

# Agenda – Climate Change, Environment and Rural Affairs Committee

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Meeting Venue:	For further information contact:
Video Conference via Zoom	Marc Wyn Jones
Meeting date: 25 June 2020	Committee Clerk
Meeting time: 09.00	0300 200 6565
	<a href="mailto:SeneddCCERA@senedd.wales">SeneddCCERA@senedd.wales</a>

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In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on [www.senedd.tv](http://www.senedd.tv).

**Informal pre-meeting (09:00 – 09:30) – PRIVATE**

**PUBLIC (09:30 – 11.15)**

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

(09:30)

**2 COVID-19: Evidence session with the environmental sector**

(09:30 – 10.15)

(Pages 1 – 28)

Gill Bell, Head of Conservation Wales – Marine Conservation Society

Tegryn Jones, Chief Executive – Pembrokeshire Coast National Park Authority

– representing the three Welsh National Park Authorities

Jerry Langford, Public Affairs Manager Cymru – Woodland Trust

Jess McQuade – World Wide Fund for Nature (WWF) Cymru

Rachel Sharp, Chief Executive Officer – The Wildlife Trusts Wales (WTW)

Rebecca Williams, Assistant Director (Conservation) – National Trust Wales



Representative to be confirmed – Royal Society for the Protection of Birds  
(RSPB) Cymru

Attached Documents:

Research brief

Paper – Wales Environment Link

Paper – Woodland Trust

Paper – Marine Conservation Society

## **BREAK (10.15–10.30)**

### **3 COVID–19: Continuation of evidence session with the environmental sector**

(10.30 – 11:15)

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### **4 Paper(s) to note**

#### **4.1 Welsh Government response to the Committee's report on Fuel Poverty in Wales**

(Pages 29 – 37)

Attached Documents:

Response

**4.2 Correspondence from the Chair to the Counsel General and Minister for European Transition**

(Page 38)

Attached Documents:

Letter

**4.3 Correspondence to the Minister for Environment, Energy and Rural Affairs from the Chair, Legislation, Justice and Constitution Committee on The Agriculture Wages (Wales) Order 2020**

(Pages 39 – 41)

Attached Documents:

Letter

**5 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of the meeting**

**PRIVATE (11:15 – 12:00)**

**6 COVID-19: Consideration of evidence received**

**7 Consideration of the Supplementary Legislative Consent Memorandum in relation to the UK Agriculture Bill**

(Pages 42 – 58)

Attached Documents:

Private paper – legal note

Supplementary LCM

- 8 Consideration of the Committee's draft report on the Legislative Consent Memorandum in relation to the UK Environment Bill**
  
- 9 Discussion on the Committee's Forward Work Programme**

Document is Restricted



## Immediate financial impact on eNGOs

On 20<sup>th</sup> March a UK-wide survey was launched via Environment Links UK to quickly gauge the immediate impact of Covid-19 on the eNGO sector. The survey was only live for approx. 2 working days but 55 organisations across the UK responded, including organisations from Wales. The survey concluded a clear threat to:

- Frontline functions, including conservation and land management, access, visitor centres, cafés, shops and other tourist attractions, project, community and volunteer work;
- Scientific and policy work;
- The short and long-term viability of the sector, with 98% of respondents immediately affected and 27% at high risk within the next three or four months (by June/July).

The picture is extremely serious, with three quarters of respondents expecting to hit funding restrictions in the next three months and half already experiencing funding difficulties. For organisations that manage land or do outdoor project work (which make up a majority of WEL members) the Covid-19 crisis comes hot on the heels of severe flooding impacts and many are also dealing with the consequences of ash dieback. As the Environment Minister has acknowledged in recent meetings, the impacts of climate change, biodiversity declines and biosecurity issues are not going to go away.

eNGOs immediately identified that the main ways they needed support, both from environmental funders and government, are:

1. Flexibility with existing grant agreements, including an extension of deadlines for project work
2. Emergency funding support, including funding into the longer term to help charities recover as well as funding to cover the immediate crisis period

From government, eNGOs also need reassurance that they will receive the same level of protection and support as businesses, farming and fisheries, though this will need to be tailored to take into account the different ways that charities are constituted, their rules of operation and the complexity of their income streams.

## Accessibility of current support mechanisms

The main Covid-19 emergency funds for eNGOs in Wales are:

### **Welsh Government Third Sector Covid-19 Response Fund**

This WCVA administered fund is a mixture of 75% grant and 25% interest free loan (though repayments accrue 2% interest after 12 months interest-free). NGOs can apply for up to £75,000. Bridging loans of £25,000 are also an option to tide over organisations whilst waiting for furlough reimbursements. This funding is very helpful, but the requirement for 25% of the amount awarded to be repaid as a loan could be a significant barrier to some charities. Smaller charities that have no unrestricted revenue from visitor centres, cafes or shops may struggle to repay a loan as they are unable to use restricted grant funding to do this. Income from membership recruitment will be reduced for the foreseeable future, as the general public look to limit their own expenditure and much membership sign-up is face to face. Charity Trustees may see a loan as too high a risk. Some members have also found the application process very complex, particularly the requirement to prove that this application is the last resort. Although we appreciate that due diligence is required, all the risk and work has been given to a struggling sector.

### **Covid-19 Economic Resilience Fund**

This £600m fund is another welcome additional line of support, which larger charities may be able to access, particularly those that have trade income. Due to the requirement for applicants to be VAT registered, however, this fund is also inaccessible to smaller charities. Not all charities meet the income threshold or provide services that are classed as business services that would require them to be VAT registered. Whilst the fund says that charities are eligible to apply, it is not clear whether UK-wide charities with operations in Wales are eligible to apply. This needs to be clarified, and we believe UK-wide charities should be eligible to apply for support with their Wales operations, as there is no UK-wide support scheme currently available. Members have been asked if they have accessed bank loans and other schemes and, again, told that this has to be the last resort: a status that it can take some time to prove.

### **Other funds and support mechanisms**

Whilst there are also some emerging non-government funds that can assist certain parts of the third sector, or can assist with specific requirements, such as upgrading IT for remote working, many smaller charities will fall through the cracks in terms of the support available. We understand that the government cannot save every single business or charity and the demands for assistance are unprecedented. However, we do feel that the design of some of these schemes could be tweaked to remove barriers that affect charities disproportionately.

The Job Retention Scheme has so far been the most useful form of support for most of our members and over 50% of our 30 member organisations are using this scheme, to a greater or lesser degree. However, there are some significant issues with the principle of furloughing for environmental charitable organisations:

1. **By paying people not to work, the furlough system sacrifices the public benefits produced by environmental charitable activities.** Unlike many private sector organisations, many charities have furloughed staff due to the complex impacts of Covid restrictions on their operations, not

simply because of a lack of work. This is contrary to the ethos of charitable giving – where people expect their generosity to produce charitable benefits. Frontline conservation and public access work in large outdoor spaces can be managed to ensure the health and safety of the workforce so that social distancing is respected.

2. **Many charitable activities include essential functions that cannot simply be mothballed.** Certain types of conservation action and functions, particularly maintenance necessary for public safety, mean that a significant proportion of staff cannot be furloughed. This means that the costs of conservation activity continue, even though significant proportions of income have been lost. Other types of activity, such as species monitoring and scientific work, and interventions to protect vulnerable species, have not been designated by government as essential, but their lack will have far reaching repercussions and impacts into the future. Surveys which would have been regularly carried out, such as collecting data on litter, fly tipping and other local environmental issues have not been able to proceed, leading to a significant data gap. Similarly, local authorities rely heavily on volunteers (supported by eNGOs) to provide services such as beach clean ups, and cleansing activity has decreased significantly as a result. The support given by eNGOs to volunteers and to the public sector, including Welsh Government officials, should not be underestimated.
3. **Many financial losses incurred by charities will continue long after furlough has ended.** The long-term challenges of climate change and ecological recovery remain, and the Coronavirus crisis has demonstrated the centrality of nature and outdoor access in our lives. On-going financial losses will hamper the ability of charities to deliver essential conservation and infrastructure improvement work. Many elements of the Welsh Government's Environmental Growth agenda will depend on the work of charities, and many conservation and community projects are partnerships between Government agencies and civil society. These contributions are at risk without on-going financial support.

#### **Existing Welsh Government Grant Schemes: ENRaW, SMS and EMFF**

There have been long-running issues with the two main environmental grant schemes, the Enabling Natural Resources and Well-being (ENRaW) grant scheme and the Sustainable Management Scheme (SMS), which we have previously raised with the Environment Minister. There are similar problems with the administration of the European Maritime Fisheries Fund. Our members are experiencing delays with grant payments, caused by administrative difficulties with claims systems and compounded by the difficulty of being able to access officials that can help solve these administrative problems. Those who were already experiencing financial difficulties due to delayed payments are now pushed to the edge of financial viability because they are still waiting for funding that is owed to them for work already completed. The necessary reallocation of Welsh Government officials into other roles to deal with the Covid crisis means that claims that are still in the system, or were just about to be submitted, may be delayed further. It is essential that payment of these outstanding funds is expedited and systemic faults with the claim system are addressed.

## Natural Resources Wales Funding Schemes

At the time the Covid crisis hit, the new NRW funding schemes were not all fully operational and many of our members were already concerned that their existing NRW funding was coming to an end. NRW has now released some funds and has been working with some of the larger eNGOs, and is considering ways to extend this communication to all partners. An early start to their competitive grant scheme, which is anticipated for autumn, would be helpful to our members that are not eligible for strategic allocated grant funding. However, we are concerned about the large cut to NRW's budget due to Covid-19 and the impact this will have on their work and their ability support the work of the eNGO sector.

## Future business continuity support: delivering environmental growth

We entreat the Welsh Government to remove some of the additional barriers to environmental charities accessing support that we have identified in this paper, and we have offered our expertise in charity constitution and financing to help design future packages of support that really complement the ways that charities operate, both in the short and long-term. Here are some initial thoughts.

### Short-term

We recommend the following actions, which we feel would benefit both our members and other third sector organisations in Wales:

1. **Clear communication that existing grant agreements will be extended** so that work can be carried out when the lockdown ends, with organisations able to consult with a case manager to agree the new terms. Much environmental conservation and access improvement work is season and weather dependent and project timelines have already suffered due to the flooding this winter. If we come out of lockdown in the autumn this may mean work that should have been carried out this spring or summer might have to be delayed until next year.
2. **Expedite payments of grants already in arrears** with agreements signed to allow the Welsh Government to claw back funds if assessments subsequently reveal that grant conditions have not been met.
3. **Redesign existing emergency funds to remove barriers** that disproportionately exclude small charities from applying, such as exempting charities from the requirement for VAT registration, providing guidance on how non-trading charities can prove lost income, or income they are about to lose, and confirm access by the Welsh operations of UK-wide charities.
4. **Remove the requirement for 25% of the Third Sector Covid-19 Response Fund to be taken as a loan** as our members have told us that this is a serious barrier, because environmental charity trustees will not be willing to take on the risk of a loan at this time.

### Medium and long-term

When the Covid crisis ends, the climate and nature crises will still be upon us. We wholeheartedly support the Welsh Government's Environmental Growth agenda and WEL members are important

partners in delivering these ambitions for Government. The sector has very specific needs in terms of recovery from this crisis, so that we are still here to deliver for the environment and, therefore, the people of Wales in the future.

Now, more than ever, the economic recovery in Wales needs to be green, and the positive direction of travel indicated in the most recent budget must not be traded when needing to address quick fix emergency measures for other sectors. Wales should seek to be a world leader and would have the support of the Secretary-General of the UN, António Guterres, who used Earth Day (22 April 2020) to call for countries across the world to pursue a Green Recovery in response to Coronavirus. We therefore welcome the new Covid Response work being led by the Counsel General following his commitments during the daily Covid press briefing (29<sup>th</sup> April) that the group would not be looking at a return to normal, but recovery aligned to Welsh Government's commitments on environmental, social and economic justice. We also welcome the inclusion of expertise in climate change and the inclusion of a representative from WWF, who will be able to bring biodiversity expertise to the table.

For many charities, whilst staff are furloughed the charity is surviving in stasis. However, this crisis comes at the most important time of the year for revenue for many of our members: a time when they would usually be gaining income from visitors to their sites, recruiting new members, and benefitting from community fundraising activities. They would also be getting the bulk of their fieldwork, conservation and infrastructure project work done and engaging, educating and inspiring new supporters and others, including decision-makers, to better understand and champion both the value of nature and its protection, and the importance of access to the outdoors. Additionally, there is a threat to membership retention in member organisations, with reports that a (presently small, but nevertheless significant and unusual) number of subscriptions are being cancelled.

The furlough scheme, whilst incredibly helpful to retain staff during the lockdown period, is less helpful to charities than to businesses, as charities undertake activities that, if not carried out, will impact on their charitable objects both now and in the future. Activities such as species monitoring, habitat management, maintenance of infrastructure, and interventions to benefit the recovery and protection of vulnerable species must continue or irreversible damage or loss could occur. These are also the sorts of outdoor activities than can, with careful management, be undertaken whilst practising social distancing and ensuring the health and safety of staff.

The proposed changes to the furlough scheme from August, allowing staff to be furloughed part-time and to work part-time, will be helpful to our sector in resuming their operations gradually. We are pleased that this will continue until at least October, and would value a continued tapering of support throughout the winter months.

In the longer-term, civil society organisations are essential partners in delivery of the Government's Environmental Growth and sustainability priorities. The long-term economic losses associated with coronavirus are expected to be in the order of hundreds of millions of pounds over the coming years. This represents a major delivery risk to the Welsh Government's environmental programmes.

For example, WEL members manage over 105,000 hectares of habitat, represent over 420,000 subscribing members and supporters and work with over 39,000 volunteers. They are important employers across Wales, with a combined annual turnover of over £47 million. Their work sequesters millions of tonnes of carbon, critical to net zero aspirations, and their species monitoring and conservation programmes are essential for the state of nature. They work hand-in-hand with Natural Resources Wales, as delivery partners in projects ranging from public access, to conservation programmes, to natural flood mitigation and climate change resilience.

The environment sector can be part of an “economic reset” or a Green Recovery that embeds new ways of working, new greener economic patterns, and more equitable access to a high quality environment as part of a broader economic and social recovery. We hope that the Welsh Government will recognise our sector as important delivery partners in tackling the climate and nature crises and carrying out activities that will restore nature and provide ecosystem resilience across Wales.

Until March 2019, the Welsh Government had a core funding offer, which was extremely beneficial for the sustainability of eNGOs. Core funding is increasingly difficult to find, with only a handful of large funders offering this type of funding. As we have seen with the Covid-19 crisis, and the recent flooding impacts, organisations that are mainly dependent on project funding are much more vulnerable to shocks and delays to their work as a result of external factors beyond their control. Project work will take longer to get back on track in the coming months as the Coronavirus crisis has hit at what would normally be the most productive time of the year for environmental and land management-based projects. Providing a **Welsh Government core funding** pot would be immensely helpful to allow organisations to recover provide enough flexibility to continue their operations into the future, to adapt and develop. In March 2019, the Esmee Fairbairn Foundation published an [excellent report](#) on the benefits of providing core funding, concluding that it allowed organisations to lever in more funds and focus on evolution of the organisation, which they see as being key to impact.

### **A green and sustainable recovery**

WEL members are very keen to engage in discussions about a sustainable and socially just exit from the Covid crisis in order to develop some of the positive activities and community spirit that has developed over the last few months, from using digital technology to reduce people’s need to travel, to building on many people’s newfound interest in nature and the outdoors. We are pleased to see the launch of the [ourfuturewales@gov.wales](mailto:ourfuturewales@gov.wales) inbox and have set up a Green Recovery Task & Finish Group to contribute ideas and recommendations on this aspect of Wales’ recovery from the Covid crisis.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector in Wales. Our vision is a thriving Welsh environment for future generations.





## 1. Immediate impacts on our organisation

### Funding

- 1.1. We are forecasting a **30% drop in income** for 2020 and beyond, which means we have to reduce our expenditure accordingly, from £1.5 million to £600k Wales for 2020.
- 1.2. We've had to postpone all of our face to face membership recruitment activity during this period. Recruiting support depends on establishing relationships, 65% of our new memberships are recruited face to face.
- 1.3. Event based engagement activities have all had to be cancelled over the summer. We hope to restart with a much reduced autumn and winter events. These will be more expensive and challenging with winter weather, meaning lower attendance and less opportunity to engage people in supporting our work.
- 1.4. In the first 5 weeks of lock down we saw a 50% increase in direct debit membership cancellations compared to the same period in 2019.
- 1.5. If membership recruitment were to halve in 2020, we estimate this would result in a net loss in our UK membership subscription income alone, of £4m (2020-25).
- 1.6. For our work, it is very important that the Glastir woodland creation grant continues to work quickly and effectively.
- 1.7. This is happening at a time when we were planning **to ramp up** activity to address nature & climate crises, and making the case for meeting the financial needs to do that.
- 1.8. The general impact on the economy will continue to reduce future charitable donations beyond 2020 through 2021. We are also seeing a diversion of funds from other funding sources (grants and trusts, corporate sponsorship and donations) to Covid19.

### Staffing

- 1.9. The furlough scheme has been a significant help. More than half of Woodland Trust staff in Wales has been on furlough in April and May, but most staff are now returning in June. Furloughing has particularly applied to staff unable to undertake roles which depend on face to face contact. This has included membership recruitment, event management and advising and supporting landowners.
- 1.10. The loss of direct contacts with landowners may reduce the amount of new woodland creation coming forward and reduce the area of ancient woodland coming into active restoration.
- 1.11. Communications and engagement activity has focused on on-line and social media, with a short term reduction in public affairs and output on traditional media.

- 1.12. Our priority is to try and retain capacity and recover activity and the Trust is not currently planning any staff redundancies, however investment in development new activity is heavily constrained.

### **Site Management**

- 1.13. The Trust's woodland estate has remained open to local visitors throughout the pandemic, but some car parks have been closed. Many have recently been re-opened subject to local assessment. We have had some really positive feedback (verbal, letters, on social media) about our woods and people have been grateful for the places we have provided for them to enjoy from home.
- 1.14. Whilst it is difficult to gather accurate visitor numbers, physical, observed and reported evidence suggests that most of our sites in Wales have been busier than ever during lockdown, given their position as local green spaces. Visitor counter data from one Trust site in England suggests that visitor numbers doubled in April/ May, with visitors ranging more widely across the site. This reflects what staff in Wales are seeing.
- 1.15. Site maintenance and management has been constrained by lockdown measures. Short term impacts include overgrown paths and postponement of woodland restoration and conservation operations, including control of invasive species. Delayed maintenance could result in cost increases, and reduced maintenance budgets will mean less path cutting.
- 1.16. We have experienced a significant increase in fly tipping and other forms of antisocial behavior, such as littering, unauthorised bike trail building and fire-setting. In one incident last week 1 ½ tonnes of waste was dumped in Wentwood Forest. The Trust, like other private landowners, has to bear the cost of dealing with this.
- 1.17. Longer term impacts will be influenced by the funding situation and impact the pandemic has had on the availability of contractors and site activity by volunteers. Ultimately the conservation status of sites may be adversely affected if difficulties continue for a lengthy period.
- 1.18. Most of our regular contractors furloughed staff and many are facing difficult decisions about whether they look to resume normal operations or downsize their businesses in the medium term.
- 1.19. We are planning to reactivate some lone-working volunteer roles next week, but there are significant barriers to safe management of volunteer woodland working groups, We do not anticipate group work resuming until at least July.
- 1.20. Planned new woodland creation, including at Brynau Wood in Neath, where the Minister launched the Wales National Forest just before lockdown, continues on track subject to Glastir grant administration and work schedules.
- 1.21. We have noticed an increase in illegal felling, including a case that impacted on the boundary of one of our ancient woods. Harvesting on land neighbouring our woods has continued during bird breeding season, raising concerns of ecological impacts. Some areas

have seen hedgerows grubbed out in springtime. It may be that some took the opportunity to undertake unauthorised activities or poor practice under the 'cover' of lockdown

### **Working with others**

- 1.22. The reduction in capacity across the sector is constraining ability to plan ahead for or deliver new partnerships and activity. However, there has been a willingness to discuss partnership working, aided perhaps by people's increased availability and the time saved by not travelling and going to meetings. Some certainty around funding for recovery programmes for this **and next year** will be important to catch up and address new circumstances.
- 1.23. We are engaged, with others in the sector, in an NRW led group addressing site management issues and needs. This could be a good foundation for longer term coordination once this crisis over and it would be good to see this cross-sector communication continue.
- 1.24. We are working with other NGOs to run a virtual festival on a Green Recovery 20-23<sup>rd</sup> July. The First Minister has agreed to launch this.
- 1.25. We continue to be engaged in various discussion and working groups and suggest that there is an important opportunity to have a greater impact by working together, for example on building back a Wales-wide Wildlife Conservation Programme and comprehensive green recovery.

## **2. Priorities for long term recovery**

- 2.1. We note that pandemic has greatly heightened appreciation of community and connection with the natural world.
- 2.2. Our strong view is that the urgent priority is to seize the green growth opportunities now emerging to address the climate and biodiversity emergencies, creating healthier, fairer, stronger and more resilient communities.
- 2.3. This requires a redirection of major investment funding from activities that contribute to climate damage and biodiversity loss (e.g roadbuilding and traffic generation), firstly towards substantially greener infrastructure, and secondly to making farming and forestry sustainable.
- 2.4. The first requires changing funding allocations to drive a significant greening in the nature of infrastructure for travel, energy generation, building construction and flood management.
- 2.5. The second requires acceleration of the direction of travel proposed for the new sustainable farming scheme for Wales to address pollution reduction and biodiversity recovery. For forestry, it requires diversification to genuinely achieve multi-purpose and climate smart objectives.
- 2.6. These measures all provide opportunities to create economic activity and jobs, especially at local community level.

- 2.7. We have set out in more detail our suggestions for achieving these goals in our document on the Roots and Branches of a Green Recovery. A summary is provided here.

### 3. Green our streets, towns and cities

- 3.1. **Tree and woodland strategies for every local authority:** Make every town in Wales a Tree Town<sup>1</sup> - delivering a minimum of 20% tree cover in all urban areas<sup>3</sup> and 30% in new developments. Increase the capacity of tree and woodland teams at all levels of national and local government, and community capacity and influence on planning decisions.<sup>4</sup>
- 3.2. **Look after the trees we have:** I-tree reports for every urban area, fully assessing the benefits of existing trees, especially mature trees.<sup>5,6</sup> Strengthen planning regulatory oversight, and update tree protection legislation to stop the removal of healthy mature trees, and protect green space and irreplaceable habitat such as ancient woodland and veteran trees.<sup>8</sup>
- 3.3. **Provide a universal green health service:** More tree covered green space, walking and cycling routes; readily accessible to everyone and improving air quality<sup>9</sup> everywhere. Invest in a Green Health Service that prescribes outdoor activities for health and mental wellbeing.<sup>10</sup> Support community tree nurseries and forest schools across Wales as outdoor classrooms, collecting and growing local tree seed and reconnecting people with trees, woods and nature.

### 4. Support Farmers to be Sustainable and Nature Friendly

- 4.1. **Invest in agroforestry to increase tree cover on farms and support climate smart sustainable farming:** Build support packages that allow landowners to apply cost effective and wildlife-friendly nature based solutions for flood management<sup>11</sup>, carbon storage and tree regeneration. This should include introducing “Hedges and Edges” payments, investing in the habitat and farming benefits of field boundaries, and designing farm support payments to ensure they provide reliable income from areas of high quality habitat.
- 4.2. **Strengthen advice and partnerships:** Invest in skilled advisory networks, and community based project officer led area partnerships empowered to meet the diverse needs and opportunities including collaboration to increase tree cover, restore habitats and apply nature based solutions to reduce flooding.<sup>13</sup>
- 4.3. **Improve air and water quality:** Reduce pollution from farms and forests, especially nitrogen, ammonia and phosphate emissions, pesticide residues and sedimentation. A key measure is to strengthen regulatory controls and mitigation requirements on the cumulative impact of pollution from intensive poultry and livestock units – trees can help.<sup>14</sup>
- 4.4. **Zero tolerance on litter and fly-tipping in the Welsh countryside.** Continue to reduce waste at source, including the use of plastics in farming and forestry. Invest more in tackling fly tipping with increased surveillance and enforcement action, reduced waste disposal fees and greatly increased fines.

## 5. Using trees to build networks across Wales to create a people and nature friendly economy

- 5.1. **A Wales National Forest that is people and wildlife friendly and climate smart.** Ensure the National Forest programme illustrates the range and breadth of sustainable woodland creation and management across all parts of Wales and embeds communities and stakeholders in decision making.
- 5.2. **Fix and store carbon.** Build up the rate of new woodland creation year by year, diversifying approaches including more natural regeneration in order to accelerate past 5000 hectares by 2025.<sup>15</sup>
- 5.3. We have a detailed proposal on how this can be achieved.<sup>16</sup> Ensuring that forestry is Climate Smart requires a package of measures including reducing the net emissions, and promoting carbon storage in forest ecosystems, in addition to the benefit of carbon sequestration by growing trees.<sup>17</sup>
- 5.4. **Restore wildlife.** The catastrophic decline in biodiversity and woodland wildlife, is apparent in the condition of Welsh woodland described in recent official statistics.<sup>19</sup> A priority is the restoration of Wales' internationally important woodland habitats and ancient woods and trees.<sup>18</sup>

## 6. Create economic activity and jobs

- 6.1. All the measures above create economic opportunities which can be developed by greening the focus of investment decisions. Other investment and procurement actions for farming and forestry include:-
- 6.2. Develop a range of funding options, allowing the mix and match of public and private sources, including public grants, farm support schemes, planning gain, carbon funding, corporate social responsibility funds.
- 6.3. Invest in local landscape partnerships that develop skills and capacity to create and utilise woodland, including sourcing timber for local house building.
- 6.4. Using the procurement opportunities arising from public funding apply robust sustainable sourcing policies and support markets under-writing and improving the predictability of demand, for example for nursery stock supply and fencing.
- 6.5. Plan nursery stock demand to ensure it is all disease free UK Sourced and Grown (UKSG), and includes locally collected seed for native species.
- 6.6. Use farm plans to plan fencing demand and ensure the supply of UKWAS certified fencing.<sup>20</sup>
- 6.7. The challenge of finding alternatives to the use of plastics in tree protection is a substantial new commercial opportunity.

## References and Further Information

- 1 **Annexe 1: Tree Towns in Wales.** Coed Cadw's brief 2 page summary of the case for Government and Local Authorities to work with the third sector to on a substantial Wales wide initiative to realise the substantial benefits of increasing tree cover in all urban areas in Wales. Unpublished, available from the Woodland Trust.
- 2 Wrexham CBC have an excellent Tree and Woodland Strategy which could be an exemplar for other authorities. **Wrexham CBC (2016) Wrexham Tree & Woodland Strategy 2016–2026** [http://old.wrexham.gov.uk/assets/pdfs/env\\_services/trees/tree\\_and\\_woodland\\_strategy.pdf](http://old.wrexham.gov.uk/assets/pdfs/env_services/trees/tree_and_woodland_strategy.pdf)
- 3 NRW has undertaken urban tree cover surveys producing comprehensive data on tree cover for every urban area in Wales. **Natural Resources Wales. Urban tree cover in Wales.** Available at: <https://naturalresources.wales/about-us/what-we-do/green-spaces/urban-trees/?lang=en>
- 4 This study aims to establish the extent to which British local authorities actively manage their urban forests for regulating ecosystem services, and identify which resources local authorities most need in order to enhance provision of ecosystem services by Britain's urban forest.  
**Davies et al (2017 ) Challenges for tree officers to enhance the provision of regulating ecosystem services from urban forests.** Environmental Research Volume 156, July 2017, Pages 97-107.  
<https://www.sciencedirect.com/science/article/pii/S0013935117304942> Accessed 5 June 2020
- 5 **I-tree reports** are available for Wrexham, Bridgend, Tawe Valley and Cardiff <https://www.forestresearch.gov.uk/research/i-tree-eco/i-tree-eco-projects-completed/>
- 6 **How to do an i-Tree survey:** A great video (13 mins) explaining how to take part in this UK-wide survey of urban canopy cover. [Watch it here.](#)
- 7 A joint response to the Law Commission review of Welsh planning law from the **Woodland Trust and Ancient Tree Forum on legal and regulatory measures to improve tree protection.** Law Commission Consultation Paper No 228: Planning Law in Wales Scoping Paper. 2018 . Unpublished; available from Woodland Trust
- 8 **Annexe 2: Development Threats to Ancient Trees and Woods in Wales 2019.** Coed Cadw's report on cases of ancient woods threatened by planning applications in Wales in 2019, and particularly reviewing the impact of road schemes, of ammonia pollution from intensive poultry units and the on-going loss of urban tree cover. Unpublished. Available from the Woodland Trust
- 9 A conceptual framework explaining how and where GI can improve air quality, and offer six specific policy interventions, underpinned by research, that will always allow GI to improve air quality.  
**Hewitt, C.N., Ashworth, K. & MacKenzie, A.R. Using green infrastructure to improve urban air quality (GI4AQ).** *Ambio* 49, 62–73 (2020). <https://doi.org/10.1007/s13280-019-01164->
- 10 **Green Health and Access West Wales** is a new project in Pembrokeshire exploring innovative opportunities for green health, supporting existing initiatives and looking at ways to improve woodland spaces for access to people of all abilities.  
<https://www.coedlleol.org.uk/green-health-and-access-west-wales-ghaww/>
- 11 Brief Summary of evidence on how agroforestry interventions can help mitigate flooding, distributed to constituency AMs in February 2020. **Woodland Trust (2020) Agroforestry and flooding briefing note.**
- 12 **Annexe 3: Hedges and Edges Scheme Proposal.** This is a print out of a 25 page presentation of Coed Cadw proposals for a new universal Hedges and Edges farm support scheme. It summarises the evidence for the farming and biodiversity benefits and suggests how it can be delivered through farm plans. This presentation is intended for farmers, land managers and their advisers and those working on farm policy.
- 13 Government has published the very comprehensive official guidance and evidence base on working with natural processes to reduce flood risk. <https://www.gov.uk/government/publications/working-with-natural-processes-to-reduce-flood-risk>
- 14 This technical note summarises the impacts of ammonia pollution and the regulatory and mitigation

- measures needed. **Woodland Trust (2019). Assessing air pollution impacts on ancient woodland – ammonia. Woodland Trust Technical Advice Note 1.** February 2019 6pp .  
<https://www.woodlandtrust.org.uk/media/1687/ammonia-impacts-on-ancient-woodland.pdf>
- 15 The Woodland Trust’s **Emergency Tree Plan** describes how to increase tree cover and address the nature and climate emergency. Available at:  
<https://www.woodlandtrust.org.uk/publications/2020/01/emergency-tree-plan/>
  - 16 **Annexe 4: Plan to Increase Tree Cover in Wales.** This 16 page document presents Coed Cadw’s detailed strategy and recommendations on achieving the necessary increase in tree cover in Wales by 2050. We show how the ambitious targets are achievable through pursuing a broad range of approaches in ways that will engender public support and meet the needs of all of society. Unpublished. Available from the Woodland Trust.
  - 17 Reviews the priorities and practices forestry needs to adopt in order to be climate smart  
**Kauppi, P et al (2018) Climate Smart Forestry in Europe. European Forest Institute.**  
[https://www.efi.int/sites/default/files/files/publicationbank/2018/Climate\\_Smart\\_Forestry\\_in\\_Europe.pdf](https://www.efi.int/sites/default/files/files/publicationbank/2018/Climate_Smart_Forestry_in_Europe.pdf)
  - 18 There is slow progress with the restoration of the third of all ancient woodland in Wales that has been coniferised. WT State of PAWS. **Woodland Trust (2018) The Current State of Ancient Woodland Restoration.** Woodland Trust Research Report, January 2018. 32pp\_  
<https://www.woodlandtrust.org.uk/publications/2018/07/current-state-of-ancient-woodland-restoration/>
  - 19 The recent assessment of woodland condition across the UK undertaken by Forest Research describes in detail why majority of woodland in Wales and UK is failing to achieve “favourable” ecological condition . Forestry Commission (2020) NFI woodland ecological condition in Wales: classification results. National Forest Inventory. 36 pp\_  
[file://wtfs01/folderredirection/JRL/Downloads/FR\\_NFI\\_Condition\\_Scoring\\_Results\\_Wales\\_cxZEeL5%20\(6\).pdf](file://wtfs01/folderredirection/JRL/Downloads/FR_NFI_Condition_Scoring_Results_Wales_cxZEeL5%20(6).pdf)
  - 20 The UK Woodland Assurance Standard (UKWAS) provides an independent certification standard for verifying sustainable woodland management. This is used by the Forest Stewardship Council® (FSC®) and the Programme for the Endorsement of Forest Certification (PEFC) in their independent audits of participating forest managers. All timber procured using public funds should specify this standard.  
<http://ukwas.org.uk/>



## RE: CONSULTATION ON IMPACTS OF COVID-19

Thank you for giving the Marine Conservation Society (MCS) the opportunity to respond to your consultation on the effects of COVID-19 on the Environment and Rural Affairs in Wales.

MCS is the leading UK's leading marine charity. We work to ensure our seas are healthy, pollution free and protected. Our vision is for seas full of life where nature flourishes and people thrive. We have actively been working in Wales to improve the health of Welsh seas for the past 13 years.

### *The Committee would welcome your views on the following:*

- *the scale and impact of the pandemic on your work and/or sector*

### **Environment sector, specifically marine:**

Whilst we appreciate the unprecedented nature of the crisis, we have concerns about the redistribution of civil service work force from Marine and Fisheries Division to work on COVID-19 and the longer term impacts this will have on the Division's work programme, given many projects are already significantly delayed due to Brexit, internal staffing issues and budget restrictions. For example, the identification and designation of Marine Conservation Zones and the development of new fisheries bylaws within European Marine Sites are already lagging several years behind similar work programmes in England and Scotland. A redistribution of staff has delayed this work further and the timeframes for staff returning are unknown.

£1.8 million of the Marine and Fisheries Division budget was recently repurposed in the Welsh Government's May 2020 supplementary budget<sup>1</sup>. This Division of the Environment MEG only originally had £4.9 million allocated for all work areas, which includes planning, licensing, fisheries protection, conservation, and non-cash investments previously made (such as new enforcement vessels). Again, we are concerned that the impact that both Brexit and COVID-19 has had on the ability for the Division to carry out their work programme will be compounded further by a now much reduced budget.

We remain concerned about the continued financial prioritisation of fisheries management within the Division, which is only one work stream within marine management, yet receives a disproportionate amount of its funding which, for many years now, has resulted in a 'squeeze' on funding on all other marine conservation duties. It is well documented that well managed seas with fully functioning ecosystems bring

about economic, environmental and societal benefits.

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<sup>1</sup>Welsh Government supplementary budget explanatory note, May 2020:

<https://gov.wales/sites/default/files/publications/2020-05/1st-supplementary-budget-2020-2021-note.pdf>

**President: HRH The Prince of Wales KG, KT, GCB**

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Given the significant impact that Brexit is likely to have on marine and fisheries legislation in Wales, additional funding is needed to re-establish domestic work programmes within the Division, and undertake new work on Brexit bills, given the urgency in which both the Fisheries Bill and Environment Bill are being advanced through Westminster at the current time of writing this.

### **Pollution in Wales:**

We are aware that there is likely to be a significant delay to the introduction of measures to tackle pollution in Wales, e.g. potential delays to the introduction of a Deposit Return System for drinks containers, Extended Producer Responsibility, and charges for single-use plastic items. Without staying on track with much needed introduction of these essential schemes to reduce the amount of single use material and packaging that Wales consumes, we will miss our opportunity to become the “Zero Waste” Nation that Wales aspires to become, especially given that public opinion currently favours the introduction of these schemes.

Further compounding the problem of plastic waste, we anticipate that the level of pollution on Welsh beaches is set to rise over the summer months given that there are now limited opportunities for organisations such as ourselves to be able to undertake beach cleans using dedicated volunteers, coupled with a likely overall increase in domestic coastal holidays.

There is likely to be a lack of survey data from our beach cleans to inform the Welsh Government of the types of materials that are having an impact on our rivers, coasts and seas in 2020. This data for several years now has been used to inform Welsh Government policy on waste.

Waste is a very visible and urgent issue to resolve post COVID-19. As demonstrated by those visiting beaches during lockdown, there was an increase in litter on beaches. The media has also highlighted an increase of fly tipping and now fast food waste with lockdown restrictions being eased.

### **Agricultural pollution:**

At the most recent CCERA Committee scrutiny session with the Environment Minister (June 2020), the Minister announced that there will be no introduction of the Agricultural Pollution Regulations until the virus has passed.

We have serious concerns about the delay to statutory management of agricultural pollution, given that pollution incidents in rivers and on the coast continue to occur. For example, only a few weeks ago a pollution incident was reported to NRW whereby a slurry spill into the Afon Peris in mid Wales resulted in the death of fish and pollution of at least 4km of the river<sup>2</sup>. The estimates conducted by Natural Resources Wales, tell us that the population of sewin and brown trout in Welsh river systems is on the decline, in the case of some rivers significantly so.

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<sup>2</sup> Slurry pollutes 4km of a river in mid-Wales, NRW, May 2020: <https://naturalresources.wales/about-us/news-and-events/news/slurry-pollutes-4km-of-a-river-in-mid-wales/?lang=en>



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The Welsh Government need to take an ecosystem based approach to ensure that river systems are not overloading by the cumulative and combined effects of diffuse pollution - we need stricter requirements, better enforcement of good practice and a greater sense of urgency from Government on this matter.

### **Impacts on the Marine Conservation Society (MCS) as a charity:**

COVID-19, and the subsequent actions taken by the government, have impacted the programmes MCS is able to deliver, the ways that stakeholders can engage, our ability to raise funds and the ways we work together. Therefore, we have modified the programme of our activities and methodologies, for example by increasing our focus on, and capacity for, on-line activities.

We have reviewed our expected income projections for 2020/21. We are anticipating income reduction of between 31-45%. However, if the impacts of the crisis affect our ability to carry out mass engagement activities for longer than 6 months, and if there are rolling lock-downs, then we anticipate that our income could be further affected, resulting in a further reduction from our initially projected 2020/21 income.

To address the expected fall in income, without the need for redundancies, we have reduced our expenditure, as far as possible, by furloughing a third of our staff, freezing salaries, cancelling most recruitment plans and cutting training budgets, as well as savings as a result of reduced travel and event expenditure. We have paused plans for new projects, and will only invest in them if they are a key organisational priority and we receive restricted funding for them, which includes a significant contribution to our core expenditure on the programme related to the new project.

- *how Welsh Government action to date has helped to combat the impact of the pandemic*

As detailed in the bullet above, MCS has had to furlough staff due to COVID-19, for which we are grateful to the Government in helping to address budget shortfalls.

Recognising that COVID-19 impacted fishers in Wales and their potential ability to generate income, which could have jeopardised the industry's ability to bounce back from this national health crisis, we welcomed the April announcement from the Welsh Government to support the sector through a Welsh Fisheries Grant. We would have hoped however that similar COVID-19 relief packages would be made available to other coastal sectors that have been impacted by the virus, such as hospitality and tourism. A recent press article speculated that up to 100,000 jobs in tourism and hospitality in Wales could be lost as a result of the virus<sup>3</sup>, representing 10% of the workforce in Wales.

- *what further steps the Welsh Government should take*

Now is the time to rethink. We will be in a recession regardless of immediate policies.

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<sup>3</sup>Tens of Thousands of Tourism Jobs Could Go in Wales, Shropshire Star, 21<sup>st</sup> March 2020:

<https://www.shropshirestar.com/news/local-hubs/mid-wales/2020/03/21/tens-of-thousands-of-tourism-jobs-could-go-in-wales/>



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Funding Green and Blue infrastructure can offer improved environment, jobs, sustainable business enterprises, social benefits, economic security and cost savings. Funding a clean, zero-carbon economy may require short term borrowing, but if coupled with an effective green funding package, this could be sufficient without the need for tax rises.

Furthermore, it has been demonstrated that the economic, technological, and health benefits of environmental regulation greatly outweigh the costs. The costs of environmental regulation do not significantly change overall productivity, or GDP<sup>4</sup>.

### Re-investment in our natural environment, coasts and seas:

Given the results of recent poll, which highlighted that majority of people want the environment to be prioritised as part of an economic recovery from Covid-19 (IPSOS-Mori April 2020), Welsh Government should take on board the current groundswell of support for radical changes and improve the natural environment in Wales, in order to maximise on the benefits seen by lockdown due to decreased human disturbance.

As a charity, we are re-budgeting and reprioritising. Welsh Government are undertaking the same process, and we are deeply concerned on the impact this will have on funding environmental management as a whole but, in particular, marine management, given this is already of low priority within Government and chronically under-funded. The Welsh sea area managed by the Welsh Government covers approximately 30,000km<sup>2</sup>, which is **a third bigger** than the land area that it manages (comparatively, around 21,000 km<sup>2</sup>) and has huge potential for social, economic and environmental recovery.

Over 60% of the population of Wales also live and work on the coast.<sup>5</sup> The marine environment provides a wealth of benefits supporting the well-being of coastal communities and wider society. These include, but are not limited to:

- a range 'ecosystem services' such as sequestering carbon, recycling nutrients and mitigating coastal erosion
- food from fish and shellfish, and renewable energy from wind, waves and tide. Fisheries in Wales are thought to contribute over £20.8 million to the Welsh economy annually<sup>6</sup>.

<sup>4</sup> A Green Plan to Beat Tomorrow's Downturn, New Economics Foundation, Jan 2020:

<https://neweconomics.org/2020/01/recession-ready>

<sup>5</sup> Wales Marine Evidence Report Summary document, 2015: <https://gov.wales/sites/default/files/publications/2018-05/wales-marine-evidence-report-wmer-summary.pdf>

<sup>6</sup> Welsh Government consultation: Brexit and our Seas, 2019:

<https://gov.wales/sites/default/files/consultations/2019-05/marine-and-fisheries-policies-for-wales-after-brexit-consultation-document.pdf>



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- jobs for local communities relating to, for example, fisheries, aquaculture, renewable energy, tourism and recreation<sup>7</sup>. In 2018 holiday visitors brought £6.3bn to the Welsh economy<sup>8</sup>.

The Welsh Government needs to widen their narrow focus from the push for 'blue growth' of marine renewable energy to look at the much wider benefits that healthy coasts and seas can bring to the Welsh economy and society, such as those highlighted above.

With regards to ecosystem services for example, coastal and marine environments play a significant role in carbon storage, which is often overlooked by policy makers. Blue carbon habitats have been ranked among the most intense carbon sinks in the world and have been found to be disproportionately important in sequestering CO<sub>2</sub> compared with terrestrial habitats.<sup>9</sup> Seagrass meadows and saltmarsh habitats store twice as much carbon as terrestrial habitats per unit area and, unlike terrestrial soils, their underlying sediments never become saturated with carbon, yet these habitats have significantly declined in Wales over the past hundred years<sup>10</sup>.

Post-COVID plans to tackle climate change and halt biodiversity loss must extend into the coastal and marine environment in order to maximise carbon capture opportunities at sea as is happening on land. Much greater consideration needs to be given by the Welsh Government to supporting marine 'public goods for public services' and rewarding/incentivisation of ethical and "carbon-friendly" seafood choices.

There is a growing body of evidence to suggest that access to the coast can benefit human wellbeing. Investment in green and blue spaces to enable better social prescribing post-COVID will reduce mental health and obesity, which have proven to be more effective than traditional measures. The overstretched health service will need significant investment, looking at improving learning from best practice and novel approaches.

Post-COVID funding for a 'green recovery' needs to ensure that nature based solutions include opportunities for sea and coastal restoration alongside terrestrial. Increased funding for marine management will help to deliver these commitments and restore confidence in the Welsh Government to be *the* Government for improving environmental standards.

With this in mind, a clear de-prioritisation of nature through the reduction of the NRW grant by £7.5 million in the May supplementary budget<sup>11</sup> is counterproductive to a green and blue recovery, given the value added by NGOs and their important role in administering nature based solution, management, recovery,

<sup>7</sup> Welsh Marine Evidence Strategy, 2019-2025: [https://gov.wales/sites/default/files/publications/2019-09/welsh-marine-evidence-strategy\\_0.pdf](https://gov.wales/sites/default/files/publications/2019-09/welsh-marine-evidence-strategy_0.pdf)

<sup>8</sup> Welsh Government, Priorities for the Visitor Economy, 2020-2025: <https://businesswales.gov.wales/tourism/welcome-wales-priorities-visitor-economy-2020-2025>

<sup>9</sup> National Assembly for Wales Senedd Research Blue Carbon Research Briefing, Dec 2019: <https://senedd.wales/Research%20Documents/19-080%20Blue%20Carbon/19-080-Eng-Web.pdf>

<sup>10</sup> Natural Resources Wales State of Natural Resources Report, 2016: <https://naturalresources.wales/evidence-and-data/research-and-reports/the-state-of-natural-resources-report-assessment-of-the-sustainable-management-of-natural-resources/?lang=en>

<sup>11</sup> Welsh Government supplementary budget explanatory note, May 2020: <https://gov.wales/sites/default/files/publications/2020-05/1st-supplementary-budget-2020-2021-note.pdf>



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education and well-being. Without this vital money, the Welsh natural environment will suffer further degradation.

### **Improvements to agricultural pollution, waste management and transport:**

As we leave the European Union, we need to ensure that the Welsh Government has in place sustainable farming schemes and support for communities to restore river habitats. We support the proposed 'public goods' scheme as we think this will embed better practices that will improve rivers and coastal water quality, alongside many other environmental benefits that farmers would be properly rewarded for.

Fresh concerns over inappropriate disposal of PPE<sup>12</sup> has re-raised the issue of waste, litter and single use plastics in Wales. The need to move to a circular economy is imperative, as is a reduction of food waste and improved infrastructure for repair and reduction of waste, and improved insulation and heating methods.

There must be a renewed focus on clean, green transport making it easier, cheaper, safer and convenient to walk, cycle or use public transport. This will reduce the risks of 'second spikes' and bring additional health benefits such as fitness and mental health, reducing the burden on health services for primary care.

- *any other areas within our remit you wish to draw to our attention*

We are looking at an obesity and mental health crisis both of which can be mitigated by active volunteering. MCS have thousands of volunteers who undertake outdoor citizen science as part of beach cleans, which in the current lockdown are unable to do unless locally. Once lockdown is eased, we hope to empower people to volunteer for us once again.

Thank you for the opportunity to feed into this consultation. We hope you find our feedback helpful. If you would like to discuss any of our points in further detail, please do not hesitate to get in touch.

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<sup>12</sup> PPE washes up off French coast raising concerns over impact pandemic is having on environment, The Independent, 28<sup>th</sup> May 2020: <https://www.independent.co.uk/news/world/europe/ppe-french-coast-coronavirus-pandemic-environment-a9537116.html>

# Agenda Item 4.1

**Lesley Griffiths AS/SM**  
**Gweinidog yr Amgylchedd, Ynni a Materion Gwledig**  
**Minister for Environment, Energy and Rural Affairs**



Mike Hedges MS  
Chair  
Climate Change, Environment and Rural Affairs Committee

Llywodraeth Cymru  
Welsh Government

8 June 2020

Dear Mike,

Thank you for your letter of 24 April enclosing a copy of the Climate Change, Environment and Rural Affairs Committee report on fuel poverty.

I am sincerely grateful for the effort and time the Climate Change, Environment and Rural Affairs Committee, under your leadership, has devoted to considering how we can advance towards our shared goals of removing the blight of fuel poverty from Wales. The oral evidence given to the Committee between January and March, together with the 34 written submissions made in response to the call for evidence issued in September last year, has painted a picture of fuel poverty in Wales, which we can all recognise.

On behalf of the Welsh Government, I welcome and accept, or accept in principle, the 21 recommendations made by the Committee. Many of the issues highlighted by witnesses during the oral evidence chime with evidence I heard directly from stakeholders during the round table discussion I hosted in June last year.

The onset of the COVID-19 pandemic made it appropriate for me to pause the public consultation, which I had hoped to start shortly after I gave evidence to the Committee in February. This delay provides a useful opportunity to revalidate the plan in light of COVID-19 and to ensure all the issues highlighted in the report have been considered and where appropriate, addressed in the new plan before the public consultation begins.

I am also aware the current restrictions imposed for social distancing, which have been necessary to combat the COVID-19 virus, will have had a devastating effect on some household incomes, especially for people in our society who are less resilient to changes in their personal financial circumstances.

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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.

I am sure you and the Committee will share my resolve to safeguard the progress we have made to reduce fuel poverty in Wales these past ten years, whilst continuing to offer our support to the people who will struggle to meet the cost of their home energy needs in the future.

Regards  
Lesley

**Lesley Griffiths AS/SM**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

## Welsh Government response to recommendations made by the Committee for Climate Change, Environment and Rural Affairs following their inquiry into Fuel Poverty in Wales

Recommendation	Welsh Government Response
<p>1 The Welsh Government's new fuel poverty strategy must comprehensively address the three determinants of fuel poverty - energy prices, household incomes and energy efficiency (pg24)</p>	<p><b>Accept in principle</b></p> <p>The draft plan to tackle fuel poverty and supporting technical annex will consider the determinants of fuel poverty and additional factors, such as the effect of climate change and the effect of attitudes and behaviours to energy use. The Welsh Government will take action on these factors, mindful of the Wales Audit Office's observations about the Welsh Government's ability to influence factors not directly under its own control.</p>
<p>2 The Welsh Government's new fuel poverty targets must be challenging but realistic. The overall targets must be accompanied by interim targets and clear milestones against which progress can be measured.</p> <p>In setting its new targets, the Welsh Government should consider:</p> <ul style="list-style-type: none"> <li>• adopting a similar approach to that taken by the Scottish Government; and</li> <li>• how the targets can best align with the wider ambition to decarbonise Wales's housing stock by 2050. (pg24)</li> </ul>	<p><b>Accept</b></p> <p>The Welsh Government is committed to developing and consulting on stretching, meaningful targets which are also achievable. Proposed targets will be subject to public consultation and if adopted, will be subject to continuous monitoring, review and reporting. Targets proposed for Wales will be consistent with our efforts to decarbonise Welsh housing.</p> <p>In developing the targets being proposed for Wales, consideration has been given to the approach being adopted by the UK Government and other devolved governments of the UK. In Scotland their target is, by 2040, as far as reasonably possible no household in Scotland is in fuel poverty and, in any event (a) no more than 5% of households in Scotland are in fuel poverty, (b) no more than 1% of households in Scotland are in extreme fuel poverty, (c) the median fuel poverty gap of households in Scotland in fuel poverty is no more than £250 adjusted for inflation. Further targets in the draft Scottish strategy are by 2030: the overall fuel poverty rate is less than 15%; the median fuel poverty gap is no more than £350 (in 2015 prices before adding inflation); and to have made progress towards removing poor energy efficiency of the home as a driver for fuel poverty.</p>
<p>3 The Welsh Government should consider introducing new statutory fuel poverty targets. It should report back to the Committee on the outcome of its consideration before publishing its final fuel poverty strategy. If the Government decides against statutory targets, it must set out its reasons. (pg24)</p>	<p><b>Accept</b></p> <p>The Warm Homes and Energy Conservation Act 2000 as amended by the Energy Act 2013, imposes a requirement on the Welsh Ministers in relation to Wales, to publish and implement a strategy for reducing fuel poverty; to require the setting of targets for the implementation of the strategy and for connected purposes. We are not proposing to introduce Welsh Legislation to impose targets to tackle fuel poverty in Wales at this stage. The reasons will be set out in our draft plan to tackle fuel poverty as part of the public consultation. If a consensus in favour of introducing Welsh Legislation to establish targets emerges from the consultation, further consideration to the matter will be given and I will explain the rationale underpinning my decision to the Committee prior to the final plan to tackle fuel poverty being published.</p>

Recommendation	Welsh Government Response
<p>4 The Welsh Government must establish a robust monitoring framework to oversee progress in delivering its new fuel poverty strategy. This should include:</p> <ul style="list-style-type: none"> <li>the publication of annual fuel poverty estimates (aligned with the new definition of fuel poverty), including estimates on the number of disabled households living in fuel poverty;</li> <li>an Advisory Board on Fuel Poverty, or a similar formal structure, recognising the key role of stakeholders in monitoring and reviewing progress, and in providing external scrutiny; and</li> <li>a commitment to regular reporting by the Welsh Government on progress towards its new fuel poverty target(pg25)</li> </ul>	<p><b>Accept in principle</b></p> <p>The new draft plan will include proposals to improve monitoring and reporting arrangements for fuel poverty, which will include a biennial fuel poverty report setting out fuel poverty estimates for Wales and progress being made against agreed targets. The Welsh Government will consider annual reporting if the outcome of the public consultation suggests a more frequent reporting pattern would be advantageous.</p> <p>Engagement with stakeholders and partners in the Third Sector was an issue considered by the Wales Audit Office<sup>1</sup>. The Welsh Government has made more effort to engage with key stakeholders and some have welcomed the opportunity to make early comment on what should be included in the new plan. Stakeholders have claimed the absence of formal ongoing arrangements means engagement peaks around certain projects and policy initiatives, and then wanes when work is completed putting much of the onus on the Third Sector to initiate and maintain engagement with the Welsh Government.</p> <p>The Welsh Government will be working with key stakeholders to set up more formalised joint working arrangements to deliver the new plan.</p>
<p>5 <b>The Welsh Government should adopt a more appropriate definition of fuel poverty:</b> one that more accurately reflects the lived experience of fuel poor households in Wales. As its starting point, it should consider the ‘residual income’ approach, learning lessons from England and Scotland. This work should be undertaken in conjunction with relevant stakeholders and be completed within 12 months of the publication of this report. (pg25)</p>	<p><b>Accept</b></p> <p>The Welsh Government agrees the definition and measures used to assess fuel poverty should be appropriate for the people of Wales. Any measure needs to take into account the transient nature of fuel poverty.</p> <p>The Warm Homes and Energy Conservation Act 2000 defines a person is to be regarded as living “in fuel poverty” if a member of a household is living on a lower income in a home which cannot be kept warm at reasonable cost. This definition continues to apply to England and Wales. In Wales, we are proposing to maintain current measures of fuel poverty based on full income, whilst introducing a new measure to assist in the identification of people who are at risk of fuel poverty, or who are living in persistent fuel poverty.</p> <p>Further consideration will be given to the definition and measures of fuel poverty used in Wales subject to the outcome of the public consultation on the new plan to tackle fuel poverty.</p>
<p>6 The Welsh Government should ensure that fuel poverty estimates reflect the new definition. This work should be completed in time to inform the fuel poverty estimates for 2020 (pg25)</p>	<p><b>Accept</b></p> <p>The Welsh Government will report on the definition and measures of fuel poverty used in Wales.</p>

<sup>1</sup> Para 2.11 Wales Audit Office Landscape Review into Fuel Poverty published October 2019

Recommendation		Welsh Government Response
7	The Welsh Government must work with Nest and Arbed am Byth to develop a robust monitoring and evaluation framework, which includes measuring the impact of the schemes on fuel poverty.(pg36)	<b>Accept</b>  The Warm Homes Programme Nest annual reports have been published since the scheme was launched in 2011. Reporting requirements are now included for the Warm Homes Programme Arbed 3 scheme. Both schemes are subject to periodic independent evaluation which will include an assessment of the impact the schemes have made in relation to efforts to tackle fuel poverty.
8	The Welsh Government must work with Arbed am Byth, and its partners, to establish more sophisticated tools for targeting support for households in fuel poverty under the scheme. (pg36)	<b>Accept</b>  The Welsh Government is proposing to prepare and publish <b>Welsh domestic energy data</b> annually to help us and partners focus on communities at greatest risk of living in fuel poverty.
9	The Welsh Government must report back to the Committee on: <ul style="list-style-type: none"> <li>the number of properties improved and the total spend through Arbed 3 for the second year of the three year programme; and</li> <li>action it intends to take in the event that figures on improvements and spend suggest that Arbed 3 is continuing to underperform.(pg37)</li> </ul>	<b>Accept</b>  The contract management arrangements introduced when the Arbed contract was awarded in 2018 has enabled the Welsh Government to work closely with Arbed Am Byth representatives, to ensure levels of activity are delivered as agreed forecasts. Activity delivered in year two of the contract will be reported in July 2020 as part of the Arbed annual report and shared with the Committee. The physical and social isolation measures necessary to tackle the COVID-19 pandemic will likely have an effect on scheme delivery in 2020/21. The Welsh Government will be working closely with Arbed Am Byth to assess the full impact the pandemic has had on our delivery programme.
10	The Welsh Government must review the eligibility criteria for free energy efficiency improvement packages under Nest, taking account of the new definition of fuel poverty. The review must consider, in particular, broadening the eligibility criteria to include low-income households living in, or at risk of falling into, fuel poverty.(pg37)	<b>Accept</b>  There is some evidence to suggest observance of inflexible eligibility criteria has resulted in vulnerable households, including disabled people and families, not being able to access support despite being in need. As part of the new plan, the Welsh Government will be proposing to review the Regulations setting out the eligibility criteria for support through the Warm Homes Programme based on the learning from the Nest Scheme Health Conditions Pilot. Based on the outcome of the proposed consultation, amendments to the Home Energy Efficiency (Wales) Regulations will be made, to ensure people living on lower incomes can access support through the Warm Homes Programme even if they don't receive means-tested benefits.
11	The Welsh Government must ensure that funding is available through the Warm Homes Programme to meet the cost of enabling works for households that would otherwise be unable to benefit from home energy efficiency improvements under government schemes. (pg37)	<b>Accept</b>  The Welsh Government agrees the lack of financial support to undertake enabling works to better support homes needing home energy efficiency improvements is a barrier to helping some people most in need. In giving evidence to the Committee on 12 February, it was confirmed measures to remedy this situation will be included in the draft plan to tackle fuel poverty.

Recommendation	Welsh Government Response
<p>12 The Welsh Government must reflect on the evidence received about the need for adequate lead-in time for the completion of enabling works ahead of energy efficiency improvements under schemes.(pg37)</p>	<p><b>Accept</b></p> <p>If introduced, adequate time to complete enabling works will be incorporated into delivery performance indicators.</p>
<p>13 The Welsh Government should establish a pilot scheme for an in-house advice and support service for vulnerable households in, or at risk of falling into, fuel poverty.</p> <p>The service should:</p> <ul style="list-style-type: none"> <li>• operate on the basis of a holistic approach, providing advice and support on improving energy efficiency, maximising income and reducing energy costs; and</li> <li>• provide direct assistance to households, for example, in taking up financial entitlements, checking energy tariffs and switching energy suppliers.(pg37)</li> </ul>	<p><b>Accept</b></p> <p>An action within the 2010 Fuel Poverty Strategy was to provide high quality and co-ordinated advice and support services to help reduce fuel bills, maximise income and improve home energy efficiency. Since 2011 this service has been delivered through the Warm Homes Programme Nest Scheme benefitting more than 129,000 households. The Welsh Government is working with key stakeholders to consider how proactive and holistic advice and support services can be provided in the future.</p>
<p>14 The Welsh Government must establish a suitable support mechanism to enable local authorities to maximise funding for energy efficiency improvements through ECO Flex. (pg37)</p>	<p><b>Accept</b></p> <p>Our Warm Homes Programme schemes have continued to deliver home energy efficiency measures in collaboration with UK Government schemes, such as the Energy Company Obligation (ECO) scheme and the Fuel Poor Network Extension Scheme (FPNES) designed to extend the mains gas grid to homes at risk of living in fuel poverty. Only about half of the local authorities in Wales have submitted ECO Flex statements. Whilst these are matters within the discretion of Local Authorities, the Welsh Government agrees more can be done to support our Local Authorities attract UK Government funding to support our efforts to improve the energy efficiency of Welsh homes. Our new plan to tackle fuel poverty will set out new arrangements for supporting Local Authorities in Wales.</p>
<p>15 The new fuel poverty strategy should aim to increase the use of smart meters in households across Wales, in particular those using prepayment meters, and those living in, or at risk of falling into, fuel poverty.(pg41)</p>	<p><b>Accept</b></p> <p>The UK Government announced an extension to the smart metering rollout programme, which will now run to 2024<sup>2</sup>. It has consulted on smart meter roll out requirements to be imposed on energy companies. The Welsh Government is keen to adopt a leadership role in Wales, encouraging people to save energy and money by transitioning to smart metering.</p>
<p>16 The Welsh Government should:</p> <ul style="list-style-type: none"> <li>• provide details of the task and finish group on promoting take-up of Pension Credit, including its terms of reference and timeline for its work, and</li> </ul>	<p><b>Accept</b></p> <p>To examine how to end the cycle of under-claiming and help more older people to access their legal entitlement to pension credit and other welfare benefits, the Welsh Government has recently set up a Pension Credit Take-up Working Group. The membership of the Working Group comprises of officials from across Welsh Government, the DWP and representatives from key organisations providing services to older people. Officials</p>

Recommendation	Welsh Government Response
<ul style="list-style-type: none"> <li>report back to the Committee on the findings of the task and finish group, and on the actions the Welsh Government intends to take and time lines involved. (pg41)</li> </ul>	<p>will provide the Working Group's terms of reference and projected timescales to the Committee for their information and will report the outcome of the group when this is available.</p>
<p>17 The Welsh Government must seek to secure a Welsh representative on the Board of Ofgem and to strengthen the regulator's presence in Wales (pg42)</p>	<p><b>Accept</b></p> <p>The Welsh Government has worked to strengthen an already positive working relationship with the energy regulator. GEMA, the Ofgem Board, holds one of its four annual meetings in Wales in order to hear from Welsh stakeholders. Previous sessions have involved visits to Citizens Advice centres, renewable energy developments and community energy projects in order to understand issues affecting Welsh citizens. Wales is represented by a senior official on Ofgem's Net Zero Steering Group, which promises to provide an effective route to influence Ofgem's direction.</p> <p>Securing representation on the board of Ofgem to reflect the interests of Welsh households, the energy sector and industry would be a positive step. It should be noted, however, the board is selected for specific areas of expertise rather than geographic location. Ofgem's direction, and the design of the schemes it operates, are designed by BEIS. Welsh Government continues to work with BEIS to inform the development of existing mechanisms.</p>
<p>18 The new fuel poverty strategy should include provisions aimed at addressing the distinct challenges faced in rural areas. This should include a bespoke programme with appropriate levels of funding that take account of the more complex and costly measures required to address rural fuel poverty. (pg45)</p>	<p><b>Accept</b></p> <p>In assessing the effectiveness of the 2010 Strategy, the Welsh Government has recognised the impact fuel poverty has on rural communities. It is estimated 17% of homes are not connected to the mains gas grid, the vast majority in rural areas. Energy inefficient homes are disproportionately found in rural areas, thus people living in these areas have an increased likelihood of living in a cold home. Support for homes in rural areas benefit from higher maximum spending thresholds through the current Warm Homes Programme. The Welsh Government will be exploring how support can be further expanded when consulting on new arrangements for the next iteration of the Warm Homes Programme, which may include an agent dedicated to tackling fuel poverty in rural areas. The Welsh Government does tailor the delivery of programmes to better meet the needs of rural communities but will consider how these continuing needs can be better addressed in the new draft plan.</p>
<p>19 The Welsh Government must work with relevant partners to develop financial support mechanisms to enable private landlords to improve the energy efficiency of their properties. This work must be undertaken as a matter of priority, given the introduction of new Minimum Energy Efficiency Standards from April 2020. (pg51)</p>	<p><b>Accept</b></p> <p>Evidence presented as part of the Fuel Poverty Estimates 2018 suggests households living in the Private Rented Sector were more likely to be fuel poor, with 20% of these households living in fuel poverty. The Welsh Government has taken steps to ensure fuel poor homes continue to be supported through the Nest scheme and will continue to work with the private rented sector to explore what further support can be provided.</p>

Recommendation	Welsh Government Response
<p>20 The Welsh Government, in conjunction with local authorities and Rent Smart Wales, must undertake work to identify and address barriers to enforcement of Minimum Energy Efficiency Standards. The Welsh Government must report back to the Committee on the outcome of this work at the first available opportunity.(pg51)</p>	<p><b>Accept</b></p> <p>The UK Government introduced the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 which applied to both England and Wales. There have been changes to the Regulations, which means since 1 April 2018, private landlords may not let domestic properties on new tenancies to new or existing tenants if the EPC rating is F or G (unless an exemption applies). From 1 April 2020, the prohibition on letting EPC F and G properties extended to all relevant properties, even where there has been no change in tenancy. The 1<sup>st</sup> April 2020 is the back stop for all domestic private rented properties, irrespective of the status of the tenancy, to be compliant with the energy efficiency standards. No exemptions can be registered after April 2020, although some may still be in place, if they were registered before 1<sup>st</sup> April 2020. Rent Smart Wales has provided regular updates via newsletters to landlords during this period and has also written to landlords to remind them of their legal obligations.</p> <p>The Welsh Government has published guidance for Local Authorities on enforcing standards in rented properties during the COVID-19 outbreak. Local Authorities should only take enforcement action they determine to be necessary, whilst ensuring pragmatic, appropriate and risk-based action is taken. Guidance for landlords in the Private Rented Sector has been issued, which explains enforcement should be focused on responding to emergency situations and enforcement of energy efficiency standards are not considered to be an emergency. Landlords not able to gain access to a property due to the restrictions in place, or are not able to engage a contractor to carry out necessary work, are advised to document their attempts to do so.</p> <p>A report will be submitted to the committee regarding the barriers to enforcement of the minimum energy efficiency standards in the Private Rented Sector, which we expect to be able to provide by December 2020.</p>
<p>21 The Welsh Government must ensure that new energy efficiency standards in new homes are sufficiently ambitious, and that changes to Part L Building Regulations are progressed with no further delay. (pg51)</p>	<p><b>Accept</b></p> <p>Stage 1 of the consultation of Part L Building Regulations in relation to new dwellings concluded on the 12 March. Representations made during the consultation are being assessed. The consultation proposed two options, a 37% or 56% reduction in carbon emissions compared to current standards. The document also provided detail on the direction of travel for energy efficiency requirements for introduction in 2025. The Stage two consultation on existing homes will take place later in 2020.</p>

**Jeremy Miles MS**

Counsel General and Minister for European Transition

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11 June 2020

Dear Jeremy,

**Invitation to attend the meeting of the Climate Change, Environment and Rural Affairs Committee**

You will be aware that the Committee agreed on 20 May to invite you to attend its meeting on 25 June to discuss your role in relation to the Covid-19 pandemic. An informal invitation was sent via email to your office on 21 May in line with usual practice. A response has still not been received at the time of writing this letter.

The Committee met on 11 June and agreed that I should extend a formal invitation to you in writing to attend the Committee's meeting on 25 June. I would be grateful if you could respond to confirm your availability at the earliest opportunity.

Regards,



**Mike Hedges MS**

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

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



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Lesley Griffiths MS  
Minister for Environment, Energy and Rural Affairs

11 June 2020

Dear Lesley

### **The Agriculture Wages (Wales) Order 2020**

The Legislation, Justice and Constitution Committee considered the Agriculture Wages (Wales) Order 2020 (the Order) on 4 May 2020 and laid its report the same day. A Welsh Government response was received on 15 May, and therefore after our report was laid. As such, the response was discussed at our meeting on 1 June.

At our meeting on 8 June, we considered the Welsh Government's response further and, in our view, there remain matters which warrant further clarification.

You will know that the Order allows an employer who provides an agricultural worker with a house for a whole week to deduct the sum of £1.50 from the agricultural worker's wage payable for that week. However, where an employer provides an agricultural worker with other accommodation, the employer may deduct £4.82 from the agricultural worker's wage for each day the accommodation is provided.

The second technical reporting point in our report said

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"Further explanation is required in relation to why Article 15 of the Order sets significantly different wage deductions which are permitted to be made in respect of agricultural workers who receive the benefit of accommodation. (...)

It is surprising that an agricultural worker who is provided with a private self-contained house may only sustain a deduction of £1.50 per week for the benefit of living in that



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house. However, an agricultural worker who may only be provided with the lesser benefit of a bed in shared accommodation may sustain a deduction of £24.10 per week (based upon a five-day working week). A government response is required to explain the reasons for this discrepancy in deductions. We note that this point was also raised in our report on the Agricultural Wages (Wales) Order 2018 but the Government response on that occasion did not provide a full explanation for the discrepancy.”

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The reporting point was not accepted and the Welsh Government response said:

“Where an agricultural worker is required to live in a dwelling house or other self-contained accommodation by virtue of their contract of service for the proper or better performance of their duties, there is a mutual benefit to both parties. The agricultural worker is provided with the benefit of a house or other self-contained accommodation and the employer has the benefit of the agricultural worker living on site. Article 15(1) makes provision for a nominal deduction of £1.50 in recognition of this mutual benefit.

The provision in article 15(2) recognises that other accommodation is provided at an inconvenience and at additional cost to the employer while also ensuring the agricultural worker is not subjected to excessive daily accommodation charges. The agricultural worker is free to take up the option of other accommodation in accordance with article 15(2) and subject to the provision in article 15(3) and (4), or to find their own accommodation.”

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The Welsh Government’s response makes reference to accommodation provided “on site”. We have noted that “house” is defined in the Order as being a house that the agricultural worker is “required to live in for the proper or better performance of their duties”. However, the Order does not specify that the house must be ‘on site’. Further, Article 15 of the Order, which sets out the deductions permitted, makes no reference to a house being ‘on site’.

There therefore appears to be inconsistency between what the Order says and what the Welsh Government response says.

We would welcome clarity on this particular issue, and confirmation as to whether the Order and its Explanatory Memorandum need to be amended. This is important because, in light of the Welsh Government’s response, we are concerned that the people affected by the Order may be confused as to its scope and intent, and therefore how the law applies to them.

I am copying this letter to Jeremy Miles MS, the Counsel General, and Mike Hedges MS, Chair of the Climate Change, Environment and Rural Affairs Committee.



Yours sincerely,

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw MS  
Chair of the Legislation, Justice and Constitution Committee

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



# Agenda Item 7

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

Document is Restricted

## **SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 2)**

### **Agriculture Bill**

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of, the Senedd.
2. The Agriculture Bill (the “Bill”) was introduced in the House of Commons on 16 January 2020 and has completed Public Bill Committee stage. This Memorandum sets out the relevant amendments to the Bill made during Public Bill Committee and Commons Report stage, and provides updates on the position in respect of the clauses on identification and traceability of animals (clause 32) and organic products (clauses 36 and 37). The latest version of the Bill, as amended in Report stage, can be found at:

<https://publications.parliament.uk/pa/bills/lbill/58-01/112/5801112.pdf>

3. The Bill completed its passage through the House of Commons on 13 May and will now move to the House of Lords on a date to be confirmed.

### **Policy Objective(s)**

4. The UK Government’s stated policy objectives are to provide, for England, a new system of paying farmers based on the principle of “public money for public goods” for the next generation of farmers and land managers.
5. The Bill also includes measures to enable the continuity of existing agricultural support and to ensure the effective functioning of the agricultural sector following the departure of the UK from the European Union (EU). In particular, the Bill includes provision to enable payments to continue to be made to farmers with powers to modify Direct Payments and Rural Development, for example, and to intervene in agricultural markets in the event of exceptional market conditions.

### **Summary of the Bill**

6. The Bill is sponsored by the Department for Environment, Food and Rural Affairs.
7. The Bill provides the legal basis, in England, to transition away from the Common Agricultural Policy (CAP) and establish new financial assistance schemes based on the principle of public money for public goods.
8. The Bill also provides powers to enable the continuity of existing agricultural support and to intervene in agricultural markets in the event of exceptional

market conditions, as noted above, as well as provisions on the collection and sharing of data and marketing standards and carcass classification. At the request of the Welsh Government, these powers will be available to the Welsh Ministers in relation to Wales under the provisions of Schedule 5 to the Bill. The provisions in Schedule 5 (and a small number of related provisions) are time-limited to expire at the end of 2024 in accordance with the expiry provision at clause 44 (duration of provision in relation to Wales), as explained at paragraphs 57 and 58 of the Legislative Consent Memorandum laid on 12 February.

9. The Bill also includes provisions that apply in Wales on organic products; the identification and traceability of animals; fair dealing and producer organisations; matters relating to farming and the countryside, including red meat levy redistribution and agricultural tenancy reforms; a requirement for the Secretary of State to report to the UK Parliament on food security; and regulation-making powers for the Secretary of State to secure the UK's compliance with WTO Agreement on Agriculture. These are not subject to the expiry provision (clause 44).
10. The Welsh Government laid a Legislative Consent Memorandum in relation to the Agriculture Bill (as introduced on 16 January 2020) on 12 February. It noted concerns regarding the provisions in the Bill for the identification and traceability of animals (clause 32) and the regulation of organic products (clause 36 and 37). Those concerns relate to the absence of appropriate provision requiring the Welsh Ministers' consent when, in certain circumstances, the Secretary of State exercises powers to make subordinate legislation under those provisions. Good progress has been made in resolving these concerns and, if amendments can be agreed, a supplementary Legislative Consent Memorandum will be brought forward at the appropriate time.
11. The Welsh Government also noted concern around Agricultural Tenancies (Schedule 3). The concern relates to the referral of disputed requests for landlord's consent or variation of terms to arbitration or for third party consideration. The range of requests which could be referred includes requests relating to tenant's access to schemes of financial assistance under Part 1 of the Agriculture Bill. Consideration will be given to whether similar provision is required in a future Senedd Bill in relation to schemes of financial assistance in Wales.

### **Supplementary provisions in the Bill for which consent is required**

12. Since the publication of the first Memorandum, the Bill has been amended during scrutiny in the House of Commons.
13. This Supplementary Memorandum sets out those changes to the Bill made at Commons Committee and Report stages which require the consent of the Senedd. The first and Supplementary Memorandum must be considered together (with any further Supplementary Memorandums which may be laid

before the Senedd to cover any future amendments) when deciding on consent.

14. Consent is required for the following amendments to provisions of the Bill because they make provision with regard to devolved matters. Clause numbers below relate to the version of the Bill ordered to be printed on 18 May 2020 (the version as amended in Commons Report stage).

**Clause 31: (Fertilisers), Clause 37: (Organic products: supplementary), Clause 47: (Regulations), Clause 48 (Interpretation) Schedule 3, Part 1: (Amendments to the Agricultural Holdings Act 1986)) and Schedule 5, Part 2, paragraph 6: (Declaration relating to exceptional market conditions)**

15. Part 2 of the Senedd and Elections (Wales) Act 2020 (“the 2020 Act”) means that the National Assembly for Wales was renamed “Senedd Cymru” or “Welsh Parliament”, from 6 May 2020. The Bill was drafted to refer to the National Assembly for Wales and to Measures and Acts of the National Assembly for Wales. As the Bill will now receive Royal Assent after 6 May, those references have been amended to refer instead to Senedd Cymru or the Senedd, to reflect the changes made by Part 2 of the 2020 Act. Appropriate amendments have been made to clauses 31, 37, 47 and 48 and Schedules 3 and 5.
16. It is the Welsh Government’s view these amendments require consent because they make provision with regard to a devolved matter. The amendments take account of name changes made by the 2020 Act, the purpose of which is to improve the accessibility and operational arrangements of the legislature in Wales, in this case by better reflecting the evolution of the constitutional status of the legislature.

**Clause 32 (identification and traceability of animals)**

17. Clause 32(2) is amended so that the amendment that it effects to the Animal Health Act 1981 (“the 1981 Act”) applies to Wales. As a result, in section 8(1)(a) of the 1981 Act the term “marking of animals” is replaced by “means of identifying animals” and provision made under subsection (1)(a) made by the Welsh Ministers may bind the Crown. The amendment will allow secondary legislation that will be made under powers contained in the 1981 Act to reflect new developments in technology and methodology of identifying animals, for example, the use of electronic identification. Previously this amendment had been restricted to England.
18. Clause 32(3) is amended so as to dis-apply Title I of Regulation (EC) 1760/2000 (“1760/2000”) in relation to Wales. This relates to the identification and registration of bovine animals. Clause 32(3) is further amended to dis-apply related provisions in Title III (common provisions) of 1760/2000 in relation to England or Wales. These concern compliance provisions. Clause 32(4) is amended so as to dis-apply Regulation (EC) 21/2004 (“21/2004”) in relation to Wales. This relates to the identification and registration of ovine

and caprine animals. Consequential amendments have been made to clause 53(3)(a)(i) (which provides that these provisions come into force on such day as the Welsh Ministers may be regulations made by statutory instrument appoint) and clause 50(6)(a)(i) (power to make consequential etc provision). As originally drafted, clauses 32(3) and (4) made provision in relation to England only.

19. The amendments provide the Welsh Ministers with the power to replace the specified provisions of 1760/2000 and 21/2004 with an order made under powers contained in the 1981 Act, without the need to make further primary legislation at that point. At such time, the Welsh Ministers will dis-apply 1760/2000 and 21/2004 by commencing subsections (3) and (4). Previously the power to dis-apply the provisions of 1760/2000 and 21/2004 had been restricted to England.
20. It is the Welsh Government's view that these amendments require consent because they make provision with regard to devolved matters in so far as they apply to Wales, including agriculture and animal health.

### **Schedule 5, Part 1: Financial Support after exiting the European Union**

#### *Paragraph 2 (power to modify legislation governing the basic payment scheme)*

21. Paragraph 2(1) of Schedule 5 provides powers for the Welsh Ministers by regulations to modify certain legislation governing the basic payment scheme so far as it operates in relation to Wales. As originally drafted the powers were available to "simplify or improve" the scheme, and have been amended so that the provision specifies five purposes for which the legislation may be modified as follows:

- (a) simplifying the administration of the scheme or otherwise making its operation more efficient or effective;
- (b) removing provisions which are spent or of no practical utility;
- (c) removing or reducing burdens, or the overall burdens, on persons applying for, or entitled to, direct payments under the scheme or otherwise improving the way that the scheme operates in relation to them;
- (d) securing that any sanction or penalty imposed under the scheme is appropriate and proportionate;
- (e) limiting the application of the scheme to land in Wales only.

22. Paragraph 2(2) clarifies that the Welsh Ministers may terminate greening payments using the powers available under paragraph 2(1). Paragraph 2(2) is amended to clarify that provision to terminate greening payments may only be made so long as that provision does not reduce the amount of a direct payment to which a person would have been entitled had the provision not been made.

23. A new paragraph 2(3) is inserted to define "burden" (as used in paragraph 2(1)(c)) as including a financial cost, an administrative inconvenience, or an obstacle to efficiency, productivity or profitability.

*Paragraph 4 (Other financial support: modification in relation to Wales of general provision connected with payments to farmers and other beneficiaries)*

24. Paragraph 4(1) of Schedule 5 confers on the Welsh Ministers powers by regulations to modify, so far as it operates in relation to Wales, retained direct EU legislation relating to the financing, management and monitoring of the common agricultural policy, and subordinate legislation relating to that legislation. As originally drafted, the Welsh Ministers could make regulations for the purpose of securing that any provision of that legislation ceases to have effect in relation to Wales, or simplifying or improving the operation of such legislation in relation to Wales.
25. Paragraph 4(1) and (2) is amended so that the Welsh Ministers can make regulations to modify that legislation, so far as it operates in relation to Wales, for one or more specified purposes. Those purposes are:
- (a) securing that any provision of the legislation ceases to have effect;
  - (b) simplifying the operation of any provision of such legislation, or making its operation more efficient or effective;
  - (c) removing or reducing burdens, or the overall burdens, imposed by such legislation on persons applying for, or in receipt of, payments governed by the legislation, or otherwise improving the way that the legislation operates in relation to such persons;
  - (d) securing that any sanction or penalty imposed by such legislation is appropriate and proportionate.

Sub-paragraph (3) provides a non-exhaustive list of the “retained direct EU legislation relating to the financing, management and monitoring of the common agricultural policy”. That list is amended to include “legacy regulations”, which are defined at sub-paragraph (4). Sub-paragraph (3) is also amended to define “burden”, which is used in paragraph 4(2)(c), as including a financial cost, an administrative inconvenience, or an obstacle to efficiency, productivity or profitability.

*Paragraph 5 (Support for rural development: modification of legislation in relation to Wales)*

26. Paragraph 5 confers powers on the Welsh Ministers to modify “retained direct EU legislation relating to support for rural development” (as described at paragraph 5(2)) and subordinate legislation relating to that legislation. As originally drafted, these powers could be exercised to secure that certain legislation ceases to have effect in relation to Wales, or to simplify or improve the operation of that legislation (pending that legislation ceasing to have effect). The provision is amended to broaden these regulation making powers by removing these restrictions, so that the relevant legislation can be modified so far as it has effect in relation to Wales. This clause is intended to be used to make extensions of schemes and projects beyond the existing RDP 2014-20 or to operate a domestic Welsh equivalent. The amendment also makes

the regulation making powers subject to the affirmative, rather than the negative, procedure.

27. The powers at paragraph 2, 4 and 5 of Schedule 5 remain subject to the sunset clause (clause 44) and will expire at the end of 2024 (along with the rest of Schedule 5 and certain other provisions as explained at paragraphs 57 and 58 of the Legislative Consent Memorandum laid on 12 February).
28. It is the Welsh Government's view that the amendments to paragraphs 2, 4 and 5 of Schedule 5 require consent because they make provision with regard to agriculture, a devolved matter.

### **Powers to create subordinate legislation**

29. The Annex describes a list of subordinate legislation making powers conferred on the Welsh Ministers, updated slightly from the Memorandum laid on 12 February to take account of amendments made at House of Commons Committee and Report stage as described in this Memorandum. 'Affirmative resolution procedure' and 'negative resolution procedure' are defined in clause 47(6)(c) and (7)(c) of the Bill respectively as those terms apply to subordinate legislation made by the Welsh Ministers under the Bill.

### **Reasons for making these provisions for Wales in the Agriculture Bill**

30. As set out in the first Memorandum, it remains Welsh Government's intention to publish an Agriculture White Paper before the end of this Senedd term which will build on the proposals set out in the Sustainable Farming and Our Land consultation and lay the groundwork for an Agriculture (Wales) Bill to be introduced in the next Senedd term. The detail of any new scheme is dependent on the outcome of policy and operational decisions which cannot be made until analysis of results from both the consultations and White Papers has been completed, and all relevant considerations are taken into account.
31. Making provision for Wales in the UK Agriculture Bill will enable the continued provision of existing agricultural subsidies beyond 2020, and ensure the effective operation of agricultural markets following the UK's departure from the EU.

### **Welsh Government position on the Bill as amended**

32. Welsh Government is content with the amendments tabled by UK Government Ministers during Commons Committee and Report stages in respect of the amendments to clause 32 (identification and traceability of animals) and Schedule 5 (Provision relating to Wales). There are outstanding concerns regarding the Secretary of State's powers to make subordinate legislation

under the identification and traceability of animals (clause 32) and the regulation of organic products (clause 36 and 37) and the absence of appropriate requirements to obtain the Welsh Ministers' consent in certain circumstances. Work to resolve these outstanding concerns will continue during the Bill's parliamentary passage and, if amendments can be agreed, a supplementary Legislative Consent Memorandum will be brought forward at the appropriate time.

33. Welsh Government remain content with the provisions in respect of the WTO Agreement on Agriculture in view of the agreement reached with the Secretary of State on the exercise of those regulation making powers. At the request of the Welsh Government the Parliamentary Under Secretary made a commitment on the floor of the House of Commons about working with the Devolved Administrations when using these powers.
34. Any further changes made to the Bill as it progresses through the Lords that require Memoranda, not least in order to respond to points raised by Committee scrutiny in the Senedd, will be laid before the Senedd as appropriate. A final recommendation in respect of the Senedd's consent will be provided once all amendments to the Bill have been made.

### **Financial implications**

35. There are no direct financial implications for the Welsh Government or the Senedd as a result of taking these powers in this Bill.

### **Conclusion**

36. This supplementary memorandum describes the relevant changes made to the Bill since introduction requiring Senedd consent. The Welsh Government is generally supportive of the Bill as drafted. It should be noted however, that it is not possible to give an unequivocal recommendation to the Senedd to consent to the Bill until we are closer to the end of the Lords stage. In the event of future amendments within the legislative competence of the Senedd then further Supplementary Legislative Consent Memoranda will be laid before the Senedd as appropriate, with a recommendation from Welsh Government in respect of the consent of the Senedd at the appropriate time.

**Lesley Griffiths AM**  
**Minister for Environment, Energy and Rural Affairs**  
**June 2020**

## Annex

### SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM: AGRICULTURE BILL – CONSOLIDATED LIST OF PROVISIONS WHICH CONTAIN POWERS FOR WELSH MINISTERS TO MAKE SUBORDINATE LEGISLATION AS AMENDED AT HOUSE OF COMMONS COMMITTEE AND REPORT STAGES

<u>Bill provision</u>	<u>Description of Power</u>	<u>Legislative procedure</u>
31 (fertilisers)	Clause 31(4) amends section 74A of the Agriculture Act 1970 and allows for regulations made by the Welsh Ministers in relation to Wales (and the Secretary of State, Scottish Ministers and a Northern Ireland Department in respect of other parts of the UK) to set out an assessment, monitoring and enforcement regime for ensuring the compliance of fertilisers with composition, content and function requirements and for mitigating other risks to human, animal or plant health or the environment presented by fertilisers.	The first regulations made by the Welsh Ministers under section 74A(1A) to (1E) of the Agriculture Act 1970 are subject to the affirmative resolution procedure. Subsequent regulations made by the Welsh Ministers, under section 74A(1A)(b) (conferring on a public authority functions relating to market surveillance and regulation) or (1E)(a)(i) or (ii) (amending and repealing retained EU law relating to fertilisers) are also subject to the affirmative resolution procedure (clause 31(5), amending section 84 of the Agriculture Act 1970). Otherwise the negative resolution procedure applies (see section 84(2), Agriculture Act 1970).
33 (red meat levy)	Powers for the Welsh Ministers (acting jointly with the Secretary of State and/or the Scottish Ministers) to make a scheme to make provision for amounts of red meat levy collected by the levy body for one country in Great Britain to be paid to the levy body for another such country.	No procedure
36 and 37 (organic products)	Powers for the Welsh Ministers in respect of the certification of organic products and import and export controls (if and to the extent that provision made by the regulations would be within the legislative competence of the Senedd if contained in an Act of the Senedd (ignoring any requirement for the consent of any person) (clause 37(1)(c)).	Affirmative resolution procedure where— (a) the regulations are made under section 36(1) and contain provision referred to in section 36(3), or (b) the regulations are made under subsection (1), (5) or (7) of section 36 and they are the first regulations to be made under that subsection by the authority making them. Otherwise, regulations under clause 36 are subject to

		negative resolution procedure (unless section 47(5) applies, in which case affirmative resolution procedure).
44 (duration of provision in relation to Wales)	Powers for the Welsh Ministers to make transitional, transitory or saving provision in connection with this section.	Regulations under this clause which contain provision modifying primary legislation (with or without other provision) are subject to affirmative resolution procedure. Other regulations under this clause are subject to negative resolution procedure.
50(1) (consequential etc. provision)	The appropriate authority may by regulations make supplementary, incidental or consequential provision in connection with any provision of this Act. The Welsh Ministers are the appropriate authority, for provision in connection with— (i) section 32(3) and (4), so far as relating to Wales, (ii) clause 43 and Schedule 5, (iii) clause 44, and (iv) clause 49 and Schedule 7 so far as they apply in relation to Wales.	Regulations under section 50(1) which contain provision modifying primary legislation (with or without other provision) are subject to affirmative resolution procedure. Other regulations under subsection (1) are subject to negative resolution procedure.
50(5) (consequential etc. provision)	The appropriate authority may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of the Act. The Welsh Ministers are the appropriate authority, for provision in connection with— (i) section 32(3) and (4), so far as relating to Wales, (ii) clause 43 and Schedule 5, (iii) clause 44, and (iv) clause 49 and Schedule 7 so far as they apply in relation to Wales.	No procedure
53(3) (commencement)	Powers for the Welsh Ministers by regulations made by statutory instrument to appoint— (a) so far as relating to Wales— (i) section 32(3) and (4), (ii) paragraphs 10 to 18 of Schedule 3, and (iii) section 34 so far as relating to those paragraphs, (b) Parts 2 and 4 of Schedule 5, and section 43 so far as relating to those Parts, and (c) Parts 2 and 4 of Schedule 7, and section 49 so far as relating to those Parts.	No procedure
Schedule 3, para 6(7)	Powers for the Welsh Ministers by regulations made in a statutory instrument to amend section 84 of the Agricultural Holdings Act 1986 so as to- a) include a person in, or remove a person from, the definition of “professional authority”; b) reflect changes in the name or internal	Negative procedure

	organisation of any body mentioned in that definition.	
Schedule 3, para 7	Powers for the Welsh Ministers by regulations to make provision for the tenant of an agricultural holding to refer for arbitration requests made by the tenant for landlord's consent or variation of terms	Negative procedure
Schedule 3, para 17	Paragraph 17 amends section 39(8) of the Agricultural Holdings Act 1986 to confer a power on the Welsh Ministers, in relation to Wales, to make regulations specifying the criteria that must be considered when determining a person's suitability to become a tenant of the holding.	Negative procedure
Sch 5, para 2(1)	Powers for the Welsh Ministers to modify legislation governing the basic payment scheme	Negative resolution procedure (unless clause 47(5) applies, in which case affirmative resolution procedure)
Sch 5, para 3(1)	Powers for the Welsh Ministers to provide for the continuation of the basic payment scheme beyond 2020, including power to provide for the direct payments ceiling for Wales to be made by Welsh Ministers	Affirmative resolution procedure
Sch 5, para 4(1)	Powers for the Welsh Ministers by regulations to modify retained direct EU legislation relating to the financing, management and monitoring of the common agricultural policy and subordinate legislation relating to that legislation.	Negative resolution procedure (unless clause 47(5) applies, in which case affirmative resolution procedure)
Sch 5, para 5(1)	Powers for the Welsh Ministers by regulations to modify retained direct EU legislation relating to support for rural development and subordinate legislation relating to that legislation.	Affirmative resolution procedure
Sch 5, para 8(1)	Powers for the Welsh Ministers by regulations to modify retained direct EU legislation relating to public market intervention or aid for private storage for the purposes of altering the operation of provisions of such legislation, so far as they have effect in relation to Wales in connection with exceptional market conditions which are the subject of a declaration under paragraph 6 of Schedule 5 (declaration relating to exceptional market conditions).	Negative resolution procedure (unless clause 47(5) applies, in which case affirmative resolution procedure)
Sch 5, para 8(2)	Powers for the Welsh Ministers by regulations to modify retained direct EU legislation relating to public market intervention or aid for private storage for specified purposes	Negative resolution procedure (unless clause 47(5) applies, in which case affirmative resolution procedure)
Sch 5, para 9(2)	Powers for the Welsh Ministers to make regulations requiring persons in or closely connected with an agri-food supply chain to provide information about matters connected with any of the person's activities connected with the supply chain so far as the activities are in Wales.	Affirmative resolution procedure
Sch 5, para 14(1)	Powers for the Welsh Ministers to make provision for enforcement of a requirement imposed under paragraph 9(1) or (2) of	Affirmative resolution procedure

	Schedule 5 (agri-food supply chains: requirement to provide information)	
Sch 5, para 15(1)	Powers for the Welsh Ministers by regulations, in relation to products which fall within a specified sector and are marketed in Wales, to make provisions about the standards with which those products must conform	Affirmative resolution procedure
Sch 5, para 16(3)	Powers for the Welsh Ministers to amend paragraphs 15 and 16 for or in connection with the purpose of— (a) adding or removing an agricultural product from paragraph 16(1); (b) altering the description of an agricultural product in paragraph 16(1).	Affirmative resolution procedure
Sch 5, para 17(1)	Powers for the Welsh Ministers to make provision about the classification, identification and presentation of bovine, pig and sheep carcasses by slaughterhouses in Wales	Affirmative resolution procedure