

Agenda – Climate Change, Environment, and Infrastructure Committee

Meeting Venue:	For further information contact:
Hybrid: Committee room 4 Tŷ Hywel and video Conference via Zoom	Marc Wyn Jones Committee Clerk
Meeting date: 7 December 2022	0300 200 6565
Meeting time: 09.20	SeneddClimate@senedd.wales

Private pre-meeting (09.05–09.20)

Public meeting

1 Introductions, apologies, substitutions, and declarations of interest

(09.20)

2 Annual scrutiny of the National Infrastructure Commission for Wales

(09.20–10.20)

(Pages 1 – 8)

Dr David Clubb, Chair – National Infrastructure Commission for Wales (NICW)

Dr Jenifer Baxter, Deputy Chair – National Infrastructure Commission for
Wales (NICW)

[National Infrastructure Commission for Wales: Annual Report 2021 /22](#)

Attached Documents:

Research brief – Annual scrutiny of the National Infrastructure Commission
for Wales (NICW)



Break (10.20–10.30)

3 General scrutiny of the Minister and Deputy Minister for Climate Change – part 1

(10.30–11.25)

(Pages 9 – 35)

Julie James MS – Minister for Climate Change

Lee Waters MS – Deputy Minister for Climate Change

Attached Documents:

Research brief – Ministerial scrutiny

Paper – Welsh Government

Break (11.25–11.35)

4 General scrutiny of the Minister and Deputy Minister for Climate Change – part 2

(11.35–12.30)

Julie James MS – Minister for Climate Change

Lee Waters MS – Deputy Minister for Climate Change

5 Papers to note

(12.30)

5.1 Interim environmental protection measures

(Pages 36 – 42)

Attached Documents:

Response from the Welsh Government to the Committee's report on operation of the interim environmental protection measures

Response from the Interim Environmental Protection Assessor for Wales to

the Committee's report on operation of the interim environmental protection measures

5.2 Decarbonising privately-owned homes in Wales

(Pages 43 – 44)

Attached Documents:

Response from the Minister for Climate Change to the Chair's letter of 6 October 2022 regarding the Committee's inquiry into decarbonising privately-owned homes in Wales

5.3 Petition P-06-1292 – Net Zero Wales

(Page 45)

Attached Documents:

Letter from the Chair of the Petitions Committee to the Chair in relation to petition P-06-1292 – Make Welsh public sector organisations report scope 3 emissions and include them in net zero targets

5.4 Legislative Consent Memoranda for the UK Infrastructure Bank Bill

(Pages 46 – 47)

Attached Documents:

Response from the Minister for Finance and Local Government to the Committee's report on the Legislative Consent Memoranda for the UK Infrastructure Bank Bill

5.5 Legislative Consent Memorandum for the Levelling-up and Regeneration Bill

(Pages 48 – 49)

Attached Documents:

Letter from the Minister for Climate Change to the Chair, Local Government and Housing Committee in relation to the Legislative Consent Memorandum for the Levelling-up and Regeneration Bill

5.6 Legislative Consent Memorandum for the Levelling-up and Regeneration Bill

(Pages 50 – 60)

Attached Documents:

Letter from the Minister for Climate Change to the Chair of the Legislation,

Justice and Constitution Committee in relation to the Levelling Up and Regeneration Bill

5.7 Inter-Ministerial Group for Environment, Food and Rural Affairs

(Pages 61 – 62)

Attached Documents:

Letter from the Minister for Rural Affairs and North Wales, and Trefnydd to the Chair of the Legislation, Justice and Constitution Committee in relation to the Inter-Ministerial Group for Environment, Food and Rural Affairs

5.8 Scrutiny of the financial implications of Bills

(Pages 63 – 65)

Attached Documents:

Letter from the Chair of the Finance Committee to the First Minister in relation to scrutiny of the financial implications of Bills

5.9 The Environmental Protection (Single-use Plastic Products) (Wales) Bill

(Page 66)

Attached Documents:

Letter from the Chair to Llanishen Fach Primary School following their visit to the Senedd to share their views on single use plastic items

5.10 The Environmental Protection (Single-use Plastic Products) (Wales) Bill

(Pages 67 – 72)

Attached Documents:

Letter from the Chair of the Legislation, Justice and Constitution Committee to y Llywydd in relation to The Environmental Protection (Single-use Plastic Products) (Wales) Bill

Letter from the Chair of the Legislation, Justice and Constitution Committee to the Minister for Climate Change in relation to The Environmental Protection (Single-use Plastic Products) (Wales) Bill

5.11 Climate adaptation and carbon budgets

(Pages 73 – 74)

Attached Documents:

Letter from the Chair to the Minister for Climate Change in relation to Climate adaptation and carbon budgets

5.12 Electric vehicle charging

(Page 75)

Attached Documents:

Letter from the Chair to the Minister for Climate Change in relation to electric vehicle charging

5.13 Welsh Government Draft Budget 2023–24

(Pages 76 – 77)

Attached Documents:

Letter from the Chair of the Children, Young People and Education Committee to Committee Chair's in relation to the Welsh Government's Draft Budget 2023–24

5.14 The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022

(Pages 78 – 79)

Attached Documents:

Letter from the Minister for Rural Affairs and North Wales, and Trefnydd to the Chair in relation to The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022

5.15 The Plant Health (Amendment) (EU Exit) Regulations 2022

(Pages 80 – 81)

Attached Documents:

Letter from the Minister for Rural Affairs and North Wales and Trefnydd to the Chair in relation to the The Plant Health (Amendment) (EU Exit) Regulations 2022

6 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of today's meeting

(12.30)

Private meeting (12.30–12.40)

- 7 Annual scrutiny of the National Infrastructure Commission for Wales – consideration of evidence heard under item 2**
- 8 Scrutiny of the Minister and Deputy Minister for Climate Change – consideration of evidence heard under items 3 and 4**
- 9 Consideration of the Committee's Forward Work Programme**

(Pages 82 – 88)

Attached Documents:

Paper – Forward work programme

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Minister for Climate Change and Deputy Minister for Climate Change

Evidence Paper for the Climate Change, Environment and Infrastructure Committee, November 2022

Decarbonisation of privately-owned homes

1. Heating constitutes a major part of the decarbonisation challenge, as it accounts for almost half of UK energy use and a third of carbon emissions.
2. Net Zero Wales sets the context for decarbonisation of Wales. We will publish a heat strategy for Wales in 2023 which will build on Net Zero Wales with more detailed policies and proposals to decarbonise heat. We will set out how we intend to take forward policies and programmes to decarbonising heating and cooling in buildings, alongside heat related emissions from the industrial sector.
3. Net Zero Wales also sets out our vision for new homes which are built low carbon and to the highest standards. To reduce emissions, we need to set challenging housing retrofit standards so people living in these in homes are able to manage energy use efficiently. Retrofitting existing homes is a complex and iterative process. Homes are likely to need to go through several stages of retrofit work to reduce their carbon incrementally, embracing innovation and experimentation over time.
4. We need to deploy energy efficiency as part of whole building approach to reduce carbon emissions. In future there will be a reduced role for gas in heating, being replaced by low carbon heat technologies such as heat pumps, heat networks, and potentially hydrogen.

Decarbonising Homes

5. The Future Generations Commission's report "Homes Fit for the Future: the Retrofit Challenge" estimated the costs of decarbonising Welsh homes at circa £15 billion, broken down as follows.

Tenure/ status	Number of homes	Average investment required per home	Total Investment (bn)
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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

6. The areas requiring the greatest investment are social housing and fuel poor housing which are targeted by the Optimised Retrofit Programme and the Warm Homes programme respectively.
7. In terms of funding, the Welsh Government has agreed to prioritise investment in social housing decarbonisation through funding made available to social landlords through the Optimised Retrofit Programme. We are starting in social housing before moving to other tenures as this is where we have the most levers.
8. Initially the investment in social homes was targeted to be £220 million over the term of government, with around £70 million invested to date. However, this year £60 million has been allocated to social landlords and indicative funding of £70 million per annum provided for the following two financial years, increasing the overall budget to £270 million.
9. Channelling Optimised Retrofit Programme investment through social landlords supports a 'testing and learning' approach to how to decarbonise homes effectively and efficiently. As well as evaluating the technical and tenant aspects of the work, actual costs will be monitored and used in the assumptions of future models of residential decarbonisation. This will provide the springboard to start the decarbonisation of homes in other tenures from 2023.
10. In Wales, we have a strong history of working in partnership with social landlords to provide high-quality homes for our most vulnerable households and communities. We are using those trusted relationships to ensure, in a new and rapidly evolving market, we can assure ourselves of the quality and appropriateness of interventions. Working with the social housing sector first also helps support the growth of the skills base and offers opportunities to develop the secure materials and supply chains needed to decarbonise Welsh homes at scale and pace.
11. We are clear that in terms of retrofit, there are few simple solutions and no one size fits all for the housing stock here in Wales. Considering this, we are committed to getting a clear understanding of the issues and to working with partners across the sector to ensure our approach is evidence based and, while ambitious, is ultimately achievable.
12. We are gathering evidence and collecting baseline data from properties currently being retrofitted. This data will ensure we can measure the impact of

our investment activities. Only through an evidence-based approach can we ensure future investment relies on solutions which we can be confident work across different homes and different tenures.

Privately owned homes

13. Decarbonisation of privately owned homes, those in the privately rented and owner-occupied sectors is undoubtedly more complex. For example, in the private rented sector there are significant numbers of landlords compared to the discreet group represented by Registered Social Landlords. Many private rented sector landlords own only 1 or 2 properties and may not keep these properties for long periods and may not have records of the investments previous owners have made in the homes. This contrasts with the Registered Social Landlords who keep stock over the entire lifetime of the building and have records of their investments over long periods of time.
14. Moreover, we know innovative funding models will be needed to pay for the decarbonisation of these homes, the costs of which cannot rest fully on Welsh Government. However, we are confident the learning from Optimised Retrofit Programme and other schemes will put us in a strong position to start the work in other tenures, along with learning from the wider system such as other government schemes and our expert Decarbonisation Implementation Group,
15. In terms of privately owned homes, initial actions have begun to be considered. Welsh Government has for example started evaluating a variety of options for financing retrofit in the owner-occupied and private rented sector. These incorporate both grant funding and repayable finance. The financial capacity of the end user will help direct them to the most appropriate financing solution in the medium term.
16. Some of the models for financing which will be considered include Property Assessed Clean Energy, in which the loan is linked to the property rather than individual; low interest loans; equity release loans and green mortgages. A grant mechanism may also be needed for lower income households although, for those in fuel poverty that meet the scheme criteria, the Warm Homes Programme NEST has been providing support.
17. Decarbonising and improving the energy efficiency of homes in Wales across all tenures, and how we might fund this, is complex. There are significant challenges in terms of the infrastructure needed and funding. Welsh Government continues to work with partners to explore approaches. Specifically, we have recently begun work with the Development Bank of Wales looking at funding options for the owner occupied sectors. We are also bringing together a panel of experts from across the finance sector to work with us on evaluating options and shaping those viable funding solutions.
18. There are also wider impacts to be taken into consideration. For example, the Minimum Energy Efficiency Standard which apply in the private rented sector are not a devolved matter. The UK Government is currently reviewing responses to a consultation in respect of the Minimum Energy Efficiency

Standard, which private landlords will be expected to meet. Pressing ahead in Wales, ahead of decisions taken at a UK level, risks pre-empting the results of the consultation, meaning landlords may have to undertake multiple works to meet both requirements.

19. This in turn risks affecting the quality of life of private tenants, and potentially pushes private landlords into selling their properties rather than undertake remediation works, reducing the number of private rental properties in Wales. The low rental values in Wales and therefore the financial capacity of landlords to undertake significant improvement work on homes in terms of the Minimum Energy Efficiency Standard target has been raised with the Department for Business Energy and Industrial Strategy and should be considered by them in developing the response to the consultation.
20. To mitigate these issues, we are currently exploring a project to support private landlords in decarbonising their properties, a tie in between the Leasing Scheme Wales and Optimised Retrofit Programme. Under proposals currently being explored homes entering the Leasing Scheme Wales would be eligible for grant funding to improve the energy efficiency of the property.
21. We recognise the interconnected nature of the challenge of the decarbonisation of homes and tackling fuel poverty. We are working to ensure coherence across these policy areas.
22. Many of those in the “able to pay” sector are keen to begin their home’s decarbonisation journey. To support them and provide confidence they are taking the right steps for their homes, as well as provide wider advice, support and guidance to all those involved in residential decarbonisation, there will also be an investment into a new a Housing Net Zero Carbon performance Hwb. The ‘Hwb’ brings together expert guidance on all aspects of decarbonising residential homes on a ‘For Good’ basis. Again, in the first instance, the Hwb will provide social landlords with access to expert advice, research and development, materials guidance, procurement, and best practice under one virtual roof. However, after the first year, it is anticipated the services offered by the Hwb will be expanded to help private landlords and homeowners too.

Welsh Quality Housing Standard

23. The Welsh Quality Housing Standard (WHQS) was introduced in 2002 to set the standard for the 230,000 social homes in Wales and has been encouraging social landlords to improve energy efficiency. The Welsh Government has provided £2 billion of funding since 2004 to support the original WHQS programme. The current SAP 65 (EPC D) target has been in place since 2008 and as at 31 December 2020, 99% of the social housing stock has achieved the standard.
24. A new WHQS standard (WHQS2023) was consulted on over the summer months and closed on the 3 August. We continue to monitor the maintenance of the existing WHQS whilst we drive forward the development of an updated

version. The proposal for WHQS2023 introduces more energy efficiency elements than the previous standard and will require landlords to update their properties to achieve net zero carbon emissions as well as making homes affordable to heat. The main challenges to the new standard focus on the availability of funding, the skills capacity within the country to deliver the required work, the ambitious timeline being proposed and the need for robust tenant engagement to facilitate the delivery of the standard. The results of the consultation are currently being analysed by external consultants and are expected in November this year. Following consideration of the responses a final standard will be published sometime next year.

Decarbonising the Public Sector by 2030

25. The Welsh Government has set out its route map for decarbonisation across the Welsh public sector in a strategic overview of the key priority areas for action and milestones needed for the Welsh public sector to reach net zero greenhouse gas emissions by 2030.
26. The Welsh Government has introduced a strong framework to support this commitment which includes:
- The [Wellbeing of Future Generations \(Wales\) Act 2015](#), which directs us to consider long-term persistent problems such as poverty, health inequalities, and climate change,
 - The [Climate Emergency Declaration](#) made by Welsh Government in 2019,
 - The first statutory Low Carbon Delivery Plan, [Prosperity for All: A Low Carbon Wales](#) was published in 2019,
 - Prosperity for All: A Climate Conscious Wales, our most recent climate adaptation plan was published in 2019,
 - Net zero carbon status by 2030: public sector route map,
 - Public sector net zero reporting guide,
 - The Programme for Government, and
 - [Net Zero Wales Carbon Budget 2 \(2021 to 2025\)](#) was published in October 2021.

Public Sector Reporting

27. The Welsh public sector emissions reporting process was set up in 2021 with the publication of the [Net Zero carbon status by 2030: public sector route map](#) and the [Public sector net zero reporting guide](#) to enable all public sector organisations in Wales to annually report their carbon emissions. The Welsh Government published the [all-Wales 2019/20 baseline with the results for 2020/21](#) in July 2022. These figures are:

Public Sector Emissions 2019-20 and 2020-21 (kt CO ₂ e)							
	Agriculture	Buildings	Transport	Waster	Supply Chain	Land Use	Total
2019-20	2.1	581.4	301.1	66.8	2809.7	-408.4	3353
2020-21	2.1	520.9	268.1	61.9	2839.3	-413.2	3279

28. The deadline for the submission of data for 2021-22 was 9 September. The data is now being analysed and will be published in December 2022.
29. Effective measurement and reporting of carbon emissions is essential for the Welsh Government and public sector in Wales to meet our ambition of a collective net zero by 2030. The annual reporting of emissions enables us to undertake a number of functions:
- Demonstrate overall results
 - Effectively monitor the performance of decarbonisation actions plans
 - Inform future actions
 - Highlight areas of concern
 - Identify where we need to further our understanding and refine our calculation of carbon emissions
 - Define the size of the challenge to deliver this ambition.
30. The public sector reporting is an iterative process, with continuous engagement across the public sector to collate feedback and implement improvements for the next reporting cycle. It ensures we have a standard reporting process for carbon emissions across the public sector, with better data quality and monitoring to support decision making.
31. Reporting by the public sector is voluntary, and the level of engagement has been high. Over 50 organisations across the public sector reported their Carbon emissions from 2019/20 and 2020/21, a return rate of 80%. For 2021/22 we have already had 67 organisation respond by the deadline, a return rate of 95%. The current process utilised our revised guidance which implemented valuable lessons from the first two years of reporting.

Collective Ambition

32. The increasing number and maturity of decarbonisations plans, the level of engagement on emissions reporting and the level of resources and people involved demonstrates the Commitment from across the Welsh public sector to achieving our collective net zero 2030 ambition. There are a number of forums / working groups across the public sector to co-ordinate and support the delivery of decarbonisation plans. This includes the Local Authorities Climate Change Strategy Panel and the Health and Social Care Climate Emergency.
33. The high level of engagement on the public sector emissions reporting further demonstrates the level of commitment to the collective ambition of net zero by 2030.

Leadership

34. The public sectors commitment to net zero and the significant work being done to deliver on the 2030 ambition demonstrates its clear leadership role for the rest of Wales.

35. The Welsh Government has a leadership role for Wales and for the public sector. This is reflected in the creation of a department for Climate Change and the remit of the Climate Change Portfolio Board. The Board includes all areas of Welsh Government who contribute to tackling, or are impacted by, climate change. It ensures mandate holders (those with relevant policy or operational responsibilities) are accountable for their actions and we remain on course to deliver the desired outcomes in accordance with our legislative targets.
36. The Welsh Government will shortly be publishing its Net Zero Strategic Plan setting out how it will achieve Net Zero as an organisation. The Plan recognises the considerable work already made to reduce our emissions, for example the introduction of sustainable travel choices (including the option to lease ultra low carbon vehicles) and the 76% reduction in emissions from our administrative estate over the last 11 years. It will also galvanise further work to achieve the ambition of a collective net zero public sector by 2030.
37. The Welsh Government has supported the wider public sector by establishing effective programmes to support the collective vision, through leadership, advice and financial assistance. For example, since 2019 the Welsh Government has funded the WLGA to run a support programme for Local Authorities (LA's), focussing on leadership as the key driver for change, and supporting the development of key Local Authority commitments. The leadership role will help to maintain momentum and ensure continued collaboration across the public sector.

Welsh Government Energy Service

38. Welsh Government's Energy Service provides technical, strategic and financial support for renewable energy and energy efficiency projects across the public sector and communities. The support helps the public sector deliver their decarbonisation plans, reducing their carbon emissions and generating savings. Since July 2018, it has supported 408 projects across Wales, saving 432,000 tonnes of CO₂, and generating £212 million of local income and savings.
39. The technical support provided through the service ensures funding is targeted effectively and increases capacity for the public sector to deliver. The support also include workshops to help share best practice and knowledge, addressing some of the skills gaps in the public sector.
40. An example of a project supported through the Energy Service is Brynwhillach Solar Farm at Morrision Hospital, Swansea. This is the first hospital in Wales to develop its own full-scale solar farm, at a cost of £5.7 million. The 4MW project has been developed on land at Brynwhillach Farm, linked to Morrision by a 3km private wire. It will supply almost a quarter of Morrision's power, cutting the electricity bill by around £500,000 a year and significantly reducing carbon emissions. At peak production times it could meet the electricity demand for the entire hospital. The solar farm is not linked to the grid. The project included a solar farm and other energy-saving and carbon reducing

measures, such as lighting and insulation, repayable on an invest to save basis. We are now supporting plans to provide battery storage for the solar farm. Another examples is Blaenau Gwent Local Authority who received total of £3.9 million in support for energy efficiency covering fleet and refit of estate. The results over the lifetime of these measures are a savings of 23.3k tCO₂ and £9.2 million.

Designated Landscapes Contribution to Decarbonisation

41. National Park Authorities (NPAs) and Areas of Outstanding Natural Beauty based within Local Authorities have made good progress on decarbonisation in recent years underpinned by the Welsh Government's Sustainable Landscapes, Sustainable Places capital scheme. Primarily this has taken the form of reducing NPA carbon footprints by retrofitting buildings and transitioning to electric vehicles for staff. Snowdonia NPA's Headquarters at Penrhyndeudraeth has seen battery storage, a PV array and insulation leading to energy usage falling by over half, although those financial savings have been wiped out by inflation. Around 15 electric vehicles have been purchased across the three NPAs and over 100 EV charging points installed.
42. Landscape bodies have also recognised the need to support decarbonisation across their wider landscape, where they have the policy levers to do so. Promoting more sustainable travel, such as subsidised shuttle bus services and Snowdonia NPA's partnership with Transport for Wales to seek more sustainable travel for users at Yr Wyddfa/Snowdon and surrounding area. Carbon sequestration is also a major area of interest and Brecon Beacons NPA and Snowdonia NPA now have programmed in ongoing peatland restoration programmes supported by Welsh Government funding. There are ongoing discussions around attracting private sector funding in order to increase impact.

Resource Efficient, Low Carbon Procurement

43. The net zero by 2030 target for the public sector in Wales includes Scope 3 supply chain emissions, both upstream in terms of the products procured, and downstream in terms of how wastes produced by the public sector are managed. For example, the 2021 NHS Wales Decarbonisation Strategic Delivery Plan identifies that Scope 3 emissions make up 81% of the NHS Wales carbon footprint in 2018/19, and, by category of expenditure, procurement of goods contributes 61% of the carbon footprint.
44. Construction of public buildings has a high carbon footprint. Resource efficiency and moving to a circular economy approach can help make significant Scope 3 carbon emission savings, both in terms of products procured, and wastes created (or, ideally, avoided). This is particularly the case in construction.
45. We grant fund WRAP Cymru to provide advice to public bodies in Wales on sustainable, resource efficient, low carbon procurement. As well as providing bespoke support to individual public bodies, WRAP Cymru has also supported

the development of resource efficient common frameworks for key goods, for example office furniture, and has also published general guidance. Recognising the importance of decarbonising construction, WRAP Cymru has also published a guide for Low Carbon & Resource Efficient Construction Procurement.

46. On decarbonising the downstream Scope 3 emissions associated with waste, waste prevention and reuse are strongly encouraged. Also, increasing high quality recycling will help reduce Scope 3 emissions, whilst also providing high quality materials for manufacturing in Wales, which will also help them reduce their carbon emissions. Next year the Welsh Government plans to introduce new regulations to require all public sector and business premises to segregate key recyclable materials, and for them to be collected separately for recycling.

Finance

47. The Welsh Government provides financial assistance through a variety of mechanisms, such as the Wales Funding Programme, which provided £16 million of investment in public sector projects in 2021-2022. Whilst there are increasing budgetary pressures, for example from the consequences of Covid and the cost of living crisis, we continue to place importance on this investment to enable the Welsh Government and public sector to progress our collective ambition.

Agenda Item 5.1

Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref

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14th November 2022

Dear Llyr,

Thank you for your letter of 28 September 2022 enclosing a copy of the Climate Change, Environment, and Infrastructure Committee's report: *Report on operation of the interim environmental protection measures*.

We are grateful for the Committee's work on this important matter. I acknowledge the recommendations made in the Committee's report, and enclose a detailed response to these, accepting all 8 recommendations.

Yours sincerely

Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change

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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.

Annex 1.

Written Response by the Welsh Government to the report of the Climate Change, Environment and Infrastructure Committee entitled Report on operation of the interim environmental protection measures.

Recommendation 1.

The Welsh Government should clarify whether it intends to reappoint the Interim Assessor for a further year, until February 2024. If so, it must explain the steps it intends to take to ensure that a new statutory oversight body is operational before the end of the reappointment.

Response: Accept

I can confirm the Welsh Government intends to reappoint the Interim Assessor for a further year to ensure the IEPAW service remains operational until February 2024.

As the First Minister confirmed in his letter to the Committee dated 18 July 2022, working towards the establishment of an environmental governance body is part of our Programme for Government and the Cooperation Agreement between the Welsh Government and Plaid Cymru and we are committed to bringing forward legislation on this important issue during this Senedd term. Welsh Government officials are working on further advice to the Minister for Climate Change on the establishment of a permanent body.

I cannot advise the Committee at this time on the timescales for establishing a permanent environmental oversight body, but I will write to the Committee with an update on this issue as soon as I am in a position to do so.

Financial Implications –

Recommendation 2.

The Interim Assessor should work towards improving public awareness of the service. As a minimum, they should:

- identify ways to make it easier for the public to access information on the service via the website, and
- engage with relevant free advice services in Wales as a means of developing referral routes to the complaints process.

Recommendation 3.

The Interim Assessor should commit to publishing details of their rolling programme work on the website. This information should be updated periodically.

Response: Accept

Welsh Government officials have liaised with the Interim Assessor about recommendations 2 and 3 of the report and she has indicated she intends to implement both recommendations in full. The Welsh Government will provide the Interim Assessor with the support she requires to deliver these improvements, in particular by taking steps to ensure that the IEPAW webpages are more easily accessible and she is able to make use of social media channels to publicise the work of the IEPAW. The Interim Assessor will write to the Committee separately on the progress of these recommendations.

Financial Implications – None

Recommendation 4.

The Welsh Government should provide details of the evidence used to estimate demand on the service and to determine corresponding resource requirements, both in terms of the number of days the Interim Assessor is contracted to work and secretariat support for the role.

Response: Accept

Initial estimates for the demand for the service were based on information from interested stakeholders, including regulators such as Natural Resources Wales and consideration of the caseload of the European Commission. Factoring in the possibility a domestic system may be more visible and accessible, thus attracting more complaints. It was very difficult to predict the case load, but initial estimates were 15-25 submissions would be received per year, resulting in 4 – 6 investigations and 1-2 cases progressing to enforcement measures.

It is important to note these estimates were produced with a permanent environmental governance body in mind, with the ability to consider complaints about alleged non-compliance with the law. As such, we expected the Interim Assessor's more limited remit to result in significantly fewer cases being received. It was not possible to produce an accurate figure on what the caseload would be for the interim arrangements.

The Government's assessment was initially borne out by the caseload received by the IEPAW during the initial six months. During the first 8 months of its operation, only five submissions were received. As noted in the Interim Assessor's Annual Report, there was an unexpected spike in the number of submissions received during November and December 2021(15 cases) which took the overall figure into the range we would have expected for a body with a much broader remit.

Financial Implications – None

Recommendation 5.

The Welsh Government should undertake an urgent review of the resources available to the Interim Assessor. In doing so, it must satisfy itself that the Interim Assessor is sufficiently resourced to carry out their role and responsibilities effectively. The Welsh Government should report back to the Committee on the outcome of the review as soon as practicable.

Response: Accept

The Government recognises the pressures the Interim Assessor has faced, particularly in light of the high demand for the service over the last 18 months, and the implications this will have had on the resources available to her. We agree with the Committee that further consideration is needed of the resourcing on the IEPAW to ensure it can carry out its intended functions effectively until permanent environmental governance arrangements are in place.

As such, the Government will commit to undertake an internal review of the resources available to the Interim Assessor. Once this review is complete, we will report back to the Committee on the findings of this review at the earliest opportunity.

In the meantime, the IEPAW's Secretariat Team has been working to secure additional resource for the Interim Assessor. This has included commissioning external support from academics and legal professionals when producing IEPAW reports. This should result in

fewer demands being made on the Interim Assessor's time, which will ensure that the IEPAW is able to turn around reports more quickly going forwards.

Financial Implications – None

Recommendation 6.

The Welsh Government should commit to publishing its responses to Interim Assessor reports no later than six weeks following receipt. Responses should set out what action the Welsh Government intends to take as a result of the advice and/or recommendations, including indicative timelines for delivery. If the Welsh Government chooses not to take action, it should set out its reasons.

Recommendation 7.

The Welsh Government should commit to notifying the Senedd when it publishes a response to a report by the Interim Assessor. This should be in the form of a Written Statement.

Response: Accept

The Welsh Government accepts both these recommendations in full.

Recommendation 8.

The Welsh Government should explain what arrangements are in place to monitor the on-going effectiveness of the interim measures and the impact of the measures on environmental outcomes.

Response: Accept

No formal monitoring arrangements are currently in place, although the Welsh Government has been considering options for evaluating the effectiveness of the interim measures and their impact on environmental outcomes. In doing so, consideration is being given to how such an evaluation process could be used to inform the design and development of a permanent environmental governance body for Wales.

IEPAW

Interim Environmental Protection Assessor Wales

Llŷr Gruffydd MS
Chair, Climate Change, Environment and Infrastructure Committee
Senedd Cymru
Cardiff Bay
CF99 1SN
Senedd.Climate@senedd.wales

9 November 2022

Dear Llŷr,

Thank you for your letter of 28 September 2022 enclosing a copy of the Climate Change, Environment and Infrastructure Committee's report on the operation of the interim environmental protection measures.

I would like to thank the Committee for the work they have undertaken in this area and for inviting me to participate in the evidence session on 30 June 2022. I believe that the Committee's recommendations provide an important package of improvements to ensure that the IEPAW can deliver its functions effectively until a permanent environmental oversight body is in place.

Although the recommendations in the report are primarily aimed at the Welsh Government, there are two recommendations that are specifically directed towards me. These relate to raising public awareness of the IEPAW service and its transparency (recommendations 2 and 3 respectively). I fully agree with the Committee's helpful recommendations in these areas and will outline below the actions that I intend to take in response to them.

With regards to raising public awareness, I am working with my Secretariat to determine what can be done to increase the visibility of the IEPAW service. In these discussions whereby we hope to utilise Welsh Government resources, we are exploring the options of making better use of social media channels, as well as working towards ensuring that the IEPAW pages which are hosted on the Welsh Government

Interim Environmental Protection Assessor Wales

website are easier for the public to access. I will endeavour to update the Committee on this work as soon as is practicable.

In line with the Committee's recommendation that the IEPAW should engage with pro bono advice services in Wales, we have reached out to the following organisations to make them aware of the IEPAW's service with a view to developing new referral routes:

- Citizen's Advice Bureau
- The Law Society
- Legal News Wales
- JUSTICE
- ADVOCATE
- Wales and Chester Circuit
- North Wales Law Centre
- North and Mid Wales Law Clinic
- Law Works
- Access to Justice Foundation
- Speakeasy Law Centre Cardiff

Alongside this work, the Committee may also be interested to know that I have recently authored a pair of articles for publication in the United Kingdom Environmental Law Association's (UKELA) e-law newsletter and the Tenant Farmers' Association (TFA) Cymru's newsletters. The first of these provides an overview of the IEPAW's role, whereas the other provides an update on our recent work in relation to hedgerow protection and management.

In response to recommendation 3, I agree with the Committee that publishing details of the IEPAW's rolling programme of work on our webpages would be a valuable way of ensuring that stakeholders and the public are made aware of the ongoing work of the IEPAW. I intend to start publishing these updates on a quarterly basis, timing them to coincide with the IEPAW's regular stakeholder meetings. These updates will also be sent directly to anyone who has signed up to receive them via the IEPAW's cluster group.

With regards to the Committee's other recommendations, these have my full support. In particular, I support the Committee's recommendation for an urgent review to be

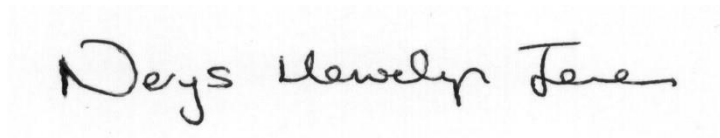
IEPAW

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conducted into the resourcing of the IEPAW service. I look forward to working with the Welsh Government over the coming weeks and months to ensure these recommendations are delivered in full.

As stated during the evidence session, my work as IEPAW to date has developed via an iterative process and approach and I am keen to ensure that the work the role is transparent and accessible to all who have an interest in environmental protection and have concerns that they want to raise for consideration.

Kindest regards,

A handwritten signature in black ink that reads "Nerys Llewelyn Jones". The signature is written in a cursive style and is centered on the page.

Dr Nerys Llewelyn Jones
The Interim Environmental Protection Assessor for Wales

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 5.2



Llyr Gruffydd MS
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SeneddClimate@senedd.wales

Llywodraeth Cymru
Welsh Government

10 November 22

Dear Llyr

Thank you for your letter of 6 October 2022 regarding the inquiry into decarbonising privately-owned homes in Wales being undertaken by Climate Change, Environment and Infrastructure Committee.

In your letter you asked about progress towards developing a comprehensive strategy and delivery plan for decarbonisation which was referenced in response to the recommendations made by the Equality and Social Justice Committee's report, "Fuel Poverty and the Warm Homes Programme".

While we have an overarching strategic intent articulated in our Net Zero Wales Carbon Budget 2 (2021-25) which sets out our vision, our ambition statements and our policies and proposals (Policies 43-50 and Proposals 5-8), we recognise that further detail and a route map for implementation are needed.

While we intend to develop a comprehensive delivery plan that incorporates work across tenures other than social housing; we are committed to that plan being rooted in evidence of what works in decarbonisation. One which is based on learning the lessons of both ORP and other schemes such as IHP and the Warm H Programme.

We are clear that in terms of retrofit, there are few simple solutions and indeed no one size fits all in terms of the housing stock here in Wales. In light of this we are committed to getting as clear an understanding of the issues and committed to working with partners across the sector to ensure that our plan is evidence based and while ambitious is also ultimately achievable.

To ensure we have a plan that is meaningful and can guide our direction moving forward we are gathering evidence from properties currently being retrofitted. Only through an evidence-based approach can we ensure that future investment relies on solutions that we can be confident work across different homes and different tenures.

This evidence is also vital to ensure that Welsh residents feel safe and secure, and able to use energy in their homes appropriately to their needs, throughout their homes' decarbonisation journey.

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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.

Currently this work is at the scoping stage with my officials, where they are exploring how best to develop the route map for residential decarbonisation, balancing this need with the range of expectations around delivering of programmes such as the Optimised Retrofit Programme, and the expansion into the PRS via alignment of ORP with our Leasing Homes Scheme.

My officials will be working with our Decarbonisation Implementation Group (DIG) and with them will pull together a further group of stakeholders to discuss priorities for the route map in the early part of 2023.

Once our approach is developed and work underway, our delivery partners and stakeholders will of course be kept engaged in the process, and prior to publication of any route map we will consult on the developed proposals.

I will share timelines and a target publication schedule with the committee once these are finalised.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive style with a large initial 'J'.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Y Pwyllgor Deisebau

Petitions Committee

Llyr Gruffydd MS

Chair

Climate Change, Environment, and Infrastructure Committee

Tŷ Hywel

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27 October 2022

Dear Llyr

Petition P-06-1292 Make Welsh public sector organisations report scope 3 emissions and include them in net zero targets

The Petitions Committee considered the above petition at our meeting on 10 October, alongside correspondence from the Minister for Climate Change.

At the meeting members agreed to write back to the Minister for Climate Change in order to ask further questions on this issue. The Committee also agreed to write to your Committee in order to highlight the petition in light of your Committee's work on Net Zero Wales.

Further information about the petition, including related correspondence, is available on our website at: <https://business.senedd.wales/ielssueDetails.aspx?Ild=39836&Opt=3>.

If you have any queries, please contact the Committee clerking team at the e-mail address below, or on 0300 200 6454.

Yours sincerely



Jack Sargeant MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 5.4

Rebecca Evans AS MS

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



Llywodraeth Cymru
Welsh Government

Our re: MA/RE/3374/22

Llyr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure
Senedd Cymru

SeneddClimate@senedd.wales

10 November 2022

Dear Llyr,

Thank you for your report on behalf of the Climate Change, Environment and Infrastructure Committee on the Legislative Consent Memoranda for the UK Infrastructure Bank Bill.

I appreciate the work the Committee has undertaken in scrutinising the LCMs on this Bill, and I note we share a number of the same concerns.

I agree with the Committee that the Bank could potentially play an important role in scaling up and accelerating investment to support Wales' transition to net zero.

We therefore have been actively engaging with the UK Government to bring forward sensible amendments to the Bill to ensure that devolution is respected.

The Committee highlights the importance of clauses 2 (Objectives and activities) and 3 (Strategic priorities and plans) to the Bill, and it notes that currently there is no role for the Welsh Government or the Senedd. We share this concern and are in discussions with UK Government on amendments to address this.

More generally, we also share your concern about there being no role for the Welsh Government in the governance of the Bank, and we are seeking to address this with UK Government through specific amendments to the Bill.

Like the Committee, we were pleased to see that there was an amendment in the House of Lords to broaden the definition of infrastructure to include "nature-based solutions" to avoid any ambiguity in the acceptability of such propositions to the Bank. We support this amendment being retained through the House of Commons.

During the past few months there has been significant instability at Westminster which has resulted in a considerable number of changes in HM Treasury Ministers which has hampered the progress of our discussions towards any prospective agreement. There have also been

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delays to the Bill's passage through the Commons due to the changes in UK ministerial responsibilities, and other announcements such as the Growth Plan 2022. I understand that the Bill will now progress to Committee Stage on 22 November. The Welsh Government will continue to engage with UK Government and seek appropriate amendments that respect devolution.

As negotiations are ongoing, unfortunately I cannot be more specific on the exact nature of the amendments until further progress is made. However, any agreement will result in a further SLCM and an opportunity for the Committee to report further on the matter.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive, flowing style.

Rebecca Evans AS/MS

Y Gweinidog Cyllid a Llywodraeth Leol

Minister for Finance and Local Government

Agenda Item 5.5

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

John Griffiths MS
Chair, Local Government and Housing Committee
Senedd Cymru
SeneddHousing@senedd.wales

10 November 2022

Dear John

Thank you for your letter of 1 November regarding the Legislative Consent Memorandum (LCM) on the Levelling-up and Regeneration Bill (“the Bill”). I have provided a response to your questions below.

Clause 187 (Vagrancy and begging)

My officials have been proactively and regularly liaising with their counterparts in the UK Government to understand the UK Government’s intentions for this clause of the Bill. Unfortunately, a decision has not yet been made and we are therefore unable to provide you with any clarity on the possible changes the UK Government may make at this stage. We will continue to engage with the UK Government on this element of the Bill and update the Committee once we have clarification.

Financial Implications

Clause 1 - 6 (Levelling up missions)

The effect of the provisions is to place a duty on the UK Government to set, and report annually on progress towards achieving, levelling up missions to reduce geographical disparities across the United Kingdom. The requirement to report on the delivery of levelling up missions, and the parliamentary scrutiny of progress against these missions is a cost to the UK Government and will have no effect on Wales. The effect of the levelling up actions undertaken by the UK Government to deliver these missions is outside of the scope of the Bill.

Placeholder clauses: Clause 96 (Street votes) and Clause 187 (Vagrancy and begging)

Where provisions are placeholder provisions the clause does not contain the necessary detail for me to identify whether there will be any financial implications on Wales.

Part 3 (Planning)

The changes to the planning system under part 3 will all have familiarisation costs associated with the change. This one-off cost will be experienced by local authorities, businesses (including small and medium sized enterprises), and third sector where they engage in the system.

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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.

Clause 75,76,77,79,80,81 (Planning data)

The changes to the provision, processing and requirements of planning data will have financial costs for local authorities and those engaged in specific parts of the planning system in Wales. The provision as currently drafted only has effect in Wales on two limited areas. Firstly, in relation to the Secretary of State acting in non-devolved areas, for example for Nationally Significant Infrastructure Projects (NSIP). Secondly, the provisions currently apply in respect of the Secretary of State's functions under Part 5 of the Bill (Environmental Outcome Reports).

Therefore, where a NSIP, or Environmental Outcome Report is triggered they will be subject to the requirements. In other areas the standards do not apply. This will create a potential dual system of planning data in Wales that will create inconsistency, increasing costs for users of the planning system. It would therefore not fully realise the benefits identified in the Bill through a transition to digital planning system as it will not apply to the whole system in Wales.

Clause 112 (Regulations and Orders under the Planning Acts)

This clause concerns technical legal amendments to the general powers to make statutory instruments contained in The Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and The Planning (Hazardous Substances) Act 1990. The amendment is a minor technical legal amendment aimed at making the legal position clear. There are no financial consequences as a result of the change.

Clause 116-130 (Environment outcomes report)

The provisions in the Bill currently provide for one overarching power to make provisions in respect of environmental outcome reports to accompany both strategic plans, and relevant project consents. The new system of environmental outcomes reporting has potential for efficiency savings through the simplification of consenting.

Clause 186 (Review of governance etc of Royal Institution of Chartered Surveyors (RICS))

This clause will enable the Secretary of State to commission periodic reviews of RICS that will give government information about the governance and performance of RICS, in order to satisfy itself that RICS performs in the public interest. There are no costs to Wales.

I intend to lay a revised LCM which includes this additional information about the financial impact, as well as addressing points raised by the Legislation, Justice and Constitution Committee, as soon as possible.

I am copying this letter to the Chair of the Climate Change, Environment and Infrastructure Committee, Llyr Gruffydd MS, the Chair of the Economy, Trade and Rural Affairs Committee, Paul Davies MS, and the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davis MS.

Yours sincerely



Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 5.6

Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS

Chair, Legislation, Justice and Constitution Committee

seneddLJC@senedd.wales

25th November 2022

Dear Huw

Thank you for your letter of 2 November regarding the Legislative Consent Memorandum (LCM) on the Levelling Up and Regeneration Bill (the Bill).

I too share your frustration over the lack of engagement from the UK Government on areas within the Bill prior to its introduction. Whilst engagement has improved it remains disappointing that there are areas in the Bill for which we have little detail and placeholder clauses remain. This has complicated not only the devolution assessment of the provisions and their effect upon Wales, but also negotiations over potential amendments. I acknowledge the importance of the Senedd's scrutiny role in the legislative consent process and accept that this in turn limited the ability of all four responsible committees to carry out meaningful scrutiny of the LCM.

I have provided a response to your questions in full where I can in the annex to this letter (**Annex 1**) and will lay a revised LCM on the Bill as soon as possible.

The responses to the letter have been based on the Bill as introduced, and I intend to lay a supplementary LCM to the same effect. This will provide a clear picture of my position on the Bill. Amendments to the provisions within the Bill during its passage through the House of Commons and Lords will be laid as a separate LCM in accordance with standing orders. I fully support your request for a revised deadline to assess the provisions and understand the Minister for Rural Affairs North Wales and Trefnydd will discuss with the Business Committee once the revised LCM has been laid/at the earliest opportunity.

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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.

I am copying this letter to the Llywydd as Chair of the Business Committee, as well as the Chairs of the Climate Change, Environment and Infrastructure Committee, the Local Government and Housing Committee and the Economy, Trade and Rural Affairs Committee.

Yours sincerely



Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Annex 1 – Response to Questions set out by the Legislation, Justice and Constitution Committee

Note: Unless otherwise stated references to provisions in the Bill are to the version of the Bill as introduced.

1. ***Can the Minister explain fully the divergence of opinion between the Welsh Government and the UK Government as to whether Part 1 of the Bill requires the consent of the Senedd? What discussions has the Minister had with the UK Government in this regard?***
 - 1.1 For over two decades the Welsh Government, in line with its devolved responsibilities for regional **economic** development, worked in partnership to help address the long-term structural economic challenges in Wales and reduce geographical disparities between different parts of the United Kingdom (UK) and the European Union (EU).
 - 1.2 While the UK Government has failed to meet its manifesto promises of replacing EU funds in full and no power being lost to Wales, Welsh Ministers continue to seek a co-decision-making role on agreeing the outcomes and how funds supporting the Levelling Up agenda – including the Shared Prosperity Fund (the replacement to EU funds) – should be spent; this helps to ensure policy coherence and avoid duplication. Our Framework for Regional Investment in Wales remains an important policy document for that purpose. Improving policy coherence
 - 1.3 The Welsh Government is of the view that Senedd Cymru could pass equivalent provisions to those contained within Part 1 and place on Welsh Ministers identical obligations to set out how they propose to “reduce geographical disparities” in economic, social or other opportunities across Wales; supported by identical reporting, scrutiny, review etc. obligations.
 - 1.4 This is because the objective of “levelling-up” to significantly reduce geographical disparity in the UK is not a reserved matter. Whilst the Welsh Ministers would not introduce legislation in respect of England, the Senedd would have legislative competence to legislate to achieve the same outcome of “levelling-up” for Wales.
 - 1.5 The “levelling-up” missions are described in the Explanatory Notes to Levelling-Up and Regeneration Bill (the Bill), however, they are not contained in the Bill itself in respect of which the Standing Orders require an assessment as to whether a Legislative Consent Memorandum (LCM) must be laid before the Senedd. The missions read as high-level aspirational outcomes linked to specific areas – education, health, transport, employment and economic development. etc. Areas regarded as within the legislative competence of the Senedd.
 - 1.6 UK Government are of the view that Part 1 of the Bill does not require the legislative consent of the Senedd via a Legislative Consent Motion. The UK Government state that Part 1 does not modify the executive competence of the Welsh Ministers or the legislative competence of the Senedd, but do not address whether or not Part 1 makes provisions ‘for any purpose within the legislative competence of the Senedd. The UK Government is of the view that the UK Parliament can legislate to place duties upon the UK Government Ministers to set missions for the whole of the UK.
 - 1.7 Welsh Government officials have met with officials from the Department for Levelling Up, Housing and Communities, and will continue this engagement as the Bill progresses.

2. *Is the Minister able to provide more information regarding the Welsh Government's policy regarding the content of clauses 1-6 and the substantive reasons for its recommendation that the Senedd does not consent to these provisions?*

- 2.1 This Bill, if passed as currently drafted, would require future UK Governments to set longer term missions across a wide range of devolved matters, and actions to deliver against these missions could materially interfere with the policy objectives of the Welsh Government.
- 2.2 The Welsh Government does not agree the need for Part 1 of the Bill. Improving the well-being of everyone in Wales and addressing inequalities is the core mission of this Government and underpins the approach taken to the Well-being of Future Generations (Wales) Act 2015 (the WFG Act) passed by the Senedd in 2015.
- 2.3 The Welsh Ministers published their Economic Mission last year, clearly outlining our values and priorities which shape the decisions we are taking in supporting our economy here in Wales.
- 2.4 We aim to work to ensure our country is more prosperous, fairer and greener than ever before. In particular, our ambition is to create the conditions where more people, particularly the disadvantaged and young people, feel confident about planning their futures in Wales. Further to this we have set out a vision of what makes Wales an attractive place to live, study, work and invest, including the quality of life in an inclusive, open and green nation.
- 2.5 Our [Regional Economic Frameworks](#) set out the opportunities and challenges we face to improve the lives of people across Wales. They put collaboration ahead of competition, showing how we will act to maximise fairness for all and eliminate inequality at every level of society. They are an essential part of our commitment to a more focussed model of economic development - developing the distinctive strengths of our regions, supporting inclusive and sustainable economic growth and maximising opportunities to address national, regional and local inequalities, contributing to the well-being goals for Wales.
- 2.6 In Wales, we have through the WFG Act, a legislative framework to improve the economic, social, environmental, and cultural well-being of the whole of Wales for current and for future generations. The seven well-being goals were developed through a national conversation with the people of Wales and shaped and agreed by the Senedd.
- 2.7 This framework extends beyond just government and captures 48 public bodies, including public services boards and town and community councils. It recognises that both Government and public bodies have a contribution to make to achieving the well-being goals which reflects their powers and duties.
- 2.8 The provisions in clauses 1-6 of the Bill contain some of the elements that are already provided for through the WFG Act. This includes annual reporting, indicators and milestones and the setting of objectives to shape delivery.
- 2.9 In addition, the definition of "geographical disparities" in the Bill, as introduced, only makes specific mention to economic and social opportunities or outcomes. This misses the environmental and cultural opportunities and outcomes that are the

foundation of the WFG Act and well-being goals, and the strong views of the Senedd at the time that cultural well-being is an essential part of improving Wales.

3. Can the Minister confirm why the LCM makes reference to clause 96 (street votes) requiring consent in the view of the UK Government, when this view is not reflected in the Explanatory Notes to the Bill?

3.1 The reference to clause 96 of the Bill requiring consent in the view of the UK Government was included in the LCM in error. However, it is my view that as the clause is a placeholder clause and is not currently limited to England, that it falls within the legislative competence of the Senedd. We anticipate amendments will be tabled to the Bill to limit the application of clause 96 to England, which is why the UK Government has not identified it as requiring consent. We will correct this in the revised memorandum.

4. Is the Minister in a position to seek clarity as to why the UK Government included clause 78 as requiring consent in the Explanatory Notes, when clause 78 is entitled "Power to require use of approved planning data software in England". Is clause 78 intended to apply in Wales or has the UK Government erroneously noted that it applies in Wales?

4.1 We have not had any discussions with the UK Government on this particular point, therefore I am unable to clarify the UK Government's position on this. As introduced, we consider the application of clause 78 to apply to England only and therefore Senedd consent is not required.

5. Has the Minister raised the inconsistency between the Explanatory Notes, immediately before paragraph 470, and the Bill at clause 77 regarding the title of clause 77, where the Explanatory Notes refers to England but the clause itself does not? Is the Minister confident that this clause applies in Wales?

5.1 We have not had any discussions with the UK Government on this particular point. It is likely to be an error with the Explanatory Notes and we will raise it with the UK Government. The planning data provisions have the potential to apply to Wales in areas that are within the legislative competence of the Senedd. This is in a limited area in respect of regulations made under Part 5 (Environmental Outcome Reports). I am confident clause 77 has the ability to apply in Wales.

6. Can the Minister provide further detail as to the new powers that are provided to the Secretary of State by Chapter 1 of Part 3, clause 96 and clause 112 and confirm what effect these powers would have in Wales, including any effect on the legislative competence of the Senedd and the executive competence of the Welsh Ministers?

6.1 The planning data provisions in Chapter 1 of Part 3 of the Bill are intended to set approved data standards so that data held by relevant planning authorities is directly comparable. This would enable developers to work more efficiently across different authorities and, make it easier for the public to compare data across different authority areas. It would also facilitate growth and competition in the planning data software market through the creation of a common standard which suppliers would work to, enabling cross-boundary matters to be dealt with more efficiently.

6.2 The vast majority of 'relevant planning authorities', as defined in clause 81 of the Bill, capture bodies operating in England, or in non-devolved areas. The only area

within the legislative competence of the Senedd that will be affected by any planning data regulations will be in respect of any Environmental Outcomes Report Regulations made under Part 5 of the Bill. As drafted in the Bill as introduced, it would be the Secretary of State who would be making such Environmental Outcomes Reports Regulations (“EOR Regulations”), however negotiations are ongoing in respect of the Welsh Ministers having equivalent powers in devolved areas. We will ensure that the operation of these clauses relating to planning data are considered in the negotiations in respect of Part 5. As drafted in the Bill as introduced these provisions fall within the legislative competence of the Senedd to the extent they cover matters under Environmental Outcome reports. There is no effect on the legislative competence of the Senedd and no impact on the executive competence of the Welsh Ministers.

- 6.3 Clause 96 (Street Votes) is a placeholder clause which we anticipate will be replaced by substantive provisions during the passage of the Bill which will apply to England only. The clause provides very little information as to what the system would entail and we have not received any further information from the UK Government on this matter.
- 6.4 Clause 114 (Previously Clause 112) (regulations and orders under the Planning Acts) is merely a clarificatory amendment, providing an express power to make ancillary provision rather than having to rely on implied powers. There is therefore no substantive change. The provisions affect the executive competence of the Welsh Ministers to make regulations and orders under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990. However, as stated there is no change to the Welsh Ministers’ functions.

7. *Can the Minister explain the reasoning behind her statement at paragraph 58 of the LCM that “Two areas, on planning data and environmental outcome reports, have potential benefits for Wales, but their current drafting means this benefit cannot be realised.” What are the potential benefits that are referred to? Why does their current drafting mean that such benefits cannot be realised?*

- 7.1 In respect of planning data, as explained in paragraph 6.1 above, common data standards would enable developers to work more efficiently across different authorities and, make it easier for the public to compare data across different authority areas. It would also facilitate growth and competition in the planning data software market through the creation of a common standard which suppliers would work to.
- 7.2 The repeal of the European Communities Act 1972 means the Welsh Ministers no longer have regulation making powers in respect of strategic environmental assessment and environmental impact assessment. The only exception to this is section 71A of the Town and Country Planning Act 1990 which this Bill would repeal. We are therefore unable to improve the operation of these regimes, for example, in respect of electronic communications, or the types of projects which should be subject to assessment.
- 7.3 The drafting in the Bill as introduced for both the planning data provisions and environmental outcome reports does not provide the Welsh Minister with regulation making powers. We will therefore be unable to make any changes to improve how the provisions work and there would remain the risk that the Secretary of State makes regulations affecting Wales that undermine the current approach in these areas, which are specifically tailored to the circumstances and needs of Wales.

- 8. Can the Minister provide further information in relation to the statement at paragraph 59 of the LCM that “the current drafting of powers on digital data does not accord with our desire to legislate for Wales.” In what way does the current drafting have this effect? Is the reference to “digital data” a reference to planning data?**
- 8.1 The drafting in the Bill as introduced for the planning data provisions in Chapter 1 of Part 3 enables the Secretary of State to make regulations in respect of planning data requirements for environmental outcome reports. In line with our principles for consenting to UK Bills, I consider the Welsh Ministers should have equivalent powers to make regulations in respect of environmental outcome reports for devolved plans and projects, which would consequentially require similar powers in relation to planning data. The Bill, as introduced, does not give the Welsh Ministers those powers.
- 8.2 The reference to “digital data” should be a reference to “planning data” and I will correct this in the revised LCM.
- 9. The LCM does not clearly conclude whether it is appropriate for each of the clauses in Chapter 1 of Part 3, clause 96 or clause 112 to be included in the Bill, nor does it provide a clear recommendation as to whether or not consent should be given to these provisions. Can the Minister confirm the position in this regard?**
- 9.1 I recommend consent should be withheld to those clauses of Chapter 1 of Part 3 that are within the legislative competence of the Senedd (clauses 75, 76, 77, 79, 80 and 81) because they directly relate to the operation of environment outcome reports provided for in Part 5 of the Bill. I cannot support the current approach in Part 5 because of the risk of regulations affecting Wales that undermine the current approach in these areas, which are specifically tailored to the circumstances and needs of Wales.
- 9.2 I also recommend consent should be withheld to clause 96 as it is likely to introduce an unnecessarily bureaucratic approach to public engagement. We are committed to ensuring public involvement in shaping the places in which they live. This needs to be done in a strategic and coordinated manner, which reflects the plan-led system in Wales.
- 9.3 Finally, I recommend Senedd consent should be given to clause 114 (previously clause 112) as the provision only seeks to clarify the extent of general powers to make statutory instruments, which is an issue common to England and Wales. Paragraphs 22 and 23 of the LCM explain this technical legal amendment. While it is possible for the Senedd to make this change, the minor technical nature of the change to make the existing legal position clearer, means in my view the benefit of effecting the change through this Bill outweigh the policy presumption against doing so.
- 9.4 I will make this clear in the revised LCM.
- 10. Can the Minister confirm the specific clauses that are referred to in paragraphs 58 and 59 of the LCM?**

10.1 The reference to planning data refers to the clauses identified at paragraphs 14 to 19 of the LCM (Clauses 75, 76, 77, 79, 80 and 81 of the Bill). The reference to the area of environmental outcome reports refers to the clauses identified at 24 to 35 of the LCM (clauses 116 to 130 of the Bill). I will make this clear in the revised LCM.

11. Can the Minister confirm which clauses are referred to as “the clauses in relation to planning” in paragraph 64 of the LCM? Does this include clause 112?

11.1 The reference to the clauses relating to planning included those identified at paragraphs 14 to 38 of the LCM and include clause 112. I will make this clear in the revised LCM.

12. Can the Minister seek confirmation from the UK Government as to how the planning provisions will work in practice, to include providing an analysis of the clauses in relation to planning and explaining how Welsh authorities will be impacted by the provisions of the Bill in real terms? Can the Minister confirm who, in Wales, is considered a ‘relevant planning authority’ for the purposes of this Chapter?

12.1 The provisions in Chapter 1 of Part 3 of the Bill as introduced primarily apply in relation to England and only apply in Wales in two limited circumstances. Firstly, in relation to the Secretary of State acting in non-devolved areas, for example National Strategic Infrastructure Projects (NSIPs). Secondly, in respect of the Secretary of State’s functions under Part 5 of the Bill (Environmental Outcome Reports).

12.2 The provisions in Part 5 are currently being negotiated with UK Government. As such, we are unable to confirm who, in Wales, could be considered a ‘relevant planning authority’ for the purposes of this Chapter, as this will depend on the outcome of those negotiations.

12.3 Similarly, it is difficult at present to outline how the provisions will work in practice. This is dependent on the type of regulation the UK Government proposes to bring forward, by way of tabled amendment, of which we have no detail at this current time.

12.4 I will update this Committee and the other scrutiny Committees as appropriate once I have more information.

13. Can the Minister confirm which provisions in Part 5 of the Bill relate to reserved matters and which relate to devolved matters, as referred to in paragraph 49 of the LCM?

13.1 The provisions that could be included in EOR Regulations cover a wide range of areas, both in terms of defining ‘relevant consents’ and ‘relevant plans’. Examples of existing regulations relating to environmental impact assessments which apply solely in Wales include agriculture (e.g., the Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017) and planning (e.g., the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017). Other examples of existing provisions are listed in clause 130 of the Bill as “existing environmental protection legislation”. We will work with the UK Government to ensure all relevant Wales only legislation is also included.

13.2 The reservations that may be relevant when considering the provision that could be made under Part 5 of the Bill include reservation 184 of Schedule 7A to Government of Wales Act 2006 (GOWA) (planning), although provision could be

made in relation to other planning matters and infrastructure projects that fall below the thresholds for nationally significant infrastructure projects NSIPs. Other examples of relevant reservations include reservation 97 (oil and gas) and reservation 99 (nuclear energy). Despite the existence of relevant reservations, substantive provision could still be made in devolved areas including planning, transport, water, agriculture, land drainage and others.

14. With reference to paragraph 58 of the Bill, can the Minister confirm the detail of the potential benefits that she envisages to an improved system of environmental planning reports and whether discussions have taken place with the UK Government with a view to realising these benefits in the Bill? Can the Minister also confirm what is meant by “planning outcome reports” in paragraph 58?

14.1 Planning outcome reports” should be a reference to “environmental outcome reports” and I will correct this in the revised LCM. Discussions have taken place between my Officials and their counterparts in the UK Government with a view to realising the benefits explained in my answer to your question seven.

15. Can the Minister explain how the current provisions mean that the Welsh Ministers have lost their ability to make Welsh regulations in relation to environmental outcome reports?

15.1 Clause 130 (2) omits section 71A of the Town and Country Planning Act which is the current executive power of the Welsh Ministers to make provision in respect of the consideration of the likely environmental impacts of proposed development.

16. Can the Minister state whether or not support is given to the provisions in Part 5 being included in the Bill, as is required by Standing Order 29.3(iii), and whether or not consent should be given?

16.1 I recommend consent is withheld for the provisions in Part 5 as introduced for the reasons set out in my answer to your question 7. I will update the LCM accordingly.

17. Can the Minister provide an update as to any discussions that have taken place with the UK Government regarding clauses 96 and 187?

17.1 No discussions have taken place with the UK Government regarding clause 96.

17.2 My officials have been proactively and regularly liaising with their counterparts in the UK Government to understand the UK Government’s intentions for Clause 187.

18. Has the Minister discussed clauses 80 and 121 of the Bill with the UK Government and sought to amend the provisions to require that, at the very least, the UK Government has to obtain the consent of the Welsh Ministers before making planning data regulations or environmental outcome report regulations containing provision which is within Welsh devolved competence? What has been the outcome of these discussions?

18.1 Discussions between officials are exploring the possibility of equivalent powers for the Welsh Ministers to make EOR Regulations in general for devolved plans and projects from the starting point the Bill as introduced is unacceptable in relation to the Secretary of State being able to make regulations in devolved areas. Discussion on possible alternative clauses for clauses 80 and 123 (previously 121) to overcome these objections has not taken place. I await sight of any proposed replacement

clauses that better reflect Welsh devolved competence. Unless and until such new clauses are produced, my recommendation remains that legislative consent should be withheld to the provisions on planning data regulations and environmental outcome reports.

19. Does the Minister have any views on the inclusion of the Henry VIII powers at clauses 129 and 191 of the Bill? Has the Minister discussed clause 129 and/or clause 191 with the UK Government to seek their amendment or removal? What has been the outcome to date of such discussions?

- 19.1 Clause 129 is unacceptable in my view, in that it is part of the environmental outcome report provisions on which I have provided my view above (see paragraph 9.1). There has been no ministerial discussion about these provisions to date. Now that the rearrangement of portfolios within UK Government has settled, I will be seeking to meet my counterpart at the earliest opportunity.
- 19.2 Consent should similarly be withheld in relation to clause 191 due to the lack of equivalent powers for the Welsh Ministers to make regulations in respect of devolved matters.

20. Can the Minister provide any view on the financial implications of this Bill for Wales?

Clause 1 - 6 (Levelling up missions)

- 20.1 The effect of the provisions is to place a duty on the UK Government to set, and report annually on progress towards achieving, levelling up missions to reduce geographical disparities across the UK. The requirement to report on the delivery of levelling up missions, and the parliamentary scrutiny of progress against these missions is a cost to the UK Government and will have no effect on Wales. The effect of the levelling up actions undertaken by the UK Government to deliver these missions is outside of the scope of the Bill.

Placeholder clauses:

Clause 96 (Street votes) and Clause 187 (Vagrancy and begging)

- 20.2 Where provisions are placeholder provisions the clause does not contain the necessary detail for me to identify whether there will be any financial implications on Wales. I will update the Senedd as appropriate once the substantive provisions are tabled.

Part 3 (Planning)

- 20.3 The changes to the planning system under Part 3 will all have familiarisation costs associated with the change. This one-off cost will be experienced by local authorities, businesses (including small and medium sized enterprises), and the Third Sector where they engage in the system.

Clause 75,76,77,79,80,81 (Planning data)

- 20.4 The changes to the provision, processing and requirements of planning data will have financial costs for Welsh local authorities and those engaged in specific parts of the planning system in Wales. The provision as currently drafted only has effect in Wales on two limited areas. Firstly, in relation to the Secretary of State acting in non-devolved areas, for example for NSIPs. Secondly, the provisions currently apply in respect of the Secretary of State's functions under Part 5 of the Bill (Environmental Outcome Reports).

20.5 Therefore, where a NSIP, or Environmental Outcome Report is triggered they will be subject to the requirements. In other areas the standards do not apply. This will create a potential dual system of planning data in Wales that will create inconsistency, increasing costs for users of the planning system. It would therefore not fully realise the benefits identified in the Bill through a transition to digital planning system as it will not apply to the whole system in Wales.

Clause 112 (Regulations and Orders under the Planning Acts)

20.6 This clause concerns technical legal amendments to the general powers to make statutory instruments contained in The Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and The Planning (Hazardous Substances) Act 1990. The amendment is a minor technical legal amendment aimed at making the legal position clear. There are no financial consequences as a result of the change.

Clause 116-130 (Environment outcomes report)

20.7 The provisions in the Bill currently provide for one overarching power to make provisions in respect of environmental outcome reports to accompany both strategic plans, and relevant project consents. The new system of environmental outcomes reporting has potential for efficiency savings through the simplification of consenting.

Clause 186 (Review of governance etc of Royal Institution of Chartered Surveyors (RICS))

20.8 This clause will enable the Secretary of State to commission periodic reviews of RICS that will give government information about the governance and performance of RICS, in order to satisfy itself that RICS performs in the public interest. There are no costs to Wales.



Huw Irranca-Davies MS

Chair

Legislation, Justice and Constitution Committee

Huw.Irranca-Davies@senedd.wales

11 November 2022

Dear Huw,

In accordance with the inter-institutional relations agreement, I wish to notify you a further meeting of the Inter-Ministerial Group for Environment, Food and Rural Affairs was held on 7 November.

The meeting was chaired by Lorna Slater MSP, Minister for Green Skills, Circular Economy, and Biodiversity from Scottish Government. The meeting was also attended by Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and the Islands, Scottish Government; Therese Coffey MP, Secretary of State for Environment Food and Rural Affairs, UK Government; Mark Spencer MP, Minister of State for Food, UK Government; John Lamont MP, Parliamentary Under Secretary of State at Office of the Secretary of State for Scotland, UK Government; James Davies MP, Parliamentary Under Secretary of State at the Office of the Secretary of State for Wales, UK Government; and Katrina Godfrey, Permanent Secretary, DAERA in the absence of NI ministers.

This was the first IMG since the Royal Welsh Show in July, with September and October being cancelled due to changes in UK Government.

At the meeting we discussed the Retained EU Law (Reform and Revocation) Bill, including the current status of the Bill, and in particular Defra's plans for managing the over 600 pieces of legislation in the portfolio.

We then discussed borders and I requested an update on the Target Operating Model and outlined my continuing concerns over ensuring BCPs are ready.

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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.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd



Llywodraeth Cymru
Welsh Government

Following this we discussed issues with VAT in relation to Deposit Return Schemes , which is a concern to all four administrations but particularly to Scottish Government as their scheme launches in 2023.

Finally we agreed to publish the Joint Fisheries Statement.

The next meeting will be held on Monday 5 December.

A communique regarding this meeting will be published on the UK Government website at <https://www.gov.uk/government/publications/communique-from-the-inter-ministerial-group-for-environment-food-and-rural-affairs>.

I am copying this letter to the Climate Change, Environment, and Infrastructure Committee and to the Economy, Trade and Rural Affairs Committee.

Regards,

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

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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.

Mark Drakeford MS
First Minister

16 November 2022

Dear First Minister

Scrutiny of the financial implications of Bills

I am writing to you given your overarching responsibility for the Welsh Government's Legislative Programme.

The Finance Committee is deeply concerned that the Welsh Government has moved away from the practice in the Fifth Senedd of providing a written response to Committee Stage 1 reports before the Stage 1 debate takes place and before the Senedd is required to agree a Financial Resolution.

The Finance Committee's role is to consider the financial implications of Bills and our reports often conclude that we are content with the financial information contained alongside Government Bills subject to a commitment from the Minister to provide further financial information that we have requested. As the motion to agree a Financial Resolution usually takes place straight after the Stage 1 motion has been agreed, the Welsh Government's refusal to provide a formal response to our recommendations means that the Senedd is being asked to agree to committing resources before the Minister's views are known. We consider this to be unacceptable and it undermines the scrutiny process.

The Committee has considered the financial implications of all Bills that have been introduced this Senedd, excluding the consolidation Bill which is subject to different procedures. In our scrutiny of the first Bill introduced, the *Tertiary Education and Research (Wales) Bill*, we set out our expectation for this Senedd that RIAs should contain the best estimate possible for costs and benefits to enable us to fully scrutinise the overall financial implications of a Bill. This built on issues outlined in the Fifth Senedd Finance Committee's Legacy Report which sets out further expectations in terms of the presentation of financial information that all Bills should adhere to.



We have recently received the Welsh Government's response to our recommendations on the *Environmental Protection (Single-use Plastics Products) (Wales) Bill*. The Committee was disappointed that in many cases the Minister has "agreed in principle" to provide further financial information requested. However, the preamble suggests that the Minister's officials are assessing the feasibility of updating the original cost and, if they are able to, "any work will take at least six months to complete". Even if the costs will be updated, the Bill is likely to have completed its legislative passage through the Senedd by the time the information is available.

This is simply not good enough. It is unhelpful to receive this information after the Senedd has already agreed to the Financial Resolution. It also undermines the Committee's efforts which, in turn, greatly increases the risk of the Senedd passing bad laws with uncertain financial outcomes that could place significant pressures on already stretched budgets.

We therefore request that Ministers revert to previous practice and provide a written response to the Finance Committee's recommendations prior to the Stage 1 debate and the consideration of a Financial Resolution as a matter of principle. This will ensure the Senedd is able to make an informed decision in relation to committing resources.

I would be grateful if you would circulate this letter to your cabinet colleagues. I am also sending a copy to the Business Committee and Chairs of Policy Committees.

Yours sincerely



Peredur Owen Griffiths MS
Chair of the Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.



We welcome correspondence in Welsh or English.



Agenda Item 5.9

**Pwyllgor Newid Hinsawdd,
yr Amgylchedd a Seilwaith**

**Climate Change, Environment,
and Infrastructure Committee**

Steffan Lloyd,
Llanishen Fach Primary School,
Heol Uchaf,
Cardiff CF14 6SS

7 November 2022

Dear Mr Lloyd and pupils,

Thank you for visiting the Senedd last week and for sharing your views on the ban on plastics.

It was a pleasure to hear your song, 'Plastic Free'. It was so well-written and was a creative and powerful way of putting across your message. You should be very proud.

I really enjoyed reading your letters, which set out so clearly why the ban on plastics is important to you. It is encouraging to know how passionate you are about protecting our environment.

At its meeting on 9 November, the Committee, along with the Minister for Climate Change, will be debating possible changes (known as 'amendments') to the Environmental Protection (Single-use Plastic Products) (Wales) Bill (the Bill). In the coming weeks, the Senedd will debate the Bill before making a final decision on whether it should become law. I hope you get an opportunity to follow the Bill's progress.

Once again, thank you for visiting. I hope you enjoyed it.

Kind regards,



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

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Rt Hon Elin Jones MS
Llywydd
Chair, Business Committee

25 November 2022

Annwyl Lywydd

The Environmental Protection (Single-use Plastic Products) (Wales) Bill

Following our [report](#) on the above Bill, we received a [letter](#) from the Minister for Climate Change, Julie James MS (enclosed).

Recommendations in our report sought information from the Minister about her reasons for seeking to expedite scrutiny of the Bill given the impact this could have on the quality of the law made by the Senedd.

In particular, recommendation 5 sought information from the Minister about when the Welsh Government intended to commence all provisions of the Bill so that it is fully operational.

In our view, given that the Bill was subject to an expedited scrutiny process on grounds of urgency, we would have expected to have been provided with a more precise implementation timetable, rather than being advised that “the earliest provision can be commenced is autumn 2023” and that the intention is “for all commencement dates to be within this Senedd term i.e. by April 2026”. In our view these comments do not suggest that the legislation is so urgent that it needed an expedited scrutiny process.

We have raised these and other concerns related to the effect of expedited scrutiny on this Bill with the Minister and enclose our letter for your information.

Our purpose in writing is to draw these matters to your attention. We also believe that, in future, there may be merit in requiring the Welsh Government to provide information about the intended commencement date of the Bill (or a breakdown by Part/provisions) if passed by the Senedd, in circumstances where it seeks to expedite scrutiny.

I am copying this letter to the Chair of the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair



Julie James MS
Minister for Climate Change

25 November 2022

Dear Julie

The Environmental Protection (Single-use Plastic Products) (Wales) Bill

Thank you for your letter of 25 October 2022 responding to our report on the above Bill.

It is not our normal practice to comment on government responses to our Bill reports but your response raises a number of important issues of principle that we believe need to be addressed.

The effect of the United Kingdom Internal Market Act 2020 (UKIMA)

Our report acknowledged that:

"... UKIMA cannot limit the Senedd's competence to legislate on matters that are devolved and within its legislative competence. However, our concern is that once law is made by the Senedd, UKIMA can impact on how effective that law is because of the market access principles it introduces across the UK." (paragraph 73).

Our evidence session and report sought to seek your views on the impact of UKIMA on the Bill should it become an Act. Your response has been to say that the Bill's provisions are within legislative competence, a position with which we agree but which does not directly address the key issue of concern to us.

The response being used continues to conflate two separate issues: whether or not the Bill is within legislative competence and the impact of UKIMA on the effectiveness of the Bill once it becomes an Act. In our view the fundamental point is that UKIMA could impact on the law once it is made; it does not prevent the law being made by the Senedd in the first place.

By not acknowledging and addressing these issues, the Welsh Government is creating confusion and blurring understanding of what the Bill could achieve and therefore its effectiveness as a piece of law made by the Senedd. We have some concerns that this approach could also have had an impact on the amendments Members considered tabling during the amending stages of the legislative process, which is regrettable.

Expedited Scrutiny and legal challenges

We note your response to recommendation 5 in our report which sought information about when you intend to commence all the provisions of the Bill so that it is fully operational.

In our view, given that the Bill was subject to an expedited scrutiny process on grounds of urgency, we would have expected to have been provided with a more precise implementation timetable, rather than being advised that “the earliest provision can be commenced is autumn 2023” and that the intention is “for all commencement dates to be within this Senedd term i.e. by April 2026”. These comments do not suggest that the legislation is so urgent that it needed an expedited scrutiny process.

Also, during the Climate Change, Environment, and Infrastructure Committee’s Stage 2 proceedings, we note you did not accept the need to include a commencement date (1 January 2024) on the face of the Bill. In doing so, one of the arguments you advanced was that the Welsh Government may need longer to develop guidance, consult with stakeholders and promote the change in law. Again, this does not suggest the urgency you have been advocating.

It is also worth repeating that if the situation was urgent, and the intention was not to fall behind the position in England and Scotland (where broadly the same policy outcome was achieved through regulations in 2020 and 2021), then Regulations could have been used to ban single-use plastics, with a Bill following at a later date to make provision for more plastic types (see paragraph 66 of our report).

In response to recommendation 4, you said:

*“Our position - that the Bill is within competence and is fully enforceable and effective - is not incompatible with our view the Bill is capable of providing the context which would assist the Court in testing the arguments about UKIMA in a future case. Those two positions are not mutually exclusive. **Expediting the Bill preserves all the options in terms of how that issue may be brought before the Court.**”[Our emphasis].*

It is not clear why taking a Bill through the full Stage 1 Bill process would have prejudiced options available to the Welsh Government to bring a matter to Court, or how those options are preserved by expediting the Bill. Your response links expediting scrutiny to preserving all options in relation to

possible Court action. However, your response to recommendation 11, which sought information about the grounds on which the Welsh Government could make a legal challenge in relation to UKIMA, only made reference to making a legal challenge in relation to legislative competence and not the impact of UKIMA should the Bill become an Act, which highlights again our point above about conflating two separate issues.

As such we do not believe that your response to recommendation 11 addresses the issue because it does not list all the options for legal challenge available; there is no reference to the grounds on which you would test UKIMA in the Courts which we assume, based on your previous legal challenge, is an option that would be covered under "all the options" you refer to in your response to recommendation 4.

In your response to recommendation 4 you acknowledged one of "two good reasons as to why the Bill should be expedited" was "the Court of Appeal's request for a legislative context in which to consider the arguments being advanced by the Counsel General in the (then ongoing) application for judicial review of UKIMA." We do not believe that it is possible to hold the view that UKIMA "does not bite on the Bill" and then to pursue action on the impact of UKIMA on the legislation through the Courts (save in relation to matters of legislative competence, although this would seem unlikely given the widely held view, including that of the Welsh Government, that the Bill is within the Senedd's legislative competence). If the view of the Welsh Government changed between July 2022 and September 2022 such that it no longer considered the Bill was a suitable vehicle in relation to the Court of Appeal's request referred to above, and therefore one of its reasons to expedite scrutiny no longer applied, it remains unclear why this has not been stated clearly in your response to recommendation 4.

We are therefore drawing your responses to recommendations 4, 5 and 11 and this letter to the attention of the Business Committee.

Case study

Recommendation 8 of our report asked you to provide a detailed assessment of our case study on oxo-degradable plastic. Your response said that it did not accurately represent the position, stating:

"The case study deals with business-to-business supply whereas the Bill prohibits the supply of prohibited single-use plastic products to a consumer in Wales."

We acknowledge that the Bill only prohibits the supply of prohibited single-use plastic products to a consumer in Wales; it does not prohibit business-to-business supply. However, in our view the Explanatory Memorandum does not make it clear or explicit that the Bill is not intended to cover business-to-business supply in this particular case. As such we do not believe that it is clear to the public that the farmer in our case study would still be able to purchase the mulch film and use it on their farm. The Bill's Explanatory Memorandum (at paragraph 7.7.31) identifies mulch film as one of

the biggest sources of plastic in agriculture. However, the Bill in its current form seems unlikely to do much to decrease the “2-3 million tonnes” of plastics used in agriculture every year.

The Bill’s Explanatory Memorandum does not in our view explain sufficiently the degree to which the items prohibited by the Bill are used by consumers or by businesses and therefore to what extent the Bill’s provisions would reduce the use of the prohibited single-use plastic items, particularly in relation to oxo-degradable plastic.

This again highlights that a full Stage 1 scrutiny process would have helped provide a greater depth of understanding of what the Welsh Government is seeking to achieve with the Bill and the impact it will have in reducing the single-use plastic items, covered by the Bill, in Wales. In turn, this would have provided Senedd Members with more information to assist them in considering amendments that could be tabled to potentially improve the Bill and contribute to reducing the impact of single-use plastic in Wales.

Recommendation 12

We are concerned at the language used to justify your position on recommendation 12 and in particular the phrase: “Legislative drafting often involves a trade-off between ease of understanding and absolute certainty”.

Despite the Committee highlighting that one of the underlying principles of the rule of law is certainty (at paragraph 79) and therefore expressing concern at the use of this phrase in your evidence session, we are disappointed to see you repeat these words. We acknowledge that guidance for Welsh Government drafters recognises the need for a judgement to be taken around simplicity, clarity and precision but in our view this is different from “a trade-off between ease of understanding and absolute certainty”.

I am copying this letter to the Chair of the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies
Chair



**Pwyllgor Newid Hinsawdd,
yr Amgylchedd a Seilwaith**

**Climate Change, Environment,
and Infrastructure Committee**

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Julie James MS

Minister for Climate Change

18 November 2022

Dear Minister,

Climate change: climate adaptation and carbon budgets

At the start of the Sixth Senedd, the Committee agreed to undertake work to assess progress towards delivery of the Welsh Government's climate adaptation plan, *Prosperity for All: A Climate Conscious Wales* (the Plan). In doing so, we were mindful that the Welsh Government had committed to publishing its first progress report on the Plan in spring 2022. We agreed it would be sensible to await publication of the report before scheduling this work. As far as we understand, the report has still not been published.

The Committee is in the process of finalising its work programme for spring term 2023. **Please could you confirm when the report will be published so that we can plan our work accordingly, and explain why the report has been delayed.**

During a Ministerial scrutiny session back in October 2021, your official told us work was underway to assess whether the Plan would need to be updated to take account of the Climate Change Committee's advice on the UK's third Climate Change Risk Assessment. She suggested we and/or the Senedd would be informed of a decision in due course. **Please could you clarify whether you intend to make changes to the current Plan in light of the CCC's advice and, if so, when.**

On a related matter, the Committee intends to consider the delivery of the first carbon budget (2016 to 2020), informed by the Welsh Government's final statement for the budgetary period. To meet the requirement of the Environment (Wales) Act 2016, this statement must be laid before the 31 December 2022. **Please can you confirm that you will be in a position to meet this requirement.**

I should be grateful if you would provide a response to this letter as soon as possible, and by **16 December** at the latest.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Llyr', is centered on a light yellow rectangular background.

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

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 5.12

**Pwyllgor Newid Hinsawdd,
yr Amgylchedd a Seilwaith**

**Climate Change, Environment,
and Infrastructure Committee**

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Julie James, MS

Minister for Climate Change

22 November 2022

Dear Minister,

The Committee will be undertaking work in January 2023 to assess the progress the Welsh Government has made against its electric vehicle charging strategy and, in particular, the associated action plan, published in October 2021.

I would be grateful if you would provide the Committee with your views on progress in writing by 6 January, to inform our consideration of this issue in our meeting on 12 January. I would also be grateful for an update on the review of the action plan, given the commitment that the action plan "will be monitored and reviewed annually", and an update on progress against the first round of Key Performance Indicators (KPIs) arising from the Action Plan.

Yours sincerely,



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

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 5.13

Yr Ymlyddwr Ffôn, Pobl Ifanc
ac Addysg

Children, Young People and Education Committee

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

Chair of the Culture, Communications, Welsh Language, Sport, and
International Relations Committee
Delyth Jewell MS

Chair of the Economy, Trade, and Rural Affairs Committee
Paul Davies MS

Chair of the Equality and Social Justice Committee
Jenny Rathbone MS

Chair of the Finance Committee
Peredur Owen Griffiths MS

Chair of the Health and Social Care Committee
Russell George MS

Chair of the Local Government and Housing Committee
John Griffiths MS

23 November 2022

The Welsh Government's Draft Budget 2023-24

Dear colleagues,

The Children, Young People and Education Committee recently considered how to approach its scrutiny of the Welsh Government's 2023-24 Draft Budget.

We have committed in our [Sixth Senedd strategy](#) to seek out opportunities to work with other Senedd committees where there are areas of shared interest and where it will improve scrutiny. We therefore asked officials supporting the Children, Young People and Education Committee to share any relevant written evidence we receive and briefing information with other Senedd committees to support holistic, joined-up scrutiny of the Draft Budget across the Senedd.

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We have also asked officials to be mindful of where we may be coming to similar views to another committee about matters that straddle committees' remits, with a view to proposing joint recommendations if appropriate. During scrutiny of the 2022-23 Draft Budget, we and the Economy, Trade and Rural Affairs Committee made a joint recommendation relating to transparency of one particular funding stream - an important matter of principle for both committees. I believe the joint recommendation added weight to our shared views.

I would be very grateful for your reciprocal support on the above issues.

We also agreed that our scrutiny of the Draft Budget will include consideration of the following cross-cutting issues:

- the Welsh Government's so-called 'revised baseline': how clearly and accurately it presents changes in expenditure from one year to the next.
- how the Draft Budget impacts different groups of people and how well these impacts are taken into account in the Welsh Government's Strategic Integrated Impact Assessment (SIIA). The Welsh Government has assured us that the SIIA sets out the contextual evidence that supports its spending decisions. However, we do not believe that the SIIA published alongside the 2022-23 Draft Budget clearly demonstrated its compliance with its duties under the Rights of the Child and Young Persons (Wales) Measure 2011. We believe that a Child Rights Impact Assessment (CRIA) should be undertaken for the Draft Budget as a whole and published as a standalone document.

These issues, or closely related issues, may be relevant to your Committee's consideration of the 2023-24 Draft Budget. If so, I would welcome any opportunities for coordinated scrutiny. I have asked officials supporting the Children, Young People and Education Committee to pursue any such opportunities, depending on your views and those of your fellow committee members.

Yours sincerely,



Jayne Bryant MS
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 5.14

Lesley Griffiths AS/MS

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



Llyr Gruffydd MS

Chair of the Climate Change, Environment, and Infrastructure Committee
Senedd Cymru

Llywodraeth Cymru
Welsh Government

Llyr.gruffydd@senedd.wales

7 November 2022

Dear Llyr,

I refer to my letter of 25 October. I am today giving my consent to the Secretary of State for Environment, Food and Rural Affairs, to lay The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022 ("the Regulations") in relation to Wales. In accordance with the Inter-Institutional Relations Agreement, I have today laid a Written Statement which can be found at: <https://senedd.wales/media/udyob412/ws-ld15437-e.pdf>

The Regulations intersect with devolved policy and will apply to Wales. The provisions could be made by Welsh Ministers in exercise of our own powers. The Regulations extend to England, Scotland and Wales.

The Regulations will be made by the Secretary of State, in exercise of the powers conferred by Articles 5(3), 30(1), 37(5), 41(3), 72(3) and 105(6) of the Plant Health Regulation. Article 2a(2) of the Plant Health Regulations provides that such Regulations can be made by the Secretary of State with the consent of the Welsh Ministers and the Scottish Ministers.

The Statutory Instrument (SI) is subject to the negative procedure and was laid before the UK Parliament on 3 November. The commencement dates for the measures are split between urgent measures (Thekopsora minima being classified as a regulated non-quarantine pest) which are scheduled to come into force on 25 November 2022 and all the other measures which are classed as non-urgent which will come into force on 3 May 2023.

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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.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the substance of the amendments to apply to Wales as there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single Instrument. I consider legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

I have written similarly to the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in black ink and is positioned above the printed name and title.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

Agenda Item 5.15

Lesley Griffiths AS/MS

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



Llywodraeth Cymru
Welsh Government

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

Llyr.Gruffydd@senedd.wales

23 November 2022

Dear Llyr,

I wish to inform the Committee of the intention to consent to the UK Government making and laying The Plant Health (Amendment) (EU Exit) Regulations 2022 by 20 December.

On 7 November I have received a letter from Defra Minister of State, Mark Spencer MP, seeking consent to these Regulations. The Regulations intersect with devolved policy and will apply to Wales.

The Regulations enable the establishment of demarcated areas outside of the country in which plant pests or diseases have been found. These are important biosecurity measures which are put in place during plant pest or disease outbreaks which restrict the movement of timber, plants for planting or forestry material. This is needed as current legislation does not allow a demarcated area to be established based on the findings of a pest within another GB territory. This means when one nation has a plant pest or disease outbreak alongside the border, currently the other nation has no power to bring in demarcated areas as a biosecurity measure.

In this case the provisions could not be made by Welsh Ministers in exercise of our own powers as the power to amend is consequential on an amendment being made by the Secretary of State. As the Welsh Regulations are made under section 2(2) of the European Communities Act 1972, under section 8 of the European Union (Withdrawal) Act (EUWA) 2018 (EUWA) these Regulations can be amended by a Minister of the Crown. The Plant Health (Amendment) (EU Exit) Regulations 2022 are being made under section 8(1) of EUWA and Paragraph 21 of Schedule 7 of EUWA provides power allowing consequential amendments to be made to regulations as necessary (in this case, following the amendment of the Plant Health Regulations). The Regulations will extend to England, Scotland and 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.

Since receipt of the letter additional provisions have been included to correct minor drafting errors within The Animals, Food, Plant Health, Plant Propagating Material and Seeds (Miscellaneous Amendments etc.) Regulations 2022 relating to Lebanese Potatoes not for planting.

There is an urgent need to introduce this legislation, to protect biosecurity in Wales. I consider this is the most appropriate way to give effect to the necessary changes. In accordance with Standing Order 30C, I will lay a Written Statement before the Senedd within three working days of the Regulations being laid before the UK Parliament.

I have written similarly to the Chair of the Legislation, Justice, and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

Agenda Item 9

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

Document is Restricted