

Agenda – External Affairs and Additional Legislation Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date: Monday, 15 May 2017

Meeting time: 13.00

For further information contact:

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Private pre-meeting (13.00–13.15)

1 Introductions, apologies, substitutions and declarations of interest

(13.15)

2 Inquiry into regional policy – what next for Wales? – evidence session 10

(13.15–14.00)

(Pages 1 – 8)

Peter Slater, the Industrial Communities Alliance

Break (14.00–14.15)

3 Inquiry into regional policy – what next for Wales? – evidence session 11

(14.15–15.05)

Michael Koch-Larsen, Danish Regions

Break (15.05–15.20)



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

4 Inquiry into the Great Repeal Bill and its implications for Wales – evidence session 1

(15.20–16.30)

(Pages 9 – 18)

Professor John Bell, University of Cambridge

Professor Paul Craig, University of Oxford

Dr Jo Hunt, Cardiff University

5 Inquiry into the Great Repeal Bill and its implications for Wales – evidence session 2

(16.30–17.30)

(Pages 19 – 23)

Mark Drakeford AM, Cabinet Secretary for Finance and Local Government

Piers Bisson, Welsh Government

Hugh Rawlings, Welsh Government

6 Papers to note

(17.30)

6.1 Paper from the Wales Tourism Alliance: Post–Brexit Decision Manifesto

(Pages 24 – 27)

6.2 Correspondence from the Chief Executive of the Arts Council of Wales: negotiating a new creative relationship between Wales and Europe

(Pages 28 – 35)

6.3 Correspondence from the Secretary of State for Wales regarding Welsh Government access to Whitehall

(Pages 36 – 37)

6.4 Correspondence from the Chair of the Equality, Local Government and Communities Committee

(Pages 38 – 40)

- 6.5 Correspondence from the Chair of the Constitutional and Legislative Affairs Committee**
(Pages 41 – 44)
- 6.6 Paper from the NHS Confederation: Brexit and the NHS**
(Page 45)
- 6.7 Paper from the OECD: Regional Policy in OECD countries**
(Pages 46 – 59)
- 7 Motion under Standing Order 17.42(vi) to resolve to exclude the public**
(17.35)
- 8 Inquiry into regional policy – what next for Wales? – consideration of next steps**
(17.35–17.50)
- 9 Inquiry into the Great Repeal Bill and its implications for Wales – consideration of evidence**
(17.50–18.00) (Pages 60 – 71)

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Agenda Item 5

National Assembly for Wales External Affairs and Additional Legislation Committee inquiry into the Great Repeal Bill: Evidence by the Welsh Government

Introduction

The Committee has requested a paper on the outgoing UK Government's proposed Great Repeal Bill. The Committee's request predated the Prime Minister's announcement of a General Election on 8 June: in responding, this paper deals with the constitutional principles and practical issues raised by withdrawal from the EU, including planning for the necessary legislation and scrutiny.

Ahead of publication of party manifestos, this paper is informed by the outgoing Government's proposals, and by the statement by the shadow Secretary of State for Exiting the European Union, Keir Starmer MP, on 25 April, setting out the Labour Party's approach to withdrawal from the EU. Notwithstanding the differences in approach to the negotiations and to policy priorities post withdrawal, it seems reasonable to assume that much of the technical legislation necessary to ensure withdrawal would be common to legislation brought forward by either party.

If the outgoing UK Government is returned to power in the June election, we expect them to introduce a Bill based on their White Paper ("*Legislating for the United Kingdom's withdrawal from the European Union*" Cm 9446). This said that its planned Great Repeal Bill would do three main things:

- First, it will repeal the European Communities Act and return power to UK institutions.
- Second, it will convert EU law as it stands at the moment of exit into UK law before the UK leaves the EU. It will then be a matter for the UK Parliament and, where appropriate, the devolved legislatures, to amend, repeal or improve any piece of EU law (once it has been brought into UK law) at the appropriate time once the UK has left the EU.
- Finally, the Bill will create powers to make secondary legislation. This will enable corrections to be made to the laws that would otherwise no longer operate appropriately, so that the UK's legal system continues to function correctly outside the EU, and will also enable domestic law to reflect the content of any withdrawal agreement under Article 50.

If the Labour Party is returned to power, they have committed to a new White Paper with fresh negotiating priorities for the UK, with specific commitments on devolution, as mentioned below. Whatever the composition of the next UK Government, our working assumption is that it will aim to publish a Bill on EU withdrawal soon after the Queen's Speech in the new Parliament following the General Election.

Constitutional principle

The Welsh Government's position on the constitutional issues raised by EU exit was set out in our White Paper *Securing Wales' Future*, published in January, and most recently by the First Minister in the Assembly plenary debate on 4 April. We have emphasised that withdrawal from the EU represents a fundamental constitutional change for Wales and the UK as a whole, one that will require new inter-governmental arrangements, based on full

respect for devolution, to enable the development of UK-wide frameworks based on common consent by all four governments.

This position will underpin our response to the legislation for EU exit. In discussions with the outgoing UK Government about its White Paper, we stressed the need for early engagement with us about draft clauses in order to ensure that the legislative mechanisms for withdrawal are designed fully to respect the devolution settlement.

The central purpose of the expected legislation is to convert EU law into domestic law in order to provide continuity and certainty for businesses and employees. But the parts of the White Paper that deal with devolution are ambiguous and give us considerable cause for concern.

In particular Chapter four seems to be based on the premise that powers in areas currently regulated by the EU will revert to Westminster. We challenge this: as a matter of law, the powers will continue to lie where they have fallen since 1999, but will in future be exercisable by the devolved institutions without our having to have regard to EU obligations. That is the position under the devolution legislation, and that position, as was noted in Supreme Court's judgement on the *Miller* case, can only be changed by new primary legislation at Westminster.

The outgoing UK Government envisaged that the Bill would include provisions to replicate the current EU frameworks in domestic law, and promised "intensive discussions with the devolved administrations to identify where common frameworks need to be retained in the future, what these should be, and where common frameworks covering the UK are not necessary".

But, the White Paper noted that, whilst these discussions are taking place with devolved administrations '[the outgoing UK Government] will seek to minimise any changes to these frameworks'. This could suggest an intention to place new constraints on the devolved legislatures' legislative competence, for an uncertain length of time, which would give us cause for deep concern.

We have emphasised to the outgoing UK Government that any new Westminster legislation purporting to redistribute competences between Whitehall and the devolved institutions would need the Legislative Consent of the devolved legislatures, in accordance with the Sewel Convention.

The Labour Party has committed to a presumption that 'any new powers that are transferred back from Brussels should go straight to the relevant devolved body', and to an approach to Brexit which will be 'part of a radical extension of devolution'.

Given the fundamental constitutional issues raised by EU withdrawal, it is imperative that there is full engagement with the devolved administrations about the relevant legislative provisions. We are pressing for provisions that enable continuity and certainty while respecting the devolution settlement. These provisions must be agreed between governments: we believe this is achievable, with goodwill on both sides.

Legislation: preparation and scrutiny

Given the current political uncertainty, we can at this stage only make assumptions about the implications for legislation to be made or approved by the National Assembly, and for Assembly scrutiny of legislation to be passed at Westminster.

National Assembly primary legislation

The need for, and timing of, Assembly legislation to maintain or, in due course, adapt existing EU law in devolved areas will depend on how the expected legislation deals with the objective of minimising change as set out above, and what constraints are introduced on the Assembly's competence. In present circumstances, it is unlikely that early decisions on the need for Assembly legislation will be possible.

The Welsh Government will manage any necessary primary legislation as part of its legislative programme, alongside consideration of its other priorities and resources. In the short term, the capacity implications for the National Assembly in managing scrutiny of primary legislation are likely to be less significant than the requirement for secondary legislation to convert the current body of EU law into workable domestic legislation, as discussed below.

Where primary legislation is needed, this will be planned and developed in line with the good practice principles that underpin Welsh Government policy and legislation generally, including option appraisal and consultation and engagement with stakeholders, with a view to achieving legislation that is clear, effective and accessible. The ways of working specified in the Wellbeing of Future Generations Act will inform the development of legislative proposals as they do other policy proposals.

National Assembly secondary legislation

The Welsh Government is planning on the assumption that a very substantial amount of Assembly secondary legislation will be required prior to the UK's withdrawal from the EU, as discussed below.

Although it will repeal the European Communities Act 1972, the expected UK legislation is unlikely to repeal very much if any of the law currently giving effect to the UK's membership of the EU; rather, it will, to quote the outgoing UK Government's White Paper, 'convert the corpus of EU law as it stands when we leave the EU into our domestic law'. That corpus of law is currently to be found mainly in primary legislation and in Statutory Instruments made under the authority of the 1972 Act.

But a simple conversion of EU law into domestic law will not be enough, as is explained in chapter three of the White Paper. This is because much of the EU law the UK has observed includes particular provisions that it will be inappropriate to include in domestic law following EU exit; examples include requirements in particular circumstances to follow specified procedures involving EU institutions (for example, to advertise forthcoming large-scale procurements in the Official Journal of the EU) or to send specified information to the Commission.

Therefore it will be necessary to take "corrective" action in respect of these provisions, and either remove them or replace them with amended or new requirements more suited to the operation of the law in domestic circumstances; and these corrections will need to have been made by the time the UK leaves the EU in (we assume) March 2019, so that the law which has been converted into domestic law is fully workable from day one after EU exit.

There will not be sufficient time before March 2019 for the necessary corrective action to be taken by way of Parliamentary (or Assembly) primary legislation. The outgoing UK Government's White Paper proposes that Ministers should be given wide-ranging order-making powers to 'correct' the existing legislation giving effect to the UK's membership of the EU, and make it workable as domestic law, even if the provisions needing correction are to be found in Acts of Parliament. So these will be 'Henry VIII powers', giving Ministers powers by order to amend not only existing secondary legislation but also existing Acts of Parliament.

The outgoing UK Government's White Paper says that

'Legislation that is within the competence of the devolved legislatures or ministers giving effect to EU law will also need to be amended as we leave the EU. We therefore propose that the Bill also gives the devolved ministers a power to amend devolved legislation to correct law that will no longer operate appropriately, in line with the power we propose should be held by UK ministers'.

The precise scope of this is not yet clear but our working assumption is that the Welsh Ministers will be given 'Henry VIII powers' to correct as necessary all existing legislation having effect in Wales, primary and secondary, on subject-matter within the Assembly's legislative competence.

Work is underway to identify the body of primary and secondary legislation within the Assembly's legislative competence which requires correction, and to determine what form the corrections should take. There is no doubt that the volume will be substantial, and the process of identifying and responding to the necessary corrections will be challenging. We will have no option but to manage this by rescheduling other priorities.

There will also be significant challenges for the National Assembly in managing the scrutiny of this legislation. But it should be emphasised that we expect the vast bulk of it to be purely a matter of technical correction, with limited policy implications. Welsh Government officials will work with Assembly Commission staff to assist them in every way possible to plan a manageable and proportionate scrutiny process.

UK Parliamentary legislation

The expected primary legislation needed to give effect to EU withdrawal will require the legislative consent of the Assembly if, as expected, there are provisions which are within (or which modify) the Assembly's legislative competence. We will aim to manage the Legislative Consent process with a view to ensuring that a Legislative Consent Memorandum is tabled in time to enable effective scrutiny before the Legislative Consent Motion is debated. There may be timetabling issues, depending on the Parliamentary timetable and the extent of amendment during the Bill's progress, but we will manage this in line with previous practice and Standing Order 29.

Similarly, UK secondary legislation, using 'Henry VIII' powers, which amends primary legislation within the Assembly's competence will be subject to the Statutory Instrument Consent process (Standing Order 30A). Although we will work with the Assembly to plan for these as with legislative consent for primary legislation, they may be subject to negative procedure in Parliament and if so, would be made before they are laid. Our expectation is that such secondary legislation would consist of largely technical amendments required to make transposed EU law operable in a domestic (UK, England and Wales or Welsh) context. Moreover, as set out above, we expect that the bulk of this technical secondary legislation will be made by the Assembly, rather than the UK Parliament.

Summary and Conclusion

Whatever the outcome of the General Election, we expect there will be a Bill designed to replicate the extant body of EU law in domestic UK legislation at the point of withdrawal. It is clear that such a Bill and related legislation will give rise to a requirement for substantial Welsh legislation. In the short term this will be primarily technical in nature.

The scope for legislation to give effect to longer term policy choices will depend on decisions yet to be made about the scope and nature of frameworks to replace the EU frameworks which currently constrain a number of devolved areas, including agriculture, fisheries and the environment. The Welsh Government's position is that these frameworks must be the subject of agreement between the four administrations of the UK, and we are pressing for this consensual approach to underpin the draft legislation.

The Welsh Government is currently working to identify the body of secondary legislation needed to ensure continuity and operability at the point of UK withdrawal from the UK. We will work with the Assembly and its staff to facilitate effective and proportionate scrutiny of this legislation as set out above. Longer-term, where primary legislation is needed, this will be prepared and managed as part of the Welsh Government's legislative programme.

Agenda Item 6.1



Wales Tourism Alliance
Cynghrair Twristiaeth Cymru

What the Tourism Industry Needs to thrive and grow post Brexit

Brexit presents challenges for the tourism industry in Wales but also great opportunities for growth in business and employment. This will be achieved as long as individual tourism businesses respond to the challenge and this is supported by the right government policies including financial support for the industry commensurate with its needs and potential for growth. The reconsideration which will have to be given post Brexit to all government support across the spectrum of economic activity is an opportunity for a fresh look at the needs of the tourism industry and the returns which will be obtained from a more realistic level of Government support. It is a time when the rules are being re-written. Let it be done in a way which realises the potential of the tourism industry and wider visitor economy.

Against that background the Wales Tourism Alliance requests Government to consider the following:

A Strategic Development Plan for the Industry.

The Welsh Government and the representative organisations of the industry should consult and agree a Development Plan for the industry to succeed the existing ‘Tourism Strategy-A Partnership for Growth’ including a review of destination partnerships. There should be annual reporting on progress on the Plan and on the targets set by the Government in respect of its financial support for the industry so that adjustments can be made as necessary.

Appropriate Land and Coastal Management Policies.

Arguably the main attraction of Wales to its visitors is the perceived quality of the natural environment, the countryside and coast. It is essential that policies are followed that protects and enhances these assets.

Taxation Policies which promote the Competitiveness of the Industry

In common with the rest of the UK, the industry in Wales is penalised in comparison with near European countries by the current rate of VAT. The WTA calls upon the Welsh Government to press the UK Government to reduce the rate to a more competitive level for

the industry and to increase the level at which thresholds are set. In addition we call for a review of the principles and practice underlying the present system of Business Rates; there is evidence that the recent revaluation has had a disproportionately adverse effect on tourism businesses and has penalised firms that have invested in improvements to the point of threatening their viability. Within the responsibilities of the Welsh Government, the WTA urges the avoidance of any further taxation measures which would affect the competitiveness of the industry. Fees and duties associated with entry and exit at air and sea ports should also be set so as to achieve international competitiveness.

Financial Support for Capital Investment and Product Improvement by Business

The industry contributes £2.7 billion to the economy. The current level of Welsh Government support for capital investment in the industry from all its various support schemes has probably been running at no more than £10 million annually. The industry's capital investment is overwhelmingly supported from retained profits and bank borrowing but innovative new tourism businesses would not get off the ground without some government support. There have been good examples in recent years of such support, modest in scale, being crucial to the success of the development of new tourism businesses. Post Brexit the industry should have a specific allocation of funding linked to the Development Framework to support capital investment and product development in tourism businesses.

The scheme rules should reflect the fact that the industry is mainly composed of micro businesses and SMEs, mostly owner managed. An earmarked development tourism fund of double the existing annual spend would not be out of place bearing in mind the £2.7 billion contribution of the industry to GDP and its further growth potential.

A Meaningful Marketing Budget

The fall in the value of the pound makes us a more attractive destination to overseas visitors while the increase in the cost of overseas holidays may persuade more UK residents to holiday at home. But this will only happen if knowledge of what we offer is brought to the market place. The small scale nature of tourism businesses in Wales means that Government support is vital for the effective marketing of Wales as a tourism destination. The contribution of local government is being squeezed by financial pressures which are likely to continue. Welsh Government support for the marketing undertaken by Visit Wales is just over £10 million for this year with a one off increase to £15 million promised for next year.

By comparison with competitor destinations, the current marketing budget is inadequate to maintain sufficient voice in the market alongside competitors and to realise the potential of the industry in Wales. The Visit Scotland budget, for example, is currently around £55 million which includes provision for a staff complement of around 600, itself an indicator of the competition we are up against. The WTA therefore urges the Welsh Government post Brexit to afford a more internationally competitive marketing budget for Visit Wales to run generic all Wales campaigns and to leverage joint campaigns with industry partners. The national campaigns, as well as supporting the marketing of new tourism products, also need to maintain Wales' profile in traditional market sectors.

The WTA also looks to Visit Britain to work with Visit Wales to develop key markets for Wales overseas including those markets now served by international airlines using airports in close proximity to Wales. Visit Britain and Visit Wales should coordinate their marketing campaigns and support for trade missions in key markets for Wales.

Maintaining and Improving the Skills needed by the Industry

EU nationals play an important part in some sectors of the industry in Wales, as elsewhere in the UK, and they will continue to be needed. The WTA urges that their continued right to remain be confirmed at the earliest possible stage of the Brexit negotiations. Our colleges and universities are playing a vital role in training for the needs of the industry. There should be closer liaison with tourism businesses to maintain the relevance of the courses on offer and to develop programmes specifically tailored for the needs of the owner/managers of tourism businesses. More funding support is needed for training programmes to fund widening gaps in the industry. The post Brexit implications of EU funded programmes like Erasmus need careful consideration and consultation with the industry.

Ensuring Key Tourism Infrastructure

Completion of the superfast broadband programme and ensuring its reliability. There is a danger that key tourism infrastructure and services provided by local authorities are disappearing because of financial pressures. The WTA proposes that the Welsh Government and the Welsh Local Government Association should discuss the situation with the industry and seek ways in which the impact of public expenditure reductions might be ameliorated. In addition the WTA looks to the Welsh Government and local authorities should take steps to facilitate the speedier introduction of tourism signposting in support of both individual tourism businesses and clusters.

What individual Tourism Businesses might consider doing in the years leading up to and post Brexit

Be active and continuous in pressing your Government representatives (Cardiff Bay and Westminster) and local authority on the above points.

Support the Wales Tourism Alliance, your trade and local tourism association and your regional tourism company in their work for your business.

Support the EU nationals you employ in this time of uncertainty about their future and do what you can to ensure they have the right to remain.

To the extent that it supports your business, align your marketing with the generic Wales and UK marketing being undertaken by Government.

Maximise your marketing clout through participating in joint marketing schemes including greater use of digital platforms.

Work with your local Higher and Further education training providers to ensure they provide the courses which enhance your and your employees' skill levels. In return businesses should provide opportunities for students to gain work experience and 'career tasting' opportunities.

Be alert to the possibility of Government support for new capital and product investment.

Work within your local community to explain the importance of the industry so that the community as a whole is a 'welcoming host'.

Wales Tourism Alliance

March 2017



Wales Tourism Alliance
Cynghrair Twristiaeth Cymru

www.wta.org.uk

Agenda Item 6.2



Cyngor Celfyddydau Cymru
Arts Council of Wales

Tuesday, 4 April 2017

David Rees AM
Chair
External Affairs and Additional Legislation Committee
National Assembly for Wales
Cardiff Bay
Cardiff CF99 1NA

Dear David

'Brexit – what next for Wales?'

It was a great pleasure to meet you at last week's event at the Pierhead Building.

The day provided an excellent opportunity to share information and knowledge on some difficult and complex issues. I'm grateful to you and the Committee for taking the initiative in organising such a useful event.

My colleagues and I welcomed the opportunity to share some of the Brexit challenges facing the arts and the creative industries. I thought it might be helpful if we provided a briefing on these matters and this is attached to my letter.

If we can be of any further assistance, please don't hesitate to contact me.

With best wishes,

Nick

Nick Capaldi
Chief Executive

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Rydym yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg, ni fydd gohebu drwy gyfrwng y Gymraeg yn arwain at oedi.
We welcome correspondences in Welsh and English, corresponding in Welsh will not lead to a delay.

Negotiating a new creative relationship between Wales and Europe

A paper for the National Assembly's External Affairs and Additional Legislation Committee

1. For two decades the Arts Council of Wales and its international arm, Wales Arts International, have developed and nurtured a wide range of international and European cultural partnerships. Some of these have been funded by specific projects and focused programmes of exchange. Others have been longer-term, building connections that have fostered enduring relationships with countries around the world.
2. Whatever Brexit brings, there are a number of issues that are specific to the arts and creative industries. Many will be shared across the heritage sector. These issues need to be addressed clearly and systematically if Wales is to continue to benefit economically, culturally and socially from its international relationships. The creative industries are an important and growing sector of the economy in Wales with strong links to the arts. The creative industries have their origin in individual creativity, skill and talent that has the potential for wealth and job creation through the generation and exploitation of intellectual property. The arts nurture the imagination and vision that provide the steady flow of new ideas and products that enable economic exploitation through the creative industries.
3. Every sector has its Brexit issues and the creative industries and the arts are no different. However, we are aware that the Welsh Government's strategy is to focus in the first instance on those cross-cutting issues that apply more widely to economic, social and cultural life in Wales. We have organised this note accordingly.
4. Last year we hosted a consultative meeting in Swansea for the UK Creative Industries Federation. The Federation has identified four key areas of risk in which the interests of the arts and creative industries might be adversely affected. They are:
 - **Talent and skills** – including freedom of movement for specialist workers, skills shortages, visas and touring
 - **EU funding** – including access to Horizon 2020, Interreg, Erasmus+, Creative Europe, cultural exchange, export opportunities, eligibility in the run-up to Brexit
 - **Trade and investment** – including the EU as a principal market, new markets, regulated services, tax credits, World Trade Organisation terms
 - **Regulatory frameworks** – including Digital Single Market, intellectual Property rights, copyright protection, influence over new regulations

We believe that many sectors will have similar issues.

Talent and skills

5. Developing talent and skills is fundamental to Wales' future prosperity. Creativity reaches beyond the realm of arts and culture, though they are its natural nurturing ground. Creative skills are key as they will permeate all areas of business activity in the future. The successful economies of the future will be those that can capitalise on their creative potential, enabling social inclusion and putting people and skills – 'human capital' – at their core. In today's society this is as critical as any other economic resource.
6. The creative sector thrives on innovative and specialist expertise and technologies. By their very nature, such skills are not widely available. Exceptional talent in the arts and creative industries is as vital to the success of the sector as other areas such as science and academia. European workers provide a steady stream of skills in areas where we currently lack capacity or expertise. Additionally, these workers help us to better understand Europe, our biggest overseas market.
7. The future mobility of skilled workers is therefore a key concern. The Migration Tier 2 Shortage Occupation List itemises jobs where the government will permit sponsorship of migrants in recognition of severe skills shortages. The current list already acknowledges gaps, with 17 creative industries occupations already identified.
8. High levels of technical skill do not always translate into high salaries. Many creative workers are self-employed or work on specific time-limited contracts. The Home Office requirement that non-UK nationals meet a minimum salary threshold for certain types of visa could be problematic. And this could be exacerbated by limitations on the number of Tier 1, 2 and 5 visas awarded each year.

Recommendation:

Artist mobility is the foundation of artistic and creative development. Whatever the future arrangements, any changes to immigration regulations must be negotiated in ways that allow reasonable and appropriate mobility of creative workers and avoid counter-productive barriers based exclusively on salary thresholds and quotas.

9. The UK's proximity to mainland Europe enables more affordable and 'frictionless' travel across borders. The easy access and movement for touring (of orchestras, theatre companies, exhibitions and individuals) is of significant practical and financial value. A return to the administrative and financial burdens of visas and carnets would be a costly retrograde step.

10. Any reinstatement of tariffs and mobility restrictions will create new borders for our large-scale arts organisations. But whilst these companies will certainly find such impediments inconvenient, for the smaller-scale companies and artists such barriers might become insurmountable.
11. Issues of mobility are not limited to creative professionals. The Erasmus + funding programme has enabled a generation of young people to explore and reinforce links to Europe. Young people, who were either not yet able to vote or who voted 'remain', need to develop competencies in European languages and understand European cultures. These exchanges must remain widely accessible and not restricted to an elite who can afford them.

Recommendation:

Every effort should be made to protect access to Erasmus funding.

Funding

12. Wales is a beneficiary of significant EU funding. Creative Europe, Europe for Citizens, Horizon 2020, European regional Development Fund (ERDF) and European Social Fund (ESF) have all contributed to a transformation of the cultural landscape in Wales. We need to explore how we can continue to benefit from these things in the future.
13. The UK Government has said that, in the case of EU funding streams administered by government, it will honour and fully fund all projects with signed contracts and funding agreements in place before the 2016 Autumn Statement. However, this implies projects will not be eligible for funding following this point. The UK remains eligible for competitive EU funds including Creative Europe and Horizon 2020 up until the point of exit.

Recommendation:

We need to ensure that the Treasury underwrites the payment of awards for all approved projects, including those that extend beyond the point of departure. We also need to identify appropriate mechanisms for Wales to have access to selected European programmes and funds in the future.

Trade and investment

14. Many of Wales' best known actors, singers, musicians, designers and craftspeople were developed within publicly funded institutions. Arts organisations such as BBC National Orchestra of Wales, National Theatre Wales, National Dance Company Wales, National Museum and Welsh National Opera are ambassadors for our nation taking the Welsh 'brand' for quality and creativity around the world. The arts, in both languages, are our calling card to the world. They are valuable in their own right, but also promote the broader trading interests of Wales as a symbol of the country's imagination, innovation and diversity.
15. The opportunities for 'soft diplomacy' provided by the arts and creative industries have an economic as well as cultural value. Many of our cultural institutions are significant tourist attractions, drawing visitors from around the world. The arts also showcase the best of Welsh talent on the world stage. High quality cultural activity gets smaller countries onto the international map, increasing their visibility, authority and reputation.
16. Visibility and reputation matter. Successful businesses depend on a skilled workforce. But this skilled workforce can work anywhere. When business leaders are looking to grow or to relocate their businesses, quality of life issues will rank high for them, their families and their workforce. These will be important issues for the Welsh Government to have at the forefront of its future economic planning

Intellectual Property and Regulatory Frameworks

17. The profit for many creative businesses lies in the intellectual property of their ideas and designs. However, intellectual property and copyright infringement are commonplace in some of the countries that the UK Government is currently targeting for export growth. Creative businesses cannot reap proper rewards unless and until IP and copyright is acknowledged and protected.
18. Other key issues, such as the digital single market, are in active negotiation, with all to play for. But the government must understand how IP protection and the regulatory framework will be affected - and, in some cases, undermined - for British creatives when the UK leaves the EU. UK creative businesses and individual creators have been successfully operating under the existing national copyright regime, based on the Copyright, Designs and Patents Act 1988. However, while the basic concepts of copyright have been agreed at a global level, many provisions of UK copyright are derived from European Union Directives.

There is clearly some uncertainty over the future status of those elements of UK legislation which are derived from EU law. However, any limitation or reduction in protection would put UK businesses at a competitive disadvantage relative to European competitors.

19. The UK currently provides a high level of protection for copyright works. However, intellectual property theft, particularly through piracy and counterfeiting, continues to be a significant concern in the UK and internationally. There are also significant problems with counterfeit physical goods, including design and fashion brands, which are largely imported from overseas. This is an area where cooperation could be strengthened in the course of building new trading relationships with non-EU countries, alongside continued cooperation with European and international enforcement agencies
20. A complete withdrawal from the single market would require the UK to rely on membership of the World Trade Organisation to provide terms on which to trade with the EU and its 53 trade partners. The process of transition from EU to WTO regulations is unprecedented and may take years to complete. While this happens, Intellectual property rights, including copyright and trademarks, must be protected – they are crucial to enabling the creative industries to capitalise on their ideas and talent. The creative sector needs to be able to make money. The UK has been at the forefront of developing this framework in Europe and it is vital that we continue to exert influence for as long as we can.

Recommendation:

The government should make it a priority to ensure that copyright works enjoy robust and properly enforced legal protection in international markets. Strong protection for copyright should be incorporated as a key principle into any future negotiations.

21. It will also be important that related areas of regulation align. For example, future trade negotiations will be helped if we can be sure how we are signing up to the new EU General Data Protection regulation rules.

Recommendation:

Sign up to the General Data Protection Regulations should ensure that the scheme will be adequate for our future trading ambitions.

Issues of capacity

22. The availability of appropriately skilled individuals to manage negotiations and to plan for the implications of Brexit have been raised repeatedly. The range and quantity of regulations, corporate codes, competition law, consumer protection, environmental and employment law are daunting. A range of academic institutions, WGSBs and third sector agencies have specific expertise in international working. This could be deployed to assist the Welsh Government.

Recommendation:

In these exceptional times, the Welsh Government might want to enhance its organisational capability by drawing more widely on the expertise that exists within a range of organisations across Wales.

International working

23. In these challenging times it is more important than ever that as global citizens we understand better the world around us. Maintaining cultural links with Europe has more than symbolic value. Exchanges in arts and culture helps us to build relationships, share experiences and unite us in working together to build stronger and more inclusive democratic structures.
24. Wales' continued participation in a range of international networks remains important. They provide intelligence and information about international markets and opportunities. Such intelligence will be vital if we're influence future debate and develop new cultural and trading relationships in Europe and further afield.
25. Our success in the arts and creative industries depends on openness and the quality of our international engagement with other countries. Sustaining this remains a vital national interest. Wales will respond more effectively to future challenges if it can develop a coherent international cultural strategy.
26. The impact of Brexit goes further than issues around legislative powers. And important as it is to get the settlement right for Wales in terms of making devolution work, an international cultural strategy is needed to enable all of the sub sectors (including government departments and public and private organisations) to align our priorities accordingly.

27. Wales is small enough for a meaningful strategy to be operational across sectors. The Committee could support such a proactive international approach by hosting a forum to bring together the depth and breadth of experience in working internationally that Wales has as well as the UK agencies that can help deliver such a strategy. The Arts Council of Wales and our international arm Wales Arts International would be more than willing to cooperate.

Recommendation:

The Committee could host a forum designed to facilitate the creation of an international cultural strategy for Wales.

Looking ahead – planning for change

28. As negotiations progress, the implications of Brexit for businesses in Wales will start to emerge. To date, the External Affairs and Additional Legislation Committee has been very diligent in explaining what is currently happening – who is doing what, where. As negotiations draw to a conclusion, smaller charities and third sector organisations are unlikely to have the capacity or expertise to interpret the consequences of change. They will require access to information and advice that helps them to anticipate and prepare for change. For this to be effective, it would need to be in place before the end of the Brexit period.

Recommendation:

The Committee could consider the steps that the Welsh Government – or other agencies – might take to put in place arrangements that assist and support business through the processes of change.

Arts Council of Wales
4 April 2017

Agenda Item 6.3



Rt Hon Alun Cairns MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

Gwydyr House | Tŷ Gwydyr
London | Llundain
SW1A 2NP

1 Caspian Point | 1 Pwynt Caspian
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CF10 4DQ

www.gov.uk/wales www.gov.uk/cymru

David Rees AM
Chair, External Affairs and Additional
Legislation Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Ref: 139SUB 17

13 March 2017

Dear David,

Thank you for your letters of 15 February to the Secretary of State for International Trade, the Minister for the Cabinet Office and I seeking information to inform your inquiry on the level of access the Welsh Government has to governmental structures informing the EU exit process and post-exit structures. I am writing with a consolidated response to your request.

As the Prime Minister has made clear, the Government is committed to engaging the devolved administrations to get the best possible deal for all parts of the United Kingdom as we leave the European Union. Following the referendum we established the Joint Ministerial Committee on EU Negotiations (JMC(EN)) to bring together the UK Government and the devolved administrations and seek to develop a UK-wide approach to our negotiations. To date the Committee has met on four occasions and has discussed a wide range of issues related to the UK's exit.

We have delivered on the Prime Minister's commitment at the last meeting of the Joint Ministerial Committee Plenary (JMC(P)) in Cardiff to intensify our engagement with the devolved administrations ahead of triggering Article 50. We have engaged with the Welsh Government as we consider the proposals set out in its White Paper, 'Securing Wales's Future'. The Secretary of State for Exiting the European Union met with the Cabinet Secretary for Finance and Local Government on 1 March to discuss this paper and discussions are continuing at official level to explore its proposals in detail.

My key priority is to ensure that EU exit works for Wales. I am working with the Welsh Government, both as a member of the JMC and through bi-lateral discussions with Welsh Ministers, to explore the opportunities that our exit from the EU will offer to Wales. I am also engaging stakeholders in Wales more widely. In January I launched a series of events across Wales to hear the views of key sectors on EU exit. To date I have met with representatives from a wide range of sectors including agriculture,

pharmaceuticals, life sciences, creative industries, and energy. My attendance at Cabinet Committees allows me to represent the views of stakeholders in Wales at the heart of Government as we develop our negotiating position.

The Department for International Trade (DIT) is also committed to working closely with the Welsh Government. We already work closely to support business identify and seize trade and investment opportunities, and the Secretary of State for International Trade attended the most recent JMC(P) to discuss how DIT and the devolved administrations can go further in this area.

Since the EU referendum, the DIT has been expanding its trade policy capability rapidly. DIT officials communicate regularly with the Welsh Government on a wide range of trade policy issues as we develop a new, inclusive trade policy which reflects the needs and potential of the whole of the UK. While we are a member of the EU, we remain part of the EU's Common Commercial Policy, so we cannot negotiate and conclude trade agreements. We will take forward discussions with the Welsh Government on ensuring that they have every opportunity to input towards international trade agreements in due course.

I am copying this letter to the Secretary of State for International Trade, the Secretary of State for Exiting the European Union, and the Minister for the Cabinet Office.

A handwritten signature in black ink, consisting of several fluid, interconnected strokes that form a stylized representation of the name 'Alun Cairns'.

Rt Hon Alun Cairns MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

Mark Drakeford AM
Cabinet Secretary for Finance and Local Government

26 April 2017

Dear Cabinet Secretary

Human Rights in Wales

We have embarked on an inquiry into human rights in Wales. Our inquiry is looking at:

- the impact of the UK’s withdrawal from the European Union into human rights protections in Wales;
- the impact of the UK Government’s proposal to repeal the Human Rights Act 1998 and replace it with a UK Bill of Rights; and
- public perceptions about human rights in Wales, in particular how understandable and relevant they are to Welsh people.

We are writing to you, because of your role on the Joint Ministerial Committee on EU Negotiations.

We have received written evidence, and have started taking oral evidence, hearing from the Equalities and Human Rights Commission and Dr Simon Hoffman and Professor Thomas Glyn Watkin.



At this early stage, we wanted to ask what representations the Welsh Government will be making to the UK Government to ensure that the protection of human rights is central to the Brexit negotiations. We have already heard evidence raising concerns that the human rights legal framework in the UK will be weakened, when the UK leaves the European Union. This is because much of the current human rights framework is underpinned by EU treaty obligations.

While the UK Government has stated their intention to maintain the level of human rights protection in line with the EU at the point of the UK exiting the EU, we have heard concerns of the risk of increasing divergence if the European Union introduces further protections, which the UK may not choose to match. We have heard concerns about the impact of the loss of funding from the European Union which supports the equalities and human rights infrastructure and what this will mean for human rights protection.

There are also significant concerns about the loss of protections that derive from the Charter of Fundamental rights of the EU which are not protected by the Human Rights Act, for example a guarantee of human dignity, a prohibition on human trafficking and the social protections included in Title IV of the Charter.

We also note the Prime Minister indicated that she would include in a manifesto for the 2020 General Election a pledge to withdraw from the European Convention on Human Rights. At the time of writing, we are unclear, if following the announcement of a general election in June, if this will be part of any party manifestos, and what impact on human rights protection this would have. We will continue to follow developments on this.



We will keep the Welsh Government updated with our thinking on this important issue. I am copying in the First Minister, Cabinet Secretary for Communities and Children, the Chair of External Affairs and Additional Legislation Committee and the Chair of the Constitutional and Legislative Affairs Committee for information.

Yours sincerely

A handwritten signature in black ink that reads "John". The letters are cursive and connected.

John Griffiths AM
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



David Rees AM
Chair, External Affairs and Additional Legislation Committee

26 April 2017

Dear David

Response to the Procedure Committee of the House of Commons' inquiry into delegated powers in the 'Great Repeal Bill'

You may be aware that the Procedure Committee of the House of Commons has recently been undertaking an inquiry into delegated powers in the 'Great Repeal Bill'. At our meeting on 3 April we agreed to respond to the inquiry.

Please find enclosed our response for your information.

Yours sincerely



Huw Irranca-Davies

Chair

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



Mr Charles Walker MP
Chair, Procedure Committee
House of Commons
London
SW1A 0AA

25 April 2017

Dear Mr Walker

DELEGATED POWERS IN THE 'GREAT REPEAL BILL' INQUIRY

I refer to the request for submissions to your inquiry on the delegated powers in the Great Repeal Bill following the publication of the UK Government's White Paper.

We would like to draw your attention to some of our initial thoughts and concerns as we start to consider the impact that exiting the EU will have on law making in Wales. These are set out below. However, as you will appreciate, with so many current unknowns, it is a difficult task to give definitive views on such a complex issue.

Accountability for changing legislation in devolved areas

Our starting point is always that the National Assembly must be the legislature responsible for legislating in devolved areas. This includes passing primary legislation in devolved areas, and delegating powers to the Welsh Ministers to make subordinate legislation as the National Assembly considers appropriate (we recognise that many devolved matters remain in Acts of the UK Parliament, but they are still devolved matters and any changes to such Acts of the UK Parliament are a matter for the National Assembly).

Because of the circumstances and time constraints that exist in relation to exiting the EU, we are concerned about how the Great Repeal Bill will approach the issue of amending legislation in devolved areas, including by means of powers delegated to UK Ministers. In particular, our interest focuses on whether such amendments would occur with or without the National Assembly's consent. If, as we would fully expect, consent is required (in



accordance with *Devolution Guidance Note 9: Parliamentary and Assembly Primary Legislation Affecting Wales* and the National Assembly's Standing Order 30A – Consent in relation to Statutory Instruments made by UK Ministers), the way in which the Bill provides for that consent to be sought will be important.

From our perspective, it is a significant matter of constitutional propriety for the National Assembly to have a role in any changes that are made to legislation in devolved areas.

Procedures for making subordinate legislation

We believe that the National Assembly should have the right to take final decisions on the procedures to be applied to subordinate legislation that needs to be made in devolved areas by the Welsh Ministers to give effect to the UK's exit from the EU. The procedures could in our view be set out in one or more Acts of the National Assembly; the number and extent of such primary legislation would be determined by the number of UK Bills (including the Great Repeal Bill) that will be needed to effect the UK's exit from the EU.

Given that areas such as agriculture, fisheries, environment, food etc. are devolved, we would expect to see a substantial amount of subordinate legislation being laid before the National Assembly for scrutiny. Not only should the National Assembly control the procedures that will apply to scrutinising this substantial amount of subordinate legislation, but it should also be allowed to control the timescale for scrutinising that subordinate legislation. The National Assembly must be given adequate time for proper scrutiny.

Breadth of “consequential etc.” powers given to the Welsh Ministers

We are taking a close interest in the breadth and extent of consequential powers taken by the Welsh Ministers to amend primary legislation in Wales. We are therefore interested in whether such powers will be provided to the Welsh Ministers through the Great Repeal Bill and if so their precise nature.

We note that the White Paper talks of the Bill potentially giving the devolved ministers a power to amend devolved legislation to correct law that will no longer operate appropriately, “*in line with*” the power it proposes should be held by UK Ministers. It is unclear whether the phrase “*in line with*” is significant; in our view, it could potentially hold a different meaning to “*equivalent to*”.

In addition, we are keen to learn what wording will be used to define the powers that will be given to the Welsh Ministers (and other devolved ministers) to correct law. For example,



will the drafting rely on familiar terms such as “consequential” or will bespoke drafting be used? While we are concerned about the breadth and extent of powers that may be given to the Welsh Ministers, we also recognise the need for the Welsh Ministers to be given the right tools to perform necessary functions, but they should always be subject to appropriate National Assembly scrutiny and control.

Sunset clauses

We support the use of sunset clauses in the Great Repeal Bill such that relevant powers to correct the statute book are time-limited. They should cease to have effect, perhaps no later than 6 months after the day of the UK’s withdrawal. We would need to see strong evidence in favour of a longer period, particularly if, against the rationale we highlight above, the Bill were to include significant powers to amend legislation in devolved areas in a manner that the National Assembly opposed.

Our thinking is likely to develop as more detail emerges about the precise drafting of the Great Repeal Bill but in the meantime I hope you find this submission of use.

Yours sincerely



Huw Irranca-Davies

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Brexit and the NHS: Election 2017

To maintain safe and high quality services, the NHS Confederation calls on political parties to commit to the following:

Budget

A detailed analysis of the benefits and costs resulting from exiting the EU to ensure that the NHS is protected at a time of unprecedented service changes.

Research

Continued access to collaborative EU-wide research programmes and clinical trials, developing and testing better treatments for patients and guarantee research funding beyond Brexit.

Employment

A straightforward migration system that enables the health and social care sector to attract, recruit and retain high quality staff from abroad who meet UK standards, coupled with extra investment in domestic training opportunities.

X-border healthcare

Reciprocal arrangements so that UK citizens can continue to receive safe and seamless healthcare when living in EU countries, and vice versa. Continuation of existing joint working across the island of Ireland.

Innovation

No delay for patients in accessing innovative treatments available on the EU market, in the event of the UK leaving the European Medicines Agency.

Trade

Future UK trade agreements should safeguard the provision of high quality health services and maintain or improve standards of imported goods and services.

Networks

UK hospitals should be able to continue to lead and participate in European Reference Networks, collaborating with EU countries to tackle rare and complex diseases.

Health incidents

Continued access to EU-wide systems to respond to and combat major cross-border public health incidents (for example epidemics) and uphold high environmental and safety standards.

Supplies

Smooth continuation of the supply of vital medicines and medical equipment.

Further information

The NHS Confederation welcomes the opportunity to discuss these issues further. For more information please contact enquiries@nhsconfed.org

You can also visit www.nhsconfed.org/election and follow us on **Twitter @nhsconfed**

Agenda Item 6.7



Regional Policy in OECD Countries

The [External Affairs Committee](#) of the National Assembly of Wales is currently undertaking an [inquiry](#) into the future of regional policy in Wales. This small note takes stock of the work undertaken at the OECD through numerous territorial reviews and thematic studies over the past years, and provides a short summary around the following topics

1. Examples of international best practice in the field of regional/economic development policy;
2. Key lessons for any future regional policy in Wales including the broad principles that should underpin effective regional policy;
3. How Wales should measure success, what indicators could be used to measure impact?
4. Any views on the key trends in the area of regional policy – where is current thinking moving to?
5. Any challenges to regional policy or potential pitfalls that should be avoided.

1. Examples of international best practice in the field of regional/economic development policy.

Best practices in the field of regional and economic development policy differ significantly depending on regional conditions. What works well in one region may not work well in another because the framework conditions differ. However, despite that caveat, there are a few important trends to note in the delivery of regional and economic development policy which can be considered a best practice.

- **Investments instead of subsidies.** In recent years, there has been a transition to greater use of policy tools that involve investments instead of basic subsidies in the goal of boosting competitiveness. Many of the infrastructure investments and business development tools are designed to improve firm productivity. Finland's rural and regional policy embraces such an approach; they have reorganised their regions, they are investing in education, skill development and technology.
- **Supporting competitiveness and innovation.** Business development is the most frequently reported policy tool to achieve regional development policy objectives. Several OECD countries have recently reported shifting away from a focus on infrastructure in favour of competitiveness and innovation (e.g. Estonia, Hungary and Spain). Many of the national networks of regional development agencies have a primary purpose of business development, generally focusing on SMEs. Related to business development are a range of instruments for promoting innovation that are seeking to boost productivity of firms or even improve the productivity of the public sector. As often science and technology policies are de facto directed towards the leading firms and institutions, often in frontier regions, many of these instruments oriented towards non-leading regions are used by regional development policy as opposed to national innovation policy. In Scotland, Scottish Enterprise is a good example of an organisation that has been able to work successfully with businesses to boost competitiveness.
- **Building sub-national capacity.** The governance of regional development policy at the national level, and the interaction between national and regional/local policies are both considerations for promoting policy effectiveness. Some key issues concern the national level organisation of the regional, urban and rural development policy portfolio and the manner in which it is monitored and evaluated. The way national governments organise their interventions in different parts of a country can involve different strategies, one being that of regional development agencies. As countries develop economically they tend to rely more on subnational governments. Building subnational capacity (technical and financial) is therefore an important element in regional development efforts that tend to rely more on subnational governments at higher levels of development. Canada's Community Future's programme is a good example of an approach that builds community capacity and engages a wide range of local actors in the process.
- **Coordination across functional areas.** The boundaries corresponding to an area should be relevant for a social, economic or environmental function (such as commuting patterns, water basins, or economic ties). Best practices include the European Union's Integrated Territorial Investments which allow Member States to implement operational programmes in a cross-cutting way and to draw on funding from several priority axes in order to ensure the implementation of an integrated strategy for a specific territory. Another example are France's new experimental tool to promote inter-municipal collaboration: "contracts of reciprocity for the city-countryside" (Contrats de réciprocité ville-campagne). These agreements are adaptable to different territorial realities; their jurisdictions are not pre-defined which allows them to cover different areas depending on the issue at hand. The process is primarily led at the inter-municipal level, with the state, regions, and departments being asked to support local initiatives.


- **Policy complementarity.** The concept of policy complementarity refers to the mutually reinforcing impact of different actions on a given policy outcome. Policies can be complementary because they support the achievement of a given target from different angles. For example, increased broadband in rural areas should proceed along with policies that focus on the accessibility and diffusion of these services to the population. Policies – territorial and sectoral – are more effective where they are co-ordinated and aligned along similar goals and objectives. In effect, governments should frame interventions in infrastructure, human capital and innovation capacity within common policy packages that are complementary to sectoral approaches as well. This requires that policies are integrated horizontally, through management arrangements and development plans amongst different sectors, services and agencies within a given level of government. It also requires that policies are vertically integrated, from the national to the local level of government, and that interventions are territorially integrated and consider the interrelationships and interdependencies between different territories.

2. Key lessons for any future regional policy in Wales including the broad principles that should underpin effective regional policy

Place-based disparities in income, jobs and productivity are an increasing challenge for many OECD countries and regions (OECD 2016). Across the OECD, these differences persist over time suggesting that regional level factors yield significant differences in productivity and consequently income levels among regions (Garcilazo and Martins 2013). Although a small number of large cities contribute disproportionately to growth there are many smaller and lagging regions that also make important contributions to national growth. A decomposition of the latter in OECD shows that between 1995 and 2007, less developed regions had a vital contribution to aggregate growth, since they accounted for 43% of aggregate OECD growth. Previous OECD work on regional growth has shown that there is potential for growth in all regions, and that the determinants of growth can be addressed by public policies (OECD, 2009 and 2011).

This growing body of evidence has been accompanied by a shift in how OECD countries approach regional policies. In the past, these policies tended to focus on addressing disparities between regions through the provision of subsidies to compensate them for lower incomes. Policies were designed by central governments through departments of state that delivered narrowly defined economic development programs. This approach was seen as increasingly ineffective and not sustainable from a fiscal point of view. The new approach to regional policies emphasise a focus on competitiveness and working with regions to unlock growth potential. This approach has significant implications for how government works. Governments need to work in a more integrated way at a regional and local level. This ‘place-based’ approach is outlined in Table 4.

Table 4: The paradigm shift in regional policy

	Traditional regional policies	New paradigm
Objectives	Balancing economic performance by temporary compensation for regional disparities	Tapping underutilised regional potential for competitiveness
Strategies	Sectoral approach	Integrated development projects
Tools	Subsidies and state aid	Soft and hard infrastructure
Actors	Central government	Different levels of government
Unit of analysis	Administrative regions	Functional regions
	Redistributing from leading to lagging regions	Building competitive regions to bring together actors and targeting key local assets

Source: OECD (2009), *Regions Matter: Economic Recovery, Innovation and Sustainable Growth*, OECD

This paradigm shift in regional policies has important implications for how government works. Policies should be adapted to the needs and circumstances (social, economic, cultural, geographic, environmental, etc.) of different regions. Policies should also be integrated to help realise complementarities between them. Tailoring policies in this way requires new ways of working and organising which are challenging for traditional forms of public administration and fiscal management. To help countries address these challenges, the OECD has developed the *Principles on Effective Public Investment Across Levels of Government*. The purpose of the OECD Principles is to help governments at all levels assess the strengths and weaknesses of their public investment capacity, using a whole-of-government approach, and set priorities for improvement. The Principles are grouped into three pillars, which represent systemic multi-level governance challenges for public investment:

- **Co-ordination challenges:** Cross-sector, cross-jurisdictional, and intergovernmental co-ordination are necessary - but difficult in practice. Moreover, the constellation of actors involved in public investment is large and their interests may need to be aligned.
- **Capacity challenges:** Where the capacities to design and implement investment strategies are weak, policies may fail to achieve their objectives. Evidence suggests public investment and growth outcomes are correlated to the quality of government, including at the subnational level.
- **Challenges in framework conditions:** Good practices in budgeting, procurement, and regulatory quality are integral to successful investment, but not always robust or consistent across levels of government.

Box 1. OECD Principles on Effective Public Investment Across Levels of Government

The OECD Instrument groups 12 principles under three pillars: co-ordination, capacities and framework conditions.

- **Pillar 1:** Co-ordinate across governments and policy areas
 1. Invest using an integrated strategy tailored to different places
 2. Adopt effective co-ordination instruments across levels of government
 3. Co-ordinate across subnational governments to invest at the relevant scale
- **Pillar 2:** Strengthen capacities and promote policy learning across levels of government
 4. Assess upfront long term impacts and risks
 5. Encourage stakeholder involvement throughout investment cycle
 6. Mobilise private actors and financing institutions
 7. Reinforce the expertise of public officials & institutions
 8. Focus on results and promote learning
- **Pillar 3:** Ensure sound framework conditions at all levels of government
 9. Develop a fiscal framework adapted to the objectives pursued
 10. Require sound, transparent financial management
 11. Promote transparency and strategic use of procurement
 12. Strive for quality and consistency in regulatory systems across levels of government

Source: OECD (2014).

3. How Wales should measure success? What indicators could be used to measure impact.

Measuring regional performance

Measuring territorial performances is becoming increasingly important for evidence-based policy making. In order to implement a place-based approach to development policy, territorial information is a crucial ingredient. The lack of reliable data is often one of the main constraints for effective policies particularly at the sub-national level. More information at the local and regional levels can help identify the bottlenecks that are hampering development and identify areas of priority.

The OECD has developed a system of territorial indicators at sub-national level (TL2 and TL3) to support policy makers in the formulation, implementation and monitoring of territorial policies. This territorial indicator system is increasingly recognized and adopted also by non-OECD countries (e.g. Morocco and Tunisia have recently requested a study on how to adapt their regional statistics to the OECD database).

The [OECD Regional Database](#) provides a unique set of comparable statistics and indicators on about 2 000 regions in 34 countries. It currently encompasses yearly time series for around **40 indicators** in the OECD member countries and other economies (Table 1). The themes covered are: i)

demographic statistics, ii) social and health statistics, iii) regional income distribution, iv) regional accounts, v) labour statistics, vi) environmental statistics, vii) innovation statistics.

Table 1 – Territorial indicators composing the OECD regional database

Theme	Number of OECD countries with data			Main period covered
	at TL2	at TL3	Non OECD	
Demographic statistics				
- Population by age (5 years range) and gender	34	34	7	1990-2014
- Population density	34	34	7	1990-2014
- Regional surface	34	34	7	1990-2014
- Number of deaths by age (5 years range) and gender	34	34	1	1990-2013
- Inter-Regional migration	25	28	1	1995-2013
- Private households	28	11		2000-2013
Social and health statistics				
- Life expectancy by gender	33	7		2000-2013
- Age adjusted mortality rate by gender	34			2000-2013
- Infant mortality rate by gender	33	-		2000-2012
- Number of physicians per 1 000 population	32	20	1	1995-2011
- Number of hospital beds	30	14		1995-2011
- Homicides per 100 000 population	34	18	1	1995-2012
- Number of rooms per people	32			2012
- Crimes against property	32	11	1	2000-2010
- Motor vehicles theft	23	13		2005-2011
- Mortality rate due to transport accident	8	-		1995-2011
- Voters turnout	34	8	1	2000-2012
- Young people not in employment and not in any education and training (NEET)	25	3		2005-2013
Regional income distribution				
- Gini (at disposable income, after taxes and transfers)	28	-		2011 ; 2013
- Gini before taxes and transfers	28	-		2011 ; 2013
- S80/S20 disposable income quintile ratio	28	-		2011 ; 2013
- S80/S20 income before taxes and transfers quintile ratio	28	-		2011 ; 2013
- Poverty rate after taxes and transfers, Poverty line 60%	28	-		2011 ; 2013
- Poverty rate before taxes and transfers, Poverty line 60%	28	-		2011 ; 2013

- Poverty rate after taxes and transfers, Poverty line 50%	28	-		2011 ; 2013
- Poverty rate before taxes and transfers, Poverty line 50%	28	-		2011 ; 2013
Regional accounts				
- Regional Gross Domestic Product (GDP) total and per capita	32	28	4	1995-2013
- Regional Gross Value Added (GVA), by ISIC rev.4 industry and per worker	30	26		2000-2013
- Regional Gross Value Added (GVA) in ISIC rev.3	25	3		1995-2007
- Regional Disposable Household income	31	7	1	1995-2013
- Regional Primary Income of Households	28	6		2005-2011
Labour statistics				
- Regional Labour Force Statistics by gender	34	30	4	1990-2014
- Regional employment and unemployment by gender	34	29	3	1990-2014
- Regional youth unemployment	34	29	3	2000-2014
- Regional long-term unemployment	30	3		2000-2014
- Regional part-time employment	32	5		2000-2014
- Regional employment at place of work, total	34	27	2	1995-2013
- Regional employment at place of work by ISIC rev.4 (10 industries)	33	27		2000-2010
- Regional employment at place of work by ISIC rev.3 (6 industries)				1995-2007
Environmental statistics				
- Volume of municipal waste (Ktonnes) per 10 000 population	29	15	1	2000-2012
- CO2 emissions	34	32	5	2005-2008
- Air pollution PM2.5	34	34	6	2000-2012
- Number of private vehicles per 1 000 inhabitants	33	27	1	1995-2012
Innovation statistics				
- R&D Expenditures by performing sector	28	4		2000-2013
- R&D Personnel by sector	25	4		2000-2013
- Educational attainments of the labour force	34	8		2000-2013.
- Student Enrolment by level of education	32	8	1	2000-2013
- Employment in high-technology sectors	29	7		2000-2013
- Percentage of households with access to broadband	32	6	1	2006-2014
- PCT Patent applications (fractional count; by inventor and priority year)	34	33	4	1990-2012
- PCT Patents international collaboration	34	33	4	1990-2012
- PCT Patent applications by sector	34	33	4	1990-2012

Source: OECD Regional Database, 2016.

Recent work by the OECD and the EU has defined all OECD metropolitan areas in a harmonised definition of urban areas as functional urban areas (FUA) and has developed data and indicators across a wide number of indicators at this scale. For the UK the list of FUAs can be found [here](#) and the list of available data and indicators are available at [OECD.STAT](#).

The OECD has also developed a visualisation web-tool, the [OECD eXplorer](#), that enables the visualization of socio-economic information at detailed territorial level providing clear insight on regional differences and performance within a country and comparison of different areas across countries. eXplorer enables users to explore spatial, temporal and multivariate data from multiple perspectives simultaneously, to discover interesting relationships, and communicate their incremental discoveries.

Finally the [OECD Regions at a Glance](#) series compares major regional patterns and trends across OECD countries and diffuses the statistical tools elaborated by the Working Party on Territorial Indicators for the analysis of regional economies.

Well-being at sub-national level: the OECD regional well-being indicators

The concept of well-being links quality of life and material conditions to the goal of sustainable well-being over time. It is a multidimensional concept that is grounded in an understanding that economic conditions should be viewed as part of broader social and environmental systems and conditions. Although there are many debates on the measurement and operationalising of the concept of well-being (Adler and Seligman, 2016), the OECD has supported this work by developing a *Framework for Measuring Well-Being and Progress*. It encourages governments to think of natural, economic, human and social capital as interconnected and as such, supports the idea of policy complementarity (OECD Regional Outlook, 2016).

The framework for measuring well-being at the regional level considers a **combination of individual characteristics and local conditions, to get closer to what people experience in their life**. It has been conceived to improve policy coherence and effectiveness by looking at eleven dimensions, those that shape people's material conditions (income, jobs and housing) and their quality of life (health, education, access to services, environment, safety, civic engagement and governance, community, and life satisfaction). These dimensions are gauged through indicators of "outcomes", which capture improvements in people's lives. For example, health is measured by the regional average life expectancy at birth, rather than public expenditure for health (input indicator) or number of doctors per population (output indicator).

The well-being indicators chosen for 9 of the 11 dimensions are objective indicators that together provide a snapshot of the development of a region and, when possible, how the results are distributed among different population groups (elderly, young, women, foreign-born, etc.). For the first time in the OECD Regions at a Glance (2016) publication two additional well-being dimensions are included, community and life satisfaction, and measured by self-reported indicators (or subjective indicators), where respondents are asked to evaluate their life or certain domains of their life (OECD Regions at a Glance, 2016).

In synthesis, at present, regional measures are available for OECD countries in eleven well-being topics: income, jobs, housing, education, health, environment, safety, civic engagement and governance, access to services, community, and life satisfaction (Table 2).

Table 2. Well-being topics and indicators

	Topics	Indicators
Material conditions	Income	♦ Household disposable income per capita (in real USD PPP)
	Jobs	♦ Employment rate (%) ♦ Unemployment rate (%)
	Housing	♦ Number of rooms per person (ratio)
Quality of life	Health	♦ Life expectancy at birth (years) ♦ Age adjusted mortality rate (per 1 000 people)
	Education	♦ Share of labour force with at least secondary education (%)
	Environment	♦ Estimated average exposure to air pollution in PM2.5 (µg/m ³), based on satellite imagery data
	Safety	♦ Homicide rate (per 100 000 people)
	Civic engagement	♦ Voter turnout (%)
	Accessibility of services	♦ Share of households with broadband access (%)
Subjective well-being	Community	♦ Percentage of people who have friends or relatives to rely on in case of need
	Life satisfaction	♦ Average self-evaluation of life satisfaction on a scale from 0 to 10




Source: OECD Regional Well-Being Database.












Monitoring indicators for public investment across levels of government

The governance of public investment is complex because it is a shared responsibility across an increasing number of actors and levels of government. More than two-thirds of public investment is conducted at the sub-national government level in OECD countries, i.e. by states, regions, provinces, and municipalities.

The Principles on Effective Public Investment help governments assess the strengths and weaknesses of their public investment capacity and set priorities for improvement. The Principles group 12 recommendations into 3 pillars representing systemic multi-level governance challenges for public investment. The OECD has also developed a system of indicators to measure the implementation of those principles in countries (Table 3).

Table 3 Indicators to monitor the implementation of the OECD Principles on Effective Public Investment

 System is in place and works in a satisfactory way
  System is in place but improvements are needed
  System is not in place or not functioning well

OBJECTIVES	INDICATORS			
PRINCIPLE 1				
To engage in planning for regional development that is tailored, results-oriented, realistic, forward-looking and coherent with national objectives	Coherent planning across levels of government Mechanisms exist to ensure that sub-national investment plans reflect national and sub-national development goals			
	Tailored, place-based development plan There is correspondence between assessment of territorial needs and strengths and planned projects			
	Clear public investment priorities There is a clear and authoritative statement of public investment priorities at national and regional levels			
To co-ordinate across sectors to achieve an integrated place-based approach	Complementary of hard and soft investments Consideration is given to complementarities between investments in hard and soft infrastructure			
	Complementarities across sectors Attention is given to potential complementarities and conflicts among investments by different ministries/ departments			
	Cross sectoral coordination Formal or informal mechanisms exist to co-ordinate across sectors (and relevant departments/agencies) at the sub-national level			
To support decisions by adequate data	Forward-looking investment plans Authorities assess the potential contribution of investments to current competitiveness, sustainable development and regional & national well-being			
	Data availability & use for investment planning Data are available and used to support the territorial assessment and planning process			
PRINCIPLE 2				
To coordinate across levels of government to reduce asymmetries of information	Coordination bodies across levels of government There are formal mechanisms/bodies for co-ordination of public investment (formal platforms and <i>ad hoc</i> arrangements) across levels of government			
	Cross-sectoral approach These coordination bodies/mechanisms have a multi-sector approach			
	Mobilisation of coordination arrangements There co-ordination mechanisms are mobilised regularly and produce clear outputs/outcomes			
	Efficacy of coordination platforms Stakeholders' perception (or empirical data) regarding the efficacy of these different platforms			
	Contractual agreements/partnerships Contractual agreements/partnerships across levels of government have been developed to manage joint responsibilities for sub-national public investment			
	Effectiveness of contractual agreements The share of sub-national public investment covered by these agreements is measured			
To align priorities across the national and sub-national levels	Co-financing arrangements There are co-financing arrangements for public investment			
PRINCIPLE 3				
To co-ordinate with other jurisdictions to achieve economies of scale across boundaries	Horizontal coordination Cross-jurisdictional partnerships involving investment are possible			
	Cross-sectoral approach Cross-jurisdictional partnerships cover more than one sector			
	Incentives from higher levels of government Higher levels of government provide incentives for cross-jurisdictional co-ordination			
	Effectiveness of horizontal coordination The share of investments involving use of cross-jurisdictional co-ordination arrangements at the sub-national level can be measured by mechanism and/or by sector			
To plan investment at the right functional level, in particular in metropolitan areas	Use of functional regions Functional regions are defined, identified, and used in investment policy			

PRINCIPLE 4		✓	✓	✓
To identify social, environmental and economic impacts, ensure value for money and limit risks	Ex-ante appraisals A large share of public investment is subject to ex-ante appraisal			
	Results of ex-ante appraisals The results of ex-ante appraisals are used to prioritise investments			
To conduct rigorous ex-ante appraisal	Quality of appraisal process Ex-ante appraisals are conducted by staff with project evaluation skills			
	Independent review of ex-ante appraisals Share of ex-ante appraisals subject to independent review			
	Guidance for ex-ante appraisals Technical guidelines for ex-ante appraisal are available and used at all levels of government			
PRINCIPLE 5		✓	✓	✓
To engage public, private and civil society stakeholders throughout the investment cycle	Mechanisms to involve stakeholders Mechanisms exist to identify and involve stakeholders throughout the investment cycle			
	Fair representation of stakeholders Fair representation of stakeholders in the investment cycle consultation process is guaranteed (to avoid capture situations)			
	Early involvement of stakeholders Stakeholders are involved from the early stages of the investment cycle			
	Access to information Stakeholders have easy access to timely and relevant information throughout the investment cycle			
	Feedback integrated in decision-making process Stakeholders are involved at different points of the investment cycle and their feedback is integrated into investment decisions and evaluation			
PRINCIPLE 6		✓	✓	✓
To mobilise private sector financing, without compromising long-term financial sustainability of sub-national public investment projects	SNGs have access to technical assistance for PPP Sub-national governments have access to and use technical assistance for public-private partnerships (e.g. via PPP units, formal training, good practice guidance)			
	Use of quantifiable indicators The amount of private financing per unit (e.g. Euro, USD) of public investment is known			
	Access to information SNGs have access to information concerning (supra) national funds for investment			
To tap traditional and innovative financing mechanisms for sub-national public investment	Use of innovative financing instruments The use of new, innovative financing instruments at sub-national levels is accompanied by assessment of their benefits, risks, and sub-national capacities to employ them			
PRINCIPLE 7		✓	✓	✓
To develop institutional capacity and professional skills	Specific focus on investment required skills Human resource management policies demonstrate attention to the professional skills of staff involved in public investment (e.g. hiring is targeted, needs assessments are made, appropriate training is available and used)			
	Dedicated financial assistance Dedicating financial assistance is made available for technical training of civil servants involved with public investment; training utilisation rates			
	Technical guidance Technical guidance documents are available for actors at all levels of government to clarify approaches to planning, implementation, and evaluation of public investment			
To identify binding capacity constraints and the proper sequence of reforms	Assessment of binding capacity constraints Specific assessments are conducted to assess binding constraints for effective public investment and identify the needs and the proper sequence of reforms			
PRINCIPLE 8 (continued on next page)		✓	✓	✓
To design and use monitoring indicator systems with realistic, performance promoting targets	Performance monitoring in place A performance monitoring system is used to monitor public investment implementation			
	Timely reporting The monitoring systems facilitate credible and timely reporting of expenditure and performance			
	Output and outcomes The indicator system incorporate output and outcome (results) indicators			
	Targets Part of the indicators are associated with measurable targets			

PRINCIPLE 8 (continued from previous page)		✓	✓	✓
To use monitoring and evaluation information to enhance decision making	Performance monitoring information is used in decision-making Performance information contributes to inform decision-making at different stages of the investment cycle			
To conduct regular and rigorous ex-post evaluation	Ex-post evaluations • Ex-post evaluations are regularly conducted. Some ex-post evaluations are conducted by independent bodies (e.g. research organisations, universities, consultancies) • Clear guidance documents exist that detail ex-post evaluation standards			
PRINCIPLE 9		✓	✓	✓
To define appropriate inter governmental fiscal arrangements that help align objectives across levels of government	The intergovernmental fiscal framework is clear, with timely indications of transfers between levels of government. There is minimal variance between estimated and actual transfers. Information is made publicly available on the fiscal situation of sub-national governments and their comparison			
PRINCIPLE 10		✓	✓	✓
To ensure budget transparency at all levels of government	Budget transparency Budget transparency principles apply at all levels of government Timely information Budgetary information regarding public investment is publicly available to stakeholders at all levels of government in a timely and user friendly format Maintenance costs integrated into budgeting Operations and maintenance costs of infrastructure investment are assessed and integrated into budgeting and planning decisions			
To ensure sub-national and national fiscal stability	Budget coordination across levels of government Budgetary coordination across levels of government in terms of contributions to national fiscal targets			
To link strategic plans to multi-annual budgets	Multi-year forecasts Public investment is linked to multi-year budget forecasts, which are reviewed regularly Medium term budgeting framework The medium-term planning and budgeting framework is integrated with the annual budget Multi year forecasts Multi-year forecasts for public investment reviewed and updated regularly			
PRINCIPLE 11		✓	✓	✓
To engage in transparent, competitive, procurement processes	Competitive procurement • The share of public tenders for public investment that are competitively awarded is known and publicly available • The participation rates for tenders is known • Procurement information from the full procurement cycle is publicly available at the national and sub-national levels of government • Procurement review and remedy mechanisms are in place at the national and sub-national levels			
To encourage procurement at the relevant scale	Strategic procurement The share of procurement which involves more than one sub-national government is known			
To promote the strategic use of procurement	• Procurement is used strategically by SNGs to achieve green objectives • Procurement is used strategically by SNGs to achieve innovation objectives			
To foster sub-national capacity building for procurement	Sub-national capacities for procurement • There is recognition of procurement officials as a specific profession • Formal guidance regarding procurement procedures is provided to sub-national governments • There is a procurement unit that can assist SNGs • The percentage of total annual contracts awarded go to SMEs in sub-national procurement is known • The percentage of national/sub-national procurement conducted on-line is known			
PRINCIPLE 12		✓	✓	✓
To engage in "better regulation" at sub-national levels, with coherence across levels of government	Regulatory coordination across levels of government Formal co-ordination mechanisms between levels of government that impose specific obligations in relation to regulatory practice Regulatory impact assessment Regulatory Impact Analysis (RIA) are used Reduction of stock of regulation Efforts to reduce the stock of regulation or simplify administrative procedures in relation to public investment are made Public consultations Public consultations are conducted in connection with the preparation of new regulations of sufficient duration, accessible, and appropriately targeted Use of e-government tools Use of e-government tools used to simplify administrative procedures for public investment projects			

Websites:

- <http://www.oecd.org/gov/regional-policy/regionalstatisticsandindicators.htm>
- <https://www.oecdregionalwellbeing.org/>
- <http://www.oecd.org/effective-public-investment-toolkit/Self-assessment.pdf>

4. Any views on the key trends in the area of regional policy: where is current thinking moving to?

A key contemporary focus for regional policy is how to promote growth in lagging regions, particularly those in rural areas. There is no single formula for these strategies; however, the OECD suggests the following policy directions.

Identifying drivers of growth in rural areas	Focusing on creating conditions to support the growth of tradeables, including manufacturing, renewable energy, natural resources, administrative services, fisheries, forestry, agriculture, tourism, natural amenities. This includes collaborative approaches to finding areas of absolute advantage through smart specialization strategies.
Adding value in these domains	Working across levels of government to design and deliver “policy packages” for entrepreneurs, firms, clusters and places which focus on enabling factors: skills, accessibility, market intelligence, and innovation. This is particularly important for start-ups and SMEs in rural areas which often lack the scale and expertise to utilize many policy instruments and access new market opportunities.
Enhancing urban – rural linkages	These linkages include labour flows, consumption of public and private services, and supply chains. These linkages can be enhanced through investment in transport and communications infrastructure, and incentives to support shared governance and policies between urban and rural municipalities.
Addressing demographic trends and forward looking policies	Essentially “future proofing” rural economies through measures to address population ageing, fiscal pressures and climate change. This includes investment in broadband and reducing regulatory burden to promote innovation in the provision of public services, and working with communities to identify strategies to adapt to the impacts of climate change.
Addressing localized poverty and disadvantage	Poverty and disadvantage can often be concentrated in particular neighborhoods and towns, and within particular population groups (youth, older men affected by restructuring in traditional industries, and newly arrived migrants). Engaging these communities in the management and delivery of public services, and facilitating opportunities for entrepreneurship and human capital development are important for building pathways out of poverty.

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Garcilazo, E. and J. Oliveira Martins (2013), "The Contribution of Regions to Aggregate Growth in the OECD", *OECD Regional Development Working Papers*, No. 2013/28, OECD Publishing, Paris.

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OECD (2013), *Investing Together: Working Effectively across Levels of Government*, OECD Publishing, Paris.

OECD (2014), *Recommendation of the OECD Council on Effective Public Investment Across Levels of Government*, <http://www.oecd.org/gov/regional-policy/recommendation-effective-public-investment-across-levels-of-government.htm>

OECD (2016) *OECD Regional Outlook 2016: Productive Regions for Inclusive Societies*, OECD Publishing, Paris.

5. Any challenges to regional policy or potential pitfalls that should be avoided.

There is no simple policy prescription to resolve regional productivity and inclusion challenges, but several areas for public action may help boost productivity, inclusion, or both:

- *Structural reforms such as for labour and product markets need to be complemented with other place-specific policies to reap the full potential benefits.* Structural reforms can have different repercussions depending on the region. Tighter labour market restrictions, measured by indicators of employment protection, penalise rural regions with smaller labour markets more than cities. Improved transport options increase the effective size of a local labour market that can complement a particular labour market reform to increase its impact.
- *Regional development policies should focus on productivity drivers and growth in all regions through strategic investments, not mere subsidies.* However, as a share of government spending, public investment has declined over the past two decades from 9.5% to 7.7%. Boosting capacity of subnational governments, responsible for 59% of that investment, should be a higher priority. Investments that facilitate the diffusion of innovation and good practices across sectors and firms within and beyond a region are an opportunity to increase productivity. While in many countries policies seek to reduce gaps across regions, they should avoid stifling growth in the highest-productivity regions.
- *Urban development policies should consider how cities are linked together in a “system of cities” within a country.* Several countries report recent or upcoming changes to national urban policies. While these policies typically focus on reducing the social and environmental costs in cities, they can also consider the economic role of cities, their local and interregional links in a national system, and their capacity to generate innovation that should benefit the wider economy.
- *Its important to move rural development approaches beyond farm supports to also recognise the diversity of rural regions and the importance of connectivity to dynamic areas across the OECD.* Rural Policy 3.0 puts the focus on enhancing communities’ comparative and absolute advantages, through integrated investments and appropriate local services, and by encouraging local participation and bottom up development.

Agenda Item 9

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

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