed the income assessment, therefore meeting all the criteria (2,146 of these households had measures installed).

should the area-based approach to tackling fuel poverty (Arbed) continue,

We think there is value in an area-based approach to tackling fuel poverty and retrofitting homes alongside a national programme that householders who are struggling can access at any time rather than having to wait until an area-based scheme comes to their area. The previous Arbed scheme had many successes, including the installation of more varied measures. We know from our experiences in delivering Home Energy Scotland that an area-based approach can be effective alongside a national programme. There may be value

in combining the area-based and centrally administered elements of the current Warm Homes Programme in future iterations.

Area based schemes enable insulation improvements to be made in flats and terraces of houses that would either not be possible or much more difficult at individual property level. Mass external insulation to properties across an area can improve the appearance of the area and community members report what a significant impact this has. From a delivery perspective it makes more sense to deliver external wall insulation on an area basis with this likely to be more cost effective due to economies of scale and householders more likely to agree to the insulation when it is being done *en masse* in the area.

Local Area Energy Plans, which build on Regional Energy Strategies, are now being developed in Wales with these due to be completed by the end of the 2023/24 financial year. This work could look to incorporate an area-based approach to retrofit. The Optimised Retrofit Programme is also moving towards a more area-based approach with local authority-led bids looking to improve private homes adjacent to council stock. Area-based schemes could look to combine ECO funding alongside Welsh Government, private and social landlord funding to improve outcomes for communities and trial new approaches. This approach has proven effective in Scotland where Scottish Government and local councils have delivered energy efficiency improvements to over 100,000 households through an area-based approach since 2013.

what specific support should be made available to meet the challenges associated with rural fuel poverty?

Rural households face particular challenges when it comes to heating their homes and affording energy, with rural areas experiencing higher rates of fuel poverty than urban areas. Rural properties tend to be older with poorer insulation and a higher proportion of off-gas heating while average incomes in rural areas are lower than those in urban areas.

A relatively simple form of support could be to increase the grant cap for rural properties. Alternatively, larger grants could be made available for detached properties, those off the gas grid or older homes. The current Warm Homes Programme already sets a higher grant cap for homes off the gas grid.

A significant proportion of the additional costs for rural property retrofit is because supply chains in rural areas tend to be weaker with fewer suitably skilled tradespeople. At a fundamental level it would be welcome to see the focus on upskilling and training of the current programme continue with a particular focus on developing local supply chains and training apprentices in rural areas.

Future schemes should be sufficiently flexible to accommodate rural property specifics with those giving advice and support aware of the challenges rural households face in improving the efficiency and heating of their homes. This could mean in-home advice being made available to hard to treat and rural homes, something that we would support provided there was sufficient funding to enable this. ‘Energy coaching’, including aspects of behaviour change, has been shown to achieve significant bill savings in rural

communities and would be a valuable addition to a future scheme². We look forward to seeing the outcomes of the ongoing in-home advice pilot which is due to report in Spring 2022.

One issue with the current programme which disproportionately impacts rural areas is that properties listed as business premises are ineligible for support through Nest. Even if a self-employed person who works seasonally and has a very low income only lists their home as a business premises to receive tax returns they become ineligible for support. In many rural counties a fifth of the population is self-employed, in Powys 26% of people are self-employed, double the figure for Wales as a whole³. A future programme could look to address this issue by increasing the flexibility of the scheme.

Rural off-gas properties offer an opportunity to install heat pumps alongside energy efficiency measures as a low-regrets priority area given the very high fuel costs associated with oil and LPG heating. Prioritising the installation of heat pumps in these properties could be an effective way of introducing these measures into the programme while benefiting consumers.

how can private sector landlords be encouraged to tackle fuel poverty amongst tenants?

Addressing fuel poverty in the private sector must be a priority given that this is the worst-performing sector in terms of energy efficiency and private renters are disproportionately represented in fuel poverty statistics. We recognise that this is arguably the most challenging sector given the limited powers Welsh Government has over it. It is welcome that recent annual statistics from Nest show that a high proportion of private renters are being supported.

The Minimum Energy Efficiency Standards (MEES) set by UK Government which apply in Wales are designed to offer a strong incentive to landlords to improve the efficiency of their properties over time. It is essential that these legal requirements are properly enforced. Rent Smart Wales is well positioned to oversee this ratcheting of standards alongside local authorities but must be supported to do so. We understand that three local authorities in Wales have been given funding from BEIS to set up teams tasked with enforcing MEES but that elsewhere enforcement teams are less well-funded and are taking different approaches from one another. Targeted outreach to landlords from central and local government should also be undertaken. We understand that in one of the local authorities benefiting from having a dedicated MEES team prominent advertising has been published signalling the MEES changes and the team intend to send a series of letters to private landlords informing them of the changes and offering assistance.

In Scotland interest-free loans of up to £38,500 are available to private sector landlords for a combination of energy efficiency (up to £15,000), renewable generation (up to £17,500) and energy storage (up to £8,000). To qualify, properties and landlords must be registered and properties cannot be second homes or holiday

² Page 3. http://www.nea.org.uk/wp-content/uploads/2016/07/Relationship-experts_final-report.pdf

³ <https://statswales.gov.wales/Catalogue/Business-Economy-and-Labour-Market/People-and-Work/Employment/Persons-Employed/StatusOfEmployedPersons-by-WelshLocalAuthority-Measure>

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homes and must be currently or soon to be occupied by tenants. If the landlord has five properties or fewer the loan is interest free. If they have six or more properties in their portfolio, the loan is subject to interest at 3.5% APR. The repayment period can be up to a maximum of 8 years. Central to the scheme is the delivery of impartial advice. Applicants must contact Home Energy Scotland personally to get impartial advice about their home and engage in a decision-making process about how best to improve it. An EPC assessment must also be produced recommending the chosen measures.

We noted the Minister for Climate Change referred to concerns around the MEES uplift in the private rented sector when announcing the Private Sector Leasing Scheme, explicitly linking the funding available to private landlords to upgrade their properties through the leasing proposal to the EPC MEES uplift, the reduction of fuel poverty and tackling climate change ([Plenary 30/11/2021](#) para. 153). While at an early stage this approach could be an effective means of improving the energy efficiency of rented homes and reducing the rates of fuel poverty of tenants.

how can any successor scheme(s) better advance equality and social justice considerations?

As previously discussed, the eligibility criteria and targeting can be designed to support those who are most vulnerable. Bespoke impartial and expert advice further supports vulnerable groups. There are lessons learned from the Nest advice line which should be carried over to the next iteration. In particular the benefits of partnership working cannot be overstated. The Partnership Development Managers have been able to build trusted referral pathways which allow more households to access support. As well as energy advice those accessing Nest are helped to access funded benefit entitlement checks and tariff switching services – an integral part of the programme.

How can the Welsh Government ensure that the next iteration of the Warm Homes Programme better aligns with its efforts to decarbonise Welsh housing?

It is important to highlight that decarbonisation and alleviation of fuel poverty do not have to be competing interests, both can be achieved simultaneously. The current Nest scheme is usually only able to fund the installation of insulation OR heating. This is most likely an issue with the grant cap (the cap is set at £5,000 for EPC E homes on-gas and £8,000 for EPC F and G homes on-gas, the cap is higher for off-gas properties). This, coupled with the fact that households can only access funded Nest support once means that householders tend to opt for new heating systems, most often new gas boilers. The future scheme should adopt a strong fabric first approach and ideally set a grant cap that allows for both insulation and heating to be installed. Allowing households to access Warm Homes Programme support more than once could also improve uptake and see more fabric measures installed which would reduce emissions and lower bills.

Projected carbon savings as well as fuel bills savings could be used to identify potential packages of support for households with a commitment to never offering a package of measures that either increases running costs or increases emissions.

The installation of heat pumps as part of the future Warm Homes Programme should become commonplace. If installed correctly in homes that are suitably insulated heat pumps can heat homes at reasonable cost. These costs are likely to be reduced as levies on electricity shift either onto gas or general taxation as committed to in the UK Government's Heat and Buildings Strategy. Moving to electric heating will not only support decarbonisation but, as an increasing share of electricity is supplied through renewable sources, it

will reduce the exposure of fuel-poor households who receive a heat pump to global gas markets and so help protect them from future price shocks. For the installation of heat pumps to be successful as part of the future Warm Homes Programme households will have to be supported at each stage of the process. It will have to be made clear that heat pumps operate differently to traditional gas boilers and so households' behaviour may have to adapt. To ensure a smooth transition to clean heat, the role of an independent advice and support service from a trusted source will be important in helping consumers have confidence in the choices they need to make around low carbon heat as well as additional energy efficiency measures which will help lower costs.

An impartial advice service can:

- Proactively engage people with the benefits of decarbonising their homes and moving to low carbon heat
- Provide user-friendly, practical advice available through multiple channels which is responsive to people's needs
- Provide tailored and specific advice to address the unique issues that people face as a result of their personal circumstances and property characteristics and help them understand the options that are available
- Help people to recognise how taking action will benefit them personally
- Provide reassurance and support throughout the process and advise and help people making changes to their homes
- Help people to understand what support is available at all stages of the process and how to access this, for instance grants and funding schemes.
- Provide advice on what happens if anything goes wrong and how they can get redress.

Agenda Item 4.1

Dear Ms Jenny Rathbone,
Chair of the Equality and Social Justice Committee.
The Senedd,
Pierhead Street,
Cardiff.
CF99 1SN

We are writing in relation to the January publication of 'Minding the Future, the childcare barrier facing working parents', following an inquiry by the Equality and Social Justice committee.

As a charity which provides many play facilities and clubs for disabled children across three centres in Gwent, Sparkle trustees particularly welcomed the report's focus on this area.

Dealing with the families of children with complex needs on a daily basis, we are only too aware of the lack of available, suitable childcare and the barriers this situation creates.

And while we could not step in to provide all of that childcare across Wales we could provide invaluable information to you and the committee members to help inform the decisions about what parents need, where the problems lie and how best solutions could be created.

As well as providing services out of Nevill Hall hospital and the children's centre in Caerphilly, Sparkle is also the charity partner of the Serennu Children's centre in Newport.

Serennu is unique in that it provides clinics and therapies for children and young people with complex needs from Newport and the wider Gwent areas. But, more than that, Sparkle uses the facilities at the centre to provide a wide range of after school clubs, play clubs, Saturday and holiday clubs, week in and week out. The after school and holiday provision is offered to between 150 to 200 children and young people with complex needs.

We deliver services in partnership with Aneurin Bevan Health Board, such as a continuing care club and a siblings support group. Further, we also work closely with social services, delivering Families First activities for Newport City Council.

Our unique Family Liaison Service supports carers directly, with no referral needed and no waiting lists. This reduces a significant burden for the local health board and the social services departments of the five local authorities we serve.

This Family Liaison Service offers support to more than 1,000 families a year who experience at first hand the difficulties in finding suitable childcare.

We also know that there is a significant level of unmet demand, illustrated by the growing waiting lists for access to our clubs and the distance some families travel just in order for their children to be able to take part.

Our whole ethos is about ensuring disabled children, or those with developmental difficulties, and their families, have the same access to opportunities as able bodied children. We work to make sure they are able to participate in valued childhood experiences, with access to the same range of opportunities, life experiences, activities and community services as any other child and their family.

We believe we have the expertise and experience necessary, built up over many years, to at the very least help be part of the solution to tackling the access problems your report identifies.

Apologies for this long e mail, which has just given you a taste of the work we do. We would welcome the opportunity to be able to meet you and/or other committee members at the Senedd to discuss the issues around childcare for disabled children and young people with complex needs.

In addition, we would invite you and/or other members of the committee to visit our purpose-built base Serennu, in Rogerstone, Newport, to show what can be achieved in terms of the provision of quality services and facilities for disabled children and their families.

We firmly believe Serennu is an example of best practice in this field which could be mirrored, or which could inspire others, across Wales and which would go at least part of the way to tackling the lack of childcare, after school clubs and wraparound care for disabled children, the shortage of which your inquiry so clearly highlighted.

We would also welcome the opportunity to be part of the consultation process in any future investigations into services which have a direct impact on equality issues for disabled children.

We urge you to visit www.sparkleappeal.org to get a flavour of what we do.

We have also attached our latest family feedback which highlights the many clubs and support we provide across Gwent.

We are currently carrying out a feasibility study into the possibility of creating another purpose built facility in north Gwent to ensure children in communities of Blaenau Gwent and surrounding area can access the same level of support as we currently provide in the south of the county.

Yours sincerely,

Sparkle chairwoman Dr Sabine Maguire
Trustee, Nicole Garnon

Agenda Item 4.2

Jane Hutt MS
Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Jenny Rathbone MS
Chair of the Equality and Social Justice Committee

Jayne Bryant MS
Chair of the Children, Young People and Education Committee

Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

17 February 2022

Dear Jenny and Jayne,

Thank you for writing to me setting out the concerns raised by the Children's Commissioner in respect of her budget settlement for the 2022-23 financial year.

I would like to offer my assurance that the budget estimate was not rejected. I considered the budget estimate as part of the draft budget settlement and awarded an indicative 2022-23 grant allocation of £1,580,000. I can also assure you that as a government, we are committed to assessing and understanding the impacts of our spending decisions, through a Strategic Integrated Impact Assessment of the draft budget, of which children's rights is a part.

In the tight settlement for 2022-23, Programme for Government (PfG) commitments were prioritised and I agreed to maintain a flat line budget for the Children's Commissioner for Wales (CCfW) and all other Commissioners within my portfolio. However, I recognised the way the Children's Commissioner had systemically reduced her reserves alongside maintaining high performance.

My officials have been in discussion with CCfW's office since the original announcement. I am pleased to inform you that I wrote to the Children's Commissioner on 26 January confirming that an additional £115k has been allocated for the 2022-23 financial year. The Office of the Children's Commissioner will therefore receive a revenue budget of £1,695,000 in 2022-23.

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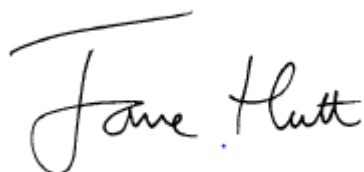
Gohebiaeth.Jane.Hutt@llyw.cymru
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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.

This funding will be reviewed ahead of budget allocations being agreed for years two (2023-24) and three (2024-25). This will provide an opportunity for the incoming CCfW, Rocio Cifuentes, who begins her term in April 2022, to consider her requirements for future years.

Yours sincerely

A handwritten signature in black ink, reading "Jane Hutt". The signature is written in a cursive style with a large initial 'J' and a distinct 'H'.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

Minister for Social Justice

Jane Hutt MS

Cc Children's Commissioner for Wales

Sally Holland

31 January 2022

The Children's Commissioner for Wales' 2022-23 Budget Estimate

Dear Jane,

The Children's Commissioner for Wales ("the Commissioner") has written to both of us to set out her concerns about her office's budget settlement for the 2022-23 financial year and projected settlement for the subsequent two years. The Commissioner appended to her letter the statutory budget estimate that her office submitted to the Welsh Government in October 2021.

The letter sets out that the Commissioner requested a total resource budget of £1,695,765 for the 2022-23 financial year, £1,652,444 for 2023-24, and £1,662,001 for 2024-25. However, the Welsh Government rejected this estimate and proposed a resource budget of £1,580,000 for 2022-23 and a "projected 'flat budget' for the two subsequent years as well". The Commissioner sets out her concerns with the Welsh Government's proposed budget, before adding that she has "asked the Government for a substantive response as to how the decision was reached to continue providing the same settlement as previous years during a period where costs outside the accounting officer's control are rising."

It is not appropriate for us to comment on the precise levels of funding that the Children's Commissioner for Wales receives from the Welsh Government. Neither is it appropriate for us to take action on behalf of any commissioner unless we wish to do so.

However, we are concerned about the potential implications of the Commissioner's funding settlement for children and children's rights. Particularly, the Commissioner's assertions that the proposed settlement will:



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Pack Page 62

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- restrict the ability of the Commissioner to set an independent work programme covering all of the areas that are important to children and young people in Wales today, and fulfilling the legal remit of the post;
- impair the Commissioner's office's capacity to provide advice to the Welsh Government on behalf of children and with the interests of promoting children's rights, particularly if, as in the Commissioner's view, "there is limited expertise within the Government to perform such an expert role"; and
- negatively impact on the Welsh Government's delivery of its Programme for Government insofar as it relates to children and young people.

Please can you:

1. clarify why the Welsh Government rejected the Commissioner's budget estimate; share with the Committee the Children's Rights Impact Assessment for your decision; and
2. provide your assurances in relation to each of the three bullet points above that
3. your proposed budget settlement will not adversely impact the ability of the new Children's Commissioner for Wales to fulfil her statutory and wider advocacy and advisory roles?

We would be grateful for your response no later than Monday 28 February.

I have copied this letter to the Children's Commissioner for Wales.

Yours sincerely,



Jayne Bryant MS

Chair of the Children, Young People and
Education Committee



Jenny Rathbone MS

Chair of the Equality and Social Justice
Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



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

Hannah Blythyn AS/MS
Y Dirprwy Weinidog Partneriaeth Gymdeithasol
Deputy Minister for Social Partnership

Jenny Rathbone MS
Chair of the Equality and Social Justice Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

17 February 2022

Dear Jenny,

Following our appearance at Committee on 24 January where the 2022-23 draft budget was scrutinised, you requested some follow up information, which we are pleased to provide.

Firstly, you asked how Welsh Government intends to monitor progress in implementing the real living wage for social care workers. Following advice from the Social Care Fair Work Forum on the implementation of the Real Living Wage, the Welsh Government was pleased to announce funding for this commitment as part of the Draft Budget in December. The uplift is aimed at registered workers in care home and domiciliary care (in adults and children's services), as well as Personal Assistants paid through a Direct Payment.

The commitment is both complex in design, implementation and costing. The Welsh Government are proceeding now to work with stakeholders to develop guidance for implementation. We recognise that close monitoring is needed at implementation and so work has started to develop a dynamic evaluation. The proposed evaluation will consider things like the effectiveness of the roll out of the Real Living Wage, its success in delivering the uplift to the pockets of workers and consideration of the cost estimates of the intervention with a view to assuring future budget planning. Likely first steps will include commissioning an evaluability assessment to inform the timing of the evaluation, ensure the results will be reliable and credible, and provide consideration of the initial costings and data collected. This would then be followed by a period of transitional work with partners and other relevant organisations to get full implementation right. Throughout this process, the evaluation will be co-produced with key stakeholders and will have close involvement of the Real Living Wage Implementation Steering Group.

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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.

You also asked about potential underspends within the Gypsy Capital budget in this financial year. We've made commitments this year of £2.3m against our budget of £3.5m with a further £0.3m in the pipeline that we expect to approve before the year end. We therefore expect a final outturn against this budget of £2.6m by the year end. Due to the anticipated underspend against this budget we have been able to reallocate the remaining budget to other priorities within the MEG so that our overall capital budgets within the Social Justice MEG are expected to be fully spent by the year end.

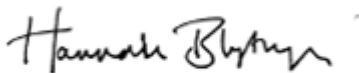
Following your request to see a copy of the letter sent to the DWP on benefits uplift, we also attach a copy of this letter. We hope that you find this information useful.

Yours sincerely

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a large initial 'J'.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

A handwritten signature in black ink that reads "Hannah Blythyn". The signature is written in a cursive style with a large initial 'H'.

Hannah Blythyn

Y Dirprwy Weinidog Partneriaeth Gymdeithasol
Deputy Minister for Social Partnership



Eich cyf/Your ref
Ein cyf/Our ref

The Rt Hon Thérèse Coffey MP
SOS Department of Work and Pensions,
Caxton House
Tothill Street
LONDON
SW1H 9DA

secretaryofstate@dwp.gov.uk

14 January 2022

Dear Thérèse,

I am writing to you to call upon you to consider taking urgent action in light of the cost of living crisis that is erupting across the UK. This winter millions of people are facing an untenable combination of increases to the costs of food and energy, rising inflation and an imminent hike in National Insurance contributions.

Against this backdrop, and despite opposition from over 50 Tory MPs, including six former DWP secretaries of state, your government chose to cut off a crucial lifeline for many when the UK Government ended the £20pw uplift for those claiming Universal Credit and Working Tax Credit. This shameful decision has left thousands of families across Wales heading towards a financial cliff edge. I urge the UK Government to reverse its decision, which resulted in biggest overnight cut to a social security payment rate since the modern welfare state began and reinstate the £20pw Universal Credit and Working Tax Credit uplift payment and extend the payment to people claiming a legacy benefit.

A report by the Institute of Financial Studies published on the 12 January noted "in April, welfare benefit payments including jobseekers' allowance and disability benefits are due to rise by 3.1% - in line with the inflation rate recorded last September." However, we know the cost of living has surged since then and the consumer price rise measure is expected to hit 6% by the spring, largely thanks to soaring energy bills.

I therefore call upon you to uprate welfare benefit payments this April by 6%. The Institute of Financial Studies calculate this would cost an extra £3bn, but it would save our lowest income households from facing a £290 real terms year-on-year fall in benefit income, helping to slightly ease the cost of crisis living they are facing.

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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.

In previous letters I have outlined how in Wales we do all we can to put money into the pockets of the most vulnerable families and we are delivering excellent results with our welfare benefit take-up projects. However, maximising the take-up of welfare benefits must be a priority for all those involved, not just the Welsh Government. In November 2020, a joint letter, signed by Ministers from Wales, Scotland and Northern Ireland, called upon you and your Department to lead the development of a UK wide welfare benefit take-up strategy. I make this call once again given it is more critical than ever that people understand and are helped to access all the financial support that is available to them.

Yours,

A handwritten signature in black ink, appearing to read 'Jane', with a long horizontal stroke above the first letter.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

Copied to:

Internal:

Rebecca Evans MS, Minister for Finance and Local Government

External:

Shona Robinson MSP, Minister for Social Justice Housing and Local Government
Deidre Hargey MLA, Minister for Communities

Jane Dodds

Aelod o'r Senedd dros
Canolbarth a Gorllewin Cymru

Member of the Senedd for
Mid and West Wales


Haslemere
Park Crescent
Llandrindod Wells
Powys
LD1 6AB


Agenda Item 4.4

Senedd Cymru
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/JaneDoddsWLD 

Dyddiad | Date: 17th February 2022

Pwnc | Subject: ESJ Committee workplan - Community rights

Annwyl Jenny,

I am writing to you in your capacity as chair of the Equality and Social Justice Committee. I met recently with the Community Buildings Trust to hear about their vision for how long-term flexible funding for communities in Wales can be improved and community rights to own and manage buildings and land can be enhanced.

Their proposals for a Community Wealth Fund for Wales and new legislation to enhance community rights are a unique opportunity for us in Wales, especially in light of the community level mobilisation we all saw in our communities during the pandemic.

I wonder whether this would be something we could consider as a topic for a committee enquiry as part of the committee's forward work plan?

Yn gywir,



Agenda Item 4.5

Y Pwyllgor Iechyd a
Social Cymdeithasol

Health and Social Care Committee

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Jenny Rathbone MS

Chair, Equality and Social Justice Committee

18 February 2022

Dear Jenny

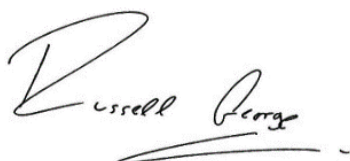
Role of health boards in safeguarding women and children who may be experiencing domestic abuse

During a discussion of our forward work programme on 13 January, one Member raised the important issue of the role of health boards in safeguarding women and children who may be experiencing or at risk of domestic abuse.

We are aware that the Welsh Government has been consulting on the next violence against women, domestic abuse and sexual violence national strategy for 2022-26, and that your Committee is considering undertaking an inquiry into domestic violence, women's safety, and gender-based violence. We understand that you will be holding a roundtable discussion with stakeholders on 14 March to define the focus of your inquiry, and would be grateful if you could raise the role of health boards in this respect with stakeholders during your discussions.

I look forward to hearing from you.

Yours sincerely



Russell George MS

Chair, Health and Social Care Committee

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



Senedd Cymru
Welsh Parliament

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



Llywodraeth Cymru
Welsh Government

Jenny Rathbone MS
Chair, Equality and Social Justice Committee
Cardiff Bay
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22 February 2022

Dear Jenny,

Thank you for your letter of 1 February.

As agreed in correspondence, and by members of the EU Settlement Scheme (EUSS) Co-ordination Group, I attach the minutes of the most recent meeting of that group to this letter and hope they provide a detailed update on the work of the supporting organisations. As you will be able to see from the minutes, there continues to be a great deal of collaborative activity taking place in this space. It remains a priority of the Welsh Government, third sector organisations and funded partners to continue to support EU/EEA/Swiss citizens in Wales who wish to stay here, as pro-actively as possible.

As you indicated, Newfields Law, Citizens Advice Cymru and third sector organisation Settled, are currently funded to provide immigration advice services until 31 March 2022. However, Welsh Government officials are currently undertaking a review of the continued demand for support services and I hope to be in a position to announce a package of future support very soon. In parallel to this, the Welsh Government has also recently, on 4 February, launched a further Digital Awareness Campaign for the EUSS that will run until 31 March.

This current phase of the campaign aims to signpost EU/EEA/Swiss citizens to the support services that are available, where applicable, and has three objectives, to:

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
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Gohebiaeth.Jane.Hutt@llyw.cymru
Correspondence.Jane.Hutt@gov.wales

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.

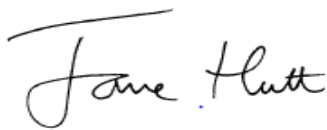
1. Target those who are yet to make an application or those who may need to submit an application for a family member or someone they care for.
2. Make EU/EEA/Swiss citizens with Pre-settled/Settled Status aware of their rights.
3. Make EU Citizens aware of their obligations to update their online immigration status.

In terms of the number of EU citizens in Wales that currently hold Pre-settled Status and will need to apply for Settled Status on the expiration of their current status, the Home Office publishes quarterly detailed statistics on applications made to the EUSS from across the UK. The most recent [EU Settlement Scheme quarterly statistics, September 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-september-2021) show that between 28 August 2018 and 30 September 2021 a total of 96,620 applications were made to the EUSS from citizens in Wales and, of those applications, 36,200 were granted Pre-Settled status (37%).

The Welsh Government acknowledges the need to ensure that citizens with Pre-settled Status have the support they need to make an application for Settled Status, as well as those individuals who still need to make an initial application or require an application to be made on their behalf. All these scenarios will be considered within the current review of continued funding.

The EUSS Co-ordination Group has agreed to continue to meet in line with any future funding decisions and minutes of those meetings can be shared for as long as the group continues to meet.

Yours,

A handwritten signature in black ink, reading 'Jane Hutt'.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

Meeting Note



Llywodraeth Cymru
Welsh Government

Minister for Social Justice meeting with:	EUSS Co-ordination Group Wales
Date / Time:	13/01/22 10:30 – 12:00

Attendance

Welsh Government – Minister for Social Justice (MfSJ), WG Officials, Settled, Citizens Advice Cymru, TGP Cymru, Home Office, Newport Mind, DWP, WLGA, Charles Whitmore,

Welcome and introductions

MfSJ welcomed the group to the meeting.

Actions from November meeting

- Four actions from the last meeting
- Three complete, one outstanding for Kayleigh Sweet (WG) – liaise internally regarding birth registrations of EU citizens.

Address from the Minister for Social Justice

- MfSJ thanked the members for attending the meeting and for the excellent collaborative work taking place across Wales
- MfSJ informed the group that, as of 30 September, 102,170 applications had been submitted to the EUSS from EU citizens in Wales.
- MfSJ was pleased that funding had been extended for Newfields Law, Citizens Advice Cymru and Settled but acknowledged that it was clear, from feedback received from members of the group in the autumn, that citizens who are still without status will need further support and WG officials are currently looking at how this can be done post March 2022.
- MfSJ notified the group of the new digital communications campaign that is being launched on 28 January 2022
- MfSJ stated that she was not aware of any EU citizens in Wales that had had their benefits terminated but continues to raise concerns in meetings with UKG regarding EU citizens who are at risk.

Home Office update

- Home Office communications – remained quiet from media point of view
- Case studies that have been raised in the press are being looked at by the Home Office. If any partners have concerns about a particular case, they can feed this back to the Home Office and they will escalate them with UKG colleagues
- Stakeholder engagement work is ongoing and the Home Office remains committed to wide ranging engagement across the UK.

- The Home Office will continue to supply relevant communications materials to partners/organisations via Brandworkz
- New assets have been produced and are available to download
- Communications strategy for this year has several priorities and keen to ensure vulnerable people continue to have the scheme flagged to them
- Will continue to keep those with Pre-settled Status updated with what they can and can't do and to remind them to apply for Settled Status

Question (raised by Newfields Law): Is there going to be outreach to those whose family permit applications were made by 31 Dec 20 and would have been successful but for the rule change?

Action – John Ambilino (JA), Home Office, will provide a response to Newfields Law regarding this matter

Question (raised by Settled): Can members of the group come to Home Office Comms colleagues to try and get cases escalated if no resolution from Home Office?

JA – yes, if there are cases members are concerned about, HO Communications will then flag with relevant colleagues. But, for vulnerability cases, liaise with vulnerability team directly.

Question (raised by WG): How long will the EUSS monthly and quarterly stats continue to be produced?

JA – Currently being reviewed. Will update the group if any changes are due to be made.

Round table updates since November meeting - All

Kayleigh Sweet – WG Migration

- Digital campaign being launched 28 January targeting Pre-settled to Settled Status, families and reminding citizens to update status. Links to campaign assets will be shared when the campaign launches
- Tripartite letter sent to Kevin Foster MP regarding physical proof of status. No response yet.
- EU citizens' rights factsheets on Preparing Wales have now been updated and reflect the outcome of the Fratila case.
- The migration team have now started the review of ongoing support post March 2022. Thank you to those that provided information. Hope to have an outcome by the end of the month.
- Welsh Government policy officials have continued to participate in the Cross Government task force on EUSS where we're able to feed back / raise any concerns that are raised in this forum.

Action: Migration officials to circulate link for updated EU citizens rights factsheets to members

Settled

- Main issues clients are facing: refusal decisions, joining family members, late applications, proof of digital status.
- Number of queries are growing – Settled have been running sessions in different languages for clients
- Engaging with clients through Facebook, engagement rate is high
- Launched a client survey in December – 200 responses so far
- The top issue identified from the survey responses already received is being able to prove status. Client's second worry is fear of leaving the UK and not being able to get back into the country on return
- Survey also launched for Settled volunteers, 120 volunteers in total at present
- New office opening in Newport
- Dedicated Roma helpline set up
- Anticipate lots of future work will focus on pre-settled to settled status

Citizens Advice Bureau

- Seeing issues with citizens' rights
- Needing to chase applications who have not been awarded a status
- More cases of dealing with applications for joining family members
- Providing more support on wider issues than status such as access to benefits and healthcare
- Local offices still reporting that recourse to public funds is an issue
- Continue to see trends in clients who didn't realise they needed to apply
- Working on complex cases for homeless and vulnerable applicants
- Several cases for modern slavery/trafficking
- Client demand for support is ongoing and the complexity of problems is increasing
- Also a number of success stories too, EU citizens working with CAB and being integrated into society to use their skills.

Newfields

- Number of appeals ongoing. Paper based appeals are being slowed down while waiting for a response from Home Office
- Might be interesting to have some from Tribunals service to attend this meeting to give information to the group
- Experiencing delays in getting evidence for submission of documents for file requests for appeals
- Refusals – sometimes a decision is not necessary appealable. There will be situations where people are refused and the best option would be submitting a fresh application. People will lose rights as they fall out of the system. Some people don't want to put in an appeal
- We are seeing people who have been refused and are being told by the HO to make a new application rather than challenge the original decision - but there are implications for their rights with this approach.

- Starting to see outcomes of Fratilla case - seeing disputes over rights, benefits etc
- Going to see more benefits advisors being asked to argue fundamental rights
- Systemic problems adding to overtaxed system.

TGP

- Share a lot of experiences of others
- Lots of outreach work being done in communities and other services
- Being able to identify and meet new clients through homelessness teams
- Still a number of people who didn't realise they needed to apply
- Steady stream of new applications
- Pre-application work is taking up a lot of resources
- Working with significant number of people who are still awaiting an outcome
- Meeting groups of people where language support is a struggle
- Funding makes it difficult to access high level translation that the team don't speak
- Meeting people from different countries in Roma communities
- Working a lot with front line services who approach TGP for support
- Continuing to provide advocacy support for clients on housing etc homeless, children services, people needing support domestic violence
- A lot of the work for EUSS now has increasing wider needs
- Continuing to do a mix of formal appointment sessions in Cardiff and Newport and also some in west Wales as well as 1-2-1 visits, virtual meetings and telephone conversations. Being agile to meet client needs.
- Emergency situations will arise where people will require quick applications or quick appeals

Action: KS to make contact with internal colleagues regarding outreach work with communities ie Roma affected by modern slavery /trafficking and of which will have citizens without status

Newport mind

- Drop in sessions have been held in Cardiff, Wrexham, Newport and Aberystwyth
- Seeing issues around converting from pre-settled to settled - people don't understand the timings and think they have to wait for 5 years before applying
- Seeing issues around travel, people are not travelling as they fear they will have issues returning to the UK
- Concerns regarding applications still stuck in the system that haven't had an outcome
- Dealing with 3 clients that can no longer claim benefits because no response from HO. One gentleman is now homeless, 1 family is temporary accommodation now facing homelessness because of no response from HO. Possibility of 1 other person becoming homeless as he has no evidence of journey into the country
- Want to know what happens when the service Newport Mind currently provides comes to an end? Who will support these people in the future?

- Undertaking an audit of all clients. This will feed into internal plans to how Newport Mind might be able to continue to provide and fund a service for clients post March

Action: KS asked TF to send an email outlining the details of the 3 homeless cases

Charles Whitmore

- Great to hear about the ongoing work and new campaign. Happy to share campaign materials with network once launched
- Continuing to work with organisations to raise awareness of the Independent Monitoring Authority
- Currently working Disability Wales. Happy to disseminate information from the group via Disability Wales to reach the right communities

DWP

- First time attending the meeting for Darran
- Happy to act as group contact for specific issues, happy to forward on to the right colleagues
- Interested in the discussion on protection for welfare benefits. Will take up with policy colleagues to see if there is anything that can be done
- Will share any updates with the group going forward

Action: DWP colleagues to discuss appeals and access to benefits, internally, and feed back to group.

WLGA

- Limited operational role in EUSS applications although WLGA continue keep frontline staff in local authorities updated with various assets and information
- LAs have had funding from WG for last 3 years for EU Transition coordinators – funding now coming to an end
- WLGA will continue to contact and update people on the frontline and act as a conduit for this group

Planned outreach activities and support over coming months – All

Cancelled item due to time

The homeless and access to support – Kayleigh Sweet

- Housing eligibility -Sian previously raised eligibility for homelessness report, Local Authority decision differing from DWP decision. KS asked if there are there any other organisations facing same issues?
- SP – it is a question of where the evidential burden is being placed. And in terms of how the LA have been approaching the request for evidence.
- KS asked NR, WLGA, if he knew how LAs were assessing eligibility?

Action: NR will speak with housing policy officers and get back to group.

EUSS Statistics – Natalie Jones (UPDATE SHARED BY EMAIL)

- The most recent stats were published by the Home Office on 25 November
- As of 30 September 2021, 102,170 applications have been submitted to the EU settlement scheme by EU citizens' in Wales
- Of the 102,170 Welsh applications made up until 30 September 2021, 96,620 applications have been concluded. (55,220 granted Settled Status, 36,200 granted Pre-settled Status, 2100 applications were refused)
- The highest percentage of applications made from EU citizens resident in Wales have been made by Polish and Romanian nationals (30,960 and 15,420 respectively).
- Since August 2018, the largest proportion of concluded applications made by EU citizens in Wales have been from applicants aged between 18-64 (78,090 applications in total, 42,640 granted Settled Status and 31,060 granted Pre-Settled Status).
- 2340 late applications were submitted by EU citizens' in Wales between 1 July – 30 September 2021

Future of the EUSS Co-ordination Group – Kayleigh Sweet

Cancelled item due to time

Update on Independent Monitoring Authority and EU Citizens Rights- Kayleigh Sweet

Cancelled item due to time

Any Other Business

N/A

Jane Hutt MS
Minister for Social Justice

1 February 2022

Dear Jane

EU Settlement Scheme (EUSS)

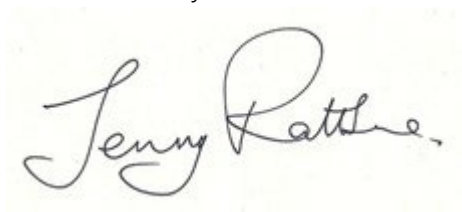
Thank you for your response of 26th November to the Committee's correspondence. We agree with your suggestion that the Committee receive the minutes of the EUSS Co-ordination Group and await confirmation of the outcome of its 22 January meeting.

At our meeting on 24 January we considered an update on the EUSS, including statistics for the period July-September 2021, immediately following the EUSS application deadline.

We noted that there has been no further update since your statement of 20 October 2021, in which you confirmed that the Welsh Government would continue to provide free advice and support services to European citizens applying to the EUSS "until at least 31 March 2022". We are concerned about the consequences for those with pre-settled status who will need to complete a second application within 5 years to stay in Wales should these support services come to an end. Could you please clarify your intention for the funding of these support services, and whether the Welsh Government has considered extending it beyond the end of March?

We would also be grateful if you could confirm whether the Welsh Government has any additional information relating to the number of applications from pre-settled citizens in Wales seeking to convert their status to settled status than that which is publicly available. If this is not the case, could you confirm if you are aware whether this number will be provided in future quarterly statistics published by the UK Government?

Yours sincerely



Jenny Rathbone MS
Chair, Equality and Social Justice Committee



Llywodraeth Cymru
Welsh Government

Elin Jones MS
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28 February 2022

Dear Elin,

I write to you regarding the UK Policing, Crime, Sentencing and Courts Bill (the Bill) and our proposal to seek to hold a legislative consent motion debate on Tuesday 1 March.

The Bill was introduced in the House of Commons on 9 March 2021 and carried over into the current Parliamentary session. We laid a legislative consent memorandum (LCM) on 28 May 2021 and three supplementary LCMs (Memorandum Nos 2-4) prior to the legislative consent debate held on 18 January 2022 where the Senedd voted to consent to one motion but rejected the other motion.

The UK Government tabled its final amendments to the Bill on 21 February and the Minister for Social Justice has today laid Supplementary LCM (Memorandum No 5). The Bill will return to the House of Commons for consideration of final amendments stage ("Ping Pong") today. As the Minister for Social Justice committed to do so during the legislative consent debate held on 18 January, Memorandum No 5 also addresses relevant amendments agreed at House of Lords Report stage on 17 January.

We wish to seek to provide the Senedd with the opportunity to debate and vote on consenting to the inclusion of these amendments in the Bill in a further Senedd debate which we propose be held on Tuesday 1 March.

As set out in the Supplementary LCM (Memorandum No 5) on this Bill laid today, whilst we recommend the Senedd gives its consent to some provisions of the Bill making provision within devolved matters, we cannot recommend the Senedd gives its consent to others. Therefore, as during the previous debate on 18 January, we propose the Senedd is given the opportunity to vote on two separate Legislative Consent Motions.

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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.

In accordance with the Standing Orders, both motions will ask the Senedd to approve the relevant clauses for consideration by UK Parliament. However, one motion will include the clauses to which we recommend the Senedd gives consent by agreeing the motion and the other motion will include the clauses to which we recommend the Senedd withholds consent by voting against the motion.

The Bill is now in Ping Pong, therefore, given the passage of the Bill and the timing of the tabling of the amendments we will need to table a motion seeking to suspend Standing Orders in order to hold the debate tomorrow. We are unable to lay the motion to suspend standing orders and the legislative consent motions themselves until the outcome of the votes on the amendments in the House of Commons today is known. It is, therefore, possible the motions will need to be tabled tomorrow on the day we propose the debate is held. Consequently, in accordance with Standing Order 33.8, we are seeking your agreement, in advance, to potentially tabling the motions tomorrow, which would be less than the requisite one working day before we propose to hold the debate. We would, where possible, always seek to provide the Senedd with as much formal notice of a debate as possible and would wish to avoid suspending Standing Orders however in the case of this Bill, we consider it important the Senedd has its say given the significant impact of its provisions on Wales.

I am copying this letter to Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Jenny Rathbone MS, Chair of the Equality and Social Justice Committee and all Members of the Senedd.

Regards,

A handwritten signature in black ink, reading 'Lesley Griffiths'. The signature is written in a cursive, flowing style with a large, sweeping 'L' and a long, trailing 's'.

Lesley Griffiths AS/MS

**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd**



Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
And Members of the Senedd
Senedd Cymru

SeneddLJC@senedd.wales

24 February 2022

Dear Huw,

I am writing to inform you the UK Government tabled its final amendments on 22 February 2022 regarding the Policing, Crime, Sentencing and Courts Bill (the Bill). The Bill will return to the House of Commons for consideration of final amendments stage on 28 February.

Some of the amendments tabled will require a Supplementary Legislative Consent Memorandum (Memorandum No 5) (SLCM) which I will lay on or before 28 February subject to full analysis of the provisions. The SLCM will also address any relevant amendments agreed by the House of Lords on 17 January.

I will be seeking to hold a further Senedd debate on 1 March, which will once again ask the Senedd to debate and vote on legislative consent in respect of the Bill. If the debate is scheduled, I will again be recommending consent be given to some amendments and the withholding of consent to others. Therefore I intend to lay two motions for debate once the SLCM has been laid.

Given the timing of the amendments and the stage at which the Bill is at, which are outside of our direct control, it is not possible to provide the Senedd with sufficient time for scrutiny. However, it is important for the Senedd to have the opportunity to have a final say on what continues to be a long and complex piece of legislation with significant impacts for Wales.

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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.

My officials will continue to liaise with the UK Government regarding the Bill, and I will keep you updated as appropriate.

This letter is being copied to Jenny Rathbone MS, Chair of the Equality and Social Justice Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a large initial 'J' and a distinct 'H'.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
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Cardiff Bay
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seneddLJC@senedd.wales

28 February 2022

Dear Huw,

Thank you for your letter of 28 January to both me and the First Minister setting out the outcome of the Committee's scrutiny of the Welsh Government's draft budget for 2022-23 as it relates to justice and legislative activities. I am responding on our joint behalf.

At the outset, I would like to thank the Committee for its on-going interest in our resourcing of justice related and legislative activity. The First Minister and I have provided information on the issue to the Committee by letters dated 10 and 17 January and 22 February. I appeared before the Committee on 17 January and I look forward to doing so again on 28 February as the Committee continues its work.

Turning to the recommendations and questions set out in your letter, I can reply as follows:

Recommendation 1: The Welsh Government should explain how it will monitor and evaluate the effectiveness of funding allocated within the Justice Commission in Wales BEL.

Recommendation 2: We would welcome greater clarity and details on what work to develop and publish a justice work programme will be delivered from within the Justice Commission in Wales BEL in 2022-23.

Recommendation 6: The Counsel General should commit to an annual report highlighting progress in delivering the justice work programme and evaluating outcomes against spending in relation to all individual components, highlighting also the contributions of relevant organisations as part of this process.

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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.

The Cabinet Sub-Committee on Justice was established to:

- provide strategic leadership for justice functions currently devolved to Wales;
- direct all governmental activity in response to the report of the Commission on Justice in Wales;
- ensure synergy across portfolios to ensure a coordinated approach to justice matters;
- agree Welsh Government positions on justice initiatives arising from the UK Government; and
- lead discussions with the UK Government on devolution of justice.

The Welsh Government's Justice Policy Division supports the Cabinet Sub-Committee in all of these functions, allowing the Sub-Committee to oversee activity across Welsh Government. Within the division, the majority of staff work on activity that contributes directly to the Programme for Government commitment to pursue the case for the devolution of policing and justice. It is this work – following on from the Commission on Justice in Wales – which is funded through the Justice Commission in Wales BEL.

This work includes both the creation and monitoring of the overall work programme, and also leading on the delivery of particular elements of the programme. For example, much of the Welsh Government's activity in seeking to strengthen Wales's legal sector is led by the staff funded from this BEL, such as the work to establish the Law Council of Wales and work that is being done to consider the case for solicitor apprenticeships; but these and other actions to strengthen the sector also require working closely with other parts of Welsh Government responsible for areas such as business development, further and higher education, procurement of legal services and more.

As indicated in my appearance before the Committee, this BEL also includes the staff who are working on proposals for reform of the tribunals, following the report of the Law Commission. Again, this is an important part of our response to the Commission on Justice in Wales and our pursuit of the case for devolution of justice – which, as I said to the Committee, is not just done by talking about devolution, but also by demonstrating our approach and our values through the actions we are taking.

In terms of monitoring and evaluation, the publication in the spring will set out our programme of justice-related activity, building on the initial work programme which the Committee has previously seen. This will provide a basis for both internal and external monitoring of progress. Internal monitoring of progress will be overseen by the Cabinet Sub-Committee, supported by the Justice Policy Division. Individual ministers and their officials will of course be responsible for monitoring and driving progress on individual elements of the overall work programme, with the Minister for Social Justice having a particularly important role as a large part of the activity falls within her portfolio or is closely related to it.

Evaluation of individual elements of the overall programme is ongoing, at the appropriate points – for example, plans are in place to evaluate the Family Drug and Alcohol Court pilot. We will evaluate the effectiveness of the specific funding in the Justice Commission BEL as we monitor progress against the Programme for Government commitment. However, in terms of allowing for external monitoring of progress, I am happy to make the commitment that we will bring forward an annual report setting out progress against the objectives in the programme of activity we plan to bring forward in our spring publication.

Recommendation 3: The Welsh Government should provide more detail about how this £4.2 million is used for that administration and support. In particular, we would welcome information about how much funding is allocated or set aside for improving remote access for citizens, investing in new technology and maintaining and improving physical and built infrastructure.

In the current financial year, the £4.2 million budget for the Welsh Tribunals is allocated between tribunal running costs including the costs associated with hearings (£2.9 million) and staff salaries which support the administration of the six Welsh Tribunals (£1.2 million). The budget allocation does not make specific provision for improvements to remote access for citizens and the physical and built infrastructure.

The President of Welsh Tribunals in his Annual Report for 2020-21 and in evidence to the Committee on 1 November 2021 has reported that the Welsh Tribunals have been able to operate remotely, and to do so successfully, in response to the pandemic. It is to the credit of the President, judicial leads, tribunal members and the staff of the Welsh Tribunals Unit that they have been able to make use of technology to ensure cases have been able to progress in the face of difficult circumstances.

One of the President's priorities, set out in the President's Annual Report, is to consider the way in which the Welsh Tribunals should operate going forward and the balance of how they should do so working remotely and face-to-face.

Recommendation 4: The Welsh Government should work toward disaggregating spending on justice in future budgets. For each BEL identified in the First Minister's letter of 10 January, the Welsh Government should identify relevant funding targeted at justice-related work. We believe this would be beneficial not just for scrutiny, transparency and accountability, but also for the Welsh Government in delivering better justice outcomes. We also see this process as being important in readiness for any future devolution of justice functions, when such an approach would be essential.

We publish significant amounts of information as part of our draft budget but we recognise there is always more we can do to improve transparency, as recognised in our annual Budget Improvement Plan. We also recognise the Committee's point that it is useful to the Welsh Government to be able to understand more fully the volume of its own expenditure which goes towards supporting the delivery of justice. As part of the on-going justice transformation programme, we will explore the ways in which we can improve the level of information we provide about justice expenditure.

Recommendation 5: The justice work programme should contain measurable actions and specific programmes for delivery that are fully costed.

We have noted this recommendation and will bear it in mind in the context of the preparation and future monitoring of our justice publication, referenced above.

Recommendation 7: The Welsh Government should provide a detailed breakdown of funding for advice services and should evaluate outcomes against spending on advice services as part of its annual report on justice.

The Welsh Government's commitment to supporting advice services is being maintained through the Single Advice Fund ("SAF"). We agree with the Committee that it is important to evaluate the effectiveness of spending through this fund, and intend to commission independent research to review its effectiveness as a delivery model. The research will focus on whether the SAF is achieving its key objectives, including if the SAF is:

- encouraging better collaboration amongst providers to improve the efficiency of service planning and delivery;
- promoting early access to advice services to vulnerable groups; and
- ensuring that people accessing advice are given opportunity to develop resilience to future social welfare problems.

This review will also consider findings from the Commission on Justice in Wales, which queried whether the approach of a single fund, founded upon collaborative partnership delivery model, might be a barrier to niche advice providers accessing Welsh Government funding; and it will of course also take into account the impacts of the pandemic. This work is expected to begin in April and report in the autumn so as to inform decisions for future funding, and we also note the Committee's recommendation that the outcome of that evaluation should form part of the Welsh Government's annual report.

Recommendation 8: In order to provide us with some baseline data, it would be helpful if the Welsh Government could provide details, for the current financial year of:

- a. the number of FTE staff it employs with a legal role;***
- b. the number of FTE primary legislative drafting lawyers it employs;***
- c. the number of FTE departmental lawyers that are employed and of those, how many either draft policy instructions for Bills or draft subordinate legislation;***
- d. how many FTE staff have been involved in drafting subordinate legislation relating to EU exit and coronavirus regulations;***
- e. how many other FTE staff, specialist or otherwise, are involved in the preparation of legislative proposals;***
- f. a view on how the information provided in relation to a to e above compares to previous financial years;***
- g. any other baseline data that the Welsh Government would deem to be useful.***

Recommendation 9: It would be helpful if the Counsel General could set out how much resource is currently allocated to deal with the drafting of legislation relating to EU exit and coronavirus regulations.

As I explained in my letter of 22 February, the work to deliver the legislative programme is an element of the work of the Government as a whole. Consequently, there is not a separate resource allocation for that activity: instead resource is allocated on a portfolio basis. The Government does not keep records of the numbers of all staff or FTEs working on legislation and given that many staff work on legislation as part of a wider role, this would not be a reliable reflection of resources allocated to legislation in any case.

Recommendation 10: In addition to providing the information requested in our letter to the First Minister of 10 December 2021, we would be grateful if the Counsel General could detail the resources he intends allocating and the programmes he will be introducing in the next financial year and subsequent financial years, to ensure that the Welsh Government has sufficient resource to deliver the Welsh Government's legislative programme and to address the challenges he identifies.

I set out in my letter of 22 February the steps the Government is taking to ensure we manage the pressures on our capacity to legislate.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is fluid and cursive, with a horizontal line underneath the name.

Mick Antoniw AS/MS

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

Agenda Item 4.9

**Pwyllgor yr Economi,
Masnach a Materion Gwledig**

**Economy, Trade and
Rural Affairs Committee**

28 February 2022

Dear Vaughan and Jane,

Following publication of the Committee's report A New Direction for HGV Drivers I was contacted by Displaced People in Action who informed me that many of the Afghan people who arrived in Wales in 2021, have experience of driving very large vehicles, which often comes from military service. Displaced People in Action have told me that many of those with experience would be keen to become HGV Drivers here in Wales. They also refer to the provision of free training to get HGV licenses which is being provided in England by the UK Government.

Recruiting arrivals from Afghanistan as HGV drivers seems as if it could help to alleviate the current drivers shortages we face. Please could you let me know the following:

- Has the Welsh Government considered promoting the **HGV driver apprenticeship programme** directly to refugees in Wales, including those who arrived from Afghanistan last year?
- The UK Government's website describes **HGV Skills Bootcamps** as "free training courses in England." Please can you clarify whether refugees in Wales can access these, and whether you would consider supporting them to access the training either via transport to an English course or by running a similar course in Wales?

I am copying this letter to Jenny Rathbone MS in her capacity as the Equality and Social Justice Committee and to Delyth Jewell MS in her capacity as Chair of the Culture, Communications, Welsh Language, Sport and International Relations Committee.

Kind regards,



Paul Davies MS

Chair: Economy, Trade and Rural Affairs Committee

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

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**Senedd Cymru
Welsh Parliament**

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Agenda Item 4.10

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

Hannah Blythyn AS/MS
Y Dirprwy Weinidog Partneriaeth Gymdeithasol
Deputy Minister for Social Partnership



Llywodraeth Cymru
Welsh Government

Jenny Rathbone MS
Chair of the Equality and Social Justice Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

2 March 2022

Dear Jenny,

Thank you for the Committee's report on the Scrutiny of the Welsh Government's Draft Budget 2022-23 outlining six recommendations for the Welsh Government.

We would like to thank members of the Committee for their report. Please find enclosed the Welsh Government response to these recommendations in advance of the vote on the Final Budget on 8 March.

Yours sincerely,

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

Hannah Blythyn
Y Dirprwy Weinidog Partneriaeth Gymdeithasol
Deputy Minister for Social Partnership

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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.

Welsh Government Response to report of the Equality and Social Justice Committee on the 2022-23 Draft Budget

Recommendation 1

We recommend that the Welsh Government reviews the Strategic Integrated Impact Assessment with a view to publishing a more detailed account of how Draft Budget decisions impact on different groups, and that an updated SIIA is laid before the Senedd at least two days before the debate on the Final Budget scheduled for 8 March.

Response: Accept

Since publication of the draft budget we have published an extensive summary of all Ministers' written evidence to Senedd scrutiny committees on allocations within each MEG containing close to 400 pages providing a more detailed account as to how Draft Budget decisions have impacted on different groups.

This builds on the significant amounts of information already published as part of our Draft Budget with the impact of spending decisions outlined as part of the main narratives in chapters four and six, complemented by the Strategic Integrated Impact Assessment at Annex D. This SIIA outlines the contextual evidence that has supported our spending decisions, including the impact of the pandemic on children and young people.

Annex D also includes more-detailed case studies on the impacts of specific spending decisions. We have also published the Chief Economist Report, a distributional analysis of devolved public spending and a new Infrastructure Finance Plan under our new Wales Infrastructure Investment Strategy.

We also remain committed to continually reviewing our approach to assessing impacts of budget decisions as part of the annual Budget Improvement Plan (BIP), including reviewing our Strategic Integrated Impact Assessment. An update on this work will be published alongside the 2023-24 Draft Budget. For the reasons set out here, we do not believe publishing a further update SIIA is needed.

Financial Implications: None

Recommendation 2

We recommend that the Welsh Government enables other public, private and third sector bodies to benefit from its work, and the data gathered, by committing to an open source data policy for the work of the Equality Evidence and Data Unit.

Response: Accept

The main aim of the new Equality, Race and Disability Evidence Units is to improve the availability, quality, usability and accessibility of equalities data for other stakeholders as well as for Welsh Government. This includes making data available, wherever possible, via an open data source for others to use.

In line with Welsh Government Social Research and Statistical quality standards and publication protocols, the Equality, Race and Disability Evidence Units will publish any evidence they produce.

Co-production and collaboration with stakeholders from different sectors are also key elements in the way the new Equality, Race and Disability Evidence Units will design, deliver and disseminate their work.

Financial Implications:

There are no additional financial implications for this recommendation. The work of the Equality, Race and Disability Evidence Units relevant to other public, private and third sector bodies will be delivered from the Unit's agreed budget. This includes funding to look at appropriate and accessible dissemination.

Recommendation 3

We recommend that the Welsh Government provides more detail regarding how it will fund implementation of the Gender Equality Review ahead of the debate on the Final Budget scheduled for 8 March.

Response: Accept

Our Advancing Gender Equality in Wales plan is a first step in achieving a long term vision of gender equality across Wales, it sets out how we will implement the recommendations of the Gender Equality Review. That plan was published in March 2020.

While progress on implementing some of the recommendations in the plan has been slower than we'd hoped due to the impact of Covid, work is now well underway to

address priority actions, re-build momentum and make swift progress in implementation. Some of the key recommendations have already been delivered.

In late 2021 the Minister for Social Justice agreed that a subgroup to Strengthening and Advancing Equality and Human Rights group be convened to ensure specific and detailed oversight of implementation of the plan. The group held its first meeting on the 2 February 2022. They have established three priorities for the first twelve months of operation and will focus on care, violence against women and women's health.

The Plan was published prior to the onset of Covid 19 and therefore makes no reference to the ongoing and exacerbated impact that the response to the pandemic meant for gender equality.

We have therefore, commissioned the Wales COVID-19 Evidence Centre and the Bangor Institute for Health & Medical Research (BIHMR) to identify international, innovative practice that may be included in a revised version of the Advancing Gender Equality in Wales Plan to ensure it properly responds to the impact of Covid 19 in relation to gender equality.

The work of the COVID-19 Evidence Centre will be considered alongside an internal progress review against the plan and an analysis of the lived experience of women in Wales throughout the pandemic, undertaken by WEN Wales, to be completed by March 2022.

Each piece of evidence will be used to contribute to a re-designed version of the Plan, updated to reflect the impact of the Covid 19 pandemic in Wales to be published later this year.

However, we have not let this update work hamper implementation and our Programme for Government sets out a number of commitments which prioritise key elements of the Plan.

- We have committed to fund childcare for more parents in education and training and those on the edge of work.
- We have committed to work in social partnership to eliminate the pay gap for gender, ethnicity and disability by 2050.
- We are establishing an Equality Evidence Unit which will offer a targeted resource to support improvements to evidence on both sex and gender.
- Gender equality is a core part of our broader commitment to Senedd reform.
- We published our Period Dignity Strategic Action Plan for consultation in October and will publish the final version later this year.

- We have committed to strengthening the Violence against Women, Domestic Abuse and Sexual Violence Strategy to include a focus on violence against women in the street and workplace as well as the home in order to make Wales the safest place in Europe to be a woman.

Financial Implications: There are no additional financial implications for this recommendation. As the committee report notes, the draft Budget includes a number of spending commitments designed to improve gender equality and the work outlined above is included in the current budget.

Recommendation 4

In response to rising rates of inflation, which the Bank of England expects will be sustained in the coming months, the Welsh Government should keep under review allocations designed to help alleviate poverty (such as the DAF and the SAF) for the poorest and most disadvantaged in our society and should prioritise and/or re-prioritise funding as may be necessary.

Response: Accept

Building on the steps we have already taken within our 2022-23 Draft Budget to respond to the emerging economic impacts of rising inflation we recently announced a cost of living package worth more than £330m covering 2021-22 to 2022-23 with further details contained within our 2021-22 second supplementary budget and 2022-23 Final Budget.

This included a further £15m for the Discretionary Assistance Fund in 2022-23. This funding will extend the additional flexibilities in place to enable people to get more support, on a more frequent basis until March 2023, which helps people pay for essential costs including food, fuel and clothing.

Alongside this we have allocated £1.7m in 2022-23 for the Single Advice Fund to maintain additional benefits advice capacity for a further year and support income maximisation so more people receive high quality advice and information about what support is available and how to access it.

We also recognise that this is an evolving picture. With increases to household bills, National Insurance rises and associated impacts to supply chains and the costs of goods starting to impact from April we will continue to monitor these impacts closely.

Financial Implications:

A transfer from reserves will take place during 2021-22 and 2022-23 to fund the packages of support set out above.

Recommendation 5

We recommend that both Welsh and UK governments work together to find a pragmatic solution whereby Wales does not lose out financially and which enables the Basic Income pilot to take place. We urge this action by both governments on behalf of the care experienced young people that the pilot is ultimately designed to help.

Response: Accept

The UK Government has confirmed that that any payment to meet everyday costs would be taken into account as income for Universal Credit purposes and would not be disregarded. This means Welsh Government funding will be displacing UK Government funding. The payment level the Minister for Social Justice announced on 16 February has been set to be broadly equivalent to the real living wage and has been set to ensure participants are not worse off given the UK Government's approach.

The Minister for Social Justice has since written to the Rt Hon Dr Thérèse Coffey MP, Secretary of State for Work and Pensions and the John Glen MP, Economic Secretary to the Treasury to formally request the UK Government put in place the necessary systems to enable taxation at source by our intended start date of 1 July 2022.

We have yet to receive a formal response from the UK Government regarding the Minister's letter, however, officials are working with colleagues in the Welsh Treasury to begin discussions with HMRC about getting this bespoke tax system in place and to confirm if the basic income payments would attract National Insurance contributions.

Financial Implications: No financial implications

Recommendation 6

We recommend that the Welsh Government commission independent, expert research advice to improve how we measure the effectiveness and impact of preventative spending measures. This work should draw on international examples and best practice and should conclude before the Budget process for 2023-24 begins in December of this year.

Response: Accept

Through our reformed Budget Improvement Impact Advisory Group (BIIAG) we will engage with key stakeholders on improving budget and tax processes aligned to delivery of the Budget Improvement Plan (BIP) which already outlined the actions we intend to take improve how resources are deployed to support a shift in preventative activities.

We currently engage with international experts and other nations to draw on best practice in areas of wider budget process improvement. In this context we will consider the case for using commissioned expert advice reflecting the need to consider the appropriate point when such an approach can have the greatest benefit balanced against the costs of doing so.

An update of delivery of the Budget Improvement Plan will be published alongside the 2023-24 Draft Budget.

Financial Implications: To be met within existing budgets

Document is Restricted

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

Document is Restricted

22 February 2022

Race Council Cymru response to the UK Government's Consultation on proposals to reform the Human Rights Act 1998.

Q1: The proposed changes set out in the Consultation represent a constitutional matter with implications for the exercise of legislative and executive competence in Wales because they raise serious concerns for human rights and devolution. Although the consultation doesn't explicitly state how the specific legislative and socio-economic interests of the devolved governments will be impacted, the fact is that the UK Parliament retains the power to legislate on any topic and has exclusive competence (subject to EU law) to legislate for Wales in relation to all the reserved matters including areas such as policing, justice, social security, and most areas of commercial/business law. The proposed changes raise significant issues regarding accessibility to the courts, the rule of law and the role of the Courts in the application of the law relating to human rights. This is because they seek to reduce the expectation that UK courts follow the case law of the European Court of Human Rights in Strasbourg. According to the Public Law Project, "The Government's view is that section 3 has led to a move "too far towards judicial amendment of legislation which can contradict, or be otherwise incompatible with, the express will of Parliament." ([para 233](#)). The proposed changes could therefore considerably weaken human rights protections in Wales and put the UK at risk of breaching its international obligations if it is not upholding Convention rights to the standard that Strasbourg has deemed necessary.

The consultation claims to be founded upon values considered fundamental within British society and indigenous traditions, but no reference has been made to the consideration and inclusion of customary Welsh values, such as linguistic rights, consistent with our progressive legislation in Wales. This raises questions around how some of the key principles and protections in the Human Rights Act such as our *fundamental* rights will be impacted if the Bill was to be passed. It is important to recognise that what makes fundamental rights fundamental is the fact that they reflect deeply and widely shared understandings that transcend parochial domestic considerations.

Q2: The proposals set out in the Programme for Government have potentially far-reaching consequences for existing Welsh legislation, policies and future human rights commitments and therefore must be more sensitive to issues of devolution. According to Public Law: Text, Cases, and Materials - [Page 235](#), "The Government's programme would have to respect the different political and legal traditions within all of the countries of the UK to command public confidence. It would also, as a technical matter, involve reconsideration of the scheme of the devolution Acts, which limit the powers of the devolved legislatures and governments expressly by reference to respect for 'Convention rights'3." While we saw the Welsh parliament reject the Nationality and Borders Bill earlier this week, it's important to note that Wales is not independent of Westminster and while the Senedd can pass primary and secondary laws in Wales, "reserved" matters remain the responsibility of Westminster. The UK Parliament can still legislate in devolved areas, but, under the Sewel Convention, does "not normally" do so without the explicit consent of the relevant devolved body.

In effect, if the Bill is deemed as a "reserved matter" and subsequently passed, irrespective of the Senedd Cymru's current stance, there is a possibility that Wales *may* be subjected to the potential implications of the Nationalities and Borders Bill. The Bill seeks to give arbitrary rights to take away citizenship from individuals and would remove the obligation on the Secretary of State to give notice of deprivation of citizenship orders in certain circumstances, including in the interests of national security, foreign relations, and the public interest. As a result, if passed, there may be potential changes in deportation numbers, especially the potential increase in foreign national offender removals, which will create additional transport costs for government departments.

The Police, Crime and Sentencing legislation is also equally concerning because it seeks to provide substantial restrictions on the freedom to protest which would curb non-violent protest in a way that is inconsistent with our human rights. The creation in Clause 59 of a new statutory offence of “intentionally or recklessly causing public nuisance” is broadly drafted and risks criminalising some forms of peaceful protest, leading to fines or custodial sentences. It is important to note that Wales has adopted legislation which increases human rights protections by incorporating a duty to have due regard, within devolved functions, to the UN Convention on the Rights of the Child (2011 Measure referred to previously). If there are renewed calls for the UK to withdraw from the European Convention on Human Rights, *we* recommend that Wales should pledge to sign up to the Convention within the areas of policy responsibility devolved to Welsh Government.

Q3: The equalities impact on individuals with particular protected characteristics, including asylum seekers and refugees, ethnic minority communities and the Gypsy, Roma and Traveller community will be far-reaching and could pose adverse impacts on their wellbeing and mental health (which is protected by Article 8 ECHR). According to the Legislative Scrutiny: Nationality and Borders Bill (Parts 1, 2 and 4) – Asylum & Home Office Decision-Making, “As of September 2021, there were 67,547 individuals waiting an initial decision on their asylum application, of which approximately 65%, had been waiting for an initial decision longer than 6 months.” It is important to note that whilst awaiting decisions Asylum Seekers are prohibited from working or commencing the family reunification process and cannot access the entitlements guaranteed in the Refugee Convention. Adversely, there may also be additional costs for those who would be subject to a stricter deportation approach than the present one; with potential costs for the families of those who may face stricter deportation rules.

Furthermore, the Bill is set to dramatically reduce the rights of GRT people to exercise their nomadic culture, by making trespass a criminal offence and increasing the powers of the police to seize property where individuals reside. This criminalises individuals by making them liable to three months in prison or a fine of £2,500. Moreover, the Bill amends the Criminal Justice and Public Order Act 1994 by broadening the ‘list of harms’ that can lead to an order to leave the site, as well as increases the period for which persons cannot return to the site, from three to twelve months. The impact on the Gypsy, Roma and Traveller community can be further highlighted through the Bill’s aim to reduce the number of vehicles permitted on the land from six to one, effectively criminalising the ability for the GRT community to congregate. Egregiously, the bill risks leaving these minority groups even more excluded and will affect Welsh equality policies, support for refugees and asylum seekers, community cohesion and many other matters.

Yours sincerely,

Nkechi Allen Dawson

Nkechi Allen Dawson
Lead Policy Officer, Race Council Cymru



Evidence to Committee

Equality and Social Justice Committee: UK Government Human Rights Act Reform

Evidence details

Nature of Enquiry: Letter regarding the UK Government Consultation on proposals to reform the Human Rights Act 1998

Source of Evidence: Senedd Cymru

Date: 08 February 2022

For more information please contact

Ruth Coombs

Equality and Human Rights Commission
Room 3.18 / 1.19, The Maltings, East Tyndall Street,

Cardiff, CF24 EZ

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Wales@equalityhumanrights.com

About the Commission

1. The Equality and Human Rights Commission ('the Commission') is Great Britain's national equality body and has been awarded an 'A' status as a National Human Rights Institution (NHRI) by the United Nations.
2. Our job is to help make Wales and Britain fairer. We do this by safeguarding and enforcing the laws that protect people's rights to fairness, dignity and respect. The Commission has been given powers to advise Governments and Parliaments across England, Scotland and Wales on the equality and human rights implications of legislation and policy. We can also publish information or provide advice on any matter related to equality, diversity and human rights.
3. We are here to offer our expert advice to support the work of the Equality and Social Justice Committee to ensure equality and human rights considerations are at the heart of the Sixth Senedd.

How we have approached this request

4. Our response is informed by legal and policy analysis of the three questions asked by the Committee, in the short time available to respond.
5. We have submitted our response on 8 February 2022, and thank the Committee for the opportunity to do so.

Evidence

To what extent do the proposed changes set out in the Consultation represent a constitutional matter with implications for the exercise of legislative and executive competence in Wales?

6. The proposed changes set out in the consultation represent a constitutional matter with implications for the exercise of legislative and executive competence in Wales because it is currently unclear whether the European Convention on Human Rights (ECHR) will continue to be incorporated expressly into domestic law under the proposed Bill of Rights, as it is currently under the Human Rights Act 1998 (HRA). The HRA is the principle, but by no means the only way, that ECHR rights are given effect in UK law.
7. Compliance with the ECHR is safeguarded by the Government of Wales Act 2006 (2006 Act) in two principal ways:
 - a. The power of the Welsh Government and the Senedd under the Government of Wales Act 2006 is limited by reference to the “Convention rights”. These are given the same meaning as under the HRA, which means that they are defined by reference to the ECHR but they do not include all of the ECHR rights and all of the Protocols (Article 13 for instance is omitted) (HRA s.1).
 - b. Observing and implementing obligations under the ECHR is devolved (Schedule 7A para 10(3)). This obligation applies to all ECHR rights “as they have effect for the time being in relation to the United Kingdom”.

8. The UK Government consultation proposes that the HRA will be “replaced” by a Bill of Rights. The Consultation does not, however, explain what if any status the ECHR would have under a Bill of Rights. The proposal appears to be that the “Convention rights” would be replaced by domestic rights drawing on the text of the ECHR. That seems to suggest that the ECHR would not be directly incorporated into UK law by express reference, but whether this would result in a change to the substantive rights in domestic law remains unclear.
9. Such a change would of necessity involve a change to the devolved competences of the Welsh Government and the Senedd. As noted above, these are currently defined by reference to the ECHR as given effect by the HRA. It is presumably the UK Government’s intention that competence would henceforth be defined by reference to the Bill of Rights. It is possible however that the 2006 Act could be amended to refer to the ECHR directly, in which case the amendment would be principally a formal one.
10. If however the competence of the Welsh institutions was changed so that it depended on the scope of the Bill of Rights, this might affect the breadth and nature of such competences materially.

11. A large part of the consultation document is directed at achieving greater autonomy for domestic courts and Parliament to interpret the rights set out in the Bill of Rights and loosening the authority of the European Court of Human Rights (ECtHR) within the UK's legal system. For example, the UK Government proposes to make clear that UK courts are not bound to follow judgments of the ECtHR and seeks to identify ways to legislate to restrict the development and application of the ECtHR's case law on positive obligations and on the protection of the right to privacy against press intrusion. This is significant because the ECtHR pronounces authoritatively on the meaning of the ECHR (ECHR, Articles 19, 31(1) and 46(1)). Therefore, if the domestic protection of rights is narrower than that required by the case law of the ECtHR, that would not fully reflect the UK's obligations under the ECHR. This would be a material change to the 2006 Act which, as explained above, is presently tightly connected to the ECHR through the HRA.
12. The precise impact on the legislative or governmental competences in Wales is difficult to predict. However, in general terms:
- a. If the Bill of Rights does not fully implement the case law of the ECtHR, then the protection of human rights in Wales would be reduced .
 - b. Where the ECHR rights set out prohibitions on the conduct of public bodies then, in theory, if the Bill of Rights was interpreted in a more limited manner, the competence of the Welsh institutions would be widened. However, where the ECHR rights set out positive obligations on public bodies to protect rights, a narrower interpretation of such rights under a Bill of Rights would result in the Welsh institutions not having the power to implement such duties, as they currently have.

- c. The enactment of a Bill of Rights could also result in certain enhancements of rights protections (and corresponding reduction in the power of the Welsh Government) if additional rights were included in the Bill of Rights. At present the only additional right suggested by the UK Government is the right of jury trial. In theory, however, additional rights, such as to protect the Welsh language or marriage of same-sex couples (the ECHR only extends to civil partnerships), could be included.
13. Notably, the consultation states that the proposed Bill of Rights will seek to recognise differences in the application and implementation of a human rights framework according to the needs and preferences of the nations of the UK. Question 19 is:

“How can the Bill of Rights best reflect the different interests, histories and legal traditions of all parts of the UK, while retaining the key principles that underlie a Bill of Rights for the whole UK?”

This provides an opportunity for the specific interests of the nations of the UK to be reflected in any Bill of Rights. However, it is the Commission's position that the Bill of Rights must protect rights at least to the same extent as the ECHR and that there must not be any reduction or diminution in rights protection. There is a need for a consistent set of basic rights to be protected across the UK. This should be a good minimum standard and no lower than those in the ECHR, but with the scope to increase and protect human rights further than the current standard.

14. A further point relates to the UK Government's proposal to introduce a requirement for claims under the Bill of Rights to surmount an additional hurdle of showing that the victim has suffered "significant disadvantage". It is notable that the 2006 Act sets out a separate cause of action for persons who claim to be victims of infringements of their ECHR rights as against the Welsh institutions (s.81). The UK Government has not suggested that the proposed additional hurdle would also be introduced to the 2006 Act. Similarly, the UK Government proposes statutory guidance on the award of damages under a Bill of Rights but has not proposed any similar statutory guidance to damages awards for breach of incorporated ECHR rights under the 2006 Act. The creation of differences such as these between claims under a Bill of Rights and claims under the devolution legislation for conduct that is contrary to the Bill of Rights would be anomalous and arbitrary. It could lead to forum shopping on the part of litigants to avoid the hurdles imposed on claims brought directly under the Bill of Rights. Forum shopping is the practice of choosing the court or jurisdiction that has the most favourable rules or laws for the position being advocated.
15. It would not however appear appropriate for a "significant disadvantage" threshold to be imposed on claims under the 2006 Act given that the ECHR defines the scope of devolved competence and such a hurdle would thus prevent the courts ensuring that the Welsh institutions act *intra vires* where that threshold is not met. (In effect, the competence of the Welsh institutions would be altered to include **non-compliance** with the ECHR **that does not cause significant disadvantage**). This could result in the introduction of limits on the ability of persons to challenge infringements of their ECHR rights, which would appear to have constitutional implications relating to the scope of devolved competence.

What are the potential implications for existing Welsh legislation, policies and future human rights commitments set out in the Programme for Government?

16. We consider that there are areas in the Welsh Government Programme for Government and the Co-operation Agreement 2021, for which the proposals for Human Rights (HRA) reform may have implications. The Senedd Committee may wish to seek legal clarification of these points.
17. These include proposed incorporation of the United Nations Convention for the Elimination of all forms of Discrimination against Women (CEDAW) and the United Nations Convention of the Rights of Disabled People (UNCRPD) into Welsh law.
18. There are potential implications for constitution and justice in Wales. These include:
- a. Establishing an independent, standing commission to consider the constitutional future for Wales
 - b. Pursuing the case for the devolution of policing and justice
 - c. Developing a set of Codes of Welsh law
19. Additionally, there are a number of other commitments and activities proposed in both the Programme for Government and the Co-operation Agreement that touch on human rights, such as:
- a. Establishing a national care service
 - b. The Disability Task Force
 - c. Implementation of the Race Equality Action Plan
 - d. Implementation of the LGBTQ+ Action Plan

However, in our view human rights actions in these areas are not likely to be touched upon by the HRA proposals.

What do you consider to be the equalities impacts on individuals with particular protected characteristics, including asylum seekers and refugees, ethnic minority communities and the Gypsy, Roma and Traveller community?

20. The potential impact on people with protected characteristics of the UK Government consultation on the HRA must be seen in the wider context of public perception of human rights and the practical barriers to their enforcement.
21. There is considerable public scepticism and lack of understanding about the operation of human rights. Our research has found that greater knowledge of human rights tends to correlate with greater levels of support for them,¹ and is also likely to strengthen people's ability to enjoy their rights and seek redress when they are breached. Government, public authorities, schools, civil society, and the media have important roles to play in building public understanding of human rights.
22. In particular, Government, public authorities and the media should ensure they communicate clearly and accurately about human rights, from a position of respect for the rule of law and principles of human rights, reinforcing the universal values which human rights embody, and avoiding the perpetuation of misconceptions.²

¹ EHRC and ComRes (May 2018), Human Rights Audiences and Messaging, pp 9-10; published summary at: [EHRC \(September 2018\) Talking about human rights: how to identify and engage a range of audiences](#), p7

² EHRC and ComRes, [Talking about Human Rights](#). Our report provides practical advice to help public bodies, NGOs and others communicate about human rights in a way that effectively builds understanding of their importance.

23. It is necessary to address existing practical barriers to the enforcement of human rights, some of which have impacted disproportionately on people with particular protected characteristics. These include reductions in legal aid provision, advice deserts and cost regimes for HRA judicial review cases. It is also necessary to assess the specific impact of the proposals on protected characteristics, and take steps to mitigate any obstacles to the enforcement of rights affecting particular groups.
24. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 affected access to justice in England and Wales, including by weakening people's ability to enforce their human rights.
25. Removal of legal aid provision in many family law and immigration cases affects those seeking redress for violations of the right to respect for family life under the European Convention on Human Rights (ECHR) Article 8.
26. Removal of provision in education cases has affected those seeking redress for breaches of the right to education protected by ECHR Protocol 1, Article 2.
27. People with certain protected characteristics have been particularly affected including disabled people, women, children and people from ethnic minorities. The Commission on Justice in Wales emphasised that this had particular negative impact in Wales where there are areas with no access to legal aid practitioners all.³
28. Our briefing to the UK Parliament on the Nationality and Borders Bill highlighted the particular difficulties that people with certain protected characteristics (including people with a mental or physical disability, women and LGBT people) may face when engaging with certain legal

³ See: EHRC (September 2018), [Response of the Equality and Human Rights Commission to the Post-Implementation Review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) and Commission on Justice in Wales (24 October 2019), [Justice in Wales for the People of Wales](#), p. 10

processes relating to asylum and immigration.⁴ Any procedural changes relating to human rights claims could raise similar concerns, which would need to be understood and mitigated.

Other sources of evidence the Committee may wish to consider

Human Rights Tracker

29. Our [human rights tracker](#) is one of the world's first online tools for monitoring human rights compliance. It is a searchable online tool to track how well the Welsh and UK Governments are acting on the most recent recommendations made to the UK by the UN treaty bodies and the Universal Periodic Review (UPR).

⁴ See: EHRC (July 2021), [Bill Briefing: Nationality and Borders Bill, House of Commons – Second Reading](#), p. 3-4

Is Wales Fairer?

30. [Is Wales Fairer?](#) is the most comprehensive review of how Wales is performing on equality and human rights across all areas of life, including; education, work, living standards, health, justice and security and participation in society.
31. This is the Welsh supplement to our statutory report on equality and human rights progress in Great Britain, [Is Britain Fairer?](#)
32. We have also recently produced a follow-up “[How Coronavirus has affected equality and human rights](#)” report which summarises evidence to helps us understand the effects of the coronavirus (COVID-19) pandemic on different groups in society.



Scottish Government
Riaghaltas na h-Alba
gov.scot



Llywodraeth Cymru Welsh Government

Cabinet Secretary for Social Justice, Housing & Local
Government

Shona Robison MSP

Minister for Equalities and Older People

Christina McKelvie MSP

Minister for Social Justice
Jane Hutt MS

Counsel General and Minister for the
Constitution
Mick Antoniw MS

Rt Hon Dominic Raab MP

Lord Chancellor, Secretary of State
for Justice, and Deputy Prime Minister

01 March 2022

Dear Dominic

Yesterday the Minister for Equalities and Older People in the Scottish Government, the Minister for Social Justice in the Welsh Government, and the Counsel General for Wales met to discuss our shared concerns regarding the UK Government's intention to replace the Human Rights Act with a "modern Bill of Rights".

Whilst we will each submit individual responses to your consultation before your deadline of the 8th March, and we have each had the opportunity to set out our respective positions in separate meetings with you on the 10th and 23rd of February, we feel it is important to re-iterate to you in writing our grave and deep-seated concerns in relation to both the current proposals and the UK Government's longer-term direction of travel.

As you know, the Human Rights Act plays a critically important role in protecting fundamental rights and freedoms across the whole of the United Kingdom. It has performed that function extremely successfully for more than two decades and it has done so in a way that has not only directly benefitted a great many individual members of society but has been instrumental in ensuring that our public institutions carry out their work in ways that embrace and embed positive action to respect, protect and fulfil human rights.

As the substantial body of human rights case law resulting from the Act has demonstrated, the practical effects have been far-reaching.

The Act has enabled vitally important issues to be addressed across the whole of our society. The achievements made possible by the Act encompass everything from action on gender equality to the protection of free speech and the right to protest. It has repeatedly demonstrated its worth by enabling individuals and communities to directly challenge failings on the part of powerful public authorities, including (for example) by assisting the families of service personnel to obtain justice when their rights were breached by the UK Government. The Act has been instrumental in helping to secure equality for LGBTQ+ people and it has ensured that scandals involving medical malpractice and the abuse of vulnerable patients could be publicly exposed. Amongst the headline cases in which the Human Rights Act has been of central importance have been the fight for justice following the Hillsborough disaster and the successful challenge brought by the victims of the sex offender John Worboys in the face of serious failings by the Metropolitan Police.

There can therefore be no question that the Human Rights Act has served our society well, and that it provides safeguards and protection which are essential to individuals and communities throughout the UK. The Act has also delivered, again and again, on the original promise to “bring human rights home” by enabling individuals whose rights have been breached to obtain a legally-enforceable remedy from the UK’s own courts, without the lengthy delays and expense involved when application has to be made to the European Court of Human Rights in Strasbourg.

We note that your own Independent Human Rights Act Review, whose report you published simultaneously with the current proposals for a “Bill of Rights”, itself concluded that there is no good case for making significant changes to the Act as it currently exists. Both the Scottish and Welsh governments provided the Review Panel with detailed submissions, and it also received extensive and highly-persuasive evidence from some of the United Kingdom’s most eminent legal experts, including both practitioners and academics. It is disappointing, if not perhaps surprising, that you should have decided to simply disregard that weight of evidence and expertise and to press ahead regardless with what amounts in practice to an ideologically-motivated attack on the freedoms and liberties protected by the Human Rights Act.

Our disappointment is further compounded by the fact that the current consultation exercise is tainted by claims and assertions which are not only unsubstantiated but potentially misleading. For example, in our view it is entirely wrong to suggest that the existence of legally-enforceable human rights protections has led to a decline in personal responsibility or that the vindication of human rights is somehow in conflict with the public interest. Nor is there any credible evidence which supports the claim that requiring public authorities to treat individual members of the public with dignity and respect, and in accordance with their fundamental and inalienable human rights, has led to “legal uncertainty, confusion and risk aversion for those delivering public services on the frontline”. On the contrary, all of the evidence points instead to a positive impact which has supported improved standards of service and enabled the exposure of harmful and deficient practice. It is similarly incorrect to claim that “public protection [has been] put at risk by the exponential expansion of rights” or that the ability of members of the public to challenge bad decision-making in the courts has somehow led to a “democratic deficit”. The existing mechanisms of the Human Rights Act are designed precisely to protect democratic dialogue and they do so in a way that respects parliamentary sovereignty.

We would, additionally, take particular issue with the claim in the consultation paper that “judicial activism” has led the UK’s courts to exceed the limits of their proper powers. Again, there is no credible evidence to support this assertion.

The truth, instead, is that the courts are invariably very careful to conduct themselves in a manner which accords proper respect to the legitimate constitutional roles of both Westminster and the devolved legislatures, and of the respective UK and devolved governments. Of course, it is correct to say that the Human Rights Act has empowered the courts to closely and critically examine the proportionality of government decisions and policies. Indeed, this is one of the core strengths of the Act and it is a feature that has repeatedly proven its value over the last two decades. But this is a very different matter from the unwarranted claims which have been made about excessive “judicial activism”. It is unfortunate, to say the least, that the consultation paper should seek to call into question the independence and impartiality of the courts in this way.

Such concerns have a wider currency and go beyond the immediate context of public policy in the United Kingdom. It is therefore particularly regrettable that both the intention and the effect of the UK Government’s current agenda appears to be directed at distancing the United Kingdom from its long-standing and historic commitment to promoting human rights and the rule of law at the international level.

There is no doubt in our minds that the trajectory now being followed by the UK Government is one which will ultimately result in the United Kingdom’s detachment, incrementally and by stealth, from its obligations as a member state of the Council of Europe. It is certainly difficult to read proposals, such as those for the replacement of section 2 of the Human Rights Act, as anything other than an exercise in narrow parochialism, informed by an opportunistic and entirely unnecessary antipathy to European institutions. Our own respective positions, by contrast, are informed by a resolute belief in the importance of international co-operation and by a clear recognition of the importance of remaining a full member of the Council of Europe. We would therefore urge you to reflect carefully on the damage which the UK Government’s proposals risk causing not just to the United Kingdom’s own international standing and reputation but to the integrity and coherence of international human rights mechanisms more generally.

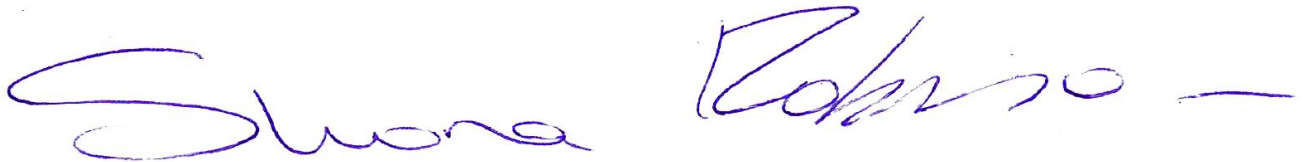
For all of these reasons, the Scottish and Welsh Governments are very clear that under the current constitutional settlement the interests of the peoples of Scotland and Wales are best protected by retaining the Human Rights Act in its current form. The proposals for a “modern Bill of Rights” which have been put forward by the UK Government are therefore both unwelcome and unnecessary. Furthermore, as the Human Rights Act is fundamental to each of the devolution settlements of the UK, it would be a matter of the gravest concern if the UK Government was to contemplate acting in this area without the agreement of all of the UK’s national legislatures.

We would, in consequence, once again urge you to listen very carefully to the views the democratically-elected governments of Scotland and Wales and also to the very strong, and consistent, support for the Human Rights Act which has been conveyed by voices from across the whole of UK civil society. It will clearly now be important for the UK Government to pay close attention to the responses generated by the current consultation, and for it also to revisit the wide-ranging and well-informed evidence already submitted to the Independent Human Rights Act Review.

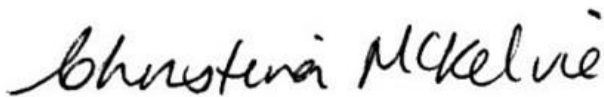
Our specific request to you would then be that you undertake to change direction while it is still possible to do so, by abandoning the current proposals and by re-committing not just to the retention of the existing Human Rights Act but to guaranteeing full compliance by the United Kingdom with the obligations which it has undertaken to fulfil as a State Party to the European Convention on Human Rights and as a member of the Council of Europe.

We are copying this letter to the First Minister of Scotland, the First Minister of Wales, the First Minister and Deputy First Minister of Northern Ireland, the Secretary of State for Scotland, the Secretary of State for Wales, the Deputy First Minister of Scotland, the Cabinet Secretary for Justice and Veterans in the Scottish Government, the Clerk of the Equalities, Human Rights and Civil Justice Committee in the Scottish Parliament, and the Clerk of the Equality and Social Justice Committee in the Senedd.

Yours sincerely,



Shona Robison MSP
Cabinet Secretary for Social Justice, Housing & Local Government
Scottish Government



Christina McKelvie MSP
Minister for Equalities and Older People
Scottish Government



Mick Antoniw MS
Counsel General and Minister for the Constitution
Welsh Government



Jane Hutt MS
Minister for Social Justice
Welsh Government