

Agenda – Health and Social Care Committee

Meeting Venue:	For further information contact:
Committee Room 5 Tŷ Hywel and Video	Helen Finlayson
Conference via Zoom	Committee Clerk
Meeting date: 15 February 2023	0300 200 6565
Meeting time: 09.00	SeneddHealth@senedd.wales

Private pre-meeting (09.00 – 09.30)

1 Introductions, apologies, substitutions and declarations of interest

(09.30)

2 Endoscopy services: evidence session with the Welsh Association for Gastroenterology and Endoscopy, Joint Advisory Group on GI Endoscopy and Health Education and Improvement Wales

(09.30–10.30)

(Pages 1 – 22)

Dr John Green, President of the Welsh Association for Gastroenterology and Endoscopy

Dr Mark Jarvis, Chair of JAG accreditation at the Joint Advisory Group on GI Endoscopy

Dr Jeff Turner, Deputy Clinical Lead, Endoscopy Training Management Group, Health Education and Improvement Wales

Research brief

Paper 1 – Evidence from Welsh Association for Gastroenterology and Endoscopy

Paper 2 – Evidence from Joint Advisory Group on GI Endoscopy

3 Paper(s) to note

(10.30)

- 3.1 Letter from Counsel General and Minister for the Constitution to the Legislation, Justice and Constitution Committee regarding the Retained EU Law (Revocation and Reform) Bill**

(Pages 23 – 33)

- 3.2 Letter from the Legislation, Justice and Constitution Committee to the Llywydd regarding the Retained EU Law (Revocation and Reform) Bill**

(Page 34)

- 3.3 Letter from Powys Teaching Health Board regarding the Welsh Community Care Information System (WCCIS)**

(Pages 35 – 36)

- 3.4 Letter from the Ministers with responsibility for health and social services regarding updates on Fifth Senedd committee recommendations relating to mental health**

(Pages 37 – 45)

- 3.5 Letter to Public Accounts and Public Administration Committee regarding its inquiry into Public Appointments**

(Pages 46 – 51)

- 3.6 Letter to the Llywydd from the Minister for Health and Social Services regarding the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2023**

(Pages 52 – 61)

Explanatory Memorandum to the National Health Service (Charges to Overseas Visitors)(Amendment) (Wales) Regulations 2023

Explanatory Note

- 3.7 Letter from the Minister for Health and Social Services regarding an update on elimination of hepatitis B and C in Wales**
(Pages 62 – 64)
- 3.8 Letter from the Minister for Health and Social Services to the Legislation, Justice and Constitution Committee in accordance with the inter-institutional relations agreement regarding a meeting of the UK Government's Health Minister and Health Ministers of the devolved governments**
(Page 65)
- 3.9 Letter from Obesity Alliance Cymru regarding its priorities for tackling obesity in Wales**
(Pages 66 – 67)
- 3.10 Letter from the Deputy Minister for Mental Health & Wellbeing regarding the Food Supplements and Food for Specific Groups (Miscellaneous Amendments) (No. 2) Regulations 2023**
(Pages 68 – 69)
- 4 Motion under Standing Order 17.42(ix) to resolve to exclude the public for the remainder of this meeting**
(10.30)
- 5 Endoscopy services: consideration of evidence**
(10.30–10.45)

- 6 Health Service Procurement (Wales) Bill: approach to Stage 1 scrutiny**
(10.45–11.15) (Pages 70 – 87)
Paper 3 – Health Service Procurement (Wales) Bill
- 7 Committee strategy**
(11.15–12.00) (Pages 88 – 117)
Paper 4 – Committee strategy
- 8 NHS waiting times monitoring report**
(12.00–12.15) (Pages 118 – 134)
Paper 5 – NHS waiting times monitoring report

Agenda Item 2

Document is Restricted



Welsh Association for
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December 12th 2022

Health & Social Care Committee – Endoscopy services : follow up enquiry.

Introduction

1. The Welsh Association for Gastroenterology and Endoscopy (WAGE) is the professional leadership group for all aspects of Gastroenterology in Wales. Our members work throughout the country in a variety of medical, nursing, administrative and managerial roles. WAGE has been recognised as a National Speciality Advisory Group by the Welsh Medical Committee.
2. We welcome the ongoing focus on endoscopy services in Wales and submit this written evidence to be considered within the follow up enquiry. It is important to reiterate that although endoscopy is a key diagnostic tool of detecting GI cancers it also diagnoses and treats a range of benign but debilitating conditions eg Inflammatory Bowel Disease as well as emergencies eg Upper GI bleeds.
3. We are aware that other national organisations will be providing specific data relating to endoscopy in Wales. Our submission makes a number of recommendations that are presented below terms of reference for this enquiry (given in italics).

The impact COVID-19 has had on delivery of endoscopy services and the implementation of the national endoscopy action plan, and the implications of this for patient outcomes and survival rates.

4. There were significantly fewer endoscopies undertaken during the height of the pandemic. Activity was largely limited to inpatients and urgent suspected cancer referrals. Our staff were redeployed to other clinical areas. Also the number of patients on lists were reduced due to the need to wear PPE and waiting between patients particularly for upper GI endoscopy which is an aerosol generating procedure.
5. Most services in Wales did not have compliant waiting times before the pandemic but this situation worsened due to reduced activity. There has been some improvement in the waiting list position but much of that has been achieved by 'insourcing' work, mainly at weekends.

The priority given to endoscopy services in the Welsh Government's programme for transforming and modernising planned care, including who is responsible for delivering improvements through the reconfiguration of services and new models of care (including additional endoscopy theatres, diagnostic centres and regional units), and how endoscopy services will feature in the new cancer action plan (expected to be published autumn 2022).

National directed programme

6. We acknowledge the need for a national approach in Wales with greater regional working outside of Health Board borders.
7. WAGE supports the National Endoscopy Programme (NEP) proposal to transition into a permanent operational delivery network within a Gastroenterology strategic network.
8. Within the development of regional units to increase general capacity, WAGE also asks that there is also focus on sub-speciality areas such as complex polypectomy, Endoscopic Retrograde Cholangio-Pancreatography (ERCP), Endoscopic Ultrasound (EUS) , enteroscopy etc looking how best these are delivered.

Issues relating to recovering and improving waiting time performance, including: reducing waiting times for diagnostic tests and imaging to eight weeks by spring 2024 and support for people waiting for tests and follow up appointments; the active waiting list size for all current inpatient and day-case patients waiting for endoscopic procedures (by modality); the extent to which elective capacity is impacted by emergency activity, and whether there is sufficient data to understand the impact of emergency cases; whether high risk patients requiring ongoing surveillance endoscopic procedures are included in current demand and capacity planning models; the scope for upscaling lessons learned from previous waiting list initiatives such as insourcing, outsourcing or mobile units; and what the current demand and capacity modelling tells us about when a sustainable position can realistically be achieved.

Additional Capacity

9. WAGE recognises the many achievements of the NEP. Its robust demand and capacity data found that in November 2022 there was a shortfall of 14 procedure rooms across Wales. This is predicted to rise to 18 rooms by 2026/2027 due to increasing demands from both symptomatic and screening work.
10. We believe it is imperative that this recurrent capacity gap is met in a sustainable manner by developing additional endoscopy rooms in Health Boards and within extra regional facilities. This will reduce the current reliance on significantly more expensive 'insourcing' provision by external private providers. This is widespread across the country and is helping but not solving the waiting list pressures.

Workforce and training

11. To meet ongoing demands and the necessary expansion in the service, WAGE recognises the importance of high quality and effective training to attract, train and retain our staff. We fully support a dedicated endoscopy academy, as proposed by the Endoscopy Training Management Group, Health Education and Improvement Wales, which will provide intensive and focused training for our workforce.
12. WAGE recognises the high quality service provision by clinical (non-medical) endoscopists. The NEP supported training programmes have led to the expansion of this valued workforce who undertake independent upper and lower GI endoscopy. We were delighted to hear the recent news of the first clinical endoscopist to pass the bowel screening colonoscopy accreditation assessment in Wales. WAGE recognises the need to further expand the number of these roles in our Health Boards. We believe that appropriate remuneration for Clinical Endoscopists is essential for not only retaining accredited endoscopists but also encouraging those who want to progress further to also become bowel cancer screening colonoscopists.
13. We support the NEP's initiatives to attract nurses into endoscopy. In a number of services a shortage of fully trained nurses has been a limiting factor for activity in weekday schedules. Our endoscopy nurses will benefit from completing the competency based JETS-workforce (JAG Endoscopy training system) to aid their knowledge and development.

What barriers there are to achieving accreditation from the Joint Advisory Group on GI Endoscopy, including whether health boards are investing sufficient resource in developing the facilities and infrastructure for endoscopy services, decontamination services, and the progress that has been made in expanding the endoscopy workforce.

JAG Accreditation

14. We acknowledge the importance of accreditation by the Joint Advisory Group on GI Endoscopy (JAG) for quality assurance. WAGE aspires for all endoscopy services in Wales to be JAG accredited. We congratulate the 5 NHS services that have already achieved and maintained this (Bronglais, Withybush, West Wales General, Brecon and Princess of Wales, Bridgend).
15. WAGE is aware that of the remaining 15 endoscopy services in Wales, a further 8 have been identified by NEP as being suitable for an accreditation visit in the near future (Ysbyty Gwynedd, Singleton, Morriston, Prince Charles, Royal Glamorgan, UHW, Llandough and Ysbyty Ystrad Fawr). We recognise that there is a lot of preparatory work required before these visits and ask for the local leadership teams to be given ringfenced time in their job plans to do this and to be supported by project management.
16. For the remaining 7 services, we ask that robust plans are agreed to resolve issues that relate to facilities and infrastructure which need to be addressed to ensure JAG

compliance with its privacy and dignity requirements. We recognise this will involve significant capital investment in several units and may end up with decisions to move activity to other services including the proposed regional units.

The current position for optimising the bowel cancer screening programme (i.e., for increasing Faecal-Immunochemical Testing (FIT) sensitivity and age testing) and how this compares to other parts of the UK.

Bowel Screening

17. WAGE recognises the significant achievements by Bowel Screening Wales (BSW). Many of our members are involved with this programme and know it a high quality and effective service that we can be proud of. There is strong evidence that this benefits the population of Wales by both preventing cancer when pre-malignant polyps are removed and detecting bowel cancer at an earlier stage with associated survival benefits.
18. WAGE recognises the supportive training and mentoring programme from BSW for those who want to become accredited screening colonoscopists and congratulates those who have recently become screeners. There will be the need for the numbers of screeners to expand further over the next few years to meet projected demand.
19. We strongly endorse the planned lowering of the age of onset to 50 and the reduction of the Faecal Immunohistochemical Testing (FIT) sensitivity from its current threshold of 150µg HB/g to 80 µg HB/g (in line with Scotland). We should aspire to lower this threshold even further after reviewing outcomes from other screening programmes and acquiring sufficient colonoscopy capacity.

The experiences of younger people and those most at risk of developing bowel cancer (i.e., those living with Lynch syndrome) and efforts to diagnose more patients at an early stage.

Polyposis Patients

20. We recognise the importance of timely, high quality endoscopic evaluation and treatment for all patients. This is particularly important in those at an even greater risk of developing cancer and should be achieved by a consistent and co-ordinated approach across our country to minimise variation. WAGE strongly supports the proposed initiatives by the NEP to facilitate this.
21. Wales is already in a better position as compared to most regions in England in case identification through the routine Lynch testing of all diagnosed colorectal cancers.
22. In England, the colonoscopic surveillance of Lynch syndrome patients / family members is undertaken within the national bowel screening programme. If we adopted the same approach it would increase the demand on an already stretched service and so affect its overall timeliness. As an alternative, WAGE supports the option of a networked and co-ordinated solution between all Health Boards to ensure high quality and frequent surveillance. This will

be included within the upcoming NEP guidance for high risk, genetic polyposis patients (including Lynch). WAGE supports participation in the UK Rare Disease network for Polyposis, ensuring a standardised all UK approach. We also recognise the need to liaise with WHSC to ensure the oversight of the multi-disciplinary management of these conditions is properly funded.

23. There will be the need to identify operators in each Health Board to undertake the necessary high quality endoscopic surveillance. Some of these may be existing bowel cancer screeners but via networking other colleagues will also be able to participate, helping to further disseminate optimal practice.
24. The NEP's Pathways subgroup is already in contact with The All Wales Medical Genetics service to develop a training and education program for Specialist nurses in Gastroenterology, Colorectal Surgery and Endoscopy with Genetic counsellors. This will develop a co-ordinated national approach with the standardised management of surveillance across all Health Boards with genetic panel testing at the time of detection of polyps and or cancers to reduce any variation.
25. WAGE wants to endorse and participate in upcoming activities including national education events as well as audits of these conditions in 2023 which will mean we better understand the scale and distribution of these conditions across Wales .

Primary care access across different health boards to FIT for patients who do not meet the criteria for a suspected cancer pathway referral and how it is being used to help services prioritise patients and stratify referrals by risk (outpatient transformation).

26. FIT is now widely used in our symptomatic service where it has been shown to be a helpful triage tool. It is now available in primary care in all but 1 Health Board – it will also be accessible there in 2023.

**Dr John Green – President of WAGE
& the WAGE Core Executive Committee**



**Royal College
of Physicians**

Coleg Brenhinol
y Meddygon (Cymru)

This response is endorsed by the Royal College of Physicians (RCP).

The RCP represents more than 1,650 physicians and clinicians in Wales - educating, improving and influencing for better health and care. We set quality standards and medical curricula for gastroenterology, and we host the [JAG accreditation programme](https://www.thejag.org.uk/) which is awarded to high-quality gastrointestinal endoscopy services.

HSC(6)–15–23 Papur 2 / Paper 2

Inquiry on endoscopy services

Mark Jarvis– Chairman for Accreditation JAG

Introduction

A key role of the Joint Advisory Group in Gastroenterology (JAG) is to assess participating endoscopy services. Services able to demonstrate compliance with JAG quality standards are awarded JAG accreditation following an assessment visit

Over 50% of services in the UK are currently JAG accredited, with a total of 562 services registered with JAG in the UK and Ireland. In Wales 4/25 services are accredited, with a further 8 services earmarked for early assessment.

Accreditation for all services is a target laid out in the National Endoscopy Programme Action Plan

This report seeks to explain the accreditation process. I consider how this process can be facilitated by JAG. The main body of the report looks at challenges to accreditation within Wales and how they are being overcome (taken from consultation work performed by Debbie Johnson, our lead assessor). In the conclusion I provide tailored practical advice on achieving accreditation.

My Role within JAG

I am clinical lead and accreditation chair for JAG. I have performed as a technical (clinical) assessor and subsequently as a lead assessor for a total of 5 years.

As accreditation chair, I answer clinical enquiries from services and inspectors; oversee accreditation and inspection visits through a light touch approach; provide guidance on meeting/assessing standards, and review accreditation standards. I am a full time NHS gastroenterologist based in Basildon Essex. I dedicate 4 hours each week to my work at JAG

As a technical assessor I visit and assess units looking to achieve accreditation, focussing on clinical quality. As a lead assessor additionally, I run the visit and write the report.

Accreditation Process Overview

Accreditation is a supportive process of evaluating the quality of clinical services by guiding services through a quality framework. Accreditation promotes quality improvement through highlighting areas of best practice and areas for change, encouraging the continued development of the clinical service. Accreditation is a voluntary process.

Services participating in JAG accreditation work to an accreditation pathway which involves self-assessment and quality improvement against the standards. Accredited services submit evidence annually to demonstrate that they are continuing to meet the standards and have a 5-yearly on-site assessment carried out by our experienced assessment team.

Obtaining Accreditation.

Participating services have access to the accreditation standards via a self-assessment tool. The tool enables services to target their team's improvement efforts. Downloadable summaries are available which enable services to track and share the progress being made towards achieving JAG accreditation.

The standards cover all aspects of a high-quality clinical service and are organised into four domains:

Clinical quality – The clinical quality domain encompasses the service's role in safe and effective diagnosis, treatment and ongoing management. Key to this is the service infrastructure including leadership and governance.

Patient experience – The patient experience domain encompasses the service's role in providing efficient and patient-centred care for all patients, which includes reviewing waiting times, facilities and the environment.

Workforce – The workforce domain focuses on effective training and support for staff, including the recruitment, retention and continued professional development of team members.

Training – The training domain reviews the support and development of trainee endoscopists, including appraisal and competencies. Services that do not provide training in endoscopy, typically those in the independent sector, are only assessed against the first three domains.

Engaged services complete the self- assessment tool (Previously GRS). Once a service can demonstrate compliance with every B and C level standard across all 4 domains, they can request an assessment visit. In preparation for the visit services upload detailed evidence for each standard. This is reviewed by assessors who provide written feedback regarding strengths and deficiencies in the upload. This process is supported by a virtual meeting between service leads and the lead assessor.

Assessment Visit

Typically, the assessment team consists of a doctor, nurse and manager who have experience in endoscopy service. A lay assessor is also part of the assessment team. Visits usually last a day and include a presentation from service leads, departmental tour and interviews with staff and service users. Inspecting teams aim to present findings and outcome on the day. If all standards are met, accreditation is awarded (subject to QA process) if standards cannot be met or more evidence is required then accreditation is generally deferred and a further tailored assessment either of uploaded evidence or through site re-inspection. At that stage accreditation status moves to awarded or not awarded depending on outcome.

Accredited services are expected to provide annual evidence of ongoing compliance annually until their next site inspection in 5 years.

Supporting Welsh Services to Become Accredited

The accreditation process is principally one of quality assurance. At JAG we are keen to help services work towards and ultimately gain accreditation. We support services in the following ways:

- The self- assessment tool plays a role in service development as services strive to comply with all required standards.
- We provide training sessions for the leadership teams (medical, nurse and management) of providers working towards accreditation.
- I Chair a Welsh Accreditation working group every 3 months. Comprises JAG leads with attendees including Sara Edwards (Hywel Dda UHB – Service Delivery Manager – Endoscopy & Gastroenterology) and John Green (a senior gastroenterologist and JAG inspector). These individuals are extremely knowledgeable and understanding of services accreditation needs.
- Additionally, there a drop in sessions to provide troubleshooting support.
- At JAG we have a responsive multidisciplinary team who provide additional support answering enquiries.

Wales Endoscopy Service Summary Report

In 2019 four of our senior inspectors visited 13 Welsh unaccredited endoscopy providers in a consultancy capacity and compiled a report which highlighted key themes and challenges. The findings are summarised below with updates and their current advice.

1. In 2020 Endoscopy Services identified several key reasons for not achieving accreditation in current endoscopy service delivery:
 - a. Poorly supported and defined leadership at the clinical team level, Clinical leads (Medical and Nursing) are under extraordinary pressure to deliver and complete the work for accreditation.
 - b. A lack of understanding of endoscopy services at senior management level.
 - c. Poor infrastructure and business case inertia in some organisations.
 - d. Loss of particular focus on key JAG standards e.g., quality, safety (audits) and training.
 - e. Lack of a coordinated approach to achieving accreditation – ‘time to do’.
 - f. Limited methods of networking and sharing of best practice.

- g. Poor knowledge of capacity planning for endoscopy service delivery, including workforce requirements.
 - h. Inadequate systems to support productivity measurements, reports and improvements.
 - i. Short term fixes for capacity issues and waiting list backlog resulting in excessive costs for insourcing arrangements.
 - j. Lack of flexible capacity endoscopist capacity e.g., investment in the clinical endoscopist workforce.
2. Progress has been made but severely impacted by the pandemic, rising waiting lists and the Global pandemic.
3. JAG is aware that significant progress has been made in several Boards since then and that some Boards are moving closer to accreditation. This has been achieved with the support of the National Endoscopy Programme, support from JAG and external expert support.
4. Overall progress:
 - a. Targeted support from the national endoscopy programmes for Wales. Clear partnership working with JAG
 - b. Training support: JAG 'drop in' and training sessions have been provided on a monthly basis. This was commissioned and overseen by the national programme.
 - c. Significant momentum in Boards in progressing issues and plans for accreditation. Investment in QA roles and JAG support to coordinate the effort.
 - d. Investment in infrastructure and kit in several Boards and clear plans to build new facilities in more challenged area (Wrexham)
 - e. improved knowledge of demand and capacity supported by the national programme

2023 Advice

- Ensure that JAG accreditation is built into Board plans and priority is given to it by senior management level. This includes supporting working groups and staff time to achieve the standards and to prepare for accreditation.
- Ensure each service has agreed clinical leadership time e.g., 0.5 PA for medical leads, 0.25PA training lead

- Continue with JAG focused coaching and support through monthly sessions to ensure focus and consistency of approach
- Revitalise focus on key JAG standards e.g., quality, safety (audits) and training. Quality and safety should be a priority with robust governance
- Maintain a high focus on developing clear recovery plans for long waits, this must include trajectories, timelines and actions to address demand and backlog. Consider specific actions at Board level as follows:
 - Review of job plans and executive support to prioritise endoscopy over other competing activities.
 - Review of Clinical Endoscopist job plans who often have a higher number of lists, but some do not and have accessibility issues.
 - e.g., wards/clinics: what could other health professionals do to relieve the consultants such as specialist nurses or physician assistants.
 - Special attention should be paid to tasks that other health professionals or admin staff could do to free up consultant time.
 - Use of annualised contracts for all or monitoring of annual activity in endoscopy.
 - Completing tasks that other health professionals or admin staff could do.
 - Admin hours increase to support changes in working practice (additional workload/booking)
 - Nursing hours increase to support increased changes in working practice m (pre assessments)
- Improve the focus on productivity – data and embedding into service meeting structures needs a high focus. In week productivity needs to be improved with a focus on supporting endoscopists to prioritise endoscopy work. This is a potential area of high gain.
 - Invest in systems to support productivity measurements, reports and improvements.
- Demand and capacity: focus on capacity and demand control to minimize reduce short term fixes for capacity issues and waiting list backlog which is leading to excessive costs for insourcing arrangements.
- Invest in more flexible capacity endoscopist capacity e.g., investment in the clinical endoscopist workforce.
- Improve networking and shared learning opportunities

Conclusion

There is increasingly an understanding of the challenges individual services need to overcome in order to gain accreditation. I have been impressed by demand and capacity modelling and identification of units best placed to achieve early accreditation. There clearly exists within the system a strong drive to improve services through engagement with JAG combined with a detailed knowledge within the system of what needs to be done to achieve accreditation. Unfortunately, despite considerable efforts results are slower than anticipated. Stumbling blocks encountered are broadly like those seen throughout the UK. We recommend focussing on the following areas:

- **Clinical Quality**

We recommend formulation and review of departmental Standard Operating Procedure documents. Sharing of SOP from accredited units and incorporation of pre-existing national guidance reduces the burden of work.

Service leads should create an annualised timetable stating timeframe, responsible individuals and date of presentation at Endoscopy Users Group. A completed JAG audit template for every audit, ensuring actions are recorded and completed can later be uploaded as evidence. A list of mandatory audits is available from JAG.

6 monthly Endoscopy Users Group meetings should be scheduled. This is the main forum to discuss Clinical key performance indicators, audit findings and learning from clinical incidents.

Acute services must provide a 24-hour emergency bleed service staffed by appropriately trained doctors and nurses. Those involved should be appropriately remunerated

- **Capacity**

Develop short-, medium- and long-term recovery plan to address predicted demand in each unit and overall. Plans should be costed, come with clear timelines and there should be high level buy in.

Short term.

Services should ensure lists are fully booked and aim to reduce DNAs. Waiting list initiative lists may be offered during the week and at weekends. Services may employ insource/outsourced where appropriate. Review referral pathways and vetting to reduce demand including incorporation of BSG colon surveillance guidelines.

Medium term.

Maximise list utilisation by consultant Job plans incorporating cross cover. Move towards 7 days working and consider evening work. Train additional nurse endoscopists

Long term.

Consider infrastructure and staffing required to deliver service, with clear plans to achieve this.

- **Leadership**

Ensure that there is a clinical lead, training lead, nurse lead and management lead with defined roles. They all need to have sufficient time specifically allocated to achieving accreditation, which should be a key target for them. Ideally individuals should have experience of the JAG process. For a well-functioning unit unaccustomed to the accreditation process half a day each week for a year for all these individuals is likely to be required. Attendance at training sessions and drop-in support should be considered mandatory and mentoring with colleagues familiar with accreditation highly desirable. The local leadership team must have clear lines of communication with and be supported by senior management.

Mick Antoniw AS/MS

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



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS

Chair

Legislation, Justice and Constitution Committee

Senedd Cymru

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19 January 2023

Dear Huw,

Thank you for your letter of 14 December seeking responses to questions following my appearance on 5 December in relation to the Retained EU Law (Revocation and Reform) Bill. We are grateful to the Committee for its dedicated work to consider the implications of this Bill.

The responses to your questions are set out in an Annex to this letter. However, to contextualise these correctly, I would like to make two important and fundamental observations that the Committee might wish to consider in its work on the Bill.

Firstly, the Welsh Government fundamentally opposes the whole intent of the Bill. In general, our position is that retained EU law, like EU law before it, works well. Consequently, beyond gradually amending the law as appropriate with evidence-gathering, public consultation, and legislative scrutiny in the normal way, over time as with any body of law, we had no intention to repeal, revoke or amend REUL to an arbitrary deadline on ideological grounds. However, simply to propose legislation such as this that, by default, would repeal essential economic, social and environmental protections is unacceptable and irresponsible. This is especially true because of the use of valuable time by governments and legislatures when a good deal of this work will be merely to maintain in law those essential provisions that the Bill would otherwise automatically remove. This nugatory work has no demonstrable benefit to anyone and is a regrettable use of finite resource in both the Welsh

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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.

Government and the UK Government, caused by the decisions made by UK Government Ministers.

Secondly, the Bill is essentially an enabling Bill and its full implications will be influenced by policy choices of UK Government Ministers about which pieces of legislation should be retained, amended, or left to sunset. Unless and until that detailed information is provided, we are all working in a very uncertain situation, with the obvious attendant difficulties that that causes both for the Welsh Government, and for your Committee in a scrutiny role. I hope we can continue to engage collaboratively in dealing with this Bill in these regrettable circumstances, recognising our distinctive institutional roles but also common interests in relation to the integrity of the devolution settlement.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style. Below the signature is a short horizontal line.

Mick Antoniw AS/MS

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

ANNEX

Wales-made REUL

- 1. You told us that the Welsh Government's focus "has got to be firstly to ensure that we analyse and retain our own EU retained law, that we focus on that law that's been made within Wales" (RoP, 242). Has that analysis been completed? If not, what is your target date for its completion?**

We are working to have a settled list of this REUL as soon as we are able to do so. This is a complex task and we will be happy to update your Committee on progress.

Reviewing REUL

- 2. You and your officials said that Welsh Government policy teams are working closely with their Whitehall counterparts to analyse spreadsheets of data prepared by those Whitehall departments "to see whether [you] agree with that analysis" (RoP, 242 to 254). What is the target date for the completion of that work?**

While we have received some information from the UK Government this is not comprehensive. We are continuing to receive this in something of a piecemeal fashion but are considering and assessing it as we receive it. We hope to have a more complete picture in the near future so that we can conduct a proper assessment of it.

Welsh Government's approach

- 3. Has the Welsh Government had any reassurance from the UK Government that it will not change or remove devolved REUL without the consent of the Welsh Government? If so, does the UK Government intend to amend the Bill to reflect this commitment?**

We remain in dialogue with the UK Government on this issue, but still await the necessary reassurance.

- 4. You told us that "if you don't take measures to be able to identify and understand what it is you want to retain, then everything else is going to go." (RoP, 295). You also told us that you have not yet decided on your approach to retaining REUL but that you want to "make sure that [the Welsh Government] focus on those areas that are most important to us".**
 - a. Can you therefore confirm that you do not intend to save all REUL in devolved areas?**
 - b. On what basis will you decide which areas are most important to the Welsh Government?**
 - c. Can you tell us which areas these are, or if not, when you will be able to tell us?**
 - d. What are the risks to the areas deemed not important or less important and how have they been determined?**

e. How will you mitigate and manage the risks associated with this, particularly if you are not carrying out your own impact assessment (RoP, 256)?

It is not our intention to allow REUL in devolved areas to come to an end, unless there are very good reasons for this to take place. However, as a matter of good governance, our final position on specific instruments will need to take into account what the UK Government decides in relation to existing REUL for England; or in relation to existing REUL on reserved matters that impacts on devolved matters in Wales. Where the UK Government wishes to review any piece of REUL that impacts on a devolved matter, we would expect the UK Government to work collaboratively and pro-actively with us on this.

Further to this our ambition is to retain all REUL pertaining to Wales, subject to the caveat above.

5. You told us that you may adopt a “triage approach”, where you try to “identify those that are most obviously relating to devolved issues that may be the most important issues, rather than technical issues, so that we make sure we focus on those areas that are most important to us” (RoP, 277). What do you mean by “technical issues”?

We await a mature and comprehensive list of REUL, and statements of policy intent regarding REUL instruments, from the UK Government. Given the complexity of the interrelationships between and within REUL across the UK, knowledge of the detail of the UK Government’s intentions will help to inform our analysis of the pieces of REUL that could be retained without creating complexities (and so require a technical piece of work to preserve them but no more), and those which require a more substantive consideration of whether we should retain them and how, for example because the UK Government is proposing to repeal or amend them in relation to England or in relation to reserved matters that impact on devolved matters in Wales.

6. You told us that you think the Bill has created a great deal of uncertainty for the Welsh Government. However, stakeholders have accused you of ‘fuelling’ / exacerbating this by not clearly setting out your approach. To what extent could the Welsh Government reduce this uncertainty?

7. What will the Welsh Government do to reassure stakeholders of its overall strategy in relation to REUL and about the steps it is taking to address their concerns?

Regarding Questions 6 and 7, as set out in the covering letter, the Bill is a UK Government initiative with which we do not agree. It is its commitment to the Bill, without clarity on what will happen to each piece of legislation, which is creating the uncertainty. Our ability to mitigate that for stakeholders in Wales is very limited until we have that clarity from the UK Government. We plan to engage with both the Senedd, and with stakeholders, on this work.

8. You told us “We will want to retain law and not see any diminution of standards. So, we will want to ensure that we retain those standards out of

this.” (RoP, 277) How will you maintain or improve standards if they are weakened or reduced under the Bill, either by omission or by action taken by the UK Government?

The Welsh Government’s position is clear as above at Question 4: We have no desire or intention to repeal, or allow to end through the Bill, any REUL that applies to Wales and is within devolved competence, unless there are very good reasons for this to take place. However, as outlined above, the issue of cross-border divergence means that we will want to take into account the UK Government's position and intentions when making our decisions regarding the implications for Wales in certain policy areas of taking particular approaches.

Saving REUL

9. You said “The complexity comes in knowing the scale of what we're going to do. If, for example, in a whole large area of these 3,800-plus pieces of legislation, the UK Government equally decides that what they should do is retain a large number of them, then that actually solves part of that problem. It solves part of that problem and it makes it a lot easier to manage those areas that have not been retained.”

a. This suggests to us that the Welsh Government will defer decision-making and action to the UK Government to make regulations. Is this correct? Do you have concerns for what this approach means for Wales, including the Senedd?

Our preference is to maintain all REUL that applies to Wales, unless there are very good reasons not do this. Broadly, if the UK Government maintains a piece of REUL for England, then we will very likely do the same in relation to devolved matters in Wales. The mechanics by which this would be achieved will also need to be considered.

b. Will the Welsh Government wait to see what the UK Government saves and subsequently decide what it may need to save itself?

As stated in answer to a. above, our preference is to maintain all REUL that applies to Wales, unless there are very good reasons not do this. However, if the UK Government decides to change REUL on the English side of the border, there are complex policy decisions to be made. Each of these areas of change to the status quo initiated by the UK Government would require a proper assessment of the economic, social and environmental implications and risks for Wales. Similar considerations will need to be made in relation to proposed UK Government changes to reserved legislation that impacts on devolved matters in Wales.

Amendments

10. In addition to the single amendment to the Bill we know you have requested (in relation to the Welsh Ministers having the ability to extend the sunset date up to 23 June 2026), you said that you would be “encouraging changes to be made that give us the guarantees that we have sought” and you specifically

mentioned concurrent powers in the Bill and the powers of the law officers in devolved Governments (RoP, 285). You also said that the Welsh Government would “do the normal things in terms of briefings, in terms of discussions, in terms of engagement with the UK Government and interested parties, who will all make their own representations” (RoP, 289).

- a. What specific changes to the Bill are you seeking?
- b. Can you confirm that you have made formal requests to the UK Government and, if not, when will you do so?
- c. Why are your suggested changes not detailed in your LCM, which only lists one amendment put forward, for consideration by this Committee and wider Senedd?
- d. You said that we can expect the Welsh Government to put forward further amendments and that you have set these out. When will the Senedd have the opportunity to scrutinise these?
- e. You mention that an option available to the Welsh Government is to rely on others to bring forward amendments which reflect your position rather than acting collaboratively. Could you provide more information on this and confirm who the “others” might be?

We have engaged with the UK Government over several months on the concerns that we have with the Bill. As set out in the Legislative Consent Memorandum, these include not only who can exercise the power to extend the sunseting deadline but also the issue of consent for the exercise of concurrent powers by UK Government Ministers in devolved areas, the sunseting deadline itself, the regulatory burden and the intervention and reference powers exercisable by the Law Officers within the UK. We have sought changes to the Bill on all these matters. We have raised these concerns in correspondence with the lead UK Ministers for the Bill, in Ministerial meetings and in my written response to the Public Bill Committee on the Bill, with the objective of having them addressed through amendments.

While we have hoped for progress and for common sense to prevail, UK Government Ministers have yet to give us reassurance that they are willing to make changes to the Bill to address our concerns.

Alongside seeking to secure changes to the Bill from UKG, the Bill was among those topics discussed with members of the House of Lords last week.

11. Under clause 15 of the Bill, Ministers will be prevented from increasing the regulatory burden when revoking or replacing REUL. You described this as a “constraint that is totally unacceptable” (RoP, 269). Why have you not, therefore, requested an amendment to remove this constraint from the Bill?

Please see the answer to question 10 above.

12. You have previously commented on the enormous powers that will be given to Ministers via this Bill. You told us that these are “powers that, in normal circumstances, you would not wish to give to governments”. You also said “it’s not a question of whether we want them; we will probably have no choice because if we want to do anything about retaining legislation that maintains

standards and so on, things that we agree with them in devolved areas, then we're going to have to exercise them” (RoP, 291). Have you requested that the Bill be amended to uplift the scrutiny procedures attached to the powers if and when they are exercised by the Welsh Ministers?

As noted above, we have strongly expressed our concerns about the Bill to the UK Government. However, if passed as drafted we will have to exercise the powers conferred on the Welsh Ministers in order to make decisions about REUL in devolved areas, where possible, as part of our work to defend the devolution settlement. However, the Legislative Consent Memorandum sets out our concerns that the sunset provision will mean that parliament and the devolved legislatures will have no scrutiny or oversight role where REUL is allowed to sunset automatically and will likely not provide sufficient time for effective consultation on proposed modifications to REUL, which could result in unidentified issues and potential negative impacts, for example on protected groups.

Divergence and disputes

13. Have you identified any areas where you have policy intentions which diverge from those of the other governments of the UK?

Since the detailed and comprehensive policy intentions of the UK Government in any given area are either not yet clear or are just emerging, it is not possible to give a definitive answer to this at this stage.

14. When we asked you how disputes could be resolved you told us that the new inter-governmental process that has been established “is probably not going to be particularly ideal process” and “It may be that you can create something specifically to try and resolve those disagreements” (RoP, 279).

- a. Can you clarify why the recently created structures for intergovernmental dispute resolution would not be the appropriate structures to use to resolve any disputes in this area?**
- b. Can you confirm that, where relevant, disputes would go through the relevant common framework process in the first instance?**
- c. Given the need for timely action because of the 31 December 2023 sunset date, how realistic is it that a new dispute resolution process could be created?**

We will always reserve the right to escalate issues within the Dispute Avoidance and Resolution procedure agreed following the joint Review of Intergovernmental Relations (IGRR), wherever it becomes appropriate to do so. The resolution process in the IGRR should be seen as part of a much wider system of active IGR, and as a process of last resort. This is embedded into the machinery it sets up – it is agreed that machinery should “promote dispute avoidance by ensuring there are effective communication and governance structures at all levels, from working-level officials to ministers”. As you will know, the Dispute Avoidance arrangements are without prejudice to the legal provisions within the devolution settlements which govern matters relating to legislative competence. We would always need to consider the

appropriate forum to which to take our concerns, particularly where there is a dispute as to whose competence a piece of legislation is within.

Common Frameworks will play some part in elements of dispute resolution related to REUL, though the timescale available to undertake this work will massively impact the ability to engage fully in this process, along with the fact that not all areas of REUL are covered by a Common Framework.

The current sunseting deadline means it is unrealistic that a suitable dispute resolution process could be created in time to service the process appropriately. This is the responsibility of the UK Government, not the Welsh Government.

Capacity and resource

15. The First Minister told the Scrutiny of the First Minister Committee on 9 December that, as the Welsh Government has no spare capacity, “diverted capacity” will be needed away from its legislative programme to work on the Bill. Given the First Minister's comments, when will decisions be taken about when and where resources will be diverted, and will you commit to updating the Senedd as soon as decisions are made?

16. You told us that the Welsh Government wants to deliver its legislative programme but there was uncertainty around the demands the Bill will place on resources. Are you coordinating Cabinet discussions regarding your concerns about delivery of the legislative programme?

Regarding Questions 15 and 16, for the reasons set out above, it is not possible to assess fully the scale of the impact on the legislative programme until we know the detail of the UK Government's plans for REUL as it applies in England, particularly the extent to which it intends to amend this body of law.

Discussions on this matter will continue between Ministers as the situation develops as will our liaison with the Senedd on the legislative programme.

Impact and role of the Senedd

17. You also said “I think one thing is clear: it makes the sort of detailed scrutiny and the timescale for that scrutiny incredibly difficult” and “we have to look at how that will work”. You told us that there is “going to be a need for very close co-operation between the Government and the Senedd in terms of an understanding as to precisely what is required, what is happening and how we best manage that. It's not just an issue for the Welsh Government; obviously, it's an issue for the Senedd itself, in terms of how it scrutinises and assesses those steps as well” (RoP, 307).

- a. How will the Welsh Government maximise the scrutiny opportunities afforded to the Senedd?
- b. How will the Welsh Government involve the Senedd in determining what is required as a consequence of the Bill?

In general, it is premature to answer this question with complete precision as we are again seeking comprehensive information from the UK Government about its decisions.

I would expect the Senedd to have the opportunity, in the normal way, to scrutinise any proposals regarding REUL. We will engage with the Senedd on this.

The task of determining what is required is difficult to quantify, or to identify precisely. I would expect Ministers to keep the Senedd informed by way of Ministerial Statements once the task is clearer.

18. You did not confirm to us that you are liaising with the Llywydd and the Business Committee regarding the potential impact on the Senedd's timetable. Could you confirm that discussions are taking place? If not, is the Welsh Government waiting on clarity from the UK Government before doing so?

We will certainly be in contact with the Llywydd and Business Committee regarding the Senedd's timetable once we have sufficient information from the UK Government to be able to have meaningful discussions about the potential implications.

Regulatory landscape

19. Would the Bill introduce a regulatory ceiling?

The power within clause 15 of the Bill to revoke or replace includes a requirement that any changes to, or replacement for, a piece of REUL, cannot "increase the regulatory burden". However, the precise meaning of this in the context of the Bill is not clear, though the Bill appears to have been drafted so as to mean that what could be considered a regulatory burden can be interpreted very widely. Moreover, the UK Government has made no particular policy statement on the meaning of this provision.

However, the nature of the Bill, and potential UK Government changes to REUL, may arguably increase the regulatory burden for some businesses, at least in the short term, as they adjust to new standards, even if they are lower.

20. How could the Bill impact the Welsh Government's policy and ability to improve standards, where possible, post-Brexit?

The Bill fundamentally fails to appreciate how the principles of devolution need to be applied in the field of regulatory policy in the UK, now that it has left the EU. There are also concerns that the effects of the UK Internal Market Act will have further impacts should regulatory divergence occur (for example through the UK Government amending or repealing REUL for England). This could have significant implications for the ability to maintain and improve standards, in effect, in REUL in Wales.

21. The UK Government has stated that environmental protections will not be weakened and that the devolved nations can preserve legislation within

competence. Which environmental protections will the Welsh Government preserve?

The Welsh Government has no intention to weaken existing environmental protections, the majority of which are derived from REUL. We intend to consider all options and, as a minimum, will be working to seek to ensure that REUL on environmental protections is assimilated by the sunset deadline.

Stakeholders

22. You told us “There’s going to have to be engagement with stakeholders because we’re going to have to have that understanding of some of the steps that have been taken. I think the problem is, at this stage, it’s not completely clear who we will be engaging with, to what extent, and within what framework.” (RoP, 350)

- a. **Could you clarify whether the Welsh Government is engaging stakeholders on the Bill at this stage, or when it plans to if this is not yet the case?**
- b. **You identified agriculture and environment as areas where there will be a “big focus” which you anticipate to be “very intense” (RoP, 323). Is the Welsh Government prioritising stakeholder engagement in these fields?**
- c. **How will you engage stakeholders in order to determine what issues are important to them?**

We have already made clear our general concerns about the Bill and opposition to it. The real engagement will need to be with stakeholders on a sectoral basis in light of the UK Government’s decisions about changes to REUL that it intends to make.

The areas you refer to account for a significant amount of the REUL that is within devolved competence. Accordingly, we will expect to engage with stakeholders in those areas as fully as possible, once the UK Government’s approach is clear.

Agriculture Bill

You told us that the Agriculture Bill “contains within it elements of retained EU law, and there may be issues that will arise during this process that need to be addressed; it’s just not clear what they might be at this stage” (RoP, 335).

23. Why was it appropriate to use the Agriculture Bill as a vehicle to provide broad powers for the Welsh Ministers to amend retained EU law when the Welsh Government has undertaken no analysis of the implications of the REUL Bill in this policy area?

As indicated above, we are considering our response to the situation, in effect, imposed by the UK Government on reviewing REUL. In general our position is that retained EU law, like EU law before it, works well and, consequently, beyond gradually amending the law as appropriate over time as with any body of law, we had no

intention to repeal, revoke or amend REUL to an arbitrary deadline on ideological grounds.

Furthermore, there is currently no certainty as to what the final version of the REUL Bill will look like, whether it will actually proceed to Royal Assent, nor what will happen to each piece of REUL. As a result, the Agriculture (Wales) Bill is proceeding on the basis of what is currently known.

24. Is it the Welsh Government's intention to save the REUL on which the Agriculture Bill relies under the REUL Bill? What happens if the REUL on which it relies is revoked by the UK Government? Is the UK Government aware of the Welsh Government's need for the REUL to remain in place for the operation of the Agriculture Bill?

As currently drafted, the REUL Bill has powers which the Welsh Government could exercise to preserve REUL in areas of devolved competence. The Welsh Government is considering how it will respond to this Bill and is working with the UK Government to identify all devolved REUL, including those instruments made by the UK Government and Parliament.

25. When do you anticipate being in a position to understand the breadth and detail of any issues which need to be addressed during the passage of the REUL / Agriculture Bills?

We will continue to engage and, in parallel, are considering how to respond in the coming months as the new UK Government's position on the REUL Bill is understood.

26. Is it your intention to make amendments to the Agriculture Bill to address any such issues?

As above, we will continue to engage and are considering how to respond as the new UK Government's position on the REUL Bill is understood.

27. Does the Welsh Government intend to adopt this approach of taking broad executive powers to deal with the uncertainty of REUL rather than bring forward primary legislation when the picture is clearer

As above, we will continue to engage with the UK Government and are considering how to respond as its position is understood. In the meantime, there are no plans to change the executive powers in the Agriculture (Wales) Bill.

Agenda Item 3.2

Y Pwyllgor Deddfwriaeth,

Cyfiawnder a'r Cyfansoddiad

**Legislation, Justice and
Constitution Committee**

Rt Hon Elin Jones MS

Llywydd

Chair, Business Committee

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27 January 2023

Annwyl Lywydd

Retained EU Law (Revocation and Reform) Bill

Further to my [letter](#) of 21 December 2022 in relation to the Retained EU Law (Revocation and Reform) Bill, at our meeting on [23 January 2022](#) we considered a [letter](#) from the Counsel General (dated 19 January) which responds to a series of questions we [asked](#) following the Counsel General's attendance at our meeting on [5 December](#). On 23 January, we also considered your [letter of 19 January](#), in which you asked if we could continue to draw relevant matters to the attention of Business Committee, in particular those aspects with potential implications for Senedd Business.

The Counsel General's letter of 19 January provides an update on the Welsh Government's approach to the Bill, as well as information on how it is reviewing retained EU law, matters related to capacity and resource, and the impact on and role of the Senedd.

We agreed that we would draw the correspondence to your attention, and to the attention of relevant Senedd Committees.

Yours sincerely,



Huw Irranca-Davies

Chair





CS/VC/AE

Send by email: SeneddPAPA@senedd.wales

30 January 2023

Russell George MS

Chair, Health and Social Care Committee

Mark Isherwood MS

Chair, Public Accounts and Public Administration Committee

Welsh Parliament

Cardiff Bay

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Dear Russell and Mark

Welsh Community Care Information System (WCCIS)

Thank you for your letter dated 5th December 2022 regarding the above system. Please accept my apologies for not providing a response by the deadline of 13th January 2023. I will address the questions in turn:

1. Whether your health board has agreed to adopt the Welsh Community Care Information System (WCCIS)

I can confirm that Powys Teaching Health Board (PTHB) has agreed to adopt the Welsh Community Care Information System (WCCIS), namely CareDirector. The health board was the first to secure a commitment to the system and prioritised implementation together with Powys County Council.

2. If so, an overview of the current position in implementing WCCIS within the health board.

Since the WCCIS programme commenced, PTHB implemented the CareDirector system quickly in partnership with Powys County Council and we have 1246 enabled accounts across the organisation. This equates to 252 service teams using the system and the system has been configured for health and social care use. The system represented a good opportunity to enable more records to be easily accessible, particularly important given the complexity of the pathways and geography

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of Powys. In addition, many health care systems have been focused on hospital care and pathways. The system has provided benefits to the organisation and to clinical teams. There have been some challenges however in relation to performance of the system approximately a year ago; now resolved. Practitioners would benefit from additional functionality enabled for example by having the full mobile application available. Furthermore, there is an opportunity for increased interoperability with other systems such as Welsh Patient Administration Solution (WPAS).

3. If your health board has chosen to use a different system instead of WCCIS:

We have not chosen to use a different system instead of CareDirector. We are actively participating in the strategic review and continually assess requirements to ensure an ongoing service improvement plan is in place and the system meets the needs of our community and mental health services.

I trust this information is helpful to the work of the Committees. Please do not hesitate to get back in touch should any further information be of value.

Yours sincerely



Carol Shillabeer
Chief Executive

Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Julie Morgan AS/MS
Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
Deputy Minister for Social Services

Lynne Neagle AS/MS
Y Dirprwy Weinidog Iechyd Meddwl a Llesiant
Deputy Minister for Mental Health and Wellbeing

Ein cyf/Our ref MA/LN/2771/22

Russell George MS
Chair, Health and Social Care Committee
Senedd Cymru
Cardiff Bay
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31 January 2023

Dear Russell,

Provision of written evidence

We are writing in response to your letter dated 24 October 2022, regarding your request for written updates on the Welsh Government's progress in implementing the recommendations made by the Fifth Senedd Health, Social Care and Sport Committee in respect of its inquiries into:

- Loneliness and isolation (2017)
- Use of antipsychotic medications in care homes (2018)
- Mental health in policing and police custody (2019)
- Impact of the COVID-19 outbreak, and its management, on health and social care in Wales: impact on mental health and wellbeing (2020)

For each inquiry we have provided a summary of activity, outlining, where appropriate, when events have been superseded by other factors. The response is also confirming how we intend that any outstanding work is taken forward. This detail is included at annex 1.

We can confirm that the implementation of the actions are being taken forward with a consideration of tackling inequalities.

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

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

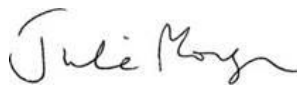
In our written evidence, and subsequent scrutiny session, regarding the 'Inquiry into Mental Health Inequalities' we strived to provide examples of practice from which we were delivering on this work, including a focus on strengthening protective factors which is part of the approach we are undertaking within our current [Together for Mental Health Delivery Plan for Wales](#). We will also ensure that any further work in this area will be informed by the recommendations that are made as part of the Mental Health Inequalities Inquiry.

Please do not hesitate to contact us, should you require further clarification.

Regards,



Eluned Morgan AS/MS
Y Gweinidog Iechyd a
Gwasanaethau
Cymdeithasol
Minister for Health and
Social Services



Julie Morgan AS/MS
Y Dirprwy Weinidog
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Lynne Neagle AS/MS
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Meddwl a Llesiant
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ANNEX 1. Update on relevant Health, Social Care and Sport Committee Inquiries.

Inquiry into Loneliness and Isolation 2017.
Summary of work to date
<p>The Welsh Government published “Connected Communities”, its first <u>strategy for tackling loneliness and social isolation</u>, in February 2020. Its vision is for everyone to have the chance to develop meaningful social relationships.</p> <p>The strategy sets out four priorities: increasing opportunities to connect; a community infrastructure that supports connected communities; cohesive and supportive communities; and building awareness and promoting positive attitudes. The key commitments under each priority outline the cross-government nature of the strategy. Where relevant, there are references within other strategies where tackling loneliness and isolation is embedded within their approach.</p> <p>This includes the Dementia Action Plan (2018) which has a theme to raise awareness and understanding of dementia, with actions supporting community-based activities to be accessible to those living with dementia.</p> <p>Within the Strategy for Unpaid Carers published in March 2021, and the Carers Delivery Plan published in November 2021 it recognises the significant negative impact of the Covid 19 pandemic on unpaid carers, including lock down restrictions to protect public health. This led many to experience feelings of loneliness and isolation. The objectives of Priority three, “Supporting a life alongside caring” aim to help all ages of unpaid carer to access short breaks and respite activities which can help individuals’ mental wellbeing. Social activities, as well as opportunities to interact with online and face to face services, can all contribute to reducing feelings of loneliness and isolation.</p> <p>In April 2022 we announced £9m to set up a new national Short Breaks Scheme for unpaid carers. Following a competitive application process, Carers Trust Wales has been appointed as the national coordinating body to take this important work forward. It is working with Regional Partnership Boards to develop new integrated services to support unpaid carers to access a range of short breaks tailored to their individual needs.</p> <p>As part of the development and implementation of the Connected Communities Strategy we have considered the evidence available in assessing the impact of loneliness and isolation on health and well-being and whether people experiencing these issues make increased use of public services and work supporting intergenerational contact.</p> <p>A key commitment in the strategy is the three-year Connected Communities Loneliness and Social Isolation Fund. Launched in September 2021, this £1.5 million fund is supporting front-line, local, grass-roots organisations, which bring people of all ages together, helping them to build social connections in and across communities.</p>
Work considered outstanding
<p>We have not embarked on a specific awareness raising campaign to change attitudes in relation to loneliness and isolation or the stigma associated with it, but are currently engaging with Public Health Wales to ensure that loneliness features in the forthcoming national conversation on mental well-being.</p>

The strategy itself was an important step in building stronger, social connections in Wales and we continue to make good progress in implementing the strategy. In doing so we have worked with external stakeholders such as Mind Cymru, Public Health Wales and Samaritans Cymru, through our Loneliness and Social Isolation Advisory Group, to quality assure implementation of the strategy's 80-plus commitments and to consider what more can be done. We will be reporting on progress of the strategy and how the Loneliness and Social Isolation Fund has benefited communities early next year.

Within 'Connected Communities' sit four key deliverables for social prescribing. These deliverables aim to progress the social prescribing agenda nationally, with a focus on evidence building and governance. These deliverables are being taken forward as part of the Programme for Government commitment to develop a National Framework for Social Prescribing.

Use of antipsychotic medications in care homes (2018)

Summary of work to date

Informed by the work of the inquiry a Short Life Working Group was established in response to the recommendation to look at measuring the prevalence of antipsychotic use in care homes in Wales. This report makes recommendations in relation to the use of routinely collected data to help understand the use of antipsychotic medicines amongst older people who are resident both in their own and in care homes, and more importantly to understand variation in use that, without prejudging its appropriateness, would warrant further investigation. The short life working group noted that there is a National Key Prescribing Indicator in place to measure antipsychotic use in those aged 65 and over and there is limited value in measuring prescribing at care home level. The group agreed that if there were to be a specific need for care home data, audit provides the most detailed and comprehensive feedback regarding prescribing of antipsychotics in care homes. It was therefore agreed that if an audit of antipsychotic use in care homes was warranted, the national Clinical Effectiveness Prescribing Programme (CEPP) audit tool should be used and arrangements should be in place to allow audit data to be reported to a central database from which reports can be generated to facilitate comparative analysis and track progress over time.

We are also developing a prescribing protocol for anti-psychotic medication. The aim of this protocol is to ensure best practice in the use of antipsychotics in people living with dementia, by improving the management of distressed behaviours associated with dementia, and where possible, reduce unnecessary psychotropic prescribing. Colleagues within the prescribing expert group will act as a reference point to inform this work. Where prescribing is required, the aim is to reduce the risk of harm associated with the use of these drugs to improve outcomes for the individual. This document details clear guidance on the appropriate use of medication for managing distressed behaviours people with diagnosed or suspected dementia, in line with NICE guideline Dementia: Assessment, Management and Support for People living with Dementia and their Carers (NICE, 2018).

We have recently provided 18 months funding to 'Developing & enhancing personhood in people living with dementia (PLWD) in care homes through specialist trained HCSWs'. The primary aim of this proposal is to create and implement (and

eventually cascade) a supportive and mutually beneficial relationship between care homes and appropriate dementia services. This is initially being tested in two health board areas (Aneurin Bevan University Health Board and Betsi Cadwaladr University Health Board). This proposal comes from the non-pharmacological task & finish group which reports to the Welsh Government's Dementia Oversight & Implementation Group (DOIIG). It links directly to the need to improve access to and increase awareness of alternative therapeutic interventions with the aim of reducing the use of antipsychotic medications as part of the post Covid-19 pandemic recovery

We commissioned Improvement Cymru to develop a new All Wales Dementia Pathway of Standards that promotes a whole systems integrated care approach which are person centred and align with NICE guidelines. These standards also provide a framework for a comprehensive assessment of the person to be undertaken. To support the implementation of the [Dementia Care Standards](#) we have established five work streams to support this work.

- Workstream One – community engagement
- Workstream Two – Memory Assessment Services
- Workstream Three – dementia connector
- Workstream Four – hospital charter
- Workstream Five A – workforce learning and development
- Workstream Five B – measurement

It has been agreed that 2022/23 is the readiness year for developing regional approaches to dementia care as outlined in the DAP and supported by the dementia pathway of standards.

The Improvement Cymru delivery framework approach promotes a structure of dementia boards and workstreams being in place to support the region to improve dementia care. All regions now have an overarching regional dementia programme lead. Some regions have established their boards and workstreams already with actions plans in place. Others are currently planning their structure and approach. There is an expectation that all Welsh regions will have their dementia boards, workstreams and action plans in place by the end of December 2022.

As part of this work Improvement Cymru are facilitating a National Steering Group, Community of Practice and forums for inpatient, community and memory assessment services to provide clinicians with access to up to date research and information.

Further documentation on how Improvement Cymru are working to support dementia care is below:

[Dementia Care - Public Health Wales \(nhs.wales\)](#)

As you will note a work stream of the dementia care standards includes a focus on learning and development. This work is supporting the implementation of relevant guidance documents that are published, this includes [Good Work Dementia Learning and Development Framework](#) and specific [Guidance](#) and learning outcomes for working with people living with dementia and who have hearing loss, or use British Sign Language.

In addition, we have established a task and finish group who are working to assist learning and development approaches that will support alternative approaches to antipsychotic medication.

The Care Homes DES was amended in 2020 to support actions required during the Covid-19 pandemic. The amendments focused on strengthening support and through weekly discussions with care home managers of patient needs and a direct telephone line between care homes and GP practices for urgent access to clinical advice. The Care Home DES will be reviewed again during 2023 as part of the move to the Unified Contract for GPs, monitoring of antipsychotic medication will be picked up during this review.

The Allied Health Professional (AHP) Dementia Consultant has a remit across all sectors and since it's commencement and the ring-fenced funding in place to support the implementation of the Dementia Action Plan we have seen an increase in AHPs, including speech and language therapists.

A AHP Framework Programme has been established, supported by two AHP Clinical Fellows. One has updated the National Rehabilitation Framework, which includes all population groups, including people with Dementia. The second fellow has developed a [Dementia Framework](#) of good practice to align with it, and looks at how we can maximise the impact of Allied Health Professionals in Wales. We have also established a AHP Dementia Network to support this work.

Work considered outstanding

The work summarised above will be reported as part of the dementia programme to the Dementia Oversight of Impact and Implementation Group (DOIG). This scrutiny will enable us to identify whether any additional action is required in the future.

Mental health in policing and police custody (2019)

Summary of work to date

Responding to people in mental health crisis requires a multi-agency approach and we have made significant investment and improvement as part of a partnership approach. We commissioned the [Beyond the Call Review](#) to better understand the demand received by emergency services and recorded as mental health. The review looked at 10,000 calls to the Police, Fire and Rescue Service and the Welsh Ambulance Service. The review identified that only 4 out of 10 calls may have needed an NHS response, with most calls needed support for social/welfare issues. The review, led by the National Collaborative Commissioning Unit with a multi-agency steering group including the police, highlights the breadth of needs that people in crisis often present with.

Following the review, and to improve access to NHS mental health support as part of the crisis pathway, we have invested over £6m funding has supported a range of improvement including the establishment of 111 press 2 for urgent mental health. The new service aims to provide rapid access to a mental health practitioner for individuals or professionals that need urgent mental health advice. The service will provide seamless referral into NHS mental health services for those that need it; over the phone intervention to assessment and de-escalate the situation; and signposting into other appropriate support. The service will also provide a dedicated line for professionals, including the police, to provide advice and support. Health

boards are commencing a phased implementation with 24/7 coverage across Wales planned for April 2022.

Hywel Dda University Health Board was the first health board to establish the service on a 24/7 basis and Swansea Bay University Health Board and Aneurin Bevan have also commenced implementation. Local partnership arrangements to support implementation include the police and as part of the implementation, services will be working locally to align service models with existing triage arrangements.

Alongside the implementation of 11, press 2, for urgent mental health support, we have also piloted a national mental health conveyance service. The service which is provided by the third sector aims to compassionately convey patients under the care of mental health service and pre/post admission. The service also provides an alternative to the use of a police vehicle in a crisis situation. The service is 24/7 and aims to provide a response time in 2 hours. During the pilot period, 81% of calls were responded to in the target time during the day and 91% at night. The service has been well-received and has reduced the number of police vehicles used for conveyance. We are now working the National Collaborative Commissioning Unit who have led the pilot to explore options to commission a longer-approach.

Other actions arising following the Beyond the Call Review were included in the [Crisis Care Concordat National Action Plan 2019-22](#)

We have also provided additional funding to health boards to establish alternatives to admissions to hospital. These include sanctuary provision and crisis cafes. We have also agreed funding for four pilots to test the approach for young people as part of the Co-operation Agreement.

Finally, the s135/136 dataset is published at: [Detentions under Section 135 and 136 of the Mental Health Act: July to September 2022 | GOV.WALES](#) and the data is used at a national level and by local partnership arrangements to monitor the impact of approaches and to monitor outcomes.

Work considered outstanding

As part of the process for developing the next Together for Mental Health Strategy, we need to undertake an assessment of progress against the key recommendations set out in the NHS Delivery Units review of NHS Crisis Care services and Health Inspectorate Wales's National Review of Mental Health Crisis Prevention in the Community. This will help identify priority areas to take forward as part of the successor strategy arrangements.

Inquiry into the impact of the Covid-19 outbreak, and its management, on health and social care in Wales - Fifth Senedd (2020)

Summary of work to date

We continue to provide separate written updates in relation to Mind Over Matter and Everybody's Business and therefore this update does not include these aspects. We have also ensured that the Ministerial priorities list explicitly includes suicide prevention.

We continue to monitor available data and evidence, predicting the true impact of the pandemic (and now the cost-of-living crisis) on mental health needs is complex and this will remain part of our core work as we work to develop the successor strategies to both Together for Mental Health and Talk to me 2, our suicide and self-harm strategy.

Initial modelling, we undertook in preparation for the Welsh Government published in March 2022, suggested a potential increase of between 20%-40% in primary care mental health services and 20%-25% in secondary services (based on NHS benchmarking and published data). This evidence allowed us to secure additional resources to support mental health and well-being with £50m in 2022/23, £75m in 2023/24 and rising to £90m in 2024/25.

Within 2022-23 the £50m has included over £20 million directly allocated to health boards to support mental health services, with the remainder of funding being utilised to support key areas which impact on mental health including substance misuse issues, employability and prevention. This enabled us to ensure we both supported the recovery of services but that we retained flexibility to support the service developments identified with the Together for Mental Health Delivery Plan 2019-2022.

In addition to this 'new' funding mental health continues to be the highest area of spending by the NHS in Wales. In 22-23 the ring-fenced Mental Health budget provided to Local Health Boards is over £760m.

Through the significant budgetary pressures we are now seeing, we are continuing to protect vital mental health funding. The Welsh Government commissioned Social Care Wales (SCW) and Health, Education and Improvement Wales (HEIW) to develop a mental health workforce plan, which includes NHS, local authorities and the voluntary sector. The development of this long-term plan for the mental health workforce is a key action in our Together for Mental Health Delivery Plan to support service improvements and to ensure a stable and sustainable mental health workforce. This plan was formally launched on the 7 November and through the development of this work our aim is to deliver a transformative workforce vision and plan for mental health services, across health and social care.

Through the periods of the pandemic when there was acute pressure on services we established a multi-sector 'mental health incident group' which identified where there were particular pressures that needed addressing, and put plans into mitigate against these. These actions included the development of the digital offer and increased access to universal mental health services that did not need a referral to access them.

In April 2022, the Welsh Government in partnership with the Police, NHS and Public Health Wales implemented the Real Time Suicide Surveillance System in Wales to provide more rapid access to information about probable suicides. This crucial information is now being used to strengthen our preventative work; to ensure support is made available quickly; and to identify trends or clusters. The Deputy Minister for Mental Health and Well-being has also convened a new cross-Government Suicide and Self-Harm Prevention group to drive cross-Government working. Both of these work streams are now informing the future iteration of the Talk to me 2 strategy.

Additional funding secured for suicide prevention will support a new Suicide Bereavement Liaison Service in the new year. The Service will aim to ensure a consistent, timely, and proactive offer of support to people affected by sudden deaths that are unexplained or a suspected suicide. As part of our approach to improve post-vention support, on 28th October we launched the consultation on our new draft guidance 'Responding to people bereaved, exposed, or affected by suicide'. The Guidance is aimed at specialised bereavement support services, and those who come into contact with people impacted by a sudden or unexplained death that could be a possible suicide. The consultation ends on 20th January 2023.

Each health board now has clear and consistent information to help people to access the most appropriate mental health support in their areas and we have put in place a strengthened offer across Wales to support those with non-specialist mental health issues.

The 'Social care approach to respiratory viruses: autumn and winter 2022-2023' published in October 2022 makes it clear that indoor visits to care homes should be the norm when there are no outbreaks. Care homes should take a risk-based approach to supporting visiting during an outbreak. Essential visitors can continue to visit indoors during an outbreak.

During the pandemic we scaled support for NHS and Social Care workforces and have continued to expand and provide a comprehensive independent support service for the workforce. Canopi offers access to free, non-emergency, confidential, mental health and wellbeing support to all NHS and Social Care staff working in Wales. Canopi was formally launched on 26th May 2022 (the predecessor service being Health for Health Professionals Wales). Since its launch Canopi has seen a continual trend towards growth and increased sector awareness in both health and social care staff and have supported 1500 clients from both sectors. Canopi will continue to co-produce the service with people with lived experience, reflect prudent care principles, and adopt a continual service improvement approach. The developing needs of the workforce will be regularly reviewed, assessed, and addressed through strategic collaboration, data analysis and feedback. This service has been contracted by Welsh Government for three years up to 31 March 2025 at £1.5m per annum.

Work considered outstanding

The mental health core dataset remains a core priority for the Welsh Government, and we have strengthened programme arrangements to enable us to move from development to implementation. The mental health outcomes and measures board will focus on agreeing data that will enable measures of activity and outcomes to be reported.

As part of a quality assurance programme for secondary care mental health we are now looking at a digital contacts review which will inform further activity to support the digital offer.

Both of the above areas of work will be reported in progress reports on Together for Mental Health (or its successor). As part of the development of the successor strategy we will also consider what further action is required in this area.

—
**Health and Social Care
Committee**

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Mark Isherwood MS

Chair

Public Accounts and Public Administration Committee

27 January 2023

Dear Mark

Public Accounts and Public Administration Committee Inquiry into Public Appointments

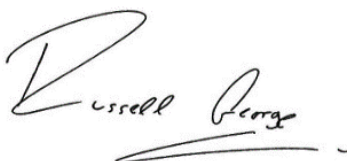
Thank you for your letter of 7 December 2022, and the opportunity to comment on the public appointments process.

To date in the Sixth Senedd, the Health and Social Care Committee has conducted one post-appointment hearing and three pre-appointment hearings for roles including the chairs of health boards and trusts, and the chair of the Citizens' Voice Body for Health and Social Care. Our response reflects our experiences of these appointments, the experience of our predecessor committee in the Fifth Senedd, and our views on wider issues and principles relevant to scrutiny of the public appointment process.

We discussed your letter at our meeting on 26 January, and hope that the reflections on our experience of the Senedd's role in Welsh Government-made public appointments set out in the annex to this letter will be of assistance to your important and timely inquiry.

Please let us know if you would like any further information.

Yours sincerely



Russell George MS

Chair, Health and Social Care Committee

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

Annex: views of the Health and Social Care Committee on Welsh Government-made public appointments

Background

1. To date in the Sixth Senedd, the Health and Social Care Committee has conducted one post-appointment hearing and three pre-appointment hearings for roles including the chairs of health boards and trusts, and the chair of the Citizens' Voice Body for Health and Social Care. Our response reflects our experiences of these appointments, the experience of our predecessor committee in the Fifth Senedd, and our views on wider issues and principles relevant to scrutiny of the public appointment process.

Scrutiny of public appointments

2. The making of public appointments is an important Welsh Government function, involving the appointment of individuals to carry out roles which contribute to the effective governance and delivery of devolved responsibilities. As with all its functions, the Welsh Government is accountable to the Senedd in respect of the public appointments process. The Senedd, including its committees, therefore has a responsibility to carry out proportionate and constructive scrutiny. This includes scrutiny of individual appointments, where the roles are of significant public interest or have a significant impact on the public, and scrutiny of the way in which the Welsh Government is fulfilling its public appointment role.

3. The protocol agreed between the Llywydd and First Minister in relation to pre-appointment hearings includes a list of appointments that are subject (at committees' discretion) to pre-appointment hearings. It also makes provision for committees to request to hold a pre-appointment hearing for posts that are not on the list but which the relevant committee considers to be of significant public importance or impact. The protocol provides that the Minister can agree or decline such requests.

4. Not all of the posts on the list are the same in nature. For example, while both are of public interest and have impact, there are considerable differences between posts such as the Older People's Commissioner/Children's Commissioner and the chairs of health boards. The issues pertaining to pre-appointment hearings may therefore be different for different posts.

5. In addition to providing committees with the opportunity to reach a view on whether the preferred candidate is suitable for appointment and/or raise any issues relating to a candidate (for example whether there are any conflicts of interest that need to be resolved before the candidate is appointed), it also fulfils other valuable functions, including:

- Requiring the preferred candidate to outline, on the public record, why they want the role, why they are suited to it, what their priorities would be, and how their success should be judged. This brings transparency to the process, requires the candidate to demonstrate their ability to stand up to scrutiny, and establishes a baseline against which they can be held to account if appointed.
- Forming part of the ongoing scrutiny of an important Welsh Government function—that of making public appointments. For example, through undertaking pre-appointment hearings we have been able to see that two health board chair appointments in recent years have had to be readvertised due to a lack of suitable candidates. As a result, we have raised questions with the Minister about succession planning for senior leadership roles in the health service as well as how Welsh Government is facilitating and encouraging greater diversity among applicants and appointments.

6. The Senedd's scrutiny of pre-appointment hearings is conducted in line with the protocol agreed by the Llywydd and the First Minister, but responsibility for pre-appointment scrutiny is dispersed across the Senedd's structures: responsibility for conducting pre-appointment hearings rests with individual committees; responsibility for scrutiny of public administration rests with the Public Accounts and Public Administration Committee; responsibility for Senedd procedures rests with the Business Committee; and the Chairs' Forum has a role in coordinating and overseeing committee activity and considering emerging issues. It may be helpful for consideration to be given to whether these arrangements are sufficient.

Role of Senedd committees in the public appointment process

7. Committees' role in the public appointment process is limited. While pre appointment scrutiny has an important role in transparency (as set out above), it cannot and should not replace, or be seen to replace, a robust and transparent recruitment process. Therefore, we have been careful to ensure that the recommendations we have made in pre-appointment hearing reports are framed to reflect this limited role.

8. We suggest that to bring consistency across appointments, and ensure committees' roles are better understood, the Chairs' Forum discusses this matter further with a view to agreeing standard wording that could be used when committees are content that they have not seen any reason why a candidate should not be appointed.

9. It would also be helpful if the Chairs' Forum or the Llywydd published clear information about the role of committees in this process (including the protocol agreed with the First Minister), and the Welsh Government includes reference to this information in all adverts/candidate packs.

10. An issue we have raised, and which has been raised by our predecessor Committee in the Fifth Senedd, is whether sufficient action is being taken to attract and encourage sufficient suitable candidates for public appointments.

11. Our predecessor committee in the Fifth Senedd conducted a pre-appointment hearing for the role of chair of Swansea Bay University Health Board (UHB). The post had needed to be readvertised due to a lack of suitable candidates for interview. In addition to reaching a conclusion on the suitability of the preferred candidate, the Fifth Senedd Committee raised three broader issues with the public appointments process:

- The need to expand the range of platforms or outlets used for advertising public appointment vacancies.
- The use of search consultancies.
- The need to identify, analyse and address potential barriers to prospective candidates.¹

12. In his response to the Fifth Senedd Committee's report, the then Minister for Health and Social Services agreed that it was disappointing that the post had needed to be readvertised, and noted that in February 2020 a new Diversity and Inclusion Strategy for Public Appointments in Wales had been launched which would:

"aim to build a robust public appointments pipeline through open, robust and potentially new types of public appointment assessment processes. In building the pipeline, targeted outreach work will be undertaken to raise awareness of the opportunities available to attract new talent. Mentoring, shadowing and training programmes will also be developed to support those interested in becoming board members".²

13. In the summer of 2021, we became aware of an advert for the Chair of Cwm Taf Morgannwg UHB which made no reference to the potential for a pre-appointment hearing. We understand this was because of concerns within Welsh Government about timescales. Ultimately, the recruitment did not attract a suitable field of candidates, and the Minister made an interim appointment instead. A written statement³ was issued in September 2021.

¹ Health, Social Care and Sport Committee, Pre-appointment hearing: chair of Swansea Bay University Health Board, March 2020

² Letter from the Minister for Health and Social Services, 3 April 2020

³ Written Statement: Appointment of Chair – Cwm Taf Morgannwg University Health Board, 21 September 2021

14. The Committee held a post-appointment hearing with the interim Chair in November 2021.⁴ Following the hearing, we wrote to the Minister⁵ expressing disappointment that an interim appointment had been necessary and raising a number of points relating to the public appointments process, including how the Welsh Government will ensure that similar roles attract a diverse range of high quality candidates in the future.

15. In her response,⁶ the Minister said that she shared “the disappointment of the Committee in attracting individuals of a high calibre to apply for these very important roles which has led, in this case, to an interim appointment”. She went on to say that the Welsh Government is committed to undertaking public appointment exercises through fair and open competition in accordance with the Governance Code on Public Appointments, and has taken steps to extend the reach of public appointment publicity activity including targeting and engaging with diverse audiences. She further advised that a Task and Finish Group had been set up to look at succession planning for senior leadership positions in the NHS in Wales.

16. The substantive post was advertised in October 2022, and we agreed with the Welsh Government that we would schedule our pre-appointment hearing with the preferred candidate for 26 January 2023. We were advised by the Welsh Government early in the new year that the hearing was not able to go ahead as planned, although no reason has yet been given.

Approach to scrutiny

17. Policy and legislation committees’ remits include holding the Welsh Government to account on expenditure, administration and policy matters within their portfolios. Within the framework of Standing Orders, any guidance published by the Llywydd under Standing Order 6.17 and, for pre-appointment hearings, the protocol agreed between the Llywydd and the First Minister, committees have discretion to decide how best to fulfil their remits. This includes how to scrutinise public appointments, and those appointed to hold them.

18. We value the constructive and positive relationship we have with the Welsh Government as we perform our scrutiny role. However, we note that there may at times be different views about how we conduct our work, for example in relation to our decision to hold a post-appointment hearing with the interim Chair of Cwm Taf Morgannwg UHB in November 2021, or to proceed with a rescheduled pre-appointment hearing for the Chair of Powys Teaching Health Board in September 2022 when Senedd business resumed after the period of national mourning. On the latter occasion, to accommodate the Welsh Government’s concerns, we agreed to implement a curtailed timetable for

⁴ [RoP](#), 4 November 2021

⁵ [Letter from the Chair to the Minister for Health and Social Services regarding the public appointments process](#), 22 November 2021

⁶ [Response from the Minister for Health and Social Services to the Chair regarding the public appointments process](#), 21 December 2021

the production of our report under which we shared a draft with the Welsh Government and the preferred candidate on the afternoon of the day on which we held the hearing⁷ Unfortunately, the Welsh Government was unable to provide comments within the agreed timescales, and our report could not be laid until the following week.

Provision of information

19. Committee clerks and Welsh Government officials work closely to ensure the mutual objective of holding a pre-appointment hearing takes place without disruption to the Committee's work programmes or delaying the appointment of the preferred candidate. This does, however, rely on the timely provision of information, on both sides, and there have been occasions when this has not happened. In the case of the Chair of the Citizens' Voice Body, we were not provided with the information about the candidate or the appointment process until a week before the hearing was due to take place. As we note in our report⁸ on the appointment, this meant that we had limited time to prepare for the hearing, and were unable to follow the approach taken by the Fifth Senedd Health, Social Care and Sport Committee of inviting the preferred candidate to complete a questionnaire in advance to provide information about their experience or their priorities for the role should they be appointed.

20. There have also been occasions when it has appeared that preferred candidates have been unclear about when information relating to their status as preferred candidate will be put into the public domain in advance of pre-appointment hearings, which are held in public.

⁷ The protocol agreed between the Llywydd and the First Minister regarding pre-appointment scrutiny by Senedd committees states that a committee will publish a report, usually within 48 hours, of the hearing, setting out its view on the candidate's suitability. The protocol also provides that a draft report will be shared in confidence with the relevant Minister and the preferred candidate, usually within 24 hours of the hearing, and that consideration will be given to any comments they make.

⁸ Health and Social Care Committee, [Pre-appointment hearing: chair of the Citizen Voice Body for Health and Social Care](#), March 2022



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref : MA-EM-0021-23

Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
CARDIFF
CF99 1SN

31 January 2023

Dear Llywydd,

The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2023 (“the 2023 Regulations”)

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force on 1 February 2023, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

The 2023 Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (“the Principal Regulations”). The Principal Regulations set the framework for charging persons who are not ordinarily resident in the UK for hospital treatment which is provided in Wales.

Regulation 4D(1) of the Principal Regulations provides that a person who makes a late application to the EU Settled Scheme (“EUSS”) will not be charged for relevant services which are provided while their application is being determined. However, regulation 4D(4) of the Principal Regulations further provides that if the application is unsuccessful then they will be charged for the provision of those relevant services that were received during the period that their application was made and the date on which the application was finally determined.

Having reviewed the policy on charging of late EUSS applicants, I am of the view that the charging for treatment under Regulation 4D(4) of the Principal Regulations, of late EUSS applicants whose application is subsequently rejected, does not reflect the provisions of Article 18 of the Withdrawal Agreement (“WA”) and Article 17 of the EEA EFTA Separation Agreement (“SA”).

Bae Caerdydd • Cardiff Bay
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CF99 1SN

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

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

The 2023 Regulations remove the requirement to charge unsuccessful late applicants to the EUSS for NHS treatment received during the period that their application was under consideration and require that any charges for such services: if made, must not be recovered; or if paid, must be repaid.

Though discussions with the Local Health Boards indicate that no individuals in Wales have been charged or are due to be charged for treatment in this regard, the 2023 Regulations have been made urgently in order to ensure that no unnecessary charges are made (in the event that it transpires that charges are payable), and also to ensure that the Principal Regulations reflect the WA and SA.

I am copying this letter to the Minister for Rural Affairs, North Wales and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Russell George MS Chair of the Health and Social Care Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Explanatory Memorandum to the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2023

This Explanatory Memorandum has been prepared by the Health and Social Service department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2023. I am satisfied the benefits justify the likely costs.

Eluned Morgan MS
Minister for Health and Social Services

31 January 2023

PART 1

1. Description

- 1.1 These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (SI 1989/306 (“the Principal Regulations”).
- 1.2 The Principal Regulations allow Local Health Boards and NHS Trusts (as applicable) in Wales to make and recover charges for relevant healthcare services that are provided to overseas visitors not ordinarily resident in the United Kingdom (UK), unless the overseas visitor or the service they receive falls within a charging exemption.
- 1.3 Regulation 4D(1) of the Principal Regulations provides that a person who makes a late application to the EU Settled Scheme (“EUSS”) will not be charged for relevant services which are provided while their application is being determined. However regulation 4D(4) further provides that if the application is unsuccessful then they will be charged for the provision of those relevant services that were received during the period that their application was made and the date on which the application was finally determined.
- 1.4 These Regulations remove the requirement to charge unsuccessful late applicants to the EUSS for NHS treatment received whilst their application is under consideration, and require that any charges for such services:
 - 1.4.1 If already made, must not be recovered, or
 - 1.4.2 If already paid, must be repaid.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that this instrument will come into force less than 21 days after the instrument has been laid. Early commencement is necessary to ensure that no unnecessary charges are made and also to ensure that the Principal Regulations reflect the provisions of Article 18 of the Withdrawal Agreement (“WA”) and Article 17 of the EEA EFTA Separation Agreement (“SA”).
- 2.2 Even though the Regulations apply prospectively (i.e., on or after the date the amendments come into force) there is an element of retrospectivity to the Regulations since they provide that any charges which have already been made for NHS treatment provided to unsuccessful late applicants during the period that their application was under consideration must not be recovered, and any payments already received must be repaid. The policy justification for these Regulations is provided at paragraph 4.1 below.

3. Legislative background

- 3.1 This instrument is being made under section 124 of the National Health Service (Wales) Act 2006 (the 2006 Act), which confers a power on Welsh Ministers to make regulations for the making and recovery of charges

from persons who are not “ordinarily resident” in the United Kingdom for NHS services.

- 3.2 The instrument is also being made under sections 203(9) and (10) of the 2006 Act and is subject to the negative procedure.

4. Purpose and intended effect of the legislation

- 4.1 The Regulations will ensure that the Principal Regulations reflect the provisions of Article 18 of the WA and Article 17 of the SA with regard to the charging for treatment of late EUSS applicants, and to ensure that unsuccessful late applicants are afforded equal treatment to those applicants who submitted their application to the EUSS within time.

5. Consultation

- 5.1 There is no statutory duty to consult prior to making the recommendations. It is considered that the proposed amendments do not require consultation as they are implementing UK international agreements which apply to the UK as a whole and thereby Wales is obliged to implement and observe them.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

6.1 Two options have been considered:

- **Option 1:** Do nothing, retain the National Health Service (Charges to Overseas Visitors) Regulations 1989 (SI 1989/306) as currently in force.
- **Option 2:** Amend the National Health Service (Charges to Overseas Visitors) Regulations 1989.

Option 1: Do Nothing

6.2 This option would retain the National Health Service (Charges to Overseas Visitors) Regulations 1989 (SI 1989/306) (“the Principal Regulations”) as currently in force, and thereby not amend them to reflect the provisions of the WA and SA with regard to late EUSS applicants.

Costs and Benefits

6.3 The amendment concerns the charging for treatment of individuals, who have submitted a late EUSS application and had their application subsequently rejected, for treatment received while their application was being determined. Local Health Boards have advised the Welsh Government that no individuals with this status have been treated or charged to date. It is not expected that the number of individuals of this status treated and therefore charged would significantly change going forward.

6.4 Retaining the provision would therefore result in minimal benefits to Local Health Boards in terms of income via charging for treatment in the future.

6.5 Retaining the provision would mean the provisions of the WA and SA with regard to late EUSS applicants were not reflected in the Welsh law, in this case the Principal Regulations. The Welsh Government would therefore be in potential conflict with its international obligations.

Option 2: Amend the National Health Service (Charges to Overseas Visitors) Regulations 1989.

6.6 This option would amend the Principal Regulations to reflect the provisions of the WA and SA with regard to late EUSS applicants. The Principal Regulations would be amended to:

- remove the current requirement to charge unsuccessful late applicants to the EUSS for NHS treatment received during the period that their application was under consideration; and
- require that any charges for such services: if made, must not be recovered; or if paid, must be repaid.

Cost and Benefits

6.7 As set out in paragraphs 6.3 above, Local Health Boards have advised the Welsh Government that no individuals of the cohort of concern have

been treated or charged to date. There are therefore no costs to be refunded to individuals by Local Health boards in this regard.

6.8 Given the number of individuals of this status receiving treatment in the future is likely to be low, the removal of this charging provision is expected to have minimal impact on Local Health Board income in the future.

6.9 This amendment would, in the view of the Welsh Government, align Welsh law (in this case the Principal Regulations) with the WA and SA, thereby removing any potential conflict in this regard with regard to Wales' fulfilment of its international obligations.

6.10 Local Health Boards will continue to receive the current annual allocation of £822,000 from Welsh Government for the treatment of overseas visitors who are not chargeable due to reciprocal healthcare agreements. The continuation of this allocation will assist Local Health Boards in cases where no costs are recoverable from overseas visitors.

7. Competition Assessment

7.1 The Regulations are not expected to impact on competition in Wales or the competitiveness of Welsh firms.

8. Post implementation review

8.1 A post implementation review is not required as the changes made by the regulations give effect to international agreements.

HSC(6)-15-23 PTN 6b

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2023 No. 85 (W. 15)

**NATIONAL HEALTH
SERVICE, WALES**

**The National Health Service
(Charges to Overseas Visitors)
(Amendment) (Wales) Regulations
2023**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (S.I. 1989/306) (“the Principal Regulations”), which provide for the making and recovery of charges for relevant services provided under the National Health Service (Wales) Act 2006 (c. 42) to overseas visitors.

Regulation 2 amends regulation 4D of the Principal Regulations, which is concerned with charges for the provision of healthcare services to individuals who have made a late application for leave to enter or remain in the United Kingdom under the European Union Settlement Scheme (“EUSS”). The amendments provide that individuals who have made such an application, but have not been granted EUSS pre-settled or settled status, must not be charged for relevant healthcare services provided to them whilst their application is under consideration, and that any charges for such services—

- if already made, must not be recovered,
- if already paid, must be repaid.

The Welsh Ministers’ code of practice on the carrying out of regulatory impact assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2023 No. 85 (W. 15)

**NATIONAL HEALTH
SERVICE, WALES**

The National Health Service
(Charges to Overseas Visitors)
(Amendment) (Wales) Regulations
2023

Made 29 January 2023

Laid before Senedd Cymru 31 January 2023

Coming into force 1 February 2023

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 124 and 203(9) and (10) of the National Health Service (Wales) Act 2006(1).

Title, commencement and interpretation

1.—(1) The title of these Regulations is the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2023.

(2) These Regulations come into force on 1 February 2023.

(3) In these Regulations, “the Principal Regulations” means the National Health Service (Charges to Overseas Visitors) Regulations 1989(2).

(1) 2006 c. 42.
(2) S.I. 1989/306, amended by S.I. 1991/438; S.I. 1994/1535; S.I. 2004/614; S.I. 2004/696; S.I. 2004/1433 (W. 146); S.I. 2008/2364 (W. 203); S.I. 2009/1175 (W. 102); S.I. 2009/1512 (W. 148); S.I. 2009/1824 (W. 165); S.I. 2009/3005 (W. 264); S.I. 2010/730 (W. 71); S.I. 2010/927 (W. 94); S.I. 2011/1043; S.I. 2011/2906 (W. 310); S.I. 2012/1809; S.I. 2014/1622 (W. 166); S.I. 2020/113 (W. 20); S.I. 2020/1607 (W. 334); S.I. 2021/221 (W. 55); S.I. 2022/89 (W. 30); S.I. 2022/402 (W. 99); S.I. 2022/715 (W. 158); S.I. 2022/1207 (W. 249); there are other amending instruments but none are relevant to these Regulations.

Amendment of the Principal Regulations

2.—(1) The Principal Regulations are amended as follows.

(2) In regulation 4D (persons who make late applications under Appendix EU to the immigration rules)—

- (a) in paragraph (1), for “Subject to paragraph (4), no” substitute “No”;
- (b) omit paragraph (4);
- (c) for paragraph (5) substitute—

“(5) Where a person has made an application mentioned in paragraph (2)(b) or (3)(b) and has received relevant services during the period specified in paragraph (1), if the Local Health Board or NHS trust—

- (a) has made charges for relevant services received during that period, but has not yet recovered them, it must not recover those charges;
- (b) has made and recovered charges for relevant services received during that period, it must repay any sum paid in respect of those charges.”.

Eluned Morgan

Minister for Health and Social Services, one of the
Welsh Ministers
29 January 2023

Agenda Item 3.7

Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services



Llywodraeth Cymru
Welsh Government

Russell George MS
Chair, Health and Social Care Committee

SeneddHealth@senedd.wales

3 February 2023

Dear Russell,

I wrote to you in November 2022 setting out plans to ensure a renewed focus on driving forward elimination of hepatitis B and C in Wales. In doing so I committed to update you on the publication of a number of key documents.

The quality statement for liver disease was published on 30 November 2022 and sets out the Welsh Government's future vision for paediatric and adult liver services in Wales for the next decade. It will be supported by the NHS Executive and implemented through a series of health board enabling plans and collaborations with other networks and programmes:
[The quality statement for liver disease \[HTML\] | GOV.WALES](#)

A Welsh Health Circular titled '*Eliminating hepatitis (B and C) as a public health threat in Wales – Actions for 2022-23 and 2023-24*', was issued to health boards, Public Health Wales, and substance misuse area planning boards on 12 January 2023. It contains a range of challenging actions for delivery partners and progress will be overseen by the recently established, Welsh Government-led Elimination Programme Oversight Group:
[Eliminating hepatitis \(B and C\) as a public health threat: actions for 2022 to 2023 and 2023 to 2024 \(WHC/2023/001\) | GOV.WALES](#)

Please also find attached a written statement that has been issued to accompany the Welsh Health Circular.

I will keep the Committee periodically updated on progress in our drive to eliminate hepatitis B and C as a public health threat.

Yours sincerely

Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Bae Caerdydd • Cardiff Bay
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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.



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Eliminating hepatitis B and C as a public health threat**

DATE **03 February 2023**

BY **Eluned Morgan, Minister for Health and Social Services.**

I am pleased to announce the publication of the [*Eliminating hepatitis \(B and C\) as a public health threat in Wales – Actions for 2022-23 and 2023-24*](#) Welsh Health Circular. This will help Wales to deliver our commitment to achieve the World Health Organisation’s targets to eliminate hepatitis B and C as a public health threat by 2030.

In recent years, we have made some real progress towards these goals. Some 4,000 people have successfully been treated for hepatitis C but recent modelling estimates there are still around 8,000 people in Wales living with hepatitis C.

Hepatitis B screening is now included in our antenatal screening programme and hepatitis B vaccination is part of the routine childhood immunisation programme, which means that acute hepatitis B infection in Wales is now rare in children. However, it remains a problem among unvaccinated adults.

Hepatitis B and C services were severely impacted by the pandemic. I am pleased this Welsh Health Circular sets out how the NHS will not only recover services to pre-pandemic levels but reinvigorate the drive to eliminate hepatitis B and C as a public health threat by 2030. There are 13 key actions for health boards, Area Planning Boards and Public Health Wales to ensure frontline services are provided with the support needed to achieve these elimination targets.

The benefits of eliminating hepatitis B and C are wide ranging, both to individuals and to wider society. By identifying and treating people with hepatitis B and C, we can prevent the development of hepatitis-related liver disease and its complications, which have a significant and detrimental impact on people’s mental and physical health. Additionally, there are significant cost and resource implications to the NHS in treating hepatitis-related liver disease.

Officials have established a Hepatitis B and C Elimination Programme Oversight Group, which includes a wide range of stakeholders to provide a renewed strategic focus on elimination and will report to the Chief Medical Officer and Ministers on a regular basis.

The actions have been developed by this group with a focus on identifying those who need testing and treatment; simplifying service delivery so testing and treatment is accessible to meet the needs of individuals, and supporting people through the testing and treatment process.

I am grateful for all the hard work that has gone into this area to date, and look forward to continued support in our drive to eliminate hepatitis B and C as a public health threat.

Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Agenda Item 3.8

Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee

SeneddLJC@senedd.wales

7 February 2023

Dear Chair,

I am writing in accordance with the inter-institutional relations agreement to notify you of a meeting on 28 February 2023 of the UK Government's Health Minister and Health Ministers of the devolved governments.

In this virtual meeting we will discuss common pressures across the UK national health services and post winter planning and recovery. A communique will be issued after the meeting.

I am copying this to the Chair of the Health and Social Care Committee.

Yours sincerely,



Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

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Agenda Item 3.9

HSC(6)15-23 P119



Russell George MS
Chair
Health and Social Care Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

Dear Russell

Re: Obesity Alliance Cymru

Thank you and the wider Health and Social Care Committee staff for meeting with the OAC on the 1st February. It was useful to hear that the key themes underpinning the Committees work are inequalities and prevention as socio-economic factors play a key role in driving obesity and poor health.

In Wales 66% of men, 56% of women, and 27% of children are above a healthy weight, and obesity among adults in the most deprived groups in Wales is 32% compared with 20% in the least deprived groups. For example, 17.2% of children aged 4-5 in the Merthyr Tydfil had obesity in 2018/19 compared to 7.8% in the Vale of Glamorgan. It has also been projected that obesity and excess weight will cost the NHS in Wales £465 million per year by 2050.¹ The Kings Fund also says that deprived areas have higher concentrations of fast-food outlets and more limited availability of affordable healthy food.

In 2019, the Welsh Government launched Healthy Weight: Healthy Wales, its first ever strategy to tackle obesity. This ten-year plan included commitments to improve the food environment, support children, schools and families, and develop a new obesity treatment pathway. Whilst we welcomed the publication of the recent Healthy Weight: Healthy Wales 2022 to 2024 delivery plan, we do have some concerns that implementation is not as far ahead as we would like. We acknowledge that the pandemic has disrupted/ had an impact on the pace of progress but given the above statistics tackling obesity needs to remain a priority. We would therefore welcome a Health and Social Care Scrutiny Session on the delivery of Health Weight: Healthy Wales.

¹ Welsh Government National Survey for Wales population health
<https://gov.wales/national-survey-wales-population-health> Public Health Wales
Child Measurement Programme for Wales
<https://publichealthwales.nhs.wales/services-and-teams/child-measurement-programme/>
Public Health Wales 2020 'National Survey for Wales 2019-20'
<https://gov.wales/sites/default/files/statistics-and-research/2020-07/adult-lifestyle-national-survey-wales-april-2019-march-2020-390.pdf>

OAC members would like to see the following areas strengthened in order to reduce health inequalities and obesity rates:

1. Implementation of updated school food standards regulations and healthy campuses.
2. Ensure that appropriate data is accessible to tailor services to the needs of the population and to inform future service planning.
3. Continue to maintain multi-year funding to health boards and other partners to deliver sustainable services.
4. Increase the uptake of weight management services, particularly amongst socio-economic groups that are most under-represented in these services. These should include targeted outreach campaigns to encourage uptake from under-represented demographic groups and encouraging healthcare professionals to take-up training and development opportunities about discussing weight and health with patients.

For example, the Diabetes Remission Programme that was rolled out as part of HWHW has saved approximately £23,000 on treating type 2 diabetes, we would like clarification that services such as this will continue over the long term.

Also, the 'All Wales Nutrition Skills for Life Program', led by NHS Wales dietitians, has the potential to do more in deprived communities, however service leads are concerned about the short-term funding of services. They would like to see more permanent funding or at least longer than 1 year at a time, as recruitment is becoming extremely difficult without more certainty.

Dietitians delivering the Nutrition Skills for Life programme, would also be well placed to provide training to enable to wider health and social care workforce to raise the topic of weight in a sensitive and non-stigmatising way, and to integrate nutrition into their work with communities and in early years settings.

I hope this information is helpful, and we look forward to you working with you in the future.

Kind regards,

The Obesity Alliance Cymru

The Obesity Alliance Cymru is a forum for organisations to collaborate, and influence policy on preventing and reducing obesity in Wales.

Current OAC members are: Cancer Research UK, Royal College of Paediatrics and Child Health, Diabetes UK, British Dietetic Association and dietitians from LHB's, British Medical Association, British Heart Foundation, Royal College of Physicians, Bowel Cancer UK, Tenovus Cancer Care, Welsh NHS Confederation, Chartered Society of Physiotherapy, Royal College of Surgeons of England, Nesta, Royal College of Nursing, Royal College of Occupational Therapists, Royal College of Podiatry, British Psychological Society, Royal College of Psychiatrists.



Llywodraeth Cymru
Welsh Government

Russell George MS,
Chair, Health and Social Care Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

9 February 2023

Dear Russell

I am writing to notify you of an amending SI entitled the Food Supplements and Food for Specific Groups (Miscellaneous Amendments) (No. 2) Regulations 2023 (“the correcting SI”), which was laid before UK Parliament on 8 February and comes into force in stages. I apologise that I was not in a position to provide you with early notification, but UK Government did not provide us with the final Statutory instruments until late on Monday 6 February.

The correcting SI amends the existing commencement provision (regulation 1(2)) in the Food Supplements and Food for Specific Groups (Miscellaneous Amendments) Regulations 2023 (“the Miscellaneous Amendments Regulations”) to provide that it comes into force on 10 February 2023, as intended. This addresses an error in the commencement provision which rendered the legislation inoperable.

The correcting SI also inserts transitional provisions into the Food Supplements (England) Regulations 2003, the Food Supplements (Scotland) Regulations 2003 and the Food Supplements (Wales) Regulations 2003 (“2003 GB Food Supplements Regulations”). The provisions provide a defence in any relevant enforcement proceedings in respect of the sale of food supplements which used copper and zinc in the manufacturing process and were marked or labelled prior to the coming into force of the respective amendments in regulation 6(2) of the Miscellaneous Amendments Regulations. This corrects an omission in which a provision ensuring a transition period for food supplements containing copper was not included as per the policy intention for the Miscellaneous Amendments Regulations. It also makes provision for a similar transition period for zinc food supplements.

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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 gave consent to these amendments being undertaken by the Secretary of State as they are required due to oversights in relation to the Miscellaneous Amendment Regulations and they form part of the same policy objectives which those Regulations were made to achieve, to which I previously provided consent. It would seem undesirable in terms of accessibility of the law to split transitional provisions on a territorial basis when the main provision was made on a UK wide basis.

The correcting SI also makes the transitional amendments to the Welsh language text of the Food Supplements (Wales) Regulations 2003, which retains their language accessibility for Welsh readers.

I have also sent a letter to the Chair of the Children, Young People, and Education Committee and Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely,



Lynne Neagle AS/MS

Y Dirprwy Weinidog Iechyd Meddwl a Llesiant
Deputy Minister for Mental Health and Wellbeing

Agenda Item 6

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Agenda Item 7

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Agenda Item 8

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