

# Agenda – Climate Change, Environment and Rural Affairs Committee

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Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 26 September 2018

Meeting time: 09.30

For further information contact:

Marc Wyn Jones

Committee Clerk

0300 200 6363

[SeneddCCERA@assembly.wales](mailto:SeneddCCERA@assembly.wales)

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

## 2 The Well-being of Future Generations (Wales) Act 2015 and the Draft Budget Scrutiny Process

(09.30–10.30)

Cathy Madge, Change Maker, Office of the Future Generations Commissioner  
Eurgain Powell, Office of the Future Generations Commissioner

## 3 Paper(s) to note

(10.30 – 10.35)

### 3.1 Response from the Chief Executive of Natural Resources Wales to the Annual Report and Accounts Scrutiny 2015/16

(Pages 1 – 2)

Attached Documents:

Letter from the Chief Executive of Natural Resources Wales



**3.2 Letter from the Chair of the Public Accounts Committee regarding the Natural Resources Wales Report and Accounts 2017–18**

(Page 3)

Attached Documents:

Letter from the Chair of the Public Accounts Committee

**3.3 Updated response from the Welsh Government to the Committee report on the Scrutiny of the Welsh Government Draft Budget 2018–19**

(Pages 4 – 11)

Attached Documents:

Letter from the Cabinet Secretary for Energy, Planning and Rural Affairs

**3.4 Response from the Secretary of State for Environment, Food and Rural Affairs to the Committee report on Common Frameworks for the Environment after Brexit**

(Pages 12 – 13)

Attached Documents:

Letter from the Secretary of State for Environment, Food and Rural Affairs

**3.5 Welsh Government response to the Committee report on Environmental governance arrangements and environmental principles post-Brexit**

(Pages 14 – 25)

Attached Documents:

Welsh Government Response

**3.6 Welsh Government response to the Committee report on Public Procurement of Food**

(Pages 26 – 32)

Attached Documents:

Welsh Government Response

**3.7 Welsh Government response to the Committee report on Common frameworks for the environment after Brexit**

(Pages 33 – 40)

Attached Documents:

Welsh Government Response

**3.8 Letter from the Cabinet Secretary for Energy, Planning and Rural Affairs: Marine Protected Area Network Management Framework for Wales 2018–2023 and Action Plan 2018–2019**

(Page 41)

Attached Documents:

Letter from the Cabinet Secretary for Energy, Planning and Rural Affairs

**3.9 Correspondence with the Cabinet Secretary for Energy, Planning and Rural Affairs on the scrutiny of carbon budgets**

(Pages 42 – 45)

Attached Documents:

Letter from the Cabinet Secretary for Energy, Planning and Rural Affairs

**3.10 Letter to Cabinet Secretary for Energy, Planning and Rural Affairs on the Draft National Development Framework**

(Pages 46 – 52)

Attached Documents:

Letter from the Cabinet Secretary for Energy, Planning and Rural Affairs

**3.11 Response from the Cabinet Secretary for Energy, Planning and Rural Affairs on the Draft National Development Framework**

(Pages 53 – 56)

Attached Documents:

Letter from the Cabinet Secretary for Energy, Planning and Rural Affairs

**4 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of this meeting**

**5 Discussion of the draft report on the impact of Brexit on fisheries in Wales**

(10.35 – 11.00)

(Pages 57 – 78)

Attached Documents:

Draft Report

**6 Update on the Agriculture Bill**

(11.00 – 11.20)

**7 Forward work paper**

(11.20 – 11.40)

(Pages 79 – 84)

Attached Documents:

Forward work programme

**8 Brexit monitoring update**

Ein cyf/Our ref: cx18058

Eich cyf/Your ref:

Ty Cambria / Cambria House  
29 Heol Casnewydd / 29 Newport  
Road  
Caerdydd / Cardiff

Mr Nick Ramsay AM for Monmouth  
Chair  
National Assembly for Wales, Public Accounts Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

9 July 2018

Dear Nick,

## **Natural Resources Wales Response to Annual Report and Accounts Scrutiny 2015/16**

I wanted to update you on the latest position with regard to the progress Natural Resources Wales has made in addressing the recommendations of the Committee in respect of the long-term sales contracts that were let in 2014.

Following our last update in November 2017 we have continued to implement measures outlined in our Action Plan which includes training staff on State Aid and Public Law, a risk assessment of the commercial portfolios and a commercial governance policy outlining NRW's key principles. This is designed to ensure that all NRW's commercial activity adheres to relevant legislation, Managing Welsh Public Money and our framework document.

The original long-term sales contract were all terminated by Natural Resources Wales in March 2017 and new contracts were let in order to help the market transition to new arrangements during 2017/18. Wales Audit Office will shortly conclude their audit work on our 2017/18 Annual Report and Accounts which will reflect ongoing issues with these new transitional contracts. I am profoundly disappointed that the lessons from the work of the Wales Audit Office and your

Committee have not yet been fully learned. I totally accept the Auditor General's findings and I am ensuring that NRW is taking these issues incredibly seriously, so that they are never repeated.

Since taking up office in February I have taken the decision to re-organise the commercial services function within NRW and will be appointing Ernst and Young to carry out a comprehensive independent review of the key commercial business areas, governance arrangements and the behavioural and cultural aspects which bear on all of the above.

Working with Karen Balmer, our Audit and Risk Assurance Committee Chair, we will bring a renewed focus to bear on implementing the necessary improvements in this part of our business and insuring that the improvements are of auditable rigour. We are strengthening the Board oversight of these issues and we are appointing a non-Board member to our Audit and Risk Assurance Committee who will bring additional public-sector governance and finance expertise.

I am fully committed to learning lessons and making sure that we make the necessary improvements and that our staff have the right support and protection to do the right thing in the right way in future. I would ask that I be allowed to continue with this work and present the findings at the Public Accounts Committee in the autumn.

A copy of this letter has been sent to Andrew Slade, Director General – Economy, Skills and Natural Resources at Welsh Government, and our sponsorship team.

Yours sincerely,



Clare Pillman  
Chief Executive and Accounting Officer  
Natural Resources Wales

Mike Hedges AM  
Chair, Climate Change, Environment and Rural Affairs  
Committee  
National Assembly for Wales

25 July 2018

Dear Mike,

## Natural Resources Wales (NRW) Report and Accounts 2017–18

You will recall the Public Accounts Committee scrutinised NRW's Annual Report and Accounts 2015–16 in spring 2017 as a result of the Auditor General for Wales qualifying the accounts. My letter of [27 June 2017](#) refers. Following publication of the Committee's Report, we have received regular updates from NRW on the implementation and progress of the various actions they identified as a result of our report.

As you know, the Auditor General qualified the 2017–18 Accounts on 16 July and the Committee has agreed to scrutinise Clare Pillman, NRW's Chief Executive on 24 September.

I know that your Committee undertakes an annual scrutiny of NRW in the autumn term and would be grateful if this issue can be raised with them.

I shall keep you informed of the Committee's work.



**Nick Ramsay AM**  
Chair



# Agenda Item 3.3

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

Mike Hedges AM  
Chair of Climate Change, Rural Affairs and Environment Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff

30<sup>th</sup> July 2018

Dear Mike,

## Welsh Government Draft Budget 2018-19

In December 2017, you published a report following your scrutiny of the Welsh Government's draft budget 2018-19 detailing a number of recommendations which we provided formal response in January 2018. Included in our response were 8 recommendations which required further formal response in 6 months.

I would like to confirm, on behalf of Hannah Blythyn AM, Minister for Environment, and myself that the formal response required for the remaining recommendations is enclosed. Two of these recommendations will have further responses in 6 months.

Regards,

## Lesley Griffiths AC/AM

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

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

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



**Progress report by the Welsh Government to the Climate Change, Environment and Rural Affairs Committee following the Scrutiny of the Welsh Government Draft Budget 2018-19**

**27 July 2018**

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**Detailed responses to the report's recommendations:**

**Recommendation 3**

The Welsh Government should report to the Committee within six months on its considerations regarding increasing local authority recycling targets.

**Response: Accept**

Local Authority recycling targets form an integral part of the consultation of the review of the national waste strategy for Wales. This review will be informed by detailed consideration of the costs and benefits of potential changes to Local Authority recycling targets.

**Status update**

Options for local authority recycling targets are being modelled for inclusion in the consultation on the review of the national waste strategy for Wales. The consultation is likely to be issued in the Autumn 2018 and the Welsh Government will aim to publish the responses to the consultation within six months of its launch.

**Recommendation 5**

The Cabinet Secretary should undertake an assessment of the short and medium term staffing resource requirements within her department arising from Brexit. The Cabinet Secretary should report back to the Committee within six months on that assessment.

**Response: Accept**

An exercise conducted earlier this year to assess the staffing requirements has already resulted in a number of temporary posts being identified as being needed with arrangements underway to fill those posts. Going forward, the resourcing need will continue to be kept under review as more clarity emerges on the implications for Wales. The Welsh Government will report back to the Committee on this matter in June 2018.

The financial implications of Brexit within my portfolio area are continually under review, with discussions planned for obtaining further funding to assist with the additional costs for resources.

## **Status update**

In September 2017 I agreed to create 50 new posts to support Brexit work by top slicing the programme budget for the directorate. To date around half of these posts have been filled and further recruitment is underway. This has been supplemented by extensive reprioritisation of work to give capacity to manage immediate Brexit processes and negotiations. This has allowed us to establish clear Brexit programmes of work on legislation, operational and industry readiness and for major future policy design as well as engage in the detailed policy deep dives and framework development across 19 specific policy areas.

However, this work, coupled to more recent detailed engagement from Defra on the operational readiness challenges (where they have 64 specific projects), has shown the scale of the work that needs to be done. In addition, with Brexit new responsibilities will fall on Welsh Ministers, and we will need to develop the policy capability to provide them with the necessary level of advice and assurance to discharge those functions either separately or in the context of UK wide frameworks.

The existing resources, even with 50 extra staff already identified, are insufficient to carry out these tasks. There will need to be a burst of activity over the next 2½ years up to the end of 2020 to put in place the necessary framework and systems for the post Brexit world. There are some programme requirements for IT and other systems build as well as for staff. Beyond this there will be a need for increased capacity compared to pre-Brexit levels to run new operational systems, take on enhanced policy responsibilities and delivering a new UK framework operating environment.

## **Recommendation 6**

The Welsh Government should provide information on the status and scope of its planned legislation on agriculture and fisheries, along with details on any proposed consultation activity and the timetable for such legislation.

## **Response: Accept in principle**

The timing and extent of future agriculture and fisheries bills will evolve as we continue to negotiate our exit from the European Union. The stakeholder round table are and will be engaged in shaping future legislation. The timing and scope of both the UK Withdrawal Bill and the respective UK agriculture and fisheries bills will also form part of my consideration around future legislation. I will write to the Committee once the position is clearer.

## **Status update**

We aim to legislate for future agriculture support in Wales when we exit the EU through a Wales Agriculture Bill Our ambition is to put such legislation in place before the end of this Assembly term and in good time to ensure the phased transition period can take effect.

In addition and on a time-limited, interim basis, we will include Welsh-specific provisions in the UK Government's forthcoming Agriculture Bill which will provide powers for Welsh Ministers to commence the phased transition plan to new support schemes until Welsh primary legislation takes effect.

Defra had been aiming to introduce the UK Agriculture Bill before Summer Recess but this has been delayed until September. There is still considerable inter-departmental negotiation going on around issues on the scope of the frameworks and the links to the Inter Governmental Agreement (IGA). Defra have shared a number of clauses and we expect to see the full Bill very soon. We are still waiting for DEFRA to be able to share the clauses in the UK Fisheries Bill with us.

A consultation document Brexit and our Land was launched on 10<sup>th</sup> July.

### **Recommendation 10**

The Welsh Government must, in discussion with Natural Resources Wales (NRW), keep under review the capacity of NRW to fulfil its responsibilities and statutory functions. The Welsh Government should provide an initial report on this matter to the Committee within six months.

### **Response: Accept**

Regular meetings are held with NRW to review their capacity to fulfil responsibilities and statutory functions. The Welsh Government will report back to the Committee on this matter.

### **Status update**

In June 2018, a response was provided to the Committee.

NRW has published their Corporate Plan to 2022, and their Board has agreed NRW's Finance Strategy to 2022 and their Business Plan for 2018-19.

The significant level of funding NRW receives has allowed them to set ambitious targets, however there is more they would like to be able to deliver.

Their plans and strategies reflect their delivery priorities. Their statutory functions have since changed through Acts including the Well-being of Future Generations (Wales) Act 2015, Environment (Wales) Act 2016 and Planning (Wales) Act 2015). These Acts make it clear how, with partners, NRW is expected to work and deliver over the coming years.

My officials are continuing discussions about the future vision for NRW including a strategic look at priority areas.

## Recommendation 11

The Welsh Government should report back to the Committee within the next six months with details of how the £2.3 million of funding is allocated for marine and fisheries. This should include details of the spending plans for the additional £0.5 million allocated to marine and fisheries.

### Response: Accept

A report will be produced in June 2018 detailing the spending plans for the marine and fisheries allocated budget.

### Status update

The budget has been provided by my officials detailing the breakdown of allocation for marine and fisheries.

Area of Work	Percentage of budget	Value (£)
Marine biodiversity and nature conservation	33	£0.759m
Marine Planning	16	£0.368m
Marine and Fisheries Enforcement	29	£0.667m
Third Sector Support	9	£0.207m
Commercial, freshwater and aquaculture fisheries policy	7	£0.161m
Fishers safety	5	£0.115m
Stakeholder engagement	1	£0.023m

Forecast outturn will be reviewed continually to ensure the Marine and Fisheries budgets are fully maximised.

The additional allocation included within the 2018-19 budget settlement has allocated against these key priority areas:

Area	£m
Marine Protected Area Management Plan work	£0.150m
Marine Plan implementation and cross boarder work	£0.050m
Additional marine related monitoring work	£0.100m
Assessment of commercial fisheries and aquaculture	£0.075m
MPA network impact assessment	£0.050m
Future markets for Welsh fish – Attendance at overseas events and evaluation	£0.075m

## **Recommendation 12**

The Welsh Government should provide further information to the Committee on any discussions with the MPA Management Steering Group in determining how the additional funding for marine and fisheries should be allocated, including whether any consideration was given to funding an area-based approach to MPA management.

### **Response: Accept**

An additional £0.5 million has been allocated to marine and fisheries to meet additional budget pressures. These pressures are largely driven by preparation for EU Exit and marine and fisheries sector readiness, work required for the implementation of the Wales Act 2017, the final phase of development and the implementation of Wales' first Marine Plan and the need to build on our current programme to help ensure our network of MPAs achieve and remain in favourable condition. As these are developing work areas it is not possible to offer a breakdown of how the £0.5 million will be allocated at this stage. This information will be provided to the Committee within the next 6 months.

The Welsh Government is working with the MPA Management Steering Group to consider how some of the additional funding could best be used for MPA management. Given the demands on resources I would expect to see an approach which targets action and activity where it will have the greatest impact on improving and maintaining the condition of the MPA network as a whole. An update will be provided to the Committee within the next 6 months.

### **Status update**

The Marine Protected Areas Management Group is working toward a prioritised set of actions for the management of sites. The highest priority actions will have the potential to improve the management of multiple sites. It is right these actions receive priority resource.

The MPA management group recognise some local management authorities may wish to work collaboratively to deliver their statutory duties for a single site. The plan will recognise this work and reference it, where appropriate. The MPA management group also recognise there may be a need to fund pilot activities which might be best delivered by local groups. The plan will also signal these opportunities where they arise.

## **Recommendation 13**

The Welsh Government should work with National Parks to explore how they can raise revenue. This should include support to develop plans to realise their potential for income generation. The Welsh Government should report back on progress within six months.

### **Response: Accept in part**

The Welsh Government acknowledges it is in the best interest of both National Parks and National Park Authorities if resources in support of the landscape of the areas are derived from a wide range of sources. The Welsh Government has worked with the National Park Authorities during the Future Landscapes Wales process to explore ways of diversifying the funding base which included raising their own income. Whilst such an approach can help mitigate the impact of budget cuts to the Authorities from the Welsh Government, it is also an acknowledgement that much of the work in support of the purposes of National Parks needs to be taken forward in collaboration with a wide range of partners who are already making spending decisions which can impact positively or negatively on the landscape.

The Welsh Government will explore further with the Parks their plans for revenue generation and share with them the recent experience of CADW. Whilst the development of plans specifically on this issue is a matter for the individual Park Authorities, the Welsh Government agrees that clear policies and plans for revenue generation which have considered the merits and potential pitfalls of different approaches are advisable.

### **Status update**

The Welsh Government has initiated further exploration with the Parks of their capability and performance in revenue generation. The Minister for Environment met with all three Park Authorities in April to discuss their current commercial performance, how responsibilities for commercial activity is organised within and across the Authorities, and any associated capital investment and marketing plans. The meeting involved the Director for Culture, Tourism and Sport in order to share the experience of recent improvements in the performance of CADW and to assist the Minister in scrutinising the activities of the Park Authorities. All three Authorities have the potential to improve their performance in this area. The Director for Culture, Tourism and Sport will be meeting with each of the Authorities individually to discuss further the structural and cultural challenges which they will need to address in order to make improvements. Greater consistency in the interpretation and reporting of commercial performance will be established to measure change in this area.

### **Recommendation 15**

The Welsh Government should consider the lessons learnt from the pilot can and bottle deposit scheme in Scotland before progressing any such pilot work in Wales. The Welsh Government should keep the Committee updated on progress in this area.

### **Response: Accept**

The Welsh Government is liaising closely with the Scottish Government to share their experience of initiatives and pilots regarding container deposit return schemes. This will be taken into account in considering feasibility studies in Wales. We will

keep the Committee informed of the progress made in the deposit return feasibility work.

### **Status update**

The Welsh Government is working closely with the Scottish Government and DEFRA to consider options for a container deposit return scheme (DRS). The Scottish Government published its consultation on 27 June 2018 setting out a number of options for consideration. The results of the Scottish consultation will be taken into account in considering pilots in Wales and we will keep the Committee informed of progress.

# Agenda Item 3.4

Department  
for Environment  
Food & Rural Affairs

The Rt Hon Michael Gove MP  
From the Secretary of State for Environment, Food  
and Rural Affairs

Nobel House  
17 Smith Square  
London SW1P 3JR

defra.helpline@defra.gsi.gov.uk  
[www.gov.uk/defra](http://www.gov.uk/defra)

Mike Hedges AM  
Chair of Climate Change, Rural Affairs and  
Environment Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff CF99 1NA

31 August 2018

By Email: [SeneddCCERA@assembly.wales](mailto:SeneddCCERA@assembly.wales)

*Des Mike,*

## COMMON FRAMEWORKS FOR THE ENVIRONMENT AFTER BREXIT

Thank you for your letter of 23 July enclosing a copy of the Committee's report 'Common Frameworks for the Environment after Brexit'. I was interested to see the Committee's views on the development of common frameworks.

The Framework Analysis, published by the UK Government in March, was a working document based on a provisional assessment of the situation. We are continuing to work in a constructive and collaborative manner with the Welsh Government and the other devolved administrations to refine the analysis. This includes looking at where common frameworks will or will not be required, and whether they should be legislative, non-legislative, or a combination of both.

My aim is to agree the most appropriate arrangements with my counterparts in the devolved administrations, based on a thorough consideration and shared understanding of all the relevant factors, policy area by policy area. I understand your concern that minimising the number of frameworks could result in a less integrated approach to transboundary issues, but my starting point is to identify where frameworks are necessary or, indeed, desirable, rather than to minimise the number of frameworks. I would also like to reassure you that environmental goals, which are shared with the Welsh Government, are being kept fully in mind as we consider the need for, and shape of, common frameworks.

With reference to the future right of citizens to challenge the application of environmental law, my department has published a consultation on environmental principles and governance. This includes proposals to establish a new, independent statutory body to hold government to account on environmental standards. We are consulting on whether this body should have the functions of undertaking scrutiny and providing advice in relation to environmental policy and law, investigating complaints from individuals and, if necessary, taking action to bring about the proper delivery of environmental law by government. In addition, the EU (Withdrawal) Act 2018 requires the UK Government to



bring forward a draft Bill which would, among other things, confer powers upon a new body to take proportionate enforcement action, if necessary through legal proceedings, where it considers that government is not complying with environmental law.

As environmental governance is clearly a devolved matter in Wales, our consultation, as well as the relevant provisions in the EU (Withdrawal) Act 2018, are limited to England and reserved matters throughout the UK, for which the UK government has responsibility. I would nevertheless welcome the opportunity to co-design proposals to make sure they work across the whole of the UK, and we are therefore in discussion with the devolved administrations to establish whether they would like to take a similar approach.

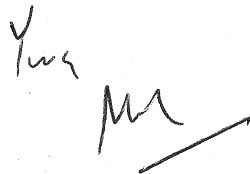
I recognise the importance of engaging with the Welsh Government, the National Assembly for Wales and its committees, Welsh businesses, people and stakeholders. I and my ministerial team are engaging across the UK and I was delighted, recently, to accompany the Secretary of State for Wales to the Royal Welsh Show in Llanelwedd. You will of course be aware that the Prime Minister and the Chancellor of the Duchy of Lancaster carried out similar engagement at the Show. We are currently planning a further phase of discussions on frameworks, and will be considering how best to increase stakeholder engagement as this next phase progresses.

You mention options for developing the overarching intergovernmental arrangements. We agree there is a need to review the existing structures, including the Memorandum of Understanding, to make sure they are fit for purpose as we leave the EU. This was an outcome from the last Joint Ministerial Committee (Plenary), chaired by the Prime Minister in March. The UK Government and devolved administrations are now working together to take this forward.

It is important that the National Assembly for Wales has opportunities to inform the development of EU exit planning and preparations, which is why I was pleased to meet members of your Committee in May, as was the Minister for Agriculture, Fisheries and Food, George Eustice.

Thank you again for sharing your report.

With every good wish,



**Michael Gove**

# Agenda Item 3.5

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs

Hannah Blythyn AC/AM  
Gweinidog yr Amgylchedd  
Minister for Environment



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA-P/LG/2658/18

Mike Hedges AM  
Chair  
Climate Change, Environment, and Rural Affairs Committee  
National Assembly for Wales

24 August 2018

Dear Mike,

Thank you for your report on Environmental governance arrangements and environmental principles post-Brexit.

Please find attached a response on behalf of the Welsh Government to the Committee's recommendations.

Yours sincerely,

**Lesley Griffiths AC/AM**  
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a  
Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs

**Hannah Blythyn AC/AM**  
Gweinidog yr Amgylchedd  
Minister for Environment

**Written Response by the Welsh Government to the Climate Change, Environment and Rural Affairs Committee's report: Environmental governance arrangements and environmental principles post-Brexit**

**June 2018**

**Recommendation 1**

**The Welsh Government should clarify whether it supports the establishment of a UK-level governance body.**

**Response: Accept**

To determine the appropriate geographic scope of a new environmental governance body, we must first fully understand the issue and the gaps. These gaps are not universally the same across the UK and, therefore any solution must compliment and respect existing structures within each of the administrations. Whether a UK-level governance body is, therefore, appropriate will depend on a number of factors, including its functions, how it fits with existing Welsh governance structures including the role of the Assembly and how it respects the devolution settlement.

The UK Government has launched its consultation on Environmental Principles and Governance post EU Exit, which is for England only and reserved areas – which are different for each of the devolved administrations. This consultation is based on its analysis of the gaps as they exist in England. However, the gaps in Wales are different to those in other areas of the UK due to the nature of the devolution settlements and the unique legislative landscape we have here in Wales. We are currently undertaking our own analysis of the governance gaps as they relate to Wales in light of our own legislative framework and of course our existing mechanisms to hold public bodies to account.

How we address these gaps needs to be fit for purpose, which includes ensuring we maintain and enhance our environmental standards and also that we remain in line with our progressive approach in Wales provided in the Well-being of Future Generations (Wales) and Environment (Wales) Acts.

Discussions are on-going with both the UK Government and other devolved administrations on the potential for a UK-wide approach and what this could entail. Currently, further information is required on the detail of its proposals, particularly in relation to 'reserved' areas to fully determine where its proposals provide a suitable basis for a UK-wide body rather than an England-only body or whether an alternative model is required.

Until further information is provided on the detail of the UK Government's proposals and our own analysis is finalised, including discussions with our Welsh stakeholders, it is too early to give a definitive response on whether a UK-level body is the most appropriate solution. We will provide an update to the committee when we have reached a proposed decision on whether a UK level body is appropriate or not.

We will continue to engage with the UK Government and other devolved administrations on this matter. However, in light of the UK Government proposing to publish a draft Bill in the autumn, the timescales for discussing a potential co-designed response are incredibly short.

I can assure the Committee, I am committed to addressing these gaps and will consider all potential options to address these gaps, which will respect the devolution settlement and compliment our progressive legislation for sustainable development and our natural resources

**Financial Implications:** None.

## **Recommendation 2**

**The Welsh Government should report back to this Committee as a matter of urgency on discussions that have taken place with the UK Government about the potential for establishing a UK body.**

### **Response: Accept**

We have been engaging with the UK Government and other devolved administrations, both at a ministerial level and at an official level, to consider potential options for addressing the governance gaps. Any UK-wide body would need to be agreed by all administrations and it is not for me to comment on the views of the other devolved administrations.

Despite meeting with the UK Government including discussions with the Secretary of State for Environment, Food and Rural Affairs at our regular quadrilateral meetings, the UK Government did not engage us on their consultation. We received an advanced copy of the consultation the same day as its publication, just prior to launch, with no opportunity to input to this.

Discussions are currently on-going with the UK Government to better understand its proposals in its consultation '*Environmental Principles and Governance Post EU Exit*' and to consider options for addressing the gaps arising from exiting the EU, including the different geographical scales for a new environmental oversight body.

**Financial implications:** None.

### **Recommendation 3**

**The Welsh Government should report back to the Committee as a matter of urgency on any exploratory work it has undertaken to assess the resources that would be required to establish a Welsh body and any discussions with the UK Government on this matter.**

#### **Response: Accept**

We agree assessment of the resource implications is an essential factor in the establishment of any new body. Work on the response to these gaps is still at an early stage and too soon to commence an assessment of the resources, which may be required.

We will of course consider all of the resource implications when considering the various options to address the governance gaps, this will be informed by the type of model as well as the functions to be undertaken by the body and the geographical scale.

We have not had any formal discussions with the UK Government on resources relating to its proposals for an England-only body. As discussions are on-going in relation to whether or not a UK-wide body may be appropriate, no discussions have been held on the resources which may be required, as this too would be dependent upon the functions to be undertaken by a UK-wide body.

We will provide an update to the committee in the autumn on the potential resourcing implications of any body as the potential requirements become clearer.

**Financial Implications:** None.

#### **Recommendation 4**

**The Welsh Government should report back to the Committee as a matter of urgency on any work to explore potential transitional arrangements for environmental governance, if no governance body is established before the UK leaves the EU.**

#### **Response: Accept**

We will be looking at all potential options to addressing the governance gaps, which will include the need for transitional arrangements. This is necessary as there is still uncertainty on the arrangements in force when the UK will leave the EU, and particularly what transitional period rules apply in respect of relations with the EU.

It will not be possible by March 2019 to put in place a body to oversee environmental law by that date as the introduction of a new body involves a substantial amount of analysis to ensure it is fit for purpose and does not conflict with existing governance structures.

However, the proposed transition period from April 2019 to December 2020 – subject to agreement on the Withdrawal Agreement between the EU and UK – would provide us with additional time to address this. During this period, existing EU environment legislation would continue to apply and be subject to the jurisdiction of the Court of Justice of the EU.

We commit to continuing to apply the core EU environmental principles post exiting the EU until legislation is in place. In addition, our principles in both the Well-being of Future Generations (Wales) and Environment (Wales) Acts will continue to apply.

Existing scrutiny bodies such as the Public Services Ombudsman will continue to scrutinise the work of public bodies and the Future Generations Commissioner will continue to ensure public bodies are meeting their commitments under the Well-being of Future Generations (Wales) Act.

We will continue to engage with stakeholders to consider what alternative mechanisms are available, which will help to address the gap until legislation can be introduced.

**Financial Implications:** None.

## **Recommendation 5**

**A UK-level governance body must meet the following criteria:**

- **it must be co-designed by all the different countries of the UK;**
- **it must be accountable to legislatures, rather than governments;**
- **it must be resourced appropriately; and**
- **there must be appropriate mechanisms to resolve disputes**

**Response: Accept**

If it is determined a UK-level body is the most effective mechanism to address governance gaps, then we agree the body must be co-designed and also co-owned by all administrations.

This should be the case if the body is to apply to only some, rather than all, of the administrations. It is not for Welsh Ministers to comment on the position of other devolved administrations.

We also agree any such UK-wide body should not restrict, interfere in or over-ride the role of the National Assembly and any such body should be accountable to the legislature. This should apply even if it is a Welsh-only body.

For the success of any such body, we also agree it is important for it to be appropriately resourced, whether it is UK-wide or a Welsh-only body.

In relation to disputes, we do agree it is essential there are mechanisms to resolve any disputes between the various administrations, if a body has a geographical scope beyond one administration. We agree there should be a clear mechanism to address disputes which arise in relation to the body's operation.

In addition, we also believe any UK-wide body must also operate in a way which is in alignment with the devolved settlement and does not conflict with the existing governance structures and bodies within Wales. Its purpose and remit must also be compatible with our Well-being of Future Generations (Wales) Act and our Environment (Wales) Act.

**Financial Implications:** None.



## **Recommendation 6**

**The new environmental governance architecture must include the following functions:**

- **promoting environmental protection among government actors and the wider community;**
- **monitoring and reporting on progress in the implementation of environmental laws and providing essential scientific data;**
- **taking action where targets/objectives are not met, for example through the imposition of economic sanctions;**
- **providing citizens and civil society organisations with access to the complaints and enforcement systems; and**
- **adopting a long-term strategy transcending political cycles.**

### **Response: Decline**

We agree the remit and purpose of any environmental governance body must be clear and it should be to maintain and enhance the environment. Significantly, its architecture must be in line with the existing legislative framework within Wales and not act contrary to the achievements already delivered in Wales by the Well-being of Future Generations (Wales) and Environment (Wales) Acts. It should also complement the scrutiny and accountability roles of the Welsh Assembly.

What the architecture includes will be contingent on the model which is agreed. It is too early to state whether this will be a Welsh-only body, a UK-wide body or some form of hybrid.

We would not wish to postulate the architecture of a new governance body until a full analysis is undertaken to determine the specific gaps in relation to Wales, taking into account our existing legislative framework, our existing accountability bodies and the type of model which would best address these gaps. The issues outlined in this recommendation are key things to consider in this process. However, at this stage there has been insufficient analysis to be definitive on the precise roles and powers which would be appropriate for any body.

We will also seek the views of stakeholders on potential governance architecture. Our current engagement with our stakeholders through the Brexit Roundtable and its working groups has identified a number of potential functions for any such body including independent accountability, accessibility and enforcement mechanisms. We do agree the architecture needs to be independent, holding government to account and providing citizens with a complaints procedure.

The remit of a new governance body must be clear and whether this includes it acting as an enforcement and advisory body is a matter we will raise for consideration in consultation with stakeholders.

We feel this recommendation does not take into account the nature of the gaps which exist in Wales and does not align with what we currently have in place. In particular, we have already taken a long-term approach to policy-making through placing sustainable development at the heart of governance in Wales. Our legislation puts in place seven well-being goals which provide a shared vision for public bodies in Wales, and five ways of working to help us take into account the impact of the work we do now on the Wales of the future.

**Financial Implications:** None.

## **Recommendation 7**

**The Welsh Government should bring forward legislation at the earliest opportunity that will enshrine the environmental principles in law. The principles should be included on the face of the Bill.**

### **Response: Accept**

We have already committed to address any gaps in relation to the four core EU environmental principles and we commit to applying these principles until legislation can be introduced to fill the gap.

We already have a progressive approach to the application of environmental principles in Wales, which means we are in a different position to the other UK administrations. Through our Well-being of Future Generations (Wales) Act and Environment (Wales) Act, we have placed sustainable development at the core of our decision-making and have also placed international environmental principles on a statutory footing.

There is already a statutory duty on Welsh Ministers to apply the Well-being of Future Generations 5 ways of working in the development of policy in relation to the environment as well as all areas within our devolved competence.

Through the Environment (Wales) Act, we have placed a duty on Welsh Ministers to apply the principles of sustainable management of natural resources in relation to the development and implementation of policies provided in the Natural Resources Policy. These principles drawn from international environmental principles include public participation, collaboration, resilience of ecosystems, long-term and of course the preventative approach as well as ensuring decisions and actions are based on evidence. These principles will continue to be applied after exit from the EU. These principles are wider than the four EU environmental principles and apply to Natural Resources Wales, when it is carrying out its functions.

**Financial Implications:** None.

## **Recommendation 8**

**The Welsh Government should clarify and report back to this Committee as a matter of urgency about when and how it intends to bring forward legislation to enshrine the environmental principles in law.**

### **Response: Accept**

As the Committee has outlined in its report on '*Environmental governance arrangements and environmental principles post-Brexit*', this work should not be rushed as it involves important decisions which could have long-term implications.

Similar to the matters relating to an environmental body, we also need to consider potential options for the application of environmental principles, as well as the potential implications if there are different environmental principles operating in England to Wales, particularly as there is a common legal jurisdiction.

We are continuing to discuss with the UK Government and the other devolved administrations how these potential conflicts could be avoided.

With the volume of legislation required to address the UK's exit from the EU, it would be more advantageous to have a single piece of legislation addressing governance matters. Therefore, we will introduce legislation once we have undertaken a thorough analysis to ensure our proposals are fit for purpose and align with the existing statutory framework.

In the First Minister's recent legislative statement for the legislative programme over the next couple of years, he committed to flexibility within the programme to allow for Brexit Bills.

In the meantime, we will continue to engage with our stakeholders to develop our approach, and will consult on this in the autumn.

Until legislation is in place, we commit to continuing to apply the four EU environmental principles in Wales.

**Financial Implications:** None.

## **Recommendation 9**

**The Welsh Government should report to this Committee as a matter of urgency on discussions it has had with the UK Government to resolve the issue of the UK potentially making decisions on reserved matters in Wales that conflict with Welsh environmental principles or standards.**

### **Response: Accept**

The UK Government have committed to engage on devolved matters as part of the Inter-Governmental Agreement. I have made it clear in my meetings with UK Government this means they should be engaging with us to ensure any legislation which effects reserved matters takes into account the Welsh legislative landscape and does not conflict with environmental principles in Wales.

While something may be reserved it can have impacts on devolved functions, wider than conflicting only with environmental principles or standards. Therefore, we are actively engaging with the UK Government and the other devolved administrations at both a Ministerial and official level to gain clarity on the UK Government's proposals relating to what they identify as reserved areas. We are continuing to discuss how this body would operate in relation to reserved areas which relate to Wales.

Through our engagement we are also ensuring there is an understanding of the different legislative approach taken in Wales and how the functions of an England-only body would need to operate to ensure it does not conflict with our existing legislation.

**Financial Implications:** None.

# Agenda Item 3.6

## Written Response by the Welsh Government to the report of the Climate Change, Environment & Rural Affairs Committee entitled Rethinking Food in Wales: Public Procurement of Food

24 August 2018

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### Background to Current Position

The Welsh Government currently supports the food industry in Wales through the actions described in the current action plan 'Towards Sustainable Growth - An Action Plan for the Food & Drink Industry 2014-2020'. The Plan supports the delivery for the long term Strategy, 'Food for Wales, Food from Wales 2010-2020'. The Plan and Strategy are both expire on 31 December 2019.

The Welsh Government's 'Prosperity for All: Economic Action Plan', published in December 2017, identifies the Food & Drink industry as a foundation sector for support. 'Prosperity for All' includes a commitment to build on existing work to strengthen the sector and to develop 'cross-government enabling plans to maximise impact.

Prior to the receipt of this report I had agreed with the Food and Drink Industry Wales Board to start preparation of a successor to the current strategy and action plan. This will set the future direction into the next decade and determine what support is needed to build on success to date, especially as the United Kingdom leaves the European Union. As such I welcome the timing of this report as it provides further evidence for consideration in the preparation of the successor documents.

### Detailed Responses to the report's recommendation and conclusions are set out below:

#### Recommendation 1

The Welsh Government must report back to this Committee on each of this report's conclusions no later than 12 weeks after its publication. Where the Welsh Government disagrees with one of the Committee's conclusions, it should specify its reasons for doing so.

**Response:** Accept

A full response to the Recommendation and Conclusions in the report has been provided.

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

#### Conclusion 1

Towards Sustainable Growth: An Action Plan for the Food and Drink Industry 2014–20 has clearly made progress towards achieving its primary objective – the growth of the sector. However, given the potential benefits of food policies,

this focus is too narrow. There is currently a need for a strategic vision for the Welsh food sector which makes connections between different policy areas, such as health, wellbeing and sustainability, alongside economic growth. The challenges presented by Brexit make this even more urgent.

The Welsh Government welcomes the Committee's conclusion that clear progress has been made under the Action Plan for the Food and Drink Industry. The current Action Plan has broad focus with 48 actions covering the wider aspects of the food and drink sector, making connections to different policy areas including those listed in the conclusion, in addition to the economic focus of the headline target to grow the sector's value to £7 billion by 2020.

The Welsh Government agrees it is time to look further to the future, taking account of what has been achieved and lessons learnt. Having a clear strategic vision for the long term is essential to guide actions and support which help the sector to continually grow. Related to this is how the sector contributes to the wider benefit of Wales. The food and drink industry is identified within the Prosperity for All: Economic Action Plan as one of the four 'Foundation Sectors' putting it at the centre of the Welsh Government's programme for government. Future strategy and support for the food and drink industry will continue to take into account the wider contribution of the sector to Wales' benefit.

I announced on 18 July that the Food and Drink Industry Wales Board (the Board) and I have started work to develop a successor to the current Action Plan to provide strategic direction for the industry beyond 2020. This work would have commenced regardless of Brexit. A first round of public engagement is underway. Development of a successor Action Plan / Strategy will ensure that connections between the different policy areas continue to be made, delivering well-being in Wales, and providing an enabling plan for food as a foundation sector.

## **Conclusion 2**

There is a need for a new, overarching, post-Brexit food strategy that reflects a whole-system approach. The strategy should be underpinned by the objectives and goals of the Well-being of Future Generations (Wales) Act 2015 and should be accompanied by an action plan, including measures and targets.

The Welsh Government has a comprehensive action plan in place and the Board and I have commenced work on a successor plan / strategy for the period from 2020 which will take forward the food sector as a 'foundation sector' as prioritised by the Economic Action Plan. Consideration of the Well-being of Future Generations (Wales) Act 2015 will form one of the key policy considerations as the successor to the current Action Plan for the food and drink industry is developed. The successor Action Plan / Strategy will take account of Brexit in setting longer term strategic direction and actions and work has already started (see conclusion 1 response). In the short term the

Welsh Government already has a 'Brexit Readiness' programme underway which includes actions for the food sector.

### **Conclusion 3**

Given that the most recent official figures estimated public sector food and drink procurement spend to be £74.4 million per year, it is vital that the wider benefits of that spend are realised. This funding is used to provide food in our schools and hospitals, and should be thought of as an investment in the health and wellbeing of the Welsh people. We believe that public procurement of food should form a central part of a post-Brexit food strategy.

Public procurement of food and drink is an important matter irrespective of Brexit. The potential of public expenditure to generate business opportunities for Welsh based companies and to have wider public benefits in terms of food and drink being of good standards are important factors to be considered in the National Procurement Service's work and the Welsh Government's support for food and drink businesses. At this point in time no decisions have been taken about the scope of the longer term Action Plan / Strategy from 2020 and this conclusion can be considered as part of the collected evidence.

### **Conclusion 4**

The Public Policy Institute for Wales' review of the Welsh Government's food and drink strategy and action plan was published in 2016. It is still relevant for policy and planning and should be used to inform the approach to enhancing public sector food procurement. We believe it would be helpful for the Welsh Government to publish its response to that report.

The Welsh Government will be considering a wide range of evidence as it develops the future strategy and action plan for the food and drink sector in Wales. This provides the opportunity to consider the analysis and recommendations of the Public Policy Institute for Wales' review as one of a wide range of stakeholder inputs which will form the evidence base for the successor action plan.

### **Conclusion 5**

We were concerned by the suggestion that, in Wales, public sector procurement is not considered by suppliers to be reliable or prestigious. An overarching food strategy, which sets the highest standards, would address the perception that public procurement is not prestigious. Having a clear, long-term strategic direction may also address a broader perception of a lack of reliability. In any event, we believe the Welsh Government and the sector must work together to identify and address the reasons for this perception.

The Welsh Government's National Procurement Service (NPS) is a little sceptical of the suggestion that public sector procurement is not considered reliable or prestigious without seeing statistics to support this statement is the view of many food and drink businesses. However, the NPS wants suppliers to feel that public sector procurement is reliable and the review referred to in



the response to Conclusion 9 will allow the NPS to learn from supplier feedback.

### **Conclusion 6**

There is merit in exploring tools that can provide a more sophisticated assessment of costs for procurement purposes. For example, local employment could be expressed as a cost factor. The Well-being of Future Generations (Wales) Act 2015 provides an ideal foundation for the development of such tools and can provide the basis for the Welsh Government, the WLGA and other relevant organisations to develop an approach that reflects Welsh priorities.

The exploration of tools that can provide a more sophisticated assessment of costs for procurement purposes is under exploration within wider work being led by Value Wales to support the Well Being of Future Generations. Initial discussions have been held with a number of organisations at the forefront of realising progressive economics for local people and places. The NPS is closely involved in this work and will be involved in future pilot activity.

### **Conclusion 7**

The Committee is pleased that organisations in Wales, including the NPS and an increasing number of local authorities, have signed up to the Courtauld 2025 agreement. Reducing food waste should feature in the development of an overarching food strategy and any associated action plan.

The Welsh Government agrees that reducing waste associated with food production is key to the development of a successful and sustainable food and drink industry. Such an approach will benefit the industry, consumer through potential cost reductions and the wider environment by optimising the use of natural resources and waste minimisation.

The food and drink industry is already responding to consumer demand in this area, and the successor to the current strategy and action plan will link with the forthcoming revision of the Welsh Government Waste Strategy to ensure that future developments have maximum impact in benefiting all stakeholders. As the current Waste Strategy is currently under review the Welsh Government will accept the conclusion in principle, in order to ensure that adequate consideration of waste minimisation is made. It is expected that the Welsh Government will publish a consultation on a revised waste strategy this Autumn.

### **Conclusion 8**

An overarching food strategy should be supported by measures to increase the skills and expertise of procurement professionals in Wales, to ensure that its objectives can be delivered effectively. Supporting training and exchange of best practice through working groups at a local level has been effective in the past.

The NPS coordinates a Food Category Forum which enables food safety and food procurement officers from across the Welsh public sector to collaborate and to share experience and expertise. The Food Category Forum will be consulted to develop an understanding of the priority skills development requirements for food procurement. The development of skilled professionals remains a commitment of the Welsh Government.

### **Conclusion 9**

The Welsh Government has two roles in relation to public sector procurement of food. It is responsible for the National Procurement Service (NPS) and is also responsible for setting the overall policy framework. It appears that, in recent years, Welsh Government resources have been targeted towards developing the NPS at the expense of providing support for procurement outside the NPS.

A review of procurement has been initiated and consideration is being given to the allocation of support to help drive up capability across the Welsh public sector. The conclusions of this report will be considered as evidence within this review.

### **Conclusion 10**

Central procurement is not necessarily incompatible with supporting local suppliers. An overarching food strategy, supported by a consistent assessment of cost that reflects its objectives, can accommodate both central and local procurement approaches. However, for the foreseeable future, it appears that public organisations will continue to spend a significant amount of public money outside NPS frameworks. The Welsh Government needs to consider how it can support public organisations to continue to improve procurement practices. Contributors to this inquiry provided several suggestions of how this could be taken forward, including through improved collaboration between Government, public procurement and industry.

The NPS will utilise its Food Category Forum to further develop its understanding of customer and business requirements. This 'lessons learned' approach will help inform future central, regional and local approaches to food procurement which maximise the value of this expenditure for Wales. These conclusions will be considered as evidence within the review of procurement outlined in the response to conclusion 9.

### **Conclusion 11**

Concerns about the NPS frameworks have been reported to this Committee and the Wales Audit Office. We are concerned that the projections for spend in year one of NPS Food Framework 1 is considerably lower than the estimated value that appeared in tender documents. Given that [sic] the Wales Audit Office has also concluded that the potential use of Frameworks has been over estimated by the NPS, we strongly believe the Welsh Government should keep this matter under review.

Adoption of the framework has been subject to factors such as organisation mobilisation, the existence of current agreements, alignment with school terms etc. Reflecting upon the findings of the Wales Audit Office reports, customer feedback, and access to more accurate management information framework values are now being based upon more realistic forecasts. The Welsh Government will keep this matter under review.

### **Conclusion 12**

The NPS appears to have responded positively and constructively to initial concerns about the structure of NPS Food Framework 1. We note that the Welsh Government is currently undertaking a review of the NPS and believe that the food frameworks should form part of that review.

The Welsh Government is pleased to note this conclusion, and can confirm that all categories within the NPS will form part of the review.

### **Conclusion 13**

There is a lack of information available about public sector spend on food. We believe the Welsh Government should consider how this can be addressed. A possible approach could include publishing, on a biennial basis, information on spend via public sector food procurement. This would enable the identification of long-term trends and gaps in the supply chain.

Welsh public sector procurement expenditure is captured through a spend analytics system, Atamis, funded by the Welsh Government. This allows for a wide range of category expenditure including food to be analysed and assessed.

The Welsh Government is pleased to confirm that data from this system will be made available for publication from autumn 2018. A two year reporting cycle would allow the effective tracking of changes and the identification of emerging patterns.

### **Conclusion 14**

The extent to which EU regulations have constrained procurement practice has been exaggerated over many years. It is clear from practice in other EU countries that the system does not prevent the procurement of food that is locally produced, healthy and sustainable.

Under the current regime the NPS is actively encouraging the use of local, healthy and sustainable foods.

Supplier workshops are being run in July 2018 to discuss the introduction of a new Key Performance Indicator (KPI) tool, which will help the NPS monitor, evaluate and report on the sustainability performance of suppliers appointed under the NPS Food and Drink frameworks.

Our priority metrics include food waste generation, carbon associated with production and distribution, recycled content in packaging and the supply of sustainable products.

Suppliers meet Welsh Government officials and representatives of the Waste and Resources Action Programme (WRAP). They will also be able to develop their own individual action plan addressing sustainability impacts/opportunities within their own business and have an opportunity to comment on the tool before the NPS implements it formally.

Following Brexit the NPS will continue to support the sourcing of locally produced, healthy and sustainable food.

### **Conclusion 15**

Brexit creates both challenges and opportunities that can be addressed by refreshed food policies in Wales. It is necessary to investigate what regulations, standards and structures are needed to replace those which are currently derived from EU-legislation. The Welsh Government should take the lead on this work as it applies in Wales.

The current legislative framework has developed a safe system of food supply that gives consumers confidence in the food and drink that they purchase. It is important that the high standards of production and quality currently enjoyed in Wales and elsewhere in the United Kingdom are maintained after the United Kingdom leaves the European Union. This regulatory system will continue to protect public health after Brexit and ensure that companies can continue to trade internationally and meet consumer expectations. Longer term it may be beneficial to investigate what might replace a system derived from EU legislation as Welsh / UK policy develops in the post Brexit world. Both short term and longer term work in this area would be led by the Food Standards Agency – Wales, not the Welsh Government.

### **Lesley Griffiths AM**

Cabinet Secretary for Energy, Planning and Rural Affairs

Lesley Griffiths AC/AM  
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs



Hannah Blythyn AC/AM  
Gweinidog yr Amgylchedd  
Minister for Environment

Llywodraeth Cymru  
Welsh Government

Our ref: MA-P/LG/2876/18

Mike Hedges AM  
Chair  
Climate Change, Environment, and Rural Affairs Committee  
National Assembly for Wales

5 September 2018

Dear Mike

Thank you for your report on Common Frameworks for the Environment after Brexit.

Please find attached a response on behalf of the Welsh Government to the Committee's recommendations.

Regards

**Lesley Griffiths AC/AM**  
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a  
Materion Gwledig  
Cabinet Secretary for Energy, Planning and  
Rural Affairs

**Hannah Blythyn AC/AM**  
Gweinidog yr Amgylchedd  
Minister for Environment

# **Written Response by the Welsh Government to the Climate Change, Environment and Rural Affairs Committee's report: Common Frameworks for the Environment after Brexit.**

**September 2018**

## **Recommendation 1**

**The UK and Welsh Governments should formalise inter-government working mechanisms. There is a need for a shared governance model to ensure that decisions are made and actions taken on the basis of parity of esteem. The Joint Ministerial Committee (JMC) should be reformed, or a new UK Council of Ministers should be established, to take these matters forward. There must be arbitration and adjudication mechanisms associated with this body to resolve disputes. It must be transparent.**

**Response:** Accept

We welcome the Committee's support for the proposals we set out in our Brexit and Devolution Paper in June last year. We set out a blueprint for reform calling for a 'UK Council of Ministers' capable of making binding joint decisions with an independent adjudication mechanism. The Council of Ministers should also be capable of dealing with the new form of shared powers and responsibilities which exist with Common Frameworks.

We agree that the current Joint Ministerial Committee (JMC) structures were not designed for shared governance and decision making. At the Plenary meeting of the JMC on 14 March, the Committee agreed that officials should review and report to the Committee on the existing inter-governmental structures, including the Memorandum of Understanding, to ensure they are fit for purpose in light of the UK's exit from the EU.

The review will cover the following 3 areas of inter-governmental relations:

- Constitutional framework and principles
- Liaison arrangements, and
- Governance arrangements (frameworks, decision-making, dispute resolution, data-sharing).

An inter-governmental project team of officials has been set up to take this work forward. The Welsh Government is represented on this project team and is playing its full part in taking the review forward, but it is too soon to anticipate the outcomes.

**Financial Implications:** None

## **Recommendation 2**

**The Welsh Government should clarify the role it has taken in the development of the UK Government's provisional assessment of common frameworks. The Welsh Government should clarify its position on the UK Government's provisional assessment and should publish a formal response to it.**

## **Response: Accept in Principle**

The UK Government's provisional assessment of Common Frameworks, published in March 2018, is not a joint document and the Welsh Government did not contribute to its drafting. Welsh Government has had, and continues to have, discussions on what areas will need a Common Framework and to what extent those areas will need to be covered. One of the aims of the current phase of work will be to further refine the shared understanding between all four Administrations on Common Frameworks, including what specific areas may need to be underpinned by legislation.

Work to date would suggest that the areas which will need to be legislated on jointly between all four Administrations will be far narrower and will have changed from the initial list provided by the UK Analysis. In April 2018, the Welsh Government and the UK Government agreed an Inter-Governmental Agreement (IGA) in relation to the EU (Withdrawal) Act. The IGA reflects the UK Government's provisional assessment of Common Frameworks and is a published document. The Inter-Governmental Agreement acknowledges that legislative underpinning "*...may not be necessary in all of the 24 areas identified, and that only specific elements of some areas will require legislation...*"

**Financial implications:** None

## **Recommendation 3**

**The Welsh Government should publish any explanation it has received from the UK Government about the rationale for determining whether frameworks are legislative or non-legislative.**

## **Response: Reject**

Common Frameworks refer to those areas where commonality may be required between the four Administrations on areas that are currently subject to EU administration, which can be either legislative or non-legislative.

Decisions on whether a Common Framework will be legislative or non-legislative will not be for the UK Government to make, but will need to be developed through a common understanding between all four Administrations of what will be the best way to manage each policy area.

One of the priorities of the work is for all four Administrations to mutually agree which areas will require some degree of legislative underpinning under a Common Framework. Some of the 24 areas identified by the UK Government's analysis are very broad, therefore, it is important to note that the UK Government's analysis will require "*...more detailed discussion to explore whether legislative common framework arrangements might be needed, in whole or in part.*"

Working groups of officials from all four Administrations will be seeking to identify more accurately which aspects of these areas will require legislative underpinning. Official-level work is already indicating that the areas requiring legislation will be much narrower in scope than the list of 24 identified in the UK Government's provisional assessment of Common Frameworks.

It also possible that additional legislative Frameworks may be identified beyond the list of 24 areas, where all the administrations agree it is desirable.

Some Common Frameworks may be underpinned by non-legislative agreements. These could include arrangements between the four Administrations such as a Memorandum of Understanding or other inter-government arrangement that would underpin a common approach between the Administrations.

**Financial Implications:** None

#### **Recommendation 4**

**The Welsh Government should clarify how it has ensured that uniquely Welsh matters, such as the Welsh language, have been taken into account when considering common frameworks. The Welsh Government should also confirm whether it has assessed the impact of the UK Government's provisional assessment on the Welsh language.**

**Response: Accept**

The Framework Principles and the Inter-Governmental Agreement establish that the development of Common Frameworks is fundamentally a joint endeavour between all Administrations. Welsh Government officials will be involved in the development of all Common Frameworks relevant to Wales and will be able to represent Welsh interests in their development. This is not a case of influencing UK Government policy; Common Frameworks will be jointly developed.

Welsh Government officials also sit on the central co-ordinating board that coordinates the development of all Common Frameworks. Welsh specific issues, including impacts on the Welsh Language, will be an important part of their contributions.

Work has moved past the UK Government's initial assessment published in March. When coherent positions begin to be jointly developed their impact on Welsh Language can then be assessed.

Any Common Framework that leads to functions currently operated by the European Commission being undertaken across the UK by a new or repurposed body will need to include appropriate provisions to meet Welsh Language policies.

**Financial Implications:** None

#### **Recommendation 5**

**The UK and devolved governments should agree and publish detailed definitions of the principles agreed in the JMC communique of October 2017.**

**Response: Reject**

As paragraph 12 of the report sets out, the principles agreed at JMC on 16 October specify that Common Frameworks will be established where they are necessary to:

- enable the functioning of the UK internal market, while acknowledging policy divergence;
- ensure compliance with international obligations;



- ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
- enable the management of common resources;
- administer and provide access to justice in cases with a cross-border element;
- safeguard the security of the UK.

The cross-cutting issues identified in the JMC communique, such as the UK internal market, are being considered alongside the main body of work on Common Frameworks.

As Common Frameworks continue to progress, the Principles agreed at JMC(EN) in October will form the basis for their development and be considered in the context of each Common Framework. As details of Common Frameworks emerge they will be published in due course for consultation and scrutiny.

**Financial Implications:** None

### **Recommendation 6**

**The Welsh Government should clarify how it will ensure that the Assembly has sufficient and adequate opportunities to inform the development of common frameworks and to scrutinise final proposals.**

**Response: Accept**

The Inter-Governmental Agreement ensures that the development of all Common Frameworks is undertaken collaboratively. For those that are underpinned by legislation, the Sewel Convention will continue to apply and the UK Government will continue to seek consent in the normal way.

As the current phase of work continues and policy approaches for each Common Framework begins to be developed these will be tested with stakeholders. As proposals for new working arrangements are developed through non-legislative agreements these will be open to scrutiny.

The constitutional aspects of Common Frameworks will be of ongoing interest to the External Affairs and Additional Legislation and the Constitutional and Legislative Affairs Committees. Policy specific Common Frameworks will benefit from subject specific scrutiny as proposals emerge.

This will be a completely new form of cross administration policy development. How this is jointly scrutinised by the relevant committees from each legislature is something which may require a new form of joint scrutiny.

**Financial Implications:** None

### **Recommendation 7**

**Stakeholders are yet to be convinced they have been engaged in a meaningful way during the development of common frameworks. The Welsh Government must set out how it will address this.**

## **Response: Accept**

The Welsh Government has been undertaking extensive stakeholder engagement on future policy. For example, in our 'Brexit and Our Land' document which is currently the subject of consultation, there has been engagement throughout the process including the Brexit Stakeholder Roundtable, stakeholder engagement at the Royal Welsh Show and other consultation events. Our approach to Common Frameworks will be informed by the policy objectives and requirements in any given area. Therefore, for agriculture our approach will be informed by the stakeholder engagement we have been undertaking.

As initial proposals are developed in each Common Framework area, the Welsh Government will engage with relevant stakeholders at the earliest opportunity. This should be done in a co-ordinated manner, alongside the other Administrations

This is a programme of work that will take several years with the aim being to establish legislative and non-legislative Common Frameworks in time for the end of the proposed transition period in 2020.

**Financial Implications:** None

## **Recommendation 8**

**The Committee recommends that the current rights enjoyed by citizens to challenge the application of environmental legislation must be preserved in common frameworks for the UK. The process for challenging the application of legislation must be clear and accessible.**

## **Response: Accept in Principle**

As a Government we have been clear and consistent in our message that Brexit must not result in a dilution of the rights which currently flow from the UK's membership of the EU. We agree our citizens must be able to continue to have the opportunity to challenge the implementation of environmental legislation but we would not distinguish between environmental legislation, which relates to Common Frameworks, and legislation, which does not.

We have already made a commitment to address governance gaps arising from the UK leaving the EU and have acknowledged access for citizens to challenge the implementation of environmental law as one of the gaps.

Until further information is provided on the detail of the UK Government's proposals and our own analysis is finalised, including discussions with our Welsh stakeholders, it is too early to give a definitive response on whether a UK-wide approach is the most appropriate solution. We will provide an update to the Committee when we have reached a proposed decision on whether a UK-wide approach is appropriate or not. Therefore, although we agree with the spirit of the recommendation, we are not able to accept fully the entirety of the recommendation at this time.

We do not envisage a separate citizen complaint process for Common Frameworks but a single clear and accessible complaint system for citizens to challenge the implementation of environmental legislation.

As we outlined in our response to the Committee's Report on environmental governance arrangements and environmental principles post-Brexit, we are currently considering options for addressing the governance gaps.

Discussions are ongoing with both the UK Government and other Devolved Administrations on the potential for a UK-wide approach and what this could entail. Currently, further information is required on the detail of the UK Government's proposals, particularly in relation to 'reserved' areas to fully determine where these proposals provide a suitable basis for a UK-wide approach to enable citizens' complaints.

The gaps in Wales are different to those in other areas of the UK due to the nature of the devolution settlements and the unique legislative landscape we have here in Wales.

**Financial Implications:** None

### **Recommendation 9**

**The Welsh Government must ensure that the points raised by stakeholders in paragraphs 26-47 of this report are reflected and addressed in discussions with the UK Government about common frameworks.**

**Response: Accept**

As indicated in the responses to other recommendations, Welsh Government is still in the early stages of discussions with UK Government and the other Devolved Administrations on areas of commonality. Nonetheless, Welsh Government will ensure that matters raised within paragraphs 26-47 of this report are reflected in these discussions.

As per the response to Recommendation 7, stakeholder views on developing policy are key in shaping discussions around Common Frameworks. Also as proposals are developed in each area we intend to engage with relevant stakeholders, which will provide a further opportunity to address the issues raised by stakeholders.

There is a misconception that the outcome on Common Framework discussions will result in a 'downgrading' of policy areas currently underpinned by legislation. This is not the case. Legislation will remain in areas that are not currently listed in the 24, for example Environment Impact Assessment (EIA) and Strategic Environmental Assessment (SEA). Each Administration would still be able to bring forward their own legislation as they can do now, as these areas would be no different from any other area of devolved competence.

Additionally, there may be areas that are not currently contained in the list that may in future develop into a Common Framework.

With regard to reserved matters, the Welsh Government is currently working with UK Government to understand their reasoning on why they believe certain areas to be reserved. However, areas that are currently fully devolved, such as agriculture and the environment, should remain so. As the JMC Principles state, and which the UK Government jointly agreed, frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:

- be based on established conventions and practices, including that the

competence of the devolved institutions will not normally be adjusted without their consent;

- maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules;
- lead to a significant increase in decision-making powers for the Devolved Administrations.

**Financial Implications:** None

## Agenda Item 3.8

Correspondence from the Cabinet Secretary for Energy,  
Planning and Rural Affairs – 6 September 2018

[Marine Protected Area Network Management Framework  
for Wales 2018–2023 and Action Plan 2018–2019](#)

Lesley Griffiths AM  
Cabinet Secretary for Energy, Planning and Rural Affairs  
Welsh Government

9 August 2018

Dear Lesley,

### **Achieving our low-carbon pathway to 2030**

As you know, the Climate Change, Environment and Rural Affairs Committee has taken a keen interest in the implementation and delivery of the Environment (Wales) Act 2016 ('the Act') which requires the Welsh Government to set carbon budgets every five years.

I am pleased to see the publication of the Welsh Government's consultation on reducing emissions – 'Achieving our low-carbon pathway to 2030'<sup>1</sup>.

The Act requires the Welsh Government to produce a report detailing the policies and proposals that will deliver the reductions demanded by the carbon budgets in relation to each portfolio area. I note that the results of the consultation will be used to help develop the first Low Carbon Delivery Plan, due to be published in March 2019, which will inform the first carbon budget.

We welcome the commitment made by the Government that the carbon budgets will be subject to scrutiny by the Assembly. In order to carry out our scrutiny role properly, the Committee expects the report setting out the proposals and policies for meeting the carbon budgets to be available alongside the draft regulations in the following way:

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<sup>1</sup> <https://beta.gov.wales/low-carbon-pathway-wales>



- it should be available at the same time as the draft regulations on the carbon budgets;
- it should provide an analysis by sector, in addition to a breakdown according to each Ministerial portfolio; and
- it should include an assessment and estimate of the impact of each proposal or policy on the carbon budget.

I am writing at an early stage to ensure you have time to consider these requests.

Once this information is published, we will be consulting our stakeholders. It is important to ensure the Committee has sufficient time to carry out our scrutiny, therefore I would be grateful if you could provide an outline timetable of when the regulations and supporting information will be published.

Yours sincerely,



**Mike Hedges AM**

**Chair of Climate Change, Rural Affairs and Environment Committee**





Ein cyf/Our ref MA/P/LG/3010/18

Mike Hedges AM  
Chair of the Climate Change, Environment and Rural Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

7 September 2018

Dear Mike,

Thank you for your letter of 09 August 2018 on behalf of the Climate Change, Environment and Rural Affairs Committee regarding Assembly scrutiny of the Carbon Budgeting Regulations.

Over the development of the supporting regulations, I have kept the Committee involved by providing regular updates throughout the Programme. Prior to the launch of the public consultation in July, I issued a Written Statement which set out the Welsh Government's decisions with regards to setting interim emission reduction targets for 2020, 2030 and 2040, and the level of the first two carbon budgets. These Regulations and Explanatory Memorandum are now being drafted for debate in the National Assembly in December. Our focus is now on setting out what actions we will take through our Delivery Plan.

The Welsh Government has already been subject to a review process around the scrutiny procedure for setting our carbon budgets and Delivery Plan through the development of the Environment (Wales) Act 2016. As a result of the Assembly process, the Act has put in place the requirement for Welsh Ministers to set our carbon budgets in regulation by the end of December 2018 and then once we have an agreed budget, we will then publish a Delivery plan covering the first budget period. It is not practical to publish a Delivery plan until the carbon budget limit has been set and subject to the Assembly's affirmative procedure.

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

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



Specifically section 39 of the Act provides time following the setting of our carbon budgets to develop, and publish, policies and proposals to deliver the interventions. The Act provides up to 12 months for future carbon budgets consistent with approaches adopted in Scotland and the UK Government. However, recognising we are already in the first budgetary period, a clause was introduced, which requires the first report to be published as soon as reasonably practicable following the setting of the first carbon budget. I have already bought forward the publication date recognising the urgency and have already publically committed to publishing it before the end of March 2019.

The primary legislation itself was scrutinised through the Plenary process and within Committee in its draft Bill form, where the above process was agreed and we have subsequently developed our whole framework on this basis.

Publishing the Low Carbon Delivery Plan before the first carbon budget regulation has been agreed, and three months ahead of schedule, is not practical or in the spirit of the Act. Therefore, I will not be publishing the Plan alongside the Regulations in December.

However, there are a number of ways for the Committee to be involved, such as through our recently published Consultation, which sets out a great deal of context and rationale for our proposed strategic approach. Two stakeholder events are being held in support of the consultation. The public consultation forms one strand of evidence, which will inform our analysis. This is running in parallel with a comprehensive programme of work operating across the Welsh Government looking at low carbon policy interventions.

I will also be making a statement in Plenary in September following Scrutiny Committee earlier this year.

Developing a policy framework to meet our decarbonisation, and wider Welsh Government objectives, is an exciting challenge and one which I am committed to. However, it is also complex. There are some specific challenges in Wales with regards delivering our low-carbon ambitions, not least the dominance of our industrial sector. However, the challenges could also present significant opportunities for Wales with the correct policy response.

It is my duty to ensure the policy framework is fit-for-purpose and derives maximum value for the citizens of Wales in the context of the Well-being of Future Generations Act.

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

**Lesley Griffiths AC/AM**

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs

Lesley Griffiths AM  
Cabinet Secretary for Energy, Planning and Rural Affairs  
Welsh Government

22 August 2018

Dear Lesley

### Welsh Government consultation on the National Development Framework

The Climate Change, Environment and Rural Affairs Committee held a stakeholder workshop to discuss the National Development Framework (NDF) for Wales on 28 June 2018.

We also heard from John Davies, former Chair of the Independent Advisory Group on Reform of the Planning System in Wales and Neil Harris from the School of Geography and Planning, Cardiff University at our meeting on 14 June. I am grateful to the officials from your department who also attended that meeting on 14 June to give us a briefing on the NDF. It was extremely informative and I would ask that you pass on our thanks to them.

Those we heard from during our work praised the amount and nature of engagement the Welsh Government has carried out during the NDF process to date. The Committee hopes that this level of engagement will continue as further iterations are produced.

The Committee recognises that drafting the NDF is a process which will continue until 2020 and that the NDF preferred option which was discussed is a high level document. The Committee will return to this topic to scrutinise the draft NDF in more detail when it is published next year.



The discussions we had with stakeholders raised a number of issues which the Committee wanted to address.

### 1. The structure of the NDF preferred option

Stakeholders told us that the document, as drafted, is overly complicated and has too many layers. They commented that the document should be more focussed rather than having a vision, objectives and themes and that it would be difficult to navigate and understand for those who are not involved in the planning system but who will be affected by the proposals.

For instance, there are four main strands to the vision of the NDF: distinctive and natural places; productive and enterprising places; active and social places and prosperous, distinctive and diversified regions. The NDF also has 27 objectives set out under headings which are slightly different, but obviously related to, the four strands in the vision. Finally, the Preferred Option: Sustainable Places is presented under five 'areas' which are similar to the four 'thematic headings' in PPW – Placemaking; Distinctive & Natural Places; Productive & Enterprising Places; Active & Social Places; and Wales's Regions.

*Is there any intention to simplify the presentation of the document?*

### 2. The synergy between the NDF preferred option and other policies

**Planning Policy Wales(PPW)** – Some stakeholders were unclear how PPW and the NDF would integrate and align with one another. They asked for clarity on how the two documents are expected to work together.

Stakeholders asked for more details on how the consultation on the new PPW Edition 10 will affect the drafting of the NDF. We understand that the new PPW is due to be published before the end of the year. Stakeholders questioned whether any significant issues from the consultation on the NDF will mean redrafting PPW and vice versa.

**National Infrastructure Commission** – Our stakeholders questioned whether those drafting the NDF have worked with officials taking forward the National



Infrastructure Commission for Wales (NICfW). The NICfW is responsible for advice to the Welsh Ministers on the economic and environmental infrastructure needs of Wales for the next 30 years. The Committee understands that the detailed working arrangements of the NICfW have yet to be agreed between the Welsh Government and the appointed Commissioners through a constitution document.

**Draft Welsh National Marine Plan** – our stakeholders would like to see more detail on how the NDF will be integrated with the Marine Plan and how each will be revised as they are updated.

**Area statements** – our stakeholders would like to know how the Area Statements produced under the Environment (Wales) Act 2016 will feed into the drafting of the NDF?

**Well-being Plans** – our stakeholders questioned whether the evidence from the Well-being Assessments was used in the drafting of the NDF preferred option. They also questioned whether the draft NDF will draw on this evidence base in future.

*How will the Welsh Government ensure that the work of the NICfW and the principles of the NDF are informed by each other?*

*Will the PPW Edition 10 be redrafted in light of the NDF process, and vice versa?*

*What are the mechanisms for ensuring the NDF and the Welsh National Marine Plan inform and develop each other?*

*What is the evidence base for the detailed revisions of the NDF preferred option, and will it draw on the Well-being Plans and Area Statements?*

### 3. Placemaking

The concept of placemaking was well received by stakeholders.

However, it was felt by some that there should be more emphasis on people and communities within the definition, including a focus on the importance of homes and jobs for creating successful places.



It was suggested that Place Plans would be a useful mechanism for involving communities in placemaking and informing local housing needs.

*Is there any intention to revise the scope of the definition of placemaking in future iterations?*

#### **4. Regional planning**

The NDF preferred option provides direction for the three regions of Wales – North Wales; Mid & South West Wales and South East Wales.

However the research undertaken by the School of Planning and Geography, Cardiff University recommended four regions in the NDF.

The Committee understands that the three regions in the NDF preferred option are aligned to those in ‘Prosperity for all: economic action plan’, however, our stakeholders recommended dividing the Mid and South West Wales region to create a total of four regions.

*What is the reasoning behind including the three regions described in Prosperity of all: economic action plan? Will the number of regions be revisited in future iterations of the NDF?*

We recognise the need for planning at the regional level to deal with issues that cross local planning authority boundaries and we are concerned that Strategic Development Plans (SDPs) are not coming forward. Stakeholders were concerned that this could result in the NDF addressing issues that would be better addressed via SDPs.

*There was a call for clarity over the role of the regions set out in the NDF.*

*What steps will the Welsh Government take to ensure the delivery of Strategic Development Plans from local authorities?*



## Housing

The NDF 'will identify a national policy based population and housing projection, which will include an all Wales range of housing numbers for the plan period.'

There was concern that the 'range of housing numbers' could be interpreted as a target Stakeholders were also concerned that the language used in the document suggested an approach that is 'top down and not bottom up'. They wish to see housing figures that are based on local need and then aggregated upwards to create the regional and national figures

. Stakeholders also commented that the housing numbers included in the NDF should reflect different housing types to reflect local housing needs, such as for social and affordable housing.

*Is there any intention to clarify the language which refers to 'the range of housing numbers'?*

*To what extent will local housing needs determine the national housing figure in the final document?*

### 5. Integrated Sustainability Appraisal

The NDF includes an Integrated Sustainability Appraisal which covers statutory and non-statutory assessments.

It was recognised that this method should provide a more integrated appraisal and save time on numerous assessments. However, there was concern that the statutory assessments may be 'watered down' due to this combined approach which may leave the process open to legal challenge.

The Committee notes the comments from RSPB Cymru that 'the 'Strategic Environmental Assessment' has been integrated within the Sustainability Appraisal. We would like to see more rigour applied to the SEA Regulations and feel this would provide an opportunity for you to demonstrate the plan's application of the sustainable management of natural resources (SMNR).'



*What consideration has been given to the recommendation from the RSPB that an 'Environmental Report' be appended to each future iteration of the ISA.*

It was recognised that it was difficult to carry out a meaningful detailed Habits Regulation Assessment (HRA) given the high-level nature of the NDF preferred option. However, stakeholders felt there was a lack of engagement with the HRA because it was drawn up by consultants.

*Is it the intention to use consultants to produce the next iteration of the HRA? If so, what mechanisms are there for stakeholders to engage in this process?*

## **6. Language Impact Assessments**

Our stakeholders recognised that undertaking Welsh language impact assessments is a new discipline within our planning system.

It was noted that expertise in this area is not as well developed as in other areas, such as environmental impact assessments. Given that the planning profession will have less experience of these assessments – both in terms of undertaking them and in interpreting their conclusions – it was recommended that the Welsh Government should take the lead in developing expertise in this area.

*Will the Welsh Government be taking the lead on developing the expertise in local authorities on these assessments and subsequently be publishing guidance and examples of best practise? Can the Welsh Government provide international examples which have proved successful?*



As planning falls within the remit of the Committee, we will continue to scrutinise the NDF as it develops. I would be grateful if you could respond the questions raised in this letter by 17 September 2018 in order to inform our work.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style with a large initial 'M'.

**Mike Hedges AM**

**Chair of Climate Change, Rural Affairs and Environment Committee**





Ein cyf/Our ref MA-P-3052-18

Mike Hedges AM  
Chair of Climate Change, Rural Affairs and Environment Committee  
National Assembly for Wales  
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10 September 2018

Dear Mike,

Thank you for your letter of 22<sup>nd</sup> August, regarding the Climate Change, Environment and Rural Affairs Committee consideration of the National Development Framework. I welcome the Committee's role in helping shape the NDF and look forward to working with you as the preparation of the Framework moves forward.

In response to your questions:-

*Is there any intention to simplify the presentation of the document?*

The Draft Preferred Option set out the proposed scope and content of the NDF. The consultation has drawn a range of comments on the relationship between Planning Policy Wales (PPW) and the NDF and the approach to presenting policies and content in the future NDF document. I will reflect on these comments when considering the Draft NDF and I am confident a more simplified approach aligned with PPW can be achieved.

*How will the Welsh Government ensure that the work of the NICfW and the principles of the NDF are informed by each other?*

The establishment of the NICfW has progressed in recent months. Mr John Lloyd Jones OBE, FRAGS, Hon FLI has recently been appointed to the Chair and I understand the appointment of commissioners is underway. My officials are meeting with Mr Jones in September to brief him on the preparation of the NDF and establish mechanisms to work together.

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

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

The NICfW will provide expert and impartial advice to the Welsh Government about Wales' longer-term strategic economic and environmental infrastructure needs over a five to 30-year period. It will also consider the interactions of these needs with social infrastructure, such as schools, hospitals and housing. Future iterations of the NDF can take forward the NICfW's recommendations where appropriate. In the short term, I have requested officials discuss with Mr Jones how the emerging NDF and State of the Nation Report, and in particular the evidence and engagement work which supports the preparation of these, can be shared and wherever appropriate developed together.

*Will the PPW Edition 10 be redrafted in light of the NDF process, and vice versa?*

The revised edition 10 of PPW is scheduled to be published by the end of this year. PPW will be amended to reflect the NDF once it is published in 2020. PPW will also be updated between versions of the NDF to reflect Ministerial priorities. Subsequent NDFs may adopt spatial approaches to new policy developments in PPW as part of an evolving and iterative process.

*What are the mechanisms for ensuring the NDF and the Welsh National Marine Plan inform and develop each other?*

As Cabinet Secretary with responsibility for both the NDF and the Marine Plan, I recognise the importance of ensuring both plans work together to achieve our national goals. To ensure they are both developed and inform each other, I have requested lead officials work together and maintain a focus on the relationship between our national marine and terrestrial planning frameworks. On a formal basis, planning officials sit on the Marine Governance Board and marine officials sit on the NDF Programme Board. There is regular attendance by planning and marine officials in each others engagement events, workshops and similar activities to brief and engage with stakeholders from respective marine/terrestrial environments. Informally, there is a programme of regular liaison meetings between officials to discuss common issues and maintain a focus of the interaction between both plans.

The Integrated Sustainability Appraisal (ISA) for the NDF and the Sustainability Appraisal (SA) of the Marine Plan are tools which help to ensure the integration between the plans. These assessments make sure we have a comprehensive understanding of the positive and negative effects of each plan to ensure they are as sustainable as possible. This includes assessing whether they support integrated decision making and collaboration across marine and terrestrial interfaces and boundaries.

The Draft NDF will include further detail on the relationship between the NDF and the National Marine Plan.

*What is the evidence base for the detailed revisions of the NDF preferred option, and will it draw on the Well-being Plans and Area Statements?*

The primary evidence base for revising the approach set out in the Draft Preferred Option will be the responses submitted during the consultation. Both Well-being Plans and the Area Statements are important and will inform the preparation of the Draft NDF.

*Is there any intention to revise the scope of the definition of placemaking in future iterations?*

To ensure clarity and consistency of our planning policy, the NDF will use the same definition of placemaking as PPW which is due to be published by the end of this year.

*What is the reasoning behind including the three regions described in Prosperity of all: economic action plan?*

Prosperity for All: The National Strategy identifies the importance of working on a consistent regional basis and the Welsh Government will introduce a new regionally-focused model of economic development. The Economic Action Plan (EAP) sets out the three regions which will form the basis of the regional approach – North Wales, Mid and South West Wales and South East Wales – and the rationale for them. The EAP will ensure the evolution of the regional model will create networks of stakeholders in regions, linked to government, delivering on our objectives and regional priorities and will support:-

- Joined up economic development planning.
- Stronger local and regional supply chains.
- Better integrated transport.
- Strategic planning on a range of issues from land use to housing to skills.
- Stronger complementary economic and cross border collaboration.

To deliver the joined-up, coordinated approach to government set out in the National Strategy and to maximise opportunities by supporting and working with key strategies such as the EAP, I believe it is appropriate for the NDF to be developed around the same three region footprint.

In considering the merits of the three region footprint, I was of the view there may be different solutions to achieving better regional planning within different regions. For example, in one region it may be appropriate for a single Strategic Development Plan (SDP) to be prepared. In other regions, it may be more appropriate to have more than one SDP or a combination of an SDP and joint LDPs. The key outcome is to ensure strategic planning issues, are identified and planned for whilst nesting within the 3 region model. I will reflect further on the consultation responses on this matter and I recognise, as with any proposed regional approach, there will be a range of views.

*Will the number of regions be revisited in future iterations of the NDF?*

Future iterations of the NDF will be free to revisit the approach to regions.

*There was a call for clarity over the role of the regions set out in the NDF.*

The Draft NDF will set out a much fuller picture of the spatial policies and projects in relation to each region. This will be informed by a thorough evidence gathering exercise which will be tested with stakeholders.

*What steps will the Welsh Government take to ensure the delivery of Strategic Development Plans from local authorities?*

During the passage of the Planning Bill, there was widespread support for the introduction of SDPs. It was recognised by many the single tiered development planning model based on LDPs, does not adequately address national and regional issues. The Planning Act introduced the NDF and SDPs as a result. I believe SDPs can help us achieve better outcomes, helping plan for strategic housing, transport, environmental and economic issues which are best understood at a regional level.

My view at this time remains it is preferable for Local Planning Authorities (LPAs) to prepare SDPs on a voluntary basis. A joint, commitment to preparing SDPs provides the best platform to move forward, allowing LPAs to shape their development. I wrote to LPAs last year encouraging them to work together on SDPs and joint LDPs. I received assurance from local authorities they have capacity to produce individual LDPs with improved voluntary collaboration between authorities. I continue to support local authorities in SE Wales to bring forward a SDP and I am hopeful they will submit their proposal to me later this year

It is important for LPAs to plan for and address regional issues. The NDF can play a role in supporting this work and I will work with them to consider this as we prepare the Draft NDF.

*Is there any intention to clarify the language which refers to 'the range of housing numbers'?*  
My officials are currently working on this and are developing a new process for assessing housing need and demand to establish housing figures for the NDF. The Draft NDF will set out the context for these figures.

*To what extent will local housing needs determine the national housing figure in the final document?*

The intention of the work currently underway is to develop a methodology which can provide a range of housing figures at a range of levels in a consistent way. This will be in addition to any locally derived housing need figure which may inform the SDP or LDP process.

*Is it the intention to use consultants to produce the next iteration of the HRA? If so, what mechanisms are there for stakeholders to engage in this process?*

Consultants with expertise in HRA have been engaged to assist in the preparation of a HRA for the NDF. This work will be undertaken in accordance with the statutory requirements. As we move forward, stakeholders will be able to engage in the production of the HRA at each stage of the NDF process.

*Will the Welsh Government be taking the lead on developing the expertise in local authorities on Welsh Language impact assessments and subsequently be publishing guidance and examples of best practise?*

As part of the ISA process, the NDF will be subject to Welsh Language Impact Assessment. The assessment will take the form suitable and appropriate to a national plan. It will be developed in conjunction with key stakeholders and subject to consultation. The assessment of LDPs can and should be more detailed and locally focussed. TAN 20 advises on sources of evidence and methodology and we continue to encourage local authorities to work together to refine the approach to reflect local circumstances.

*Can the Welsh Government provide international examples which have proved successful?*

As work on the NDF progresses the Welsh Government will continue to draw upon best practice on the form and content of national spatial plans, including equivalent plans in Scotland and Ireland. This will include how linguistic matters have been addressed by these plans.



**Lesley Griffiths AC/AM**

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig  
Cabinet Secretary for Energy, Planning and Rural Affairs

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