

Agenda – Climate Change, Environment and Rural Affairs Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 4 December 2019

Meeting time: 09.30

For further information contact:

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1 Introductions, apologies, substitutions and declarations of interest

(09.30)

2 Paper(s) to note

2.1 Correspondence from the First Minister to the Chair of the External Affairs and Additional Legislation Committee – answers to questions not reached at meeting on 16 September 2019

(Pages 1 – 4)

Attached Documents:

Letter

2.2 Welsh Government response to the Committee's report on Environmental Principles and Governance

(Pages 5 – 17)

Attached Documents:

Response paper

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



PRIVATE

- 4 Consideration of the Committee's draft Annual Report on Climate Change (Decarbonisation)**
(09.30–09.50) (Pages 18 – 37)

Attached Documents:
Draft report
- 5 Consideration of the Committee's draft report on the National Development Framework 2020–2040**
(09.50– 10.10) (Pages 38 – 71)

Attached Documents:
Draft report
- 6 Consideration of draft letter to the Minister for Environment, Energy and Rural Affairs following the scrutiny session on 20 November**
(10.10–10.30) (Pages 72 – 77)

Attached Documents:
Draft letter
- 7 Briefing from the Wales Audit Office – Fuel Poverty**
(10.30 – 11.30) (Pages 78 – 87)

Mathew Mortlock, Audit Director – Wales Audit Office
Emma Giles, Audit Lead – Wales Audit Office
Mark Jeffs, Audit Manager – Wales Audit Office

Attached Documents:
Research brief

8 Consideration of the Committee's draft Forward Work Programme

(11.30–11.45)

(Pages 88 – 90)

Attached Documents:

Draft paper

Mr D Rees AM
Chair
External Affairs and Additional Legislation Committee
National Assembly for Wales
Cardiff

15 October 2019

Dear David

I am writing in relation to your letter of 20 September 2019 seeking answers to those questions that were not reached during the External Affairs and Additional Legislation Committee meeting on 16 September 2019. Events since we met have been fast-moving; the UK Supreme Court's historic ruling that the Prime Minister's decision to suspend Parliament for five weeks was unlawful, void and of no effect has allowed Parliament to resume its work.

On Thursday 26 September the Welsh Government published, "A Brighter Future for Wales: a case for why we should remain in the EU". In this paper, a successor to *Securing Wales' Future*, we outlined the updated economic analysis that we have undertaken, with a particular focus on the impact of leaving without a deal on 31 October 2019.

On 2 October, the UK Government published its proposals to replace the backstop in the Withdrawal Agreement. We await, with interest, how this will be received in Brussels and Ireland, although it seems doubtful that it will form the basis of a new agreement. If a deal is agreed and supported in Parliament the UK Government will need to bring forward a revised Withdrawal Agreement Bill. We have been clear this will need the consent of the National Assembly for Wales.

We also expect the UK Government to abide by consent requirements in respect of any emergency primary or secondary legislation that it brings forward.

For primary legislation, we recognise the possibility of the UK Government having to introduce Bills which will need to move very quickly through the UK Parliament's legislative scrutiny process. It is clear that the Sewel Convention must be respected; even where UK Bills need to move at an accelerated pace, it is necessary for Assembly consent to be accommodated, even if time for committee scrutiny is curtailed.

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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.

However, it must be recognised that UK Bill timetables are not within the gift of the Welsh Government. It is not therefore possible to give cast iron guarantees that the Assembly will always be afforded the proper time to consider consenting to the proposed legislation in so far as it relates to devolved competence. We will work closely with the Llywydd to find the most appropriate ways to expedite procedures if necessary.

Last year the Welsh Government set out its intention to bring forward a Wales Agriculture Bill in this Assembly term. The continuing uncertainty on the nature of Brexit, the manner of the UK's withdrawal from the EU and our future relationship and future funding are all undecided by UK Government. These issues need to be resolved before we can bring forward good legislation that is clear, accessible and will stand the test of time.

This will be a major reform of agricultural support - I want to do this Bill once and do it well.

I now believe it is best to introduce the Bill in the next term. To help us get this right a further consultation, 'Sustainable Farming and our Land', is underway setting out a more detailed proposal for Sustainable Land Management and we propose bringing forward a White Paper before the end of this Assembly term.

Until the extension of the Assembly's legislative competence is secured through the UK Fisheries Bill, it would be unwise to introduce a Welsh Fisheries Bill, which could only make provisions applying to the Welsh inshore waters, whereas our fisheries management responsibilities extend out to our offshore waters. Timings for introduction are dependent on the UK Fisheries Bill being enacted, and as such we cannot make any clearer statements on timing at this time, given the situation in UK Parliament. However, it remains our intention to bring forward a White Paper for a Welsh Fisheries Bill by the end of this Assembly Term.

At a strategic level, the senior management team has done everything possible to re-prioritise work or approach it in different ways so that the impact on the delivery of Ministerial priorities is minimised wherever possible. For example, we have recently streamlined and simplified the Ministerial advice process so that unnecessary bureaucracy is kept to a minimum and capacity can be focused on priorities.

I have written to the Prime Minister to set out our priorities in terms of financial interventions which will be needed to mitigate the catastrophic impact of 'no deal'. These include a demand that the UK Government must plan for an appropriate fiscal response to no deal, which should increase the funding of the key public services on which disadvantaged people depend; increase benefit payments to disadvantaged groups, and in particular address the growing gap between housing related benefits and real rental values; and involve a range of tax cuts to benefit disadvantaged households, which might include a reduction in VAT and fuel duty to mitigate price rises, and selective reductions in income tax for the lower paid.

We have also made clear that, based on the inflation assumptions made by the Office for Budget Responsibility (OBR) in their "stress test" of Brexit, we anticipate an immediate significant increase in the cost of providing public services in Wales, which would need to be met with an equivalent increase in our funding.

We have also argued for an increase in capital funding to bring forward the infrastructure investment that will support future productivity growth, for Barnett consequentials of any increased funding for projects in devolved areas in England in line with the normal process.

Businesses would, of course, also be hard hit by a no deal exit, with disruption to supply chains, inflation and additional costs of sale potentially pushing some otherwise viable

enterprises into serious difficulties. The Welsh economy is particularly exposed in terms of manufacturing and has been hit hard in recent months with decisions to close or relocate companies in the automotive sector, impacting on already vulnerable communities. We have asked that the UK Government make substantial funding available to provide financial support to businesses in need as a result of no deal.

Additional funding will also be needed for a range of specific actions that we have identified to prepare for, and mitigate impacts of, a no deal Brexit and we are asking the UK Government both to fund preparedness measures we have already taken as well as those which we will need to take in the event of a no deal. The Welsh Government has already invested £200 million on mitigation actions significantly more than the consequential ones we have received to date from UK Government preparedness funding. And as the Minister for Health pointed out on Tuesday, this money is being diverted from other purposes: as he explained, the costs of the new medical supplies warehouse would have funded seven MRI scanners.

We have had no assurances to date that the UK Government will provide the necessary additional funding.

As I outlined at Committee, there remains considerable financial uncertainty with regard to future plans both in terms of the additional funding we received in the one-year Spending Round for 2020-21 and in the absence of a settlement beyond that.

For the purposes of providing financial certainty to our stakeholders and partners next year, we have to plan on the basis of the published figures. If the promised funding from the UK Government does not materialise, we may be able to go some way to mitigate these impacts by drawing on available reserves. However the reality is we would not be able to mitigate these impacts in full without reopening our plans. This would have a significant impact on public services across Wales.

Our calls to the UK Government have been clear since the 2016 referendum: replace EU funding in full and respect the devolved competence of the Welsh Government in determining how this funding is invested. There is clear support for these Welsh Government positions – views shared by the National Assembly for Wales, a wide range of partners across Wales, and an all Party Parliamentary Group. They were also supported by the Welsh Conservative Group during the debate during a Plenary debate (11 June) on the Shared Prosperity Fund.

The Welsh economy is also stimulated by a number of smaller EU programmes, and we look for continued access to European partnerships and networks such as those established through the Ireland-Wales programme, Horizon 2020, ERASMUS+, Creative Europe, and their successor programmes.

Welsh Ministers have reinforced our positions and pressed for clarity from the UK Government including through the Joint Ministerial Committee, Finance Minister quadrilateral meetings, and through correspondence.

At an official level, there is regular contact between WG and UKG on these issues, but there is still no clarity around UK Government Ministerial priorities and how the UK Government plans to distribute replacement funds etc., which adds uncertainty and constantly threatens to undermine the work underway in Wales.

Despite the lack of any decisions from UK Ministers, Welsh Government is working with stakeholders on developing future arrangements for Wales on the clear assumption that all EU funding will be replaced and that regional funding is a fully devolved matter.

In respect of the Structural Funds, we have engaged with stakeholders across Wales since our policy paper, 'Regional Investment in Wales After Brexit', was published in December 2017. This includes a reflection exercise in early 2018 and publication of an independent summary of findings in July 2018.

We have also established a Regional Investment for Wales Steering Group, chaired by Huw Irranca-Davies AM, to provide advice to Welsh Ministers on successor arrangements. Membership is from a wide range of stakeholders including business, local government, academic institutions, and the third sector. The Steering Group has met three times since January, and will meet again on 10 October.

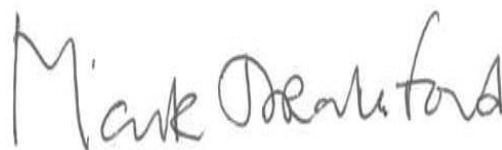
In 2020 our financial planning assumption for the Common Agricultural Policy is that we will continue to receive at least €320m to cover the Basic Payments Scheme, (BPS) 2020. We are also planning to receive a further €50m for rural development programmes in 2021. This reflects the UK Government manifesto commitment not to reduce agricultural support this Parliament.

We are urgently pushing for further clarity from UK Government on this. At the spending round on 4th September, HMT did not confirm the budget for making direct payments to farmers in 2020.

The manner of the UK's withdrawal from the European Union (EU) and the future economic relationship are far from decided. This particularly applies to the terms of any Withdrawal Agreement. Resolution of these issues will determine how long the UK stays within different parts of the Common Agricultural Policy (CAP) and, therefore, when it is possible to start moving to different arrangements.

I hope this information is helpful to the Committee. I have copied this letter to the Chair of the Finance Committee and the Chair of the Climate Change, Environment and Rural Affairs Committee.

Yours sincerely

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

MARK DRAKEFORD

November 2019

Recommendation 1

The Welsh Government's future Bill to address the environmental principles and governance gaps post-Brexit should:

- include an overarching objective to secure a high level of environmental protection within which the environmental principles are framed;
- list all four core environmental principles on the face of the Bill; and
- list "non-regression" or "progression" as a principle on the face of the Bill

Response: Accept in Principle

We are working closely with stakeholders through my Environmental Governance Stakeholder Task Group to identify how we address the gaps in environmental principles, not only what principles we include in our legislative framework but how we achieve this in a way, which complements our existing legislation.

I accept the recommendation in principle, as Wales already has legislated for sustainable development as an overarching context in the Well-being of Future Generations (Wales) Act 2015 it is important how we address gaps in principles and include any additional overarching environmental objectives need to be compatible with our existing architecture in this Act as well as our approach to managing our natural resources sustainably as provided in the Environment (Wales) Act 2016.

In addition, our approach in Wales has been to build upon our environmental standards rather than merely stand-still, which a non-regression approach implies. Our Environment (Wales) Act reflects this in the definition of sustainable management of natural resources, which seeks not only to maintain but enhance the resilience of ecosystems as well as the multiple benefits functioning ecosystems provide – such as clean air and fresh water. I, therefore would be seeking to ensure we can continue to build upon our standards rather than apply a stand-still approach.

Recommendation 2

The Welsh Government should assess the benefits of including the EU and international principles within a future Welsh Bill, and report back to the Committee on its findings.

Response: Accept

As per our response to Recommendation 1, the Environmental Governance Stakeholder Task Group will be providing its recommendations in early 2020 including on which, if any, additional principles may be included within Welsh legislation.

As the Environment (Wales) Act 2016 drew from international best practice, in Wales we already have a number of international principles which go over and above the EU four core principles. These include resilience, adaptive management, scale, participation, long-term implications and value.

The Minister has committed to the continuation of the application of EU environmental principles post exit, this will be achieved in the immediate term through the continuing applicability of our domestic legislation.

An Environmental Governance Task group was convened in July which has been further divided into sub-groups. The principles sub-group will be reflecting on the *Environmental Principles and Governance in Wales Post European Union Exit* consultation responses and considering the benefits of including any additional principles. The Stakeholder Task Group is scheduled to report on its findings early next year.

Recommendation 3

In determining the extent to which the duty to apply future environmental principles should apply, the Welsh Government should use, as its starting point the public bodies listed in the Well-being of Future Generations (Wales) Act.

Response: Reject

Under the EU system, the environmental principles listed in Article 191 of the Treaty on the Functioning of the European Union apply only on the EU institutions and do not apply to Member States, which in turn means the EU environmental principles do not apply on any public bodies within the Member States. The purpose of the four EU environmental principles is to provide guidance for the EU institutions by helping guide the shape and development of environmental law and policy at the EU level. For example, when developing policies on licensing and permitting of polluting activities, the polluter-pays principles can be given effect in the requirement for the party carrying out the polluting activity, to pay.

In our consultation document, we asked stakeholders to provide their views on extending the duty to pursue sustainable management of natural resources, including its principles (as provided in sections 3 and 4 of the Environment (Wales) Act 2016) on a wider set of public bodies. Responses, including from a number of public bodies, in the main, were in favour of this, and we are working with the Environmental Governance Stakeholder Task Group in the development of proposals.

Recommendation 4

The Welsh Government should endeavour to secure a commitment from the UK Government that non-devolved bodies operating in Wales will adhere to the future environmental principles

Response: Accept in Principle

As detailed in the response to Recommendation 3, the proposal presented in the consultation document was on the extension of a duty of sustainable management of natural resources and its accompanying principles as provided in the Environment (Wales) Act. Discussions with stakeholders will continue on whether and on whom this duty could be extended to a wider group of public bodies.

Discussions were being held with the UK Government on the extent of any duty relating to the application of environmental principles upon the Ministers of the Crown. An amendment was made to the now fallen UK Environment Bill on the basis of Welsh environmental principles applying on UK Ministers of the Crown. These discussions will continue with a new UK Government post the General Election.

In relation to other non-devolved public bodies, we will discuss with the UK Government the extension of the duty of sustainable management of natural resources also applying more broadly.

Recommendation 5

The Welsh Government's future Bill should include provision for the list of principles, and public bodies to which the duty applies, to be amended for the purpose of adding to, or removing from, those lists. Amendments to these lists should be subject to an appropriate level of Assembly scrutiny

Response: Accept

In relation to the agreed principles and bodies to be included within this new framework, we accept the above recommendation to enable the list of principles to be updated as well as the bodies on whom a duty may apply.

Recommendation 6

The Welsh Government should, within three weeks of the publication of this report, provide the Committee with further details on its agreement with the UK Government to have a shared, common set of environmental principles. In doing so, it should:

- clarify the form that the agreement with the UK Government takes and how it will be delivered in practice;
- clarify what the set of environmental principles will be;
- set out the rationale for each of those principles and;
- set out how current domestic principles will be maintained within the shared principles.

Response: Accept

We are, with the UK Administrations, considering a cooperative approach to environmental principles which will ensure a coherent set of principles across the UK, whilst allowing each administration to determine the appropriate measures for their national circumstances.

In light of the General Election, we will of course ensure these discussions continue with any new UK Government.

Within our overarching sustainable development sit a number of environmental principles, drawn from international best practice, which already guide policy and decision-making. These include prevention, scale, resilience, public participation, collaboration, long-term, value, evidence and adaptive management. A cooperative approach to environmental principles will allow us to determine what the correct Welsh legislative response is to environmental principles so we complement, rather than cut across, our existing legislation.

Recommendation 7

The Welsh Government should clarify its position on the establishment of a UK-wide environmental governance body, as a matter of urgency. In doing so, it should provide details, beyond those already provided, of what it considers would constitute a UK-wide body that meets the needs of Wales.

Response: Accept

As stated in previous responses, the model presented in the now fallen UK Environment Bill was not a model suitable for Wales. It was designed to address the gaps identified for England including overseeing its 25 Year Environment Plan. This was not a response designed to address governance at a UK-wide level.

However, the UK Government is only one party in the considerations of a UK-wide approach and as such our discussions have been not merely limited to the UK Government but also the other devolved administrations. The Scottish Government presented its response to environmental governance in its consultation, which closed in May of this year.

I have always stated I am willing to engage with the other administrations on how to address any gaps at a UK-wide level and on how this could be addressed in a way, which respects the devolution settlement and the role of devolved bodies with responsibility for accountability, including the role of the National Assembly for Wales. We were the only administration to seek the views of stakeholders on a UK-wide approach to environmental governance.

Addressing any gaps at a UK-wide level can be achieved in many different ways and our discussions with the other administrations have considered the opportunities for cooperation between potentially different approaches in different administrations. There are opportunities for cooperative working, for example the sharing of data and information and the ability to address cross-border issues. From a citizen's perspective, it will be important to enable a complainant to raise a complaint in one

administration and where appropriate for this complaint to be considered cooperatively with another governance body where appropriate.

Our consultation provided a number of key characteristics, which we sought views on from stakeholders, these characteristics would apply whether the response is Welsh only or UK-wide.

Recommendation 8

The Welsh Government should report back to the Committee on its latest discussion with the UK and Scottish Governments on proposals for a UK-wide approach to addressing the governance gaps. This report should include details of any discussion with its counterparts on the development of a UK-wide environmental governance body, and the outcome of this.

Response: Accept

As outlined in Recommendation 7 discussions have been on-going with the other administrations, including what cooperative approaches could be achieved. The UK Bill, as introduced but now fallen, had been amended to enable the UK Office for Environmental Protection to consult with other like entities.

Officials will continue to engage with the other UK administrations.

Recommendation 9

The Welsh Government must ensure that the role and objectives of the new environmental governance body are clearly defined within a future Welsh Bill. There must be clear delineation between the role and functions of the new body and those of existing Welsh bodies. Where overlap, or potential overlap occurs, suitable legislative and non-legislative mechanisms must be in place to manage these.

Response: Accept

We have been clear in our approach to future environmental governance arrangements; we must ensure our response in Wales is one which complements, rather than cuts across, duplicates or conflicts with existing Welsh bodies.

Existing bodies may have an important role to play in an effective and coherent governance structure and it will be important to ensure the roles and responsibilities are clearly defined.

Recommendation 10

The Welsh Government should set out how it intends any new Welsh governance body to work with the proposed OEP and any equivalent body in Scotland to ensure a co-ordinated approach to environmental protection across the UK post-Brexit.

Response: Accept

As outlined in responses to Recommendations 7 and 8, discussions had been on-going in relation to cooperative approaches between governance arrangements in the respective administrations.

As stated in response to Recommendation 8, the UK Bill, before it fell, had been amended to enable the UK Office for Environmental Protection to consult with other like entities.

Discussions are continuing with the other administrations.

Recommendation 11

The new environmental governance body must be fully independent of the Welsh Government. It must be:

- appointed by, and accountable to the, National Assembly;
- audited by the Auditor General; for Wales; and
- funded through the Welsh Government Fund

Response: Accept

We accept this recommendation and agree any new environmental governance model in Wales should be independent.

From the outset we have stated the requirement for any new governance model to act independently and we will continue to consider the qualities any new governance model will require in achieving an outcome which ensures a good governance approach is taken.

I sought views about these considerations in our consultation document and they were broadly supported by respondents.

Recommendation 12

The Welsh Government should make provision to ensure that the new Welsh governance body puts in place suitable arrangements to provide clear and strong structural separation between its advisory and regulatory functions.

Response: Accept

The functions to be undertaken in respect of environmental governance are being considered by the Environmental Governance Stakeholder Task Group, who will be reporting on initial findings in early 2020.

In general, we accept this recommendation as it will be important for there to be a clear distinction in functions to provide a coherent and effective governance

structure. How this may be achieved will be for discussion with stakeholders and also with representatives from existing accountability bodies in Wales.

Recommendation 13

The Welsh Government should ensure that the scope of the new governance body should extend to all Welsh public bodies who will be required to apply the environmental principles.

Response: Accept

In relation to the environmental principles please see the response to Recommendation 3.

In relation to the bodies subject to the remit of environmental governance, we are currently considering this remit with stakeholders, in particular on the linkages with environmental law rather than specifically the application of environmental principles.

Recommendation 14

The Welsh Government should provide a detailed explanation of the gaps arising as a result of the loss of the EU's monitoring and reporting function, and its proposals to address these, beyond those set out in its consultation.

Response: Accept

The Withdrawal Act 2018, on exit day from the EU, will convert EU directly applicable legislation into domestic law and save domestic law introduced under the European Communities Act 1972. The extensive programme of EU Exit correcting subordinate legislation has addressed deficiencies in this EU derived legislation, including transferring reporting functions of the EU Commission into domestic law. The aim of the programme of EU Exit correcting legislation was to maintain the status quo on exit day.

Where the EU Commission reported to International Conventions, the Secretary of State would be responsible for this duty.

We are currently looking at all of the monitoring and reporting requirements within the legislation. In undertaking this work NRW will be consulted.

We will identify risks and where our reporting requirements and broader evidence base may be impacted.

In addition, to the monitoring and reporting requirements under EU legislation, we have also introduced new reports in both the Well-being of Future Generations Act and the Environment Act as are outlined in the consultation document such as the Well-being of Wales Annual Report and the five yearly State of Natural Resources report.

Recommendation 15

The Welsh Government should clarify what monitoring and reporting requirements, beyond those contained in existing Welsh law, will be in place post-Brexit to support the effective oversight and scrutiny of the implementation of environmental legislation. In doing so, it should clarify whether and how EU reporting requirements have been retained in domestic law, and adapted.

Response: Accept

Please see the response to Recommendation 14, which outlines the way in which the reporting requirements in EU legislation have been retained.

Recommendation 16

The Welsh Government should report back to the Committee on any discussions with the UK Government on how it intends to meet its international reporting obligations on environmental matters following exit from the EU.

Response: Accept

As the UK is the party to the international agreements, the international reporting functions of the EU Commission have been transferred to the Secretary of State in the relevant EU Exit correcting legislation.

Discussions are on-going in relation to the post EU-exit intergovernmental relations across the UK, including how the four administrations will work together on international matters.

Where a particular policy area has been identified by four UK administrations as requiring a Common Framework following exit of the EU, then one of the principles applied in its development is to ensure compliance with international obligations.

Recommendation 17

The Welsh Government should clarify what role the new governance body will have in facilitating reporting on international obligations and agreements on environment matters.

Response: Accept

As stated in response to Recommendation 12, the functions to be undertaken in respect of environmental governance are being considered by the Environmental Governance Stakeholder Task Group, who will be reporting on initial findings in early 2020.

In relation to reporting on international obligations, as the UK is the party to international conventions and international relations is a reserved matter for UK Government, the duty to report on international obligations will, post exit, be with the Secretary of State.

Recommendation 18

The Welsh Government should adopt a clear and strong position that the UK should continue its membership of the EEA, and other EU agencies with environmental expertise, where there is demonstrable value. It should report back to the Committee on the outcome of future discussion with the UK Government on this matter

Response: Accept

We agree remaining a member of the EEA and other agencies would be beneficial in terms of the access to evidence, expertise and key developments.

We will continue discussions with the UK Government on continued partnership with EU bodies and agencies with which future collaboration is of significance in achieving our international goals.

However, continued membership will depend on the model of the future relationship between the EU and UK and the agencies delivering functions on our behalf.

Recommendation 19

The Welsh Government should develop proposals for a fining system to support the effective enforcement of environmental law post-Brexit. These proposals should be informed by a review of international examples of fining systems that operate within a domestic context, such as New Zealand. The proposals should be subject to consultation with stakeholders.

Response: Reject

As covered previously, the appropriate functions for an environmental governance system are under discussion with stakeholders including what enforcement functions may be required.

Our consultation stated, the focus of good governance should be on reducing non-compliance with enforcement considered as a last resort. Our intention is to focus on an effective governance model, which does not rely solely on punitive measures such as fines.

We seek to develop a model, which helps to address and rectify the issues, which cannot be achieved by a system based solely on fines. Under the current EU system, fines are classed as a last resort mechanism with the focus on rectifying issues rather than issuing fines.

Work is also on-going in relation to assessing models in other jurisdictions, taking into account the purpose of these models and the specific constitutions of these jurisdictions.

Recommendation 20

The Welsh Government should consider whether, and if so how, fines for continued non-compliance with environmental law should apply to other Welsh public bodies which fall within the remit of the new governance body

Response: Reject

Please see response to Recommendation 19 as the same considerations will apply.

Recommendation 21

The new governance body must be able to receive substantive complaints from citizens on breaches, or potential breaches, of environmental law.

Response: Accept

As a government we are committed to maintaining citizens' rights including access to raising any issues on the implementation of environmental law.

We will continue discussions with stakeholders and representatives from existing accountability bodies in Wales on the appropriate approach to providing this mechanism.

Recommendation 22

The new complaints system must be simple to access, free of charge, and liability free, for citizens.

Response: Accept

As stated in our consultation, the Welsh Government believes these should also be elements of any new complaints function. We remain engaged with stakeholders in developing proposals for how a complaints process could operate in Wales.

Recommendation 23

The Welsh Government should update the Committee on any preliminary work undertaken to assess the resources associated with the establishment of a new Welsh governance body.

Response: Accept

The Environmental Governance Stakeholder Task Group is currently considering different types of models, including the form such a model should take. Therefore, at present no definite type of entity has yet been recommended. As part of defining a preferred model, work will be undertaken to assess any likely resources required.

Recommendation 24

The Welsh Government should report back to the Committee on any discussions with the UK Government on future funding to meet the cost of a new Welsh governance body.

Response: Accept

Discussions are ongoing with the UK Government, however we are concerned about the lack of transparency and meaningful engagement with the Devolved Administrations over what replaces EU funding.

We expect any UK Government to honour its commitment to respect the devolution settlement and to ensure Wales will not be a penny worse off after we leave the EU. This money and the flexibility to manage it must be transferred to Wales in full, without precondition.

Recommendation 25

The Welsh Government should set out a timeline for the development and implementation of its preferred transitional arrangements. In addition, it should report back to the Committee, within three weeks of the publication of this report, on the work of the stakeholder group tasked with considering proposals for transitional arrangements

Response: Accept

If, following the General Election on 12 December, there is a deal agreed with the EU, followed by a transition period, we will remain under the jurisdiction of the EU institutions for the duration of the transition

Whilst there is now an extension to Article 50, a no-deal scenario could still emerge which will result in the need for interim measures. The Environmental Governance Stakeholder Task Group have provided advice on interim measures and I have agreed an approach to complaints management to be adopted in the event of no deal.

I remain in constructive discussion with my stakeholders on the development of recommendations for any interim measures, which will be put to my consideration. As such, at this moment in time I am not in a position to share timelines for the development of any preferred approach, however, I will happily engage the Committee once I have considered their proposals.

Recommendation 26

As soon as practicable after it has determined its preferred approach to transitional arrangements, and before developing final proposals, the Welsh Government should report back to the Committee. This report should include a comprehensive impact assessment of approaches considered, including details of the associated costs, and the rationale for its preferred approach.

Response: Accept

If, following the General Election on 12 December, there is a deal agreed with the EU, followed by a transition period, we will remain under the jurisdiction of the EU institutions for the duration of the transition. There will be no additional costs incurred.

Whilst there is now an extension to Article 50, a no-deal scenario could still emerge which will result in the need for interim measures, the Environmental Governance Stakeholder Task Group have provided advice on interim measures and I have agreed an approach to complaints management to be adopted in the event of no deal. The costs of this initial procedure will be met from existing resources. This would be a simple complaints mechanism for citizens to raise any complaints in a no deal scenario.

We have taken an open approach to the development of interim measures by working with stakeholders and officials and the Task Group are further developing additional elements where interim measure are required until a permanent solution is provided. I expect to be provided with further details on these additional elements in early 2020 for my consideration. Following my decision, associated costs and comprehensive impact assessments can be considered but the timing will be dependent on if or when the UK leaves the EU. I am happy to share this information with the Committee when this has been undertaken.

Agenda Item 4

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

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Agenda Item 5

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Agenda Item 6

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Agenda Item 7

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Agenda Item 8

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

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