

# Agenda – Climate Change, Environment, and Infrastructure Committee

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Meeting Venue:

Hybrid – Committee room 3 Senedd  
and video Conference via Zoom

Meeting date: 26 April 2023

Meeting time: 09.30

For further information contact:

Marc Wyn Jones

Committee Clerk

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**Private meeting (09.15–09.30)**

**Public meeting (09.30–12.10)**

**1 Introductions, apologies, substitutions, and declarations of interest**

(09.30)

**2 Decarbonisation of the steel industry in South Wales – evidence session with Tata Steel**

(09.30–10.45)

(Pages 1 – 17)

Martin Brunnock, Director of Communications and Public Affairs – Tata Steel

Huw Morgan, Director of Decarbonisation – Tata Steel

Attached Documents:

Research brief – Tata Steel

**Break (10.45–10.55)**

**3 Decarbonisation of the steel industry in South Wales – evidence session with Trade Unions**

(10.55–12.10)



Alasdair McDiarmid, Assistant General Secretary – Community Union

Charlotte Brumpton-Childs, GMB National Officer – GMB Trade Union

Shavanah Taj, General Secretary – Wales TUC

Tony Brady, Unite Wales Regional Coordinating Officer with responsibility for  
Tata nationally – Unite the Union

## **4 Papers to note**

(12.10)

### **4.1 The Environment (Air Quality and Soundscapes) (Wales) Bill**

(Pages 18 – 21)

Attached Documents:

Letter to the Minister for Climate Change with follow up questions following  
the Ministerial evidence session on the Environment (Air Quality and  
Soundscapes) (Wales) Bill

### **4.2 Decarbonising the private housing sector**

(Pages 22 – 58)

Attached Documents:

Response from the Welsh Government to the Committee's report on  
Decarbonising the private housing sector

### **4.3 Natural Resources Wales**

(Pages 59 – 60)

Attached Documents:

Letter from the Minister for Climate Change to the Chair in relation to Natural  
Resources Wales's funding gap

### **4.4 Fuel Poverty**

(Pages 61 – 62)

Attached Documents:

Letter from the Chair of the Equality and Social Justice Committee in relation  
to Fuel Poverty and the Warm Homes Programme

#### **4.5 The South Wales Metro**

(Pages 63 – 68)

Attached Documents:

Letter from the Chief Executive Officer of Transport for Wales to the Chair regarding an update on the delivery of the South Wales Metro

#### **4.6 Welsh Government Draft Budget 2023–24**

(Pages 69 – 70)

Attached Documents:

Letter from the Chair to the Chair of the Finance Committee in relation to improvements to documentation provided by the Welsh Government to support scrutiny of future draft budgets

#### **4.7 Welsh Government Draft Budget 2024–25 – engagement strategy**

(Pages 71 – 73)

Attached Documents:

Letter from the Finance Committee in relation to the engagement strategy for scrutiny of the Welsh Government Draft Budget 2024–25

#### **4.8 Audit Wales report: Digital Inclusion in Wales**

(Page 74)

Attached Documents:

Letter from the Chair of the Public Accounts and Public Administration Committee to the Chair in relation to Audit Wales report: Digital Inclusion in Wales

#### **4.9 Resources and Waste Common Framework**

(Pages 75 – 84)

Attached Documents:

Response from the Minister for Climate Change to the Chairs letter of 3 March in relation to the Resources and Waste Common Framework

#### **4.10 Water company executive bonuses**

(Pages 85 – 87)

Attached Documents:

Letter from the Chief Executive of Ofwat to the Chair in relation to water company executive bonuses

#### **4.11 Nature Positive Bill**

(Pages 88 – 97)

Attached Documents:

Briefing from Wales Environment Link on a Nature Positive Bill

- 5 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of today's meeting (12.10)**

**Private meeting (12.10–12.30)**

- 6 Decarbonisation of the steel industry in South Wales – consideration of evidence received**

Document is Restricted

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

Julie James MS  
Minister for Climate Change

31 March 2023

Dear Julie,

**Environment (Air Quality and Soundscapes) (Wales) Bill: follow-up questions**

Thank you for your attending our meeting on 29 March to give evidence in connection with the Environment (Air Quality and Soundscapes) (Wales) Bill.

Following the meeting, the Committee agreed I should write to you to request clarification and/or additional information on the matters set out below.

**Air quality targets**

According to the White Paper on the Clean Air Bill ('the White Paper') when setting air quality targets, the Welsh Ministers *must have regard to*: Independent expert advice; Existing domestic policy, guidelines, targets and legal requirements; International policy, guidelines and legislation; The economic, technical and social analyses, and the feasibility of meeting targets; recent reporting by NRW on national air quality, including state of natural resources in Wales; Most recent future trends report.

The above proposed approach is similar to that provided for in section 32 of the Environment (Wales) Act 2016 in relation to setting carbon budgets and carbon emissions reduction targets.

Section 3(1) of the Bill provides that, before making regulations to set air quality targets, the Welsh Ministers must seek advice from persons they consider to be independent and to have relevant expertise, and have regard to scientific knowledge on air pollution.

1. Why have you chosen not to be more prescriptive about the information the Welsh Ministers must have regard to before making regulations setting air quality targets (to reflect the proposal in the White Paper)?

The Explanatory Memorandum states the Welsh Government has “established an independent panel of experts, the Clean Air Advisory Panel, which is providing advice and recommendations on the target setting process and specific priority air pollutant targets in Wales.”

2. What consideration did you give to using the Bill to place the Clean Air Advisory Panel on a statutory footing?
3. There is no requirement on the Welsh Ministers to consult relevant organisations/the public before making regulations setting air quality targets. Why is this?

According to the White Paper, regulations setting a target for fine particulate matter should be laid within 24 months of the Act receiving Royal Assent. However, section 3(8) of the Bill provides that draft regulations must be laid within 3 years.

4. Why have you chosen to extend the timeframe for making regulations by a year?

### Promoting awareness about air pollution

Section 8 of the Bill places a duty on the Welsh Ministers to promote awareness about air pollution.

The Explanatory Memorandum states:

“The broad nature of the proposal enables a wide possibility of options for implementation and provides flexibility should information and awareness requirements change over time. A delivery plan will be developed with stakeholders to ensure focused action, and to enable scrutiny.”

5. What consideration did you give to including further detail about the steps the Welsh Ministers would be expected to take to meet the duty in section 8, for example, preparing and publishing a ‘delivery plan’ (referred to in the Explanatory Memorandum)?
6. What arrangements will be put in place to monitor compliance with/effectiveness of the duty, and how does the Bill provide for this?

### National air quality strategy

Section 9 provides power for the Welsh Ministers to make regulations to amend section 8 of the Environment Act 1995 (‘the 1995 Act’) for the purpose of changing the period within which they must review the national air quality strategy.

Paragraph 3.93 of the Explanatory Memorandum states:

“...the [current] five-year cycle does not allow flexibility to adapt to Senedd terms, which may or may not follow the five-year pattern. Aligning the duty to produce an air quality strategy to Senedd terms

gives the proposal coherence and purpose in a Welsh political context. It means Ministers would be able to consider meaningfully wider environmental reporting...”

7. What consideration did you give to including a requirement on the Welsh Ministers to review the national air quality strategy at a set time (e.g. 12 months) following a Senedd election on the face of the Bill?

Section 11 of the Bill amends the 1995 Act to place a duty on local authorities and ‘relevant Welsh public authorities’ to have regard to the national air quality strategy, where relevant Welsh public authorities are designated by the Welsh Ministers in regulations.

8. What criteria will the Welsh Ministers use to determine whether to designate a ‘devolved Welsh authority’ as a ‘relevant Welsh public authority’ for the purpose of applying the duty under section 11?

## Smoke control

The White Paper included proposals to strengthen existing smoke control legislation by:

- mandating use of Smoke Control Orders in defined population areas;
- extending smoke control legislation to include outdoor burning; and
- requiring local authorities to review Smoke Control Areas on a regular basis.

The Bill does not include provisions on the above.

9. Can you clarify whether the Welsh Ministers could strengthen existing smoke control legislation in the manner outlined above using existing powers, i.e. without the need for further primary legislation?

## Trunk road charging

The ‘new’ paragraph 15 of Schedule 12 to the Transport Act 2000 (as inserted by paragraph 6 of Schedule 2 to the Bill) provides that where a trunk road charging scheme is made by virtue of section 167(3), and it is not made (either wholly or partly) for the purpose of reducing or limiting air pollution, the Welsh Ministers’ share of the net proceeds of the scheme is only available for application for the purpose of facilitating the achievement of any policies or proposals relating to transport.

Where a scheme is made wholly or partly for the purpose of reducing or limiting air pollution, the Welsh Ministers must publish a statement specifying how the net proceeds will be used and the expected effect of those on air quality (if any).

10. Can you confirm that where a trunk road charging scheme is made by virtue of section 167(3) for the purpose of reducing or limiting air pollution, the Welsh Ministers’ share of the net proceeds of the scheme can be applied for any purpose?



11. Can you provide an update on the development of a framework for Clean Air Zones?

### Anti-idling

12. Why do you consider the powers to prescribe a monetary range are needed when there is already an existing power to set a fixed penalty amount? What consideration has the Welsh Government given to simply increasing the existing charge?

13. What assessment has been made of the impact of both the trunk road charging and anti-idling proposals on those from lower income groups?

### Soundscapes

14. How does the Welsh Government define 'soundscapes'?

15. What consideration did you give to including a definition of 'soundscapes' in the Bill?

16. What consideration did you give to establishing a Soundscapes Advisory Panel to provide expert advice to the Welsh Ministers (comparable to the Clean Air Advisory Panel)?

17. How will the Welsh Ministers monitor the effectiveness of the national soundscapes strategy in reducing levels of noise pollution?

18. What consideration did you give to including a requirement on the Welsh Ministers to report on progress towards the implementation of the national soundscapes strategy?

I should be grateful if you could respond as soon as possible and by 21 April at the latest.

Yours sincerely,



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

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

# Agenda Item 4.2

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



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA-JJ-1030-23

Llyr Griffiths AS/MS  
Chair  
Climate Change, Environment and Infrastructure Committee  
Senedd Cymru  
Cardiff Bay  
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CF99 1SN

18 April 2023

Dear Llyr,

Thank you for your letter of 23 February 2023 containing the Climate Change, Environment and Infrastructure Committee's report on decarbonising the private housing sector. We are grateful for the Committee's work on this. Please find attached the Welsh Government's response.

Yours sincerely,

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

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

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

# Response to Climate Change, Environment and Infrastructure Committee’s report on Decarbonising the private housing sector

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## **Recommendation 1.**

The Committee recommends that:

The Welsh Government must provide clearer and stronger strategic direction to the industry and other actors to help drive progress towards decarbonising Wales' existing homes.

### **Response: Accept**

The Minister for Economy published the Net Zero Skills Action Plan on 28<sup>th</sup> February 2023. The Plan can be found at [Net zero skills Wales | GOV.WALES](#).

Welsh Government officials are working with the Decarbonisation Implementation Group in setting up and implementing a residential housing decarbonisation route map for Wales. The Decarbonisation Implementation Group are at the initial stage of identifying relevant themes and actors at a strategic level. Task and finish groups will then contribute to the development of a route map which will give direction and drive progress towards decarbonising Wales existing homes.

The Welsh Government is also addressing strategic engagement across all stakeholders via the Net Zero Carbon Performance Hwb which will launch in April. The Hwb will be an online platform and publish lessons learnt from across the Optimised Retrofit Programme. The Hwb will work in partnership with Welsh Government Skills along with the four Regional Skills Partnerships, Foundation Economy, Sell To Wales and Business Wales and will also include the promotion of training provision.

In addition, the Hwb will assist industry leads in the development of the supply chain of products and services required to decarbonise Wales 1.4 m homes.

**Financial Implications** – None. Any additional costs will be drawn from existing programme budgets.

## **Recommendation 2.**

The Committee recommends that:

If the Minister does not intend to develop and publish a comprehensive housing decarbonisation strategy, she should explain the change in position since her response to the ESJ Committee's report.

### **Response: Accept in principle**

The Net Zero Wales plan, published in October 2021 provided the long term national strategic commitments, on residential decarbonisation, to achieve 2050 climate change targets. Within the Strategic Plan, there is a commitment to have a delivery plan for the implementation of policies and proposals for decarbonising the sector.

Welsh Government officials are working with the Decarbonisation Implementation Group in setting up and implementing a residential housing decarbonisation route map for Wales. The Decarbonisation Implementation Group are at the initial stage of identifying relevant themes and actions at a strategic level. Task and finish groups will then contribute to the development of a route map which will give direction and drive progress towards decarbonising Wales existing homes.

The route map, will set the direction of travel required for residential decarbonisation in the short, medium and long-term.

**Financial Implications** – None. Any additional costs will be drawn from existing programme budgets.

### **Recommendation 3.**

The Committee recommends that:

The Welsh Government's delivery plan for housing decarbonisation must include key milestones and interim targets for the privately owned sector.

#### **Response: Accept in principle**

Key milestones and interim targets for the privately owned sector will fall out of the work being carried out by Welsh Government officials and the Decarbonisation Implementation Group in developing the route map as referred to in recommendation 1.

Decarbonisation of privately owned homes, those in the privately rented and owner-occupied sectors is undoubtedly complex; we know that innovative funding models will be needed to play a role in the decarbonisation of these homes, the costs of which cannot rest fully on Government.

However, I am confident that the learning from Optimised Retrofit Programme, and other government schemes, will put us in a strong position to start the work in other tenures.

Other regulation activity that is not devolved will also play its part in decarbonisation of existing homes such as regulating for Minimum Energy Efficiency Standards (MEES).

Interventions such as the phasing out of gas boiler systems for new homes from 2025 and existing homes in the 2030's will have significant impact on the milestones for when privately owned homes will decarbonise. However, UK Government have not yet formally confirmed the dates for the phasing out of replacement gas boilers in existing homes.

**Financial Implications** – This cannot be valued at this time though it is noted that the costs of decarbonising all homes in Wales cannot fully rest with the Government.

#### **Recommendation 4.**

The Committee recommends that:

The Minister should report back to this Committee on progress towards the development of the delivery plan no later than six months after the publication of this report. She should also commit to providing progress reports every six months thereafter.

#### **Response: Accept**

As set out in response to Recommendation 2 above, Welsh Government officials are working with the Decarbonisation Implementation Group to develop a residential housing decarbonisation route map for Wales. The Decarbonisation Implementation Group are at the initial stage of identifying relevant themes and actions at a strategic level. Task and finish groups will then contribute to the development of a route map which will give direction and drive progress towards decarbonising Wales existing homes.

I am happy to provide progress updates to this committee on a decarbonisation route map.

**Financial Implications** – None. Any additional costs will be drawn from existing programme budgets.

## **Recommendation 5.**

The Committee recommends that:

The Minister must publish an interim report on findings of the Optimised Retrofit Programme (ORP) to date.

### **Response: Accept**

Funded projects under the Optimised Retrofit Programme can be found on the Welsh Government website.

TrustMark have been contracted to undertake the data analysis of all data collected from homes funded under the Optimised Retrofit Programme. Building performance, smart meter data as well as internal environmental data is will be analysed to understand which decarbonisation measures have the best impact for tenants comfort and for decarbonisation.

The lessons learnt from the Optimised Retrofit Programme will also form part of the public domain area of the soon to be launched Net Zero Carbon Performance Hwb. The Hwb will share knowledge, best practice, reports and findings from the Optimised Retrofit Programme and other programmes around what technologies perform the best.

One of the first reports to be published has been undertaken by Cardiff University, the research report is entitled, “Living Well in Low Carbon Homes” and will form part of the first series of reports available from the Net Zero Carbon Performance Hwb.

**Financial Implications** – None. Any additional costs will be drawn from existing programme budgets.



## **Recommendation 6.**

The Committee recommends that:

The Minister should explain why she chose not to involve the private rented sector from the beginning of Phase 3 of the Optimised Retrofit Programme. She must also explain how and when the optimised retrofit approach will be “incrementally extended” to private rented sector and owner occupied homes.

### **Response: Accept**

Residential decarbonisation is far more advanced in the social housing sector than it is in the privately owned homes sector. This is by design, not accident.

We have targeted the decarbonisation of socially owned homes in the first instance, agreeing to prioritise investment in social housing through the funding made available to social landlords through the Optimised Retrofit Programme.

The current position of less activity in the PRS and owner-occupied sectors reflects the approach of starting in social housing before moving to other tenures, not least as this is where we have the most levers.

Channelling ORP investment through social landlords has supported a ‘testing and learning’ approach to how to decarbonise homes effectively and efficiently. As well as evaluating the technical and tenant aspects of the work, actual costs are being monitored and used in the assumptions of future models of residential decarbonisation. This will provide the springboard to start the decarbonisation of homes in other tenures as we move forward.

In terms of privately owned homes, initial actions have begun to be taken, but not to the scale of those in the social housing sector. However, I am confident that the steps we are taking into the privately owned homes sphere are the right ones.

Ensuring coherence and building on our programme such as ORP and the Warm Homes Programme, making sure that our activities in regard to privately owned homes are the right ones and building on our wider approach is the right thing to do.

Our approach does not differ from other devolved administrations at targeting decarbonisation work at those least able to pay at a time when costs are rising. Improving the energy efficiency of homes will help those families most in need through the cost of living crisis.

Optimised Retrofit Programme has commenced engagement across all ownerships, via support of Leasing Scheme Wales for private landlords as well as blended Social Housing and Owner Occupier projects funded in phase 2 of the Optimised Retrofit Programme in Denbighshire.

**Financial Implications** – None. Any additional costs will be drawn from existing programme budgets.

## **Recommendation 7.**

The Committee recommends that:

The Welsh Government must publish its response to the consultation on the next iteration of the Warm Homes Programme no later than March 2023. If the Welsh Government is not in a position to do so, we expect it to explain the reason in responding to this report.

### **Response: Accept in principle**

My officials are developing a policy statement for my review and approval. I am expecting this shortly. I intend to publish the policy statement alongside a Welsh Government response to last year's consultation and a Review and Recommendation Report. These will not be published before the end of March, but will be shortly after.

The procurement for the replacement demand led scheme is expected to take place later this year with early engagement with the supply chain and other potential contributors to ensure a strong and timely response. A 'meet the supplier' event is planned for late April. This will set out our plans and gather valuable intelligence from industry.

**Financial Implications** – None. The Policy Response will lead to a specification for the new service, the costs of which are factored into existing budgets.

### **Recommendation 8.**

The Committee recommends that:

The Welsh Government's response to its consultation on the next iteration of the Warm Homes Programme must provide further details of the Nest replacement scheme, including eligibility criteria, cost caps and energy efficiency retrofit measures.

#### **Response: Accept**

The new service will take account of learning from the findings of the Senedd Committee for Equality and Social Justice review of 2022 along with other similar reviews.

I am expecting, in the very near future, a Review and Recommendations Report, summarising the multitude of reviews of the Warm Homes Programme, alongside the Welsh Government's response to the 2022 public consultation on a future Warm Homes Programme. I expect to publish both soon, alongside a policy statement. The policy statement will provide more details of the replacement scheme.

**Financial Implications** – None. The costs of the new service are factored into existing budgets.

## **Recommendation 9.**

The Committee recommends that:

The Welsh Government should explain how it intends to address gaps in provision following the end of the current Nest scheme and the launch of its replacement. The Welsh Government must accelerate work on the Decarbonising the private housing sector replacement scheme so that it can be launched by end of summer 2023 at the latest.

### **Response: Accept in principle**

In my oral statement of November 8 2022, I provided information about how we will approach the challenges and opportunities of responding to the climate emergency across all housing tenures.

The intention is to continue to take a fabric first, worst first and low carbon approach, delivering measures to improve the energy efficiency of the least thermally efficient low-income households in Wales.

This will be achieved in two parts:

Part 1 - By bringing forward the procurement of a replacement demand led service (to replace Warm Homes Nest), we will ensure continuity to assist those least able to pay to respond to the cost of living crisis. This will also ensure a just and affordable transition to low carbon homes.

Part 2 - The development of a whole housing stock approach to decarbonisation to provide a long-term strategy for energy efficiency, fuel poverty and decarbonisation for the sector.

In February I provided further clarification I expect to procure a new, demand led scheme (Part 1) which tackles both the climate emergency and fuel poverty before the end of the year. There will be no gap in provision between the new and existing programmes. We will ensure continuity to assist those least able to pay to respond to the cost-of-living crisis.

The new scheme will focus on supporting households least able to pay (primarily those in or at risk of fuel poverty), in the owner occupier, private rented and housing co-operative sectors, to ensure a just and affordable transition to low carbon homes. The focus will remain on a fabric first, worst first approach and is expected to continue to adopt a whole house assessment approach as the current Programme.

**Financial Implications** – None. The costs of the new service are factored into existing budgets.

## **Recommendation 10.**

The Committee recommends that:

The Minister should provide a detailed explanation of the proposed new programme to support housing decarbonisation (referred to in her letter to the ESJ Committee), including when it will be launched, how it will support the 'able to pay' sector, and the level of investment that will be made available for delivery of the programme over the next three years.

### **Response: Accept**

In my oral statement of November 8 2022, I provided information about how we will approach the challenges and opportunities of responding to the climate emergency across all housing tenures.

The intention is to continue to take a fabric first, worst first and low carbon approach, delivering measures to improve the energy efficiency of the least thermally efficient low-income households in Wales.

As explained above Part 1 will focus on supporting households least able to pay (primarily those in or at risk of fuel poverty), in the owner occupier, private rented and housing co-operative sectors, to ensure a just and affordable transition to low carbon homes. The procurement for the replacement demand led scheme is expected to take place later this year. The funding for the new Programme in 2024/25 is expected to be £35m.

Funding from ORP is targeted to be £270m over this term of government (with circa £130m invested to date). In 2022-23, £60m was allocated to social landlords on a formula funding basis ensuring that all social landlords in Wales had the opportunity for support via the programme.

The Welsh Housing Quality Standard (WHQS) was introduced in 2002 to boost the quality of social housing in Wales. The WHQS has already improved the energy efficiency of social homes, which is a significant benefit in the current cost of living crisis.

The proposed new standard for WHQS 2023 will build on the excellent achievements of its predecessor. The new standard will keep anti-poverty requirements at its heart and improve energy efficiency, with the aim of supporting tenant's comfort and well-being.

Our proposals for WHQS 2023, are tenant-focussed and build on the excellent achievements so far – while continuing to ask for more on energy efficiency, water efficiency and biodiversity.

Following consultation and intensive engagement with the sector we expect to publish the new WHQS standard later this year.

We have always been clear that our initial focus was on the social housing stock but that we would seek to use the learning from our work there to inform the decarbonisation of other sectors.

To this end we are working on a number of strands that support other tenures, for example:

The Net Zero Carbon Performance Hwb will accelerate the delivery of low and zero carbon homes in Wales by becoming a dependable and trusted source of best practice, providing direction, consistency, and a greater sense of purpose for developers and social landlords alike.

The Development Bank of Wales has been working to understand the market need and delivery requirements for a support solution to increase the retrofit activity of owner-occupied homes in Wales for the 'able to pay' sector.

We plan to pilot scheme is launched in 2023-24 which will be used to 'test and learn' in the market and focus in on the area's where the funding is likely to have the greatest impact.

Leasing Scheme Wales (LSW) is a key Programme for Government commitment. Welsh Government are providing £30m capital funding over 5 years for Leasing Scheme Wales so that local authorities can lease private rental sector properties from landlords. As part of that programme, additional funding of up to £5,000 is available to meet the standards necessary and/or to improve the EPC rating of a property towards a C rating. Up to £25,000 grant funding is available for empty properties.

**Financial Implications** – Any additional costs will be drawn from existing programme budgets.

## **Recommendation 11.**

The Committee recommends that:

The Minister should commit to monitoring the impact of the “collaborative approach” to ECO4 on local authority participation in the scheme and on the level of ECO funding for Wales.

### **Response: Accept in principle**

The Welsh Government would like to encourage collaboration and consistency of process for the implementation of ECO Flex across Wales. This will help to incentivise energy suppliers to deliver projects in Wales, support introduction by local authorities and gain the maximum benefit for vulnerable households in Wales.

Officials have been working with the Welsh Local Government Association (WLGA) and Local Authorities to develop an approach which provides initial and ongoing support to ensure local authorities’ engagement. This approach should maximise the benefits for Welsh homeowners. The emphasis is on collaboration and the development of shared guidance and learning for use by the Local Authorities who will be responsible for monitoring their own participation levels and adhering with any monitoring set out by the UK Government.

**Financial Implications** – None. The costs of support to the public sector are factored into existing budgets.

## **Recommendation 12.**

The Committee recommends that:

The Minister should explore with UCL Energy Institute the potential for using its all-Wales building stock model as a means of identify households eligible for ECO funding and for any future grant funding to support energy efficiency retrofit. She should report back to the Committee on the outcome as soon as practicable.

### **Response: Accept in principle**

The Optimised Retrofit Programme has contracted TrustMark to undertake the data analysis of the homes funded in the programme. TrustMark work closely with the University College London Energy Institute in relation to stock models.

Welsh Government are in discussion with TrustMark with regards to an All-Wales stock model that will allow identification of households that can utilise other funding channels such as ECO funding or future funding arrangements that target support towards energy efficiency retrofit.



### **Recommendation 13.**

The Committee recommends that:

The Minister should clarify whether and how the Welsh Government is promoting the UK Government's Boiler Upgrade Scheme among homeowners in Wales.

#### **Response: Accept**

UK Government schemes such as ECO and the Boiler Upgrade Scheme are likely to have utility in Wales and in many aspects complement the existing Welsh provision. However, given the ownership of these schemes sits in Whitehall, no specific promotion work has yet taken place in addition to that carried out by UKG although services like Nest signpost to these schemes where appropriate.

The Welsh Government is keen that the people of Wales can access the support and advice that is right for them as they improve the energy efficiency of, and decarbonise, their homes. Our existing, comprehensive programmes include:

Warm Homes - Welsh Government Warm Homes Nest scheme provides energy efficiency improvements to low-income households and those living in areas of deprivation across Wales. In 2021-22, £24.5 million of Welsh Government funding was invested in the energy efficiency of housing stock across Wales, helping to reduce fuel bills and improve the health and wellbeing of households most in need.

Part of the Warm Homes Programme includes free, impartial advice for households and signposting to a range of support services and wider schemes. This includes the UK Government's Boiler Upgrade Scheme.

During 2021-22, the Warm Homes Programme, Nest Scheme provided 15,777 households with free, impartial advice and signposting to a range of support services. 5,127 households received a package of free energy efficiency measures such as central heating, boiler, insulation, or Solar PV.

#### **Recommendation 14.**

The Committee recommends that:

The Minister should review the Welsh Government's guidance on planning permission for heat pumps with a view to relaxing the requirement that no part of the heat pump can be installed within three metres of a property's boundary, in line with England.

#### **Response: Accept**

Air source heat pumps can be installed within 3 metres of a boundary but planning permission is required to do so. We are aware that the time and cost of applying for planning permission dissuades some homeowners and installers from pursuing heat pumps. The existence of permitted development rights (PDRs) is therefore important to encouraging uptake of this technology.

The main planning impacts of air source heat pumps are noise and visual impacts. PDRs mean a planning application is not needed as a national permission has already been granted. When granting such rights, careful consideration needs to be given to avoiding unacceptable planning impacts such as noise and this was achieved by a 3 metre buffer from neighbouring properties.

For some properties, particularly those in terraced streets, the 3 metre buffer prevents the use of PDRs. We are committed to reviewing PDRs for air source heat pumps but to do so we need to better understand the noise impacts of reducing the 3 metre buffer. As a first step we are undertaking research, "Air-Source Heat Pump Noise and Permitted Development Rights In Wales". This Welsh Government project will provide a contribution to a wider study of noise from air source heat pumps being undertaken by the UK Government. The conclusions of this work will be used when a comprehensive review of the PDR is undertaken.

## **Recommendation 15.**

The Committee recommends that:

The Minister should clarify the Welsh Government's position on the use of regulatory standards to increase retrofit activity in the privately-owned sector, including whether it supports the UK Government's proposal to increase MEES in the private rented sector.

### **Response: Accept in principle**

In principle improving the energy efficiency of private property is to be supported as it will help tenants and homeowners reduce large utility bills and help contribute towards our wider objectives around Climate Change.

As set out in evidence to the Committee, regulating for Minimum Energy Efficiency Standards (MEES) is not devolved, and whilst the UK Government has consulted on proposals to increase MEES to EPC C for Private Rented Property by 2025 (for new lets) and 2027 (for in-tenancy properties) they still have not yet formally confirmed that this is being introduced, nor have they provided any detail around any support or exemptions that may apply to assist retrofit activity.

Introduction of a new MEES for private rented property, and subsequently owner occupied property, is supported in principle provided that sufficient financial support (e.g. grants and interest free loans) is also provided by UK Government to assist with meeting the costs of improvements in order to ensure that those most in need are supported and appropriate retrofit measures are actually installed. There needs to be sufficient time allowed in any regulations to allow for retrofit works to be undertaken, and therefore introducing a requirement to meet EPC C within the next 3 to 5 years may not be achievable. In addition, financial resource would be required from the UK Government for local authorities to ensure effective enforcement.

At present the MEES requirement for Private Rented property is EPC E, unless a valid exemption is in place (for example, a listed building or retrofit costs are prohibitively expensive). Data held by Rent Smart Wales (see table below) shows that currently 65.6% of private rented properties in Wales are currently EPC D or below. In addition, 70% of registered landlords in Wales only own one property, which accounts for one-third of registered rental properties, which could make retrofit works to reach a new requirement of EPC C more expensive as there would be no economies of scale around procuring works or products on an individual basis.

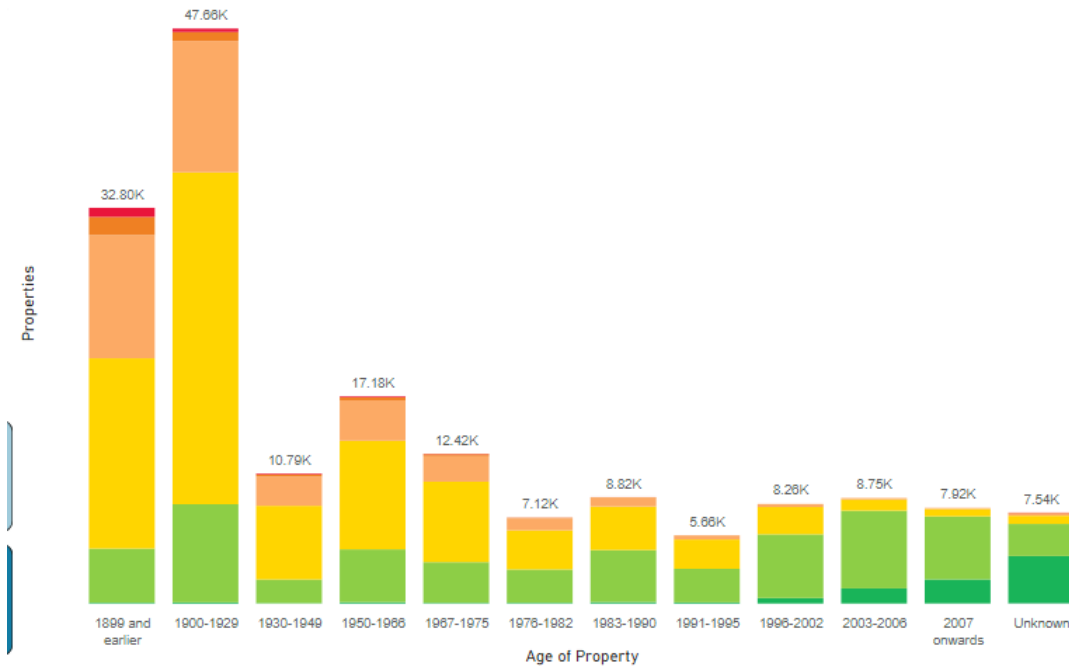
EPC Rating	Properties	%
A (92+)	84	0.0%
B (81-91)	8262	4.7%
C (69-80)	51797	29.6%
D (55-68)	78801	45.1%
E (39-54)	31700	18.1%
F (21-38)	3029	1.7%
G (1-20)	1245	0.7%

The high percentage of low scoring EPC properties can be partly explained by looking at data on the age profile of rental properties. The table below identifies that the majority of rental properties in Wales pre-date 1929 and are therefore less likely to have cavity walls or damp proof courses. Therefore, the costs to improve the EPC scores of the majority of rental properties up to EPC C is likely to be prohibitively expensive, unless financial support is also being provided by UK Government to assist with their regulatory change, if it is introduced.

In the absence of financial support Landlords facing large bills may choose either to try and pass costs onto tenants over time through rent increases, or invest in the cheapest interventions to get the EPC points up to a C, which may not be appropriate for the building type. For example, installing insulation which makes damp or mould worse as the building cannot breathe, or installing an air source heat pump without adequately improving the thermal efficiency of windows, doors or the loft, which could actually see tenants' energy costs increasing. In some instances landlords may seek to sell properties before the new regulations come into force, which could result in fewer properties being available to rent in particular areas.

## Age of Properties with an Energy Performance Certificate

Properties by Age and Current Energy Rating  
 Current Energy Rating ● A ● B ● C ● D ● E ● F ● G



### Financial Implications:

If UK Government introduces a requirement to meet EPC C and does not provide financial support there could be a need to look at funding grants and/or loans to support improvements. It is difficult to identify potential costs at this time, however if the cost of adaptation was between £7,000 and £10,000 per property, and 33% of properties are owned by single landlords (and 65% of these are below EPC C) then potential funding required could range between £313m and £448m.

## **Recommendation 16.**

The Committee recommends that:

The Minister should:

- explain when and how the Leasing Scheme Wales will be scaled up to support the Welsh Government's wider decarbonisation ambitions; and
- provide details of the level of investment that will be made available for the Scheme's delivery over the next three years.

### **Response: Accept**

The objective of Leasing Scheme Wales (LSW) is to secure 1% of the PRS stock across those local authorities who have signed up to LSW by 2027. The targets for Year 1 have been deliberately set at a lower level to allow time for local authorities to develop resources and internal processes to bring properties onto the scheme. It is expected that from Year 2 significantly greater numbers of properties will be secured onto LSW to meet the 2027 target of over 1,500 properties. If all Local Authorities sign up to LSW then the target would be over 2,000 properties.

We have committed £30m of funding for Leasing Scheme Wales, and over the next 3 years over £17.2m will be made available as part of the core LSW programme. In addition, properties coming onto the scheme will also be able to benefit from an additional grant of up to £5,000 under the Optimised Retrofit Programme to improve energy efficiency towards an EPC C rating, where a grant under LSW to improve the condition of the building has also been made.

### **Financial Implications:**

The costs for Leasing Scheme Wales and Optimised Retrofit Programme are already factored into the Housing and Regeneration Directorate budget.

**Recommendation 17.**

The Committee recommends that:

The Welsh Government must demonstrate leadership and proactively engage UK Government at the highest level to ensure Welsh local authorities' resource needs in relation to MEES compliance and enforcement are fully understood and met. (Page

**Response: Accept**

The Minister for Climate Change and officials will continue to engage and seek to influence the UK Government to ensure that adequate resources will be provided in relation to MEES compliance and enforcement.

As stated in evidence, requests have been made to speak with the UK Government at Ministerial/Secretary of State level. We are awaiting a response.

**Financial Implications:**

Any costs associated with engaging with UK Government will be met from existing budgets.

## **Recommendation 18.**

The Committee recommends that:

The Minister, in conjunction with Rent Smart Wales and local authorities, should review arrangements for ensuring MEES compliance and enforcement with a view to identifying potential areas for improvement. The review should cover, as a minimum:

- Rent Smart Wales' role in raising awareness of MEES among landlords and in identifying underperforming properties, and
- how information on underperforming properties is shared between organisations to ensure targeted support and/or compliance and enforcement action.

### **Response: Accept in principle**

As the licencing authority Rent Smart Wales already holds and has published data on the EPC ratings of rental properties in Wales, broken down by local authority area. [Rent Smart Wales Energy Performance Dashboard - Rent Smart Wales \(gov.wales\)](https://gov.wales/rent-smart-wales-energy-performance-dashboard)

Under the requirements of s.6 of the Energy Performance of Buildings (England and Wales) Regulations 2012 landlords are required to provide a copy of the Energy Performance Certificate to tenants on the commencement of a tenancy. Rent Smart Wales works with local authorities to forward on reports of non-compliance for further investigation where complaints have been received.

Since 2020 where a landlord is re-registering a property then they need to confirm the RSW that they hold an EPC certificate that meets MEES or hold a valid exemption.

Rent Smart Wales is investigating their database for those properties that either do not show an EPC certificate or are below an EPC E rating and will be sharing this information with the relevant local authorities for targeted action.

### **Financial Implications:**

None – costs associated with RSW undertaking monitoring and enforcement action is covered through the licencing and registration fees paid by landlords and agents.



## **Recommendation 19.**

The Committee recommends that:

The Minister should explain why a Welsh housing survey was not undertaken in 2022. She should commit to undertaking a continuous national survey, akin to the English Housing Survey, with the first survey to be undertaken as soon as practicable. If the Minister is unwilling to commit to such a survey, she should provide a detailed explanation of why.

### **Response: Accept**

A sound evidence base and a full understanding of the nature of the housing market and households in Wales is fundamental to our approach to policy development. The last Welsh Housing Conditions Survey undertaken in 2017, for example, has informed the development of proposals for updates to the standard for social homes, the Welsh Housing Quality Standard (WHQS2023), our Optimised Retrofit Programme and provided the basis for work to assess levels of fuel poverty in Wales. Understanding the Welsh housing stock is essential if we are to achieve our ambitions set out in the Net Zero Wales Action Plan and achieve a just transition to lower carbon heating in the coming years.

I agree continuous and periodic publication of a Welsh Housing Survey is needed. Options for a Welsh Housing Survey are being developed. Improved access to administrative data to build our Housing Stock Analytical Resource and other survey resources could provide much of the data needed, in conjunction with periodic housing surveys. Given current budgetary pressures, the costs associated with preparation and publication of a Welsh Housing Survey will need to be carefully considered.

### **Financial Implications:**

The potential options and costs for delivering a Welsh Housing Survey will be identified as part of the business case to determine the most appropriate approach.

## **Recommendation 20.**

The Committee recommends that:

The Minister should clarify whether and how the Welsh Government intends to improve understanding of energy consumption and carbon emissions in the privately-owned sector without access to smart metre data.

### **Response: Accept**

Welsh Government has robust monitoring data which is equivalent to or better than data collected by a smart meter. Monitoring information being generated from both the Innovative Housing Programme (IHP) and the Optimised Retrofit Programme (ORP) monitoring sensors are gathering data on energy consumption, generation and storage via Intelligence Energy System and environment sensors in grant funded homes.

TrustMark have been contracted to undertake the data analysis of both grant funded programmes. The ORP data at this stage is limited to social landlords' data, However, the IHP data will include information on owner occupied homes and is securing environmental and smart meter data from that tenure group.

The energy consumption and carbon emissions in privately owned homes and those of social tenants generally differ very little. For instance, a retired owner occupier and a retired social housing tenant will occupy and heat the home in much the same way. Similarly, a full-time key worker in an owner occupied home and a key worker in social housing will also have similar energy demands.

The programmes are not just interested in monitoring and understanding energy consumption patterns, but in securing tenant feedback on what technologies work best for their lifestyle needs and which decarbonisation interventions and build types perform best or are easiest for tenants to live with.

Research undertaken by Cardiff University will soon be published, the research report is entitled, "Living Well in Low Carbon Homes" and will form part of the research reports available from the Net Zero Carbon Performance Hwb when the website goes live. The report will include findings from owner occupied homes.

**Recommendation 21.**

The Committee recommends that:

The Minister should provide details on her latest discussions with the UK Government on gaining access to smart metre data. She should commit to continuing to press the UK Government on this issue until a resolution can be reached.

**Response: Accept**

The Optimised Retrofit Programme has contracted TrustMark to undertake the data analysis of the homes funded in the programme. Data comes from environmental sensors, Intelligence Energy Systems and Smart Meters (SMETS2), the latter data is held by Data Communication Company and this forms part of an ongoing conversation on behalf of Welsh Government between TrustMark and the Department for Energy Security and Net Zero.

**Financial Implications** – Any additional costs will be drawn from existing programme budgets.

## **Recommendation 22.**

The Committee recommends that:

The Minister should commit to implementing the recommendation made in the Jofeh Report in relation to Home Log Books/Building Renovation Passports (BRPs). In doing so, she should explore the evidence received by this Committee that, working with the private sector, BRPs could be made available to homeowners at no cost.

### **Response: Accept in principle**

While I can appreciate the intrinsic value of every home in Wales being surveyed and holding a Building Renovation Passport the reality of taking such an approach forward is not a simple matter.

For example, Welsh Government do not currently hold a power to mandate all homes have a passport, and the process of securing such a mandate would take time. The cost of undertaking those surveys on every home would also be significant, and there is also the matter of sufficiency of surveyors to undertake this work. Currently we are growing the skills and workforce needed and working closely with TrustMark in this area.

For the Welsh Housing Quality Standard 2023 we will require social housing providers to undertake a whole stock assessment which sets out the current rating for affordable warmth and carbon emissions across their whole stock and further requires a target energy pathway for each home. This approach is being supported and reinforced by the requirements of the Optimised Retrofit Programme phase 3 and is an approach we will expect to be replicated across all tenures that we support in future.

There are good examples of BRP's which were developed by the Optimised Retrofit Programme being used by social landlords to help plan future works, but the process is still being trailed. As further rounds of Optimised Retrofit Programme rolls out the requirement to produce a 'Building Passport' for each funded home will be maintained.

We will use the lesson learnt from the Optimised Retrofit Programme to ensure that best practice is utilised in the private sector as well. Therefore, if Building Renovation Passport assist with the pace of decarbonisation of owner occupied housing, then we will explore that in future.

**Financial Implications** – None at this stage - any additional costs identified would have to be drawn from existing programme budgets.

### **Recommendation 23.**

The Committee recommends that:

The Minister should explain whether and how the Welsh Government's strategy for engaging the general public in action on climate change will deliver direct action to raise public awareness of the need to reduce the climate impact of Wales' homes.

#### **Response: Accept**

Following a Consultation exercise undertaken in late 2022, the new Strategy for engaging people in action on climate change will be published this Summer. The objectives will be to build knowledge, intention and encourage action on climate change by everyone in Wales, with Government communications and policy support focussed on helping to overcome barriers to action.

The aim of the initial communications will be to cement green behaviours in areas where research shows people are willing and able to take action, and use 'warm-up' communications to prepare households for the more difficult mid-to-high impact actions ahead. Built around a central narrative highlighting the benefits that these changes will bring to the way we all live our lives, communications will be structured under 4 key themes including Green Home Energy choices (including demand reduction behaviours and home upgrade choices), Green Transport choices, Green Food choices and Green Consumption choices. The national campaign and website will also launch this Summer.

**Financial Implications** – The costs will be drawn from the existing climate public engagement programme budget.

## **Recommendation 24.**

The Committee recommends that:

The Minister should ensure that the Housing Net Zero Carbon performance Hwb is available to all tenures as soon as it is established.

### **Response: Accept in principle**

The Net Zero Carbon Performance Hwb will accelerate the delivery of low and zero carbon homes in Wales by becoming a dependable and trusted source of best practice, providing direction, consistency, and a greater sense of purpose for developers and social landlords alike.

The original specification for the Net Zero Carbon Performance Hwb was determined ahead of this committee recommendations and the tender process for appointing a delivery partner began in Summer 2022.

The Net Zero Carbon Performance Hwb has an agreed budget allocation for the first three years and therefore any additional asks of the Hwb will require additional funds to meet those additional requirements.

My officials will work the Net Zero Carbon Performance Hwb steering group and the delivery partner to ensure that the Hwb and its associated website is available and provides insight and advice to all tenures as soon as is practically possible.

**Financial Implications** – Any additional costs will be drawn from existing programme budgets.

## **Recommendation 25.**

The Committee recommends that:

The Minister should explain how she intends to raise awareness of the Housing Net Zero Carbon performance Hwb among stakeholders and property owners with a view to ensuring they can take full advantage of the advice and support services on offer.

### **Response: Accept**

The Net Zero Carbon Performance Hwb launched in early April. A schedule of awareness sessions at various stakeholder events have been organised by Welsh Government and Welsh Social Landlords to raise awareness of the deliverables of the Hwb in the first six to 12 months of its operation.

The Hwb will aim to become the centre for excellence to drive forward decarbonisation of new and existing homes, focussing initially on publicly funded homes as per its original specification.

The Hwb will share knowledge and best practice from the Innovative Housing Programme and the Optimised Retrofit Programme around what technologies have performed best across different tenure groups and household types. An A to Z of renewable product database is expected to launch in Spring 2024.

The Hwb will also have a remit to raise awareness of best practice from across the UK and other net zero hubs internationally to increase the scale and pace of decarbonisation work here in Wales.

The Hwb has funding to organise and host training and events quarterly to ensure that landlords, contractors, and supply chain are aware of the latest renewable technologies and bring manufacturers of those technologies to events to upskill the sector.

Welsh Government will also periodically raise awareness of the Hwb via its range of social media channels when new services and milestones for the Hwb are reached.

**Financial Implications** – Any additional costs will be drawn from existing programme budgets.

## **Recommendation 26.**

The Committee recommends that:

The Welsh Government must publish its Net Zero Skills Action Plan no later than March 2023. If it is not in a position to do so, we expect the Welsh Government to explain the reason in responding to this report.

### **Response: Accept**

The Minister for Economy published the Net Zero Skills Action Plan on 28<sup>th</sup> February 2023. The Plan can be found [Net zero skills Wales | GOV.WALES](#).



## **Recommendation 27.**

The Committee recommends that:

The Minister, working with the Minister for Finance and Local Government, should assess the feasibility of using Council Tax and Land Transaction Tax to incentivise energy efficiency retrofit as a priority. The Minister must report back to this Committee on progress no later than six months after the publication of this report and every six months thereafter until this work is completed. (Page 57)

### **Response: Accept in principle**

#### Council Tax

The report notes the substantial programme of reform currently in train to deliver a fairer and more progressive system, a government commitment which is also reflected in The Cooperation Agreement. The Minister for Finance and Local Government has set out the plans in a Phase 1 [Consultation](#) and will consult in more detail in Phase 2 later this year. The agreed aims are for a reformed system which:

- Has a less regressive tax burden on households;
- Has in-built regular updates to keep the tax fair in the future, using modern data-driven technology;
- Continues to fund vital services that benefit everyone, but helps those in need;
- Is more transparent for taxpayers to interact with; and
- Remains a tax that connects people with local communities.

The ambition for the short to medium-term is focussed on designing a reformed and updated system of bands and tax-rates, a review of discounts and exemptions and a review of the Council Tax Reduction Scheme, as well as a range of other technological and administrative improvements. The Phase 1 consultation proposed delivery of some of these reforms in April 2025. Delivering this programme is a significant undertaking, however, the evidence and experts agree it is one of the most beneficial actions the Welsh Government can take to reduce wealth inequalities.

The immediate primary focus for council tax is therefore to create a more progressive system. Preliminary considerations suggest the types of homes where it is most challenging to achieve EPC A ratings, or homes which would need the most modification, are more likely to be in the lower council tax bands and could be more likely to be occupied by lower-income households. These considerations would work in contrast to the primary focus for council tax reform which is to reduce wealth inequalities. It is also unclear from the research to date whether future legislative and potentially permanent tax changes would be preferable to other types of more direct, flexible and short-term financial levers or incentives. However, there is also a longer-term ambition within the council tax reform programme to continue exploring alternative approaches to raising local tax revenues in the future, including other tax designs and ideas such as a local land value tax.

### Land Transaction Tax (LTT)

Approximately 4% of homes in Wales are transacted on average each year. The threshold for paying land transaction tax on residential properties is currently £225,000 which means that around 60% of property transactions (unless liable to the higher residential rates) are not liable to pay any tax. The percentage of homes transacted each year for owner occupation and incur a tax liability is therefore around 1.6% of the Welsh housing stock. The tax is charged on marginal rates, hence those transactions worth just over £225,000 will pay little tax, therefore any tax incentive to undertake retrofitting may be minimal. A residential property costing around £400,000 is where the top 10% of homes by value starts (and a home costing £500,000 is within the top 3% of homes by price). LTT of £10,500 is currently charged on a property costing £400,000.

The majority of homes that are most likely to require modification, and where that modification will represent a high cost compared to the value of the home, are most likely to fall below the threshold to be liable for LTT. Any incentives provided through a relief will most likely provide greatest incentive and benefit to those buying expensive properties. Any changes to LTT to charge 'penal' rates for low energy efficiency homes may result, for those unable to pay for the necessary improvements, in the owner being unable to sell their homes. It is therefore necessary to consider how to ensure the LTT regime is used in a progressive way to achieve policy outcomes.

Land transaction tax is primarily a revenue raising tax raising in the 2022-23 year to date (February 2023), £270 million. Its ability to change behaviours is limited. Reducing that revenue could have implications for the Welsh Government's budget. Hence it would be important to consider this lever alongside other more direct financial levers or incentives.

## **Recommendation 28.**

The Committee recommends that:

The Minister should accelerate work to develop proposals for the following financial solutions for the 'able to pay' sector: PACE/PLF; zero/low interest loans; and equity release loans. She should report back to this Committee on progress no later than six months after the publication of this report and every six months thereafter until this work is completed.

### **Response: Accept**

The Development Bank of Wales has been working to understand the market need and delivery requirements for a support solution to increase the retrofit activity of owner-occupied homes in Wales for the 'able to pay' sector.

It is proposed that a pilot scheme is launched in 2023-24 which will be used to 'test and learn' in the market and focus in on the area's where the funding is likely to have the greatest impact.

A critical part of shaping the solution has been the work undertaken with Nesta. This has involved a number of phases from initial polling of 1,000 homeowners, a gathering of real world scheme examples, interviews with 'able to pay' sector owner occupiers as well as a behavioural insights trial of c. 8,000 homeowners across the UK looking at how people interact to different potential offers.

DBW is now consolidating the research and findings into a pilot proposal. This is likely to include mechanisms such as low/no interest long term lending supported by minimum levels of grant for certain activities, creating a hybrid funding offer.

**Financial Implications** – Any additional costs will be drawn from existing programme budgets.

## **Recommendation 29.**

The Committee recommends that:

The Minister should provide further details of the “hybrid funding offer” arising from the work of the Development Bank of Wales and Nesta.

This should include a target date for roll out across the sector.

### **Response: Accept**

Welsh Government have been working with the Development Bank for Wales (DBW) to explore how two existing property funds for SME house builders – the Wales Property Development Fund (WPDF) and Wales Stalled Sites Fund (WSSF) - could be flexed to support the climate change agenda. The Green Homes Incentive will provide a pilot programme that offers developers tapered reductions in loan costs based on the extent of the energy efficiency and low carbon measures they incorporate into their housing developments.

The Green Homes Incentive will work on the basis of providing reductions in loan fees dependent on the extent of lower carbon options incorporated into schemes. Applicants will have to satisfy all the usual criteria for the WPDF & WSSF schemes, however where SME developers through these schemes include energy efficient and lower carbon options in one or more of the 3 categories in their new housing developments, they may be eligible for fee reductions. The Green Homes Incentive will use existing funds from the WPDF and WSSF and the related deals would need to qualify for WPDF/WSSF support regardless of this incentive.

It is vital all housing developers, large and small, play a key role in this journey and become part of the solution through relevant procurement processes and initiatives such as Green Homes Incentive.

The Development Bank of Wales has been working to understand the market need and delivery requirements for a support solution to increase the retrofit activity of owner-occupied homes in Wales. To develop a product that has the best chance of market traction and scalability DBW has been researching and collaborating in the following ways:

- Reviewing previous successful and unsuccessful schemes for key learnings- including engagement with counterparts in Northern Ireland, Germany and Scotland.
- Continued engagement with WG both in terms of understanding future plans for Nest/Arbed and with the ongoing work of the ORP team and their delivery learnings. In addition, DBW is a member of the WG Decarbonisation Implementation Group which provides further insights and expertise for the product development.
- Collaboration with Nesta to undertake research into the attitudes and needs of homeowners in regard to green home improvements.

A key learning from the initial development work was the ongoing pace of change in this space, both from a policy perspective and from a technology perspective which can be a deterrent to product requirement decision making. Any offer launched by

DBW needs to be adaptable to these dynamics to allow things to get going more immediately, recognising the urgency in this area. It is proposed that a pilot scheme is launched in 2023-24 which will be used to 'test and learn' in the market and focus in on the area's where the funding is likely to have the greatest impact.

A critical part of shaping the solution has been the work undertaken with Nesta. This has involved a number of phases from initial polling of 1,000 homeowners, a gathering of real world scheme examples, interviews with 'able to pay' sector owner occupiers as well as a behavioural insights trial of c. 8,000 homeowners across the UK looking at how people interact to different potential offers.

DBW is now consolidating the research and findings into a pilot proposal. This is likely to include mechanisms such as low/no interest long term lending supported by minimum levels of grant for certain activities, creating a hybrid funding offer.

**Financial Implications** – Any additional costs will be drawn from existing programme budgets.

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



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA/JJ/0323/23

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

[SeneddClimate@senedd.wales](mailto:SeneddClimate@senedd.wales)

21 April 2023

Dear Llyr

I am writing to provide the Committee with an update on Recommendation 30 of the Committee's Scrutiny of the Welsh Government Draft Budget 2023-24, published in February. This recommendation relates to the Welsh Government providing the Committee with details on how and when Natural Resources Wales's (NRW) funding gap will be addressed, including an update on progress in resolving the historic problem with pension liability.

As you are aware, I have previously signalled to the Committee my intent to close the funding gap on a permanent basis, which included addressing NRW's pension liability. I have reviewed budgets within my MEG, in discussion with Cabinet colleagues, with a view of addressing NRW's funding gap, whilst ensuring there is a minimal impact to other Programme for Government (PfG) commitments and Ministerial priorities.

As a result of the reprofiling work, I am pleased to inform the Committee that I have agreed to provide NRW with a further £18.2m of funding to draw down upon in 2023-24 subject to a business plan which is aligned with the activities they have set out in their Service Level Agreements. My intention is to formalise these arrangements in the first supplementary budget in June so there is no uncertainty to the level of funding they will receive in 2023-24.

Canolfan Cyswllt Cyntaf / First Point of Contact  
Centre:

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[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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

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

It is my intention as part of the 2024-25 draft budget exercise to baseline this £18.2m to NRW's allocation. Recognising that the fiscal context remains incredibly challenging and will need to be subject to the 2024-25 budget process. My hope is that if we can achieve this it will both resolve NRW's funding gap and address NRW's pension liability which forms part of the £18.2m.

Yours sincerely

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

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

Julie James MS  
Minister for Climate Change

31 March 2023

Dear Julie,

### Fuel Poverty and the Warm Homes Programme

The future of the Warm Homes Programme (WHP) and Welsh Government efforts to tackle fuel poverty are of considerable interest to our Committee and to the stakeholders we engage with.

The cost of living crisis fuelled by the exponential rise in heating bills implications for household finances requires urgent action to insulate as many homes as possible before next winter. The Arbed programme ended in November 2021 and the Nest scheme is due to cease at the end of this month. So we are struggling to understand how you intend to ensure that there is no gap in provision of energy efficiency measures for fuel poor households in Wales. We are deeply concerned by the ongoing lack of clarity regarding the future of the scheme and the failure to set out a clear timetable for the successor.

We would therefore welcome a response to the following:

- When will the next Warm Homes Programme commence? What is the anticipated start date?
- When will the WHP's Nest scheme cease? Has Nest been extended beyond its original end date of March 2023?
- Will there be a gap in provision of support for energy efficiency to fuel poor households? How will you mitigate the impact of this gap over the summer months?
- When will you publish the revised fuel poverty action plan (your response to recommendation 2 of our report indicated "in 2023")?
- During the Business Statement on 21 March 2023 the Trefnydd confirmed that you would be bringing forward a statement on the scheme "before the end of the summer term". Will this statement include final details of the next iteration of the WHP including a clear indication on how quickly the plan can be implemented? If not, please can we have a



precise date for bringing forward regulations to create the next iteration of the Warm Homes Programme?

Despite the worst of the cold weather for winter 2022-23 being behind us, the outlook for many households remains challenging. It is vital that we are in a position to help support as many households as possible with energy efficiency measures in the coming months ahead of next winter. We therefore urge you to clarify the Welsh Government's intentions in that regard.

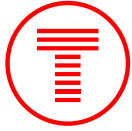
I would welcome a response by the beginning of the Summer term i.e. 24 April 2023. I am copying this letter to the Chair of the Climate Change, Environment and Infrastructure Committee and the Minister for Social Justice.

Yours sincerely,

A handwritten signature in black ink that reads "Jenny Rathbone". The signature is written in a cursive style with a large initial 'J' and 'R'.

**Jenny Rathbone MS**

Chair, Equality and Social Justice Committee



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

28 March 2023

Dear Llyr Gruffydd MS

I am writing to update you on the latest position regarding our delivery of the South Wales Metro, and most importantly our latest position regarding our cost projections. This update follows a significant piece of work to evaluate the overall programme costs, and timelines, to ensure we can deliver the project with confidence, to a clear timeline and continue to manage costs as closely as possible. We recognise the significant investment and opportunity this project represents and therefore, want to provide maximum transparency as to the latest position.

As you are aware, the South Wales Metro is a once in a generation opportunity to transform transport for the people of South East Wales. It will improve peoples' lives and make sustainable transport the easiest way to travel. When funding for the historic South Wales Metro project was confirmed in 2018, an initial £738m was made available to deliver the once-in-a-generation transformation of the Core Valley Lines (CVL). Elements of the original costings were based on 2015 prices. The ambitious programme will transform the CVL into a modern, integrated network of rail, bus and active travel to improve connectivity and make sustainable travel easier across South Wales.

At the time the initial funding was committed, no-one could have predicted what the next five years would bring. During the period of our transformation, we have seen the unprecedented impact of the COVID-19 global pandemic, the impact of Brexit and its impact on workforce and, material availability all of which has been compounded by the war in Ukraine. These unforeseen factors mean we've had to adjust both the delivery plans and expected final budget of the project.

**Cost Projections**

Following the extensive re-evaluation exercise carried out by the Tfw project team and AIW, we now anticipate the final cost of the South Wales Metro project to be circa £1bn. The predicted increase is a result of the expected cost rises outlined below.

Item	Material Cost / Inflation	COVID-19 & Brexit	Infrastructure Constraints	Total
% Allocation of increase to AFC	37%	34%	29%	100%
Cost	£113.4m	£104.2m	£88.9m*	£306.7m





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As we hopefully move to more stable, yet still challenging economic times I feel it only right to bring you up to speed on the latest position and what we are doing to mitigate the challenges we have faced.

### **What we've been doing**

Faced with the external challenges outlined above, the project team has focused on realigning our programme based on the most deliverable timescales, and maximising cost efficiency. We have done this by working collaboratively with our infrastructure delivery partners through our Craidd Alliance, and with additional scrutiny and independent advice from a number of industry leading experts. The key areas of focus for the teams are currently on the commissioning of the brand-new trains for the Metro (both on train and lineside), securing funding streams and control over the overall cost and delivery timeline of the project.

We've also changed the approach to the infrastructure programme (tracks, signalling, electrification etc) to deliver a key section of upgraded track ahead of other changes, to ensure we can deliver the new trains as quickly as possible, whilst protecting the required key deliverables to minimise the risk around loss of access to European Regional Development Funding.

A number of alternative options have been thoroughly considered to ensure cost and project impact are reduced.

As part of this we've further strengthened our project controls and oversight of the programme and integrated the management of the programme delivery with Amey Infrastructure Wales (AIW).

This includes increased independent layers of governance, additional programme control measures, director-level accountability for delivery throughout the supply chain, and further advanced purchase of construction materials to secure their availability and protect the programme from uncertain inflationary pressures.

Other measures we've undertaken as part of our rebaselining activities include;

- A weekly executive-level steering group with representation from TfW and Amey's CEO, Managing Director, and Business Directors
- A dedicated workstream focusing on integrated management of the infrastructure, rolling stock and organisational readiness for entry-into-service of the rail system
- Enhanced infrastructure monthly business management reporting.
- Significant advanced procurement of specialist construction materials to protect programme timescales
- Independent review and challenge to programme delivery by leading industry experts



- Review of programme performance by TfW's Major Projects Committee every quarter, chaired by one of the Board's Non-Executive Directors. This in-depth review covers all aspects of the CVL programme

### **External factors**

Below is a further explanation of the expected increases in costs due to the external factors listed above.

### **Supplier material cost increases/availability:**

- Increased global demand in the construction sector, combined with the multiple and complex impacts of the pandemic alongside logistic issues, have resulted in unprecedented shortages, delays and ultimately, increased prices of materials and labour across the economy
- Utilising data from the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors (RICS), the updated programme cost takes into account and caters for material cost trends from 2020 and 2021, assuming no further demonstrable increase during 2022.
- Data from BCIS shows a 40 year high in construction costs in November 2021. As an example, the price movement in Q1 to Q3 that year for Timber, Steel and Basic Metals had increased by 78.9%, 77.4% and 24.8% respectively
- With approx. 7,200 tonnes of bare steel for the Overhead Line Equipment (OLE) programme, to include time-related costs, this element in terms of raw material cost alone prior to fabrication has increased by c.£6.8m (as of April 2022).

### **COVID-19**

- The impact of COVID-19 caused productivity losses, triggering programme delays, in-turn resulting in cost increases. Throughout the pandemic, on-site productivity impacts were compounded further by uncertainty of workforce availability, social distancing measures and material delays
- The time prolongation experienced on CVL, is similar to that of other UK major infrastructure projects. During the pandemic, both HS2 and Hinkley Point have and continue to experience productivity loss, due to workforce shortages, poor transfer of design information due to remote working and late material deliveries resulting in project completion delays.
- The construction sector's reliance on the flow of global material supply chains continues to cause disruption, and although some shortages have been addressed, pinch points in the domestic supply chain are also continuing to impact productivity; with delays being reported in the arrival of steel, timber and aggregates.



### **Brexit**

Since January 2021, the relationship between the UK and the EU has been governed by the Trade and Cooperation Agreement (TCA). While the deal is a more favourable option than a 'no deal' scenario, leaving the EU single market has still impacted construction in a number of ways:

- Impact on exports: Although the UK has secured tariff-free trade with its EU neighbours, this only applies to 'originating' products i.e. products that originate from the EU, proving problematic for businesses with complex supply chains; in CVL's case, signalling equipment. For example, the time it takes to get some of critical data chips necessary for the signalling equipment increased from five to 16 weeks in January 2021, resulting in a direct impact to the delivery of our new signalling system.
- Impact on workforce: The freedom of movement between the UK and EU ended in January 2021. Under new immigration laws, EU migrants are now subject to a points-based system for visa eligibility. This has had an impact on some programme resource.

### **Infrastructure constraints**

Some infrastructure delays have been caused by incomplete or unavailable information about some assets which have resulted in additional design, survey or engineering work.

There have also been some unforeseen infrastructure challenges, for example the existing National Grid power supply was not robust enough in the Rhymney Valley and has required additional Overhead Line Equipment (OLE) for the new trains.

Discovery of a number of significant statutory utilities require major diversions. This has delayed the installation of the Overhead Line system and new track, across both the Aberdare and Treherbert lines in particular. TfW is engaging with utility providers and monitoring the extensive, ongoing diversions of c.10km's from the railway estate into the local highway.

Another example of a significant unforeseen design change in the Cathays area of Cardiff, whereby an MRI scanner at Cardiff University means we can't install OLE due to electromagnetic compatibility issues, which has required a change of design to the system.

### **Design constraints**

Changes to design programme due to multiple reasons:

- Design resource availability – We're competing against other UK major Infrastructure programmes, exacerbated by a post-COVID construction boom.
- Programme – availability/validity of input data impacting design commencement/completion.
- Design Deliverables – changes to design to be completed resulting from system architecture development, design maturity, internal and external influences.



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### **Inflation**

Inflation has been revaluated from tender contract value to present day rates, contributing towards the overall updated programme delivery cost.

The current budget assessment has been calculated using trending data from UK Government Transport Analysis Guidance (TAG). In summary, a weighted average of CPI and RPI has been used to assess and apply the assumed inflation on Costs to Complete (CTC).

A high-level summary can be evidently seen with inflation levels being at 1.3% in December 2019, to 10% today.

### **The way forward**

The project team are working incredibly hard to deliver the infrastructure upgrades required to introduce the new trains – Class 231s, Class 756 and Class 398s – across the CVL network, while also making sure this work supports the increase in service frequency through future timetable changes.

A review of available options has been completed and in order to reduce costs and delays to new trains arriving onto the network, we're now prioritising the signalling and electrification of a key section of track upon the CVL network that effectively becomes the 'test track'.

For this delivery method the area of the CVL network referred as TAM (Treherbert, Aberdare & Merthyr) is split into two parts, being:

- TAM A – Radyr to Pontypridd, Aberdare and Merthyr; and,
- TAM B – Treherbert.

Due to the requirement to sequence signalling commissioning across the wider GB rail network, coupled with limitations on signalling, design and construction resource, it is not feasible to safely deliver both TAM and Cardiff – Rhymney (CAR) works concurrently.

The completion of the CAR works facilitates the introduction of the four trains per hour timetable on both the TAM and the CAR.

### **Summary**

Despite the unforeseeable challenges presented to the project team over the last three years, we remain committed to delivering the transformational South Wales Metro project while also providing the best possible value for money for the people of Wales.



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Cost increases and project delays are of course very disappointing, but not-uncommon for a hugely ambitious project of this scale. The Metro team however have managed these normal challenges well but have been significantly impacted by programme delays due to the pandemic and much higher inflation pressures which were not foreseen at planning stage of this project.

We've recently entered the first of our brand-new South Wales Metro trains into service on to the Rhymney Line and this marked the beginning of an incredibly exciting period of change that will take place over the next few years. We have also now started taking delivery of the Metro Vehicles into the new Taff's Well depot, and I would like to take the opportunity to invite you and the Committee to see the work that has been undertaken.

I am of course always available to the Committee to appear before you and to answer any questions you may have.

Yours sincerely,

James Price  
Prif Weithredwr / Chief Executive

Peredur Owen Griffiths MS  
Chair, Finance Committee

12 April 2023

Dear Peredur,

### Scrutiny of the Draft Budget 2023-24: Evidence provided by the Welsh Government

Thank you for your letter, dated 8 March, seeking the Climate Change, Environment and Infrastructure Committee's views on potential improvements to the documentation provided by the Welsh Government to support scrutiny of future draft budgets. The Committee considered this matter at its meeting on 29 March. I have set out below the key points we would like to draw to your attention.

The written evidence we received from the Minister to inform our scrutiny of the draft budget 2023-24 was not as comprehensive as previous years. As an example, it did not include the Budget Expenditure Lines (BELs) table or a narrative of the BELs that we had requested. While this information was provided at a later date, we would have expected it to have been included from the outset, given that it is critical to our understanding of the Welsh Government's spending decisions.

The Committee is keen for the Welsh Government to include in future documentation an assessment of the carbon impact of the draft budget. While we were advised by the Minister that the Welsh Government is making progress on assessing the carbon impacts of its spending decisions, this was not reflected in the draft budget 2023-24 documentation. There was no explanation of how carbon impacts were assessed and, more importantly, no information on the findings of these assessments.

In her evidence to the Finance Committee, the former Future Generations Commissioner includes an analysis of the carbon impact of the draft budget 2023-24. We suggest the Welsh Government may wish to consider whether a similar approach could be adopted for future draft budgets for the purpose of providing high level information to the Senedd to support scrutiny.

More generally, one of the key weaknesses of the draft budget process is the time available for scrutiny. The draft budget 2023-24 was subject to a reduced scrutiny timescale which fell over the



Christmas period. This meant limited time was available for analysis ahead of the Ministerial scrutiny session, held in January 2023, and report our findings before the agreed deadline. We are aware, of course, that our experience of working to a reduced scrutiny timescale is shared by other committees.

Finally, the Committee received the Welsh Government's response to its report on the draft budget 2023-24 following close of business the day before the debate on the final budget. This is deeply regrettable as it meant there was limited time for Members to reflect on the response ahead of the debate. We are concerned that this serves to undermine the scrutiny process. Notwithstanding, we are pleased to say, for the most part, the Minister's response was comprehensive.

I hope you find the above useful.

Yours sincerely,

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

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

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

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](mailto: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](mailto:seneddfinance@senedd.wales).

Yours sincerely,



Peredur Owen Griffiths  
Chair, Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

**Public Accounts and Public  
Administration Committee**

Llyr Gruffydd MS

Chair, Climate Change, Environment, and Infrastructure Committee

Jenny Rathbone MS

Chair, Equality and Social Justice Committee

6 April 2023

Dear both,

**Audit Wales – Digital Inclusion in Wales**

During the Public Accounts and Public Administration Committee's meeting on 30 March 2023, the Committee received a briefing from Audit Wales on their report, [Digital Inclusion in Wales](#).

Having considered its contents, we felt it may be of interest to you and your Committees. As such, we suggest that your Committees consider the report as part of your ongoing and future work. I have attached the report for your information.

I look forward to receiving your response as soon as possible.

Regards,



Mark Isherwood MS

Chair of the Public Accounts and Public Administration Committee

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



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

Agenda Item 4.9

Llywodraeth Cymru  
Welsh Government

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

19 April 2023

Dear Llyr,

Thank you for your letter dated 3 March, setting out the Committee's questions on the provisional Resources and Waste Common Framework. I am responding as the Minister responsible for this policy area.

The Common Framework sets out how Welsh Government, Scottish Government, UK Government, and the Northern Ireland Executive will work collaboratively in the areas covered by waste and resource efficiency. Responses to the questions posed by the Committee are set out below.

I would like to take this opportunity to thank you for your continued work in carrying out scrutiny in relation to the Common Frameworks programme.

Yours sincerely,



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

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



### **Provisional Common Framework for Resources and Waste**

**Question 1. Can you clarify the position of the Welsh Government on the framework and its effect on the Senedd's competence? Are you satisfied that the framework does not constrain the Senedd's competence?**

In October 2017 the JMC(EN) (Joint Ministerial Committee (EU Negotiations)) agreed a set of principles to underpin the frameworks programme. The second principle states:

Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:

- be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
- maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules;
- lead to a significant increase in decision-making powers for the devolved administrations.

The framework fully respects these principles.

**Question 2. Can you provide further details on the two types of policy decisions that will be taken within the framework and what role the Senedd or stakeholders will play in the decision-making process?**

The scope of the framework reflects the policy cycle in covering both policy development and delivery aspects. It also reflects the fact that in this area there is a longstanding practice of active engagement between all four governments on both policy creation and operational aspects. The decisions that can be taken within the framework reflect the process it outlines and includes:

- I. The noting of information with respect to the policy development and delivery in each nation, exploration of any interdependencies and opportunities to collaborate.
- II. Resolution of issues.
- III. Referring issues to the overarching dispute avoidance and resolution mechanism outlined in the appropriate intergovernmental structures.
- IV. Reviewing and amending the Framework and Concordat.

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The Common Frameworks will not change the way that we engage with the Senedd and consult with stakeholders and as such, we anticipate the framework will operate alongside the normal policy cycle as nations individually and collectively develop policy.

## Divergence

Question 3. Can you provide a definition or criteria for what would be considered a "demonstrable impact" under the framework for the purposes of dispute resolution?

In this area, there are examples of policies being delivered collectively and equally longstanding examples where each nation has taken a different approach which is tailored to each nation's individual policies and needs. The starting point for this framework is a position where significant flexibility was afforded by the previous EU rules, which as a minimum should be maintained as reflected in the principles underpinning Common Frameworks.

In referring to a demonstrable impact, the Framework is emphasising the need for evidence which demonstrates the scale of the impact. The Framework then provides governance structures and consensus-based processes for both considering and managing the impact of policy changes.

In doing so, the Framework recognises that differences in policy and approach have long been a feature in this area and continue to be a feature going forward, recognising the flexibility afforded within the devolution settlements.

Question 4. Can you provide any examples of Welsh Government policies that are expected to be introduced during this Senedd term under this framework which might have a "demonstrable impact" on another party?

There are several policies being introduced during this Senedd term on both a Wales-specific and multi-nation or UK-wide basis, which could have a potential impact and where working within the Resources and Waste Common Framework will help to ensure those issues are considered and managed. Recent examples have included the Single Use Plastic bans and the Deposit Return Scheme.

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## New structures

Question 5. Can you explain the role of the resources and waste working group? Can you provide the rationale for the change in the frequency of the working group meetings and when this change will occur?

The role of the working group is to bring together the relevant officials from the Parties to discuss the legislative and policy approaches relating to waste and resource efficiency as part of the wider approach in delivering a circular economy; and to:

Facilitate multilateral policy development and develop and agree upon common policy approaches where appropriate; manage potential divergence in a way that respects the Devolution Settlements; coordinate parliamentary and stakeholder engagement and communication; Review and amend the framework as per the Review and Amendment Mechanism; and escalate issues as per the dispute avoidance and resolution process should this be required.

Following the initial phase of monthly meetings to establish the group, the frequency of the general working group meeting has now moved to quarterly. However, the group is continuing to meet on a monthly basis to discuss the REUL Bill which is an example of how it is intended that the group will meet between the quarterly meetings where there are key issues to be discussed.

Question 6. Can you provide further details on the purpose and membership of the sub-groups, joint project board, and technical adaptation committee established by the working group?

The purpose of the sub-groups flows from that of the Resources and Waste Working Group set out above, in bringing together relevant officials to discuss the relevant areas relating to waste and resources efficiency. The Framework governance structures are designed so that they can be utilised on a case-by-case basis as and when required, as was done in for example to discuss the Single Use Plastic bans.

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



## UK Legislation

Question 7. Can you explain how the provisions of the UK Internal Market Act will interact with the framework and whether the framework will be updated to reference the exclusion process agreed upon in December 2021?

All four governments have reiterated their commitment to establish Common Frameworks, which are even more important in the context of the Internal Market Act and the serious threat it poses to devolution. The Intergovernmental Agreement however remains in place and must be respected and as set out above, one of the key principles underpinning the Common Frameworks is that they should maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules. The planned implementation of Deposit Return Schemes and a differing approach to Single Use Plastic having been in place prior to the UK's exit from the EU and fully acceptable within the EU's common market.

While Welsh Government has been clear that we are not opposed to the principle of an internal market for the UK, nor are we opposed to a UK-wide subsidy regime, the UK Government's UK Internal Market Act goes far beyond what is needed to ensure economic and regulatory cooperation between the nations of the UK.

Given the highly contentious nature of the Internal Market Act, and possible future litigation, we do not believe it is appropriate that framework documents should be updated to reference the exclusion process agreed upon in December 2021.

## International obligations

Question 8. Can you elaborate on the implications of the Retained EU Law Bill on the framework?

Common Frameworks demonstrate that good intergovernmental working is possible and that collaborative working and differing policy approaches can be managed through constructive dialogue and collaboration.

The mechanisms provided by the Common Framework for early engagement are being utilised during the Retained EU Law (Revocation and Reform) (REUL) Bill

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process and the IMSC has identified the relevant Common Frameworks as the right context for the development of REUL.

The REUL will have no impact on the operability of this Framework. The Resources and Waste Common Framework Working Group is however providing the space to oversee REUL analysis, with dedicated meetings having been set up to ensure the discussions occur as provided for within the Framework. While granular work needs to be carried out between counterparts at the policy level, members of the Working Group will carry out oversight together, to which Common Framework mechanisms will continue to apply.

Question 9. Can you explain how the framework will interact with international trade negotiations and whether relevant provisions being agreed upon in trade negotiations would be subject to this common framework process?

The Common Framework allows the parties to ascertain the impact of international trade on the areas within its scope, where consideration of any impact will be undertaken in a way that meets the requirements of the JMC(EN) principles. In this way the Framework provides the opportunity to consider any implications stemming from international trade, which have a direct bearing on the operation of the Common Framework within the areas encompassed by its scope. The negotiations are not however subject to this process as that is outside of its intended purpose, with decision-making on reserved matters continuing to sit with the UK Government.

In areas covered by Common Frameworks and for example through involvement in negotiations with the EU under the Trade and Cooperation Agreement, Welsh Government officials engage with their counterparts in the other Governments of the UK. This includes information on relevant developments in EU law and the implications of the Northern Ireland Protocol.

## Stakeholder engagement

Question 10. Can you provide information on how stakeholders, including Natural Resources Wales, were involved in developing the framework?

A summary of the proposed Common Framework on Resources and Waste Policy was sent to key stakeholders, including Natural Resources Wales, in December

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



2020. It is however anticipated that the key area of interest to stakeholders such as Natural Resources Wales is likely to be on the policies going through the framework rather than the framework itself, given the purpose of Framework is to set out how the how the governments of the UK will work together. These arrangements are therefore principally for the four governments, with the ways of working intended to continue the established approach to issues such as waste management, including the engagement of the respective regulators. No immediate changes are therefore expected for stakeholders because of the adoption of the processes within the Framework.

Question 11. Can you clarify the process for external stakeholder engagement outlined in the framework and explain why there is a distinction between engagement with parliaments and stakeholders in developing legislation and policy?

From the beginning of the frameworks programme, legislatures and stakeholders are both seen as vital contributors to the development of Common Frameworks.

The Resources and Waste Framework recognises that clear communication with stakeholders is important in the development of resources and waste legislation and policy. Processes for external stakeholder engagement are not changed by the Framework, it simply commits the parties to work together to ensure necessary stakeholder communication and consultation can take place as appropriate. Where stakeholder engagement is proposed on a UK-wide basis or to encompass more than one nation, the Framework will help arrangements to be established to jointly by supporting development and agreement to the approach.

The distinction between engagement with parliaments and stakeholders recognises the specific role parliaments have, for example in the scrutiny and development of legislation.

## Reporting and transparency

Question 12. Can you explain the delayed publication of the framework?

Since the provisional framework was agreed in 2020, the Coronavirus pandemic changes in the UK Government and resource constraints have delayed publication. However, the governments have continued to work together on policy and

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operational matters using existing arrangements and processes provided for by the provisional Framework.

The original intention was for Frameworks to be fully in place by the end of the transition period in December 2020. However, due to the prioritisation of no deal preparations and subsequently the need to prioritise the response to Covid-19, this deadline was not achievable. Therefore, the four governments agreed to initially establish common frameworks on a provisional basis and these became operational in January 2021.

In addition, while all provisional frameworks have been approved by portfolio Ministers, overall JMC/IMSC sign off has not been confirmed as NI Ministers' clearance is still pending. The NI First Minister and deputy First Minister will provide final clearance of frameworks on behalf of the NI Executive with constitutional Ministers in other governments reserving the right to provide clearance at their discretion.

Once all legislatures have had the opportunity to carry out the scrutiny of frameworks and report on their conclusions, the recommendations for each individual framework will need to be collated to consider and agree any amendments. Following which Ministers will write to their respective scrutiny committees with a response to their scrutiny recommendations and final frameworks will be published.

Question 13. When will regular reporting on the functioning of the framework begin?

In February 2023, the Interministerial Standing Committee (IMSC) agreed the format and process for the annual reporting of frameworks. This will commence a year after the frameworks have been formally signed off and reports will be made available to committees.

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



## Review and amendment of the framework

Question 14. Could you explain the reasoning behind the timescales specified in the framework for reviews to take place after six months, one year, and three years?

Work across the parties is still ongoing to agree the final process for the reviews of the Common Framework.

The period for reviews stated within the Framework reflect the proposal to have more regular reviews during the period initially after they come into effect following final approval and publication, with the frequency then lessened over time.

Question 15. Could you explain how you will ensure the text of the framework will reflect your commitment to notify the Senedd and stakeholders and to consider their recommendations before concluding a review?

Stakeholder consultation and committee notification are inherent parts of the frameworks review process. The Welsh Government considers it essential that there is effective engagement, scrutiny and monitoring of the operation of Common Frameworks. This should include providing a process for any interested stakeholders to provide comments on the operation of the Frameworks and updates on the operation of the Common Framework, with Ministers providing evidence to Committees on the details of any update where this is requested.

Question 16. Could you update the Committee on the steps you have taken to seek an inter-governmental agreement to provide a clearly defined role for UK parliaments in reviewing common frameworks?

The four legislatures of the UK have an inherent role in the review of Common Frameworks following the finalisation of each framework agreement, encompassing both the specified review periods and the annual reporting process.

Any review periods stated within the Framework will come into effect upon final implementation and publication. We will update the Committee further in this regard once the Framework is finalised.

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

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By email – [Llyr.Gruffydd@senedd.wales](mailto:Llyr.Gruffydd@senedd.wales)

Llyr Gruffydd MS  
Senedd Cymru  
Climate Change, Environment, and Infrastructure Committee  
Welsh Parliament  
Cardiff Bay  
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31 March 2023

Dear Mr Gruffydd

I write to inform you that we have outlined [new plans](#) to ensure customers do not fund executive bonus payments where they have not been sufficiently earned through the company's performance for customers and the environment.

We share the public's concerns that – in too many cases – bonuses paid do not reflect the reality of company performance.

Ofwat will regularly review all bonus payments and, where our expectations have not been met, customers will no longer pick up the bill.

Our proposed guidance sets out our expectations on water company remuneration committees to take full account of performance for customers and the environment, and performance overall, when deciding whether to award bonus payments to senior executives.

Annwyl Mr Gruffydd

Rwy'n ysgrifennu i'ch hysbysu ein bod wedi amlinellu [cynlluniau newydd](#) i sicrhau nad yw cwsmeriaid yn ariannu taliadau bonws gweithredol lle nad ydynt wedi'i haeddu'n ddigonol drwy berfformiad y cwmni ar gyfer cwsmeriaid a'r amgylchedd.

Rydym yn rhannu pryderon y cyhoedd – mewn gormod o achosion – nad ydi taliadau bonws yn adlewyrchu realiti perfformiad y cwmni.

Bydd Ofwat yn adolygu'r holl daliadau bonws yn rheolaidd a, lle nad yw ein disgwyliadau wedi eu cyrraedd, ni fydd cwsmeriaid yn codi'r bil mwyach.

Mae ein canllawiau arfaethedig yn nodi ein disgwyliadau bod pwyllgorau taliadau cwmnïau dŵr yn rhoi ystyriaeth lawn i berfformiad i gwsmeriaid a'r amgylchedd ac i berfformiad yn gyffredinol wrth benderfynu a ddylid dyfarnu taliadau bonws i uwch weithredwyr. Bydd angen i

Company policies and decisions on bonus payments will need to align to these expectations.

Water companies will remain responsible for setting performance related pay but in their role as a monopoly provider of essential public services, they need to demonstrate greater accountability. This recovery mechanism will apply new regulatory scrutiny to Board room and remuneration committee decision-making.

Our review of companies' decisions on pay awards will be based on a wide range of criteria, including environmental performance, delivery for customers, overall financial health, and compliance issues – all factors which Ofwat expects water companies to consider themselves. The proposals are the latest step in Ofwat's programme of work to link Board-level financial decision making to company performance.

We have been clear that should water companies not sufficiently, address these concerns, we would take action, and that is exactly what we are doing. Alongside our [new rules on dividend payments](#) – published earlier this month – this is part of our ongoing work to make companies more accountable for their actions.

bolisiau a phenderfyniadau'r cwmni ar daliadau bonws gyd-fynd â'r disgwyliadau hyn.

Bydd cwmnïau dŵr yn parhau i fod yn gyfrifol am osod cyflog sy'n gysylltiedig â pherfformiad ond yn eu rôl fel darparwr monopoli o wasanaethau cyhoeddus hanfodol, mae angen iddynt ddangos mwy o atebolrwydd. Bydd y mecanwaith adfer yma'n dod a chraffu rheoleiddiol newydd i benderfyniadau Bwrdd a Phwyllgor Taliadau.

Bydd ein adolygiad o benderfyniadau cwmnïau ar ddyfarniadau cyflog yn seiliedig ar ystod eang o feini prawf, gan gynnwys perfformiad amgylcheddol, darparu ar gyfer cwsmeriaid, iechyd ariannol cyffredinol, a materion cydymffurfio – mae'r holl ffactorau yma yn ffactorau mae Ofwat yn disgwyl i gwmnïau dŵr ystyried eu hunain. Mae cynigion heddiw'n cynrychiol'r cam diweddaraf yn rhaglen waith Ofwat i gysylltu penderfyniadau ariannol lefel Bwrdd â pherfformiad y cwmni.

Rydym wedi bod yn glir, pe na bai cwmnïau dŵr yn mynd i'r afael â'r pryderon hyn yn ddigonol, byddem yn gweithredu, a dyna'n union yr ydym yn ei wneud. Ochr yn ochr â'n [rheolau newydd ar daliadau difidend](#) – a gyhoeddwyd yn gynharach yn y mis – mae hyn yn rhan o'n gwaith parhaus i wneud cwmnïau'n fwy atebol am eu gweithredoedd.



I welcome the opportunity to meet with you or the Committee to discuss this change, and our future regulatory plans, in more detail. If this would be useful, my office can arrange a meeting as soon as is practicable.

Yours sincerely



**David Black**  
Chief Executive

Buaswn yn croesawu'r cyfle i gwrdd â chi neu'r Pwyllgor i drafod y newid hwn mewn mwy o fynalder yn ogystal a'n cynlluniau rheoleiddio i'r dyfodol. Os y byddai hyn yn ddefnyddiol, gall fy swyddfa drefnu cyfarfod cyn gynted ag y bo'n ymarferol.

Yn ddiffuant



**David Black**  
Chief Executive

# Agenda Item 4.11



Climate Change, Environment & Infrastructure Committee  
Via email

19<sup>th</sup> April | 2023

To the Committee,

## Re: Urgency of a Nature Positive Bill to be introduced

Wales Environment Link has warmly welcomed the Committee's calls, in recent years, for the Welsh Government to bring forward legislation to address the environmental governance gap in Wales and to establish legally binding nature recovery targets.

We would like to draw your attention to an [open letter](#) recently sent to the First Minister by Climate Cymru on behalf of over 300 organisations, calling for this "Nature Positive Bill" to be brought forward in this year's legislative programme. With the new Kunming-Montreal Global Biodiversity Framework now in place, there is no justification for further delay. The absence of independent environmental governance body in Wales diminishes Welsh citizens' access to environmental justice, a right that is enshrined in the international Aarhus Convention. Establishing the domestic legal framework to hold Government accountable for nature's recovery in the coming years and decades will be a vital legacy of the sixth Senedd.

Your Committee's 2022 [report](#) on interim environmental governance arrangements said: *"Despite continuous calls from this Committee, and from our predecessor committee in the Fifth Senedd, for the Welsh Government to prioritise legislation to establish a statutory oversight body, there will be no Bill in year two of the legislative programme. As pointed out by the First Minister in his recent letter to us, the Welsh Government has committed to bringing forward several Bills in the coming year "aimed at creating a greener Wales". As welcome as this new law may be, it is imperative that environmental law is underpinned by a robust governance framework that provides effective oversight of implementation and accountability of government when it fails to deliver. This is sorely missing in Wales."* The report goes on to state *"It would be unthinkable for a statutory oversight body not to be in place before the end of the appointment [of the IEPAW] in February 2024."*

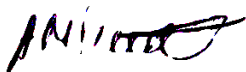
We endorse this view, and point to the Environment (Air Quality and Soundscapes) Bill currently being considered by the Committee as an example that highlights the absence of a robust governance framework. The Bill establishes a framework for Ministers to set air quality targets for Wales, and sets out a process for Ministers to report to the Senedd as to whether or not a target has been met. If a target has not been met, Ministers must lay before the Senedd a report explaining why not, and the steps to be taken to rectify this.

The equivalent framework for England (under the 2021 Environment Act) includes an additional layer of scrutiny: the Office for Environmental Protection (OEP) reports regularly on the UK Government's progress, including assessing compliance with targets and commenting on the adequacy of policy measures to meet them. The UK Government is required to respond to the OEP's recommendations.

Furthermore, the OEP will also be able to consider any future challenges or complaints from citizens about failures to deliver on air quality targets, by the UK Government or other public bodies in England, filling the vitally important gap of providing access to justice for citizens once more. The IEPAW does not have the powers or remit to do either of these things. Until we have fixed this gap through primary legislation to establish a robust permanent environmental governance body, the risk of environmental damage going unchecked will only increase.

We are desperately concerned by the ongoing delay to introduce this legislation to establish an environmental watchdog for Wales and set nature recovery targets. We urge the Committee to revisit this issue in light of the ongoing delays and to raise this directly with the First Minister.

Yours sincerely,



Annie Smith - Chair, Biodiversity Working Group

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## The need for a 'Nature Positive' Bill in Wales

### April 2023

### Introduction

In June 2021, the Senedd [declared](#) a nature emergency and called for stronger action to address biodiversity loss, including statutory biodiversity targets and the establishment of a statutory governance body for Wales.

The Welsh Government supported this declaration, which is reflected in the updated Programme for Government embedding the [Co-operation Agreement](#) with Plaid Cymru. The Welsh Government has repeatedly promised legislation on environmental principles, governance and nature recovery targets; most recently it has been included in the [commitments](#) arising from the Biodiversity Deep Dive. However, the timeframe for bringing forward this vital legislation remains unclear.

In March 2023, WEL joined over 300 organisations under the banner of Climate Cymru in [writing](#) to the First Minister calling for the promised Bill – a 'Nature Positive Bill' – to be brought forward in the July 2023 legislative statement.

### Why do we need a Nature Positive Bill?

We need this Bill to do two key things:

- Help Wales to avoid another lost decade for nature by establishing a duty on Welsh Ministers to achieve a Nature Positive Wales, implemented via a framework of legally binding nature recovery targets.
- Create a robust, independent environmental governance body to close the environmental governance gap that has existed in Wales since the UK left the EU.

In December 2022, the long-awaited Convention on Biological Diversity COP15 summit agreed the Kunming-Montreal [Global Biodiversity Framework](#). It embeds a global mission to halt and reverse the loss of nature by 2030 and achieve recovery so

that, by 2050, nature is thriving once more, “sustaining a healthy planet and delivering benefits essential for all people”. This is in line with the [Nature Positive](#) goal called for by organisations around the world in the years leading up to COP15.

The new Global Framework includes outcome-oriented goals and targets, to: halt extinctions and recover species abundance; tackle ecosystem loss; restore degraded ecosystems; effectively protect and manage 30% of land and sea (the ‘30 by 30’ target); reduce pollution from all sources; and drive sustainable production.

There is a clear consensus that the new global targets must be more effective in driving action to stop and reverse biodiversity loss than their predecessors have been. We cannot afford another [‘Lost Decade’](#) of inaction and decline, [when 1 in 6 species are already at risk of extinction](#) in Wales.

[‘Putting Wales on a Path to Nature Recovery’](#), a report published in 2021 by RSPB Cymru and WWF Cymru and supported by Wales Environment Link, drew on evidence around targets from a range of different countries and policy examples. The report set out a clear case that an ambitious, legally binding set of long term and interim targets should be introduced to bolster Wales’ current environmental legislation, and drive action for nature recovery at a pace and scale commensurate with the nature and climate emergency.

Legally binding targets, against which the Welsh Government can be held to account, will provide a strong imperative for the necessary mainstreaming of action for nature across all Ministerial portfolios and provide clarity for the public, voluntary and private sectors. They will help drive delivery of the wider suite of Biodiversity Deep Dive commitments, including transforming our protected sites, unlocking the potential of our designated landscapes, and supporting communities to drive nature’s recovery. WEL’s recently launched report – [Pathways to 2030](#) – sets out some 10 key areas where public investment in nature’s recovery needs to be increased.

There is precedent within the UK for this approach: nature recovery targets for England have been [established](#) in law under the [Environment Act 2021](#). This Act also established the Office for Environmental Protection (OEP), a new independent

environmental watchdog, whose [remit](#) includes scrutinising and advising the UK Government on its delivery against these targets.

## **What should the legislation include?**

### **1. A clear headline goal – Nature Positive Wales**

As an overarching headline goal, we want to see a duty on Welsh Government to achieve a Nature Positive Wales. As the Minister for Climate Change has [said](#), ‘nature positive’ is the rallying cry that nature needs. Achieving a Nature Positive Wales would mean:

- The systemic loss of nature has been stemmed by 2030 and nature is demonstrably on the path to recovery, with species and habitat indicators showing improvement against a 2020 baseline.
- Recovery of species and habitats by 2050 against a baseline of circa 1970, so that species abundance and distribution is on average rising, extinctions have ceased, and habitat quality and extent are increasing to the benefit of biodiversity.

This definition should be set out clearly in primary legislation so that Nature Positive is both meaningful and measurable. There should be key milestones along the way (e.g. 2035, 2040) to see species populations and habitats improving – so that nature decline is halted, site protection is enhanced, and recovery is well underway. This will be necessary to establish sufficient ambition, provide impetus for immediate action, direct the necessary finance and ensure maximum accountability for meeting the targets.

### **2. A framework of targets to measure progress against**

Success in achieving a Nature Positive Wales will need to be measured based on a number of components. The primary legislation should include a duty to set long-term and interim, outcome-based targets in secondary legislation for: species abundance, species distribution, species extinction risk, habitat quality and habitat extent (including condition of protected sites and 30x30 (area protected and

effectively managed for nature)). Each component should be assessed across terrestrial, freshwater and marine biomes.

This set of targets aligns well with the concept of the ‘resilience of ecosystems’ set out in the Environment (Wales) Act, which lists diversity, extent and condition along with connectedness and adaptability as key aspects of ecosystem resilience. The [State of Natural Resources Report](#), which NRW is required to publish towards the end of every Senedd term, provides an appropriate vehicle for reporting on these targets along with other environmental targets, although more regular updates on progress could also be required.

### **3. Reporting and accountability**

Ministers should be required to set out detailed plans for delivering the targets, based on independent advice, and to report on progress. If adequate progress is not made, and/or interim targets are not met, Ministers should be required to set out their plans to remedy this to the Senedd and provide regular updates.

The Bill must also, as promised by the Welsh Government, establish a new environmental governance body for Wales. This body should have a remit to hold the Welsh Government to account in respect of its plans to meet the statutory targets, and progress made; Welsh Ministers should be required to show how they are taking account of the new body’s recommendations.

The primary legislation must also include a duty to periodically review targets in light of available evidence and independent expert advice, supported by a power to amend targets to make them more ambitious where a need for this is identified.

### **The governance gap**

When the UK left the EU, the role of EU institutions in providing oversight and enforcement of EU environmental laws ended. This governance framework provided accountability and access to justice for citizens, who were able to raise complaints with the European Commission, free of charge, if they felt their national government was failing to implement or abide by the law. The Commission could investigate,

advise, and ultimately take enforcement action. Our departure from the EU also meant the loss of a high-level framework of guiding environmental principles enshrined in the EU Treaties.

The Welsh Government recognised this governance gap, and promised in 2018 to take [“the first proper legislative opportunity”](#) to bring these environmental principles into Welsh law and to introduce new domestic arrangements for environmental governance. Ministers have since accepted the recommendations of a specially convened stakeholder task group on how to do this. These recommendations included:

- legislating to embed the core environmental principles - with a high level environmental objective - into Welsh law, with a duty on Ministers to apply them; and
- establishing a new, independent environment commission to oversee the implementation of environmental law in Wales, including providing a route for citizens to raise complaints, powers to investigate breaches, undertake inquiries, and take enforcement action where necessary.

Equivalent laws have now been enacted for Scotland, England and Northern Ireland, and new bodies – Environmental Standards Scotland and the Office for Environmental Protection (the latter covering England and Northern Ireland) – have been created. In Wales, there is still no clear timeframe to bring this legislation forward, leaving us with a gap in our environmental legislation and a de facto weakening of protection, as well as a reduction in citizens’ access to environmental justice (a right that is enshrined in the [international Aarhus Convention](#)).

### **Interim arrangements do not fill the gap**

In lieu of legislation, the Welsh Government has produced internal guidance to support continued application of the environmental principles, and appointed an Interim Environmental Protection Assessor for Wales (IEPAW) who came into post on 1<sup>st</sup> March 2021. The initial two year tenure of the IEPAW has been extended by a further year, to February 2024.



The interim measures are welcome, but they are no substitute for statutory measures. The IEPAW's role is to consider concerns raised regarding the functioning of environmental law and provide advice to ministers (with ministers' responses to be published along with IEPAW reports). While people can raise relevant concerns free of charge, IEPAW cannot investigate challenges regarding compliance with environmental law by Welsh Government or other public bodies. Such challenges would need to be pursued via Judicial Review, which is inaccessible and costly.

In its [report on the interim arrangements](#), the CCEI Committee stated: *“Despite continuous calls from this Committee, and from our predecessor committee in the Fifth Senedd, for the Welsh Government to prioritise legislation to establish a statutory oversight body, there will be no Bill in year two of the legislative programme. As pointed out by the First Minister in his recent letter to us, the Welsh Government has committed to bringing forward several Bills in the coming year “aimed at creating a greener Wales”. As welcome as this new law may be, it is imperative that environmental law is underpinned by a robust governance framework that provides effective oversight of implementation and accountability of government when it fails to deliver. This is sorely missing in Wales.”*

The report went on to say: *“It would be unthinkable for a statutory oversight body not to be in place before the end of the appointment [of the IEPAW] in February 2024.”*

The Interim Assessor [affirmed](#) that “clearly, these interim arrangements are not as powerful as what was in place previously, and clearly that's something that we need to put in place in Wales so that we have more permanent arrangements in place”.

### **Example: The Environment (Clean Air and Soundscapes) Bill highlights the governance gap**

In March 2021, the Court of Justice of the EU [ruled](#) that the UK had systematically and persistently failed to fulfil its obligations under EU rules on air quality (after the European Commission started proceedings against the UK in 2014). Failures on air quality standards, by both UK and Welsh Governments, have also been challenged successfully in the domestic courts by Client Earth.

The Environment (Clean Air and Soundscapes) Bill establishes a framework for Ministers to set air quality targets for Wales. The Bill includes a process for Reporting on Targets (clause 5) under which Ministers have to report to the Senedd as to whether or not a target has been met. If a target has not been met, Ministers have to lay before the Senedd a report explaining why not, and the steps to be taken to rectify this.

The equivalent framework for England (under their 2021 Environment Act) includes an additional layer of scrutiny: the OEP reports regularly ([e.g. this report on improving England's natural environment](#)) on the UK Government's progress including assessing compliance with targets and commenting on the adequacy of policy measures to meet them. The UK Government is required to respond to the OEP's recommendations.

The OEP will also be able to consider any future challenges or complaints from citizens about failures to deliver on air quality targets, by the UK Government or other public bodies in England, filling the vitally important gap of providing access to justice for citizens once more. The IEPAW does not have the powers or remit to do either of these things. Until we have fixed this gap through legislation, the risk of environmental damage gone unchecked will only increase.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.



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