

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 3 February 2020

Meeting time: 13.30

For further information contact:

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Committee Clerk

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Following a resolution in Plenary on 29 January 2020, the Constitutional and Legislative Affairs Committee became the Legislation, Justice and Constitution Committee.

- 1 Introduction, apologies, substitutions and declarations of interest**
13.30
- 2 Local Government and Elections (Wales) Bill: Evidence session**
13.30–14.30 (Pages 1 – 44)
Julie James AM, Minister for Housing and Local Government
Lisa James, Deputy Director Local Government Democracy, Welsh Government
Eoghan O'Regan, Lawyer, Welsh Government
Chris Humphreys, Lawyer, Welsh Government

CLA(5)–05–20 – Briefing

CLA(5)–05–20 – Paper 1 – Letter from the Minister for Housing and Local Government, 30 January 2020

CLA(5)–05–20 – Paper 2 – Letter from the First Minister to the Llywydd, 27 January 2020

[Local Government and Elections \(Wales\) Bill, as introduced](#)

[Explanatory Memorandum](#)

[Statement of Policy Intent](#)



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3 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3

Negative Resolution Instruments

3.1 SL(5)489 – The Education (Amendments Relating to the Intervals for Inspection of Education and Training) (Wales) Regulations 2020

(Pages 45 – 57)

CLA(5)–05–20 – Paper 3 – Report

CLA(5)–05–20 – Paper 4 – Regulations

CLA(5)–05–20 – Paper 5 – Explanatory Memorandum

4 Subordinate legislation that raises issues to be reported to the Assembly under Standing Order 21.7

4.1 SL(5)490 – Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

(Pages 58 – 135)

CLA(5)–05–20 – Paper 6 – Report

CLA(5)–05–20 – Paper 7 – Code of Practice

CLA(5)–05–20 – Paper 8 – Explanatory Memorandum

5 Paper(s) to note

5.1 Letter from the Llywydd: Withdrawal of Statutory Instruments

(Pages 136 – 137)

CLA(5)–05–20 – Paper 9 – Letter from the Llywydd, 27 January 2020

6 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

7 Local Government and Elections (Wales) Bill: Consideration of evidence

8 Consideration of future inquiry

(Pages 138 – 142)

CLA(5)–05–20 – Paper 10 – Terms of reference for a future inquiry

CLA(5)–05–20 – Paper 11 – Business Committee: Amending the title and remit of the Constitutional and Legislative Affairs Committee

Date of the next meeting – 10 February 2020

Document is Restricted

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government



Llywodraeth Cymru
Welsh Government

Mick Antoniw, AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
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30 January 2020

Dear Mick,

Local Government and Elections (Wales) Bill

Thank you for your letter of 23 January in advance of my attendance at Committee to give evidence on the Local Government and Elections (Wales) Bill.

Your letter raised a number of questions to which I have responded in Annex 1.

I look forward to attending on 3 February to give further evidence.

Yours sincerely,

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

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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.

Local Government and Elections (Wales) Bill

Delegated powers

1. Why is it appropriate to include 98 powers for the Welsh Ministers to make regulations, orders and directions, and to issue guidance?

This is a large Bill covering a significant range of provisions which are often technical in nature. I consider the Bill to contain a proportionate number of regulation/order making powers which will be mainly used to prescribe technical matters or enable the making of detailed provision within the framework set out on the face of the Bill.

Where there is a power to make provisions of a more fundamental nature, these require the provisions to be subject to the affirmative resolution procedure.

In many instances, the subordinate legislation making powers allow the Welsh Ministers to respond to future circumstances, the precise nature of which cannot be foreseen at the time of making the primary provision. The Welsh Government has sought, as far as possible and appropriate to set out matters of detail on the face of the Bill, albeit with scope to tailor the application of such matters to take account of local circumstances and future developments. It also allows for matters of detail, particularly around operational matters, to be prescribed.

2. Do you believe that the correct balance has been achieved between what provisions contained on the face of the Bill and what has been left for secondary legislation?

Our aim has been to set out as much detail on the face of the Bill as possible.

I consider the amount of detail on the face of the Bill to be balanced and appropriate for primary legislation. When dealing with matters as complex and as detailed as elections and local government, it would not be helpful to try to put everything on the face of the Bill. You simply cannot, on the face of a Bill, account for every option or circumstance which might arise in a situation provided for in the primary legislation. Trying to do so would lead to unmanageably lengthy, complex and prescriptive primary provision. The secondary powers sought by Ministers will enable them to take necessary and proportionate action as the need arises - within a clear framework provided in the primary legislation.

Powers have been taken to allow us to provide for the technical requirements.

In developing the subordinate legislation, the Welsh Government will work closely with stakeholders in order to ensure the provisions are relevant, valid and proportionate.

Voting systems for elections to principal councils

3. **Section 13(3) provides the Welsh Ministers with a wide power to make “any other provision for the conduct of elections of councillors for local government areas in Wales”. Although it is subject to the affirmative procedure, can the Minister explain why this wide power is needed and what purpose it is intended to be used for?**

Section 13 of the Bill amends the Representation of the People Act 1983 to enable the Welsh Ministers to prescribe rules for local government elections. Currently local elections in England and Wales apply the Parliamentary rules subject to adaptations – thereby limiting the rules the Welsh Ministers may prescribe. The new power will allow Welsh Ministers to set the rules for local government elections in Wales that deviate from Parliamentary rules allowing for the reflection of Welsh specific circumstances.

Such circumstances will include rules around:

- How an STV count is to be conducted as well the format of the ballot paper at an STV election etc.;
- The removal of the requirement for candidates in local government elections to provide a home address to be published.
- Potentially, the requirement that a principle council must publish, on its website, a statement for each candidate standing in a local government election; and
- Potentially, the requirement for candidates standing as “independent” in local government elections to provide, at the point of nomination, to declare whether or not they have been a member of a political party.

The powers under this section will also be used to support any additional changes needed as a result of the extension of the franchise to 16 and 17 year-olds and foreign citizens legally resident in Wales such as electoral forms.

Database of electoral information system

4. **Section 18(1) provides the Welsh Ministers with the power to establish a database of electoral registration information. Such a register will retain personal information regarding the electorate without their explicit consent and therefore impacts on their private lives. The regulations made under this power may also permit the transfer of the information to prescribed third parties. Can the Minister confirm why this database is needed and why she considers it appropriate to use executive powers to create such a database rather than include details on the face of the Bill?**

A database of electoral registration information would allow us to trial innovations in the way we vote and where we vote. It could also assist Registration Officers with administration, combining the electoral information held by each county, with a common format, making the management of the registers more efficient and accurate, facilitating piloting and making easier the process of splitting registers at elections which cross county boundaries

Changes are currently being made to electoral management software to allow the extension of the franchise in Wales and the reform of the annual canvass. The

database would need to work with this software and we would want these changes to be in place before we began any work on developing the proposals for the database. Any proposals to establish a database would likely be extensive and complex, and would need to be developed in close collaboration with stakeholders to ensure the database worked in the way we intended and in a way which would be of most use.

The available technology in this field moves forward at pace and we will want to be able to take on board any new innovations if the database was developed and establishing the data via regulations rather than through the Bill would enable these developments to be taken into account.

The provisions in the Bill around the creation of a database of electoral registration information are designed to be entirely compatible with existing data protection laws and with electoral law. If the database were to exist concurrently with electoral registers held by local authorities, those registering would be made entirely aware that their data would be held in two places. While the provisions allow for data to be shared with third parties, this would be strictly in line with the rules set out across the statute book on the collection, holding and sharing of electoral data.

Election pilot schemes

5. **Section 26(1) provides for an order to be made by the Welsh Ministers, without any Assembly scrutiny, for an election pilot scheme to be undertaken. Why is this power subject to no procedure?**

Any Order made under this power will only be applied in circumstances where Welsh Ministers feel an electoral pilot would be of specific benefit to electors but no principal council is forthcoming. It is likely to be local in nature applying to a small number of principal councils at most. It will be followed by a statutory evaluation undertaken by the Electoral Commission, any long term changes resulting from such a pilot would be subject to full Assembly scrutiny.

General power of competence

6. **For what purposes do you intend to use the powers under section 35 of the Bill (in relation to amending/removing existing legislative restrictions on the use of the general power of competence or further restricting the general power of competence)?**

Regulations under section 35 would be used to remove limitations where it was considered that those limitations unduly or inappropriately limit the use of the general power. Regulations may also be made to subject the general power to additional limitations if situations were to arise where the power were being used in an inappropriate manner. Any regulations would be subject to consultation prior to being made.

It is difficult to precisely identify, in advance, particular circumstances which would require the power to be used however, examples where the equivalent powers in the Localism Act 2011 have been used include:

- amending primary legislation to temporarily dis-apply provisions of an Act so as to allow Harrogate BC to host the Tour de France and Tour de Yorkshire events.
- prohibiting local authorities from charging local residents to enter recycling centres to deposit household waste. Local authorities sought to argue that certain of these centres were additional to (and therefore discretionary) to the centres they were required to provide under provision in the Environmental Protection Act 1990. THE UK Government disagreed and considered such action amounted to backdoor charges.

I intend to make use the powers in section 35 to make regulations prescribing conditions with which principal councils and eligible community council must comply prior to using the general power of competence for a commercial purpose.

It is my intention then when a council is contemplating exercising the general power for a commercial purpose, with the associated financial implications, they must do so with full understanding of the risks and consequences of doing so. It is proposed these regulations will require the preparation of a business case – this is a comprehensive statement of the financial and other implications of the intended activity, this business case will also require formal approval by the council. It is not intended that the business case would submitted to, or approved, by the Welsh Government. These regulations would be subject to consultation and the affirmative procedure before being made.

7. How does this sit with section 32 of the Bill (that the use of the general power of competence is subject to existing legislative restrictions)?

Section 32 subjects the general power to limitations, namely pre-commencement and post-commencement limitations. Commencement in this context is the date on which this Bill is passed, which is published on the face of the legislation so is clear to see for anyone reading it.

The general power cannot be used to overturn any limitation or restrictions in existing legislation. For example, legislation in relation to statutory services, fees and charging, financial prudence or the form of a council executive constrains local authorities in various ways and it will not be possible for the general power to be used to circumvent these constraints. Any legislation passed after this Bill will limit the general power where the legislation makes specific references to the general power.

Any Regulations made under section 35 would remove limitation on the use of the general power or subject its use to additional limitations, these would be addition to the limitation set out in section 32.

Conduct of members

8. **Section 67(2) provides the Welsh Ministers with the power to make regulations about the circumstances in which members of a principal council in Wales are to be treated as constituting a political group and in which a member of a political group is to be treated as a leader of the group. The Welsh Ministers are obliged to “consult such persons as they think appropriate” before making these regulations.**

(i) Who do you propose to consult?

Appropriate consultees would include local authorities, WLGA, monitoring officers and political parties. It is my intention to establish a small group of representatives from these interested parties to work with us on the development of these regulations and their practical implementation in local authorities.

(ii) Why is the regulation-making power subject to the negative procedure, rather than the affirmative, given that the content of such regulations could be politically sensitive and affect individual rights?

I consider negative procedure to be appropriate for these regulations and in line with standard agreed practice. The substance of the duties placed on leaders of political groups in relation to standards of conduct is set out in full on the face of the Bill. These Regulations provide for detailed definitions of the circumstances in which a political group is defined and when a member is to be treated as the leader, this could change over time and require amendment.

Joint committee regulations

9. **Section 82(1) gives the Welsh Ministers the power to amend by regulations, any regulations which establish a joint corporate committee. This power can be used to confer, modify or remove a function of a corporate joint committee, or “for any other purpose”. Can the Minister explain what she envisages “any other purpose” will be and why this catch-all provision is necessary?**

Section 82 makes provision for the amendment and revocation of CJC regulations already made under section 77 (requested) or section 79 (not requested). Section 82(1)(a)-(c) is concerned with adding, modifying or removing functions. Section 82(1)(d) relates to the other aspects of the joint committee regulations, i.e. those matters listed in section 81 and which are the constitutional, governance and operational arrangements of that CJC. The power in section 82(1)(d) is necessary to ensure that joint committee regulations can be amended to respond to any changes that are necessary to ensure that the CJC continues to operate correctly, efficiently and effectively.

The section will provide that Welsh Ministers may not confer a function on, or modify or remove a function of, a corporate joint committee (under 82(1)) without the consent of the principal councils unless it is a function mentioned in 79(3).

- 10. Section 84(1) permits joint committee regulations and any regulations made under sections 82 or 83 to amend, modify, apply, disapply, repeal or revoke any enactment (which includes primary legislation). Why is this provision subject to the negative procedure when it contains a Henry VIII power to amend, modify, apply, disapply, repeal or revoke primary legislation?**

The power under section 84(1) relates to the scope of joint committee regulations (sections 77 and 79) and amending or supplementary regulations (sections 82 and 83 respectively), with each of these powers being subject to the affirmative procedure.

Section 84(1) sets out the scope of the above regulations but is parasitic on them, i.e. the affirmative procedure applies. It appears that the entry in the table of regulation making powers is incorrect it is my intention that the powers under section 84(1) will be subject to the affirmative procedure.

- 11. Can the Minister also explain how section 84 will work when used in conjunction with sections 82 or 83, when regulations made under those sections are subject to the affirmative procedure?**

Regulations made under sections 77 and 79 are “joint committee regulations”. Section 81 makes provision for the content of those regulations.

Section 82 provides a power to amend joint committee regulations once made to ensure that the Welsh Ministers and local government can respond to any changes that are necessary to ensure that CJC’s continue to operate correctly, efficiently and effectively both in terms of their governance and the exercise of their functions.

Section 83 makes provision for supplementary etc. provisions which may be necessary as a consequence of or to give effect to (initial) joint committee regulations OR amending regulations under section 82.

There is also a power to make standalone regulations of general application (see 83(3)).

Section 84 clarifies the scope of the above regulations and provides a further power to deal with potentially redundant provision on the statute book as they relate to Joint Transport Authorities and Strategic Planning Panels (see 22 below).

Each of these forms of regulations is subject to the affirmative procedure.

In terms of the procedure which applies to section 82 we intend to table stage 2 amendments to clarify the process by which an application to amend joint committee regulations may be made.

- 12. Section 84(2) gives the Welsh Ministers the power to amend, modify, apply, disapply, repeal or revoke any enactment (which includes primary legislation) in relation to any enactment for the purposes of, or otherwise in connection with, Part 5 of the Bill which deals with corporate joint committees. This is a very wide power, so can the Minister explain why this is required and what she envisages that this power will be used for?**

The power under section 84(2) is intended to deal with the need to revoke specific enactments as a consequence of the creation of CJC's but which do not necessarily relate to CJC's, i.e. revoking provisions that relate to joint transport authorities and strategic planning panels. The power to amend enactments in section 82(1) is tied in to the various *vires* in the Part to: establish a CJC; amend Regulations which establish a CJC; make supplementary etc. provision in relation to a particular CJC or more generally for the purposes of or in consequence of regulations establishing CJCs.

It is not clear that these *vires* would, beyond doubt, allow the Welsh Ministers to make Regulations which amend the law to, for example, abolish the powers to create JTAs generally or Strategic Planning Panels generally (which will of course also involve consideration of the abolition of any existing such bodies).

Section 84(2) is a wide power which will allow the Welsh Ministers to do these things but, because such regulations must relate to the part, it still has a sufficient level of constraint to ensure that it is proportionate and constitutional.

- 13. Section 86 obliges principal councils and corporate joint committees to have regard to any guidance issued by the Welsh Ministers in relation to Chapters 3-5 of Part 5 of the Bill.**

- (i) Can the Minister explain what this wide power to issue guidance is intended to cover and why specific reference to what the guidance will cover is not made on the face of the Bill?**

The guidance is intended to facilitate the application of this part to CJC's established by the Welsh Ministers and at the request of principal councils. It will need to address a host of circumstances which may well differ. It would be impracticable and completely unhelpful for all concerned to try to translate the level of detail and the degree of flexibility afforded by guidance into provision on the face of a Bill – which could easily then become too prescriptive.

- (ii) Given the wide remit of the power, does the Minister agree that an Assembly procedure should be applied to any guidance issued under it?**

The power to issue guidance is intended to facilitate the application of the part and the implementation of the legislation or regulations, it is largely concerned with process and, as such, it is not considered appropriate for it to be subject to Senedd procedure.

Panel assessments of performance

14. Section 93(1) enables the Welsh Ministers to make regulations using the negative procedure for, amongst other things, the appointment of members of panels to carry out performance assessments of principal councils, and fees to be paid to such members.

(i) Can the Minister explain what steps will be taken in these regulations to ensure the independence of the members of the performance assessment panels and why such independence is not enshrined on the face of the Bill?

The performance and governance provisions in the Local Government and Elections (Wales) Bill are aiming to secure cultural change, and central to this will be supporting and enabling local government to take greater ownership of their own performance.

The provisions in the Local Government and Elections Bill under section 93 give the Welsh Ministers powers to make regulations for and in connection with the appointment of panels if necessary. Our intention however, in line with the overall approach to part 6, is to issue statutory guidance initially on the panels, supporting each principal council to take ownership of its approach to performance and governance.

The statutory guidance will set out more detail on appointing a panel, and local government will be required to have regard to this. The statutory guidance will emphasise the need to ensure independence. For example, it will be expected that a panel member should have sufficient detachment from the council to reach impartial, objective conclusions about how the council is meeting the performance requirements. We think that to be most effective, the panel should have a mix of experienced senior officers, councillors and others who work with local government to ensure councils get the most appropriate challenge, support and constructive recommendations.

My intention is that the guidance will set out that any panel should include as a minimum:-

- An independent chair who is not currently serving in an official or political capacity within local government;
- A peer from the wider public, private or voluntary sectors;
- A serving local government senior officer, likely to be equivalent to chief executive or director; and
- An elected member.

It is intended the statutory guidance will support principal councils to ensure the panel has a range of practical experience, knowledge and perspectives, has integrity, provides independent external challenge and that the assessment can help support a council's improvement journey. My officials are working with local government officers and other stakeholders to develop the detail of how the new system will operate, well in advance of implementation. We want to

ensure that this is something which is valuable for local government and provides a meaningful opportunity to continually strengthen councils.

I have also committed to fund a WLGA led improvement and support programme which will support local authorities to implement the new regime and help to identify appropriate panel members.

(ii) Can the Minister also explain why she considers that regulations setting the fees to be paid to panel members will not be subject to the affirmative procedure?

The details in respect of the duty on principal council to arrange a panel performance assessment are set out clearly in section 91 of the Bill. Any regulations made under section 93 are intended to set out the necessary technical and procedure detail including the payment of fees.

Therefore, we do not believe that the affirmative procedure is necessary for these regulations.

Powers of the Welsh Ministers to amend enactments and confer new powers

15. Section 109(2) enables the Welsh Ministers to make provision in regulations conferring on any or all principal councils any power which the Welsh Ministers consider to be necessary or expedient to permit or facilitate compliance with Chapter 1 of Part 6 of the Bill (performance, performance assessments and intervention for principal councils). Can the Minister explain why it is necessary to use the word “expedient” here and why “necessary” is not sufficient?

Section 109(2) will enable Welsh Ministers to confer new powers on one or more principal councils, if they consider those powers to be either necessary or expedient. Some new powers for principal councils may not be absolutely “necessary” to enable compliance with Chapter 1 of Part 6, but may still be desirable to facilitate compliance, and this is why the term “or expedient” is needed in this section.

The nature of support provided, and the circumstances in which an inspection or an intervention takes place will be different in each case. In order to respond to the individual and particular issues faced by a principal council, the power has to be sufficiently broad to accommodate each individual circumstance as it may arise.

A power to make regulations to confer new powers on principal councils but only if they are deemed “necessary” would be too narrow. This power replicates the power under section 31 of the 2009 Measure which enabled Ministers to do the same things in relation to securing continuous improvement. We have never used these powers but when the new approach was being developed it was felt appropriate to replicate them to future proof the new approach.

Voluntary mergers of principal areas / Restructuring of principal areas

- 16. Section 122 obliges principal councils to have regard to any guidance issued by the Welsh Ministers about the making of a merger application between two or more principal councils. This provision has retrospective effect, so principal councils may satisfy this obligation by having regard to any guidance which is issued before section 122 comes into force, where such guidance has been expressly issued for the purposes of section 122. The Explanatory Note sets out what should be covered by this guidance, but this is not included on the face of the Bill.**

- (i) Can the Minister explain why the detail from the Explanatory Note is not included on the face of the Bill?

The guidance will need to address a host of circumstances which may well differ from council to council. It would be impracticable to try to translate the level of detail and the degree of flexibility afforded by guidance into provision on the face of a Bill – which could easily then become too prescriptive. The examples given in the Explanatory Notes are for explanatory purposes.

- (ii) Can the Minister also confirm when she expects to issue guidance for the purposes of section 122 and why such guidance is not to be laid before the Assembly, given that it can be issued before the statutory power to do so comes into force?

I expect to issue guidance shortly. It is standard practice for there to be no procedure for the issue of guidance; this guidance is intended to support councils in implementing the legislation so will highlight good practice and be technical and procedural in nature. To lay guidance in the Assembly would be time consuming and serve little to no benefit.

- 17. Section 123(1) provides the Welsh Ministers with the power to make regulations which merge two or more principal councils. There is no requirement on the face of the Bill for the Welsh Ministers to undertake any public consultation prior to making such regulations. Although section 121(1)(a) requires a principal council to consult local people prior to making a merger application, there is nothing on the face of the Bill to require confirmation that this has been done fully and properly before merger regulations are made. Can the Minister explain how she proposes to ensure that members of the public are fully and properly consulted before any merger regulations are made?**

Section 121(1)(a) states that before making a merger application, the principal councils involved in the potential merger must consult local people in their areas. That is an unambiguous requirement. If applicants are unable to demonstrate that they have consulted local people, Ministers will not proceed with the application

18. **Why is the restriction set out in the Explanatory Memorandum in relation to section 126(4), that the Welsh Ministers may only use the power to direct a principal council as to the appointment of a returning officer if merging councils have themselves failed to appoint a returning officer for the first elections to the new council, not reflected on the face of the Bill?**
19. **Why is the restriction set out in the Explanatory Memorandum in relation to section 127(2), that the Welsh Ministers may only use the power to direct a principal council to take action to facilitate the effective transfer of staff, property etc. in a merger where merging councils are themselves failing to take such effective action, not reflected on the face of the Bill?**
21. **Why is the restriction set out in the Explanatory Memorandum in relation to section 134(4), that the Welsh Ministers may only use the power to direct a principal council to take action to facilitate the effective transfer of staff, property etc in a restructuring where restructuring councils are themselves failing to take such effective action, not reflected on the face of the Bill?**
23. **Why is the restriction set out in the Explanatory Memorandum in relation to section 139(1), that the Welsh Ministers may only use the power to direct a principal council to provide them with information relating to a transfer of functions between councils where a principal council does not voluntarily provide the specified information, not reflected on the face of the Bill?**
24. **Why is the restriction set out in the Explanatory Memorandum in relation to section 140(1), that the Welsh Ministers may only use the power to direct a principal council to provide bodies specified by the Welsh Ministers with information relating to a transfer of functions between councils where a principal council does not voluntarily provide the specified information, not reflected on the face of the Bill?**
32. **Can the Minister explain why the power to direct a transition committee for merging or restructuring councils to exercise its functions in accordance with the direction, as set out in paragraph 7(1) of Schedule 10, is not expressly subject to the limitation, as set out in the Explanatory Memorandum, that the power will be used when it is considered that a transition committee has been negligent or tardy in its responsibility?**

Each direction power needs to be able to respond to a range of relevant circumstances. The Explanatory Memorandum provides some illustrative – not detailed - examples of when each power of direction might be used, within the framework set out in the relevant provisions on the face of the Bill. Given the circumstances where these directions might be used, it would require provisions of significant length and detail and even then it would be impossible to foresee all eventualities which might need to be covered.

- 20. Section 130 gives the Welsh Ministers the power to make restructuring regulations, following receipt of a special report from the Auditor General for Wales or an abolition request from a principal council. There is no requirement on the face of the Bill for any public consultation or notification (other than the publishing of an abolition request or a notice of receipt of a special report or abolition request by the Welsh Ministers) prior to any restructuring regulations being made. Can the Minister explain what public involvement is envisaged in relation to any restructuring of a principal councils and why this is not set out on the face of the Bill?**

Section 128(4) states that, as one of the conditions which must be satisfied before they may make restructuring regulations under section 130, the Welsh Ministers must consult the council under consideration, every other principal councils whose area may be affected by a restructuring and “such other persons as the Welsh Ministers consider appropriate”. The last element covers everyone who might be affected or have an interest, including members of the public.

The requirement is reinforced by the requirement in section 146(2)(b)(i) that Ministers, when laying a proposed draft of restructuring regulations in the Senedd, must also lay a statement “giving details of the consultation” undertaken under section 128(4). If Ministers do not undertake a comprehensive consultation under section 128(4) or the statement under section 146(2) suggests the consultation was inadequate, Ministers will be leaving themselves open to judicial review.

- 22. Section 137(6) provides a power to the Welsh Ministers to reset the start date for the Local Democracy and Boundary Commission’s next 10-year electoral arrangements review period and allows them to change the length of the review period. Given the potential effect of either resetting the start date of a review period or extending such a period, why are these regulations not subject to the affirmative procedure?**

The power merely enables the Welsh Ministers to re-set the start date for the Local Democracy and Boundary Commission’s 10-year period for reviewing the electoral arrangements of all principal councils, something the Commission sought in their evidence to the Equality, Local Government and Communities Committee. The 10-year period is a requirement under section 29 of the Local Government (Democracy) Act 2013. If the Commission has had to do initial reviews for a new council or one changing its voting system, it may make sense for the start of the 10-year period to be re-set so the Commission doesn’t do nugatory work or have to rush a review through.

This is an entirely technical detail which has absolutely no effect on the scope, purpose or the application of the provision in section 29 of the 2013 Act. I consider that the negative procedure is entirely appropriate for the circumstances in which this power would be used.

- 25. Section 145(3) enables the Welsh Ministers to make regulations of general application to deal with consequences which may have an impact beyond the merger or restructuring provided for in specific merger or restructuring regulations. Such regulations may make supplementary, incidental, consequential, transitional, transitory or saving provision. This is a broad power – why is it necessary and could it be used more broadly than she intends?**

Principal councils are large, multi-functional institutions, governed by a vast range of statutory constitutional provision, exercising a significant range of statutory functions and with a host of statutory responsibilities for their staff, property, local people and historic rights and privileges. You could not hope to cover all the statutory provision needed to merge or restructure a principal council in one piece of legislation. Hence the need for powers to make supplementary, incidental, consequential etc. provision.

The scope for using such powers is confined by subsections 3(a) and (b); they can only be used for the purposes or in consequence of merger or restructuring regulations or to give full effect to merger or restructuring regulations. Section 145(5) lists some of the types of provision which might be included in regulations made under section 145(3) – although it is not and could not be, exhaustive.

Any regulations made under section 145(3) are subject to affirmative resolution.

Local Democracy and Boundary Commission

- 26. Can the Minister explain whether she intends to issue statutory guidance to the Local Democracy and Boundary Commission regarding the appointment of its Chief Executive of the Local Democracy and Boundary Commission, and, if so, whether this will be prescriptive guidance which may negate the removal of the requirement upon the Welsh Ministers to make such appointment? Why does the Minister feel that no Assembly procedure is appropriate for this guidance?**

It is intended to issue statutory guidance in this area, which will be developed in conjunction with the Local Democracy and Boundary Commission for Wales. We will want to address any areas for which the Commission feel they might find guidance helpful. In particular it will be important for there to be clarity about the circumstances in which Welsh Ministers might seek to assist the Commission by recruiting to the post of Chief Executive due to a prolonged vacancy at that level.

It is standard practice for there to be no procedure for the issue of guidance. As the guidance is intended to provide support about the process to be adopted when appointing a chief executive, an Assembly procedure is not considered appropriate. To lay guidance in the Assembly would be time consuming and serve little to no benefit.

Commencement

- 27. Section 171(6) enables the Welsh Ministers to make orders providing for commencement of the remaining provisions in the Bill. This committee's previous recommendations on this matter on other Bills have been that commencement orders that include 'transitory, transitional or saving provision' should be subject to the negative procedure. What assessment was undertaken before the 'no procedure' Assembly procedure was specified for the Order making power under section 171(6)?**

The inclusion of a power to make transitional, transitory and saving provision in a commencement order is in line with standard Welsh Government practice, as set out in the published Legislation Handbook. In recent years every Assembly Act with a commencement order provision (including the Assembly Commission's Senedd and Elections (Wales) Act) has included such a power, because it will generally be useful or even essential. The nature of the issue means that it is not always possible to predict the circumstances in which the power may need to be exercised.

In respect of the Assembly procedure, it is normal practice, again as set out in the legislation handbook that commencement orders are not subject to any Assembly procedure

Schedules

- 28. Paragraphs 9 and 10 of Schedule 1 provide the Welsh Ministers with regulation making powers to make provision for the electoral arrangements for an area that is under review. Given the significance of amending electoral arrangements, why does the Minister believe that it is appropriate to specify no Assembly procedure?**

These are local regulations for the making of electoral arrangements; it is a long established practice that electoral arrangements regulations are not subject to any procedure. The powers and procedures set out in the Bill are based on the existing powers to change electoral arrangements under the Local Government Act 1972 and the Local Democracy (Wales) Act 2013. Orders and regulations made under those Acts have never been subject to a procedure.

- 29. Paragraph 2(4) of Schedule 2 provide the Welsh Ministers with regulation making powers to combine elections of councillors of a Welsh principal council and elections of councillors of a community council if they are held on the same day. This includes the power to modify any relevant provision in the Representation of the People Acts which relates to such elections. Why does the Minister think that this is an appropriate use of a Henry VIII power?**

The Bill inserts new sections 36A and 36B into the Representation of the People Act 1983. These sections broadly replicate section 36 of the 1983 Act (with additional powers for the Welsh Ministers). These enable the Welsh Ministers to make rules in relation to the conduct of local government elections in Wales. Paragraph 2(4) of Schedule 2 to the Bill inserts new section 36B into the 1983 Act. This requires county and community council elections to be combined if they are held on the same day. It also enables the Welsh Ministers to make provision in connection with such combination of elections including modifying provisions in the Representation of the

People Acts. This is identical to the power that the Welsh Ministers already have in section 36(3C) of the 1983 Act which we are proposing to replicate.

There are existing Regulations that have made minor modifications to the Representation of the Peoples Acts where such polls are combined. As electoral law evolves and amendments are made to the Representation of the Peoples Acts, further modifications may also be required. At this stage, we have no plans to modify the Acts in relation to combinations. However, if such modifications were required they would be specific and may need to be in place within a tight time frame and within the perimeters set out in sections 36A and 36B.

- 30. Paragraphs 6, 10(3) and 10(4) of Schedule 4 provide the Welsh Ministers with regulation making powers to amend primary legislation. The powers allow the Welsh Ministers to amend or repeal provisions which currently provide that National Park Authorities and Fire and Rescue Authorities are exempt from the requirement to publish notices electronically on their website. Can the Minister explain why Henry VIII powers are being used, rather than putting the exemption on the face of the Bill?**

Paragraph 2 of Schedule 4 amends the Local Government Act 1972 so that new provision is made with regard to notices of meetings of principal and community councils. Paragraph 4 amends section 100J to maintain the status quo for National Park Authorities and Fire and Rescue Authorities by exempting these organisations from the new requirements. The power in Paragraph 6 is required in order to omit this exemption should it be decided to subject these organisations to these requirements in the future.

Paragraph 10 amends section 232(1ZA) of the 1972 Act so that local authorities must publish public notices electronically. Again National Parks and Fire and Rescue Authorities are not subject to this requirement, with the Welsh Ministers provided with the power to subject these organisations to this requirement at a future date if necessary.

We accept these are Henry VIII powers but they are very narrow powers for a discrete and specific topic impacting a narrow category of bodies.

- 31. Paragraph 3 of Schedule 8 provides the Welsh Ministers with regulation making powers to make provision about the exercise of functions of the Public Services Ombudsman for Wales under section 69 of the Local Government Act 2000. Given that such regulations could seriously affect the way in which the Ombudsman conducts investigations under section 69 of the 2000 Act, did the Minister consider applying a super-affirmative procedure?**

The power may only be used to amend Chapter 3 of the Local Government Act 2000 to make different provision about how investigations under section 69 are conducted. The power is therefore limited to local government conduct matters only.

It is intended to be used where the Ombudsman alerts the Government of operational issues when conducting such matters or where there have been developments in Ombudsman legislation (as we have seen recently) which requires amendments to be made to retain consistency.

The Governments handbook on legislation outlines that the 'super affirmative' procedure should only be used in "exceptional cases". We do not consider this case to be "exceptional".

32. *This question is answered alongside question 18 – 19 etc. earlier on in this document*



Ein cyf/Our ref MA-L-JJ-0731-19

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27 January 2020

Annwyl Elin,

LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL

On 18 October 2019, I submitted, for your consideration, the Local Government and Elections (Wales) Bill, so as to determine whether it is within the competence of the National Assembly.

There are provisions within the Bill, which require the consent of the relevant Ministers of the Crown under Schedule 7B to the Government of Wales Act 2006. These relate to the functions of electoral registration officers and the removal of the Welsh Ministers' powers to make regulations enabling a local authority to make an application to a magistrates' court to have a council tax debtor imprisoned. At the time of submission, these consents had not been received.

The Secretary of State for Wales has now written to the Minister for Housing and Local Government providing consent in respect of the provisions removing the Welsh Ministers' powers to make regulations enabling a local authority to make an application to a magistrates' court to have a council tax debtor imprisoned.

In addition, the Government of Wales Act 2006 (Amendment) Order 2019, made by the Privy Council at its 17 December meeting, has removed the competence issue in respect of the functions of electoral registration officers.

*In gywir,
Mark.*

MARK DRAKEFORD

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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.

SL(5)489 – The Education (Amendments Relating to the Intervals for Inspection of Education and Training) (Wales) Regulations 2020

Background and Purpose

These Regulations amend the following Regulations (“the Inspection Regulations”)—

- the Inspection of Education and Training (Wales) Regulations 2001,
- the Education (School Inspection) (Wales) Regulations 2006,
- the Inspection of the Careers and Related Services (Wales) Regulations 2006, and
- the Education (Inspection of Nursery Education) (Wales) Regulations 2015.

Currently the Inspection Regulations require Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru to carry out an inspection at least once within the 7 year period beginning on 1 September 2016 and ending on 31 August 2023 (“the First Inspection Period”) and at least once within every subsequent 6 year inspection period.

These Regulations amend the First Inspection Period in each of the Inspection Regulations so that it will end on 31 August 2024 instead of 31 August 2023. All subsequent inspections will continue to be once in every 6 year inspection period.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

i. These Regulations extend the First Inspection Period by one year. It is stated in the Explanatory Memorandum that the purpose is to allow inspections to be partially suspended from September 2020 to August 2021 to allow schools time to focus on and embed the changes they need to make in line with the curriculum reforms.

ii. These Regulations allow inspections to be suspended in the settings prescribed for in the current Inspection Regulations. It is noted in the Explanatory Memorandum that it is anticipated that inspections will be partially suspended for maintained nurseries, schools and pupil referral units only, but there is

flexibility to suspend inspections in all nursery settings, careers and related services and further education settings. It is also explained that this will allow all settings to remain on the same inspection cycle during the current period and thereafter.

Implications arising from exiting the European Union

None.

Government Response

A government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

28 January 2020



2020 No. (W.)

EDUCATION, WALES

**The Education (Amendments
Relating to the Intervals for
Inspection of Education and
Training) (Wales) Regulations 2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the following Regulations (“the Inspection Regulations”)—

- (a) the Inspection of Education and Training (Wales) Regulations 2001,
- (b) the Education (School Inspection) (Wales) Regulations 2006,
- (c) the Inspection of Careers and Related Services (Wales) Regulations 2006, and
- (d) the Education (Inspection of Nursery Education) (Wales) Regulations 2015.

Currently the Inspection Regulations require Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru to carry out an inspection at least once within the 7 year period beginning on 1 September 2016 and ending on 31 August 2023 (“the First Inspection Period”) and at least once within every subsequent 6 year inspection period.

These Regulations amend the First Inspection Period in each of the Inspection Regulations so that it will end on 31 August 2024 instead of 31 August 2023. All subsequent inspections will continue to be once in every 6 year inspection period.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

WELSH STATUTORY
INSTRUMENTS

2020 No. (W.)

EDUCATION, WALES

**The Education (Amendments
Relating to the Intervals for
Inspection of Education and
Training) (Wales) Regulations 2020**

Made 16 January 2020

Laid before the National Assembly for Wales
20 January 2020

Coming into force 1 September 2020

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by section 122(1) of, and paragraph 6B(1)(a) of Schedule 26 to, the School Standards and Framework Act 1998⁽¹⁾, and in exercise of the powers conferred on the National

(1) 1998 c. 31; *see* section 142(1) for the definitions of “prescribed” and “regulations”. The function of the Secretary of State under paragraph 6B(1)(a) of Schedule 26, so far as exercisable in relation to Wales, was transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and is now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

Assembly for Wales by section 77(2) of the Learning and Skills Act 2000(1), and by sections 28(1)(2), 50(4)(3), 55(4)(4) and 56(3)(5) of the Education Act 2005(6), and now exercisable by them make the following Regulations:

Title and commencement

1.—(1) The title of these Regulations is the Education (Amendments Relating to the Intervals for Inspection of Education and Training) (Wales) Regulations 2020.

(2) These Regulations come into force on 1 September 2020.

Amendments to the Inspection of Education and Training (Wales) Regulations 2001

2. In regulation 2(1)(b) of the Inspection of Education and Training (Wales) Regulations 2001(7)—

- (a) for “a seven year” substitute “the”, and
- (b) for “2023” substitute “2024”.

Amendments to the Education (School Inspection) (Wales) Regulations 2006

3. In regulations 6(1)(b) and 14(b) of the Education (School Inspection) (Wales) Regulations 2006(8)—

- (a) for “a seven year” substitute “the”, and

-
- (1) 2000 c. 21; *see* section 77(9) for the definition of “prescribed” and section 74(1) for the definition of “the National Assembly”. The function of the National Assembly for Wales in section 77(2), so far as exercisable in relation to Wales, was transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
 - (2) 2005 c. 18; *see* section 31(1) for the definition of “prescribed” and “regulations” and section 122(1) for the definition of “the Assembly”.
 - (3) *See* section 50(8) for the definition of “prescribed” and section 122(1) for the definition of “the Assembly”.
 - (4) *See* section 55(8) for the definitions of “prescribed” and “regulations” and section 122(1) for the definition of “the Assembly”.
 - (5) *See* section 55(8) for the definitions of “prescribed” and “regulations” and section 122(1) for the definition of “the Assembly”.
 - (6) The functions of the National Assembly for Wales under sections 28, 50, 55 and 56, so far as exercisable in relation to Wales, were transferred to the Welsh Ministers by virtue of section 162, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
 - (7) S.I. 2001/2501 (W. 204), amended by S.I. 2004/783 (W. 80), S.I. 2005/3238 (W. 243), S.I. 2010/1436 (W. 127), S.I. 2014/1212 (W. 128) and S.I. 2016/135 (W. 65).
 - (8) S.I. 2006/1714 (W. 176), amended by S.I. 2010/1142 (W. 101), S.I. 2010/1436 (W. 127), S.I. 2014/1212 (W. 128), S.I. 2016/135 (W. 65), S.I. 2016/211 (W. 84) and S.I. 2017/710 (W. 167).

- (b) for “2023” substitute “2024”.

Amendments to the Inspection of the Careers and Related Services (Wales) Regulations 2006

4. In regulation 4(1) of the Inspection of the Careers and Related Services (Wales) Regulations 2006⁽¹⁾—

- (a) for “a seven year” substitute “the”, and
- (b) for “2023” substitute “2024”.

Amendments to the Education (Inspection of Nursery Education) (Wales) Regulations 2015

5. In regulation 4(1)(b) of the Education (Inspection of Nursery Education) (Wales) Regulations 2015⁽²⁾—

- (a) for “a seven year” substitute “the”, and
- (b) for “2023” substitute “2024”.

Kirsty Williams

Minister for Education, one of the Welsh Ministers
16 January 2020

(1) S.I. 2006/3103 (W. 286), amended by S.I. 2010/1436 (W. 127), S.I. 2014/1212 (W. 128) and S.I. 2016/135 (W. 65).
(2) S.I. 2015/1599 (W. 198), amended by S.I. 2016/135 (W. 65) and S.I. 2016/211 (W. 84).

Explanatory Memorandum to the Education (Amendments Relating to the Intervals for Inspection of Education and Training) (Wales) Regulations 2020

This Explanatory Memorandum has been prepared by the Education and Public Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Amendments Relating to the Intervals for Inspection of Education and Training) (Wales) Regulations 2020.

Kirsty Williams AM
Minister for Education

20 January 2020

PART 1

1. Description

These Regulations extend the current inspection cycle for all nursery settings, maintained schools, Pupil Referral Units (“PRUs”), careers and related services and further education settings from 7 (2016-2023) to 8 (2016-2024) years for one cycle only and reverts to a 6 year cycle thereafter.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

The Regulations amend the following:

- (a) Inspection of Education and Training (Wales) Regulations 2001 – inspection post 16 education provided pursuant to the Learning and Skills Act 2000,
- (b) Education (School Inspection) (Wales) Regulations 2006 – inspection of maintained schools (including PRUs and religious education provided at such schools),
- (c) Inspection of Careers and Related Services (Wales) Regulations 2006 – inspection of careers services, and
- (d) Education (Inspection of Nursery Education) (Wales) Regulations 2015 – inspection of nursery education.

The legal power to make the Regulations proposed are contained in section 122(1) and paragraph 6B(1)(a) of Schedule 26 to, the School Standards and Framework Act 1998 (“the 1998 Act”), section 77(2) of the Learning and Skills Act 2000 (“the 2000 Act”), and in sections 28(1), 50(4), 55(4) and 56(3) of the Education Act 2005 (“the 2005 Act”).

The functions in the 1998 Act were conferred on the Secretary of State and were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. The functions in the 2000 Act and the 2005 Act were conferred directly on the National Assembly for Wales. The functions in the 1998 Act, 2000 Act and the 2005 Act are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

The Regulations follow the Negative Procedure.

4. Purpose and intended effect of the legislation

The purpose of the legislation is to allow Estyn to partially suspend maintained school inspections for an agreed period (September 2020 to August 2021) to allow schools time to focus on and embed the changes they need to make in line with the curriculum reforms. It also allows Estyn to support those schools during this time through engagement visits and enables inspectors to develop an understanding of the reform process, adapt their practices and ensure that future inspection is fit for purpose. The extension to the inspection cycle allows Estyn to continue its proposed programme of inspections over a longer period of time as well as provide a period for schools and Estyn to undertake the development work needed.

Whilst it is anticipated that Estyn will only be partially suspending inspections for maintained nurseries, schools and PRUs during 2020-21, the Regulations allow Estyn the flexibility to suspend inspections in other settings prescribed for in the current inspection regulations (all nursery settings, careers and related services and further education settings) if they deem necessary. It also allows for all settings to remain on the same inspection cycle during the current period and thereafter.

Background

Professor Donaldson's report 'A Learning Inspectorate' included recommendations designed to allow Estyn and school inspections to contribute directly to the education reforms. The report signalled some significant changes of how the Inspectorate would work in the future. The proposals within the report suggest a three-phased approach to transition from the current to future inspection arrangements to align with the curriculum reforms and new accountability arrangements.

Phase 1 of the transition period (September 2020 to August 2021) included a proposal to partially suspend school inspections to allow schools time to focus on and embed the changes they needed to make in line with the reforms and to allow inspectors to support schools to prepare for the changes and adapt their practices for future inspection arrangements. Schools causing concern will continue to be monitored during this period.

To assist phase 1 of the transition period, current Regulations needed to be amended to extend the inspection cycle from 7 to 8 years for once cycle only.

5. Consultation

In May 2019, Estyn undertook the first of a series of public consultations about how inspection can best support schools and other providers to manage the changes taking place in education. The first consultation focused on the proposals during the 2020-21 transition year and sought views from stakeholders on a range of issues including the proposal to partially suspend inspections for schools and PRUs to enable inspectors to support the

curriculum. The consultation closed in July 2019 and the outcome was published on Estyn's website in October 2019. A link to the outcome report is below:

<https://www.estyn.gov.wales/document/responses-consultation-estyn%E2%80%99s-proposed-transition-year-2020%E2%80%932021-academic-year>

There was overwhelming support to the proposal to partially suspend school inspections during 2020-21.

As a consequence of the outcome of the Estyn consultation the Welsh Government carried out a 6 week public consultation in October 2019 on the draft Education (Amendments Relating to the Intervals for Inspection of Education and Training) (Wales) Regulations 2020 extending the inspection cycle from 7 to 8 years for one cycle only to allow the partial suspension of school inspections to take place in 2020-21.

It was agreed that the Welsh Government consultation could be reduced to 6 weeks for the following reasons:

- stakeholders were made aware of intentions to consult on draft Regulations extending the school inspection cycle to assist the partial suspension of school inspections during 2020-21 via the Minister for Education's announcement on the new accountability arrangements on 19th February 2019;
- the proposal to partially suspend school inspections had already been considered by key stakeholders through Estyn's consultation on Phase 1 of the transition period undertaken in July 2019; and
- the policy is simple and easy to understand.

The consultation on the draft Regulations closed on 25 November 2019. Of the eighteen respondents that replied to the consultation, fifteen agreed with the proposal, while three neither agreed nor disagreed. A summary of the consultation responses were published on 20 December 2019 and can be accessed through the following link:

<https://gov.wales/education-amendments-relating-intervals-inspection-education-and-training-wales-regulations-2020>

Following the outcome of the Welsh Government consultation, Welsh Ministers agreed to pursue the making of the Regulations as drafted. No amendments were considered necessary.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

1. keep the status quo
2. adopt a non-legislative approach

3. make a different form of legislation(suspend legislation)
4. make the legislation

7. Costs and benefits

Option 1 – keep the status quo

If the proposal for a partial suspension of school inspections was not taken forward, and in turn the school inspection cycle remained the same, this would limit the capacity of schools to adopt the changes they need to make in line with the curriculum reforms and may have a detrimental effect on schools' preparedness for implementing the reforms. It would also not allow a period of time for Estyn to support schools through the reforms and limit the Inspectorate's capacity to develop an understanding of the reform process in order to adapt their practices to ensure that future inspection is fit for purpose.

There are no financial costs for schools or Estyn with this option but implications for both regarding preparation and implementation of the curriculum reforms and providing an opportunity for the development of future inspection arrangements to ensure they are fit for purpose and align with the reforms. There are no positive benefits with this option.

Option 2 – adopt a non-legislative approach

For Estyn to re-arrange their planned inspections within the current 7 year inspection window to enable the Inspectorate to partially suspend school inspections for 1 year during this period but ensure that all inspection activity planned for the 2016-2023 cycle is still achieved. This would not require a change to legislation.

There are resource (both financial and capacity) implications for the Inspectorate with this option. This would require Estyn to carry out a 7 year inspection cycle within 6 years to free up a period of time for a partial suspension of inspection to take place in which we would expect inspectors to support schools with their preparations for the new curriculum and undertake the development work needed for a roll out of a new inspection system. This option puts additional pressure on the Inspectorate and would ultimately require additional funding to be provided from Welsh Government to enable Estyn to resource additional inspectors to carry out inspections in a shorter timescale.

The benefit of this option is that it would allow a partial suspension of inspection to take place to allow schools time to prepare for the curriculum reforms. There are no cost implications for schools.

Option 3 – make a different form of legislation (suspend legislation)

Sections 1-6 of the Education Act 2002 contains a power to suspend or modify legislative requirements on a temporary basis including particular regulations. This power would allow Welsh Ministers to suspend or modify section 28 of the Education Act 2005 that contains the powers for inspecting schools, as well as associated Regulations made under it.

The process for suspending or modifying legislation by way of an Order provides that it can only be done following an application by a qualifying body. A qualifying body is defined in section 1 of the 2002 Act as:

- a local authority,
- an Education Action Forum,
- a qualifying foundation,
- the governing body of a maintained school,
- the head teacher of a maintained school,
- the proprietor of an Academy, a city technology college or a city college for the technology of the arts,
- the proprietor of any special school that is not maintained by a [local authority] but is for the time being approved by the Secretary of State or the Welsh Ministers under section 342 of the Education Act 1996,
- the proprietor of a school approved under section 342 of the Education Act 1996 (non-maintained special schools), or
- the governing body of an institution within the further education sector;

The application would have to be made by a qualifying body such as the 22 local authorities to enable an all Wales partial suspension of school inspection, or by the Welsh Local Government Association (WLGA) on behalf of all 22 local authorities who would need to seek agreement from all local authorities before applying.

This option would suspend current inspection cycle requirements and enable Estyn to undertake a partial suspension of school inspections at an agreed time. However, it is complicated, would require an application from a third party to be made and further consideration about whether it affects other provisions in law. Whilst there are no cost implications for schools or Estyn, we do not consider this is an appropriate option.

Option 4 – make the legislation

This is the preferred option as it extends the current inspection cycle from 7 to 8 years for one period only allowing Estyn to continue its proposed programme of inspections over a longer period of time as well as provide a period for schools and Estyn to undertake the development work needed in readiness for the new curriculum and inspection system.

There are no cost implications for schools or Estyn with this option and the partial suspension of inspection only affects the sectors that are affected by the curriculum reforms.

However, whilst it is anticipated that Estyn will only be partially suspending inspections for maintained nurseries, schools and PRUs during 2020-21, the Regulations allow Estyn the flexibility to suspend inspections in other settings prescribed for in the current inspection regulations (all nursery settings, careers and related services and further education settings) if they deem necessary. It also allows for all settings to remain on the same inspection cycle during the current period and thereafter.

8. Competition Assessment

Not applicable.

9. Post implementation review

During the partial suspension of school inspection period (2020-21) Estyn will be supporting schools through engagement visits. In addition to the support to prepare for the curriculum changes and to enable inspectors to develop an understanding of the reform process and adapt their practices for future inspection arrangements, these visits will also provide an understanding of the range of ways in which schools are successfully implementing the new curriculum. The information Estyn collects during the engagement visits will be disseminated through focused termly update reports and Estyn will produce a summary report that brings together the main findings from the termly update reports.

Agenda Item 4.1

SL(5)490 – Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

Background and Purpose

This Code of Practice ("the Code") is issued under section 14 of the Animal Welfare Act 2006 ("the Act"). It applies to all Meat Chickens and Meat Breeding Chickens for which a person is responsible.

The Code was originally considered by the Constitutional and Legislative Affairs Committee on 30 September 2019. Due to several errors, it was subsequently withdrawn on 2 October 2019 and re-laid on 5 December 2019. It was withdrawn and re-laid for a third time on 21 January 2020.

The existing Code of Practice reflected the science and legislation in force at the time. A review was required to capture any changes in those areas and to ensure the standards being advised are still appropriate. It also replaces the interim guidance for keepers of conventionally reared meat chickens in relation to the Welfare of Farmed Animals (Wales) Regulations 2007 as amended by the Welfare of Farmed Animals (Wales) (Amendment) Regulations 2010, issued in 2011.

The purpose of the Code is to ensure that those who are responsible for an animal are aware they have a legal duty to take reasonable steps to ensure welfare needs are met. The Code of Practice explains what you need to do to meet the standard of care the law requires.

Breach of a provision of the Code is not an offence in itself but, if proceedings are brought against someone for a welfare offence under the Act, the Court may take into account the extent to which they have complied with the Code in deciding whether they have committed an offence or have met the required standard of care.

Procedure

Draft negative.

Scrutiny under Standing Order 21.7

One point is identified for reporting under Standing Order 21.7 in respect of this code:

As the draft code has been withdrawn on two occasions, this will be the third time that the Committee has considered the Code. The Committee previously considered the Code on 30 September 2019 and 6 January 2020.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.7 in respect of this code. The Code is made using domestic powers.

Government Response

A government response is not required.

Legal Advisers







Llywodraeth Cymru
Welsh Government



Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

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Mae'r ddogfen yma hefyd ar gael yn
Gymraeg. This document is also available in
Welsh.

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Preface

This preface is not part of the code; instead, it explains the code's role and the broad considerations on which it is based.

This code applies to Wales only. It replaces the Code of Recommendations for the Welfare of Livestock: Meat Chickens and Breeding Chickens, issued in 2002. It also replaces the interim guidance for keepers of conventionally reared meat chickens in relation to the Welfare of Farmed Animals (Wales) Regulations 2007 as amended by the Welfare of Farmed Animals (Wales) (Amendment) Regulations 2010.

The legal text in boxes throughout this document is not part of this Code but highlights relevant legislation. The text in these boxes is the law as it stands on the date that this Code is published (please see the final page for the date of the publication). You should be aware that any of the legal requirements quoted here could change. You should check that these are an accurate statement of the law as it currently stands. See Annex 1 for a list of other relevant legislation.

This Code is made under the Animal Welfare Act 2006. The Act makes owners and keepers responsible for ensuring that the welfare needs of their animals are met, have a suitable environment, are fed an appropriate diet and are protected from pain, injury, suffering and disease.

The principle legislation referred to in this code are the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) and the Mutilations (Permitted Procedures) (Wales) Regulations 2007, which implement Council Directive 98/58/EC concerning the protection of animals kept for farming purposes and Council Directive 2007/43/EC which lays down the minimum rules for the protection of chickens kept for meat production.

Section 14 of the Animal Welfare Act 2006 states:

- 14 (1) The appropriate national authority may issue, and may from time to time revise, codes of practice for the purpose of providing practical guidance in respect of any provision made by or under this Act.
- (2) The authority responsible for issuing a code of practice under subsection (1) shall publish the code, and any revision of it, in such manner as it considers appropriate.
- (3) A person's failure to comply with a provision of a code of practice issued under this section shall not of itself render him liable to proceedings of any kind.
- (4) In any proceedings against a person for an offence under this Act or an offence under regulations under section 12 or 13 –
 - (a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability, and
 - (b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.

Section 3 of the Animal Welfare Act 2006 states:

- 3 (1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.
- (2) In this Act, reference to being responsible for an animal include being in charge of it.

- (3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.
- (4) For the purposes of this Act, a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible.

chickens to practice a good standard of stockmanship.

Regulation 6 of the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- (1) A person responsible for a farmed animal-
 - (a) must not attend to the animal unless he is acquitted with any relevant code of practice and has access to the code while attending to the animal: and
 - (b) must take all reasonable steps to ensure that a person employed or engaged by him does not attend to the animal unless that other person-
 - (i) is acquainted with any relevant code of practice;
 - (ii) has access to the code while attending to the animal; and
 - (iii) has received instruction and guidance on the code.
- (2) In this section, a 'relevant code of practice' means a code of practice issued under section 14 of the Animal Welfare Act 2006 or a statutory welfare code issued under section 3 of the Agriculture (Miscellaneous Provisions) Act 1968 relating to the particular species of farmed animal to which a person is attending.

This code is intended to help all those who care for meat chickens and meat breeding

Without good stockmanship, animal welfare can never be adequately protected.

Adherence to these recommendations will help keepers to maintain the standards required in order to comply with legislation.

Those who care for chickens should demonstrate:

- Caring and responsible planning and management
- Skilled, knowledge and conscientious stockmanship
- Appropriate environmental design
- Considerate handling and transport
- Humane slaughter

The welfare of meat chickens and meat breeding chickens is considered within a framework that was developed by the Farm Animal Welfare Committee (FAWC) and known as the 'Five Freedoms'. These form the guiding principles for the assessment of welfare within any system, together with the actions necessary to safeguard welfare within the constraints of an efficient livestock industry. The Five Freedoms should be considered in conjunction with FAWC's three essentials of stockmanship.

The Five Freedoms are:

1. Freedom from Hunger and Thirst by ready access to fresh water and a diet to maintain full health and vigour.
2. Freedom from Discomfort by providing an appropriate environment including shelter and a comfortable resting area.
3. Freedom from Pain, Injury or Disease by prevention or rapid diagnosis and treatment.
4. Freedom to Express Normal Behaviour by providing sufficient space, proper facilities and company of the animals' own kind.
5. Freedom of Fear and Distress by ensuring conditions and treatment to avoid mental suffering.

The Three Essentials of Stockmanship are:

1. Knowledge of Animal Husbandry – Sound knowledge of the biology and husbandry of farm animals, including how their needs may be best provided for in all circumstances.
2. Skills in Animal Husbandry – Demonstrable skills in observation, handling, care and treatment of animals, and problem detection and resolution.
3. Personal Qualities – Affinity and empathy with animals, dedication and patience.

During on-farm welfare inspections carried out by the Animal and Plant Health Agency (APHA, exercising Welsh Minister functions) and Local Authorities, inspectors will assess compliance against legislation and this Code. Not complying with the welfare-related legislation outlined in the boxes throughout this Code is an offence.

In cases that go to court for prosecution, whether someone has met the requirements of this Code, or not, can be used to help establish a person's liability.

There may be other legislation and requirements which are not outlined in this Code but that you must be familiar with and comply with.

Section 4 of the Animal Welfare Act 2006 states:

- (1) A person commits an offence if-
 - (a) an act of his, or a failure of his act, causes an animal to suffer
 - (b) he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or to be likely do so,
 - (c) the animal is a protected animal, and
 - (d) the suffering is unnecessary.

- (2) A person commits an offence if-
 - (a) he is responsible for an animal,
 - (b) an act, or failure to act, of another person causes the animal to suffer,
 - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and
 - (d) the suffering is unnecessary
- (3) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include-
 - (a) whether the suffering could reasonably have been avoided or reduced;
 - (b) whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a license or code of practice issued under an enactment;
 - (c) whether the conduct which caused the suffering was for a legitimate purpose, such as-
 - (i) the purpose of benefiting the animal, or
 - (ii) the purpose of protecting a person, property or another animal;
 - (d) whether the suffering was proportionate to the purpose of the conduct concerned;
 - (e) whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.

- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

Section 9 of the Animal Welfare Act 2006 states:

- (1) A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.
- (2) For the purposes of this Act, an animal's needs shall be taken to include -
 - (a) its need for a suitable environment,
 - (b) its need for a suitable diet,
 - (c) its need to be able to exhibit normal behaviour patterns,
 - (d) any need it has to be housed with, or apart from, other animals, and
 - (e) its need to be protected from pain, suffering, injury and disease.

Suggested sources of additional information are included at the end of this Code. These sources of further information are relevant to the welfare of meat chickens and meat breeding chickens but are for information only and should not be considered to be part of the Code of Practice.

This Code has been issued by the Minister for Environment, Energy and Rural Affairs.

Introduction

This Code (which applies in Wales only) covers all parts of the meat chicken production sector, including breeding birds and grandparent stock under all types of husbandry systems.

Legal text in the boxes has been colour coded. The welfare requirements for all meat chicken producers are in blue, and the additional welfare requirements for keeping conventionally reared meat chickens are in red. The additional requirements for conventionally reared meat chickens (required by the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) do not apply to hatcheries or when fewer than 500 chickens or meat breeding chickens are kept; they also do not apply where

birds are reared to extensive indoor, free range or organic marketing standards. Although not a legal requirement, the additional welfare provisions for conventionally reared meat chickens, for example on lighting and litter, can help to ensure bird welfare when applied to all systems of production. The Council of Europe's recommendations concerning meat chickens and grandparent stock, where not covered in legislation, are included in this Code.

For ease of reference, the table below summarises the various legal provisions relating to animal welfare on farm for different types of meat chicken production systems.

Type of meat chicken production system	Animal Welfare Act 2006	Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) Schedule 1	Welfare of farmed Animals (Wales) regulations 2007 (as amended) Schedule 5A
Holdings with <500 chickens	•	•	
Meat breeding chickens	•	•	
Hatcheries	•	•	
>500 birds conventionally reared, stocking density up to 33kg/m ²	•	•	•
>500 birds conventionally reared, stocking density more than 33kg/m ² up to 39kg/m ²	•	•	•
^a Free range chickens, maximum stocking density 27.5kg/m ²	•	•	
^a Extensive indoor chickens, maximum stocking density 25kg/m ²	•	•	
^b Organically reared chickens, maximum stocking density 21kg/m ²	•	•	

- a. As referred to in points (b), (c), (d), (e) of Annex V to Commission Regulation (EC) No 543/2008 which sets out detailed rules in regards to the marketing

standards for poultry meat for the application of the Single CMO Regulation (EC) No 1308/2013.

- b. In accordance with the relevant EU Organic Regulations – Council Regulation (EC) No 834/2007 and Commission Regulation (EC) No 889/2008.

No person should operate or set up a meat chicken or meat breeding chicken unit unless

the welfare of all the birds can be safeguarded to the fullest extent possible. This can be achieved by ensuring that the buildings and equipment, the skills and abilities, and the numbers of keepers are appropriate to the husbandry system and number of birds to be kept.

The relevant animal welfare legislation applies to owners as well as any person looking after the chickens on their behalf, wherever the chickens are located. A written protocol should clearly set out for all parties their responsibilities in respect of welfare.

However, the obligations imposed by the law will still apply.

Paragraph 29 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 states:

29. Animals may only be kept for farming purposes if it can reasonably be expected, on the basis of their genotype or phenotype, that they can be kept without any detrimental effect on their health or welfare.

The strains of bird selected must be suitable for the production system. In particular, care must be taken in the production of birds with extended growing periods (for example organic, free range etc.) to use suitable strains and required feeding regimes.

Definitions

For the purposes of this Code definitions of terms used in this Code are summarised below. Some of these (marked with an asterisk) are taken directly from the relevant legislation, whilst others are included to provide an explanation for the purposes of the Code.

‘breeding chicken’ means an animal of the species *Gallus gallus* whose progeny are either parent stock or meat chickens

‘conventionally reared meat chicken’ means an animal of the species *Gallus gallus* that is kept for meat production, other than one:

- (a) that is on a holding with fewer than 500 such animals or with only breeding stocks of such animals
- (b) that is on a hatchery
- (c) in relation to which the term “Extensive indoor (barn reared)”, “Free range”, “Traditional free range” or “Free range – total freedom” can be used within the meaning of point (b), (c), (d) or (e) of Annex V to Commission Regulation 543/2008/EC which sets out detailed rules as regards the marketing standards for poultry meat for the application of the Single CMO Regulation (EU) 1308/2013, or
- (d) that is organically reared in accordance with the relevant EU organic regulations – Council Regulation 834/2007/EC and Commission Regulation (EC) 889/2008.

‘cumulative daily mortality rate’(*) means the sum of daily mortality rates

‘daily mortality rate’(*) means the number of chickens which have died in a house on the same day, including those that have been culled either for disease or because of other reasons, divided by the number of chickens

present in the house on that day, multiplied by 100

‘flock’(*) means a group of chickens which are placed in a house of a holding and are present in this house at the same time

any time.

‘grandparent stock’ means an animal of the species *Gallus gallus* whose progeny are parent stock

‘holding’(*) means a production site on which chickens are kept

‘house’(*) means a building on a holding where a flock of chickens are kept

‘injurious pecking’ is redirected foraging behaviour to the feathers and skin of other birds and encompasses gentle and severe pecking, vent pecking and cannibalism

‘keeper’(*) means any natural or legal person responsible for or in charge of chickens in terms of contract or by law whether on a permanent or temporary basis

‘laparoscopy’ is the examination of the abdominal cavity by insertion of an instrument called a laparoscope

‘meat chicken’ means an animal of the species *Gallus gallus* kept for meat production

‘mutilation’ is a procedure which involves interference with the sensitive tissues or bone structure of an animal, otherwise than for the purpose of its medical treatment

‘owner’(*) means any natural or legal person or persons owning the holding where chickens are kept

‘parent stock’ means an animal of the species *Gallus gallus* whose progeny are meat chickens

‘stocking density’(*) means the total live weight of chickens in kg which are present in a house at the same time per square metre of usable area

‘total mortality rate’ is the total number of birds that died or were culled during a flock’s whole rearing period, divided by the original number of birds placed on the first day, multiplied by 100

‘usable area’(*) means, in relation to conventionally reared meat chickens, a littered area accessible to the chickens at

Section 1: Recommendations applying to all husbandry systems

Stockmanship and staffing

All meat chickens – including breeding birds and those at hatcheries

Paragraph 1 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

1. Animals must be cared for by a sufficient number of staff who possess the appropriate ability, knowledge and professional competence.

with the tasks they will be required to undertake and competent in the use of any equipment.

Conventionally reared meat chickens

Paragraph 2 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

2. (1) A keeper must hold a certificate recognised by the Welsh Ministers for the purposes of Article 4(3) or (4) of Council Directive 2007/43/EC (3) (certificates of completion of training courses or equivalent experience).
- (2) The Welsh Ministers must publish from time to time, in such a way as the Welsh Ministers consider appropriate, a list of certificates recognised by the Welsh Ministers for the purposes of sub-paragraph (1).

Stockmanship is one of the most important influences on the welfare of chickens. It is essential that sufficient well-motivated and competent personnel are employed to carry out all necessary tasks. Staff should be well managed and supervised, fully conversant

Keepers of all meat chickens, meat breeding birds and those handling birds in hatcheries, including those employed by contractors, should be appropriately trained before being given responsibility for animals. This requires the acquisition of specific stockmanship skills which may be developed on-site with an experienced person or by a suitable training provider and in some cases may include in-class training.

All keepers should have a full and demonstrable understanding of the welfare needs and basic biology of the birds.

As a minimum, they should be able to:

- recognise whether or not the birds are in good health
- understand the significance of behavioural changes in the birds, and
- appreciate the suitability of the total environment for the birds' health and welfare.

Whilst under the supervision of others and before being given sole responsibility for animals, keepers should have demonstrated competence and understanding, including on-farm practical ability, to ensure that they are capable of safeguarding birds under all foreseeable conditions. A good keeper will have a compassionate and humane attitude, will be able to anticipate and avoid many potential welfare problems and have the ability to identify those that do occur and respond to them promptly.

In order for birds to become accustomed to the stockman's presence without fear, there should be frequent, quiet but close approach from an early age so that birds are not unduly frightened.

Young birds should be given appropriate early experience of management practices and environmental conditions to enable them to adapt to the husbandry systems that they will encounter later in life. For example, early exposure to particular feeding, watering systems, natural light, perches and litter may be beneficial.

Meat chickens bred for farming purposes should not be used to achieve any other purpose, including public spectacles or demonstrations, if such use is likely to be detrimental to their health or welfare.

All keepers who are given responsibility for the care of conventionally reared meat chickens at any point in time, including holiday cover, part time and temporary staff, must have a certificate attesting to completion of a recognised training course or have been granted Grandfather Rights under the Defra scheme (now closed for new applications).

The training course must cover in particular the areas covered by Annex IV to Council Directive 2007/43/EC:

- (a) Annexes I and II
- (b) physiology, in particular drinking and feeding needs, animal behaviour and the concept of stress
- (c) the practical aspects of the careful handling of chickens and catching, loading and transport
- (d) emergency care for chickens, emergency killing and culling, and
- (e) preventive bio-security measures.

These are areas in which all flock keepers, regardless of system of production, should receive training. The minimum qualification sufficient to comply with the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) is the

Level 2 diploma in Work-based Agriculture (Poultry Production), ensuring that the mandatory units have been completed. Qualifications approved

in other administrations within the UK and in other countries may also be recognised by Defra, for example the Level 3 in Northern Ireland Diploma in Work-based Agriculture (Poultry Production) and the SVQ Level 2 Agriculture (Poultry) in Scotland.

Owners and keepers of chickens under all husbandry systems, including those with Grandfather Rights, are encouraged to take formal training regularly to keep their knowledge and skills up to date.

Training should continue throughout the duration of employment of all keepers, and suitable refresher courses should be undertaken regularly. Wherever possible, the training should be of a type which leads to formal recognition of competence. As welfare risks may vary according to the rearing system, such training should be specific to the system used.

should be regularly monitored and their effect on bird health and welfare regularly evaluated.

Catching and handling

The catching and handling of birds without causing them injury or stress requires skill.

It should only be undertaken by competent persons, i.e. those who have been appropriately trained for the task and have received clear guidance and instructions from the owner or keeper. Responsibility for the management of the operation should be clearly allocated. All those in contact with birds should comply with the required biosecurity as stipulated by the owner/keeper. (See page 17.)

Mechanical bird collection systems may have advantages for welfare. Only systems that the manufacturer has shown to be satisfactory from the point of view of bird health and welfare should be used. Where they are utilised, operators must be competent in their use and be vigilant for signs of stress or smothering, just as with manual catching. Such systems

High standards must be applied during catching and handling irrespective of the potential economic value of the birds. Surplus meat chickens, including breeders at the end of lay awaiting disposal, should be treated as humanely as those intended for retention or sale.

Catching and handling should be carried out quietly and confidently exercising care to avoid unnecessary struggling which could bruise or otherwise injure the birds. Panic among the birds should be avoided in order to minimise the risk of injury. Catching should take place in low or blue light to minimise fear responses. The light should be returned to a minimum of 20 lux without delay if any birds remain in the house after thinning. A gradual increase in light intensity at this time, similar to a dawn or dusk period, could reduce the risk of back scratching.

Where there is concern that returning the lights to 20 lux will result in compromised bird

welfare, a temporary reduction in lighting level is permitted on a case by case basis, but only as a result of following veterinary advice on each occasion. (See page 23.)

Birds must be caught with care and should be lifted directly into the transport module.

Catching should either be by holding them around the body, or, if by the legs then by both legs. If birds need to be carried, this should either be by holding them around the body or by both legs. No catcher should carry by the legs more than three chickens (or two adult breeding birds) in each hand. Birds must not be carried by the wings or by the neck.

Feed and water

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 22 to 27 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

22. Animals must be fed a wholesome diet which is appropriate to their age and species and which is fed to them in sufficient quantity to maintain them in good health, to satisfy their nutritional needs and to promote a positive state of well-being.
23. Animals must not be provided with food or liquid that contains any substance that may cause them unnecessary suffering or injury and must be provided with food and liquid in a manner that does not cause them unnecessary suffering or injury.
24. All animals must have access to feed at intervals appropriate to their physiological needs (and, in any case, at least once a day), except where a veterinary surgeon acting in the exercise of his profession otherwise directs.
25. All animals must either have access to a suitable water supply and be provided with an adequate supply of fresh drinking water each day, or be able to satisfy their fluid intake needs by other means.
26. Feeding and watering equipment must be designed, constructed, placed and maintained so that contamination of food and water and the harmful effects of competition between animals are minimised.
27. (1) No other substance, with the exception of those given for therapeutic or prophylactic purposes or for the purpose of

zootechnical treatment, may be administered

to animals unless it has been demonstrated by scientific studies of animal welfare or established practice that the effect of that substance is not detrimental to the health or welfare of the animals.

be managed collaboratively with nutrition specialists and veterinary advisers.

Conventionally reared meat chickens

Paragraph 6 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 6 (1) Drinkers must be positioned and maintained in such a way that spillage is minimised.
- (2) Feed must be either continuously available or meal fed.
- (3) Feed must not be withdrawn from chickens more than 12 hours before the expected slaughter time.

All birds, including breeding birds, must have daily access to feed. When introducing birds to a new environment, the keeper should ensure that the birds can easily find feed and water.

Suitable, correctly balanced nutrition, designed specifically for the age and strain of the bird, is important for rearing healthy meat chickens. Feed management practices should incorporate nutritional guidance for strain type provided by the breeder's recommendations and company supplying the birds, in addition to any veterinary advice, to avoid development of certain conditions such as ascites, sudden death syndrome and lameness.

Whilst environment and genetics should also be considered as part of managing the conditions listed in the above paragraph, control of growth rate by careful nutrient management, whilst not impacting overall on final body weight, may reduce their incidence. However, any changes in diet quantity or quality should

Any changes in diet should be introduced gradually and with appropriate veterinary/specialist advice. Sudden changes in the type, quantity and make-up of feed should generally be avoided.

Feed and water should be replaced on a regular basis to ensure it does not become stale or contaminated. Suitable provision must be made for supplying water in freezing weather conditions.

The distance any bird should have to travel in a house to reach feed should not be more than 4 metres and to reach water should not be more than 3 metres. However, in some situations, such as some outdoor production systems, it may be necessary for the birds to travel further. In these situations, all birds must be adequately cared for with necessary adaptations made to the stocking density, feeding and drinking space, and the distribution of feeders and drinkers, to allow for such movements.

Feed must not be withheld from conventionally reared meat chickens for more than 12 hours before expected slaughter time. Prior to transport, water should be provided up to the start of the catching procedure. Transporters of meat and breeding chickens must minimise the length of the journey and carry out transport without delay.

Provided chicks arrive at their destination within 72 hours after hatching and the journey time is not more than 24 hours, then feed and water need not be provided in transit. However, if any of these periods are exceeded then feed and water must be provided.

Where possible, water metres should be fitted to each house to enable daily monitoring of water usage. A water metre is a useful management tool; daily records of water consumption provide an early warning of potential problems.

Daily access to water throughout the period of lighting and a sufficient number of drinkers, correctly maintained, well distributed and adjusted for height and pressure, should be provided. In longer poultry houses and in those with greater floor slopes, water pressure regulators should be provided if spillage or leakage is considered a problem.

Leakage or spillage from the water drinkers can significantly increase the moisture content of the litter with a negative impact on litter quality and thus bird health. Leaks should therefore be fixed as soon as possible. Litter replacement may be necessary in the short term in badly affected areas, in conjunction with raised ventilation and temperatures to remove large amounts of excess moisture. However, long term solutions should be found and specialist advice should be sought where appropriate. (See page 24)

Health

Antibiotics must not be used routinely but only for treatment purposes as prescribed by a veterinary surgeon when specific disease or infection has been diagnosed to avoid a welfare issue.

Inspection and humane culling

All meat chickens – including breeding birds and those at hatcheries

Paragraph 2 (1) and (2) of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 2 (1) ...animals kept in husbandry systems in which their welfare depends on frequent human attention must be thoroughly inspected at least once a day to check that they are in a state of well-being.
- (2) ...animals kept in husbandry systems in which their welfare does not depend on frequent human attention must be inspected at intervals sufficient to avoid any suffering.

Paragraph 3 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

3. Where animals are kept in a building, adequate lighting (whether fixed or portable) must be available to enable them to be thoroughly inspected at any time.

A health and welfare plan should be implemented for each farm which should set out health and husbandry activities covering the whole of the production cycle. The plan should be developed with appropriate veterinary advice, regularly reviewed against performance and updated accordingly, at least annually.

The plan should also establish management procedures and control measures to reduce the risk of infections and injury and include an effective vaccination programme.

The plan should also include the use of welfare outcome assessments to assess and monitor the ongoing welfare of the birds on the farm. Welfare outcomes are measured at the slaughterhouse as part of the trigger system (see page 16).

Conventionally reared meat chickens

Paragraph 11 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 11 (1) A keeper must ensure that all chickens kept on the holding are inspected at least twice a day.
- (2) Special attention must be paid to signs indicating a reduced level of animal health or welfare.
- (3) Chickens that are seriously injured or show evident signs of health disorder (including those having difficulties in walking, severe ascites or severe malformations), and are likely to suffer, must receive appropriate treatment or be culled immediately.

As part of the plan, keepers should establish in advance the best course of action to take should problems be identified and ensure that veterinary and other expert advice is available when needed.

In the case of conventionally reared meat chickens, a systematic inspection of all flocks must be undertaken at least twice each day at appropriate intervals, in order to reduce the risk of a welfare problem developing. It is recommended that keepers of all other meat and breeding chickens carry out such an inspection at least twice a day. Young birds, in the first few days of life, should be inspected at least three times a day.

Flock inspection should include an assessment of body condition, any growth variation within the flock, locomotion, gait, respiration, condition of plumage, indications of head or vent pecking, condition of droppings, eyes, skin, beak, legs, feet and claws, and where appropriate, combs and wattles. Any departure from the norm may indicate a problem which should be given immediate remedial attention.

In order to ensure a thorough inspection, the keeper should walk close enough to every bird to encourage it to move, taking care not to frighten the birds with sudden, unaccustomed movement, noise or changes in light levels. The aim should be to pass close enough to the birds to see them clearly and for them to be disturbed and so move away. This will enable the identification of any individual that is sick, injured or weak for appropriate action to be taken by the keeper.

Health and welfare inspections may be linked with other visits to the poultry houses but each inspection should be undertaken as a separate, specific procedure.

Light levels during inspection must be sufficient to ensure that the birds being inspected are clearly visible during that inspection.

While it may not be generally possible to examine each bird individually during routine inspection, a good indication of flock health should be gained on each occasion. Where birds are not being fed on ad lib diets, inspection is particularly effective at feeding time when any birds which are not fit will be slow to feed and can be identified. Individual examination should be made of those birds for which the overall inspection indicates this to be necessary.

Chickens that are injured or show signs of health disorder (including those having difficulties in walking, or reaching food or water, or that have severe ascites or severe malformations), and are likely to suffer, must receive appropriate treatment or be

humanely culled immediately. Dead birds seen during an inspection should be removed from the house without delay and disposed of appropriately.

post-mortem inspection to identify possible indications of poor welfare conditions in their holding or house of origin.

When any bird is killed at a hatchery or on farm this must be carried out using a permitted method in accordance with the relevant legislation and the procedures included in the health and welfare plan.

Monitoring and follow-up at the slaughterhouse

Conventionally reared meat chickens

Paragraphs 14 and 15 of Part 3, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 14 (1) For the purposes of Section III (food chain information) of Annex II to Regulation 853/2004, the daily mortality rate and cumulative daily mortality rate and the hybrid or breed of chickens from a flock with a stocking density in excess of 33 kilograms per m² of usable area is treated as relevant food safety information.
- (2) A food business operator operating a slaughterhouse must –
- (a) under the supervision of the official veterinarian, record the number of chickens from such a flock that are dead on arrival at the slaughterhouse; and
 - (b) provide that information on request to the official veterinarian.
- 15 (1) An official veterinarian conducting controls under Regulation 854/2004 in relation to chickens must evaluate the results of the

- (2) If the mortality rate of the chickens or the results of the post-mortem inspection are consistent with poor animal welfare conditions, the official veterinarian must communicate the data to the keeper of those chickens and to the Welsh Ministers without delay.

report information to identify farms at highest risk of non-compliance with animal welfare legislation, and targets inspections to those farms identified as being at highest risk.

All meat chickens undergo ante and post-mortem assessment at the slaughterhouse. For conventionally reared meat chickens the results of these assessments are fed into the “trigger system” which was designed in collaboration with Defra, the meat chicken industry, independent poultry veterinary surgeons, welfare organisations and delivery bodies, and has been operating in slaughterhouses since 2010. The system monitors all batches of conventionally reared meat chickens and uses the results of post-mortem inspections carried out at the slaughterhouse to identify possible welfare problems on farm.

The post-mortem conditions currently monitored by the system are listed in Annex 3. The system involves two processes:

Process 1 is designed to identify situations where levels of a condition are exceptionally high, and Process 2 is designed to identify situations where mortality levels are unusually high and, additionally, where the levels of a range of other conditions are above average. Different pre-defined thresholds, known as “trigger levels”, exist for these two processes.

When these thresholds are exceeded, a trigger report is generated and sent to the owner/keeper of the birds. The owner/keeper should consider how best to reduce these levels in future flocks and, where appropriate, seek advice from a veterinary surgeon or another specialist. APHA uses the trigger

appropriate, dry comfortable bedding.

Keepers of conventionally reared meat chickens reared above a stocking density of 33 kg/m²

of usable area must provide the cumulative daily mortality rate (CDMR) of each house of birds and the hybrid or breed of those birds on the food chain information report. All keepers of conventionally reared meat chickens are encouraged to provide these data as well as the stocking density of the birds at the point of depopulation. CDMR is defined as the sum of daily mortality rates. The daily mortality rate is the number of chickens that have died in a house on the same day, including those that have been culled either because of disease or other reasons, divided by the number of chickens present in the house on that day, multiplied by 100.

The total mortality (i.e. the number of deaths and culls recorded throughout the production cycle divided by the number of birds placed, expressed as a percentage) and cumulative daily mortality figures should not be far apart, but if thinning takes place or if the mortality is high, then the two figures could be quite different. A worked example is provided in Annex 4.

Disease control and biosecurity

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 5 and 6 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

5. Any animals which appear to be ill or injured must be cared for appropriately and without delay; where they do not respond to such care, veterinary advice must be obtained as soon as possible.
6. Where necessary, sick or injured animals must be isolated in suitable accommodation with, where

Conventionally reared meat chickens

ducks) should be kept separate from other poultry species.

Paragraph 12 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

12. After the final depopulation of a house and before a new flock is introduced –
 - (a) any part of a house, and any equipment or utensil, which has been in contact with chickens must be thoroughly cleaned and disinfected; and
 - (b) all litter must be removed and clean litter provided.

A disease challenge may first be noticed by a change in water consumption, a reluctance to eat, changes in droppings, changes in litter quality or in the general behaviour of the flock. A marked change in water use should be thoroughly investigated. Veterinary attention should be sought at an early stage in any outbreak of disease so that the cause can be determined and appropriate action taken.

Measures to control diseases caused by external parasites should be taken by using the appropriate parasiticides. It is particularly important to take measures to prevent the establishment of red mite infestation in breeding chicken flocks. These measures must not cause harm to the birds.

All those in contact with birds should practice strict hygiene regarding footwear changes or disinfection and hand washing procedures, in particular when moving between each house, to limit potential introduction and spread of disease. If farm staff keep their own birds at home they should be extra vigilant for signs of disease and even more careful about biosecurity both at home and on the farm. Where possible, waterfowl (i.e. geese and

It is recommended that the site be managed so that all houses are empty at the same time to facilitate effective cleaning, disinfection and disinfection. An “all in – all out” approach with periods when there are no birds on site will also act to provide a disease break. Where multi-age sites are unavoidable, they should be managed according to a regular routine in which the youngest flocks are attended to first, and so on, through to the oldest.

Once empty, bird accommodation should be first dry cleaned to remove organic material, washed and then disinfected. Used litter from conventionally reared meat chickens must be removed from the house and should be removed from the site before restocking so as to reduce the risk of carryover of disease. This practice should also be followed for all other meat chickens and breeding birds.

When planning new sites, consideration should be given to providing the maximum possible distance between the proposed site and existing sites to improve biosecurity. A useful guide is the 3km distance that defines the radius of a Protection Zone in the control of notifiable diseases such as highly pathogenic avian influenza. The distance between houses on a site should also be considered, along with the proximity to wild bird sources. (See page 19.)

Inspectors should, wherever possible, comply with the required biosecurity as stipulated by the owner/keeper (and which may be subject to change under changing disease challenges) including personal/private bird contact.

leading to poor leg health including those linked to nutrition, microbial infection and genetics.

Nutritional deficiencies and imbalances including calcium, phosphorus and vitamin D

Leg health

Leg disorders with associated lameness can be a key cause of poor welfare in meat chickens.

There are many causes of leg disorders

can lead to an increase in bone deformities and lameness. Lameness can also be caused by bone or joint infection, so effective prevention and control of viral and bacterial disease plus good litter management are essential.

environment, reducing stocking density and the provision of natural light.

Welfare and health considerations, in addition to productivity, should be taken into account when choosing a strain for a particular purpose or production system. In line with this, meat chickens should stem from broad breeding programs, which promote and protect health, welfare and productivity. Keeping birds in line with appropriate growth curves that optimise these criteria, particularly with regard to leg health, should be considered.

Keepers should monitor all birds for signs of lameness, leg weakness or abnormal gait on a daily basis as part of the inspection process. When recording mortalities and culls it is useful to record the cause so that lameness can be monitored within and between flocks.

For conventionally reared meat chickens, the cause for culls must be recorded and any bird which is suffering should be humanely culled without delay.

Keepers should be particularly vigilant when the risk of lameness is highest, such as towards the end of the production cycle and during the summer months when bird activity may be at its lowest.

Certain management practices can limit or reduce the risk of lameness in a flock.

Increasing the activity of meat chickens in the day and encouraging proper rest at night, for example through manipulation of the lighting patterns (increasing light intensity during light periods combined with a longer uninterrupted dark period), can help prevent lameness.

Increased activity during the day can also be achieved by enriching the

If leg disorders develop, management and husbandry practices must be immediately assessed. Any changes required should be instigated as soon as practically possible and where appropriate following veterinary and technical advice of the breed supplier.

If a problem arises with managing litter and bird health, the farmer may choose to grow meat chickens below their maximum performance

by making changes to the feed composition, feed structure and feeding routine. This should be carried out with appropriate consideration of the implications for the bird and with appropriate veterinary and technical advice.

In addition, the effects of dietary change on litter condition should be closely monitored.

Lameness may develop as a result of infections acquired in the parent flock or hatchery.

High standards of biosecurity and hygiene in the parent flock, in the handling of the eggs, at the hatchery and in subsequent handling and transport of the chicks should be maintained.

Prior to crating and loading, an assessment of birds' fitness to travel must be undertaken.

Careful consideration should be given by the keeper as to whether any lame birds are legally fit to travel for the proposed journey. If they are not, they should be humanely culled on farm. Birds with severe and painful conditions such as advanced plantar necrosis are unfit for transport. Small or emaciated birds that are likely to be culled on arrival at the slaughterhouse should not be transported but be culled on farm at the time of depopulation.

Buildings and accommodation

All meat chickens – including breeding birds and those at hatcheries

factors such as noise, light, vibration and atmospheric pollution and from predators.

Paragraphs 11 and 12 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

11. Materials used for the construction of accommodation, and in particular for the construction of pens, cages, stalls and equipment with which the animals may come into contact, must not be harmful to them and must be capable of being thoroughly cleaned and disinfected.
12. Accommodation and fittings for securing animals must be constructed and maintained so that there are no sharp edges or protrusions likely to cause injury to them.

Advice on health and welfare aspects should be sought from a knowledgeable advisor and veterinary surgeon before any new buildings are planned or when existing buildings are modified. It is important to ensure that the design of housing and equipment is suitable for the intended use. New methods of husbandry equipment or accommodation for meat and meat breeding chickens are available, for example the use of biomass and underfloor heating. New technologies should only be used when comprehensively tested and found satisfactory for bird health and welfare. Consideration should be given to avoiding the incorporation of equipment which could pose a significant risk of introduction and spread of disease between houses or between farms.

When new accommodation for meat and meat breeding chickens is planned, a suitable site should be selected taking into consideration the risks from outside environmental

Where appropriate, advantage should be taken of natural features to provide shelter and to protect birds from predators, rodents and other animals. (See page 17.)

being of

Ventilation, temperature and heat stress

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 13 and 18 to 21 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

13. Air circulation, dust levels, temperature, relative air humidity and gas concentrations must be kept within limits which are not harmful to the animals.
18. All automated or mechanical equipment essential for the health and well-being of the animals must be inspected at least once a day to check that there is no defect in it.
19. Where defects in automated or mechanical equipment of the type referred to in paragraph 18 are discovered, these must be rectified immediately or, if this is impossible, appropriate steps must be taken to safeguard the health and well-being of the animals pending the rectification of those defects including the use of alternative methods of feeding and watering and methods of providing and maintaining a satisfactory environment.
20. Where the health and well-being of the animals is dependent on an artificial ventilation system –
 - (a) provision must be made for an appropriate back-up system to guarantee sufficient air renewal to preserve the health and well-

the animals in the event of failure of the system; and

chickens;

- (b) an alarm system (which will operate even if the principal electricity supply to it has failed) must be provided to give warning of any failure of the system

21. The back-up system referred to in paragraph 20(a) must be thoroughly inspected and the alarm system referred to in paragraph 20(b) tested at least once every seven days in order to check that there is no defect, and, if any defect is found at any time, it must be rectified immediately.

Conventionally reared meat chickens

Paragraph 8 (1) and (2) of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 8 (1) Ventilation must be sufficient to avoid overheating.
- (2) Ventilation, in combination with heating systems, must be sufficient to remove excessive moisture.

For birds being stocked at the higher densities (i.e. above 33kg/m²) paragraph 5 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states in addition to paragraph 8 (1) and (2):

5. The keeper must –

- (a) maintain and, on request, make available to the Welsh Ministers, documentation in the house giving a detailed description of the production systems, in particular information on technical details of the house and its equipment, including –
 - (i) a plan of the house including the dimensions of the surfaces occupied by the

- (ii) ventilation and any relevant cooling and heating system (including their location), and a ventilation plan, detailing target air quality parameters (such as airflow, air speed and temperature);
 - (iii) feeding and watering systems (and their location);
 - (iv) alarm and backup systems in the event of a failure of any equipment essential for the health and well-being of the chickens;
 - (v) floor type and litter normally used; and
 - (vi) records of technical inspections of the ventilation and alarm systems;
- (b) keep up to date the documentation referred to in subparagraph (a);
- (c) ensure that each house is equipped with ventilation, and if necessary, heating and cooling systems designed, constructed and operated in such a way that –
- (i) the concentration of ammonia does not exceed 20 parts per million and the concentration of carbon dioxide does not exceed 3,000 parts per million, when measured at the level of the chickens' heads;
 - (ii) when the outside temperature measured in the shade exceeds 30°C, the inside temperature does not exceed the outside temperature by more than 3°C; and
 - (iii) when the outside temperature is below 10°C, the average relative humidity measured inside the house during a continuous period of 48 hours does not exceed 70%.

Ventilation rates, air distribution and house conditions must at all times be adequate to provide sufficient fresh air appropriate for the age of the birds, without draughts, and keep the litter dry and friable. Air quality, including dust level and concentrations of carbon monoxide, should be controlled and kept within limits where the welfare of the birds is not negatively affected.

The ventilation appropriate to the growth profile of the flock should be documented and available as guidance for the keeper.

Chicks should be placed in a pre-heated house or with brooders when they arrive and their behaviour monitored carefully. Young chicks are particularly susceptible to extremes of temperature and an even distribution of the chicks in the house will indicate that they are thermally comfortable. After 4-5 weeks birds can tolerate a fairly wide range of temperatures but every effort should be made to avoid creating conditions which will lead to chilling, huddling and subsequent smothering. In addition, low temperatures have been associated with increased susceptibility to conditions such as ascites.

In less well insulated buildings stocked at the higher densities, additional heat, coupled with a higher level of ventilation, may be required to reduce relative humidity levels below 70%.

Birds should not be exposed to strong, direct sunlight or hot, humid conditions long enough to cause heat stress as indicated by prolonged panting. Housing affects the birds' ability to maintain their normal body temperature but under any management system ambient temperatures high enough to cause prolonged panting may occur, particularly when humidity is relatively high. All accommodation should therefore be designed so that its ventilation is adequate to protect the birds from overheating under any weather conditions

that can reasonably be foreseen. Attention should be paid to air throughput, distribution and

especially increasing air speed at bird level during periods of hot weather.

following documented information:

Owners and keepers should plan ahead to avoid heat stress. It is their responsibility to ensure that appropriate measures are taken, based on the design of the building, its locality and the predictable maximum temperature/ humidity, to avoid heat stress. During periods of high temperatures and humidity, consideration should be given to reducing the planned stocking density at the time of ordering or placing day-old chicks.

During hot and humid conditions, the birds should be checked more frequently, but not disturbed unduly.

Portable back-up fans can help to increase ventilation during periods of hot and humid weather. The air temperature within a building may be reduced by improved insulation and the correct use of evaporative cooling of incoming air, taking care to avoid a combination of high temperature and high humidity. Spraying of cold water on the roof should be considered as a last resort and only when temperature and humidity levels are excessive. The heat output of the birds may be reduced by lowering stocking density or changing the feeding patterns.

Additional ventilation requirements for conventionally reared meat chickens stocked above 33 kg/m²

For flocks stocked at densities in excess of 33 kg/m², it is suggested that an air speed of at least 1 m/second be provided over as much of the floor area as is possible in conventionally ventilated buildings. In buildings with tunnel ventilation capability, the suggested air speed is at least 2 m/second. For naturally ventilated buildings, inlets and outlets should be sufficiently large to allow as high an air speed as possible over the birds. Free-standing fans can be introduced to provide additional air movement at bird level. The keeper must have available for each house the

- (i) information on the technical details of the ventilation and, if relevant, the cooling and heating system including their location, the size of the inlets and outlets and fan numbers, size and anticipated performance
- (ii) a ventilation plan, and
- (iii) records of technical inspections of the ventilation and alarm systems.

The ventilation plan should provide details of the operational parameters such as airflow, air speed and temperature that will ensure that:

- (i) the concentration of ammonia (NH_3) does not exceed 20 parts per million measured at the level of the chickens' heads
- (ii) the concentration of carbon dioxide (CO_2) does not exceed 3,000 parts per million at the level of the chickens' heads
- (iii) the inside temperature, when the outside temperature measured in the shade exceeds 30°C , does not exceed this outside temperature by more than 3°C , and
- (iv) the average relative humidity measured inside the house during 48 hours does not exceed 70% when the outside temperature is below 10°C . It is recommended that relative humidity be measured daily and the average should not exceed 70% when the outside temperature is continually below 10°C for any 48 hour period.

Evidence that the plan is meeting these operational requirements may be provided by maintaining a record of direct measurements of NH_3 , CO_2 , relative humidity and temperatures.

Continuous measurement of CO_2 and NH_3 is not required but, as a minimum, measurements of CO_2 and NH_3 should be taken when there is risk of excessive build-up of these agents. Usually for CO_2 this is during brooding and for NH_3 during periods of maximum stocking density, especially during colder weather.

The plan should also include details of the alarm and back-up systems and a procedure for dealing with heat stress. (See page 25.)

The ventilation plan should be revised whenever there are any major changes to the structure of the house or to the ventilation system.

It is recommended that, between crops, a visual inspection be made of the air inlets and fans. Heaters, temperature probes and the control system should also be checked to ensure they are functioning correctly. It is also advisable to carry out periodic safety checks on the electrical and gas installations. A record of these technical inspections of the ventilation and alarm systems must be made.

Lighting

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 14 to 16 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 14. Animals kept in buildings must not be kept in permanent darkness.
- 15. Where the natural light available in a building is insufficient to meet the physiological or ethological needs of any animals being kept in it, appropriate artificial lighting must be provided.

16. Animals kept in buildings must not be kept without an appropriate period of rest from artificial lighting.

Conventionally reared meat chickens

Paragraph 10 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 10 (1) All houses must have lighting with an intensity of at least 20 lux during the lighting periods, measured at bird eye level and illuminating at least 80% of the usable area.
- (2) A temporary reduction from that lighting level is permitted where necessary following veterinary advice.
- (3) Within 7 days from the time when the chickens are placed in the house and until 3 days before the expected time of slaughter, the lighting must follow a 24-hour rhythm and include periods of darkness lasting at least 6 hours in total, with at least one uninterrupted period of darkness of at least 4 hours, excluding dimming periods.

All meat chickens should be housed at light levels which allow them to see clearly and which stimulate activity. This can be achieved by lighting systems using natural or artificial lighting or a combination of both, maintained and operated to give a minimum light of 20 lux at bird eye height over at least 80% of the usable area. If light levels are reduced at thinning to keep birds calm, the light should be returned to a minimum of 20 lux without delay if any birds remain in the house after thinning. A gradual increase in light intensity at this time, similar to a dawn or dusk period, could reduce the risk of back scratching.

Where there is concern that returning the lights to 20 lux will result in compromised bird welfare, a temporary reduction in lighting level is permitted on a case-by-case basis but only as a result of following veterinary advice on each occasion.

Conventionally reared meat chickens must be given a period of darkness lasting at least 6 hours in each 24 hour period, with at least one uninterrupted period of darkness of at least 4 hours, excluding dimming periods. It is good practice for all meat chickens to be reared to this standard and preferably the period of darkness provided should be uninterrupted, lasting at least 6 hours in a 24 hour rhythm.

Keepers should be mindful that the lights being switched back on after the dark period is likely to lead to a significant increase in bird activity which may cause problems such as back scratching. Greater attention to management practices will therefore be required to ensure that the birds' welfare is maintained when the light is restored. For example, sufficient feeders and drinkers should be available to allow all birds to eat and drink at the same time following the period of rest. Attention will also need to be paid to litter condition, particularly under nipple drinker lines, which could become wet due to the number of birds drinking at the same time. If this is the case, the addition of more litter should be considered.

A "dawn and dusk" light provision with gradual increases and reductions in lighting may help manage the change in activity levels of the birds. Buildings that expose birds to natural daylight can effectively provide this transition and the natural wavelength light spectrum may have additional beneficial effects on bird behaviour. However, there should be a facility to reduce exposure to natural daylight if bird welfare is compromised by high light levels, for example, scratching or injurious pecking, or for specific management procedures, for example, catching.

In the first 7 days following placing of the birds in the house, chicks should be provided with sufficient lighting to ensure that they can easily find feed and water.

(See page 27.)

Litter

All meat chickens – including breeding birds and those at hatcheries (except for conventionally reared)

Regulation 5 of the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 5 (1) A person responsible for -
- (a) poultry (other than those kept in the systems referred to in Schedule 2 to 4 and conventionally reared meat chickens) kept in a building must ensure that they are kept on, or have access at all times to, well-maintained litter or a well-drained area for resting.

Conventionally reared meat chickens

Paragraph 7 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

7. All chickens must have permanent access to litter which is dry and friable on the surface.

Meat breeding chickens spend their lives in contact with litter and their health and welfare are linked to its quality. Conditions such as hock burn, foot pad lesions and breast blisters are usually consequences of poor litter quality. Well-designed equipment and high standards of management are important if good litter quality is to be maintained. The ventilation capacity should be sufficient to remove excess moisture. The feed composition should be well balanced to avoid problems with wet or sticky droppings. Specialist advice should be sought and acted on and stocking density should be reduced in subsequent flocks if poor litter quality cannot be rectified.

quality. It must be suitable to provide a dry bedding material and must not contain anything that could be toxic or cause injury to the chickens. For conventionally reared meat chickens, litter must be friable (loose) and dry on the surface, and this is recommended for all systems of production.

impossible, appropriate steps must be taken to

Measures should be taken to minimise the risk of mould and mite infestation. Litter should be inspected frequently for signs of deterioration, especially in those areas of the house at risk, such as under drinkers or near the walls, and appropriate action should be taken to rectify any problem. Litter should also be inspected to ensure it does not become excessively wet or dusty. A drinker system which minimises water spillage should be used, such as water nipples with drip cups positioned at an appropriate height for all birds. Nipple drinkers without cups may be used if they are well managed and the water pressure is checked frequently to ensure there is no leakage.

Automatic or mechanical equipment

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 18 to 21 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

18. All automated or mechanical equipment essential for the health and well-being of the animals must be inspected at least once a day to check that there is no defect in it.
19. Where defects in automated or mechanical equipment of the type referred to in paragraph 18 are discovered, these must be rectified immediately or, if this is

safeguard the health and well-being of the animals pending the rectification of those defects including the use of alternative methods of feeding and watering and alternative methods of providing and maintaining a satisfactory environment.

noise.

All equipment and services, including feed hoppers, feed chain and delivery systems,

20. Where the health and well-being of the animals is dependent on an artificial ventilation system –

- (a) provision must be made for an appropriate back-up system to guarantee sufficient air renewal to preserve the health and well-being of the animals in the event of failure of the system; and
- (b) an alarm system (which will operate even if the principal electricity supply to it has failed) must be provided to give warning of any failure of the system.

21. The back-up system referred to in paragraph 20(a) must be thoroughly inspected and the alarm system referred to in paragraph 20(b) tested at least once every seven days in order to check that there is no defect, and, if any defect is found at any time, it must be rectified immediately.

Conventionally reared meat chickens

Paragraph 9 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

9. In all houses –

- (a) the sound level must be minimised; and
- (b) ventilation fans, feeding machinery or other equipment must be constructed, placed, operated and maintained in such a way that they cause the least possible amount of

drinkers, ventilating fans, heating and lighting units, fire extinguishers and alarm systems should be cleaned, inspected and maintained regularly and kept in good working order.

Generators or other energy backup systems must also be available and tested and maintained regularly.

Ventilation, heating, lighting, feeding, watering and all other equipment or electrical installation should be designed, sited and installed so as to avoid risk of injuring the birds.

All automated equipment upon which the birds' welfare is dependent should incorporate a fail- safe or standby device and an alarm system to warn the keeper of failure. Defects must be rectified immediately or other temporary measures taken to safeguard the health and welfare of the birds until the problem has been rectified. Alternative ways of feeding and of maintaining a satisfactory environment should therefore be ready for use.

Environmental enrichment

The process of environmental enrichment ultimately provides the bird with more choice in its activities, which can be more easily provided in some systems than others.

Environmental enrichment can improve bird health and welfare by reducing disturbances, aggression, injurious pecking, fear responses and stress and improving leg health by increasing the level of physical exercise.

Providing birds with straw bales, perches, low barriers and pecking objects (such as brassicas, scattered whole grain and bales of shavings), can significantly increase the amount of time the birds spend standing, walking and running; reduce the amount of time birds spend sitting and resting; and reduce injurious pecking and the number of

aggressive interactions between birds.

Stocking density and freedom of movement

All meat chickens – including breeding birds and those at hatcheries

density.

Paragraphs 9 and 10 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

9. The freedom of movement of animals, having regard to their species and in accordance with good practice and scientific knowledge, must not be restricted in such a way as to cause them unnecessary suffering or injury.
10. Where animals are continuously or regularly tethered or confined, they must be given the space appropriate to their physiological and ethological needs in accordance with good practice and scientific knowledge.

Conventionally reared meat chickens

Paragraphs 3 to 5 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 3 (1) Unless sub-paragraph (2) applies, the stocking density must not exceed 33 kilograms per m² of usable area.
- (2) A stocking density in excess of 33 kilograms and up to 39 kilograms per m² of usable area may be used if the requirements of paragraph 5 are complied with.
- 4 (1) A keeper must ensure that the Welsh Ministers are notified of the intended stocking density of each house where it is intended to keep chickens at a density in excess of 33 kilograms per m² of usable area, and of any subsequent change to that notified

- (2) Notification must be made in such manner and form as the Welsh Ministers may require.
 - (3) Notification (including notification of any change) must be given at least 15 working days before stocking at that density or changed density takes place.
 - (4) In this paragraph “working day” means a day other than a Saturday or a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.
5. The requirements of this paragraph are that the keeper must –
- (a) maintain and, on request, make available to the Welsh Ministers, documentation in the house giving a detailed description of the production systems, in particular information on technical details of the house and its equipment, including –
 - (i) a plan of the house including the dimensions of the surfaces occupied by the chickens;
 - (ii) ventilation and any relevant cooling and heating system (including their location), and a ventilation plan, detailing target air quality parameters (such as airflow, air speed and temperature);
 - (iii) feeding and watering systems (and their location);

- (iv) alarm and backup systems in the event of a failure of any equipment essential for the health and well-being of the chickens;
 - (v) floor type and litter normally used; and
 - (vi) records of technical inspections of the ventilation and alarm systems;
- (b) keep up to date the documentation referred to in subparagraph (a);
- (c) ensure that each house is equipped with ventilation and, if necessary, heating and cooling systems designed, constructed and operated in such a way that –
- (i) the concentration of ammonia does not exceed 20 parts per million and the concentration of carbon dioxide does not exceed 3,000 parts per million, when measured at the level of the chickens' heads;
 - (ii) when the outside temperature measured in the shade exceeds 30°C, the inside temperature does not exceed the outside temperature by more than 3° C; and
 - (iii) when the outside temperature is below 10°C, the average relative humidity measured inside the house during a continuous period of 48 hours does not exceed 70%.
- maintained in good condition only if the balance is right and the onus is on the owner/keeper to demonstrate that welfare is not compromised whatever the stocking density.

Various factors need to be taken into account to promote good welfare when setting and monitoring stocking densities. The observance of any particular maximum stocking density is important but cannot, by itself, ensure the welfare of the birds. There is a close relationship between stockmanship, litter management, environmental control and stocking density. Birds will be

The decision to stock at a particular density should be made on a house basis and should take account of house-specific management factors. There are several management factors that should influence the keeper's decision to stock at a particular density. These include the health and welfare measures of previous flocks, such as reports from the slaughterhouse, and the limitations of the environmental controls within a house, which may vary by season and weather conditions. In order to stock conventionally reared meat chickens above 33kg/m² there must be compliance with the additional factors set out in legislation.

Irrespective of the type of system, all meat chickens should have sufficient freedom of movement to be able, without difficulty, to stand normally, turn around and stretch their wings.

They should also have sufficient space to be able to sit without interference from other birds.

Appropriate advice should be taken if problems occur, in particular in conditions of excessive heat or humidity due to inadequate ventilation and poor litter quality. If disease or environmental problems arise in a particular building or system, reducing the stocking density in subsequent flocks may lessen the likelihood of recurrence. Consideration should be given in advance of predicted hot weather to stocking at a reduced density.

Thinning is stressful for the birds and should be avoided. If thinning is undertaken, it should be carried out with care to maintain biosecurity and to ensure minimal disturbance to birds whose feed and water have been temporarily withdrawn. A written protocol should specify procedures to minimise the effect on the birds and the biosecurity risk, including the risk of introducing zoonotic diseases into the flock, and procedures to minimise feed and water withdrawal.

For conventionally reared meat chickens, notification to the Welsh Ministers of intended stocking density of each house was made in 2010 via a form sent by APHA to all known keepers. If keepers change the stocking density of birds reared in a house from that notified in 2010 or build new houses, APHA must be notified 15 working days before the birds are placed. This notification should be made by sending the form referenced at Annex 2.

Mutilations

All meat chickens – including breeding birds and those at hatcheries

Section 5 of the Animal Welfare Act 2006 states:

- 5 (1) A person commits an offence if–
 - (a) he carries out a prohibited procedure on a protected animal;
 - (b) he causes such a procedure to be carried out on such an animal.
- (2) A person commits an offence if–
 - (a) he is responsible for an animal,
 - (b) another person carries out a prohibited procedure on the animal, and
 - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.
- (3) References in this section to the carrying out of a prohibited procedure on an animal are to the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal, otherwise than for the purpose of its medical treatment
- (4) Subsections (1) and (2) do not apply in such circumstances as the appropriate national authority may specify by regulations.

The Mutilations (Permitted Procedures) (Wales) Regulations 2007 allow veterinary surgeons or other persons permitted to carry out the procedures under the Veterinary

Surgeons Act 1966 or the Veterinary Surgeons (Exemptions) Order 2015, to carry out a number of permitted procedures on specified animals, including poultry.

Conventionally reared meat chickens

Schedule 4 (A1) of the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- A1. None of the procedures listed in the section on birds in Schedule 1, apart from beak trimming (see paragraph 5), may be performed on –
 - (1) conventionally reared meat chickens.

All mutilations of chickens are banned under the Animal Welfare Act 2006.

The Mutilations (Permitted Procedures) (Wales) Regulations 2007 exempts certain procedures (see Annex 5) from this ban, provided that they are carried out by a person permitted to carry out the procedure and:

- in accordance with the relevant requirements in the schedules
- in such a way as to minimise the pain and suffering it causes to the animal
- in hygienic conditions, and
- in accordance with good practice.

Mutilations can cause pain to chickens and should only be carried out where necessary to avoid a worse welfare outcome. They should only be applied after having sought appropriate advice on possible alternative interventions in each case and not as a routine practice.

Beak trimming

All meat chickens – including breeding birds and those at hatcheries

Paragraph 5 (1) to (3) of Schedule 4 to the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- 5 (1) For all poultry, the beak trimming procedure must be performed using a suitable instrument.
- (2) For all poultry, any subsequent haemorrhage from the beak must be arrested by cauterisation.
- (3) For all poultry the procedure must be performed on –
 - (a) both the upper and lower beaks, with not more than one third of each removed, or
 - (b) the upper beak only, with not more than one third removed

Consideration should be given to environmental enrichment as a means of avoiding the necessity to beak trim. Possible methods

of environmental enrichment should be risk assessed against introduction of pathogens and include the provision of straw bales or brassicas or scattering of whole grain. (See page 25.) Nutritional deficiencies in feed should be investigated as a possible cause of any incident of injurious pecking.

Beak trimming of meat chickens is not recommended and should not be necessary because they are normally slaughtered before reaching sexual maturity. However, if necessary, this should be done using infra-red technology before 10 days of age, preferably at day old.

Beak trimming of older birds should only be carried out in an emergency when advised by a veterinary surgeon. (See page 36 for guidance on beak trimming of breeding birds.)

Conventionally reared meat chickens

Paragraph 5 (6) of Schedule 4 to the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- 5 (6) For conventionally reared meat chickens the procedure –
 - (a) may only be performed in order to prevent feather pecking and cannibalism;
 - (b) may not be performed on birds which are aged 10 days or over;
 - (c) must be carried out by a person who has been provided with suitable and sufficient information, instruction and training so that they are qualified to perform the procedure; and
 - (d) must only be carried out following a consultation and on the advice of a veterinarian.

Record Keeping

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 7 and 8 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

7. A record must be maintained of-
 - (a) any medicinal treatment given to animals: and
 - (b) the number of mortalities found on each inspection of animals carried out in accordance with...
 - (iv) in any other case, paragraph 2(1) or (2) of this schedule.
8. The record referred to in paragraph 7 must be retained for a period of at least three years from the date on which the medicinal treatment was given, or the date of the inspection, and must be made available to an inspector on request.

- (e) the number of chickens remaining in the flock following the removal of chickens for sale or slaughter.

- (2) The record must be retained for at least 3 years.

Additional records are required for conventionally reared meat chickens and these can be found in the “Ventilation, temperature and heat stress” and “Monitoring and follow-up at the slaughterhouse” sections of this Code.

As well as these record keeping requirements, a number of other legislative provisions exist for record keeping on farm. These are set out in Annex 1.

Conventionally reared meat chickens

Paragraph 13 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 13(1) A keeper must maintain, for each house, a record of –
 - (a) the number of chickens introduced;
 - (b) the usable area;
 - (c) the hybrid or breed of the chickens (if known);
 - (d) the number of chickens found dead, with an indication of the causes (if known), as well as the number of chickens culled with cause, on each inspection; and

Contingency planning

Measures should also be put in place for contingency planning following an assessment of possible hazards. Such plans should deal with events such as:

- the disruption of feed, power or water supply, including failure of automated systems
- heat stress
- natural disasters such as flooding
- fires
- arrangements for allowing rapid entry to locked buildings in case of emergency, for example by providing clear instruction on emergency contact details
- arrangements for dealing with restrictions placed in case of notifiable disease, including dealing with delays in moving birds to slaughter and the compulsory temporary housing of free-range birds, and
- arrangements for both killing and disposal of flocks when depopulation is required in the event of notifiable disease or due to contamination of feed or pasture with toxins.

Section 2: Additional recommendations for free range systems

All meat chickens – including breeding birds and those at hatcheries

Paragraph 17 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

17. Animals not kept in buildings must, where necessary and possible, be given protection from adverse weather conditions, predators and risks to their health and must, at all times, have access to a well-drained lying area.

Land on which free range birds are kept for prolonged periods may become “fowl sick”, i.e. contaminated with organisms which cause or carry disease to an extent which could seriously prejudice the health of the birds on the land. Birds should be routinely monitored to check for signs indicative of a build-up of pathogens on the land.

The time taken for land to become fowl sick depends on the type of land and stocking density. Appropriate measures should be taken to prevent fowl sickness or to provide a new ranging area by moving the housing (in the case of portable units) or by rotating the ranging area outside fixed buildings.

Sufficient housing should be available to the birds at all times. It may be necessary to exclude birds from the range, for example in bad weather or in the event of a compulsory housing order (Avian Influenza Protection Zone) being issued during a notifiable disease outbreak, if there is a danger that their health and welfare will be compromised.

Birds should be encouraged to use the outdoor area. Provision of adequate, suitable and properly managed vegetation, overhead cover forming corridors leading out from the house and distributed around the range and a supply of fresh water away from the house, will help induce the birds to range. Feed should not be routinely provided outdoors but, where this is unavoidable, measures should be taken to avoid attracting wild birds, rodents and other animals into the flock. If ponds are located on or near to the range area, they should be fenced off and/or netted to discourage wild birds, in particular water fowl, from landing.

Factors such as soil type, drainage, size of colony and frequency of flock rotation are very important in deciding the number of birds that a particular area can carry. Heavy, poorly drained soil can support fewer birds than land which is light and well drained.

Section 3: Additional recommendations for meat breeding and grandparent chickens

Breeding birds for meat chickens have been selected for a balance of many traits, including those relating to the production of fertilised eggs and those relating to the production of chicken meat.

Consequently, their husbandry requirements are quite different from those of their progeny. Highly competent stockmanship, a high standard of housing and equipment and good control of the environment are essential.

health, welfare and production goals simultaneously.

Breeding procedures

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 28 and 29 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 28 (1) Natural or artificial breeding or breeding procedures which cause, or are likely to cause, suffering or injury to any of the animals concerned, must not be practised.
- (2) Sub-paragraph (1) does not preclude the use of natural or artificial breeding procedures that are likely to cause minimal or momentary suffering or injury or that might necessitate interventions which would not cause lasting injury.
- 29. Animals may only be kept for farming purposes if it can reasonably be expected, on the basis of their genotype or phenotype, that they can be kept without any detrimental effect on their health or welfare.

Birds should come from balanced breeding programmes, promoting and protecting

Identification of birds should be encouraged, to enable future feedback of information within the breeding pyramid and better application of breeding for welfare, based on data from the supply chain.

Husbandry measures and practices on the breeding farm should be designed to minimise floor eggs and heavily soiled eggs should not be sent as hatching eggs. Littered nests are preferred by breeding females and may reduce the number of floor eggs if litter substrate is placed in a nest, whatever the base type (metal, wood, rubber mat).

Surplus chicks and embryos in hatchery waste or resulting from on-farm hatching should be killed humanely by a trained and competent person and in accordance with the specific welfare at the time of killing legislation.

Feed and water

The rearing and management of meat breeding chickens is a careful balance of appropriate feeding and light management in the puberty phase and appropriate management in lay, so that birds achieve an optimal growth and maintain persistency of lay.

In the rearing phase, an appropriate growth curve for the breed should be followed.

During rearing, feed intake should be balanced to avoid birds being fed too much which could lead to excessive weight gain, increases in mortality and seriously compromised health, welfare and production.

However, if feed intake is restricted too much, the birds are likely to experience stress and hunger. Balancing the control of feed intake, with growth and feed type, is necessary to ensure the optimal transition of the birds into adulthood.

With breeder hens and active cockerels in the reproductive phase, feed supply should be continuously adjusted to real production so that the birds thrive and produce well, and do not lose weight. It is particularly important that the needs of the individual birds should be catered for and the flock carefully monitored by experienced staff with the appropriate skills.

Birds must be offered food at least daily throughout the production cycle with the exception of the day of transportation as they travel more comfortably with an empty crop. Increased feed should be given to breeding birds on the day before travel and water should be made available up to the time of catching.

Particular attention should be paid to ensure that all birds get an appropriate quantity of the feed made available to avoid undue competition. Feeding equipment should be capable of delivering small quantities rapidly, accurately and evenly to all birds in the house and the amount of trough space allocated should allow adequate access to feed for all birds intended to be fed. Feed should have good physical qualities, for example hard pellets. Scatter feeding reduces displacement behaviours and increases foraging. If feed is scattered, it should be distributed over a sufficient area to allow access for all birds to be fed.

In addition to routine daily checks, the body weight and condition of the birds should be systematically monitored on a weekly basis. Prompt, appropriate adjustments should be made to feed allocation according to what is found.

The nutritional quality of breeding chicken feed must be carefully monitored and controlled, especially with regard to micronutrients and protein. It is advisable to check nutritional content of rations to confirm it contains the right specification especially if any problems arise. The keeper should be particularly vigilant after changes in feed batches.

During the first 6 weeks of life, feed levels should be adequate to ensure good skeletal development. The level of feed intake throughout rearing should be managed to achieve a steady daily growth rate and not be less than that recommended in the breeders' manuals.

Birds whose feed quantity is controlled may show increased drinking and displacement behaviour such as environmental pecking (for example pecking at the empty feeder and the wall or "spot" pecking). (See page 36.) Higher water intakes can impact negatively on litter quality. Increasing the fibre content of the feed increases the time taken for birds to consume their food and can reduce their water intake, thereby improving litter condition. This has no negative impact on subsequent egg production, weight or quality of the breeding birds.

It may be necessary to manage the supply of water in relation to the feeding system and programme to reduce excessive drinking and to maintain litter quality. However, an adequate supply of fresh drinking water must be provided each day. When access to water is time limited it is vital that there is generous provision of drinkers with adequate flow to enable all birds to drink without undue competition.

During lay, cockerels and hens have different nutritional requirements and may be fed differently within the same house. The equipment used to prevent cockerels taking feed intended for hens should be carefully adjusted to ensure that access for hens is maintained and cockerels are not injured. However, some systems and stages in the flock cycle require both males and females to be fed similar amounts of feed together and so it may be desirable to remove cockerel excluders from female feeding systems.

Breeding birds must not be induced to moult by stopping feed and water.

Aggression, injurious pecking and enrichment

The provision of enrichment such as unopened bales of shavings, good quality straw, scattering of bio-secure wholegrain or other enrichment to encourage normal scratching and pecking behaviour, may help to prevent or reduce injurious and aggressive pecking in the rearing period which adversely affects the welfare of the birds.

To enrich the environment, insoluble grit should be offered (either spread on the litter or supplied in separate containers, in a measured amount) from about 6 weeks of age. This will also help the gizzard to break down any litter or feathers which may have been consumed and encourage scratching. Foraging behaviour has the added advantage of improving litter quality. Suitable perches in the rearing house may provide a form of enrichment to aid the birds in performing another of their natural behaviours. Perches will also aid the birds' adaptation from litter to raised, perforated floors when they move to the laying phase.

Beak trimming

All meat chickens – including breeding birds and those at hatcheries

Paragraph 5 (1) to (3) of Schedule 4 to the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- 5 (1) For all poultry, the beak trimming procedure must be performed using a suitable instrument.
- (2) For all poultry, any subsequent haemorrhage from the beak must be arrested by cauterisation.

(3) For all poultry the procedure must be performed on –

- (a) both the upper and lower beaks, with not more than one third of each removed, or
- (b) the upper beak only, with not more than one third removed.

It is not usually necessary to beak trim female breeding and grandparent chicks routinely. For male breeding and grandparent chicks, beak trimming may be necessary to prevent injury to other birds from aggressive or injurious pecking. If so, only the tip of the beak should be removed from these chicks. This should be done using infra-red technology before 10 days of age, preferably at day old.

Beak trimming of older birds should only be carried out in an emergency when advised by a veterinary surgeon.

Buildings and accommodation

As with other meat chickens, meat breeding and grandparent birds should be reared in houses in which temperature, humidity, ventilation rates, light levels and photoperiods are carefully regulated. A well designed house will incorporate ventilation and heating systems, effective light-proofing and a lighting system providing controllable light levels with uniform distribution.

Ventilation rates, air distribution and house conditions must at all times be adequate to provide sufficient fresh air appropriate for the age of the birds, without draughts. Air quality, including dust levels and concentrations of carbon monoxide, should be controlled and kept within limits where the welfare of the birds is not negatively affected.

Breeder chickens on controlled feed are more susceptible to low temperatures but less so to high temperatures. If the temperature is allowed to fall there may be a need to increase feed or provide heaters.

Recommended minimum light intensities and photoperiods for meat breeding and grandparent birds are as follows, but higher light intensity should preferably be provided during rearing:

Age	Light intensity	Uninterrupted day length
Day old	60 lux minimum reducing to 10 lux by 10 days of age	Minimum of 8 hours
Up to point of lay	10 lux minimum	Minimum of 8 hours
In lay	20 lux minimum	Increasing from 8 hours to a maximum of 18 hours

Light intensity should be measured at bird eye level height. If aggression or injurious pecking occurs, the lights should be dimmed for a few days and other measures considered to reduce the behaviour. After the first few days, there should be a set period of at least 6 hours of dark, including at least 4 continuous hours of darkness, in any 24 hour period.

Careful attention should be paid to the hen to cockerel ratio (numbers, maturity, weight) to ensure the development of optimal male-female relationships and avoid aggression from females towards immature males, or to protect hens from the presence of too many mature cockerels in the breeder house. Where relationship problems occur, consideration should be given to providing barriers which can reduce stress in females by allowing them to retreat from cockerels.

Stocking density and freedom of movement

Stocking density for meat breeding birds should not exceed 25 kg/m² calculated by dividing the total weight of all the birds (males and females) in the house by total area available to the birds. In calculating this area, consideration should be given to the space taken up by equipment in the house.

Various factors need to be taken into account to promote good welfare when setting and monitoring stocking densities. The observance of any particular maximum stocking density is important but cannot, by itself, ensure the welfare of the birds. There is a close relationship between stockmanship, litter management, environmental control and stocking density. Birds will be maintained in good condition only if the balance is right and the onus is on the keeper to demonstrate that welfare is not compromised whatever the stocking density.

The decision to stock at a particular density should be made on a house basis and should take account of house-specific management factors.

Irrespective of the type of system, all meat breeding chickens should have sufficient freedom of movement to be able, without difficulty, to stand normally, turn around, stretch their wings and perform breeding behaviours.

Litter

As for all meat chickens, litter must be maintained in good condition to avoid possible leg problems, footpad lesions, respiratory and environmental problems. Particular attention must be paid to maintaining ventilation levels and to air movement patterns to avoid draughts at litter level, as well as the addition of litter as required.

In winter, supplementary heating should be available if needed to maintain the correct temperature in breeder houses and prevent deterioration in air and litter quality resulting in respiratory, leg and foot pad problems.

Catching, handling and transport

When birds are transferred to laying facilities, care should be taken when lifting them out of a crate or when tipping them out of an open-topped container. Birds should have immediate access to water on arrival, especially where slats are fitted.

Annex 1: Other legislation affecting meat chickens, meat breeding birds and hatcheries

The main requirements are summarised below. This does not represent an exhaustive list and note that some legislation is regularly updated and/or amended. All UK legislation can be found at: www.legislation.gov.uk

Transport

For information on transporting meat chickens see:

- Council Regulation (EC) No 1/2005 (the protection of animals during transport and related operations)
- the Welfare of Animals (Transport) (Wales) Order 2007, and
- associated guidance.

Slaughter

For information on welfare at slaughter and killing meat chickens see:

- Council Regulation (EC) No 1099/2009 (the protection of animals at the time of killing), and associated domestic legislation and guidance

Free range and organic systems

For poultry meat marketing criteria (e.g. requirements for use of special marketing terms such as a 'free range') including stocking density, feed requirements, range access, and minimum age at slaughter see:

- Commission Regulation (EC) No 543/2008

The requirements are enforced in Wales by the Poultrymeat (Wales) Regulations 2011. Separate enforcement provisions exist for England, Scotland and Northern Ireland.

For organic production requirements see:

- Council Regulation (EC) No 834/2007
- Commission Regulation (EC) No 889/2008

The requirements are enforced in the UK by the Organic Products Regulations 2009.

Food hygiene

For specific hygiene rules on the hygiene of foodstuffs see:

- Regulation (EC) 853/2004 of the European Parliament and of the Council

Section III of Annex II of this Regulation requires food business operators operating slaughterhouses, as appropriate, to request, receive, check and act upon food chain information as set out in this Section in respect of all animals, other than wild game, sent or intended to be sent to the slaughterhouse.

Record keeping

See the following:

The Avian Influenza (Preventive Measures) (Wales) Regulations 2006 requires those keeping 50 birds or more to register their flock with APHA.

The Control of Salmonella in Poultry (Wales) Order 2008 requires certain records to be kept (including at hatcheries) and Salmonella testing to be carried out for breeding and laying flocks.

The Control of Salmonella in Broiler Flocks (Wales) Order 2009 requires certain records to be kept and Salmonella testing to be carried out for meat chicken flocks.

Newcastle disease is covered by the Diseases of Poultry (Wales) Order 2003 which requires those keeping flocks of at least 250 birds to keep certain records.

The Veterinary Medicines Regulations 2013 require records to be kept on medicine usage, administration and disposal of unused medicines. Records must be kept for at least 5 years.

Note: The Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) relates to recording what medicine is administered and when (for welfare purposes) and applies to all farm animals. The Veterinary Medicines Regulations 2013 recording requirements describe in detail what must be recorded, how long the records must be kept and includes the requirement for records of when and where medicines are acquired in addition to the requirement for records at the time of administration.

Animal by-products

For the requirements on storage, transport and disposal of animal by-products such as dead carcasses, manure and litter see:

- Council Regulation (EC) No 1069/2009
- Commission Regulation (EU) No 142/2011

The requirements are enforced by The Animal By- Products (Enforcement) (Wales) Regulation 2014.

Annex 2: Form to be used to notify APHA of a change in stocking density of conventionally reared meat chickens

The WF90 meat chicken notification form (England and Scotland) is available on the GOV.UK website at the following link: www.gov.uk/government/publications/meat-chicken-notification

Annex 3: Trigger levels

Process 1

A trigger report is generated if the level of a post-mortem condition is exceptionally high (defined as greater than 6 standard deviations above the average).

Post-mortem condition	Process 1 trigger level %
Ascites/Oedema	2.02
Cellulitis & Dermatitis	3.00
Dead on Arrival (DOA)	1.51
Emaciation	0.67
Joint lesions	0.43
Septicaemia/Respiratory	9.28
Total rejections	11.76
Cumulative Daily Mortality Rate	11.85
FPD score*	167

*The FPD score is not a percentage but is a score of the severity and extent of lesions (between 0 and 200) based on scoring 100 feet.

Process 2

A trigger report is generated if the Cumulative Daily Mortality Rate is unusually high (defined as greater than 3 standard deviations above the average = 7.37%) and, additionally, the level of three or more other post-mortem conditions is high (defined as above the average).

Post-mortem condition	Process 2 trigger level (%)
Ascites/Oedema	0.21
Cellulitis & Dermatitis	0.20
Dead on Arrival (DOA)	0.12
Emaciation	0.04
Joint lesions	0.02
Septicaemia/Respiratory	0.49
Total rejections	1.11
FPD score*	60

*The FPD score is not a percentage but is a score of the severity and extent of lesions (between 0 and 200) based on scoring 100 feet.

Annex 4: Cumulative Daily Mortality Rate (CDMR): worked example

The total mortality in this example – a shed with 20,200 birds placed, one thinning and 549 birds dead in total – is $549/20,200 \times 100 = 2.72\%$. The CDMR is 2.85%. In this example there is not much difference between the two figures, but this could have been greater if, for example, there had been high mortality in the house.

Age of birds/day	Numbers of birds in the house at the start of the day	Numbers of birds culled AND numbers of birds found dead each day	Daily mortality rate	Cumulative daily mortality rate	
1	20200	29	0.1436	0.1436	
2	20171	20	0.0992	0.2427	
3	20151	15	0.0744	0.3172	
4	20136	15	0.0745	0.3916	
5	20121	19	0.0944	0.4861	
6	20102	10	0.0497	0.5358	
7	20092	15	0.0747	0.6105	
8	20077	20	0.0996	0.7101	
9	20057	10	0.0499	0.7600	
10	20047	12	0.0599	0.8198	
11	20035	10	0.0499	0.8697	
12	20025	8	0.0400	0.9097	
13	20017	10	0.0500	0.9596	
14	20007	9	0.0450	1.0046	
15	19998	20	0.1000	1.1046	
16	19978	15	0.0751	1.1797	
17	19963	9	0.0451	1.2248	
18	19954	8	0.0401	1.2649	
19	19946	10	0.0501	1.3150	
20	19936	19	0.0953	1.4103	
21	19917	10	0.0502	1.4605	
22	19907	8	0.0402	1.5007	
23	19899	10	0.0503	1.5510	
24	19889	9	0.0453	1.5962	
25	19880	21	0.1056	1.7019	
26	19859	14	0.0705	1.7724	
27	19845	27	0.1361	1.9084	
28	19818	12	0.0606	1.9690	
29	19806	6	0.0303	1.9993	
30	19800	22	0.1111	2.1104	
31	19778	31	0.1567	2.2671	

Age of birds/day	Numbers of birds in the house at the start of the day	Numbers of birds culled AND numbers of birds found dead each day	Daily mortality rate	Cumulative daily mortality rate	
32	16548	19	0.1148	2.3819	Thinned
33	16529	21	0.1270	2.5090	
34	16508	12	0.0727	2.5817	
35	16496	10	0.0606	2.6423	
36	16486	8	0.0485	2.6908	
37	16478	26	0.1578	2.8486	cleared

Annex 5: Permitted procedures

All mutilations of chickens are banned under the Animal Welfare Act 2006. The Mutilations (Permitted Procedures) (Wales) Regulations 2007 exempts certain procedures from this ban. The permitted procedures for conventionally reared meat chickens and for all other meat chickens and meat breeding chickens are listed below. Whilst some mutilations are not currently prohibited, good practice should ensure that they have a very limited role if any in modern day poultry production systems. The lists are correct at the point of publication

- any subsequent haemorrhage from the beak must be arrested by cauterisation.

Conventionally reared meat chickens

If certain provisions are adhered to, beak trimming can be performed on conventionally reared meat chickens. The law states that if beak trimming is carried out, it:

- may only be performed in order to prevent feather pecking and cannibalism
- may not be performed on birds which are aged 10 days or over
- must be carried out by a person who has been provided with suitable and sufficient information, instruction and training so that they are qualified to perform the procedure
- must only be carried out following a consultation and on the advice of a veterinarian
- must be performed using a suitable instrument
- must be performed on both the lower and upper beaks, with not more than one third of each removed, or the upper beak only, with not more than one third removed, and

All other meat chickens and meat breeding chickens

Other methods of identification involving a mutilation required by law can be carried out.

Beak trimming – the law states that if this procedure is carried out, it:

- must be performed using a suitable instrument
- must be performed on both the lower and upper beaks, with not more than one third of each removed, or the upper beak only, with not more than one third removed, and
- any subsequent haemorrhage from the beak must be arrested by cauterisation.

De-toeing – the law states:

- this procedure can only be carried out on a bird that is less than 3 days of age unless a veterinary surgeon considers that it is necessary
- an anaesthetic must be administered where the bird is aged 3 days or over.

Dubbing – the law states:

- this procedure can only be carried out on a bird that is less than 3 days of age unless a veterinary surgeon considers that it is necessary
- an anaesthetic must be administered where the bird is aged 3 days or over.

Laparoscopy (examination of the abdominal cavity by insertion of an instrument called a laparoscope) – the law states:

- this procedure can only be carried out if an anaesthetic is administered
- Micro-chipping for identification can be carried out.

Wing tagging for identification – the law states this procedure:

- may only be carried out on farmed birds for the purposes of breed improvement programmes or testing for the presence of disease.

Sources of further information*

Code of recommendations of the Council of Europe

This Code takes account of the Council of Europe recommendations concerning domestic fowl (*Gallus gallus*). These set out general principles of husbandry and care and include

a section on meat chickens.

See: <https://rm.coe.int/16805165ec>

Slaughter

The Humane Slaughter Association has a Code of Practice for the Disposal of Chicks in Hatcheries.

Animal by-products

For further information on animal by-products, see:

www.gov.uk/guidance/animal-by-product-categories-site-approval-hygiene-and-disposal

Welfare outcome assessments

Advice on measuring welfare outcomes can be found at: www.assurewel.org

Catching and handling

- Advice on catching and handling can be found in the Humane Slaughter Association's Poultry Catching and Handling Technical Note 15
- www.hsa.org.uk/shop/publications-1/product/poultry-catching-and-handling-free-pdf

Antimicrobials and vaccines

Guidance on the responsible use of antimicrobials and vaccines can be found at: www.ruma.org.uk/poultry/
www.farmantibiotics.org/media-news-updates/progress-by-sector/poultry/

Registering poultry

Guidance on registering poultry can be found at:

www.gov.uk/guidance/poultry-registration#how-to-register

* These sources of further information are for information only and should not be considered to be part of the Code of Practice. These sources of information are current on the date that this Code is published (please see the final page for the date of publication). You should be aware that any of the sources of information listed here could change.

Explanatory Memorandum to the Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

This Explanatory Memorandum has been prepared by the Animal Welfare and By-Products Branch, Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens.

Lesley Griffiths AM
Minister for Environment, Energy and Rural Affairs
21 January 2020

1. Description

Under the Animal Welfare Act 2006 (“the Act”), if someone is responsible for an animal they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code explains what needs to be done to meet the standard of care the law requires.

Breach of a provision of the Code is not an offence in itself but, if proceedings are brought against someone for a welfare offence under the Act, the Court may take into account the extent to which they have complied with the Code in deciding whether they have committed an offence or have met the required standard of care. Unnecessary suffering to any animal could constitute a serious offence under the Act.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None

3. Legislative background

This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the “Act”). This Code applies in Wales only, is issued by the Welsh Ministers and comes into force on 9 March 2020. It applies to all Meat Chickens and Meat Breeding Chickens for which a person is responsible.

The Code is being laid under the ‘Negative Procedure’.

4. Purpose & intended effect of the legislation

The existing Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens reflected the science and legislation in force at that time and was made under The Animal Welfare Act 2006. A review was required to capture any changes in these areas and to ensure the standards being advised are still appropriate.

By not reviewing and amending the Code regularly to reflect any changes made to legislation and recognised minimum best practice standards, animals could be put at risk of harm.

The purpose of the Code is to ensure that those who are responsible for an animal are aware they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code of Practice explains what you need to do to meet the standard of care the law requires.

5. Consultation

Welsh Government officials worked with Animal Welfare Network Wales to review and update the Code for consultation.

A twelve week public consultation took place between 20 November 2017 and 12 February 2018. The consultation was published on the Welsh Government website with a press release alerting the general public to the launch. Known stakeholders i.e. enforcement agencies and special interest groups, were also contacted individually by email or post.

A Summary of the Responses to the Consultation can be found at the attached link –

<https://gov.wales/code-practice-welfare-laying-hens-and-code-practice-welfare-meat-and-breeding-chickens>

Comments and suggested amendments were taken in to account when updating the Code (e.g. checking frequency good practice is currently set at once a day but have changed this to at least twice a day to ensure animal welfare standards are being met) and a number of additions were made as a direct result of the consultation.

6. Regulatory Impact Assessment (RIA)

There are no costs associated with the making of the Code. Mandatory parts of the RIA have been completed.

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Our ref: PO798/EJ/OR

27 January 2020

Dear Mick,

Withdrawal of Statutory Instruments

Many thanks for your letter dated 13 January 2020 regarding the withdrawal of statutory instruments and the issues relating to The Sustainable Drainage (Enforcement) (Wales) (Amendment) Order 2019.

I agree with your view that it is not appropriate for the Welsh Government to use Standing Order 27.11 to unilaterally withdraw statutory instruments that have been approved by the Assembly. I also agree that the Welsh Government should only withdraw instruments in certain circumstances.

It is my interpretation that Standing Order 27.11 is intended to apply to subordinate legislation that has been laid but has not yet either been made by Welsh Ministers or approved by the Assembly. However, its current wording is also useful in providing sufficient flexibility for those very rare circumstances where it may be appropriate to withdraw instruments once they have been made or approved, and where revocation or other alternative options are not available. In these instances, I would always expect the government to explain the withdrawal, first to me and then to the Assembly.

Since the Minister wrote to me regarding this issue on 11 December, I understand that the Welsh Government decided not to withdraw the original order before laying a revised order on 14 January for debate in Plenary on 4 February.



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Nonetheless, I would still expect the Minister to provide an explanation during the Plenary debate outlining why a new order needs to be considered, and why the first was not made despite being approved by the Assembly.

Yours sincerely,

Elin Jones AM
Llywydd

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

Agenda Item 8

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

Document is Restricted



Amending the title and remit of the Constitutional and Legislative Affairs Committee

Purpose

1. In accordance with Standing Order 11.7(iv), the Business Committee is responsible for making recommendations on the general practice and procedures of the Assembly, including proposals for the titles and remits of committees.
2. The report sets out the rationale for the proposal under Standing Order 16.3 to alter the title and remit of the Constitutional and Legislative Affairs (CLA) Committee.

Background

3. At its meeting of 21 January 2020, Business Committee noted that the recent Commission on Justice in Wales had recommended that the Assembly should take a more proactive role in the scrutiny of the operation of the justice system and monitor and review progress on justice reform.

4. The Committee also noted that the Llywydd and the Chair of the CLA Committee had met on 11 December and agreed that capacity does not currently exist for a separate justice committee as envisaged by the report, but that the CLA Committee may be a suitable vehicle to undertake work in this area given its broad constitutional remit. They also agreed that there would be a need to provide clarity regarding the Committee's functions and responsibilities relating to justice, and that these matters should be considered by the Business Committee.

Decision

5. The Business Committee agreed to propose to the Assembly that the name of the Constitutional and Legislative Affairs Committee be changed to the Legislation, Justice and Constitution Committee. – It also agreed to add a reference to justice in its remit, so that its altered remit will be:

To carry out the functions of the responsible committee set out in Standing Order 21 and to consider any other matter relating to legislation, justice and the constitution within or relating to the competence of the Assembly or the Welsh Ministers, including the quality of legislation.

6. Business Managers noted that functions in relation to justice that are within the competence of the Assembly and within the remits of other committees – such as services to support offenders, ex-offenders and to promote rehabilitation that relate to housing, education and training, economic development and local government – would remain the responsibilities of those committees.