

# Agenda – External Affairs and Additional Legislation Committee

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Meeting Venue:

Committee Room 2 – Senedd

Meeting date: 7 October 2019

Meeting time: 13.30

For further information contact:

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## Private pre-meeting

(13.15–13.30)

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

(13.30)

## 2 Scrutiny session with the Counsel General and Brexit Minister

(13.30–14.30)

(Pages 1 – 41)

Jeremy Miles AM, Counsel General and Brexit Minister

Simon Brindle, Welsh Government

## 3 Paper(s) to note

(14.30–14.35)

### 3.1 Paper to note 1: Correspondence from the Auditor General for Wales to the Chair regarding follow-up to the Auditor General for Wales' report:

'Preparations in Wales for a 'no deal' Brexit' – 27 September 2019

(Pages 42 – 49)

## 4 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting

(14.35)



**5 Private briefing on international agreements**

(14.35–15.35)

Emma Edworthy, Welsh Government

Jonathan Price, Welsh Government

Owain Morgan, Welsh Government

**6 Scrutiny session with the Counsel General and Brexit Minister –  
consideration of evidence**

(15.35–15.50)

**7 Wales Audit Office – Discussion about the follow-up to the  
Auditor General for Wales’ report: ‘Preparations in Wales for a ‘no  
deal’ Brexit’**

(15.50–16.00)

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Mr David Rees AM  
Chair, External Affairs & Additional  
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**Reference:** AC/162/caf  
**Date issued:** 27 September 2019

Dear David,

## Follow-up to the Auditor General for Wales' report: 'Preparations in Wales for a 'no deal' Brexit'

I published my report on '[Preparations in Wales for a 'no-deal' Brexit](#)' in February 2019. That report summarised the results of my audit work across Welsh public bodies to assess their preparedness. The three key messages for the public sector were:

- that uncertainty cannot be an excuse for inaction, and audit must not be viewed as a barrier to effective planning for Brexit;
- to strengthen and deepen the 'one public service' approach to preparations; and
- to strengthen civic leadership on preparations for a 'no-deal' Brexit.

The UK Government and the European Union (EU) subsequently agreed an extension of the Article 50 process, under which the UK is now scheduled to leave the EU on 31 October 2019.

There is currently very considerable political and legal debate about the 31 October deadline. There is now an Act of Parliament requiring the UK Government to request an extension, in the absence of an agreement with the EU. However, the UK Prime Minister has stated that he will not request such an extension. Aside from the uncertainties at a UK level, any extension will require the unanimous agreement of the other 27 members of the EU. Such agreement is not certain and may itself come with conditions that neither the UK Government nor Parliament will accept.

As a result of these uncertainties, at the time of writing this letter a no-deal Brexit at 31 October remains a possible outcome. Any extension to the deadline does not in itself eliminate the potential for a no-deal Brexit at a later date. It therefore remains an outcome for which public services in Wales need to be prepared.

On that basis, I am writing to provide your Committee with my observations on the progress made in recent months by devolved public bodies across Wales in preparing for a potential 'no-deal' Brexit. This update to my February report is based on our review of key planning documents, and recent interviews with Welsh Government lead officials, the Welsh NHS Confederation and the Welsh Local Government Association. Unlike my previous review, we have not sought to gather further detailed evidence from individual audited bodies across Wales, although my work has been informed by intelligence gathered as part of our routine local audit work over the summer. Given that the Welsh Government has recently published its 35-page action plan '[Preparing for a no deal Brexit](#)', I have not sought to repeat in this letter coverage of individual specific risks.

My observations on the current position are set out in the appendix to this letter. In summary, however, I think that the key challenges facing public service leaders across Wales are now to:

- **Sustain collective working:** Planning for a no-deal Brexit has continued, and has been significantly strengthened in some areas, since March. There is evidence of a more collaborative approach across Wales' public services. It is vital that this continues.
- **Strengthen communications with the public:** Public services must communicate clear and consistent messages to the public about the implications of a no-deal Brexit, building on arrangements already in place. In particular, the public need to know what they should and, just as importantly, should not do in respect of medicines, food and fuel supplies.
- **Enhance independent scrutiny:** Those charged with governance of Wales' public bodies need to enhance their oversight and scrutiny of Brexit preparations, both as 31 October approaches and also in the immediate period thereafter.
- **Be collectively ready to respond to the unexpected:** Public bodies need to be agile and adapt quickly to unexpected developments, especially as some of the immediate implications of a no-deal Brexit are hard to predict.
- **Plan and prepare for longer-term impacts:** Public bodies need to balance their attention between the immediate consequences of a no-deal Brexit and preparing for its longer-term effects.

I hope that this update is of assistance to you and your Committee in your continuing scrutiny work.

Yours sincerely,



**ADRIAN CROMPTON**  
**Auditor General for Wales**

## Preparation in Wales for a 'no deal' Brexit: Observations of the Auditor General at as September 2019

This paper summarises our assessment of the progress made by Welsh public bodies against each of the three key messages set out in the Auditor General's February 2019 report on ['Preparations in Wales for a 'no-deal' Brexit'](#), and provides an external audit commentary on the latest position.

It should be read in conjunction with the Auditor General's letter of 27 September to the Chair of the External Affairs and Additional Legislation Committee of the National Assembly for Wales, which lists five key Brexit-related challenges facing Welsh public service leaders.

### About the work we carried out

We have conducted a very high-level review to inform this update. We have interviewed senior Welsh Government officials responsible for Brexit planning, as well as officials from the Welsh Local Government Association and the Welsh NHS Confederation. We also interviewed officials from Hybu Cig Cymru and Natural Resources Wales, two of the publicly-funded bodies potentially most directly affected by Brexit. We have reviewed documents held by the Welsh Government, including its over-arching action plan and other detailed planning documents. While we looked at plans, we have not carried out any work to test those plans and have not sought to form a view on how effective they are likely to be.

### Progress against the Auditor General's three key messages from his February 2019 report

**Message 1: Uncertainty cannot be an excuse for inaction, and audit must not be viewed as a barrier to effective planning for Brexit.**

Since I reported in February, planning for a no-deal Brexit across Welsh public services has continued to accelerate. The Welsh Local Government Association reports increased efforts on detailed planning both within and between councils. The Welsh NHS Confederation reports that NHS Wales' detailed preparations have continued since March and have intensified since the summer. We also spoke with Hybu Cig Cymru and Natural Resources Wales. Both were able to show that they have undertaken sustained work to prepare for a no-deal Brexit.

The Welsh Government has enhanced its no deal planning and has continued to work with the UK Government on areas of shared interest. However, the Welsh Government has recently stated that:



'The biggest determining factor affecting our ability to prepare effectively is the UK Government itself, and its willingness to provide additional funding, share information and meaningfully work with us. Unfortunately, under the new UK Government, engagement and information flow has significantly reduced, just as its activity to prepare for a no-deal appears to have significantly increased.'<sup>1</sup>

## **Message 2: Further strengthen and deepen the 'one public service' approach to preparations**

Since my February report, the pan-public service architecture within Wales for Brexit planning has remained largely in place. The Welsh Government has developed a new over-arching internal Brexit action plan, which sets out areas of key risk and cross-government responses to those risks.

The Welsh Government recently wrote to the Welsh Local Government Association, requesting that they gather evidence from councils on how they are preparing for a no-deal Brexit. This evidence will inform a discussion at the 2 October meeting of the Partnership Council for Wales<sup>2</sup>, with a view to seeking assurance from local government on its own level of preparedness and, in doing so, identifying any further actions that need to be undertaken rapidly and any associated resource implications.

The Welsh Local Government Association reports that collaboration between councils has accelerated. The Welsh Government and local government meet regularly to share information, plan and assess readiness through the Local Government (EU) Preparedness Panel. That Panel includes council Chief Executives representing a wider region of Wales, supported by a number of Directors who lead on key service areas. The WLGA reports that the Panel has focused on ensuring continuity of local services and issues facing business and communities. This collective effort is also supported by an increase in the capacity of each council to prepare for Brexit, with each now having a lead officer funded through the Brexit Transition Fund.

Similarly, the Welsh NHS Confederation has used the Fund to employ two permanent staff members, who support collective planning and sharing of information across the NHS. Collaboration between health and social care has

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<sup>1</sup> Welsh Government, '[Preparing for a no deal Brexit](#)' September 2019

<sup>2</sup> The **Partnership Council for Wales** includes Welsh Government Ministers and officials, Leaders of Councils, representatives of the NHS, third sector and the trades unions.

strengthened, with health and social care representatives continuing to be part of the Brexit planning groups established by Welsh Government<sup>3</sup>.

The work across public services to prepare for any emergency situations has continued since March, with the Welsh Government linking in to key UK plans, including Operation Yellowhammer. Civil contingency plans were activated when the UK was approaching a no-deal Brexit in March 2019, including four days of 24-hour operations in the Welsh Government's Emergency Control Centre.

The Welsh Government has worked with its partners in Wales and across the rest of the UK to learn lessons from the March experience and to update national and local plans and arrangements accordingly. Over recent weeks, Welsh public services have been working together to test their arrangements for civil contingencies, including running different scenarios to test their co-ordinated responses and communications channels.

### **Message 3: Strengthen civic leadership on preparations for a 'no-deal' Brexit (scrutiny and communications)**

#### Scrutiny

Following publication of my February report, my staff worked closely with the Welsh Government, Academi Wales, Welsh Local Government Association and Welsh NHS Confederation on a [webinar](#) and three seminars. Their purpose was to equip non-executives and councillors to be better able to scrutinise their organisations' preparations for Brexit.

Whilst we have not conducted further detailed work on scrutiny activity, over the summer months our local audit teams have observed that Brexit-related issues have regularly featured on meeting agendas. Nonetheless, I would emphasise the need to intensify scrutiny – both before and immediately after 31 October.

#### Communications

Since February 2019, public bodies across Wales have undertaken further work to develop internal and external communications. The Welsh Government has continued to update its '[Preparing Wales](#)' website, and also the '[Brexit Portal](#)' which is part of the campaign to help businesses prepare. Some councils also now have their own websites explaining some of the key issues around preparing for Brexit. The Welsh NHS Confederation has expanded the range of documents on its public website and published a [Brexit preparedness toolkit](#). The Welsh

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<sup>3</sup> These groups include the Brexit Ministerial Stakeholder Advisory Forum, EU Transition Leadership Group and the Brexit Senior Responsible Owners' Group.

Government also has a Brexit communications group, focussed primarily on sharing key messages and developments across the NHS and social care providers to ensure that it reaches frontline staff. The NHS Confederation also creates a weekly newsletter sent to stakeholders across Wales, as well as regularly updating a FAQ document used to prepare health and social care professionals in the case of a no deal scenario.

Those preparing for Brexit are also increasingly concerned about the difficulty of predicting and preparing for the reactions of the public to real or perceived risks. Individual decisions (for instance on bulk purchase of medicines) can have major implications for public services if they are replicated widely across the population. There has been high profile media coverage around potential disruption to supplies of medicines, food and fuel following publication of the UK Government's '[Operation Yellowhammer](#)' document and concerns raised by professional bodies. The Welsh Government has very recently published its own action plan for a no-deal Brexit, which describes extensive ongoing work to manage these and many other risks.

As Brexit approaches, public bodies will need to step up their individual and collective efforts to communicate about the implications of Brexit. If done well, this will avoid creating unnecessary worry and reduce the risks associated with individual stockpiling.

### Progress on specific risk areas

The Welsh Government's 35-page action plan '[Preparing for a no deal Brexit](#)' sets out a long list of risks and summarises how it is responding to each of those risks. Accordingly, I have not sought to repeat in this letter coverage of individual specific risks. From my work, I am satisfied that detailed planning and testing underpins the action plan.

Brexit planning constitutes the most comprehensive example of cross-government working that we have seen the Welsh Government undertake to date. There will undoubtedly be valuable lessons for the Welsh Government to draw from this experience and how its approach could perhaps be adapted for use in tackling other cross-cutting public service delivery challenges.

As well as addressing the immediate impacts of a no-deal Brexit, public bodies across Wales also need to prepare for the longer-term implications, risks and opportunities of the UK's new relationship with the EU and the rest of the world. Relationships between the constituent parts of the UK are also likely to change, with powers coming back from the EU to the UK and the devolved administrations.

The Welsh Government is using some of the additional funding it is providing from its £50 million European Transition Fund to prepare for future changes. The Fund

is intended to run until December 2020. In **Figure 1**, we have analysed the £34.4 million of funding announced to date under four broad themes<sup>4</sup>:

- preparing business and the workforce;
- preparing public services;
- preparing communities and individuals; and
- preparing for the future of regional investment.

This analysis shows that £21.8 million of the funding allocated to date is being used to support businesses and the workforce, with a focus on the most vulnerable sectors. The Welsh Government has allocated £7.2 million to support public service preparations. It has also allocated £4.5 million to support communities and individuals, including a package of support to help EU citizens prepare for Brexit and continue to live and work in Wales.

**Figure 1: European Transition Fund allocations announced so far**

Themes	Projects	£ million
<b>Preparing business and the workforce</b>		<b>21.76</b>
	Business Resilience	9.20
	Support for farming, food and fishing sectors	6.36
	Training and upskilling	6.20
<b>Preparing public services</b>		<b>7.21</b>
	Support for Welsh Universities	3.50
	Support to local authorities	1.41
Preparing the health and social care services in Wales for Brexit		0.75
	Local Resilience Forums	0.50
	Food Standards Agency	0.47
	Support for the Police	0.43
	Support to the Wales Council for Voluntary Action	0.15
<b>Preparing communities and individuals</b>		<b>4.50</b>
	Rights of EU Citizens in Wales	1.28

<sup>4</sup> We have categorised each project under a principal theme, but some individual projects may contribute to multiple themes.

Themes	Projects	£ million
	Strengthen community cohesion	1.52
	Tackling Hate Crime and Community Cohesion Action Plan	1.20
	Settled Status and Immigration Advice	0.50
	<b>Preparing for the future of regional investment</b>	<b>0.94</b>
	Successor arrangements to EU structural funds	0.59
	Developing the future regional investment approach	0.35

Source: Wales Audit Office analysis