

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video conference via Zoom	P Gareth Williams
Meeting date: 24 April 2023	Committee Clerk
Meeting time: 12.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest
(12.30)

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

(12.30 – 12.35)

(Page 1)

Attached Documents:

LJC(6)-12-23 – Paper 1 – Draft report

2.1 SL(6)343 – The Genetically Modified Food and Feed (Authorisations and Modifications of Authorisations) (Wales) Regulations 2023

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

(12.35 – 12.40)

Made Negative Resolution Instruments



3.1 SL(6)341 – The Food Additives, Food Flavourings, and Novel Foods (Authorisations) and Food and Feed (Miscellaneous Amendments) (Wales) Regulations 2023

(Pages 2 – 5)

Attached Documents:

LJC(6)-12-23 – Paper 2 – Draft report

3.2 SL(6)345 – The Education Workforce Council (Main Functions) (Wales) (Amendments Relating to Parental Bereavement Leave and Shared Parental Leave) Regulations 2023

(Pages 6 – 7)

Attached Documents:

LJC(6)-12-23 – Paper 3 – Draft report

4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered (12.40 – 12.45)

4.1 SL(6)336 – The Duty of Candour Procedure (Wales) Regulations 2023

(Pages 8 – 14)

Attached Documents:

LJC(6)-12-23 – Paper 4 – Report

LJC(6)-12-23 – Paper 5 – Letter from the Minister for Health and Social Services, 14 April 2023

LJC(6)-12-23 – Paper 6 – Letter to the Minister for Health and Social Services, 31 March 2023

4.2 SL(6)340 – The Construction Contracts (Exclusion) (Wales) Order 2023

(Pages 15 – 21)

Attached Documents:

LJC(6)-12-23 – Paper 7 – Report

LJC(6)-12-23 – Paper 8 – Letter from the Minister for Climate Change, 17 April 2023

LJC(6)-12-23 – Paper 9 – Letter to the Minister for Climate Change, 31 March 2023

5 Motion under Standing Order 17.42 to resolve to exclude the public from items 6, 9 and 10

(12.45)

6 Food (Wales) Bill: Draft report

(12.45 – 13.05)

(Pages 22 – 64)

Attached Documents:

LJC(6)-12-23 – Paper 10 – Draft report

(Public Session)

7 Inter-Institutional Relations Agreement

(13.05 – 13.10)

7.1 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Plant Health and Phytosanitary Conditions (Oak Processionary Moth and Plant Pests) (Amendment) Regulations 2023

(Pages 65 – 66)

Attached Documents:

LJC(6)-12-23 – Paper 11 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 30 March 2023

7.2 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: Legislative amendments to allow a change in Salmonella Serotyping

(Pages 67 – 69)

Attached Documents:

LJC(6)-12-23 – Paper 12 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 3 April 2023

7.3 Written Statement by the Minister for Rural Affairs and North Wales, and Trefnydd: The REACH (Amendment) Regulations 2023

(Page 70)

Attached Documents:

LJC(6)-12-23 – Paper 13 – Written Statement by the Minister for Rural Affairs and North Wales, and Trefnydd, 12 April 2023

8 Papers to note

(13.10 – 13.25)

8.1 Correspondence from the Economy, Trade, and Rural Affairs Committee to the Llywydd: Economic Crime and Corporate Transparency Bill

(Page 71)

Attached Documents:

LJC(6)-12-23 – Paper 14 – Letter from the Economy, Trade, and Rural Affairs Committee to the Llywydd, 28 March 2023

8.2 Correspondence from the Minister for Economy: Trade (Australia and New Zealand) Bill

(Page 72)

Attached Documents:

LJC(6)-12-23 – Paper 15 – Letter from the Minister for Economy, 29 March 2023

8.3 Written Statement by the Counsel General and Minister for the Constitution: Electoral Reform White Paper

(Pages 73 – 74)

Attached Documents:

LJC(6)-12-23 – Paper 16 – Written Statement by the Counsel General and Minister for the Constitution, 30 March 2023

8.4 Written Statement by the First Minister: Update on Senedd Reform

(Pages 75 – 76)

Attached Documents:

LJC(6)-12-23 – Paper 17 – Written Statement by the First Minister, 4 April 2023

8.5 Written Statement by the Minister for Finance and Local Government: The UK Government's Non-Domestic Rating Bill

(Pages 77 – 78)

Attached Documents:

LJC(6)-12-23 – Paper 18 – Written Statement by the Minister for Finance and Local Government, 5 April 2023

8.6 Written Statement by the Minister for Economy: Update on Border Controls

(Pages 79 – 80)

Attached Documents:

LJC(6)-12-23 – Paper 19 – Written Statement by the Minister for Economy, 5 April 2023

8.7 Correspondence from the Minister for Social Justice to the Llywydd: Victims and Prisoners Bill

(Pages 81 – 82)

Attached Documents:

LJC(6)-12-23 – Paper 20 – Letter from the Minister for Social Justice to the Llywydd, 11 April 2023

8.8 Correspondence from the Minister for Finance and Local Government: Welsh Government response to the Committee's Report on the Welsh Government's Supplementary Legislative Consent Memoranda on the Procurement Bill

(Pages 83 – 87)

Attached Documents:

LJC(6)-12-23 – Paper 21 – Letter from the Minister for Finance and Local Government, 18 April 2023

LJC(6)-12-23 – Paper 22 – Letter to the Minister for Finance and Local Government, 11 April 2023

8.9 Correspondence from the Finance Committee to Committee Chairs: Welsh Government Draft Budget 2024–25

(Pages 88 – 90)

Attached Documents:

LJC(6)–12–23 – Paper 23 – Letter from the Finance Committee to Committee Chairs, 19 April 2023

8.10 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: Retained EU Law (Revocation and Reform) Bill

(Pages 91 – 94)

Attached Documents:

LJC(6)–12–23 – Paper 24 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 19 April 2023

LJC(6)–12–23 – Paper 25 – Letter to the Minister for Rural Affairs and North Wales, and Trefnydd, 23 March 2023

(Private Session)

9 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Economic Crime and Corporate Transparency Bill: Draft report

(13.25 – 13.35)

(Pages 95 – 101)

Attached Documents:

LJC(6)–12–23 – Paper 26 – Draft report

10 International agreements

(13.35 – 13.40)

(Pages 102 – 105)

Attached Documents:

LJC(6)–12–23 – Paper 27 – Briefing

Statutory Instruments with Clear Reports 24 April 2023

SL(6)343 – The Genetically Modified Food and Feed (Authorisations and Modifications of Authorisations) (Wales) Regulations 2023

Procedure: Made Negative

These Regulations authorise the placing on the market, in Wales, of specified genetically modified food and feed products for the purposes of Regulation (EC) No 1829/2003 on genetically modified food and feed. These Regulations also modify the authorisation holders' details for a number of existing authorisations.

As of 1 January 2021, Great Britain has been responsible for the risk assessment and authorisation of regulated food and feed products. In Wales, the Food Standards Agency is responsible for risk assessing regulated food and feed products. As the 'appropriate authority', the Welsh Ministers make decisions on authorisations in relation to Wales. Authorisations are valid for ten years and authorisation holders may apply to renew the authorisation for continued marketing.

The eight Genetically Modified Organisms (GMOs) applications consist of six new and two renewal applications. The GMOs have been authorised for use in the EU. Corresponding legislation has been made in England and Scotland and the regulations across Great Britain will come into force on 26 April 2023.

Parent Act: Articles 7(3), 19(3) and 35(3)(b) of Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed

Date Made: 28 March 2023

Date Laid: 29 March 2023

Coming into force date: 26 April 2023



Agenda Item 3.1

SL(6)341 – The Food Additives, Food Flavourings, and Novel Foods (Authorisations) and Food and Feed (Miscellaneous Amendments) (Wales) Regulations 2023

Background and Purpose

These Regulations make provision, in relation to Wales, on regulated food product authorisations. They also make minor corrections to food law and animal feed law.

- Part 2 of these Regulations provides for the authorisation, in relation to Wales, of the placing on the market and use of the food additive E 960c (*rebaudioside M produced via enzyme modification of steviol glycosides from Stevia*), the renaming of an existing authorisation for food additive E 960 (*steviol glycosides*) to E 960a (*steviol glycosides from Stevia*), associated transitional provisions and makes minor corrections.
- Part 3 of these Regulations provides for the authorisation, in relation to Wales, of the placing on the market and use of the food flavouring "3-(1-((3,5-dimethylisoxazol-4-yl)methyl)-1H-pyrazol-4-yl)-1-(3-hydroxybenzyl)imidazolidine-2,4-dione".
- Part 4 of these Regulations extends an existing authorisation for the novel food "UV-treated baker's yeast (*Saccharomyces cerevisiae*)" to additional specified food categories and authorises a new vitamin D₂ mushroom powder as a novel food for use in specified food categories.
- Part 5 of these Regulations contains minor corrections to various Welsh subordinate instruments on food law and animal feed law.

Part 5 of these Regulations came into force on 14 April 2023. Parts 2, 3 and 4 come into force on 15 May 2023.

Procedure

Negative.

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

Technical Scrutiny

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



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

Regulation 2 and paragraph 4(h) of Schedule 1 substitute E-numbers “E 960a and E 960c” in category 05.1 in the table appearing in Part E of Annex 2 to Regulation (EC) No 1333/2008. This authorises the use of those E-numbers as food additives in certain cocoa and chocolate products.

However the provision also inserts a reference to footnote “(1)” in connection with the authorisation, which is not a reference to a footnote appearing within category 05.1 in the table. Information relating to the authorisation therefore appears to be missing.

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

Regulation 2 and paragraph 4(i)(ii) of Schedule 1 substitute E-numbers “E 960a and E 960c” in category 05.2 (other confectionery including breath freshening microsweets) of the table in Part E of Annex 2 to Regulation (EC) No 1333/2008. The substituted entry includes a restriction on the authorisation which reads “only cocoa, milk, dried-fruit-**based [emphasis added]** or fat-based sandwich spreads,...”.

This wording appears to authorise the use of the above E-numbers for two specific types of sandwich spread (namely, dried-fruit-based sandwich spreads and fat-based sandwich spreads). However, it is unclear whether this is the intention of the drafting when comparing the wording of that restriction to similar existing restrictions in category 05.2 of the table, which make reference to “only cocoa, milk, dried fruit or fat-based sandwich spreads,...”.

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

Regulation 2 and sub-paragraphs (o), (p) and (q) of paragraph 4 in Schedule 1 substitute authorisations for E numbers “E 960a and E 960c” in place of “E 960” for various categories of table-top sweeteners, being sweeteners in liquid form, powder form and tablets respectively. However, the substituted authorisations do not specify whether the additives may be added individually or in combination, which is contrary to other authorisations in the table in Part E of Annex 2 to Regulation (EC) No 1333/2008 which refer to E numbers collectively. It is therefore not immediately clear whether this is a deliberate omission and, if so, how the authorisation for these particular additives should be interpreted.

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

Regulation 3 and Schedule 2 amend the Annex to Commission Regulation (EU) No 231/2012 by substituting “E 960a Steviol Glycosides from Stevia” as a heading for the existing entry referring to “E 960 Steviol Glycosides”, and inserting a new entry for E 960c (“Rebaudioside M produced via enzyme modification of steviol glycosides from stevia”).



However Article 4 of Commission Regulation (EU) No 231/2012 (Entry into force) continues to make reference to a specification laid down in the Annex for “steviol glycosides (E 960)”, which no longer appears in the Annex as a result of the amendments made by these Regulations.

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

Regulation 6 and Schedule 5 update the list of authorised novel foods in the Annex to Commission Implementing Regulation (EU) 2017/2470 by inserting a new entry authorising a new vitamin D₂ mushroom powder as a novel food for use in specified food categories.

The list of novel foods in the Annex consists of two tables. “Table 1” lists each authorised novel food and its associated conditions of use and other requirements (for example, various maximum permitted levels of vitamin D₂ in different food categories). “Table 2” lists each authorised novel food and its corresponding specifications.

The Annex (as amended by these Regulations) now contains entries for two types of “Vitamin D₂ mushroom powder”. While the name ascribed to these novel foods in the Annex is the same, the specifications and conditions of use for the two entries differ. Accordingly, there appears to be scope for confusion for a reader of the legislation in determining which specification for Vitamin D₂ mushroom powder in Table 2 corresponds to the relevant conditions and other requirements for use appearing in Table 1.

Merits Scrutiny

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

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

Part 5 of these Regulations makes correcting amendments to three Welsh statutory instruments to address technical scrutiny points 2, 3 and 5 identified in this Committee’s report on the Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022.

The Explanatory Memorandum to these Regulations notes (at paragraph 3) that the other two technical scrutiny points identified by the Committee in that report were addressed prior to publication of those Regulations.

Welsh Government response

A Welsh Government response to the technical scrutiny points is required.



Legal Advisers
Legislation, Justice and Constitution Committee
19 April 2023



Agenda Item 3.2

SL(6)345 – The Education Workforce Council (Main Functions) (Wales) (Amendments Relating to Parental Bereavement Leave and Shared Parental Leave) Regulations 2023

Background and Purpose

These Regulations amend the Education Workforce Council (Main Functions) (Wales) Regulations 2015 (“the 2015 Regulations”).

The 2015 Regulations provide that a person may not carry out specified work in a school unless they are a qualified teacher or satisfy the requirements in at least one paragraph of Schedule 3. A learning support worker may also carry out specified work in a school if they satisfy the conditions set out in regulation 18A.

In some circumstances, the person can only carry out “specified work” for a specified period without obtaining qualified teacher status. Currently, the Education Workforce Council will extend the specified period in circumstances where a person is absent from work as a result of exercising their right to one of the listed statutory rights, which are maternity leave, parental leave, paternity leave and adoption leave. The Regulations amend the 2015 Regulations to add parental bereavement leave and shared parental leave to this list.

Procedure

Negative.

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

Technical Scrutiny

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

Merits Scrutiny

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

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



No consultation has been carried out in relation to the Regulations. The Explanatory Memorandum to the Regulations states:

The Education (Wales) Act 2014 imposes no legal duty to consult in relation to the proposed amendment regulations. Welsh Government officials have engaged closely with the Education Workforce Council in the preparation of these amending regulations. Formal consultation was not undertaken as this is not a policy in development, but rather an instrument to make appropriate consequential amendments to the 2015 Regulations following the making of the Children and Families Act 2014 and the Parental Bereavement (Leave and Pay) Act 2018.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

17 April 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee

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Agenda Item 4.1

SL(6)336 – The Duty of Candour Procedure (Wales) Regulations 2023

Background and Purpose

The Health and Social Care (Quality and Engagement) (Wales) Act 2020 introduces an organisational duty of candour on NHS bodies (including primary care) in Wales where:

- (i) a person to whom health care is being or has been provided has suffered an adverse outcome; and
- (ii) the provision of health care was or may have been a factor in the person suffering that outcome.

These Regulations are made under that Act and set out a procedure (“the candour procedure”) that must be followed by an NHS body when the duty of candour is triggered.

These Regulations also make consequential amendments to the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 to ensure that the candour procedure works in harmony with existing arrangements under those Regulations.

Procedure

Negative.

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

Technical Scrutiny

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

Merits Scrutiny

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

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



Regulation 4(3)(b) makes reference to section 3(2) and (3) of the Health and Social Care (Quality and Engagement) (Wales) Act 2020. However, section 3 of that Act has not yet been commenced.

Article 2 of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 (Commencement No. 3) Order 2023 brought section 4 of the Act into force from 7 March 2023 (to the extent necessary for the purpose of making regulations), but section 3 was not commenced at that time. Can the Welsh Government give an indication of when a commencement order can be expected in relation to section 3?

Welsh Government response

Merit Scrutiny point 1:

Section 3 of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 will be brought into force on 1st April 2023 to coincide with the date on which the Duty of Candour Procedure (Wales) Regulations 2023 come into force.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 27 March 2023 and reports to the Senedd in line with the reporting point above. The Committee agreed to write to the Minister for Health and Social Services to seek further information.





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

SeneddLJC@senedd.wales

14 April 2023

Dear Huw,

Thank you for your letter dated 31 March 2023, requesting a response to questions raised at the Legislation, Justice and Constitution Committee meeting on the 27 March 2023.

I want to thank you for raising these important points and I trust my response provides the clarity and reassurance requested in relation to the Duty of Candour Procedure (Wales) Regulations 2023.

We note that a consultation was undertaken during the autumn of 2022. Please can you:

a) Explain why the Regulations were then not laid before the Senedd until 9 March 2023?

The consultation closed 16 December 2022 after a short extension to enable some additional key stakeholders the opportunity to respond. We received over 130 responses and some 1200 comments.

This took time to analyse effectively and required us to communicate with some of the respondents to discuss their comments to ensure we captured accurately the helpful suggested amendments they had made. These respondents included primary care stakeholder organisations and the BMA Cymru Wales. These responses then needed careful consideration and where amendments were made, these needed further development. For example, the BMA Cymru Wales highlighted concerns about the resource inequity between Health Board complaints teams and Primary Care providers directly effecting their ability to respond in a timely manner to Duty of Candour incidents. We therefore changed the written response time expected to 5 working days after the date of the In-person notification (previously it had stated within 2 working days).

b. Confirm that guidance regarding the Regulations was not sent to relevant organisations until week commencing 20 March 2023, and explain why this was the case?

The final Statutory Guidance, supporting materials and Regulations were sent to the NHS bodies the week commencing the 20 March 2023, however, it should be noted that a final

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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.

draft was also shared with executive leads for the duty of candour in all NHS bodies (HB's, NHS Trusts and SHA's) who make up the Implementation Board for the Duty of Candour and Quality on 24 February 2023. These executive leads for HB's also share responsibility for primary care services. Additionally, a representative from the National Strategic Programme for primary care for Wales is also a member and was advising throughout the development and implementation phases.

The consultation version of the guidance and Regulations was shared with all stakeholders and NHS bodies since September 2022 and conversations with these stakeholders around the content of the guidance and Regulations were had throughout this period. This collaborative model continued throughout the development of duty of candour here in Wales. All Primary care contractor representative organisations participated in the formation of the guidance through stakeholder events over the previous 2 years.

The statutory guidance was shared and understood by the NHS bodies to whom the duty came in to force from the 1st of April 2023.

It is important to recognise that the duty of candour represents an incremental change building upon the exiting putting things right guidance and Regulations which primary care providers and NHS bodies have been subject to since 2011.

c. Explain why the Welsh Government wishes for the Regulations to come into force on 1 April 2023?

In view of the policy objectives underpinning both Duties, and the associated benefits of such duties for the health service and the people of Wales; the decision was taken rightly to proceed to implement the Duties on the 1 April as planned. This was also the consensus in the feedback from the NHS bodies.

There does not appear to be an implementation period to help relevant organisations ensure they have the correct and required processes in place. Please can you:

a). Confirm that this is the case, and explain why not?

There has been an extensive implementation programme from 2021 overseeing NHS preparation lead by an NHS and Welsh Government Steering Group and since Autumn 2022 an NHS Implementation Board has been leading NHS preparedness. The membership of which is made up of lead executives from NHS Health boards, NHS Trusts and Special Health Authorities, who are charged with ensuring their organisation is ready for the implementation of both the duties of Candour and of Quality. This has been a highly successful model with critical engagement and leadership necessary to help organisations have the correct processes in place.

Significant stakeholder training and engagement sessions have been ongoing since autumn 2022 to enable NHS bodies Executives Boards and Senior Management teams be fully prepared for the incoming Duty of Candour. All NHS organisations have provided assurance through written letters to the national clinical director in Welsh Government and during their Joint Executive Team (JET) /Integrated Quality, Planning and Delivery (IQPD) meetings that their preparation was underway and that they were confident they would be prepared to begin the duty on the 1 April. It should also be noted that the implementation date has been shared publicly since September 2022.

The combination of these points answers the question as to why there is not an additional implementation period after the Duties are enacted and become legally binding.

b. Confirm whether such a period was considered?

An implementation period was not considered necessary as WG was working in partnership with all NHS Bodies through their executive members and other key stakeholders present at the Implementation Board in the run up to 1 April 2023. It is of note that the Health and Care Quality and Engagement (Wales) Act received Royal Assent on 1 June 2020.

Will the Welsh Government ensure there are review processes in place so that the relevant guidance can be amended should any issues with the operation of the new system be identified, and can you confirm the timings of any such review?

Normal review process is in place with the aim to review the guidance 5 years after implementation. There is continued support and oversight of NHS bodies through the Welsh Government Joint Executive Team (JET) meetings and the newly formed Candour Network which also includes primary care representatives.

In conclusion I hope that this letter has answered fully the questions posed to the Committee by the BMA Cymru Wales and that adequate reassurance has been provided in terms of the careful preparatory work and support to NHS organisations to implement the duty of candour.

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

Eluned Morgan MS
Minister for Health and Social Services

31 March 2023

Dear Eluned

The Duty of Candour Procedure (Wales) Regulations 2023

At our meeting on 27 March 2023 we considered the Duty of Candour Procedure (Wales) Regulations 2023 (the Regulations).

Concerns have been raised with us by BMA Cymru Wales, not least because we have been told that guidance related to the Regulations was only sent to it and other organisations the week commencing 20 March 2023 and the Regulations are due to come into force on 1 April 2023.

BMA Cymru Wales has also told us that the responses submitted to the Welsh Government as part of the consultation process which informed the development of the Regulations have yet to be published.

We agreed that we would seek further clarity from you about the development of these Regulations, and would welcome your response to the following questions:

We note that a consultation was undertaken during the autumn of 2022. Please can you:

- a. Explain why the Regulations were then not laid before the Senedd until 9 March 2023?
- b. Confirm that guidance regarding the Regulations was not sent to relevant organisations until week commencing 20 March 2023, and explain why this was the case?
- c. Explain why the Welsh Government wishes for the Regulations to come into force on 1 April 2023?

There does not appear to be an implementation period to help relevant organisations ensure they have the correct and required processes in place. Please can you:

- a. Confirm that this is the case, and explain why not?

b. Confirm whether such a period was considered?

Will the Welsh Government ensure there are review processes in place so that the relevant guidance can be amended should any issues with the operation of the new system be identified, and can you confirm the timings of any such review?

I would be grateful to receive your response by 17 April 2023.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

SL(6)340 – The Construction Contracts (Exclusion) (Wales) Order 2023

Background and Purpose

Part 2 of the Housing Grants, Construction and Regeneration Act 1996 (**the Act**) makes provision as regards the terms of construction contracts. Section 106A(2) of the Act confers power on the Welsh Ministers to disapply any or all provisions of Part 2 in relation to any description of construction contracts concerning the carrying out of specified construction operations in Wales.

This Order disapplies Part 2 of the Act in relation to certain infrastructure project contracts in Wales where a party to the contract is a sewerage or water undertaker, subject to requirements including:

- the contract must relate to a project designated by the Water Services Regulation Authority as a 'direct procurement for customers' (**DPC**) project in accordance with the conditions of the relevant undertaker's appointment;
- the contract must involve the making of regular payments by reference to actual costs incurred and which become due after one or more parts of the construction operations are completed and can perform a sewerage or water service.

The Order also disapplies section 110(1A) of the Act in relation to the kind of contract referred to, above, where a party to that contract enters into a sub-contract. Section 110(1A) of the Act provides that the requirement that contracts provide an adequate mechanism for establishing what payments become due and when under the contract is not met if payment is conditional on obligations being performed under another contract.

Paragraph 4.4 of the Explanatory Memorandum states that there is currently only one project to which this Order could apply, being the Dŵr Cymru Welsh Water Cwm Taf water treatment works.

Procedure

Draft Affirmative

The Welsh Ministers have laid a draft of the Order before the Senedd. The Welsh Ministers cannot make the Order unless the Senedd approves the draft Order.

Technical Scrutiny

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

Merits Scrutiny



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

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

The Explanatory Memorandum says:

“4.9. Ofwat have stipulated that water companies should not pay the [Competitively Appointed Provider] for these projects until they have been completed and become operational so water companies (funded by customer bills) will not have to pay before the work is completed and delivered.”

“4.11. Parties entering into DPC procurements will have full knowledge of the terms including that payment will only commence after construction has been completed.”

However, article 3(1)(d) of the Order says that, in order for Part 2 of the Act to be disapplied, the contract must fulfil the condition that (emphasis added):

*“(d) the consideration due under the contract consists, **at least in part**, of regular payments that—*

(i) are determined in part by reference to the actual cost of the construction operations to which the contract relates, and

*(ii) become payable after **at least one part** of those construction operations is completed and is capable of performing a sewerage or water service.”*

We would be grateful if the Welsh Government could clarify the extent to which payments must be made only after projects have been completed.

Welsh Government response

Merit Scrutiny point 1:

The purpose of the draft Construction Contracts (Exclusion) (Wales) Order 2023 is to exclude from relevant construction contracts various protections (such as staged payments) which those contracts would otherwise have under Part 2 of the Housing Grants, Constructions and Regeneration Act 1996 (“the Act”).

Section 110(1A) of the Act prevents any term in a construction contract which makes payment conditional on the performance of an obligation under another contract.

Due to the financing arrangements of Direct Procurement for Customers (“DPC”) contracts, payment to the firm that has delivered the infrastructure by the commissioning water and sewerage firm only commences once at least one stage (or part) of the sewerage or water asset has been completed and is capable of operating.

The Competitively Appointed Provider (“CAP”) agreement and first tier sub-contracts fall under the definition of a construction contract and therefore may be subject to challenge for non-



compliance with the Act. If non-compliant, the relevant payment provisions of the Scheme for Construction Contracts would be implied in the contract and take precedence over contract provisions designed for DPC. This would adversely affect the structure and operation of these DPC agreements.

The Order excludes two types of construction contract from the Act:

- DPC CAP Contracts - excluded from all requirements of Part 2 of the Act; and
- DPC First Tier Sub-Contracts - excluded from section 110(1A) of the Act.

All remaining construction contracts through the supply chain remain subject to the provisions of the Act.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 27 March 2023 and reports to the Senedd in line with the reporting point above. The Committee agreed to write to the Minister for Climate Change to seek further information.





Ein cyf/Our ref: JJ/PO/121/2023

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

17 April 2023

Dear Huw,

Thank you for your letter of 31 March, regarding the Committee's scrutiny of the Construction Contracts (Exclusion) (Wales) Order 2023.

The purpose of this Order is to allow DPC projects to sit outside some of the requirements of Part 2 of the Housing Grants Construction and Regeneration Act 1996 ('the Act'). The exclusion would cover the agreements between water companies and Competitively Appointed Providers (the CAP) and the construction contracts between the CAP and the first-tier supply chain. The exclusion would not apply to second and third tier supply chain parties – these will remain subject to the provisions of the Act.

DPC projects will be structured in a way which is similar to the Welsh Government Mutual Investment Model (MIM). Water companies are purchasing a service from the CAP – which includes the design, build, finance, and (in some cases) operations and maintenance of an asset or programme/system of assets. The CAP will be paid a CAP Charge over the life of the DPC project similar to the Annual Service Payment in MIM.

As a result, it is expected the CAP will not receive payment until construction of the project (or part of the project) is complete and capable of providing a service. This may include, for example, payment only at the end of the construction of the project, but also stage payments for when parts of DPC projects are complete and providing a service.

The Act requires payment to be made for construction activity as it progresses and not on completion of the construction activity at the end of the construction period or in staged payments which reflect phases of construction activity. The DPC project structure cannot operate unless there is an exemption from the application of these aspects of the Construction Act. Therefore, the relevant contracts have to come within the scope (i.e. the definitions) of Part 2 of the Act before being excluded from the effect of those provisions by means of this Order. It is an Exclusion Order. It can be understood as a two stage process; (i) the contract coming within the scope of Part 2 of the Act and then (ii) being excluded from the effects of Part 2. Therefore, there is not in fact a contradiction between the Order and the Explanatory Memorandum.

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Example of DPC in action

Furthermore, the Ofwat scheme can be operated with some flexibility which allows a degree of staged payments provided that the part of the project which has been completed is operational and providing a service. The key objective of this Exclusion Order (and of a parallel Order already made in England) is to exclude the rigid provisions of Part 2 of the Act which would otherwise apply.

For example, the Haweswater Aqueduct Resilience Project (HARP) project in England which is currently being procured by United Utilities for delivery via DPC, includes the replacement of six tunnel sections of the existing aqueduct. The DPC project is structured to enable stage payments on completion and operation of each of the tunnel sections. The payment at each stage is determined in part with reference to the actual cost of construction operations. For the HARP project this approach is possible because when each tunnel segment is complete it will provide a benefit to customers.

The total cost of the HARP project is in excess of £1bn and the nature of the tunnelling work is complex. Staged completion aids the financing of the project.

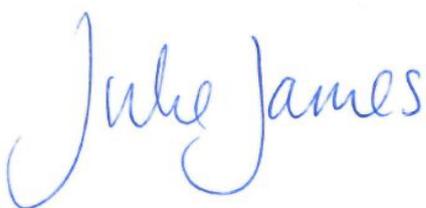
Ofwat's guidance for DPC projects anticipates that different approaches may be required on different projects and requires companies to consider the specific characteristics of their projects and how timing of payments can be structured to offer best value for customers.

With regards to article 3(d) of the Welsh Order 2023, the intention is to provide sufficient detail that allows relevant contracts to be identified and exempt from Part 2 of the Act, but without dictating payment arrangements and permitting some flexibility for water companies to take account of their project specific arrangements. Therefore, the wording in article 3(d) includes a reference to regular payments that are determined in part by reference to the actual cost of construction operations and become payable after at least one part of construction operations is completed and is capable of performing a service.

In terms of the Ofwat process in relation to the procurement and award of DPC projects, DPC is given effect through a condition in water companies' Instruments of Appointment ("licences"). Before a project can be put out to tender, the DPC project must be designated by Ofwat under the licence, and the water company must get Ofwat's consent to launch a tender process. The water company must also gain Ofwat's consent prior to entering into an agreement with a prospective CAP at the end of the procurement process.

In reaching a decision on whether to withhold consent, amongst other things, Ofwat takes into account the proposed commercial arrangements for the project and how they deliver value for money for customers, this includes the timing of any payments to the CAP.

Yours sincerely,



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

Julie James MS
Minister for Climate Change

31 March 2023

Dear Julie

The Construction Contracts (Exclusion) (Wales) Order 2023

At our meeting on 27 March 2023 we considered The Construction Contracts (Exclusion) (Wales) Order 2023 (the draft Order).

You will know that our report on the draft Order contains only one merits point relating to a lack of clarity around the point at which payments may be made under a relevant contract. At our meeting, we also considered the Welsh Government response to this reporting point and we concluded that it did not resolve our concerns completely.

We agreed that further clarity was needed and, as such, we would be grateful if you would provide the following information.

According to paragraph 4.9 of the Explanatory Memorandum, Ofwat has stipulated that water companies, funded by customer bills, should not make payments for relevant construction projects until after these projects have been completed and become operational.

It is unclear how article 3(1)(d) of the draft Order accords with the Ofwat stipulation as described in the Explanatory Memorandum, because:

- A contract may be within scope of the article 3(1)(d) if only **part** of the payment becomes due after completion of construction. This means that the contract may also include payment that is due **before** any construction is completed.
- A contract may be within scope of article 3(1)(d) if payment becomes due after completion of **one part** of construction operations, and not only after completion of the entire project.

We would welcome clarification of the precise wording of the Ofwat stipulation, and how this interacts with the requirements set out in article 3(1)(d).

I would be grateful to receive your response by 17 April 2023.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

Agenda Item 6

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

Document is Restricted

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



Llywodraeth Cymru
Welsh Government

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

SeneddLJC@senedd.wales

30th March 2023

Dear Huw,

The Plant Health and Phytosanitary Conditions (Oak Processionary Moth and Plant Pests) (Amendment) Regulations 2023

I wish to inform the Committee of the intention to consent to the UK Government making and laying The Plant Health and Phytosanitary Conditions (Oak Processionary Moth and Plant Pests) (Amendment) Regulations 2023 ("the Regulations") by 2 May 2023.

I received a letter from Lord Benyon, Minister for Biosecurity, Marine and Rural Affairs, requesting consent to the Regulations. The Regulations will be made by the Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by Articles 8(5), 17(1), 28(1) and (4), 37(5), 48(5), 105(6) of, and Annex 2 to, Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants. Article 2a (2) of the Regulation (EU) 2016/2031 provides that such Regulations can be made by the Secretary of State with the consent of the Welsh Ministers.

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The Regulations will introduce a regulation to set out measures against the specific GB Quarantine Pest (QP) Oak Processionary Moth (OPM), concerning containment of that GB QP to protect the pest-free area (this applies only in England). They correct a mistake introduced in EU exit legislation regarding a table setting out the growing season thresholds of Regulated Non-Quarantine Pests (RNQPs) on seed potatoes. The Regulations also introduce a minor correction to The Pests of Plants (Authorisations) (Amendment) Regulations 2022 which will clarify certain requirements on the application for the place of origin of the licensed pest.

The Statutory Instrument (SI) is subject to the negative procedure and is due to be laid before UK Parliament on 2 May 2023 with a commencement date of 24 May 2023.

The Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales. I would like to reassure this Committee it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. The major changes introduced in the Regulations (the OPM changes) only apply to an area which is centred on London area at present. The other changes in the Regulations are minor and technical in nature, amend existing GB-wide legislation and any divergence in regulations between Wales and England would cause greater confusion and burden for delivery bodies and industry. On this occasion, I consider legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities. Therefore, I am giving my consent to these Regulations. There is no policy divergence between the Welsh and UK Government in this matter.

Yours sincerely

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

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

Ein cyf/Our ref MA-LG-0367-23

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

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Cc: Counsel General and Minister for the Constitution

3rd April 2023

Dear Huw,

Legislative amendments to allow a change in Salmonella Serotyping

The UK government has requested my consent to progress GB-wide secondary legislation, required to amend 4 pieces of retained EU legislation, concerned with targets for the various requirements for sampling and testing for Salmonella.

- **Regulation 1190/2012** (concerning a Union target for the reduction of Salmonella Enteritidis and Salmonella Typhimurium in flocks of turkeys)
- **Regulation 517/2011** (as regards a Union target for the reduction of the prevalence of certain Salmonella serotypes in laying hens of Gallus gallus)
- **Regulation 200/2012** (concerning a Union target for the reduction of Salmonella enteritidis and Salmonella typhimurium in flocks of broilers)
- **Regulation 200/2010** (as regards a Union target for the reduction of the prevalence of Salmonella serotypes in adult breeding flocks of Gallus gallus)

The minor amendment to the regulations, to include a reference to typing method ISO – 16140-6, will enable the Animal and Plant Health Agency (APHA) to use Whole Genome Sequencing (WGS) as a stand-alone typing method for Salmonella in Poultry.

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WGS provides much more information than conventional serotyping and facilitates the link between human and animal disease, which is key for aiding in epidemiological outbreak investigations.

The EU Reference Laboratories have moved to WGS, as well as public health authorities like the UK Health Security Agency (UKHSA), who fully transitioned to this method more than 5 years ago, for human isolates of Salmonella.

The retained EU legislation for the control of Salmonella in poultry currently only contains a reference to the use of alternative detection methods (ISO-16140-2) for Salmonella, but not for alternative typing method (ISO – 16140-6), required for WGS, as this ISO chapter had not been finalised at the time the legislation was published. Consequently, to allay any concerns that using WGS alone would not be consistent with current legislation, from January 2023, APHA has included WGS as a typing method for Salmonella in Poultry in **tandem** with conventional typing methods. Prior to legislative changes being completed, APHA will continue with this more resource intensive approach.

Although the Welsh Ministers are the appropriate authority, in relation to Wales, Regulation 2160/2003 (on the control of salmonella and other specified food-borne zoonotic agents) includes a concurrent plus power, which allows for a GB-wide SI, if consent of the relevant devolved governments is provided. The Scottish Government has requested the UKG take this approach. I have fully considered the risks and benefits to deliver the required legislative amendments through a GB-wide SI and I am minded to provide my consent to this for the following reasons.

Although our starting position is that legislative powers in devolved areas should be exercised by the Welsh Ministers in relation to Wales rather than the UK Government, collaborative working will, of course, sometimes be beneficial and when it is, we do so in accordance with the outcomes of the Inter-Governmental Relations Review, agreed by the four UK Governments in 2022. The review included principles for intergovernmental working practices built on mutual respect and trust, as well as respecting both the reserved powers of the UK Government and UK Parliament and the devolved competences of the Welsh Government, Scottish Government, Northern Ireland Executive and their legislatures.

APHA determines the serotype of Salmonella in Poultry on a GB-wide basis, and there is no policy divergence with UK and Scottish Government in these matters. Implementing these changes through a GB-wide SI will ensure these minor changes in laboratory methods, will be commenced seamlessly and swiftly throughout the UK, benefitting industry.

There are robust governance arrangements in place through weekly discussions with the UK Government and Scottish Government at official level to ensure an aligned approach to these amendments, recognising there is merit in harmonising the approaches to the greatest extent possible, minimising any possibility of different approaches in the UK.

Although this approach would result in a bilingual SI not being produced, it is worth noting that the four pieces of legislation in need of amendment are not bilingual.

I am therefore writing to let you know I give my consent to the Secretary of State to make the Instrument in relation to Wales. UK Government has confirmed a draft SI will be shared by the 31 March. Official request for consent is expected to be received 17 April. The anticipated laying date is the 13 July, and the SI is subject to the negative procedure.

I am copying this letter to the Counsel General and Minister for the Constitution.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping 'L' and 'G'.

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



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The REACH (Amendment) Regulations 2023**

DATE **12 April 2023**

BY **Lesley Griffiths MS, Minister for Rural Affairs and North Wales,
and Trefnydd**

I have given formal consent to the Secretary of State for Environment, Food and Rural Affairs laying the REACH (Amendment) Regulations 2023 in Parliament. This statutory instrument extends the transitional deadlines for the registration of existing chemicals with the Health and Safety Executive (HSE) by GB businesses following EU Exit by three years. The purpose of this extension is to enable the rules on registration to be reviewed and updated, both to reduce the costs to businesses and to provide more useful data to GB regulators. The deadlines for the checking of registration dossiers by the HSE are also being extended.

These Regulations are made by the Secretary of State, in exercise of the powers conferred by section 140 of, and paragraph 1 of Schedule 21 to, the Environment Act 2021. These regulation-making powers to amend the REACH Regulation can only be exercised by the Secretary of State and are not exercisable separately by the Welsh or Scottish Ministers. However, by virtue of paragraph 3 of Schedule 21 to the Environment Act 2021 and Article 4 of the REACH Regulation, the Secretary of State must seek the consent of the Welsh Ministers if, or to the extent that, the exercise of the regulation making function is within devolved competence (within the meaning of section 58A(7) and (8) of the Government of Wales Act 2006).

Further information on these changes and the reasons for them may be found in [the public consultation outcome document](#) on gov.uk.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.

Rt. Hon. Elin Jones MS
Llywydd, and Chair of the Business Committee

28 March 2023

Dear Llywydd,

Economic Crime and Corporate Transparency Bill

At our meeting on 23 March Members discussed the second supplementary LCM on the Economic Crime and Corporate Transparency Bill which was referred to the Committee on 14 March. As the amendments set out in the LCM do not make any fundamental changes to the intent of the Bill Members do not feel the need to lay an additional report. However the Committee would like to take this opportunity to put on the record its support for the UK and Welsh Government using this Bill to continue their support for Ukraine and the Ukrainian people.

As the SLCM has also been referred to Legislation, Justice and Constitution Committee I have copied this letter to Huw Irranca-Davies MS for his information.

Kind regards,



Darren Millar MS
Temporary Chair: Economy, Trade and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies
Chair,
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
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29 March 2023

Dear Huw

In December I agreed to keep the committee up to date with the progress of the Trade Australia and New Zealand Bill as it progressed through the UK Parliament.

The Bill received Royal Assent on the 23 March, becoming the Trade (Australia and New Zealand) Act 2023.

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

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**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE Electoral Reform White Paper

DATE 30 March 2023

BY Mick Antoniw MS - Counsel General and Minister for the Constitution

In July 2021 we published our framework for Electoral Reform, and last October I published a White Paper for consultation on detailed proposals for the modernisation of electoral administration in Wales. We received almost 150 responses to our consultation, and I am grateful to every individual and stakeholder organisation that shared their views on our ambition to improve democratic health.

Today I have published [a summary of the responses](#) received to that consultation and now set out the next steps on our journey to deliver this Government's commitment to reduce the democratic deficit in Wales and develop an electoral system fit for the 21st century.

We are building on what we have already achieved, including extending the franchise to 16 and 17-year-olds and qualifying foreign citizens in Wales and delivering a set of electoral innovations at the local elections last May that showed digital innovation can unlock more efficient and accessible elections without undermining integrity.

Respondents to our consultation expressed broad support for our ambitions set out in the White Paper. We will continue to work with stakeholders throughout this Senedd term as we progress our proposals and bring forward legislation in anticipation of the next major devolved elections in Wales in 2026 and 2027. We do so mindful of the views expressed about ensuring value for money, local authority capacity to deliver and the need to carefully manage differences between devolved and reserved elections – which should not be a brake on our modernisation agenda.

I would like to highlight some of the reforms we now intend to take forward:

- To simplify electoral registration, we will work with local authorities in Wales to design and pilot the automatic registration of electors for devolved elections.
- To strengthen electoral administration, we will establish an Electoral Management Board in line with the proposals in the White Paper.

- We will also take forward reforms to the processes for conducting community and electoral reviews and for the transfer of the functions of the Independent Remuneration Panel for Wales to the Local Democracy and Boundary Commission for Wales.
- To build democratic health we will improve accessibility of devolved elections for disabled voters by placing duties on returning officers to provide equipment to help disabled people vote independently, according to Electoral Commission guidance.
- We will improve candidate safety by legislating to extend the scope of the offence of undue influence.

As we deliver these changes we will continue to work with stakeholders on our longer-term programme of electoral reform. In this longer-term programme of work, we will look to consolidate electoral law to improve clarity and accessibility, including by restating the franchise for devolved elections in one bilingual act.

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **Update on Senedd Reform**

DATE **04 April 2023**

BY **Mark Drakeford MS, First Minister of Wales**

In my previous statement issued just before Christmas, I committed to providing an update on the progress we are making in preparing legislation to take forward the recommendations of the Special Purpose Committee on Senedd Reform (SPC).

We continue to make good progress on the development of the policy detail needed to translate the SPC recommendations into legislative provisions as part of the Co-operation Agreement with Plaid Cymru. In doing so we are reflecting the conclusions reached by the Business Committee in its report published in December.

I want to take this opportunity to set out for Members the broad policy themes that have been taken forward since my last statement:

- The inclusion of integrated statutory gender quotas and mandatory zipping for party candidate lists.
- Repurposing and renaming the Local Democracy and Boundary Commission for Wales, providing the new Democracy and Boundary Commission Cymru with the functions necessary to undertake ongoing reviews of Senedd constituency boundaries.
- The instructions the Democracy and Boundary Commission Cymru will follow to undertake their boundary reviews, both in respect of the streamlined review to pair constituencies in advance of the 2026 Senedd election, a full review in advance of the subsequent election, and ongoing periodic reviews.
- Measures in relation to the collection and publication of data on candidates seeking to be elected to the Senedd, and the publication by political parties of diversity and inclusion strategies.

- An increase in the limit on the number of Welsh Ministers from 12 to 17, with a power for this to be further increased to 18 or 19 with the approval of the Senedd.
- Increasing from 1 to 2 the maximum number of Deputy Presiding Officers who may be elected.

In the course of developing and preparing the Senedd reform legislation, we have also considered a number of related policies that did not form part of the SPC recommendations. Consequently, we are exploring whether to include provision for:

- A requirement on candidates to declare as part of their nomination any political party membership that they have held in the 12 months prior to an election, similar to the arrangements already in place for local government elections.
- A requirement for candidates to, and Members of, the Senedd to be resident in Wales.
- A review of the operation of the new legislative provisions following the 2026 election.

We continue to work closely with delivery partners in a number of fora to consider the implementation arrangements for these reforms and develop the necessary information for the supporting documentation to accompany the legislation. We are also progressing this work in conjunction with the reforms being taken forward following the consultation on the Electoral Administration and Reform White Paper.

I will provide the Senedd with a further update at the summer recess.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.



**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The UK Government's Non-Domestic Rating Bill**
DATE **05 April 2023**
BY **Rebecca Evans MS, Minister for Finance and Local Government**

Non-domestic rates (NDR) is a local tax that raises more than £1.1bn every year to help fund vital local government services. The Welsh Government is pursuing a range of reforms during the current Senedd term, which will make essential and positive changes to NDR in Wales.

Several elements of the NDR system work on a similar basis across Wales and England, and many businesses operate on both sides of the border. Some of the Welsh Government's policy and legislative aims align to those of the UK Government. Businesses and other ratepayers in Wales benefit from a consistent operational approach and a similar landscape of NDR reliefs, tailored to reflect our unique tax-base.

Some of the proposals in the Welsh Government's recent consultation on [Reforming Non-Domestic Rates in Wales](#), including plans for more frequent revaluations and the measures required to support them are aligned with the UK Government's reform agenda. Our proposals will be pursued through Welsh Government legislation, where a difference in the timing and scope does not risk disadvantaging ratepayers in Wales. In addition, we are working with the UK Government on the [Digitalising Business Rates Programme](#), which will provide the Welsh Government with a new opportunity to use linked data to support the development of future NDR policy tailored to Wales.

There is an opportunity to use the UK Government's Non-Domestic Rating Bill to bring about certain reforms earlier than would otherwise be possible using our planned Local Government Finance (Wales) Bill and where new functions will be conferred on UK Government bodies (His Majesty's Revenue and Customs (HMRC) and the Valuation Office Agency), to ensure ratepayers in Wales are not disadvantaged. Having considered the options and approach to delivering our

wider NDR reform agenda, I have decided that it is optimal for certain provisions for Wales to be made within the UK Government's Bill.

The provisions extended to Wales include powers to establish new relief schemes and make certain reliefs applicable to properties on the central rating list which, if not included in the UK Government's Bill would risk putting ratepayers in Wales at a comparative disadvantage. We have also sought provisions to enable information sharing between UK Government bodies and ratepayers on the same basis across Wales and England. Requiring the Valuation Office Agency to share more information with ratepayers will improve transparency and understanding of the NDR system.

In addition, provisions to facilitate the exchange of information between HMRC, ratepayers and billing authorities have been extended to Wales to ensure that we are able to benefit from the realisation of shared aims for the *Digitalising Business Rates Programme*. It will be operated by HMRC across England and Wales, so we are able to benefit from enhanced information when making policy decisions, including HMRC tax data, that we would not otherwise be able to access.

To help ensure that any reform fully reflects the Welsh Government's policy priorities for NDR, my officials have been working closely with UK Government officials, to make sure the provisions reflect the policy intent for Wales. I will be laying a Legislative Consent Memorandum to be debated in the Senedd, to ensure proper scrutiny of these measures, and the consent of the Senedd will be required in due course.

In the meantime, we will continue to develop proposals for bringing about the wider reforms set out in our consultation, on which I will be updating members in due course.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **Update on Border Controls**

DATE **05 April 2023**

BY **Vaughan Gething MS, Minister for Economy**

I am making this statement on behalf of a number of colleagues with responsibility for different areas of biosecurity.

On 28 April 2022 I informed the Senedd that the UK Government was suspending the introduction of further border controls and conducting a review, intended to conclude in autumn 2023.

Although biosecurity is a devolved responsibility, the Welsh Government has been clear throughout about the advantages of a coherent approach across the United Kingdom. We have therefore worked with the other governments to develop proposals for a risk-based border regime for imports of goods from countries inside and outside the EU.

I am therefore pleased to announce that the UK Government published a [draft Border Target Operating Model](#) today which the Welsh Government supports.

The first implementation milestone proposed is the introduction of health certification on imports of medium risk animal products, plants, plant products and high risk food and feed of non-animal origin from the EU from 31 October 2023. At the same time, in Wales we will also introduce the requirement to pre-notify some additional categories of SPS goods imported from the Republic of Ireland, a requirement already in place elsewhere in GB since January 2022.

The second implementation milestone will see the introduction of documentary and risk-based identity and physical checks on medium risk animal products, plants, plant products and high risk food and feed of non-animal origin from the EU. In England these will begin from end January 2024.

The introduction of border controls for goods arriving in Wales from Ireland interacts with the new rules around imports from the island of Ireland following the Windsor Framework. The Welsh Government has therefore not yet agreed an implementation date for the physical checks. Instead the timeline for all west coast ports will be confirmed when the final Border

Target Operating Model is published. We are committed to giving traders, ports and delivery partners plenty of notice of the changes, so the draft Target Operating Model confirms that the physical checks will not be introduced until at least six months after pre-notification is introduced, to ensure smooth operations from the outset at these crucial entry points.

I realise that this means that Wales will be introducing these checks shortly after most English ports do so on 31 January 2024. Biosecurity remains important to us, so we will explore maintaining some of the existing checks of highest-risk plants and animals in the meantime. However, the risk from Irish imports in this short period is relatively low in the short-term.

I hope that stakeholders everywhere will take time over the next few weeks to engage with these proposals. I will of course provide a further update when the final version of the new Border Target Operating Model is published.

The Welsh Government will continue to press for the effective management of biosecurity, public health and food safety risks and I am determined that businesses and others are given sufficient time to prepare.

I will be making announcements about the new Border Control Posts required to serve Welsh ferry ports shortly, and I can confirm that work has begun to prepare for a BCP at Holyhead.

The Welsh Government continues to press the UK Government for funding to cover the set up costs of border controls in full. Where the Target Operating Model refers to UK investment of £1bn over the Spending Review period, I understand that this includes a range of related areas but it does not include the costs of BCPs in Wales.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.

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

Email - Llywydd@senedd.wales

11 April 2023

Dear Elin

The UK Government introduced the Victims and Prisoners Bill to the House of Commons on 29 March 2023.

The Bill makes provision about victims of criminal conduct and others affected by criminal conduct; about the appointment and functions of individuals to act as independent public advocates for victims of major incidents; about reforms to the parole system; about the membership and functions of the Parole Board; to prohibit certain prisoners from forming a marriage or civil partnership; and for connected purposes.

My officials have been engaging with officials in the Ministry of Justice on the clauses expected to be introduced as part of the Bill. However, officials had not had sight of the final version of the Bill, late changes to the Bill or Explanatory Notes prior to it being introduced, or that the Bill title and provisions had been changed to 'Victims and Prisoners Bill'. A number of additional provisions have also been included within the Bill since a draft copy was initially published.

The Bill comprises of 4 parts and is 64 pages long. From our initial analysis, it appears the Bill touches upon areas of devolved competence. However, due to very limited prior consultation by the UK Government it has not yet been possible to fully consider the devolution consequences of what is being proposed.

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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.

I intend to lay a Legislative Consent Memorandum and any other relevant statements before the Senedd as soon as we have a clear picture of the devolution consequences of the proposed legislation, however, it is clear this will be outside the normal two week Standing Order 29 deadline. The Bill is not expected to move through Parliament at pace with second reading at the House of Commons yet to be announced.

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

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal line above the first few letters.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

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

cc. Mark Isherwood
Chair, Public Accounts and Public Administration Committee

18 April 2023

Dear Huw,

The UK Government's Procurement Bill – supplementary legislative consent memoranda

Thank you for the report on the Welsh Government's Legislative Consent Memoranda (LCM) 3, 4 and 5 on the Procurement Bill which was laid in the Senedd on 14 March.

I responded to the points you raised in your recommendations during the Procurement Bill debate in Plenary on 28 March. Thank you also for your letter of 11 April requesting a written response which I am pleased to provide below.

Recommendation 1.

The Minister should explain her reasons for being content with the absence of commencement powers for the Welsh Ministers in the Bill, when an amendment to ensure those powers was originally sought.

When the decision was made to join the UK Government Bill, equivalent commencement powers were seen to be risk mitigation if the Welsh Ministers had any issues with the Bill or parts of the Bill. This is not the case as the Bill has largely been developed jointly between Welsh Government and UK Government officials.

Whilst Welsh Ministers do not have commencement powers, following detailed discussions, we have ensured that UK Government must obtain Welsh Ministers consent before commencing the provisions for Welsh Contracting Authorities. This agreement ensures our constitutional position is protected.

I consider this solution to be appropriate as both the Welsh and UK Governments are committed to commencing the provisions of the Bill at the same time to avoid the detrimental

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impact on cross-border suppliers and buyers of doing otherwise. This unique piece of legislation has significant cross-boundary aspects with impacts for buyers and suppliers if England and Wales commence at different times. We want to avoid any risk of Welsh suppliers finding themselves at a disadvantage when bidding for and performing contracts caused by a delay between the legislation being commenced in England and Wales.

This topic has been discussed at ministerial and official level several times and it has been collectively agreed that commencing at the same time is crucial.

My officials will continue to work closely with Cabinet Office officials to ensure that the English and Welsh Regulations can be commenced at the same time.

Recommendation 2.

The Minister should set out the Welsh Government's assessment of the implications of a refusal to consent to the UK Government's commencement of the Bill's provisions in relation to Welsh contracting authorities, and a subsequent decision by the UK Government to remove those provisions from the Bill.

The effect of clause 123 is that the UK Government must obtain the consent of the Welsh Ministers before they are able to commence provisions in the Bill regulating procurement for Welsh contracting Authorities. If the Welsh Ministers give their consent, the legislation will come into effect at the same time in Wales, England and Northern Ireland. However, if Welsh Ministers withhold consent, this will potentially lead to a delay in commencement for Welsh Contracting Authorities.

As a result, Wales and England would be operating separate legislative regimes, with the current procurement rules continuing to apply to Welsh contracting authorities. This would cause inconsistency and uncertainty for Welsh contracting authorities and suppliers, particularly those who conduct business across the borders.

My officials therefore consider that there would be unintended operational consequences of commencing at a different time to England, which is why we are committed to commencing at the same time as UK Government.

Recommendation 3.

The Minister should set out the potential financial implications of clause 123, as amended, for the Welsh Government and the wider public sector in Wales.

Both the Welsh and UK Governments are committed to commencing the provisions of the Bill at the same time to avoid the detrimental impact on cross-border suppliers and buyers of doing otherwise. However, if Welsh Ministers withheld consent to the date of commencement of certain provisions of the Bill, there could be a potential delay in commencement for Welsh Contracting Authorities.

It is not possible to carry out a financial assessment at this time as the financial impact would be dependent on the length of the delay. Any financial implications and operational

consequences of commencing at a different time to England would be determined at that time and would be fully considered by Welsh Ministers before any decisions to withhold consent are made.

You also asked in your letter dated 11 April if I have now escalated the concerns related to clauses 89 and 92 of the Bill via the Dispute Avoidance and Resolution Process, and if I have yet to do so, explain why that is not the case.

From a policy perspective, the changes these powers would make are not controversial. However, the use of concurrent powers presents a threat to fundamental constitutional principles and our devolution settlement.

We hope the UKG will recognise the strength of feeling of the Senedd on the outstanding matters of concern and will bring forward an amendment at Report stage to amend the Bill so that these powers are changed to concurrent plus.

As acknowledged in the Intergovernmental Relations Review, the dispute resolution mechanisms you refer to are a last resort. We will continue to press our concerns about the Bill with UKG at every opportunity, using the full suite of intergovernmental machinery in place, recognising that escalation processes are available if needed.

I trust the responses provided are helpful. Please do not hesitate to contact me if you need anything further.

I am copying this letter to the Chair of the Public Accounts and Public Administration Committee, who will also be interested to see a copy of my response to you.

Yours sincerely,

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

Rebecca Evans AS/MS

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

Rebecca Evans MS
Minister for Finance and Local Government

11 April 2023

Dear Rebecca,

Legislative consent for the Procurement Bill

Thank you for providing an initial response, during the recent Senedd debate on legislative consent motions, to my Committee's latest report on legislative consent memoranda laid in respect of the UK Government's Procurement Bill. The report, which was laid on 14 March 2023, contained three recommendations for the Welsh Government. It was therefore disappointing not to have received a formal written response from the Government ahead of the debate, considering that two weeks had elapsed since the laying of the report. I believe this would have greatly informed the debate, and would have provided much needed clarity on some of the complex issues under consideration within the memoranda.

I would therefore be grateful if you could set out your written responses to each of the recommendations within the report as soon as possible, and within two weeks of this letter.

During the debate, I also asked you whether you had escalated your concerns in respect of the regulation-making powers within clause 89 of the Bill (to add international agreements to the list in Schedule 9) and clause 92 of the Bill (to deal with the procurement consequences of trade disputes) through the inter-governmental Dispute Avoidance and Resolution Process. You will recall that in response to my Committee's report on the first and second memorandum laid in respect of the Bill you said that it was neither possible nor appropriate to predict when relationships would break down to the point that use of any dispute resolution mechanisms should be considered. However, since you stated during the debate that your concerns during the Bill "present a threat to fundamental constitutional principles and our devolution settlement", it continues to be unclear why it appears you

have not yet escalated these concerns, since these provisions will soon make their way onto the statute book.

I would therefore also be grateful if you could confirm whether you have now escalated these concerns via the Dispute Avoidance and Resolution Process, and if you are yet to do so, explain why that is not the case.

Finally, I note your comments regarding the scrutiny available to the Senedd (paragraphs 458–459 of the transcript) but would take this opportunity to remind you that neither the legislative consent process nor regulations made under the Bill (once enacted) offer the same amount of time or detailed opportunity for scrutiny and engagement with stakeholders as a Bill introduced to the Senedd by the Welsh Government.

I look forward to your response.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

Y Pwyllgor Cyllid

Agenda Item 8.9

Finance Committee

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Chair, Children, Young People, and Education Committee

Chair, Climate Change, Environment, and Infrastructure Committee

Chair, Culture, Communications, Welsh Language, Sport, and International
Relations Committee

Chair, Economy, Trade, and Rural Affairs Committee

Chair, Equality and Social Justice Committee

Chair, Health and Social Care Committee

Chair, Legislation, Justice and Constitution Committee

Chair, Local Government and Housing Committee

19 April 2023

Dear Committee Chairs,

Welsh Government Draft Budget 2024-25: Engagement

At our meeting on 23 March 2023, the Finance Committee (the Committee) considered its programme of engagement for the forthcoming Welsh Government's Draft Budget 2024-25, ahead of the Committee's annual Plenary debate on spending priorities, provisionally scheduled for 12 July. I am writing to Chairs of subject committees to share our thinking. The Committee has agreed to undertake a number of engagement activities prior to the publication of the Draft Budget, in the autumn. These include, a stakeholder event, focus groups held with the general public, and a workshop with Members of the Welsh Youth Parliament.

Stakeholder Event: Wrexham

This year's stakeholder event will take place at the Glyndwr University Campus (Catrin Finch Centre) in Wrexham on the morning of Thursday 15 June. This will be an opportunity for the Committee to hear directly from interested organisations/individuals on the expected draft budget proposals, as well as their views on the Welsh Government's approach to setting the budget and prioritising resources. As cross-Committee engagement with stakeholders on the budget is crucial to effective scrutiny, I would like to invite Committee Chairs or a Member of your Committee to join the event. If Chairs or



Members are interested in attending, please contact the clerking team seneddfinance@senedd.wales by 22 May.

Citizen engagement focus groups with the Welsh public

On behalf of the Committee, the Senedd's Citizens Engagement Team will be holding a series of focus groups on the Draft Budget with the Welsh public. The team has undertaken similar exercises over the past few years and the aim of this work is to form a longitudinal study to allow the Committee to monitor perspectives and attitudes over time. Participants will be sourced through similar partner organisations to cover the same demographics as last year, and groups will be organised to focus on particular policy areas. The Citizens Engagement Team will circulate the dates of sessions to all Committees, should any Members wish to participate. This will allow an opportunity for Members to hear first-hand from the citizens of Wales where spending should be prioritised.

Welsh Youth Parliament

Last year to further complement our engagement work, the Committee held a workshop with Members of the Youth Parliament. It was extremely informative to hear openly from these young Members about the issues concerning and directly affecting them. We are keen to continue building on this invaluable work and will be inviting the youth Members to participate in a workshop again this year.

Finance Committee Plenary Debate on the Welsh Government spending priorities

As mentioned above, the Committee intends to hold a Plenary debate on Wednesday 12 July on the Welsh Government's spending priorities for 2024-25. The outcomes of our engagement work will inform and feed into this debate, which will provide the best opportunity to influence the Welsh Government spending priorities before the Draft Budget is formulated in the autumn. As ever, we would very much welcome the participation of Committee Chairs, as well as other Members, as part of this debate, to ensure that the Welsh Government's spending plans are informed by the views and priorities of Senedd Committees.

Approach to budget scrutiny

I will shortly be writing to Chairs, with regard to the Committee's approach to budget scrutiny, including information on the consultation and timetable once the Trefnydd has notified the Business Committee of the Draft Budget publication dates.

The Finance Committee has tried to ensure that the profile and effectiveness of budget scrutiny in the Senedd is continually improved and that the Welsh public are able to engage fully with the process. As you are aware, we are currently discussing proposals with the Minister for Finance and Local Government to amend the [Budget Process Protocol](#), which sets out an understanding between the

Welsh Government and the Senedd on the administrative arrangements for the scrutiny of the annual draft budget and other related budgetary matters.

In addition, during last year's budget round the Committee agreed to consult with Committees on the documentation provided by the Welsh Government alongside its Draft Budget proposals, with a view to seeking improvements to the information provided. I wrote to [Chair on this issue on 8 March](#) and I am grateful to the Committees that have responded. As this work progresses, I will continue to provide updates to Committees on developments.

If you have any questions about any aspect of the Draft Budget process, please feel free to contact me or the Clerk to the Finance Committee, Owain Roberts, 0300 200 6388, seneddfinance@senedd.wales.

Yours sincerely,



Peredur Owen Griffiths
Chair, Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

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

19th April 2023

Dear Huw,

Thank you for your letter of 23 March regarding the Retained EU Law (Revocation and Reform) Bill (“the REUL Bill”) and Supplementary Legislative Consent Memorandum (Memorandum No. 4).

Whilst I was disappointed that your Committee was unable to report on Memorandum No. 4, I recognise the challenges faced by all Committees in considering memoranda with such curtailed reporting periods. I greatly appreciate, therefore, your Committee’s commitment to responding to tight deadlines wherever possible, such as the recent legislative consent memoranda on the Social Housing (Regulation) Bill.

The difficulties presented through UK Government’s desire to push the REUL Bill through Parliament, combined with a lack of prior engagement on amendments, meant that scrutiny of Memorandum No. 4 was always likely to prove problematic. My continued attempts to reschedule debates and reporting deadlines were a reflection of Welsh Government’s commitment to enabling the Senedd to have as much scrutiny opportunity as possible. Whilst I recognise on this occasion the debate and reporting recommendation movement ultimately did not assist the Committee, I hope these actions can be taken in the good faith they are intended.

I am aware of the difficulties presented to the legislative consent process during the latter stages of Parliamentary Bills and remain committed to ensuring information is shared with the Senedd to reduce these difficulties. As you will be aware, where we are not engaged by UK Government, consideration of whether a provision is ‘relevant’ for the purposes of Standing Order 29 can take time; we update the Senedd as soon as our analysis is finalised. However, all amendments tabled in relation to UK Bills are publicly available at <https://bills.parliament.uk>.

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

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

We will continue to monitor amendments to the REUL Bill and endeavour to lay any necessary legislative consent memoranda in line with Standing Orders. At the time of writing, there is no published date for the House of Lords Report Stage, but we currently expect it to be held around the middle of May.

I am copying this letter to the Counsel General and the Llywydd.

Regards,

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

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

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and
Trefnydd

23 March 2023

Dear Lesley

Retained EU Law (Revocation and Reform) Bill – Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 4)

At our meeting this week we considered your letter of 17 March 2023 in which you told us that the Welsh Government has moved the Senedd debate on legislative consent for the Retained EU Law (Revocation and Reform) Bill from 21 March to 28 March 2023. You note that this has been possible because Report Stage in the House of Lords will begin on 19 April.

You also note that, because it has been possible to move the debate, you would be recommending a reporting deadline of 27 March and that you "hope this additional time allows [my] Committee to consider and report on Memorandum No. 4".

We noted the laying of Memorandum No. 4 at our meeting on 13 March 2023 and you will be aware that we wrote to the Business Committee advising that we do not believe it is practical for us to give careful and detailed consideration to Memorandum No. 4 and produce a report that could meaningfully and usefully inform the Senedd's debate on a legislative consent motion for the Bill.

As I believe we have demonstrated regularly, we will always aim to respond positively to tight deadlines. However, piecemeal delays to debates and postponements to reporting deadlines do not necessarily assist or enable my Committee (nor perhaps other Senedd Committees) to plan and perform our scrutiny function effectively, and often create missed opportunities.

We appreciate that the scheduling of business in the UK Parliament is outside the control of the Welsh Government and, in relation to the Bill, the Welsh Government itself may be having to adjust programmed work and key tasks. We have said on many occasions that the lack of control of the

legislative process is one of the serious inadequacies of a different parliament legislating for Wales on matters within the Senedd's legislative competence.

We understand that the amendments made to the Bill which are the subject of Memorandum No. 4 do not change the Welsh Government's recommendation on whether the Senedd should give its consent to the Bill, and note that the Welsh Government's position is that "the Bill continues to present the same legal, constitutional, policy and practical concerns".

Given that the Bill is yet to complete Lords Report Stage, we are mindful that the Bill could be further amended and such amendments may require the Welsh Government to lay additional supplementary legislative consent memoranda.

You will be aware that we wrote to the Counsel General on 8 March 2023 and expressed our concerns that, as Bills which are subject to legislative consent memoranda near the end of the scrutiny process in the UK Parliament, the Welsh Government should do more to ensure the Senedd is given critical information in a more timely manner.

Should the Welsh Government become aware of relevant amendments being tabled in the UK Parliament for the purpose of Lords Report Stage proceedings, we would welcome early notification, even if that is in advance of any necessary supplementary legislative consent memoranda being laid before the Senedd. This may afford us time to consider the fast-moving developments and changes to the Bill and plan how we may be able to report to the Senedd.

I am copying this letter to the Counsel General and to the Llywydd.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair

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Agenda Item 10

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

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